

BESTMAN SOLUTIONS MASTER SERVICES AGREEMENT

1 Definitions and Interpretation

- 1.1 In this Agreement words importing the singular will include the plural and vice versa. Unless the context requires otherwise, the expressions below will have the following meanings:

Client	means the client named in the signatory section;
Confidential Information	means information that either party discloses to the other party or that the other party otherwise acquires pursuant to this Agreement, that (i) is marked "Confidential," "Proprietary" or bears a marking of like import or which the disclosing party states in writing at the time of transmittal to, or receipt by, the receiving party, (ii) if disclosed orally, is identified as such in writing at the time of disclosure or within ten (10) days after an oral disclosure thereof, (iii) is valuable to the disclosing party, the subject of reasonable efforts by the disclosing party to maintain its confidentiality, and is not generally disclosed to persons not employed or otherwise engaged by the disclosing party, or (iv) is of a nature, due to the information or the circumstances surrounding its disclosure or acquisition, that the receiving party reasonably should have known to be confidential;
Deliverables	means the tangible materials or work product that Bestman Solutions will provide to Client as described in the Statement of Work. Bestman Solutions will provide each Deliverable at the time and in the manner specified under the applicable Statement of Work;
Bestman Solutions	means Bestman Solutions Limited trading at , International House, 6 South Molton Street, London W1K 5QF, United Kingdom;
Engagement Manager	means the Bestman Solutions manager appointed to manage the Project/Service, as named in the Statement of Work;
Fee	means the fee for the Services as stated in the Statement of Work;
Intellectual Property	means all intellectual property, including but not limited to, all materials, documentation, manuals, guidelines, business processes, methodologies, software, tools, patents, registered designs, trademarks and service marks (whether registered or not), copyright, database rights, inventions, designs, drawings, performances, computer programs, confidential information, business names, or other items, and all modifications thereof;
Project	means the project, including the Services and Deliverables, to be delivered by Bestman Solutions;
Project Period	means the period during which the Services to the Client will be delivered as detailed in the Statement of Work;
Services	means the project solution services described in the applicable Statement of Work, and where the context requires, includes the Deliverables;
Statement of Work	means the attached schedule detailing the nature of the Project to be delivered by Bestman Solutions;
Working Day	means a day other than a Saturday or Sunday on which banks are open for business generally in London, United Kingdom;
Working Hours	means 9am – 5pm on Working Days.

2 Project scope

- 2.1 In return for payment by the Client, Bestman Solutions agrees to provide the Project (incorporating the Services and Deliverables described in the Statement of Work) within the timeframe set out in the Statement of Work. The specific scope of the Project together with the assumptions and limitations is set out in the Statement of Work and will be used to determine the Fee.
- 2.2 The Client will be required to fulfil certain obligations to enable Bestman Solutions to deliver the Project as set out in clause 3 and the Statement of Work.

3 Client Duties

3.1 The Client has the following obligations:

- 3.1.1 To provide all information and materials including all technical data, equipment (including hardware and software), information and other resources reasonably required to enable Bestman Solutions to provide the Services, such information to be true, accurate and not misleading in any respect;
- 3.1.2 To provide access to the Client's applicable staff to provide such assistance as Bestman Solutions may reasonably require in order to provide the Services;
- 3.1.3 To take responsibility for and assume the risk for any problems attributable to the content, accuracy, completeness and consistency of any data, materials, information, equipment and resources supplied by the Client;
- 3.1.4 To perform all of its obligations in a timely fashion including any reviews, approvals and notices to enable completion of the Project. The Client agrees to reimburse Bestman Solutions for any reasonable expenses incurred as a result of the Client's delay. In addition, if Client fails to perform any review, approval or notice within the time period set forth in this Agreement or any applicable Statement of Work, Bestman Solutions may delay the schedule for all remaining Deliverables by one (1) day for each one (1) day that Client delays performance of the review, approval or notice.

4 Invoicing and payment

- 4.1 The Client will pay Bestman Solutions' invoices in relation to the Project within 14 days of the date of the invoice, regardless of whether the Client has issued Bestman Solutions with a purchase order. Payments from the Client will be paid together with any VAT chargeable thereon. The Client will notify Bestman Solutions within 5 business days if it disputes any aspect of an invoice. Bestman Solutions is entitled to charge interest on the late payment of invoices due at 8% per annum above the current Bank of England base rate from the due date for payment to the date when payment is actually received by Bestman Solutions.
- 4.2 The Client will also be responsible for paying any pre-agreed expenses or charges (including, without limitation, bank transfer fees or p-card charges and expenses) incurred by Bestman Solutions in connection with the Project. Such costs include, but are not limited to, travel costs including air travel, lodging, meals, ground transport and incidentals, subcontractors, materials, computer costs, telephone, copying, delivery etc that are attributable to the Project. Bestman Solutions shall provide evidence to the Client of any expenses incurred to be paid for by the Client.
- 4.3 The Fee, including expenses, will be billed in the currency local to the work completed and will be stated exclusive of any taxes. Client will be responsible for paying any taxes arising from the Agreement for which Client is legally liable as well as Valued Added Tax at the rate in force at the date the liability arises or its international equivalent.
- 4.4 Any estimate given by Bestman Solutions of any charge whether for planning or any other purpose is only an estimate and is not contractually binding.

5 Recruiting Bestman Solutions personnel

- 5.1 Client shall not actively recruit Bestman Solutions personnel, defined as Bestman Solutions employees, contractors and agents, who are engaged in providing the Project under this Agreement. In light of the considerable efforts and expenses required to recruit, train and maintain Bestman Solutions personnel of the highest calibre, Client agrees not to hire, directly or indirectly, or in any way retain the services of Bestman Solutions personnel involved in providing the Project hereunder for the duration of this Agreement and for a period of one (1) year following the conclusion of work, unless Bestman Solutions consents in writing or Client pays a transfer fee of 100% of the personnel's annualised billable rate.

6 Acceptance of Deliverables

- 6.1 Client and Bestman Solutions shall agree acceptance criteria for each Deliverable and will set this out in the Statement of Work. If acceptance criteria are listed in the Statement of Work, the Client will have ten Working Days from the date a particular Deliverable is first offered by Bestman Solutions for acceptance, such other period as agreed in the Statement of Work, ("Testing Period") to determine whether the Deliverable conforms to the acceptance criteria. If the Client does not notify Bestman Solutions in writing of any deficiencies to the Deliverable within the Testing Period, then the Deliverable will automatically be deemed accepted by the Client. If the Client notifies Bestman Solutions in writing of a deficiency with the Deliverable, then upon Bestman Solutions's receipt of the Client's written notice, Bestman Solutions will have up to 15 Working Days to review the Client's notice and provide appropriate remedies to the Client. The Client shall then have an additional Testing Period (of the same duration as the initial Testing Period) to evaluate and test the Deliverable as modified by Bestman Solutions.

7 Complaints

- 7.1 If the Client is unsatisfied with any part of the Services, it must submit a written complaint to Bestman Solutions, and the Engagement Manager. Bestman Solutions will review the complaint and if it is found to be justified, Bestman Solutions will at its sole option either re-perform the rejected portion of the Services, or adjust the Fee charged. Any complaint made by the Client will not affect the Client's obligation to pay the Fee.

8 Warranties and liability

- 8.1 Bestman Solutions warrants that the Project shall be delivered and performed by personnel possessing competency consistent with applicable industry standards. No other representation, express or implied, and no warranty or guarantee are included or intended in this Agreement, or in any report, opinion, deliverable, work product, document or otherwise. Furthermore, no guarantee is made as to the efficacy or value of the Project. This section sets out the only warranties provided by Bestman Solutions concerning the project. This warranty is made expressly in lieu of all other warranties, express or implied, including without limitation any implied warranties of fitness for a particular purpose, merchantability, non-infringement, title or otherwise.
- 8.2 Neither party will be liable to the other party or any third parties for any indirect liability, claims, costs, losses, damages and expenses whether arising in tort or under contract, statute, common law or otherwise howsoever arising out of or in connection with the provision of the Project to the Client, or in any other way connected with this Agreement. Bestman Solutions' liability for damages or indemnity under this Agreement regardless of the form of action will not exceed per claim and in the aggregate the lesser of the total amount actually paid by the Client to Bestman Solutions under the relevant Statement of Work during the twelve (12) months preceding the events giving rise to the liability or £1,000,000 capped at £1,000,000 in aggregate.
- 8.3 All Deliverables are created solely for the internal use and benefit of the Client and may not be disclosed to any other third parties, used or relied upon for any other purpose unless agreed to in advance in writing by Bestman Solutions. Accordingly, the Client may not provide copies of the Deliverables or make any service (forming part of the Services) available to any third party in contradiction of this Agreement. Bestman Solutions accepts no liability or responsibility to any third party who benefits from or uses the Project or any component of it. The Client agrees to indemnify Bestman Solutions against any losses, liabilities, expenses or other costs that Bestman Solutions may reasonably incur in connection with any claims made by third parties in regard to the Project or any component of it. This Agreement shall not create any rights or benefits to parties other than to Client and Bestman Solutions.
- 8.4 Any legal proceedings arising from this Agreement must be brought within 6 months from the date when the party bringing the proceedings first becomes aware or ought reasonably to have become aware of the facts which give rise to the liability or alleged liability or within any relevant statutory limitation period whichever is the earlier.

9 Intellectual Property

- 9.1 All Intellectual Property licensed or owned by a party prior to entering into, or developed independently of, this Agreement, remains in the ownership of that party. Any new Intellectual Property developed solely for the purposes of, or in connection with the performance of the Project under this Agreement will vest in, and is assigned to, Client when Client has made full payment for the Project. If any pre-existing Intellectual Property owned by a party is incorporated in or attached to any intellectual property owned by the other party, the party that owns the Intellectual Property grants the other party a limited, worldwide, non-exclusive, royalty free licence to exercise all intellectual property rights in such pre-existing Intellectual Property for the purpose of accessing and using the intellectual property owned by the other party as referred to in this clause solely for that party's internal business purposes.
- 9.2 Bestman Solutions shall be free to use its general knowledge, skills, experience and any ideas, concepts, know-how, methods, models and techniques used or developed in the course of providing the Project on other engagements. Nothing in this Agreement shall preclude Bestman Solutions from developing for itself or for others, materials that are competitive with those produced as a result of the Project delivered under this Agreement, irrespective of their similarity to items which may be delivered to the Client under this Agreement.

10 Confidentiality

10.1 Each party must do all of the following:

- 10.1.1 Keep the Confidential Information confidential at all times.
- 10.1.2 Not use, disclose or reproduce the Confidential Information for any purpose other than the purposes of this Agreement.
- 10.1.3 Not disclose Confidential Information to any person other than its employees, subcontractors, agents and representatives who need the information for the purposes of this agreement, other than with the Confidential Information owning party's prior written consent. The receiving party must ensure those persons are aware of and comply with all confidentiality obligations in this Agreement.
- 10.1.4 Establish and maintain effective security measures to safeguard the Confidential Information from unauthorised access, use, copying or disclosure.
- 10.1.5 Notwithstanding this clause 10, a party may use or disclose Confidential Information to the extent necessary to comply with any law or obtain professional advice in relation to matters arising under or in connection with this Agreement.

10.2 Clause 10.1 does not apply to Confidential Information:

- 10.2.1 which is in or becomes part of the public domain;
- 10.2.2 was known to the receiving party at the time of disclosure and lawfully received from sources other than the disclosing party;
- 10.2.3 which the disclosing party acquires from a third party where that third party was entitled to disclose it;

otherwise than through a breach of an obligation of confidence.

- 10.3 Subject to legislative record retention requirements, on written request of the disclosing party, the receiving party will delete, destroy or return (as requested) to the disclosing party any documents in its possession, power or control containing Confidential Information.

11 Statement of Work changes

- 11.1 If Client or Bestman Solutions determines that a change to a Statement of Work is necessary, the parties will work together in good faith to amend such Statement of Work. The party proposing the change will provide the other party with a written request containing sufficient detail that the other may reasonably evaluate the impact of the change.
- 11.2 Unless otherwise agreed to in writing by Client and Bestman Solutions, performance under the existing Statement of Work will continue until an amended Statement of Work is signed by the parties. Likewise, Bestman Solutions will not be required to commence any out-of-scope work until an amended Statement of Work is signed by the parties.
- 11.3 If Client requests a material change to any Statement of Work, Bestman Solutions shall have ten (10) Working Days (or such other period of time as agreed upon in writing by the parties) from the receipt of Client's request to evaluate the impact of Client's change request and may terminate the Statement of Work upon ten (10) Working Days written notice to Client. In the event that Bestman Solutions terminates the Statement of Work in accordance with this paragraph, Client will have no further payment obligations other than for work performed and expenses incurred up to the effective date of the termination of the Statement of Work.

12 Termination

- 12.1 Either party may terminate this Agreement by giving the other party at least 4 weeks' written notice, unless otherwise specified in the Statement of Work, or immediately in the event that either party suffers or threatens to suffer any form of insolvency or administration or ceases or threatens to cease to carry on business.
- 12.2 If this Agreement or a particular Statement of Work is terminated, Client will immediately pay Bestman Solutions for all Deliverables provided and Services performed under such Statement of Work prior to the effective date of termination. After receiving full payment for the Deliverables and Services, Bestman Solutions will provide the Client with all Deliverables in development on an as-is basis, and such Deliverables will not be subject to the Client's acceptance.

13 General

- 13.1 Both parties will comply with their requirements under the Data Protection Act of 1998. The client agrees to comply with Bestman Solutions' Data Protection Policy (as amended from time to time).
- 13.2 The Client acknowledges and accepts that nothing in this Agreement prevents Bestman Solutions from providing services to other parties during the term of the Project Period, provided this does not create any conflict of interest, or compromise the ability of Bestman Solutions to deliver the Project to the Client's specification.
- 13.3 Bestman Solutions shall not be responsible for delays or failures (including any delay by Bestman Solutions to deliver the Project) if such delay arises out of causes beyond its control. Such causes may include, but are not restricted to, acts of God or of the public enemy, fires, floods, epidemics, riots, quarantine restrictions, strikes, freight embargoes, earthquakes, electrical outages, computer or communications failures, severe weather, and acts or omissions of subcontractors or third parties.
- 13.4 Where Client requires Bestman Solutions to contract the services of a sub-contractor specified by Client, Client will accept responsibility for the work performed by such subcontractor. Bestman Solutions' agreement to programme and integrate the work to be performed by such sub-contractor for the purposes of this Agreement is on the basis that Bestman Solutions will not be responsible or liable to Client or to any other person for the work performed by, and all acts, omissions, defaults and neglects of, such sub-contractor. In the above circumstances, Client will be responsible and liable for and will indemnify Bestman Solutions against and from, any liability which Bestman Solutions may incur to any person and against all claims, demands, proceedings, damages, losses, costs and expenses made against, suffered or incurred by Bestman Solutions, directly or indirectly as a result of or in connection with the work performed by any such sub-contractor.
- 13.5 No person who is not a party to this Agreement shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.
- 13.6 Neither party shall use the other's trade names, logos, trademarks, service marks or other indicia of origin without the express written consent of the other party; however, Bestman Solutions may reference the relationship with Client as part of its response to a request for information by future clients if written permission is obtained from Client in advance of such reference.
- 13.7 Notices must be in writing and served either personally, sent by prepaid registered post or faxed to the address of the other party given in the Statement of Work or to any other address as the parties may have notified during the period of the Agreement. Any notice sent by post will be deemed delivered 48 hours after sending. Any notice sent by fax or served personally will be delivered on the first working day following its dispatch. Unless this Agreement states otherwise, Client acknowledges that the parties may from time to time communicate electronically with each other and accept that this is not without risk.
- 13.8 Any amendment of this Agreement will not be effective unless agreed in writing and signed by both parties.

13.9 Bestman Solutions is an independent contractor of Client.

13.10 If there is a conflict between any parts of this Agreement for the purposes of interpretation, the terms set out in the Agreement will rank ahead of any conflicting terms in the Statement of Work, unless specifically stated otherwise.

13.11 This Agreement is governed by the law of England and Wales and the exclusive jurisdiction of the English Courts.

Dated

Dated

Signed on behalf of Client

**Signed on behalf of Bestman Solutions
Limited**

Print Name

Print Name

Schedule 1
Statement of Work

CONTRACT DETAILS

Contract Number []

Client Name []

Project Name []

Contact at Client []

**Mobile Telephone Number of
Contact at Client** []

Location of Services []

**Bestman Solutions
Engagement Manager** [insert name and any other specifics relating to his/her role if required]

Project Period From the **START DATE** through to completion of Project/[**END DATE**]
****COMPLETE AS AGREED WITH CLIENT**

Service Hours [] hours per week/day (if applicable)

Address for notices [include person to mark to the attention of]

**SPECIFICATIONS, SERVICES
AND DELIVERABLES**

Scope and objectives [insert detail relating to Client’s business issue, objectives of the Project including what it will and will not include (if applicable), any applicable business units related to the Project, overview of Project, limitations and exclusions to further define scope, Bestman Solutions’s responsibilities and role]

Services [insert specific services to be provided e.g. develop project plan, stakeholder management and how Bestman Solutions will complete the Project including processes, methodologies etc]

Deliverables and milestones [Insert any specific tangible deliverables and milestones (including timing) and how we will know when they are achieved]

Deliverable	Milestone	Start Date	End Date

Acceptance Criteria [Insert any specific acceptance criteria for the deliverables to be provided or delete] If no specific acceptance criteria are listed here, then the Client’s signature or electronic authorisation (as defined by the Client) of the service report by the Client or when the Client makes productive use of the Deliverables (whichever comes first) constitutes acceptance that the Deliverables are acceptable.

Assumptions [Assumptions from due diligence process that determine the Services and delivery etc]

Caveats [Caveats from due diligence process that impact the Services and delivery etc]

FEES

Fee	STANDARD FEE	£AMOUNT per hour/day or fixed fee of []
	ADDITIONAL FEE	£AMOUNT per hour
	The fee is based on the scope and assumptions listed below. If either of these need to change during the Project Period, the parties may agree an adjustment to the Fee in accordance with clause 11.	
	[Any estimate given by Bestman Solutions of any charge whether for planning or any other purpose is only an estimate and is not contractually binding.]	

Expenses []

CONTRACT MANAGEMENT

Resources and/or equipment to be provided by Client

[detail any resources/equipment to be provided, e.g.:

- office and other appropriate accommodation and facilities required to perform the Project
- access to telephone facilities
- access to computer facilities (Client is responsible for ensuring that Client has appropriate back-up, security and virus checking procedures in place for any computer facilities that Client provides)]

Format and frequency of Client communications including status updates and reviews

[Frequency and format of Client communications, such as status meetings and written updates]

Other conditions

[Insert any other conditions not already covered, including any further Client obligations not covered in the Agreement or requirements]

Termination Notice Period

NOTICE PERIOD by Client – 4 weeks

NOTICE PERIOD by Bestman Solutions – 4 weeks

Dated

Dated

Signed on behalf of [Client]

Signed on behalf of Bestman Solutions Limited