

Terms and Conditions

Workforce and Duty Management Solutions for G-Cloud 15

Crown Computing Limited



Crown
Commercial
Service

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PARTIES

- (1) CROWN COMPUTING LIMITED, incorporated and registered in England and Wales with Company Number 02186297 whose registered office is at Amber Close, Tamworth Business Park, Amington, Tamworth, B77 4RP (**Crown**); and
- (2) [INSERT CUSTOMER NAME], whose registered office is at [INSERT ADDRESS] (**Customer**).

BACKGROUND

- (A) Crown has developed certain software applications and platforms that it makes available to subscribers.
- (B) Crown has agreed to provide, and the Customer has agreed to take and pay for Crown's services subject to the terms and conditions of this Agreement.

AGREED TERMS

1. Interpretation

1.1 The definitions and rules of interpretation in this clause apply in this Agreement.

Acceptance:	the acceptance of the Software by the Customer in accordance with clause 3 and Accepted shall be construed accordingly.
Acceptance Tests:	the inspections and tests to be carried out by either the Customer or Crown (as the case may be) in respect of the whole or any part of the Software (if any), as referred to in clause 3 and set out at Schedule 3.
Agreement:	means this Agreement, the Schedules to it, each as amended from time to time.
Authorised Users:	those employees, agents, licensees and independent contractors of the Customer who are authorised by the Customer to use the Services and the User Manuals in clause 2.
Availability:	the Software (when measured against the agreed operating hours specified in Schedule 1) can be accessed by the Customer and its Authorised Users, except for: (i) maintenance; or (ii) Updates; or (iii) downtime caused by any circumstance or event beyond Crown's control (including but not limited to a force majeure event, failure of the Customer's infrastructure or connectivity); or (iv) downtime not reported to Crown by the Customer; or (v) the use of services, hardware or software not provided by Crown, including but not limited to, issues resulting from

inadequate bandwidth or related to third-party software or services; or

- (vi) modifications to the Services other than by Crown or a person acting at Crown's direction and available shall have a corresponding meaning.

Bespoke Development:	development of the Software at the sole request of the Customer.
Best Industry Practice:	the exercise of that degree of diligence, expertise, prudence, efficiency, and foresight as would be expected from a leading developer of software applications.
Business Day:	a day other than a Saturday, Sunday, or public holiday in England when banks in London are open for business.
Change of Control:	the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the general management of the company, and controls, controlled and the expression change of control shall be construed accordingly.
Charges:	the charges payable in accordance with Schedule 1 of the Agreement and clause 11.
Commencement Date:	means the date of this Agreement.
Confidential Information:	means any and all confidential information, including without limitation, any and all technical, financial, commercial or other information, (howsoever recorded, preserved or disclosed) disclosed directly or indirectly by the Disclosing Party to the Receiving Party and either identified by a suitable legend or other marking as being confidential (or similar designation) in a prominent position or described as being confidential at the time of disclosure or which would reasonably be considered to be confidential having regard to all the circumstances of the disclosure; any information obtained by examination, testing or analysis in any way from such confidential information; and any derivative of any such confidential information provided that Confidential Information shall not include any information which the Receiving Party can show through documentary evidence: (a) is or becomes publicly available otherwise than as a result of a breach of the Agreement or the fault of the Receiving Party; (b) has been lawfully received from a third party without restriction as to its use or disclosure; (c) was already in its possession free of any such restriction as to its use or disclosure prior to receipt from the Disclosing Party;

- (d) was independently developed by or for the Receiving Party without making use of any Confidential Information; or
- (e) has been approved for release or use (in either case without restriction) by written authorisation of the Disclosing Party,

and, for the avoidance of doubt and without prejudice to the generality of the above, Confidential Information shall not be deemed to be publicly available merely because it may be derived from one or more items that are publicly available,

and, for the purposes of clause 19, references to “Confidential Information” shall be deemed to include Background IPR, Controlled Material, Foreground IPR and Personal Data.

Crown IPR:

all IPR owned by or licensed to Crown now or in the future including but not limited to all Intellectual Property Rights in and to:

- (a) the Services;
- (b) the User Manuals;
- (c) the Software (including but not limited to its entire code base and graphical assets);
- (d) the Platform configuration;
- (e) any report templates;
- (f) any database used in connection with the Software (including but not limited to any database architecture);
- (g) all trademarks, logos and branding used by Crown (save for the Customer’s trademarks, logos and branding); and
- (h) any Customisation;
- (i) any other configuration.

Crown Policies:

the policies to be adhered to and as advised by Crown from time to time. The Crown Policies applicable as at the date of this Agreement are set out at Schedule 4.

Customer Data:

the data inputted by the Customer, Authorised Users, or Crown on the Customer's behalf for the purpose of using the Services or facilitating the Customer's use of the Services.

Customer Infrastructure:

means the hardware, software and I.T. infrastructure owned or used by the Customer.

Customer IPR:

means all IPR owned by or licensed to the Customer now or in the future including but not limited to all IPR in and to:

	(a) the Customer's own website; (b) any trademarks, logos or branding owned by the Customer; (c) Customer Data; and (d) Report Data.
Customer Reports:	reports or data in any media generated or produced by virtue of the Services.
Customisation:	means a customisation of any of the Services, whether made through development, configuration or integration of the Software or otherwise (including for the avoidance of doubt, Bespoke Development).
Data Protection Legislation:	(a) unless and until the General Data Protection Regulation ((EU) 2016/679) (GDPR) is no longer directly applicable in the UK, the GDPR and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK; and then (b) any successor legislation to GDPR.
Deliverables:	all products and materials developed by Crown and in relation to any Customisation.
Development Specification:	the functionality and performance specification prepared by the Customer and approved by Crown relating to any Customisation.
Early Termination Charges:	the early termination charges (if any), set out in Schedule 1 and payable by the Customer in the event of early termination of this Agreement.
Equipment:	the hardware and equipment supplied by Crown to the Customer (if any).
Expenses:	means the travel, accommodation and subsistence expenses that are necessary and reasonably incurred by Crown exclusively in connection with the performance of Crown's obligations under the Agreement.
Implementation:	the implementation of the Software as set out at Schedule 3.
Initial Period:	the Platform Ready Operation period as set out at Schedule 1.
IPR:	means intellectual property rights, including but not limited to: patents, rights to inventions, copyright and related rights, trademarks, trade names, domain names, rights and get up, rights and good will or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, rights in databases, moral rights, rights in confidential information (including without limitation know-how and trade secrets) and any other intellectual property right in each case whether registered or unregistered and including all existing and future rights capable of present assignment, applications for and

	renewals or extensions as such rights, and/or similar or equivalent rights or forms of protection in any part of the world.
Maintenance and Support:	any error corrections, updates and upgrades that Crown may provide or perform with respect of the Software as well as any other support or training services provided to the Customer under the Agreement, as described in Schedule 2.
Personal Data:	has the meaning set out in the Data Protection Legislation.
Platform:	the platform managed by Crown and used by Crown to provide the Services.
Remaining Period:	the Service Ready Operation period as set out at Schedule 1.
Report Data:	data in any media generated or produced by virtue of the use of the Services.
Services:	the Software and other services provided by Crown to the Customer under the terms of this agreement more particularly set out at Schedule 2 and Schedule 5 (as may be varied by any change control pursuant to clause 4).
Services Commencement Date:	the date specified in Schedule 2, Appendix 1.
Service Credits:	a credit which Crown may be required to give the Customer pursuant to clause 11.2 and Schedule 1.
Services Term:	the term as set out in Schedule 2, Appendix 1.
Software:	the online software applications provided by Crown as part of the Services.
Update:	a minor update, patch, or hotfix to the Platform (including the Software).
User Manuals:	documentation (if any) and help text associated with the Services as advised by Crown from time to time.
Virus:	anything or device (including any software, (malware), code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

- 1.2 Clause, schedule, and paragraph headings shall not affect the interpretation of the Agreement.
- 1.3 A person includes an individual, corporate, or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns.
- 1.4 A reference to a company shall include any company, corporation, or other body corporate, wherever and however incorporated or established.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and, in the plural, shall include the singular.
- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7 A reference to a statute or statutory provision is a reference to it as it is in force as at the date of the Agreement.
- 1.8 A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of the Agreement under that statute or statutory provision.
- 1.9 A reference in writing or written, includes e-mail but not fax.
- 1.10 References to clauses and schedules are to the clauses and schedules of the Agreement; references to paragraphs are to paragraphs of the relevant schedule to the Agreement.
- 1.11 Schedules form part of this Agreement.

2. User Subscriptions

- 2.1 Subject to payment of the Charges, Crown will during the Services Term, (subject to early termination in accordance with the provisions of clause 21.2), provide the Services and make available the User Manuals to the Customer, subject to the terms of the Agreement.
- 2.2 Subject to the Customer paying the Charges in accordance with clause 11.1 and Schedule 1, and subject to early termination in accordance with clause 21.2, Crown hereby grants to the Customer a non-exclusive, non-transferrable right and licence to permit the Authorised Users to use the Services and the User Manuals during the Services Term.
- 2.3 The Customer may not sub-license the rights conferred on it under the Agreement without Crown's express written consent.
- 2.4 The Customer shall not represent itself as an agent of Crown nor make any representation on Crown's behalf or commit Crown to any Agreements. Further, the Customer shall not make any representations, warranties, guarantees or other commitments with respect to the Services and the User Manuals.
- 2.5 In relation to the Authorised Users, the Customer undertakes that:
 - (a) the maximum number of Authorised Users that it authorises to access and use the Services shall not exceed the number specified in Schedule 1;

(b) Not Used;

(c) Not Used.

2.6 Crown, the Customer and its Authorised Users shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services 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 unlawful violence;
- (e) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
- (f) is otherwise illegal or causes damage or injury to any person or property,

and Crown reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access to any material that breaches the provisions of this clause.

2.7 The Customer shall not and shall procure that its Authorised Users shall not:

- (a) except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under the Agreement:
 - (i) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Services and/or User Manuals (as applicable) in any form or media or by any means; or
 - (ii) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software or the Services; or
 - (iii) create or attempt to create software or documentation that is the same or similar to the Services.
- (b) access all or any part of the Services to build a product or service which competes with the Services or the User Manuals; or
- (c) use the Services and/or the User Manuals to provide services to third parties except as expressly agreed; or
- (d) license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or User Manuals available to any third party except the Authorised Users.

- 2.8 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the User Manuals and, in the event of any such unauthorised access or use, promptly notify Crown.
- 2.9 The Customer and its Authorised Users shall use the Services only in accordance with the User Manuals.
- 2.10 The rights provided under this clause 2 are granted to the Customer only and for the business scope specified in Schedule 2 and shall not be considered granted to any affiliate, subsidiary or holding company of the Customer without the prior written consent of Crown (not to be unreasonably withheld).

3. Acceptance

- 3.1 The Software will be deemed to be Accepted on completion of Implementation unless the parties agree that Acceptance Tests will be carried out.
- 3.2 The Software will be deemed to be Accepted if the Software has passed the Acceptance Tests as agreed and specified by the parties.

4. Change Control

- 4.1 If the Customer requires any changes to the Services (including any Customisation as referred to in clause 13 or an increase in subscriptions), it shall serve a notice on Crown in the form set out in Appendix 1 (Change Control Notice) (CCN) which shall include:
 - (a) the proposed changes to the Services (or part thereof) in sufficient detail to enable the parties to assess the nature and scope of the proposed changes; and
 - (b) Not Used.

Unless the Parties agree otherwise, within five Business Days following receipt of the CCN, the parties shall discuss the proposed changes and shall use reasonable endeavours to agree the changes including any changes to the Charges.

- 4.2 If the parties cannot agree on the changes (including any changes to the Charges), then the Contract will continue to be performed on the terms of this Agreement. If the parties can agree to the changes (including any changes to the Charges) the Contract will deem to be varied to the extent necessary to implement the changes.
- 4.3 Any additional amounts agreed as payable by the Parties shall be invoiced and paid in accordance with the provisions of this Agreement unless advised otherwise by Crown.

5. Services and Equipment

- 5.1 Subject to payment of the Charges, Crown shall, during the Services Term, provide the Services to the Customer on and subject to the terms of the Agreement.
- 5.2 Crown will, as part of the Services;
 - (a) provide the Customer with Maintenance and Support in accordance with Schedule 2 during the hours specified in Schedule 2.

- (b) provide the platform configuration and implementation services in accordance with Schedule 2 in order to effect the Implementation.

5.3 No warranties or representations are made or given by Crown to the Customer or the Authorised Users that:

- (a) the Customer's and Authorised User's use of the Services will be uninterrupted or error-free;
- (b) the Services, User Manuals and/or the information obtained by the Customer or its Authorised Users through the Services will meet their requirements;
- (c) the Customer's IT Infrastructure is suitable and fit for use and has the required capability for the use of the Services.

5.4 If Crown supplies any Equipment:

- (a) it shall conform with the published specifications of the relevant manufacturer; and
- (b) Crown will replace or repair any Equipment within the warranty period Crown notifies to the Customer, which is defective due to a manufacturing defect. Crown shall have no other liability to repair or replace in respect of any other defect or fault;
- (c) payment for such Equipment shall be made in accordance with clause 11 and Schedule 1.

6. Customer Data and Report Generation

- 6.1** The Customer shall own all right, title and interest in and to all of the Customer Data and Report Data and shall have sole responsibility (and Crown shall have no liability whatsoever or howsoever arising), for the legality, reliability, integrity, accuracy and quality of all such Customer Data and Report Data.
- 6.2** Crown shall, in providing the Services, comply with the Crown Policies relating to the privacy and security of the Customer Data and Report Data.

7. Data Protection and Data Security

- 7.1** Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 7 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- 7.2** The parties acknowledge that:
- (a) if Crown processes any personal data on the Customer's behalf when performing its obligations under the Agreement, the Customer is the Data Controller and Crown is the Data Processor for the purposes of the Data Protection Legislation (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation).
 - (b) the Parties acknowledge and agree that the Personal Data may not be transferred or stored outside the UK or the country where the Customer and the Authorised Users

are located in order to carry out the Services and Crown's other obligations under the Agreement.

- 7.3 Without prejudice to the generality of clause 7.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to Crown for the duration and purposes of the Agreement so that Crown may lawfully use, process and transfer the Personal Data in accordance with the Agreement on the Customer's behalf.
- 7.4 Each party shall take appropriate technical and organisational measures against unauthorised or unlawful processing of Personal Data or its accidental loss, destruction or damage.
- 7.5 Crown may, with Customer consent (not to be unreasonably withheld), at any time on not less than 30 days' notice, revise this clause 7 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to the Agreement).
- 7.6 If Crown becomes aware or suspects a Personal Data Breach, without undue delay it will provide to The Customer within 24 hours details of such notification including:
- (a) a description and the nature of the Personal Data Breach (PDB) or suspected PDB including:
 - (i) a description of the PDB;
 - (ii) an explanation of how the PDB occurred;
 - (iii) the date and time of the PDB;
 - (iv) a description of how Crown became aware of the PDB;
 - (v) the types of Personal Data affected by the PDB, and the categories and approximate number of Data Subjects concerned;
 - (vi) the name and contact details of the Crown Data Protection Officer or other individual who will be able to provide more information;
 - (vii) a description of the likely consequences of the PDB;
 - (viii) Crown's recommended measures to address the PDB which for the avoidance of doubt The Customer will not be obliged to implement or follow;
 - (ix) the steps Crown intends to take to mitigate the risk of any similar PDB occurring in the future.
- 7.7 If for any reason Crown is unable to provide any of the information referred in clause 7.6 within the timescale referred to it shall provide a written explanation to The Customer and use all reasonable endeavours to provide such information as soon as possible.
- 7.8 Crown reserves the right to suspend and/or revoke the Customer's access to the Services at any time if the Customer is in breach of this Agreement or otherwise jeopardises the security of any Personal Data or any part of Crown's systems or the provision of the Services.

8. Third Party Providers

The Customer acknowledges that the Services may enable or assist it to access the website content of, correspond with, and purchase products and services from, third parties via third-party websites and that it does so solely at its own risk. Crown make no representation, warranty or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, and any contract entered into by the Customer, with any such third party. Any contract entered into and any transaction completed via any third-party website is between the Customer and the relevant third party, and not Crown. Crown recommends that the Customer refers to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website. Crown does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Services.

9. Crown's obligations

- 9.1 Crown undertakes that the Services will be performed in accordance with the User Manuals and with reasonable skill and care and will carry out all other Crown responsibilities set out in the Agreement.
- 9.2 The undertaking at clause 9.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to Crown's instructions, or modification or alteration of the Services by any party other than Crown or Crown's duly authorised contractors or agents. If the Services do not conform to the foregoing undertaking, Crown will, at its expense, correct any such non-conformance in accordance with the Customer Support services documented in Schedule 2, 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 undertaking set out in clause 9.1.
- 9.3 The Agreement shall not prevent Crown from entering into the same or similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are the same or similar to those provided under the Agreement.
- 9.4 Crown warrants that
 - (a) it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under the Agreement.
 - (b) comply with all applicable laws and regulations with respect to its activities under the Agreement.
 - (c) ensure that it has and implements adequate privacy and data protection policies in place at all times in compliance with Data Protection Legislation.
 - (d) employ a sufficient number of suitably qualified personnel to ensure the proper fulfilment of the Customer's obligations under the Agreement.

- (e) inform the Customer immediately of any Change of Control.

10. Customer's obligations

10.1 The Customer and where applicable, Crown, undertakes and agrees to (and procures that its Authorised Users undertake and agree to where appropriate):

- (a) provide Crown with all necessary information as may be reasonably required by Crown in order to provide the Services, including but not limited to Customer Data, security access information and configuration services;
- (b) comply with all applicable laws and regulations with respect to its activities under the Agreement;
- (c) carry out all other Customer responsibilities set out in the Agreement (and procure its Authorised Users comply with their obligations, in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, Crown may adjust any agreed timetable or delivery schedule as reasonably necessary;
- (d) ensure that the Authorised Users use the Services in accordance with the terms and conditions of the Agreement and the User Manuals, and shall be responsible for any Authorised User's breach of the Agreement;
- (e) obtain and shall maintain all necessary licences, consents, and permissions necessary for Crown, its Agreement and or agents to perform their obligations under the Agreement, including without limitation the Services;
- (f) ensure that its IT Infrastructure complies with the relevant specifications provided by Crown from time to time;
- (g) be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to the Platform, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet;
- (h) shall at all times ensure that the Authorised Users access and use the Software in accordance with the User Manuals and any reasonable directions given by Crown from time to time;
- (i) ensure that it and Crown has and implements adequate privacy and data protection policies in place at all times in compliance with Data Protection Legislation;
- (j) employ a sufficient number of suitably qualified personnel to ensure the proper fulfilment of the Customer's obligations under the Agreement;
- (k) within fourteen days following a reasonable request from Crown at any time, provide such information as is reasonably requested by Crown in connection with its use of the Services and User Manuals; and

- (l) inform Crown immediately of any Change of Control Crown shall inform the Customer immediately of any Change of Control.

11. Charges and Early Termination

- 11.1 The Customer shall pay the Charges to Crown in accordance with this clause 11 and Schedule 1.
- 11.2 If the Software fails to meet the Availability, the Customer shall be entitled to the Service Credits as detailed in Schedule 1.
- 11.3 The Customer shall pay all undisputed invoices submitted by Crown within 30 days following submission.
- 11.4 If Crown has not received payment within 30 days after the due date, and without prejudice to any other rights and remedies of Crown:
 - (a) Crown may, without liability to the Customer, suspend and disable the Customer's passwords, accounts and access to all or part of the Services and Crown shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and
 - (b) interest shall accrue on a daily basis on such due amounts at an annual rate equal to 3% over the then current base lending rate of Crown's bankers (Barclays Plc) in the UK from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.
- 11.5 All Charges payable in the Agreement:
 - (a) shall be payable in pounds sterling;
 - (b) subject to credit being given for any Service Credits, shall be paid without deduction or set off;
 - (c) except in the event of termination for a breach by Crown under clause 21.2(b), non-cancellable and non-refundable; and
 - (d) are exclusive of value added tax, which shall be added to Crown's invoice(s) at the appropriate rate.
- 11.6 Subject to agreement by the Parties, Crown shall be entitled to increase the Charges in respect of any Change Control, as set out at clause 4.
- 11.7 In the event that the Customer terminates the Agreement before the expiry of the Services Term (Early Termination), the Customer shall on Early Termination pay to Crown the Early Termination Charges as detailed in Schedule 1.

12. Intellectual Property Rights

- 12.1 The Customer acknowledges and agrees that Crown and/or its licensors own all Crown IPR. Except as expressly stated herein, the Agreement does not grant the Customer any rights to or licences over any Crown IPR in respect of the Services or the User Manuals. The Customer shall and shall at the expense of Crown, take all such steps as Crown may reasonably require,

to assist Crown in maintaining the validity and enforceability of the Crown IPR during the Services Term.

12.2 Crown confirms that it has all the rights in relation to Crown IPR that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of the Agreement.

12.3 The Customer shall not:

- (a) copy the Services or User Manuals or any part of them;
- (b) modify, adapt, develop, create any derivative work, reverse engineer, decompile, disassemble, or carry out any act otherwise restricted by copyright or other Crown IPR.

12.4 The Customer shall not and procure that its Authorised Users shall not:

- (a) use any Crown IPR in any way which might prejudice any distinctiveness, validity, or the goodwill of Crown therein; or
- (b) use any trademarks or trade names so resembling any trademark or trade names of Crown as to be likely to cause confusion or deception.

12.5 Other than the licence expressly granted under the Agreement, neither party grants any licence of, right in or makes any assignment of any of its Intellectual Property Rights. In particular, except as expressly provided in the Agreement, the Customer shall have no rights in respect of any trade names or trademarks used by Crown in relation to the Services and the User Manuals or their associated goodwill, and the Customer hereby acknowledges that all such rights and goodwill shall ensure for the benefit of and are (and shall remain) vested in, Crown.

12.6 At the request of Crown, the Customer shall do or procure to be done (at Crown's cost) all such further acts and things (including the execution of documents) as Crown shall reasonably require to give Crown the full benefit of the Agreement.

12.7 The Customer shall promptly give notice in writing to Crown in the event that it becomes aware of:

- (a) any infringement or suspected infringement of the Crown IPR; and
- (b) any claim that the Service or User Manuals infringes the rights of any third party.

12.8 In the case of any matter falling within clause 12.7(a):

- (a) Crown shall, in its absolute discretion, determine what action if any shall be taken in respect of the matter;
- (b) Crown shall have sole control over and shall conduct any consequent action as it shall deem necessary; and
- (c) Crown shall pay all costs in connection with that action and shall be entitled to all damages and other sums which may be paid or awarded as a result of any such action.

- 12.9 Each party shall, at the request and expense of the other, provide all reasonable assistance to the other (including, but not limited to, the use of its name in, or being joined as a party to, proceedings) in connection with any action to be taken by the other party, provided that that party is given such indemnity as it may reasonably require against any damage to its name.

13. Customisation

- 13.1 Where the Customer requests any Customisation the Customer shall produce a first draft of the Development Specification and shall follow the procedure set out in clause 4. Crown shall not be obliged to undertake or agree to any Customisation.
- 13.2 Following approval of the Development Specification, Crown shall prepare, and the parties shall agree a development plan as soon as possible.
- 13.3 Crown will use all reasonable endeavours to produce a development plan (including scope, intended time scale and the tasks to be carried out by each party for completion of such tasks) for the Customisation as the case may be.
- 13.4 Crown will not bear the financial risk in relation to changes to the Development Specification requested by the Customer.
- 13.5 The Customer shall cooperate with Crown at all times in respect of any Customisation and provide access to the Customer's premises and Customer Data, and such office accommodation and other facilities, as Crown may reasonably require.

14. Intellectual Property Rights – Customisation

- 14.1 All Intellectual Property Rights arising from or to:
- (a) the Development Specification and/or the plan agreed under clause 13.2;
 - (b) any Deliverables; and/or
 - (c) any documents or materials (in whatever media), arising from or in connection with any Customisation,

shall vest in Crown absolutely upon creation.

- 14.2 The Customer shall perform such acts and execute such documents in Crown's favour at the request of Crown in order to give effect to clause 14.1.

15. Confidentiality

- 15.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under the Agreement.
- 15.2 Subject to clause 15.4, each party shall hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of the Agreement.

- 15.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees, agents or sub-licensees in violation of the terms of the Agreement.
- 15.4 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 15.4, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.
- 15.5 Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.
- 15.6 The Customer acknowledges that details of the Services, and the results of any performance tests of the Services, constitute Crown's Confidential Information.
- 15.7 Crown acknowledges that the Customer Data is the Confidential Information of the Customer.
- 15.8 No party shall make, or permit any person to make, any public announcement concerning the Agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.
- 15.9 The above provisions of this clause 15 shall survive termination of the Agreement, however arising.

16. Crown's Policies and Anti-bribery

- 16.1 The Parties shall at all times comply with:
- (a) Crown's Policies; and
 - (b) all applicable laws, statutes and regulations relating to slavery, involuntary servitude, debt bondage, force labour or human trafficking (including the Modern Slavery Act 2015).
- 16.2 The parties shall comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (as amended).
- 16.3 Breach of this clause 16 shall be deemed to be a material breach which is irremediable.

17. Indemnity

- 17.1 The Customer shall defend, indemnify and hold harmless Crown against any and all liability, claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with:
- (a) the Customer's use of the Services;

- (b) any breach of clauses 7, 12 and 16;

provided that:

- (i) the Customer is given prompt notice of any such claim;
- (ii) Crown provides reasonable co-operation to the Customer in the defence and settlement of such claim, at the Customer's expense; and
- (iii) the Customer is given sole authority to defend or settle the claim.

17.2 Crown shall defend, indemnify and hold harmless The Customer against any and all liability, claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with any breach of clauses 7,12 and 16.

17.3 Crown shall defend the Customer, its officers, directors and employees against any claim that the Crown IPR infringes any worldwide patent effective as of the date of this Agreement, copyright, trade mark, database right or right of confidentiality, and shall indemnify the Customer for any amounts awarded against the Customer in judgment or settlement of such claims, provided that:

- (a) Crown is given prompt notice of any such claim;
- (b) the Customer provides reasonable co-operation to Crown in the defence and settlement of such claim, at the Crown's expense; and
- (c) Crown is given sole authority to defend or settle the claim.

17.4 In the defence or settlement of any claim under clauses 17.1 and 17.2, Crown may procure the right for the Customer to continue using the Services, replace or modify the Services so that they become non-infringing.

17.5 In no event shall Crown, its employees, agents and sub-Agreement or be liable to the Customer to the extent that the alleged infringement is based on:

- (a) a modification of the Services or User Manuals by anyone other than Crown; or
- (b) the Customer's use of the Services or User Manuals in a manner contrary to the instructions given to the Customer by Crown;
- (c) the Customer's use of the Services or User Manuals after notice of the alleged or actual infringement from Crown or any appropriate authority.

17.6 The foregoing states the Customer's sole and exclusive rights and remedies, and Crown's (including Crown's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trademark, database right or right of confidentiality.

18. Limitation of Liability

18.1 Except as expressly and specifically provided in the Agreement:

- (a) the Customer assumes sole responsibility for results obtained from the use of the Services and the User Manuals by the Customer, and for conclusions drawn from

such use. Crown shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Crown by the Customer in connection with the Services, or any actions taken by Crown at the Customer's direction;

- (b) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from the Agreement; and
- (c) the Services and User Manuals are provided to the Customer on an "as is" basis.

18.2 Nothing in the Agreement excludes the liability of Crown:

- (a) for death or personal injury caused by Crown's negligence; or
- (b) for fraud or fraudulent misrepresentation.

18.3 Subject to clause 18.1 and clause 18.2:

- (a) Crown shall not be liable whether in tort (including for negligence or breach of statutory duty), Agreement, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, loss of profit or anticipated savings or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under the Agreement; and
- (b) Crown's total aggregate liability in Agreement (including in respect of the indemnity at clause 17.2), tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Agreement shall be limited to the greater of £500,000 or 125% of the Charges paid by the Customer during the 12 months immediately preceding the date on which the claim arose.

19. Insurance

Unless otherwise agreed by the Parties, The Parties undertake and agree during the term of this agreement and for a period of 9 months following termination (howsoever arising not to whether directly or indirectly) not to:

- (a) Professional indemnity cover in the sum of £2,000,000 in aggregate;
- (b) Public and employer liability cover in the sum of £10,000,000 in aggregate.

20. Non-solicitation

Unless otherwise agreed by the Parties, The Parties undertake and agree during the term of this agreement and for a period of 9 months following termination (howsoever arising not to whether directly or indirectly) not to:

- (a) Solicit or endeavour to entice away from the other Party any employee, agent or sub-contractor; or

- (b) Offer to employ or engage or otherwise facilitate the employment or engagement of any employee, agent or sub-contractor of the other Party.

21. Term and Termination

- 21.1 This Agreement shall, unless otherwise terminated as provided in this clause 21, commence on the Commencement Date and shall continue until expiration of the Services Term unless terminated earlier in accordance with the provisions of clause 21.2. Crown will provide the Customer a quotation to continue with the provision of the Services not less than 90 days **(Renewal Notice)** prior to the expiration of the Services Term. Following receipt of any Renewal Notice the parties shall follow the Change Control procedure in accordance with clause 4. If the parties are unable to agree the terms on which the Services shall continue to be provided the Contract shall come to an end on the expiration of the Services Term.
- 21.2 Without affecting any other right or remedy available to it, either party may terminate the Agreement with immediate effect by giving written notice to the other party if:
- (a) the other party fails to pay any undisputed amount due under the Agreement on the due date for payment and remains in default not less than twenty Business Days after being notified in writing to make such payment;
 - (b) the other party commits a material breach of any other term of the Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
 - (c) the other party repeatedly breaches any of the terms of the Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Agreement;
 - (d) 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 is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
 - (e) 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 its creditors 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;
 - (f) 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 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;
 - (g) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party;
 - (h) the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;

- (i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (j) 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 14 days;
- (k) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
- (l) 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 clause 21.2(d) to clause 21.2(l) (inclusive);

21.3 Crown may terminate the Agreement without penalty if there is a Change of Control of the Customer which in the reasonable opinion of Crown could be detrimental to Crown.

21.4 On termination of the Agreement for any reason:

- (a) all licences granted under the Agreement shall immediately terminate;
- (b) the Customer shall immediately cease all use of the Services and/or the User Manuals;
- (c) each party shall return and make no further use of any equipment, property, User Manuals and other items (and all copies of them) belonging to the other party;
- (d) any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination shall not be affected or prejudiced.

22. Exit planning

Save in respect where this Agreement is terminated for a reason set out in clause 21.2, Crown shall support and prepare an exit plan (Exit Plan) in anticipation of the termination or expiry of the Agreement (Exit), on a date agreed between the parties. The Exit Plan shall include the following:

- (a) the sequence, time and effort required to effect the Exit;
- (b) technical dependencies;
- (c) infrastructure and service requirements to effect Exit;
- (d) data disposition for Exit;
- (e) service decommissioning for Exit; and
- (f) the project costs associated with (a) to (e) charged by Crown to the Customer to effect the Exit Plan.

23. Force Majeure

Neither Party shall have liability under the Agreement if it is prevented from or delayed in performing its obligations under the Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, act of God, war, compliance with any law or governmental order, rule, regulation or direction, provided that the Party affected is notified by the other Party of such an event and its expected duration.

24. Not Used

25. Variation

No variation of the Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

26. Waiver

No failure or delay by a party to exercise any right or remedy provided under the Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall 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 shall prevent or restrict the further exercise of that or any other right or remedy.

27. Rights and remedies

Except as expressly provided in the Agreement, the rights and remedies provided under the Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

28. Severance

- 28.1 If any provision (or part of a provision) of the Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.
- 28.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

29. Entire agreement

- 29.1 The Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 29.2 Each party acknowledges that in entering into the Agreement it does not rely on, and shall have no remedies in respect of, any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to the Agreement or not) relating to the subject matter of the Agreement, other than as expressly set out in the Agreement.

30. Assignment and sublicensing

- 30.1 The Customer shall not, without the prior written consent of Crown, assign or charge all or any of its rights or obligations under the Agreement.
- 30.2 Crown may, with the prior written consent of the Customer (not to be unreasonably withheld), at any time assign, transfer, charge, sub-Agreement or deal in any other manner with all or any of its rights or obligations under the Agreement.

31. No partnership or agency

Nothing in the Agreement is intended to or shall operate to create a partnership between the parties or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

32. Third party rights

The Agreement does not confer any rights on any person or party (other than the parties to the Agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

33. Notices

- 33.1 Any notice required to be given under the Agreement shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its address set out in the Agreement, or such other address as may have been notified by that party for such purposes.
- 33.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9 am on the first business day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post.

34. Governing law & Jurisdiction

- 34.1 The Agreement, and any non-contractual obligations arising out of or in connection with it, shall be governed by and construed in accordance with English law.
- 34.2 If there is any dispute at any time between the Parties arising out of or in connection with the Agreement, then the Parties shall use reasonable endeavours to resolve the dispute amicably.
- 34.3 The Parties agree that any dispute arising out of or in connection with the Agreement that cannot be resolved amicably in accordance with clause 34.2 or which one or both of the Parties considers is not suitable for amicable resolution, including any question regarding its existence, validity or termination, and any dispute relating to any non-contractual obligations arising out of or in connection with the Agreement, shall be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration, which Rules are deemed to be incorporated by reference into this clause. The number of arbitrators shall be

one. The seat or legal place of arbitration shall be London. The language to be used in the arbitration shall be English.

35. Not Used

Signed by [NAME OF DIRECTOR]
for and on behalf of

Crown Computing Limited

Director

Signed by [NAME OF DIRECTOR]
for and on behalf of

[NAME OF CUSTOMER]

Director

SCHEDULE 1 – CHARGES

[AGREED CHARGES AND INVOICING DOCUMENT FOR THE CUSTOMER TO BE INSERTED HERE]

SCHEDULE 2 – SERVICE DESCRIPTION

[CUSTOMER-SPECIFIC SERVICE DESCRIPTION AND SLA DOCUMENT TO BE INSERTED HERE]

SCHEDULE 3 – STATEMENT OF WORK (SOW)

[AGREED SUMMARY OF IMPLEMENTATION PLAN, ACCEPTANCE MILESTONES, CHARGES, AND INVOICING DOCUMENT FOR THE CUSTOMER TO BE INSERTED HERE].

SCHEDULE 4 – CROWN COMPUTING POLICIES

[ANTI-BRIBERY, ETHICAL TRADING, DATA SECURITY POLICY DOCUMENTS TO BE INSERTED HERE]

SCHEDULE 5 – SOFTWARE AND LICENCES

[LIST OF SELECTED MODULES AND EMPLOYEE COUNTS LICENSED TO THE CUSTOMER TO BE INSERTED HERE]

APPENDIX 1 – CHANGE CONTROL NOTICE FORM

CUSTOMER NOTICE OF CHANGE	Ref No:
Nature of Customer Change:	[e.g. Bespoke Development, Customisation, increase in Subscription]
Details of Customer Change (including estimated change in the Charges):	
Deliverables (including format):	
Customer's budgetary constraints and/or affordability thresholds:	
Impact of Customer Change on the Software and/or Services:	
Estimated Cost of Customer Change:	
Proposed time frame for implementation / completion of Customer Change:	
Signed by [NAME OF DIRECTOR] for and on behalf of Crown Computing Limited	Signed by [NAME OF DIRECTOR] for and on behalf of [NAME OF CUSTOMER]
_____ Director	_____ Director