



Crown
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EPAM TERMS AND CONDITIONS: MASTER SERVICE AGREEMENT TEMPLATE (G-CLOUD 15 LOT 3)

[INSERT DATE]

EPAM SYSTEMS LTD.

C/O CSC CLS (UK) Limited, 5 Churchill
Place, 10th Floor, London, United
Kingdom, E14 5HU www.epam.com

EPAM SYSTEMS LTD.

This Master Services Agreement is made on the last date of signature of this Agreement between:

Client:	[●] a company incorporated in [●] with a registered number of [●] and whose registered office at [●]; and
EPAM:	EPAM Systems Ltd. , a company registered in England under registration number 04832183 , having its registered office at C/O CSC CLS (UK) Limited, 5 Churchill Place, 10th Floor, London, United Kingdom, E14 5HU .
Effective Date:	[insert date]

MASTER SERVICES AGREEMENT

This Master Services Agreement ("Agreement"), including any schedule or exhibits attached hereto, establishes the terms under which EPAM will provide services to develop, modify or maintain computer software or other consulting or IT services described in the statements of work, as amended, that are agreed by the parties in writing and signed by their respective authorized representatives pursuant to this Agreement ("**SOW**"). An SOW shall be binding on the parties and incorporated into this Agreement by reference on the date of complete execution of such SOW. SOWs will contain descriptions of Services to be provided and the commercial terms under which they will be provided including but not limited to pricing information. Terms and conditions contained in any SOW shall supersede the terms and conditions contained in this Agreement for that specific SOW only.

SOWs may be entered into between affiliates of either party. Save as set out in such SOW, each such SOW shall incorporate the terms of this Agreement (excluding any other SOWs) and references to "Client" and "EPAM" in this Agreement shall (for the purposes of such SOW) be interpreted in such SOW as references to the contracting Client affiliate and EPAM affiliate in such SOW, respectively.

APPOINTMENT

Subject to the terms and conditions of this Agreement, Client hereby engages EPAM to perform certain development, consulting and professional services to create, modify or maintain software which may include the development and delivery of deliverables, in each case as described in executed SOWs (the "**Services**"). Depending upon the nature of each project described on the SOW, these Services may include a combination of business process consulting, software design, software programming, software testing, software maintenance, and software support.

TERM OF AGREEMENT

This Agreement shall become effective on the Effective Date and shall continue until terminated by either party as provided in clause 7 below.

SCOPE OF SERVICES

Each of the SOWs shall state the personnel, services and/or deliverables to be provided by EPAM to Client under such SOW and whether the Services shall be paid for on a time & materials or fixed price basis. The Client shall not unreasonably withhold or delay acceptance or payment where an SOW sets out acceptance procedures or stipulates that payment is to be made against milestones. Any changes to the type of billing must be agreed in writing between the parties.

In SOWs which specify the provision of services or deliverables on a fixed price basis, any changes required by the Client relating to the scope of the project or Services shall be notified in writing to EPAM, who will then provide an impact analysis to Client identifying the impact on the existing SOW of such changes in terms of at least, costs, deliverable completion dates, functionality and performance. All changes to the relevant SOW shall be subject to the written agreement of the parties.

CLIENT'S OBLIGATIONS



In order for EPAM to perform its obligations under this Agreement and any SOW, Client shall co-operate with EPAM to the extent reasonably required for the performance of the Services by EPAM, including, but not limited to:

providing such information, access and assistance in a timely manner as is reasonably requested by EPAM as needed for the performance of EPAM's obligations;

fulfilling any undertaking or obligation expressly assumed by Client under a SOW and performing any such obligations and undertakings with appropriately qualified, skilled staff and adequate resources; and/or

ensuring that it has obtained all necessary licenses and consents in any software or systems provided are made available to EPAM.

RELATIONSHIP

EPAM shall perform under this Agreement as an independent contractor engaged in the business of providing services to its business clients and to Client in particular. EPAM and its employees and/or subcontractors are not agents or legal representatives of Client for any purpose and have no authority, express or implied, to represent or bind Client. Nothing contained in this Agreement shall be construed as creating a joint venture or partnership between EPAM and Client.

Notices to be delivered by either party to the other under this Agreement shall be addressed to the following contact people.

Client Contacts:		
<u>Individual</u>	<u>Responsibility</u>	<u>Email/Contact Number(s)</u>
[please insert]	[please insert]	[please insert]
EPAM Contacts:		
<u>Individual</u>	<u>Responsibility</u>	<u>Email/Contact Number(s)</u>
[please insert]	Account Manager for Client	[please insert]
with copy to: EPAM Legal	EPAM General Counsel	[EPAM LEGAL NOTICE EMAIL]

TERMINATION OF AGREEMENT AND/OR SOW(s)

Termination of Agreement or SOW for convenience (as applicable). Either party may terminate this Agreement without cause by giving the other parties advance written notice of at least ninety (90) days. Either party may terminate an SOW without cause in accordance with the terms of the relevant SOW.

Termination of Agreement or SOW for cause (as applicable). Either party may terminate this Agreement if the other party commits a material breach of the Agreement and fails to cure such breach in a reasonably satisfactory manner within thirty (30) business days after the other party's written demand thereof. Either party may terminate a SOW if the other party commits a material breach of that SOW (including but not limited to failure to pay any undisputed amount due under the SOW on the due date for payment) and fails to cure such breach in a reasonably satisfactory manner within thirty (30) business days after the other party's written demand thereof.

Termination for Insolvency. Either party may (where permitted by law) terminate this Agreement and all SOWs with immediate effect by giving written notice to the other party if the other party takes any step or action in connection with its entering into or is affected by an Insolvency Event. ("Insolvency Event" means any of the following: (a) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; (b) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with



any of its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party; (c) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party, and such petition, notice, resolution or order is not withdrawn or dismissed within thirty (30) days of being made; (d) an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed, over the other party (being a company), and such application, notice or order is not withdrawn or dismissed within thirty (30) days of being made; (e) the holder of a qualifying floating charge over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver; (f) a person becomes entitled to appoint a receiver over all or any of the assets of the other party or a receiver is appointed over all or any of the assets of the other party; (g) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within fourteen (14) days; (h) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in the foregoing subsections (a) to (g) (inclusive); or (i) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

Termination for Force Majeure Event. A party may terminate this Agreement and/or the relevant SOW due to a Force Majeure Event in accordance with clause 16.9 of this Agreement.

Consequences of Termination of this Agreement and SOW:

On the expiry of any termination notice period for this Agreement: (i) the parties shall not enter into any further SOW pursuant to this Agreement; and (ii) if there are any uncompleted SOW as at the date of effective termination date of this Agreement, the provisions of this Agreement shall continue to apply to and govern such SOWs until the expiry or termination of such SOWs. For clarity, termination of this Agreement does not affect the continuity of any SOW.

Termination of a SOW does not affect the continuity of this Agreement or any other SOW. Upon termination of a SOW EPAM will discontinue all related work on the Services for that SOW, and Client will pay for all fees, costs and expenses owed to or incurred by EPAM in connection with Services up to the date of effective termination or expiry, plus a pro rata portion of the charges or fees for any deliverables which have been produced but not yet completed to Client.

The obligations of the parties set forth in clauses 8, 11, 13, 14 and 15 of this Agreement shall continue in effect after termination.

PAYMENT TERMS

EPAM will perform the Services under this Agreement at time & materials rates or on a fixed price basis, as identified in the relevant SOW.

All reasonable, actual, documented out-of-pocket expenses of EPAM's personnel in relation to the Services (e.g., travel, lodging, food, parking, ground transportation, and miscellaneous expenses) will be paid by Client as set out in the SOW or as authorized by Client in writing. Such expenses will be invoiced monthly and payment is due within thirty (30) days of Client's receipt of such invoice.

On or before commencement of an SOW, Client shall provide to EPAM a valid purchase order for the full amount of the estimated fees under the relevant SOW. EPAM shall invoice Client on a monthly basis for any Services provided unless otherwise specified in any SOW. Subject to clause 8.5, all invoices shall be paid by Client within thirty (30) days of receipt of the invoice. Any amount expressed as payable to EPAM under this Agreement or SOW and any rates are exclusive of such taxes unless stated otherwise, which shall be added to the rates or fees and paid by Client.



If Client fails to make any payment due to EPAM under this Agreement or any SOW by the due date for payment, then Client shall pay interest on the overdue amount at the rate of 4% per annum above Barclays Bank's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. Client shall pay the interest together with the overdue amount.

Client may withhold payment of particular fees that Client reasonably and in good faith disputes on written notice provided to EPAM prior to the relevant due date for payment of such fees. The Client shall include in such notice sufficient detail to enable EPAM to understand and investigate the dispute. If Client disputes a part of an invoice in accordance with this clause 8.5, EPAM shall re-issue an invoice for the undisputed part, the Client shall pay such undisputed part in accordance with clause 8.3 and the parties shall (acting reasonably and in good faith) diligently pursue an expedited resolution of such dispute. On resolution of the dispute the Client shall pay the agreed amount within fifteen (15) days of resolution of the dispute. Amounts shall only be deemed 'disputed' for the purposes of this Agreement where a dispute has been raised in accordance with clause 8.5, and 'undisputed' shall be construed accordingly.

WARRANTY FOR SERVICES

EPAM warrants that:

The Services shall be performed by qualified personnel with reasonable skill and care and in a workmanlike manner in accordance with current commercial standards for such services.

The warranty period and conditions of warranty for any software shall be set out in the relevant SOW. If a warranty period is stated in the SOW, then from the time of final acceptance of the relevant software and through that warranty period, the relevant software will substantially conform to the specifications set out in the applicable SOW for such software.

EPAM shall comply with all applicable laws relating to EPAM's performance of the Services.

Warranties exclude any modifications not performed by EPAM or a party under EPAM's control, Client's failure to follow EPAM's reasonable instructions or guidelines relating to the use of the Services, Client's failure to implement EPAM's recommended corrections, updates, enhancements, new releases, or other modifications, or use of the Services in conjunction with anything not supplied by EPAM, or to the extent the claim relates to any materials or instructions provided to EPAM, open-source software and/or third party materials.

For claims arising under this clause 9, Client's sole remedy, shall be at EPAM's option: (i) the replacement or correction of the non-conforming Services, within a reasonable period of time or (ii) EPAM's refund of a reasonable portion of the applicable fees and other amounts paid for such portion of non-conforming Services upon return of the output (including any software) delivered as part of the Services.

Except as stated in this clause 9, all implied or statutory warranties or conditions (including but not limited to the warranties or conditions of satisfactory quality or fitness for a particular purpose) are excluded to the extent allowed by law.

INDEMNIFICATION

EPAM shall (subject to clause 10.2) indemnify Client against all judgements or damages awarded, settlement amounts agreed in writing to be paid by EPAM and all reasonable expenses (including any reasonable court costs and expenses) which Client may suffer or incur as a result of any third party claim directly related to infringement of that third party's copyrights, trade secrets, or other proprietary right relating to the deliverables or Services provided by EPAM.

Client shall immediately notify EPAM and allow EPAM to fully control the negotiation, defence and/or settlement of any claim made or action brought against the Client alleging any such infringement.

The indemnity under clause 10.1 excludes any claims that arise from: (i) any modification not performed by EPAM or a party under EPAM's control; (ii) Client's failure to follow EPAM's reasonable instructions or guidelines relating to the use of the Services or deliverables; (iii) Client's failure to implement EPAM's



recommended corrections, updates, enhancements, new releases; (iv) use of the Services or deliverables in conjunction with anything not supplied by EPAM; (v) any materials or instructions provided to EPAM by or on behalf of Client; (vi) any open-source software or third party materials.

In the event of any claim, EPAM shall have the option, at its sole discretion and at its sole expense, (i) to promptly secure Client's right to continue to use the Services or deliverables, (ii) to promptly replace or modify the Services or deliverables so that it becomes non-infringing and retains equivalent functionality, or (iii) to promptly substitute the Services or deliverables of equivalent functionality which does not so infringe in place of the infringing Services or deliverables.

LIMITATION OF LIABILITY

Nothing in this Agreement or any SOW shall exclude or limit liability of either party for death or personal injury caused by its negligence, fraud or fraudulent misrepresentation or any other liability which cannot be excluded or limited by law. Nothing in this clause 11 shall be construed as excluding or limiting the Client's obligations to pay EPAM the fees properly due pursuant to this Agreement or any SOW.

Save as provided in clause 11.1, a party's (and its affiliates') total aggregate liability per Contract Year for all claims (or events giving rise to a claims) arising in that Contract Year under or in connection with this Agreement and all SOWs (including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise) shall be limited to an amount equivalent to 100% of the fees paid, or invoiced and payable, by the Client to EPAM in that Contract Year. "Contract Year" means a period of 12 months (or such shorter period if this Agreement is terminated earlier), commencing on the Effective Date and/or each anniversary of the Effective Date.

Save as provided in clause 11.1, neither party (nor their affiliates) shall be liable under any circumstances to the other party for any of the following loss or damage whether or not foreseeable:

- loss of revenue;
- loss of profits;
- loss of goodwill;
- any wasted expenditure;
- loss of, or damage to, or corruption of, data; or
- any indirect, consequential, or punitive damages

INTELLECTUAL PROPERTY RIGHTS; SOFTWARE SOURCE CODE

All intellectual property rights in any deliverables first created under any SOW and required to be provided to Client under an SOW shall vest in the Client upon the acceptance of such deliverables and payment in full of the fees due under the relevant SOW. Subsequently, Client will have full control over the title of any such source code, documentation and any other identified deliverables in their full and complete delivered form.

Executable software programs produced by EPAM and delivered to Client under the terms of this Agreement or any SOW shall include any and all associated source code. EPAM agrees to provide such source code at no additional charge.

Notwithstanding the foregoing, EPAM shall retain ownership of, and the right to reuse any underlying development, in any intellectual property created prior to, or independently of, any SOW, as well as enhancements and/or modifications to the foregoing which integrally and specifically relate to EPAM's pre-existing or independently created works or elements (collectively, the "**EPAM Intellectual Property**").

CONFIDENTIALITY

Owing to the relationship established hereby, Client and EPAM may communicate to each other certain Confidential Information necessary for their respective personnel to complete the project that is the subject of this Agreement or any SOW. Both parties agree to treat, and to obligate its employees, agents, and subcontractors to treat any such information as confidential, if identified as such. Neither party will



disclose any such information to any third party (except to professional legal and financial advisers themselves subject to confidentiality obligations as referred to in clause 13.2), nor make generally available any reports, recommendations, or other work product arising out of this Agreement without the express prior approval of the other during the term of the Agreement or relevant SOW (as the case may be) and for a period of 3 years after termination of the relevant SOW. The receiving party shall be entitled to disclose Confidential Information to the personnel of the affiliated companies of the receiving party. Confidential Information shall not include information, which (1) entered the public domain without the receiving party's breach of any obligation owed to the disclosing party under this Agreement; (2) became known to the receiving party prior to the disclosure of such information; (3) became known to the receiving party from a source other than the disclosing party by the breach of an obligation of confidentiality owed under this Agreement; (4) was disclosed to a third party without any obligation of confidentiality; (5) which shall be made public in accordance with law, other public regulations, court rulings, or binding decision by authorities; or (6) was independently developed by the receiving party; provided, however, that in the event of a disputed disclosure, the receiving party shall bear the burden of proof of demonstrating that the Confidential Information disclosed by the disclosing party falls within one of the above exceptions.

The receiving party shall limit the use and circulation of the Confidential Information within the receiving party's own organization to a strict need-to-know basis necessary to the performance of the Services (including to the personnel of any affiliates of the receiving party) and shall not disclose the Confidential Information to personnel, legal or financial advisers or agents not under confidentiality obligations substantially equivalent to those set forth herein.

Each party expressly undertakes to retain in confidence the terms and conditions of this Agreement and will make no use of Confidential Information except under the terms and conditions of this Agreement.

Client hereby consents to (i) allowing EPAM to use Client's name and logo on EPAM's website and other marketing materials indicating that Client is a client of EPAM and its affiliates, and (ii) the publication of any case studies relating to the Client or any of its projects that have been agreed with the Client.

As used in this Agreement, "**Confidential Information**" means any information, however conveyed or presented, that relates to the business, affairs, operations, customers, processes, budgets, pricing policies, product information, strategies, developments, trade secrets, know-how, personnel and suppliers of the disclosing party, together with all information derived by the receiving party from any such information and any other information clearly designated by a party as being confidential to it (whether or not it is marked "confidential"), or which ought reasonably be considered to be confidential.

NON-SOLICITATION

During the term of this Agreement and for a period of twelve (12) months following termination of this Agreement other than by means of a general recruitment exercise open to all applicants and not specifically targeted at any of the staff of EPAM: (i) Client shall not, directly or indirectly, solicit the employment of, employ, or contract with, any personnel of EPAM or its affiliates; and (ii) Client shall not assist (or instruct) a third party in the employment, contracting, or subcontracting of any personnel of EPAM or its affiliates, without the specific prior written consent of EPAM. Client will compensate EPAM in the amount of GBP100,000 (one hundred thousand pounds) due immediately in relation to each person employed, hired or engaged (directly or indirectly) in breach of this clause 14.

GOVERNING LAW/JURISDICTION

This Agreement and all SOWs shall be governed by and construed in accordance with the laws of England without regard to its conflicts of law rules. The courts of England shall have exclusive jurisdiction to settle any disputes arising out of or in connection with this Agreement and each SOW (including a dispute relating to any non-contractual obligations arising out of or in connection with this Agreement or an SOW) and the parties accordingly submit to the exclusive jurisdiction of courts of England and Wales.

GENERAL PROVISIONS

This Agreement and all SOWs, and the exhibits and attachments which are an integral part of it, sets forth the entire agreement and understanding between the parties with respect to the subject matter hereof, and supersedes and replaces all prior written or oral agreements, negotiations, understandings and any



purchase order, if any, with respect thereto. Each Party acknowledges that in entering into the Agreement or an SOW it has not relied on any representation, undertaking, warranty, collateral contract or assurance which is not expressly set out or referred to in this Agreement or SOW. Each party waives all rights and remedies which, but for this clause 16.1 might otherwise be available to it in respect of such representation, undertaking, warranty, collateral contract or assurance. Nothing in this Agreement or an SOW limits or excludes the liability of the parties for fraud. Pre-printed terms and conditions on any Client document (for example: purchase orders or confirmations) and/or EPAM's failure to object to such conflicting or additional terms will not change or add to the terms of this Agreement or any SOW.

A person who is not a party to this Agreement or SOW has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement or SOW.

In the event of conflict between the provisions of this Agreement and the SOW, the provision of the applicable SOW shall, to the extent of such conflict, take precedence. In the event of conflict between the provisions of the SOW and a subsequent SOW Amendment the provision of the applicable SOW Amendment shall, to the extent of such conflict, take precedence.

Save as set out in an SOW, Client shall not provide, make available or expose EPAM or the EPAM personnel to any personal data or personally identifiable information (commonly known as "PII"). If such personal data or personally identifiable information is to be provided to EPAM, then Client shall be liable for the reasonable additional costs required to implement appropriate technical and organizational measures to protect such information or data.

This Agreement and SOW shall not be altered or otherwise amended except by the mutual written amendment that is executed by an authorized signatory of each party.

The failure of either party to enforce any provision of this Agreement or SOW shall not be construed as a waiver of such provision or of the right of such party thereafter to enforce each and every provision. If any provision contained in this Agreement or SOW is declared or held invalid by a court of competent jurisdiction, such declaration or holding shall not affect the validity of any other provision.

Each party shall use reasonable endeavours to mitigate its losses under this Agreement (including all SOWs), including any losses under any indemnities set out in this Agreement or SOW.

The paragraph headings used in this Agreement or SOW and the attachments are intended for convenience only and do not supersede or modify any provision(s).

Notices shall be hand-delivered, transmitted via fax, or sent via standard mail service to the addresses described above and to the attention of the respective contact individuals named in clause 6.2.

"Force Majeure Event" means any circumstance not within a party's reasonable control including, without limitation: (a) acts of God, flood, drought, earthquake or other natural disaster; (b) epidemic or pandemic; (c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations; (d) nuclear, chemical or biological contamination or sonic boom; and/or (e) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition;

Provided it has complied with clause 16.9.2, if a party is prevented, hindered or delayed in or from performing any of its obligations under this Agreement or any SOW by a Force Majeure Event (the "Affected Party"), the Affected Party shall not be in breach of this Agreement or such SOW or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

The Affected Party shall: (a) as soon as reasonably practicable after the start of the Force Majeure Event, notify the other party of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the Agreement or the relevant SOW; and (b) use reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.



If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than thirty (30) days, the party not affected by the Force Majeure Event may terminate this agreement by giving ten (10) days written notice to the Affected Party.

IN WITNESS WHEREOF, the parties hereto have, by their authorized representatives, executed this Master Services Agreement.

[SIGNATURES ON NEXT PAGE]



For "Client"

For EPAM Systems Ltd

By

By

Printed Name

Printed Name

Title

Title

Date

Date