



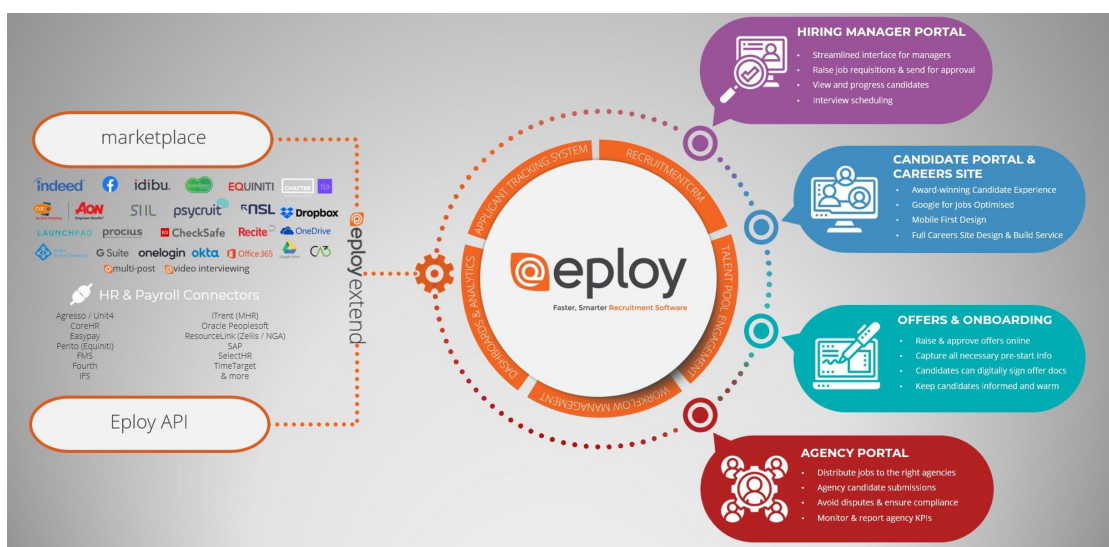
MASTER SERVICES AGREEMENT

SOME CONTEXT ABOUT EPLOY

If you haven't already been briefed about Eploy, it might be useful to give you a quick summary to help put some of the points below into context.

Eploy is the complete cloud-based recruitment platform for modern in-house recruitment teams. Eploy combines Applicant Tracking, Recruitment CRM, Talent Pool Engagement, Onboarding and Analytics into a unified web-based platform that integrates seamlessly with your careers site to provide an excellent experience for recruiters, candidates and hiring managers.

We deliver it as a flexible, modular system accessed using secure portals. Typically, it will be managed by your Recruitment/HR Team using the central Eploy portal, with the Hiring Manager community, Candidates (internal and external if required), external agencies (again, if required) accessing their own portals.



Further information about how Eploy features can be found here <https://www.eploy.co.uk/eploy-for/in-house-recruitment/>

NOTE: this section will be deleted from the final MSA

1. DEFINITIONS

Acceptance Certificate: a document, signed in accordance with clause 3, that confirms the successful conclusion of Acceptance Tests and states the Go Live Date. Alternatively, an Acceptance Certificate may be evidenced by email exchanges that expressly state the successful conclusion of Acceptance Tests and the Go-Live Date.

Acceptance Test: one or more procedures to verify that the Solution is ready in all material respects for live use in conformity with the Scoping Document.

Additional Services: additional services provided by Eploy not detailed in the original Service Order Form, purchased in accordance with clause 9.

Agreement: this MSA, SLA, SOF and Project Documents.

API: application programming interface, which has the meaning normally adopted by software developers but qualified to include only such interfaces as are documented, supported and made generally available by the vendor of the relevant application from time to time.

Authorised Users: people authorised by the Customer to use the Solution as described in clause 7.

Backup Policy: Eploy's customer backup policy.

Business Day: any day which is not a Saturday, Sunday or public holiday in the UK.

Candidate: means any person providing their details to the Customer.

Confidential Information: information or materials labelled as confidential or which a reasonable recipient would treat as confidential having regard to their nature or the circumstances of their disclosure. Confidential Information excludes information that (a) becomes publicly known other than through any act or omission of the receiving party; (b) was in the receiving party's lawful possession before the disclosure; (c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or (d) is independently and verifiably developed by the receiving party.

Customer: means the entity stated as such on a Service Order Form.

Customer Data: the Customer's data uploaded to the Solution.

Data Protection Legislation: The Data Protection Act 2018, the UK GDPR and where appropriate the General Data Protection Regulation ((EU) 2016/679) and all and any regulations made under those acts or regulations that have effect in the United Kingdom.

Eploy: means ITS Software Systems Limited, a limited company registered in England and Wales with company number 4583888, trading as Eploy.

Fees: all the fees set out in a Service Order Form.

Go-Live Date: such date stated on an Acceptance Certificate, which is the date on which the Solution is deemed available

for live use. A projected Go-Live Date is stated in the Implementation Plan.

Hosting Provider: Amazon Web Services, Microsoft Azure, Cloudflare or such other replacement supplier of hosting or similar services of similar high standard as may be appointed in accordance with clause 12 or Schedule 1.

Implementation Plan: the plan, timetable, and sequence of events for (i) the customisation, configuration, set-up, of the Solution (ii) training detailed in a Service Order Form and (iii) any Acceptance Tests.

Infringement Claim: a claim that the use of the Solution in accordance with this Agreement infringes a third party's Intellectual Property Rights.

Initial Term: the period stated as such on a Service Order Form and commencing on the Go-Live Date.

Intellectual Property Rights: patents, copyrights, design rights, trademarks, database rights and other rights in the nature of intellectual property rights (registered or unregistered) and all applications for the same, anywhere in the world.

Licence: the access rights purchased by the Customer as detailed in a Service Order Form and described in clause 7.

Master Services Agreement (MSA): the terms of this Master Services Agreement, including Schedule 1 (Data Protection Schedule).

Overage Fees: fees payable by the Customer for exceeding capacity limits detailed in a Service Order Form.

Project Documents: the latest dated Implementation Plan and Scoping Document and any other document referenced in them.

Project Start Date: such date stated in the Implementation Plan.

Recurring Fees: the recurring Fees payable to Eploy as detailed in a Service Order Form.

Renewal Term: any subsequent term beyond the Initial Term as described in clause 18.1.

Scoping Document: means the document formalising the scope of Services and the Solution provided by Eploy as agreed by the parties.

Services: the services provided by Eploy to the Customer under this Agreement (including hosting the Solution, performing the Implementation Plan and any Additional Services), including the software provided by Eploy to the Customer in the form of software-as-a-service, which on its own is the 'Solution'.

Service Level Agreement (SLA): the prevailing service level agreement. Eploy may amend (but not degrade) the SLA from time to time.

Service Order Form (SOF): the document of that name that details the Solution, Services and the Fees, signed by the Customer.

Set-Up Fees: the fees other than the Recurring Fees payable by the Customer as detailed in a Service Order Form.

Term: The Initial Term and any Renewal Term.

- 1.1 The word 'including' is to be construed as 'including but not limited to'.
- 1.2 Conflicts: If a conflict occurs between this Agreement and any Schedule, SOF and any other document, the order of precedence shall be: The SOF, the MSA, Schedule 1 of the MSA, the SLA, the documents reference by name in this Agreement, any other written agreement between the parties.

2. IMPLEMENTATION PLAN AND CHANGE REQUESTS

- 2.1 After the Service Order Form is activated (as described in the Service Order Form), Eploy shall convene a 'Commencement Meeting' (in person or via conference call) to confirm the proposed Project Start Date, the Scoping Document and the Implementation Plan.
- 2.2 Within 7 Business Days of the Commencement Meeting, Eploy shall provide the Customer with a projected Go-Live Date, and if applicable an updated Scoping Document and Implementation Plan for approval. Within a further 7 Business Days, the Customer shall promptly review such documents and either accept or reject them (in writing with reasons).
- 2.3 The parties shall negotiate in good faith to agree the revised Project Documents. If they fail to reach agreement within 21 Business Days of the Commencement Meeting, either party may terminate this Agreement without any liability for either party.
- 2.4 On the Project Start Date, Eploy shall begin implementing the Solution in accordance with Eploy's implementation methodology. Each party shall use reasonable endeavours to facilitate efficient performance of the Services in accordance with the Implementation Plan. Any work not detailed in Project Documents is out of scope.
- 2.5 Each party shall approve a reasonable extension of the timetable in the Implementation Plan if the other party:
 - (a) requests a variation to Services; or
 - (b) causes a delay by its action or omission (or by the action or omissions of its personnel or any third-party).
- 2.6 If either party requests a change to the Solution or Services, Eploy shall, within a reasonable time, provide a written estimate to the Customer of (a) the likely time required to implement the change; (b) any variations to the Fees; (c) the likely effect of the change on any Project Documents; and (d) any other impact of the change on the terms of this Agreement.
- 2.7 If (a) the Customer's unreasonable acts or omissions hinder or delay Eploy's performance of the Services; or, (b) the Customer cancels any training day or Services on less than 24 hours' notice, Eploy may charge the Customer (i) for such day's work as if it had been delivered (and the rearranged day for Services to be delivered will also be chargeable at the agreed rate); or (ii) for such wasted costs and charges it reasonably incurs, subject to Eploy confirming such costs and

charges to the Customer in writing. Both parties will reasonably and in good faith to avoid additional charges relating to this clause 2.7.

- 2.8 This clause 2.8 is only applicable if specified in a SOF and Scope. Eploy shall apply best practice methodology to ensure the accurate migration of data ('Data Migration') provided to it by the Customer in accordance with the Scope. The Customer shall be responsible for checking the accuracy and completeness of the Scope and data, both before and after the data has been migrated. Following migration of the data, the Customer will promptly confirm to Eploy if there are any inaccuracies or omissions in the migrated data, and if so, what those inaccuracies or omissions are. Where any such inaccuracies or omissions arise, the party who is responsible for causing them shall bear the cost of rectifying them.
- 2.9 Each party shall not unreasonably withhold or delay consent to a change to the Solution or Services during implementation.

3. ACCEPTANCE TESTING

- 3.1 In the period specified in the Implementation Plan, Eploy shall provide the Customer with the opportunity to perform Acceptance Tests. The Customer shall cooperate to facilitate the Acceptance Tests within that period.
- 3.2 Within 5 Business Days of the Solution being made available for Acceptance Tests (or as otherwise specified in the Implementation Plan), the Customer shall notify Eploy that the Acceptance Tests are satisfactory or specify how the Solution fails to conform to the Scoping Document.
- 3.3 Forthwith after notice of satisfactory conclusion of Acceptance Tests or if the Customer starts using the Solution other than for testing, the Customer shall sign an Acceptance Certificate.
- 3.4 If the Customer does not specify details of how the Solution fails to conform to the Scoping Document within the period set out in clause 3.2, or if the Customer unreasonably withholds or delays signing an Acceptance Certificate, Eploy may sign and issue the Acceptance Certificate unilaterally.
- 3.5 The Acceptance Certificate will specify a Go-Live Date (no later than 20 Business Days from the date the Acceptance Certificate was issued, unless otherwise agreed in writing).

4. THE SOLUTION

- 4.1 Eploy shall provide and maintain the Solution from the Go-Live Date.
- 4.2 If there is a delay of more than 30 days to the Go-Live Date caused by the Customer or any third party engaged at the Customer's request, Eploy may invoice and require payment of Fees from the projected Go-Live Date before the delay intervened.

4.3 During the Term, Eploy shall provide the Customer with Eploy's standard support services in accordance with the SLA.

5. SOLUTION UPDATES

5.1 As further described in this clause 5, Eploy shall maintain and patch the hosting platform and apply updates to the Solution as they become available in accordance with the SLA. Except for emergency changes justified to preserve security, reliability and performance of the Solution (which Eploy shall notify with such notice as may be practicable), Eploy shall deploy changes at times that minimise or negate inconvenience for users.

5.2 Eploy may change the Solution without consent to implement (a) changes that do not detract from the Solution or affect the experience of Authorised Users or (b) changes pursuant to clause 6.2. Other updates are referred to as **'Version Updates'** in the remainder of this clause.

5.3 Prior to deploying a Version Update, Eploy shall (a) notify the Customer with sufficient detail to allow the Customer to consider and plan for the update; (b) where justified, provide advance access to demonstrations or training to facilitate transition to the update; and, (c) allow the Customer to defer the deployment of the update for up to a maximum of 6 months to meet the Customer's business requirements. For security, performance and accessibility reasons, Customers must be on the current version minus two (n-2) as a minimum.

5.4 If the Customer demonstrates that a Version Update has substantially and adversely affected the Customer's use of the Solution, the Customer may terminate this Agreement on 30 days' written notice regardless of any unexpired period of the prevailing Term. Such termination will be without liability for either party.

5.5 Except as stated in the Scoping Document, the Solution has not been developed to meet the Customer's individual requirements. It is the Customer's responsibility to ensure that the facilities and functions of the Solution as described in the Scoping Document and Service Order Form meet its requirements.

5.6 Version Updates may require additional Services to implement and make use of the new feature(s) not already included in the Scope, this not effect existing features included in the Scope.

6. INTEGRATION WITH THIRD PARTY SERVICES

6.1 Featured Integrations. In this clause 6, **'Featured Integrations'** mean those parts of the Solution that are generally deployed for all customers and that allow use of a third party product through the medium of the Solution. The prevailing list of Featured Integrations is available on request.

6.2 Eploy may remove, modify or substitute Featured Integrations (or suspend them to allow time to implement necessary changes to the Solution) if the third party provider deprecates or makes changes to the relevant product (including free products becoming

chargeable) so that it ceases to be compatible with the Solution without non-trivial effort or cost.

6.3 Integrations included in Scoping Documents. If a Scoping Document specifies an integration between the Solution and a third party product, unless otherwise stated in a Scoping Document, such Services are based on the integration being deployed using Eploy APIs together with APIs or facilities available without charges for the third party product. The Services do not include any professional services required from the third party provider.

6.4 The Services do not include any re-work necessary to maintain the integration with a third party product caused by a change to its API or features.

6.5 Eploy APIs. The Customer may use Eploy published APIs to build integrations with Eploy but unless otherwise stated in a SOF the Services do not include assisting the Customer with building or maintaining such integrations. The Customer, or a third party engaged by the Customer, will access the Eploy API according to the Eploy API developer portal (<https://www.eploy.co.uk/developers/>). Limits are set on the number of daily API calls according to a SOF. Eploy may suspend access to the Eploy API if the Customer, or a third party engaged by the Customer, breaches this clause.

6.6 Responsibility for third party processing. Except where this Agreement lists a third party as a subcontractor of Eploy and states that the third party is a processor (within the meaning of the Data Protection Legislation) appointed by Eploy, Eploy merely provides the Customer with the facility to allow Customer Data to be shared with and processed by any third party product using integrations described in this clause 6 if the Customer wishes to use such facility. Eploy will not be responsible for any processing of Customer Data by the third party, including the consequences of any Customer Data being assimilated by the Solution after processing by the third party.

6.7 Compliance with third party terms. If the Customer uses any third party product through the medium of the Solution, the Customer shall comply with such terms as the third party may impose, and the Customer will be responsible for the payment of any charges associated with such use (except insofar as the Service Order Form specifically identifies Fees which Eploy collects for such integrations).

6.8 Eploy's duty of care. Without limiting the provisions of the remainder of this clause 6, Eploy's obligations in relation to any of the integrations contemplated by this clause 6 are limited to using reasonable care and skill to maintain the Eploy APIs and when performing any Services set out in the Scoping Document. Eploy does not warrant the quality, safety or compatibility of any third party product.

7. LICENCE

7.1 Subject to the Customer paying the Fees to Eploy, Eploy grants to the Customer a non-exclusive, non-

transferable right to permit Authorised Users to use the Solution during the Term within the parameters specified in the Service Order Form and solely for the Customer's internal business operations. The Customer may use the Solution for other entities within the Customer's management control but the Customer will be responsible for acts and omissions of all Authorised Users.

- 7.2 The Solution provides the Customer with the facility to configure password policies. The Customer is responsible for any use or misuse of the Solution perpetrated using access authenticated within the policies set by the Customer.
- 7.3 The Customer shall ensure Authorised Users do not share passwords. The Customer shall ensure Authorised Users take reasonable steps to safeguard their login credentials and passwords.
- 7.4 The Customer shall pay for use in excess of the parameters specified in the Service Order Form.
- 7.5 The Customer shall not use or permit the Solution to create a derivative or competing product.

8. PERMITTED USE AND ACCEPTABLE USE POLICY

- 8.1 The Customer shall not access, store, distribute or transmit any viruses, or any material using the Solution that (a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; (b) facilitates illegal activity; (c) depicts sexually explicit images; (d) promotes violence; (e) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability, or any other illegal activity; or (f) causes damage or injury to any person or property. Eploy may, subject to giving as much notice as reasonably possible, if possible, in writing specifying how the Customer is in breach, disable the Customer's access to the Solution to alleviate a breach of this clause.
- 8.2 The Customer shall refrain from using the Solution to send email in any manner that could be interpreted as unsolicited email. Eploy may suspend the Customer's access to such facilities to alleviate any risk or occurrence of the Customer's usage causing emails originating from the Solution to be blacklisted or otherwise blocked by any third party service providers or applications.

9. ADDITIONAL SERVICES

Subject to the payment of the appropriate fees, Eploy shall provide Additional Services as agreed between the parties from time to time in a separate Service Order Form. Unless otherwise detailed in a Service Order Form, Eploy will invoice for any Additional Services as soon as they have been provided or at the end of the month in which they were provided.

10. EMPLOY WARRANTIES

- 10.1 Eploy warrants it shall perform the Services and provide the Solution in accordance with the Scoping Document and in a timely, reliable and professional manner using

employees with appropriate skills, qualifications and experience, using reasonable care and skill, and in compliance with applicable laws and regulations.

- 10.2 If the Solution does not conform with the foregoing warranty, Eploy shall promptly use reasonable endeavours to correct any such non-conformance or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the warranty set out in clause 10.1.
 - (a) Eploy does not warrant that the Customer's use of the Solution will be uninterrupted or error-free; nor that the Solution will meet the Customer's requirements not specified in the Scoping Document.
 - (b) Eploy is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over the internet, communications networks and facilities outside Eploy's reasonable control.
- 10.3 Eploy shall obtain and maintain all necessary licences, consents, and permissions necessary for Eploy to perform this Agreement.

11. CUSTOMER'S OBLIGATIONS

- 11.1 The Customer shall:
 - (a) cooperate with Eploy to facilitate the efficient performance of the Services and promptly provide Eploy with information and decisions and access to the Customer's personnel as reasonably requested by Eploy.
 - (b) appoint a customer representative who will work with the Eploy delivery team and have the authority to contractually bind the Customer on matters relating to the Services;
 - (c) be responsible for procuring Customer-side workstations and internet connectivity compliant with the specifications to use the Solution (including requirements in the Scoping Document);
 - (d) comply with all applicable laws and regulations with respect to its activities under this Agreement;
 - (e) ensure that Authorised Users use the Solution in accordance with the terms and conditions of this Agreement;
 - (f) be solely responsible for procuring and maintaining its network connections from its systems to Eploy's data centres; and
 - (g) take all reasonable and usual precautions to safeguard the Customer's systems and Customer Data, including operating firewalls and virus checks and implementing effective and appropriate data security relating to use of the Solution.

12. CUSTOMER DATA AND DATA PROTECTION

- 12.1 The Customer will own all rights in the Customer Data.
- 12.2 Eploy carries out backups of Customer Data as detailed in the Eploy Backup Policy. In the event of any loss or damage to Customer Data, Eploy shall restore the latest available backup of such Customer Data in accordance

with the archiving procedure described in its Backup Policy. In all events, the Customer releases Eploy from liability for loss of data to the extent that the data has changed since the last available backup and the time that Eploy were last required by the Eploy Backup Policy to perform a backup.

12.3 Subject to Eploy's compliance with the security, backup and data protection provisions in this Agreement, Eploy will not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party outside of Eploy's reasonable control. For the avoidance of doubt, Hosting Providers are within Eploy's reasonable control.

12.4 Eploy shall comply with its prevailing Privacy Policy (eploy.co.uk/information/privacy).

12.5 The Customer grants to Eploy a non-exclusive, perpetual, irrevocable, royalty free licence to use any data generated from the Customer's use of the Solution (provided that such data is anonymised and not shared with any other party) for the purpose of (a) statistical analysis and monitoring, querying and analysing such data for the purpose of providing the Solution and improving the quality of Services Eploy provides to its customers; (b) exercising its rights and fulfilling its other obligations under this Agreement.

12.6 Each party shall comply with Data Protection Legislation.

12.7 Eploy shall maintain an ISO27001 security accreditation and shall carry out regular security audits to ensure compliance with this standards at its own expense.

13. SUSPENSION OF SERVICES

13.1 Eploy may suspend Services without liability if (a) Eploy can reasonably demonstrate that the Solution is being used in breach of this Agreement and the Customer does not remedy the failure within 30 days of Eploy's written notice to the Customer describing the breach and warning of suspension; (b) the Customer doesn't co-operate with Eploy's reasonable investigation of any suspected violation of the Agreement; (c) there is an attack on the Solution or the Solution is accessed by or manipulated by a third party without Eploy's consent; (d) Eploy is required by law to suspend the Services or the Customer's access to the Solution; or (e) there is another event for which Eploy reasonably believe that suspension of the Solution is necessary to protect their or the Hosting Provider's network, system, the Solution or other customers.

13.2 Eploy will give the Customer advance notice of a suspension under clause 13.1 explaining the reason for the suspension, unless Eploy determine in its reasonable commercial judgement that an immediate suspension is necessary to protect the Customer, Eploy or its customers from imminent and significant risk.

13.3 If the Customer's systems are compromised, the Customer shall address the vulnerability and demonstrate to Eploy's reasonable satisfaction that it

has appropriately addressed such vulnerability prior to Eploy resuming the Customer's access to the Solution.

13.4 Any suspension of the Solution, unless caused by Eploy's breach of this Agreement, will not suspend the Customer's obligation to pay Fees.

14. FEES AND PAYMENT

14.1 All Fees are stated exclusive of VAT, which is payable in addition to the Fees at the rate prescribed by law. Eploy shall issue VAT invoices.

14.2 The Service Order Forms states (and the Customer agrees to pay) the Fees that are stated as payable before the Service Order Form can be activated. Eploy shall invoice such Fees after the Customer signs the Service Order Form.

14.3 Eploy shall invoice and the Customer shall pay any balance of the Set-Fees and the first Recurring Fee by the Go-Live Date.

14.4 Eploy shall invoice Recurring Fees monthly in advance.

14.5 Except as set out in clauses 14.1 to 14.3, the Customer shall pay invoices within 30 days (or otherwise agreed in a SOF) of invoice date.

14.6 If Eploy has not received Fees 30 days after the due date for payment (except for invoices disputed in good faith), and without prejudice to any other rights and remedies, Eploy may, on 5 days advance notice, suspend access to all or part of the Solution and Eploy will be under no obligation to provide any Services while Fees remain unpaid.

14.7 Unless otherwise stated in this Agreement, Fees are non-refundable once paid.

14.8 If the Customer exceeds any capacity limits specified in the Scoping Document or Service Order Form, Eploy may invoice, and the Customer shall pay, Eploy's Overage Fees for such excess. Overage Fees can be avoided by contacting Eploy and subscribing to a higher service plan. Eploy will give 30 days notice of any potential excess charges to give the Customer time to rectify, .

14.9 Eploy may increase the Fees with effect from the start of each Renewal Term. Eploy shall give 90 days prior written notice to the Customer of any increase. If the Customer does not agree to the increase, the Customer may terminate at the end of the prevailing Term by giving written notice in accordance with clause 18.1.

15. INTELLECTUAL PROPERTY RIGHTS

15.1 Eploy and/or its licensors own all Intellectual Property Rights in the Solution. Except as stated in clause 7, this Agreement does not grant the Customer any rights to Intellectual Property Rights in respect of the Solution.

15.2 Eploy confirms that it has all the rights in relation to the Solution that are necessary to grant all the rights it purports to grant in this Agreement.

15.3 Eploy shall indemnify the Customer against Infringement Claims unless the Infringement Claim arises out of use of the Solution in combination with software not supplied

by Eploy and would not have arisen but for such combination.

15.4 Clause 15.3 is conditional on (a) the Customer notifying Eploy in writing, as soon as reasonably practicable, of any Infringement Claim of which the Customer has notice; (b) the Customer not making any admission as to liability or compromise or agreeing to any settlement of any Infringement Claim without the prior written consent of Eploy; and (c) Eploy having, at its own expense, the conduct of all negotiations and litigation arising from any Infringement Claim and the Customer giving Eploy all reasonable assistance in connection with those negotiations and such litigation at Eploy's request and expense.

15.5 If any Infringement Claim is made, or in Eploy's reasonable opinion is likely to be made, against the Customer, Eploy may at its sole option and expense (a) procure for the Customer the right to continue using the Solution in accordance with the terms of this Agreement; or (b) modify the Solution so that it ceases to be infringing; or (c) replace the Solution with comparable non-infringing software; or (d) terminate this Agreement immediately by notice in writing to the Customer and refund any Fees paid by the Customer as at the date of termination (less a reasonable sum in respect of the Customer's use of the Solution to the date of termination).

16. CONFIDENTIALITY

16.1 Each party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than performing this Agreement.

16.2 Details of the Solution, and the results of any performance, security, penetration, vulnerability or other logical, analytical, data or information gathering tests carried out on the Solution, constitute Eploy's Confidential Information.

16.3 Customer Data is the Confidential Information of the Customer.

16.4 This clause 16 will survive termination of this Agreement, however arising.

17. LIMITATION OF LIABILITY AND INSURANCE

17.1 Notwithstanding any other provision of this Agreement, neither party excludes or limits its liability for (a) death or personal injury caused by its negligence; (b) fraud or fraudulent misrepresentation; (c) liability for Infringement Claims; (d) liability to pay Fees as they are due; (e) any liability which may not be excluded by law.

17.2 Save as expressly set out in clause 17.1, neither party will be liable for any loss of profit, loss of business, loss of goodwill, loss of savings, claims by third parties (except those for which Eploy has provided an express indemnity in clause 15.3), whether direct or indirect, or for any indirect loss or consequential loss whatsoever

and howsoever caused (even if caused by that party's negligence and/or breach of contract and even if that party was advised that such loss would probably result).

17.3 Except as expressly set out in clause 17.1, each party's total liability for any claims, losses, damages or expenses whatsoever and howsoever caused (even if caused by its negligence and/or breach of contract) will be limited for each event or series of linked events to a maximum sum equal to:

- (a) if liability arises from a breach of Data Protection Legislation (irrespective of whether Eploy is also in breach of any other provisions of this agreement), 200% of the total Fees actually paid during the Initial Term, or
- (b) in all other cases, 100%, of the total Recurring Fees actually paid by the Customer during the 12 month period immediately preceding the event (or last of a series of linked events) giving rise to such liability.

17.4 Eploy shall maintain in force insurance policies sufficient to provide cover as required by law and professional indemnity insurance in respect of foreseeable liability under this Agreement.

18. TERM AND TERMINATION

18.1 Unless otherwise terminated as provided in this clause 18, this Agreement will continue for the Initial Term. The Agreement will automatically renew for successive 12 month periods (each a Renewal Term), unless (a) either party gives at least 60 days' written notice of termination expiring at the end of the prevailing Term; or (b) otherwise terminated in accordance with the provisions of this Agreement.

18.2 Either party may terminate this Agreement if (a) the other party commits a material breach of any of the terms of this Agreement and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or (b) the other party has a receiver or administrative receiver appointed over it or over any part of its business or assets or passes a resolution for winding up (except for the purposes of a genuine scheme of solvent amalgamation or reconstruction) or a court of competent jurisdiction makes an order to that effect, or becomes subject to an administration order or enters into any voluntary arrangement with its creditors, or it ceases or threatens to cease or carry on business.

18.3 On termination of this Agreement for any reason (a) all access to the Solution will terminate; (b) Eploy will erase Customer Data no later than 10 business days after the effective date of the termination of this Agreement, a written request for the delivery to the Customer of the most recent backup of the Customer Data (which Eploy shall deliver in accordance with the Eploy's Backup Policy and within 30 days of its receipt of such a written request, provided that the Customer has paid all Fees pursuant to clause 18.4).

18.4 If this Agreement is terminated prior to the end of the prevailing Term, other than for material breach by Eploy

under clause 18.2, all Fees payable up to the end of the Term will be immediately due and payable to Eploy.

19. MARKETING

With the Customer's approval, Eploy may publish the Customer as a customer of Eploy for marketing purposes and use the Customer's logo and name on the Eploy website and sales collateral. With the Customer's permission, Eploy may from time to time produce and publish Customer comments, endorsements, case studies and other instances of advocacy, for the purposes of marketing, which the Customer has the right to amend or approve before publication.

20. FORCE MAJEURE

Eploy will have no liability to the Customer if Eploy is prevented or delayed in performing this Agreement by acts, events, omissions or accidents beyond its reasonable control that could not have been prevented by disaster recovery/business continuity plans consistent with good industry practice.

21. GENERAL

- 21.1 No variation of this Agreement will be effective unless in writing and signed by the parties.
- 21.2 No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law will constitute a waiver of that or any other right or remedy, nor will it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy will prevent or restrict the further exercise of that or any other right or remedy.
- 21.3 Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to any rights or remedies provided by law.
- 21.4 If any provision (or part of a provision) of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions will remain in force. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision will apply with whatever modification is necessary to give effect to the commercial intention of the parties.
- 21.5 This Agreement and the Project Documents constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover. In entering into this Agreement, neither party is relying on any promise, assurance, statement or understanding (whether in writing or not) of any person relating to the subject matter of this Agreement, other than as expressly set out in this Agreement.
- 21.6 This Agreement does not confer any rights on any party other than the parties to this Agreement and, where applicable, their successors and permitted assigns pursuant to the Contracts (Rights of Third parties) Act 1999.

22. NOTICES

- 22.1 Any notice required to be given under this Agreement must be in writing and delivered by hand or sent by first-class post or recorded delivery to the other party at its address set out in this Agreement, or such other address as may have been notified by that party for such purposes as set out in this Agreement. A notice may also be sent by email, except for Customer notice of Termination, or any breach of this Agreement, which may be sent by email but must be acknowledged by Eploy.

23. DISPUTE RESOLUTION

- 23.1 Any dispute arising out of or in connection with this agreement will be referred first, by notice in writing, to a senior representative of each party who will meet and endeavour to resolve the dispute between them within 20 days of such notice. The joint written and signed decision of those senior representatives will be binding upon the parties.
- 23.2 If such senior representatives cannot come to a joint decision, the parties shall attempt to settle the dispute by mediation using the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator will be nominated by CEDR.
- 23.3 No party may commence any court proceedings in relation to such dispute until (a) such mediation has terminated, or (b) the other party has failed to participate in the mediation, or (c) where delay whilst mediation takes place pursuant to clause 23.2 would prejudice the right to issue proceedings or the ability to pursue a claim or obtain any remedy; or (d) an injunction or other equitable or emergency relief is sought.

24. ANTI-BRIBERY

Eploy shall (a) comply with all applicable laws, statutes, regulations, relating to anti-bribery and anti-corruption including the Bribery Act 2010 (Relevant Requirements); (b) have and shall maintain in place throughout the term of this Agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, and will enforce them where appropriate; (c) promptly report to the Customer any request or demand for any undue financial or other advantage of any kind received by Eploy in connection with the performance of this Agreement.

25. GOVERNING LAW AND JURISDICTION

- 25.1 This Agreement and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by, and construed in accordance with, the law of England.
- 25.2 The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement

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or its subject matter or formation (including non-contractual disputes or claims).

26. MODERN SLAVERY ACT

26.1 In performing their obligations under the Agreement, the parties shall comply with all applicable anti-slavery and human trafficking laws, statutes, regulations from time to time in force including the Modern Slavery Act 2015 and maintain throughout the term of this Agreement its own policies and procedures to ensure its compliance.

26.2 The parties shall not engage in any activity, practice or conduct that would constitute an offence under sections

1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK.

27. ANTI-FACILITATION OF TAX EVASION.

In performing their obligations under this Agreement, the parties shall not engage in any activity, practice or conduct which would constitute a UK tax evasion facilitation offence under section 45(1) of the Criminal Finances Act 2017 or a foreign tax evasion facilitation offence under section 46(1) of the Criminal Finances Act 2017.

Signed on behalf of Customer:

Signed on behalf of Eploy:

Name:

Name:

Company:

Job Title:

Job Title:

Date:

Date:

The persons signing this MSA state their authority to bind their organisation to its terms

SCHEDULE 1 - DATA PROTECTION SCHEDULE

1. References to 'controller', 'data subject', 'personal data', 'personal data breach', 'processor', 'processing' and 'supervisory authority' have the meanings defined in the Data Protection Legislation. References to 'sub-processor' mean another processor appointed by a processor.
2. Eploy shall ensure that the datacentre used to host the Solution and the Customer Data remains located within the European Economic Area or the United Kingdom.
3. The Customer is responsible for ensuring it is lawfully entitled to supply personal data to Eploy for processing under this Agreement.
4. In the context of all personal data provided to Eploy by or on behalf of the Customer for processing under this Agreement, the parties intend that the Customer is the controller and Eploy is the processor of the personal data.
5. Except insofar as the Customer requires Eploy's assistance because the Solution does not provide the Customer with the necessary access or features, the Customer shall:
 - 5.1. determine when personal data ought to be deleted or when processing of personal data ought to cease;
 - 5.2. take any steps to comply with the rights of data subjects for access to personal data, rectification or erasure of personal data, data portability, rights to be forgotten, and reply to any notices from data subjects; and
 - 5.3. keep a record of processing with any greater information than that which is evident from this Agreement.
6. If the Customer requests Eploy's assistance with any of the matters listed in paragraphs 5.1 to 5.3, Eploy may treat any non-trivial requests as a request for Additional Services.
7. Eploy shall:
 - 7.1. process the personal data only on documented instructions from the Customer, including with regard to transfers of personal data to a third country or an international organisation outside the European Economic Area, unless required to do so by law to which Eploy is subject; and in such a case, Eploy shall inform the Customer of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest;
 - 7.2. ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
 - 7.3. take all measures and implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk, taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons;
 - 7.4. if there is a personal data breach in relation to any Customer Data, notify the Customer without undue delay and, where practicable, within 24 hours and thereafter assist the Customer with its obligations to notify the personal data breach to a supervisory authority;
 - 7.5. provide the Customer with reasonable assistance to undertake data protection impact assessments in relation to processing of personal data pursuant to this Agreement and all reasonable assistance required in relation to any consultation with a supervisory authority that the Customer carries out in relation to such assessment;
 - 7.6. in accordance with Eploy's standard policies (Customer Exit Plan, Backup Policy or otherwise as detailed in a Service Order Form), delete, or return personal data and copies thereof, on termination of the Agreement, unless required by any Applicable Laws to continue to store the personal data;
 - 7.7. make available to the Customer all information necessary to demonstrate compliance with the obligations in this paragraph 7 and allow for audits to be carried out by the Customer, or the Customer's designated auditor, only so far as is necessary in order to demonstrate compliance, provided that the Customer (a) provides Eploy with no less than 30 days' notice of such audit or inspection; (b) refunds Eploy for all reasonable costs and expenses that it incurs as a result of any such audit or inspection (c) both parties agree the scope, duration and purpose of such audit or inspection. If the Customer becomes privy to any Confidential Information of Eploy as a result of this clause, the Customer shall hold such Confidential Information in confidence and, unless required by law, not make the Confidential Information available to any third-party, or use the Confidential Information for any other purpose. Eploy will only be required to use reasonable endeavours to assist the Customer in procuring access to any third-party assets, records or information as part of any audit; and
 - 7.8. immediately notify the Customer if, in the opinion of Eploy, an instruction infringes Data Protection Legislation.

8. To the extent that Eploy uses another processor to process any Customer Data, it is agreed that:
 - 8.1. Subject to paragraph 8.2, the Customer authorises Eploy to appoint (and permit each third-party processor appointed in accordance with this paragraph 8 to appoint) third party sub-processors in accordance with this paragraph 8 and any restrictions in this Schedule.
 - 8.2. Eploy may appoint alternative third party processors to provide materially like for like services to the Customer as part of the Solution subject to (a) Eploy entering into a written agreement with such third party processor incorporating terms which are substantially similar to those set out in this Schedule; and (b) such third party processor being able to demonstrate at least as high a standard of service quality and compliance to the previously appointed third party processor.
 - 8.3. Eploy shall give the Customer prior written notice of the appointment of any new third party processor, and provide the Customer with full details of the processing to be undertaken by the third party processor. If the Customer objects (on reasonable grounds) to the proposed appointment, subject to the termination provisions of the Agreement, either party may terminate the Agreement by providing Eploy with 30 days' advance written notice.
 - 8.4. Eploy shall remain fully liable for the actions of its sub-processors at all times;
9. Eploy shall not process personal data (or permit any sub-processor to process such personal data) outside the UK or the European Economic Area without the Customer consent and without ensuring the personal data is afforded adequate protection within the meaning of the Data Protection Legislation.
10. The Customer:
 - 10.1. shall ensure, and represents that, it has all necessary and appropriate consents and notices in place to ensure that it can lawfully transfer the personal data to Eploy, for the duration and purposes of this Agreement;
 - 10.2. shall provide Eploy with a detailed description of the data processing activities, including the personal data concerned, as set out in Annex 1, and warrants that such description will be accurate, complete, and sufficient to satisfy the Data Protection Legislation;
 - 10.3. is solely responsible for responding to any request from a data subject and in ensuring its own compliance with its obligations under Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators.

ANNEX 1 - DETAILS OF PROCESSING OF COMPANY PERSONAL DATA

This Annex 1 includes certain details of the Processing of personal data as required by Article 28(3) GDPR.

1. **SUBJECT MATTER AND DURATION OF THE PROCESSING OF PERSONAL DATA**
For the purposes of delivering the Services and the Solution pursuant to the Agreement between both parties for the duration of the Term.
2. **THE NATURE AND PURPOSE OF THE PROCESSING OF PERSONAL DATA**
To allow the Customer to store and process Personal Data for the purposes of recruitment.
3. **THE TYPES OF PERSONAL DATA TO BE PROCESSED**
Candidate name, contacts details, work history, references, salary information, identification and visa information, equality and diversity information, bank details.
4. **THE CATEGORIES OF DATA SUBJECT TO WHOM THE PERSONAL DATA RELATES**
Job applicants.
5. **THE OBLIGATIONS AND RIGHTS OF THE CUSTOMER**
The obligations and rights of the Customer are set out in the Agreement.