

S

A

M

SOFTWARE AGREEMENT

P

L

E

S

**THIS AGREEMENT** is made the

**BETWEEN:**

- (1) <<Name of Developer>> [a <<Country of Registration>> under number <<Company Registration number>> whose registered office is at] **OR** [of] <<insert Address>> (“Developer”)
- (2) <<Name of Client>> [a <<Country of Registration>> under number <<Company Registration number>> whose registered office is at] **OR** [of] <<insert Address>> (“Client”)

**WHEREAS:**

- (1) The Developer carries on the business of software development and related services.
- (2) The Client wishes to engage the Developer to develop certain software, the specification for which is set out in the Software Development Agreement (“the Software”).
- (3) The Developer agrees to provide the Software Development Services to the Client upon the terms and conditions set out in this Agreement.

**IT IS AGREED** as follows:

**1. Definitions and Interpretation**

1.1 In this Agreement, unless otherwise requires, the following expressions have the following meanings:

“**Acceptance Retests**” shall mean the tests to be agreed in accordance with the Software Development Agreement and set out in the event of Defects as set out in Schedule 5 and as annexed as Annex 1;

“**Acceptance Tests**” shall mean the tests to be agreed in accordance with the Software Development Agreement and set out in the event of Defects as set out in Schedule 5 and as annexed as Annex 1;

[“**Bespoke Software**” shall mean the Software to be developed by the Developer on behalf of the Client for the Client under this Agreement as set out in Schedule 5;]

“**Business Day**” shall mean any day (other than Saturday or Sunday) on which the Client's offices are open for their full range of business hours at <<insert location>>;

“**Change Request**” shall mean a change to the Software made by the Client;

“**Client Hardware**” shall mean the Client's servers [and other equipment] upon which the Client is to use the Software, as set out in Schedule 5;

A

M

P

L

E

**“Client Software”**

**“Completion Date”**

**“Confidential Information”**

**“Data Protection Legislation”**

**“personal data”  
“data subject”  
“data controller”  
“data processor” and  
“personal data breach”**

**“Defect”**

**“Defect Report”**

**“Delivery Date”**

**[“Developer Standard Software”]**

**[“Developer Modified Software”]**

**[“Development Phase”]**

**“Development Services”**

S

A

M

P

L

E

details of which are set out in the software owned by the Client of the Software to be developed in this Agreement;

which the Developer shall supply in a completed form to the Client, as set out in the Project Plan;

either Party, information which is disclosed to the other Party pursuant to this Agreement (whether orally or in writing, and whether or not expressly stated to be confidential information);

legislation in force from time to time in the United Kingdom applicable to data protection including, but not limited to, the retained EU law version of the General Data Protection Regulation ((EU) 2016/679), the law of England and Wales, Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018); the Data Protection Act 2018 (and regulations made under it) and the Privacy and Electronic Communications Regulations 2003 as amended;

the meaning defined in Article 4 of the GDPR;

any defect in the Software that causes it to fail to pass the Acceptance Tests;

any Defect Report compiled by the Developer in accordance with Clause 9.4;

the date by which the Developer shall deliver the Software to the Client, as set out in the Project Plan;

software which is the property of the Developer and which is included as part of the Software without modification, as set out in Schedule 5;

software which is the property of the Developer and which is modified by the Developer for the Client, as set out in Schedule 5;

any phase of the overall Project Plan, as set out in the Project Plan;

the services to be provided by the Developer to the Client under this Agreement;

**“Documentation”**

**“Installation Date”**

**“Intellectual Property Rights”**

**“Licence”**

**“Licensed Software”**

**“Licensed Users”**

**“Non-Developer Defect”**

**“Project Fees”**

**“Project Manager”**

**“Project Plan”**

**“Retest Period”**

**“Software”**

S

A

M

P

L

E

... technical documentation to be  
... Developer to the Client, as set out in

... which the Developer shall install  
... Client Hardware, as set out in the

... ts to inventions, copyright and  
... (including moral rights), trade marks,  
... main names, rights in get-up and  
... and the right to sue for passing  
... s, rights in computer software,  
... ghts to use and protect the  
... nfidential information (including  
... secrets) and all other intellectual  
... rther registered or unregistered,  
... plications and rights to apply for  
... wals or extensions of, and rights  
... n, such rights and all similar or  
... forms or protection which either  
... t now or in the future in any part

... granted by the Developer to the  
... nsed Software under Clause 13;

... f the Software consisting of the  
... Software] AND/OR [Developer

... licensed to use the Licensed  
... n Schedule 3;

... the Software that causes it to fail  
... ceptance Tests that has been  
... omission of the Client, or by any  
... ed with the Client for whom the  
... sponsibility;

... o be paid by the Client to the  
... Software Development Services  
... rates, as agreed by the Parties,  
... e 7;

... nager appointed by either Party  
... ;

... he development of the Software,  
... e 6;

... within which the Acceptance  
... rried out, as specified in sub-

... the software to be developed  
... he Developer to the Client under

“Software Development Services”

“Software Specification”

“Testing Period”

["Third-Party Software"]

- 1.2 Unless the context of this Agreement requires otherwise, a reference in this Agreement to:
  - 1.2.1 “writing”, and any communication in writing, includes a reference to any communication in electronic or facsimile transmission or any other similar means of communication;
  - 1.2.2 a statute or regulation, includes a reference to that statute or regulation as in force at the relevant time;
  - 1.2.3 “this Agreement”, “this Schedule” and “this Clause”, includes a reference to that statute or regulation as in force at the relevant time;
  - 1.2.4 a Schedule of this Agreement, includes a reference to that Schedule as in force at the relevant time;
  - 1.2.5 a Clause of this Agreement, includes a reference to that Clause of this Agreement as in force at the relevant time, as indicated by the paragraph of the relevant Schedule.
  - 1.2.6 a “Party” or “parties”, includes a reference to the parties to this Agreement.
- 1.3 The headings used in this Agreement are for convenience only and shall have no effect upon the interpretation of this Agreement.
- 1.4 Words imparting the masculine gender shall include the plural and vice versa.
- 1.5 References to any gender shall include the other gender.
- 1.6 References to persons shall include corporations and other legal entities.

**2. Appointment of the Developer**

- 2.1 The Client hereby appoints the Developer as the provider of the Software Development Services, such appointment to be subject to the terms and conditions of this Agreement.
- 2.2 The Developer shall:
  - 2.2.1 provide the Software Development Services for the purpose of supplying the Software to the Client;
  - 2.2.2 install and test the Software on the Client Hardware; and
  - 2.2.3 provide the Client with the Software Specification;

the services to be provided by the Developer under this Agreement;

the Software Specification of the Software, as set out in the Software Specification, between the Developer and the Client, and the Client’s requirements for the Software, and the technical specification agreed upon between the Developer and the Client;

the period within which the Acceptance Tests are to be carried out, as specified in sub-Clause 9.2;

any Software which is proprietary to third parties which forms part of the Software without the prior written consent of the Client [as set out in Schedule 5.]

reference in this Agreement to:

reference in this Agreement to any communication, includes a reference to any communication in electronic or facsimile transmission or any other similar means of communication;

reference to that statute or regulation as in force at the relevant time;

reference to that statute or regulation as in force at the relevant time;

reference to that Schedule as in force at the relevant time; and

reference to a Clause of this Agreement as in force at the relevant time, as indicated by the paragraph of the relevant Schedule.

reference to the parties to this Agreement.

reference to that Clause of this Agreement as in force at the relevant time, as indicated by the paragraph of the relevant Schedule.

reference to the other gender.

reference to the other gender.

reference to the other gender.

**Software Development Services**

The Client hereby appoints the Developer as the provider of the Software Development Services, such appointment to be subject to the terms and conditions of this Agreement.

The Developer shall provide the Software Development Services for the purpose of supplying the Software to the Client;

The Developer shall install and test the Software on the Client Hardware; and

# S A M P L E

3. **Project Management and**

- 3.1 Each Party shall liaising with the other. The Project Manager shall have the authority to manage all matters, and the authority to appoint and dismiss any person who shall be responsible for the management of the Project under this Agreement. Each Project Manager shall have the knowledge and experience of all relevant matters, and the authority to appoint and dismiss any person by whom they are appointed.
- 3.2 The Developer shall provide regular reports of the progress of the Development, and such reports shall indicate any important matters relating to the Project.

4. **Change Requests**

- 4.1 In the event that the Client requires a change to the Software, it shall submit a Change Request to the Developer in writing, setting out the change requirements.
- 4.2 Within <<insert period>> of receipt of a Change Request, the Developer shall, in writing, state the effect that the proposed change shall have on the Project Plan, and the Project Fees.
- 4.3 In the event that a Change Request results in a change to the Project Fees, the changed Project Fees shall be calculated in accordance with the Developer's rates set out in the Project Plan.
- 4.4 Within <<insert period>> of receipt by the Client of the information provided under sub-Clause 4.2, the Parties' respective Project Managers shall discuss the Change Request and determine whether the proposed change is acceptable. In the event that the change is acceptable, the Project Plan, the Software Specification, and the Project Fees (including but not limited to any affected definitions), as applicable, shall be updated accordingly.
- 4.5 The Developer shall not implement any changes without the prior agreement of the Client.

5. **The Software**

- 5.1 The Developer shall provide the Software Development Services with reasonable care and diligence and despatch, and shall provide the Software in accordance with the Software Specification by the Completion Date.
- 5.2 The Software shall be provided to the Client:
  - 5.2.1 [the Client Software]
  - 5.2.2 [the Bespoke Software]
  - 5.2.3 [the Developer Software]
  - 5.2.4 [the Developer Software]
  - 5.2.5 [the Third-Party Software]
- 5.3 [The Bespoke Software] shall be provided to the Developer in accordance with the terms and conditions of this Agreement.
- 5.4 [The [Developer Software] OR [Developer Modified Software]] shall be supplied to the Client in accordance with the terms and conditions of this Agreement.

S

5.5 [The Third-Party S  
licence terms provi  
which shall be supp  
and to comply with

ed by the Developer under the  
[party] OR [parties], copies of  
ent hereby agrees to be bound by

6. The Documentation

6.1 The Developer shall  
contain all informati  
6.2 The Developer sh  
electronic>> form.  
6.3 The Client shall ha  
extent reasonably r  
ensure that any a  
contained in the Do

tion which shall be up-to-date and  
for the use of the Software.  
mentation in <<insert form, e.g.  
copies of the Documentation to the  
the Software. The Customer shall  
ning Intellectual Property Rights  
in such copies.

A

7. The Development Service

7.1 The Developer shall  
required modificatio  
[Developer Stand  
accordance with the  
7.2 The Developer sh  
conditions of this Ag  
7.2.1 deliver the S  
7.2.2 [carry out] C  
carrying out]  
Retests as s  
7.2.3 provide the  
Completion  
7.3 The Developer shall  
comply with all rea  
disruption to the Cli

the Software] AND/OR [make the  
modified Software] [and supply the  
OR [Third-Party Software]] in  
the Software Specification.  
accordance with the terms and  
install it on the Client Hardware;  
with all reasonable assistance in  
nd, where necessary, Acceptance  
re in a completed state by the  
forming the Development Services  
om the Client to ensure minimal

M

P

8. Software Delivery and Ins

8.1 The Developer shall  
8.2 In the event that the  
advance of the in  
Developer shall inf  
time before the D  
assistance as may  
preparations.  
8.3 The Developer sha  
Hardware on or bef  
8.4 The Client shall b  
installed and fully  
Developer on the  
Parties for the Soft

the Client by the Delivery Date.  
Client to make any preparations in  
re on the Client Hardware, the  
requirements within a reasonable  
I provide such information and  
ed by the Client to make such  
on of the Software on the Client  
ring that the Client Hardware is  
ery Date and is available to the  
t to any agreement between the  
an earlier date, in which case the

L

E

S

A

M

P

L

E

Client shall ensure the Software is ready and available to the Developer on that date.

Software is ready and available to the Developer on that date.

8.5 In the event that the Software is delayed, the following shall apply:

Software or the installation of the Software is delayed, the following shall apply:

8.5.1 If the delay is due to the omissions or negligence of the Developer, as applicable, the Developer shall be liable to demonstrate that such delay has resulted in the Developer failing to fulfill its obligations under this Agreement. The Developer shall inform the Client of such delay and shall increase the Project Fees by a sum no greater than the sum of the Project Fees.

If the delay is due to the acts or omissions of the Client or due to the acts or omissions of a third-party supplier, the Delivery Date and/or the Installation Date, as applicable, shall be amended to reflect the delay. If the Developer is unable to demonstrate any evidence that such delay has resulted in the Developer failing to fulfill its obligations under this Agreement, the Developer shall have the right to increase the Project Fees by a sum no greater than the sum of the Project Fees.

8.5.2 If the delay is due to the omissions or negligence of the Developer, as applicable, the Delivery Date and/or the Installation Date, as applicable, shall be amended to reflect the delay. The Developer shall be liable for any reasonable costs [with documentary evidence] it has incurred as a result of such delay.

If the delay is due to the acts or omissions of the Client or due to the acts or omissions of a third-party supplier, the Delivery Date and/or the Installation Date, as applicable, shall be amended to reflect the delay. The Developer shall be liable for any reasonable costs [with documentary evidence] it has incurred as a result of such delay.

9. **Acceptance Testing**

9.1 Within <<insert period>> of the date of this Agreement, the [Client] OR [Developer] shall deliver the proposed criteria and data for the Acceptance Tests and data for the Acceptance Retests on the Software in accordance with the Software Specification. [The [Client] OR [Developer] shall provide the [Client] OR [Developer] with the proposed criteria and data at the receipt of the [Client] OR [Developer] and shall use reasonable efforts to complete the Acceptance Retests and Acceptance Tests.

Within <<insert period>> of the date of this Agreement, the [Client] OR [Developer] shall deliver the proposed criteria and data for the Acceptance Tests and data for the Acceptance Retests on the Software in accordance with the Software Specification. [The [Client] OR [Developer] shall provide the [Client] OR [Developer] with the proposed criteria and data at the receipt of the [Client] OR [Developer] and shall use reasonable efforts to complete the Acceptance Retests and Acceptance Tests.

9.2 Within <<insert period>> of the date of this Agreement, the [Client] OR [Developer] shall have a <<insert period>> Day Testing Period during which it shall carry out the Acceptance Tests on the Software.

Within <<insert period>> of the date of this Agreement, the [Client] OR [Developer] shall have a <<insert period>> Day Testing Period during which it shall carry out the Acceptance Tests on the Software.

9.3 [The [Developer] OR [Client] shall have the right to observe all or any part of the Acceptance Tests and Acceptance Retests by the [Client] OR [Developer].]

[The [Developer] OR [Client] shall have the right to observe all or any part of the Acceptance Tests and Acceptance Retests by the [Client] OR [Developer].]

9.4 In the event that the Acceptance Tests and Acceptance Retests do not pass, [the Client shall inform the Developer at the receipt of the Defect Report and] the Developer shall, within <<insert period>> Business Days [of receipt of the Defect Report] compile [the Client's Defect Report] which the Developer shall provide to the Client in writing.

In the event that the Acceptance Tests and Acceptance Retests do not pass, [the Client shall inform the Developer at the receipt of the Defect Report and] the Developer shall, within <<insert period>> Business Days [of receipt of the Defect Report] compile [the Client's Defect Report] which the Developer shall provide to the Client in writing.

9.5 Upon receipt by the Client of the Defect Report, the Parties shall agree upon a mutually acceptable Defect Report and to agree upon mutually acceptable solutions and a suitable Defect Report.

Upon receipt by the Client of the Defect Report, the Parties shall agree upon a mutually acceptable Defect Report and to agree upon mutually acceptable solutions and a suitable Defect Report.

9.6 [In the event that a Defect Report is not passed, an omission of the Client or the negligence of the Client, or an act or omission of the Client, or an act or omission of a third party associated with the Client for whom the Developer is responsible, such a Non-Developer Defect shall not be considered a Defect Report. If only a Non-Developer Defect Report is passed, the Acceptance Tests and Acceptance Retests shall be deemed to have passed the Acceptance Tests and Acceptance Retests. The provisions of sub-Clause 9.10 shall apply.]

[In the event that a Defect Report is not passed, an omission of the Client or the negligence of the Client, or an act or omission of the Client, or an act or omission of a third party associated with the Client for whom the Developer is responsible, such a Non-Developer Defect shall not be considered a Defect Report. If only a Non-Developer Defect Report is passed, the Acceptance Tests and Acceptance Retests shall be deemed to have passed the Acceptance Tests and Acceptance Retests. The provisions of sub-Clause 9.10 shall apply.]



S

A

M

P

L

E

apply.]

9.7 Defects shall be remedied by the Developer at no additional cost to the Client. [The Client may require the Developer to provide a more appropriate remedy any Non-Developer Defects, however the Developer shall have the right to charge the Client in writing at the same rates, as set out in Schedule 7, for such work and to provide the same in advance.]

9.8 Where applicable, the Developer shall complete any necessary work to remedy the Defects by the Developer of any and all Defects during the Acceptance Tests, the [Client] OR [Developer] Retest Period duration>> Business Day Retest Period during which the Client may require the Developer to perform Acceptance Retests on the Software (or the affected part of the Software).

9.9 In the event that the Client does not accept the Software, the Client shall have the following optional rights and remedies:

9.9.1 to require the Developer to complete the remaining Defects and to agree to a suitable deadline for the completion of that remedial work and to perform Acceptance Retests. If the Software fails the Acceptance Retests, the Client may require the Developer to repeat the Acceptance Retests under sub-Clause 9.9.2 or it may proceed under sub-Clause 9.9.3.

9.9.2 to accept the Software in its current state, subject to a reasonable reduction in price to be agreed upon in writing to the Developer which shall be effective from the date of the Acceptance Retests. If the Client does not agree to the reduction within the time limit, the Client shall accept the Software in accordance with sub-Clause 9.9.3.

9.9.3 to reject the Software and terminate the Software Specification Agreement. This Agreement shall be terminated immediately and the Developer shall refund to the Client any and all sums paid by the Client to the Developer under this Agreement within <<insert period>> Business Days].

9.10 The Software shall be deemed to have been accepted when all Acceptance Tests and (where applicable) Acceptance Retests have been passed and no Defects remain (except those accepted by the Client under sub-Clause 9.9.2). The Client shall confirm acceptance of the Software by completing and returning to the Developer an Acceptance Form, which it shall sign. Notwithstanding the foregoing, the Software shall be deemed to have been accepted if the Client commences live running of the Software for the purposes of the Software (other than for the purposes of the Acceptance Tests or Acceptance Retests) in the normal course of business.

10. Project Plan

10.1 Both Parties shall perform their obligations under this Agreement in accordance with the Project Plan.

10.2 [The Developer shall complete the Development Phase by the date specified in the Project Plan, or the date specified in sub-Clause 10.3.]

# S A M P L E

- 10.3 If any of the following events shall occur, the Client shall be granted an extension of the time for the completion of the Project [the affected Development Phase(s)]:
- 10.3.1 the Client may request a change to the Project Plan in accordance with sub-Clause 4.1 and the change is implemented in accordance with Clause 4.4;
  - 10.3.2 a force majeure event occurs as set out in Clause 25; or
  - 10.3.3 a delay is caused (in whole or in part) by an act or omission of the Client, its employees, subcontractors or third parties (including the Contractors).
- 10.4 In the event that the Client is granted an extension under sub-Clause 10.3, it shall inform the Contractor of the extension and, in any event, a reasonable estimate of the period of the delay. Such written notice shall be provided to the Contractor within <<insert period>> Business Days of the beginning of the event.
- 10.5 The Parties' respective obligations under Clause 10, taking into account the event relied upon, shall be deemed amended as follows:

## 11. Fees and Payment

- 11.1 The Client shall pay the Project Fees, calculated in accordance with Schedule 1, within <<insert period>> of receipt of the Developer's invoice.
- 11.2 Any and all sums payable by the Client shall be [exclusive] OR [inclusive] of VAT.
- 11.3 The Client shall also reimburse the Developer all reasonable travel and other out-of-pocket expenses incurred by the Developer in its performance of its obligations under the Agreement, subject to [the Client's prior written agreement and] the production by the Developer of reasonable evidence of such expenses.
- 11.4 If the Client fails to make payment by the due date for payment, the Client shall be liable for interest (including, but not limited to, late payment interest) on the overdue amount at the rate of <<insert percentage>>% per annum (including compound interest) from the due date for payment until the payment is made in full to the Developer on or by the due date for payment. In addition, the Client shall pay the Developer's other remedies (including, but not limited to, those set out in Clause 23), the Client shall pay the Developer's legal costs (including, but not limited to, those set out in Clause 23) in full.
- 11.5 Interest under sub-clause 11.4 shall be payable daily at the rate of <<insert percentage>>% per annum (including compound interest) from time to time, and at <<insert percentage>>% per annum for any period when that rate is below the applicable base rate.

## 12. Intellectual Property Rights

- 12.1 The Parties hereby acknowledge that as expressly provided in this Agreement, this Agreement shall not create any intellectual property rights in, or the ownership of, or create any intellectual property rights subsisting in the [Developer Software] AND/OR [Third-Party Software] or the [Modified Software].

S

12.2 [The Developer shall retain all Intellectual Property Rights subsisting in the [Bespoke Software] until the Project Completion Date. The Developer shall assign the ownership of the [Bespoke Software] to the Client and take all actions necessary to effect such assignment.] **OR** [Developer Modified Software] shall be assigned to the Client. Upon receipt by the Client of the [Developer Modified Software], the Client and the Developer shall execute all documents necessary to effect such assignment.]

12.3 The Client shall assign the ownership of the Client Software to the Developer hereby acknowledged. The Developer shall notify the Client immediately if it becomes aware of any third party infringement of the whole or any part of the Client Software by any third party.

12.4 [The Developer shall ensure that the Client Software is maintained to a sufficient degree of confidentiality and security to ensure the creation of the [Bespoke Software] and shall take all necessary steps to ensure that the Client Software is maintained to a sufficient degree of confidentiality and security to ensure the creation of the [Bespoke Software].] **AND/OR** [Developer Modified Software] shall be maintained to a sufficient degree of confidentiality and security to ensure the creation of the [Bespoke Software].

12.5 The Client hereby acknowledges that the Client Software is being provided to the Client on a non-exclusive licence to use the Client Software for the purpose of carrying out its obligations under this Agreement.

13. **Software Licence**

13.1 The Developer hereby grants to the Client a [non-exclusive] **OR** [an exclusive] [perpetual] licence to use the [Developer Standard Software] and [Developer Modified Software] ("the Licensed Software") as follows:

13.1.1 for any activity related to the Client's business;

13.1.2 for the provision of software facilities management, software support, maintenance, disaster recovery, back-up, information protection and other related services;

13.1.3 for the use of the Licensed Software in any database incorporated into the Licensed Software and the extraction and re-use of such data, and for the storage of such data or database; and

13.1.4 for use in connection with the Client's or inter-connected networks.

13.2 The Licensed Software shall be used only by the Licensed Users [and only on the Client Hardware] subject to the following exceptions:

13.2.1 contractors or subcontractors may use the Licensed Software for the purpose of carrying out any of the projects referred to in clause 13.1.2;

13.2.2 the number of Licensed Users set out in Schedule 3 may be amended from time to time, subject to the prior written consent of the Developer (such consent not to be unreasonably withheld) and the payment of the requisite fees by the Client [; and] **OR** [.]

13.2.3 [the Client shall be responsible for the cost of any replacement hardware for the Client Hardware];

13.2.4 [in the event that the Client Hardware becomes unusable for any reason, the Client Software may be used on backup hardware until the Client Hardware is repaired [or replaced].]

A

M

P

L

E

S

A

M

P

L

E

14. **Software Licence Conditions**

- 14.1 The Client shall have the right to make copies of the Licensed Software as are reasonably necessary for its internal use and for back-up purposes.
- 14.2 Ownership of any and all copies of the Licensed Software or any part thereof shall at all times remain the property of the Developer and the Client shall:
  - 14.2.1 place a label on each copy of the Licensed Software stored on physical media, clearly stating that it is the property of the Developer and incorporating any proprietary notices provided by the Developer for such purposes;
  - 14.2.2 ensure that the Licensed Software does not incorporate any proprietary rights or such purposes and that such notices are preserved in the Licensed Software as it is in the Licensed Software as supplied by the Developer;
  - 14.2.3 at all times keep the Licensed Software in its possession and/or control.
- 14.3 Subject to the provisions of Clause 14.1, the Client shall not:
  - 14.3.1 sub-license, lease, loan, or otherwise transfer the Licensed Software to another party without the prior written consent of the Developer;
  - 14.3.2 enable access to the Licensed Software in any way (including, but not limited to, via network) to any party who are not Licensed Users.
- 14.4 The Client shall have the right to integrate the Licensed Software with any other software.
- 14.5 The Client shall not modify, alter, or create any derivatives or variations of the Licensed Software without the prior written consent of the Developer.
- 14.6 The Client shall not attempt to reverse-engineer, decompile, or in any other way reverse-engineer the Licensed Software, unless permitted by law.

15. **Confidentiality**

- 15.1 Each Party undertakes to keep confidential all information provided by sub-Clause 15.2 or as otherwise disclosed in writing by the other Party, it shall, at all times during the term of this Agreement and for a period of [ <insert period>> years] after its termination:
  - 15.1.1 keep confidential all such information;
  - 15.1.2 not disclose such information to any other party;
  - 15.1.3 not use any such information for any purpose other than as contemplated in this Agreement;
  - 15.1.4 not make any such information available in any way or part with possession of any Confidential Information;
  - 15.1.5 ensure that its officers, employees, agents, sub-contractors and consultants do not disclose such information, which, if done by that Party, would constitute a breach of any of the provisions of Clauses 15.1.1 to 15.1.4 above.
- 15.2 Either Party may:
  - 15.2.1 disclose any Confidential Information to:

S

- a) any sub-contractor of the Party;
- b) any governmental authority or regulatory body; or
- c) any employee, agent, contractor or of any of the aforementioned persons, partner or associate;

to such extent as may be necessary for the purposes contemplated by this Agreement, but limited to, the provision of the Software Development, as required by law. In each case that Party shall ensure that the Confidential Information is disclosed only to the party or body in question that the Confidential Information is confidential and (except where the disclosure is required by law) obtaining and submitting to the other Party any undertaking from the party in question. Such disclosure shall be as nearly as practicable in the terms of the Confidential Information as required by law for the purposes for which the disclosure is made; and

- 15.2.2 use any Confidential Information for any purpose, or disclose it to any other person, or at any time, other than where it is at the date of this Agreement, already in the public domain, or otherwise in the public knowledge through no fault of that Party, or where the Party must disclose the Confidential Information for legal or regulatory purposes.

- 15.3 The provisions of this Clause shall continue in force in accordance with their terms [indefinite period] after the termination of this Agreement [Licence], notwithstanding the termination of this Agreement for any reason.

**16. Data Protection**

- 16.1 All personal data that is collected, stored, processed, or otherwise handled in connection with this Agreement shall be collected, stored, processed, or otherwise handled in accordance with the provisions of the Data Protection Legislation. This Clause shall relieve either Party of any obligations set out in the Data Protection Legislation or replace any obligations set out in the Data Protection Legislation.
- 16.2 Complete details of the processing, storage, and retention of personal data including the purposes for which personal data is used, the Parties' obligations in relation to such personal data, details of any sharing (where applicable) are available in the Parties' privacy policy [insert name of notices or policies] [available from <<insert name of notices or policies>> attached in Schedules 8 and 9].

**17. [Data Processing]**

- 17.1 [All personal data that is collected, stored, processed, or otherwise handled under this Agreement shall be collected, stored, processed, or otherwise handled in accordance with the terms of the Data Protection Legislation. This Clause shall relieve either Party of any obligations set out in the Data Protection Legislation or replace any obligations set out in the Data Protection Legislation.]

**OR**

- 17.1 [The Parties hereby agree to both comply with all applicable data protection requirements and to ensure that both comply with all applicable data protection requirements. This Clause shall not relieve either Party of any obligations set out in the Data Protection Legislation.]

A

M

P

L

E

S

Protection Legislation obligations.

move or replace any of those

17.2 For the purposes of this Clause 17, the Client is the data controller and the Developer is the data processor.

move or replace any of those

17.3 The type(s) of personal data, the scope, nature and purpose of the processing are set out in Schedule 10.

OR [categories] of data subject, the purpose of the processing, and the duration of the

17.4 The Client shall ensure that all necessary consents and notices are obtained from the data subject prior to the processing of personal data to the Developer for the purposes described in Schedule 10.

all necessary consents and notices

17.5 The Developer shall ensure that all necessary consents and notices are obtained from the data subject prior to the processing of personal data to the Developer for the purposes described in Schedule 10.

personal data processed by it in accordance with the provisions under this Agreement:

17.5.1 process the personal data in accordance with the written instructions of the Client unless the Developer is required to process such personal data by law; and promptly notify the Client of such processing unless required to do so by law;

the written instructions of the Client

17.5.2 ensure that appropriate technical and organisational measures (including encryption, pseudonymisation, anonymisation, access controls, regular security testing, etc.) are implemented to protect the personal data from unauthorised access, disclosure, destruction, loss, etc. such measures shall be proportionate to the potential harm resulting from the processing of the personal data in light of the current state of the art in information security. Measures to be implemented are set out in Schedule 10;

appropriate technical and organisational

17.5.3 ensure that all employees with access to the personal data (whether directly or indirectly) are contractually obliged to keep such data confidential;

employees with access to the personal

17.5.4 not transfer personal data outside of the UK without the prior written consent of the Client, which shall only be given if the following conditions are satisfied:

side of the UK without the prior

a) the Client and the Developer have provided suitable safeguards to ensure that the personal data is protected by law which provides for adequate and enforceable rights and effective legal remedies;

have provided suitable safeguards

b) the Developer has provided suitable safeguards to ensure that the personal data is protected by law which provides for adequate and enforceable rights and effective legal remedies;

adequate rights and effective legal

c) the Developer has provided suitable safeguards to ensure that the personal data is protected by law which provides for adequate and enforceable rights and effective legal remedies;

obligations under the Data Protection

d) the Developer has provided suitable safeguards to ensure that the personal data is protected by law which provides for adequate and enforceable rights and effective legal remedies;

reasonable instructions given in

17.5.5 assist the Client in responding to any and all requests from the data subject for access to, or correction of, their personal data, ensuring its compliance with the Data Protection Legislation, and consultations with supervisory authorities or the Information Commissioner's Office, but not limited to, the Information Commissioner's Office;

st, in responding to any and all

17.5.6 notify the Client of any personal data breach of which the Developer becomes aware of a personal data breach;

on becoming aware of a personal

A

M

P

L

E

S

17.5.7 on the Client return all pe termination of personal dat

delete (or otherwise dispose of) or all copies thereof to the Client on s it is required to retain any of the

17.5.8 maintain cor technical an demonstrate the Client an

ords of all processing activities and ures implemented necessary to ause 17 and to allow for audits by d by the Client.

17.6 [The Developer sha processing of perso

f its obligations with respect to the ement.]

OR

17.6 [The Developer sha processing of pers consent of the Clie processor, the Deve

f its obligations with respect to the reement without the prior written e Developer appoints such a sub-

17.6.1 enter into a impose upon upon the De Developer a

n the sub-processor, which shall same obligations as are imposed 7 and which shall permit both the hose obligations; and

17.6.2 ensure that that agreem

lies fully with its obligations under on Legislation.]

17.7 [In the event that t the processing of p and the Developer omissions of the su

acts its obligations with respect to Clause 17.6, as between the Client remain fully liable for all acts and

17.8 Either Party may, a this Clause 17, rep similar terms that fo shall apply and repl

ast <<insert period>> notice, alter cable data processing clauses or e certification scheme. Such terms achment to this Agreement.]

18. **[Data Security**

With respect to any and all of the Client under this Agr

essed by the Developer on behalf hall:

18.1 take all such prec integrity of such dat

ably necessary to preserve the uption or loss of that data;

18.2 make <<insert frequ and

data using <<insert method(s)>>;

18.3 in the event that Developer, promptl option, reimburse t Client in having suc

or lost due to any fault of the s own expense or, at the Client's onable expenses incurred by the l party.]

19. **Warranties**

19.1 Each Party hereby power and authori Agreement.

s to the other that it has the full perform its obligations under, this

A

M

P

L

E

S

19.2 The Developer shall exercise reasonable care and skill in the performance of its obligations under this Agreement with generally established and recognised practice in the software development industry, and in accordance with applicable laws, statutes, and regulations from time to time in

ons under this Agreement with generally established and recognised practice in the software development industry, and in accordance with applicable laws, statutes, and regulations from time to time in

A

19.3 The Developer hereby warrants that:  
19.3.1 the [Developer Modified Software] AND/OR [the Developer Modified Software] shall, prior to the issuance of the licence, be proprietary to the Developer and the Developer shall assign and/or licence all Intellectual Property Rights in and to the [Developer Modified Software] AND/OR [the Developer Modified Software] to the Client under sub-Clause 12.2, and shall be proprietary to the Developer and the Developer shall assign and/or licence all Intellectual Property Rights in and to the [Developer Modified Software] AND/OR [the Developer Modified Software] to the Client under sub-Clause 12.2;

nts that:  
AND/OR [the Developer Modified Software] AND/OR [the Developer Modified Software] shall, prior to the issuance of the licence, be proprietary to the Developer and the Developer shall assign and/or licence all Intellectual Property Rights in and to the [Developer Modified Software] AND/OR [the Developer Modified Software] to the Client under sub-Clause 12.2, and shall be proprietary to the Developer and the Developer shall assign and/or licence all Intellectual Property Rights in and to the [Developer Modified Software] AND/OR [the Developer Modified Software] to the Client under sub-Clause 12.2;

M

19.3.2 the [Developer Modified Software] AND/OR [the Developer Modified Software] shall meet all requirements set out in the Software Specification and that the same shall perform in accordance with the Software Specification for a period of <<insert period>> from the date of installation, in the event of non-compliance arising out of unauthorised modification or use of the Software by or on behalf of the Client;

AND/OR [the Developer Modified Software] AND/OR [the Developer Modified Software] shall meet all requirements set out in the Software Specification and that the same shall perform in accordance with the Software Specification for a period of <<insert period>> from the date of installation, in the event of non-compliance arising out of unauthorised modification or use of the Software by or on behalf of the Client;

P

19.3.3 [the Third-Party Software] shall be suitable for use in accordance with the Software Specification;  
a) be suitable for use in accordance with the Software Specification;  
b) be compatible with the Standard Software AND/OR [the Developer Modified Software] to perform in accordance with the Software Specification; and  
c) continue to perform in accordance with the Software Specification AND/OR [the Developer Modified Software] AND/OR [the Developer Modified Software] as under sub-Clause 19.3.3(b) for a period of <<insert period>> from the installation of any new version of the [Developer Modified Software] AND/OR [the Developer Modified Software].

AND/OR [the Developer Modified Software] AND/OR [the Developer Modified Software] shall be suitable for use in accordance with the Software Specification;  
a) be suitable for use in accordance with the Software Specification;  
b) be compatible with the Standard Software AND/OR [the Developer Modified Software] to perform in accordance with the Software Specification; and  
c) continue to perform in accordance with the Software Specification AND/OR [the Developer Modified Software] AND/OR [the Developer Modified Software] as under sub-Clause 19.3.3(b) for a period of <<insert period>> from the installation of any new version of the [Developer Modified Software] AND/OR [the Developer Modified Software].

19.4 The sole remedies for breach of the warranties set out in Clause 19.3 are set out in Clause 19.5.

es contained in sub-Clause 19.3.1

19.5 The warranties set out in Clause 19.3 shall be in lieu of all other warranties or conditions, whether express or implied, including implied warranties or conditions of satisfactory performance, for purpose, with respect to this Agreement.

re in lieu of all other warranties or conditions, whether express or implied, including implied warranties or conditions of satisfactory performance, for purpose, with respect to this Agreement.

L

19.6 The Developer shall not be liable for breach of the warranties given in sub-Clause 19.3.2 for any failure of the [Developer Modified Software] AND/OR [the Developer Modified Software] to comply with the Software Specification which failure is wholly caused by unauthorised modification or use of the Software by or on behalf of the Client.

e warranties given in sub-Clause 19.3.2 for any failure of the [Developer Modified Software] AND/OR [the Developer Modified Software] to comply with the Software Specification which failure is wholly caused by unauthorised modification or use of the Software by or on behalf of the Client.

19.7 [The Client hereby warrants that the [Third-Party Software] AND/OR [the Third-Party Software] shall only warranties with respect to the [Third-Party Software] AND/OR [the Third-Party Software] issued by the third-party [Third-Party Software] AND/OR [the Third-Party Software] hereof. To the extent that any such warranties are given by the third-party [Third-Party Software] AND/OR [the Third-Party Software] developer shall pass on the benefit of those warranties to the Client.

only warranties with respect to the [Third-Party Software] AND/OR [the Third-Party Software] issued by the third-party [Third-Party Software] AND/OR [the Third-Party Software] hereof. To the extent that any such warranties are given by the third-party [Third-Party Software] AND/OR [the Third-Party Software] developer shall pass on the benefit of those warranties to the Client.

E

19.8 [The Client has no liability for breach of the warranties set out in Clause 19.3 in reliance upon the [Third-Party Software] AND/OR [the Third-Party Software] issued by the third-party [Third-Party Software] AND/OR [the Third-Party Software] hereof. To the extent that any such warranties are given by the third-party [Third-Party Software] AND/OR [the Third-Party Software] developer shall pass on the benefit of those warranties to the Client.

require the Third-Party Software in reliance upon the [Third-Party Software] AND/OR [the Third-Party Software] issued by the third-party [Third-Party Software] AND/OR [the Third-Party Software] hereof. To the extent that [the Client



S

Software] AND/OR [the Developer Modified Software] is incompatible with the Software and the Software consequently fails to perform in accordance with the Software Specification in contravention of sub-Clause 19.3.3 and shall be deemed to be in breach of sub-Clause 19.3.3 and the Client shall be entitled to acquire a suitable replacement at the cost of acquiring such replacement.

Standard Software] AND/OR [the Bespoke Software] is incompatible with the Software and the Software consequently fails to perform in accordance with the Software Specification in contravention of sub-Clause 19.3.3 and shall be deemed to be in breach of sub-Clause 19.3.3 and the Client shall be entitled to acquire a suitable replacement at the cost of acquiring such replacement.

A

20. Intellectual Property Rights

20.1 The Developer shall be liable against all damages, losses, and expenses arising out of proceedings brought by a third party for the infringement of Intellectual Property Rights arising out of the Software, the Documentation, or the Services, provided that the Client:

against all damages, losses, and expenses arising out of proceedings brought by a third party for the infringement of Intellectual Property Rights arising out of the Software, the Documentation, or the Services, provided that the Client:

20.1.1 promptly notifies the Client of the claim or proceedings;

promptly notifies the Client of the claim or proceedings;

20.1.2 makes no admission without the Developer's prior written consent;

admits without the Developer's prior written consent;

20.1.3 provides the Developer with all information and assistance that the Developer may reasonably require;

provides the Developer with all information and assistance that the Developer may reasonably require;

20.1.4 gives the Developer the right to defend or settle the claim or proceedings.

to defend or settle the claim or proceedings.

20.2 The Developer shall be liable for any claim for the infringement of a third party's Intellectual Property Rights that:

shall be liable for any claim for the infringement of a third party's Intellectual Property Rights that:

20.2.1 is caused solely by the Client Software, whether as a part of the Client Software or otherwise;

is caused solely by the Client Software, whether as a part of the Client Software or otherwise;

20.2.2 is caused solely by the Client Software in combination with third party software not provided in writing by the Developer (with the exception of the Client Hardware, provided the Client was notified of the same prior to entry into the Client Software);

of the Software in combination with third party software not provided in writing by the Developer (with the exception of the Client Hardware, provided the Client was notified of the same prior to entry into the Client Software);

20.2.3 results solely from unauthorised modifications made to the Client Software by the Client;

unauthorised modifications made to the Client Software by the Client;

20.3 In the event that the Client continues to use the Software or any part thereof, with the effect that the Client Software, in accordance with this Agreement is held to constitute an infringement of a third party's Intellectual Property Rights, then the Developer shall promptly, and:

in the event that the Client continues to use the Software or any part thereof, with the effect that the Client Software, in accordance with this Agreement is held to constitute an infringement of a third party's Intellectual Property Rights, then the Developer shall promptly, and:

20.3.1 procure for the Client the right to continue using and possessing the Software or any part thereof;

procure for the Client the right to continue using and possessing the Software or any part thereof;

20.3.2 modify or replace the affected part thereof without detracting from the Client's performance of the same, in order to remove the infringement;

modify or replace the affected part thereof without detracting from the Client's performance of the same, in order to remove the infringement;

20.4 In the event that the Client continues to use the Software or any part thereof, with the effect that the Client Software, in accordance with this Agreement is held to constitute an infringement of a third party's Intellectual Property Rights, then the Developer shall promptly, and:

if the Client continues to use the Software or any part thereof, with the effect that the Client Software, in accordance with this Agreement is held to constitute an infringement of a third party's Intellectual Property Rights, then the Developer shall promptly, and:

M

P

L

E

S

A

M

P

L

E

**21. Liability**

- 21.1 Subject to sub-Clause 11, the Client shall be liable to the other, whether in tort (including negligence), in contract, in restitution, or otherwise, for any special, indirect, consequential, or economic loss, costs, damages, charges, or expenses.
- 21.2 Subject to sub-Clause 11, the Client's total liability to the other in respect of any claim arising out of or in connection with this Agreement [including negligence], whether in tort (including negligence), contract, or otherwise shall not exceed £<<insert sum>>.
- 21.3 The limitations of liability set out in Clause 21.2 shall not apply:
  - 21.3.1 to any breach of the Client's obligations under Clause 11;
  - 21.3.2 to any breach of the Client's obligations of confidentiality under Clause 15;
  - 21.3.3 to any liability arising under any indemnity under this Agreement;
  - 21.3.4 to any breach of the Client's obligations under any regulatory requirement which results in the Client being subject to a fine or other sanction on the Client (or any of its subsidiaries) (irrespective of the form of liability);
  - 21.3.5 to any breach of the Client's obligations under the provisions of Clause 12, relating to Intellectual Property;
  - 21.3.6 to the liability arising under Clause 17, relating to Data Protection.
- 21.4 Nothing in this Agreement shall limit or exclude either Party's liability for death or personal injury caused by negligence; fraud; any breach of the terms implied by Section 55 of the Sale of Goods Act 1979 or by Section 2 of the Supply of Goods and Services Act 1982; the deliberate or wilful misconduct of that Party or its directors, agents, or sub-contractors; or for any other form of liability not so excluded by law.

**22. Insurance**

- 22.1 The Developer shall maintain in force the following Insurance Policies [and for a period of <<insert period>>] in respect of the Client:
  - 22.1.1 public liability insurance with a minimum value of £<<insert sum>>;
  - 22.1.2 professional indemnity insurance with a minimum value of £<<insert sum>>;
  - 22.1.3 property damage insurance with a minimum value of £<<insert sum>>;
  - 22.1.4 business interruption insurance with a minimum value of £<<insert sum>>;
  - 22.1.5 [<<insert additional insurance cover as required>>].

S

- 22.2 The Insurance Policies shall
- 22.2.1 note the interest of the Client in the Insurance Policies;
- 22.2.2 waive any rights of subrogation and/or contribution in respect of the Insurance Policies; and
- 22.2.3 be primary and non-contributory in respect of the Insurance Policies, which may be required by the Insurers;
- 22.2.4 prohibit the Insurers from cancelling or non-renewing such Insurance Policies without the Client's written consent.

insurers against the Client and its employees;  
 contribution from any other insurance and  
 cancellation or non-renewal of such written consent.

A

- 22.3 The Developer shall
- 22.3.1 administer the Insurance Policies at all times to the satisfaction of the Client as set out in this Agreement;
- 22.3.2 take no action to vary or amend any of the Insurance Policies in any way prejudicial to the interests of the Client;
- 22.3.3 procure that the Insurance Policies are not altered in such a way as to be prejudicial to the interests of the Client as set out in this Agreement.

its relationship with its insurers at all times to the satisfaction of the Client as set out in this Agreement;  
 any of the Insurance Policies or to in any way prejudicial to the interests of the Client under this Agreement;  
 Insurance Policies are not altered in such a way as to be prejudicial to the interests of the Client of those Insurance Policies as set out in this Agreement.

M

**23. Term and Termination**

- 23.1 This Agreement shall commence on the Commencement Date of <<insert date>> and shall continue in force until the termination of the Software Development Services, subject to the provisions of this Agreement.
- 23.2 Without prejudice to the provisions of Clause 23.1, either Party may terminate this Agreement by giving notice to the other Party in accordance with the provisions of this Clause 23.2.
- 23.2.1 any sum owed by the other Party under any of the provisions of this Agreement shall be due and payable within <<insert period>> Business Days after the date of the breach;
- 23.2.2 the other Party shall be in breach of this Agreement if it fails to remedy the breach within <<insert period>> Business Days after being given written notice of the breach and requiring it to be remedied;
- 23.2.3 an encumbrance is created over any of the property or assets of the other Party, or where the other Party is a company, a member of the group of companies of which that other Party is a member;
- 23.2.4 the other Party enters into a voluntary arrangement with its creditors or, where the other Party is a company, is placed into an administration order (within the meaning of Section 86 of the Insolvency Act 1986);
- 23.2.5 the other Party is declared bankrupt or, where the other Party is a company, has a bankruptcy order made against it or, where the other Party is a company, goes into liquidation (except for the purposes of a reconstruction or re-construction);
- 23.2.6 anything is done in the exercise of the powers conferred by the law of any jurisdiction which would result in the other Party ceasing to carry on business;
- 23.2.7 the other Party ceases to carry on business;

Commencement Date of <<insert date>> and shall continue in force until the termination of the Software Development Services Clause 23 and other relevant provisions of this Agreement;  
 remedies which may be available to it, with immediate effect by written notice to the other Party;  
 the other Party under any of the provisions of this Agreement shall be due and payable within <<insert period>> Business Days after the date of the breach;  
 or material breach of any of the provisions of this Agreement, the breach is capable of remedy, within <<insert period>> Business Days after being given written notice of the breach and requiring it to be remedied;  
 or where the other Party is a company, a member of the group of companies of which that other Party is a member;  
 arrangement with its creditors or, where the other Party is a company, is placed into an administration order (within the meaning of Section 86 of the Insolvency Act 1986);  
 or firm, has a bankruptcy order made against it or, where the other Party is a company, goes into liquidation (except for the purposes of a reconstruction or re-construction);  
 foregoing under the law of any jurisdiction which would result in the other Party ceasing to carry on business;

P

L

E

S

23.2.8 control of the  
persons not  
For the purposes  
shall have the  
respectively

ed by any person or connected  
arty on the date of this Agreement.  
“control” and “connected persons”  
ereby Sections 1124 and 1122  
ct 2010; or

23.2.9 any warranty

und to be untrue or misleading.

23.3 For the purposes of  
of remedy if the Parties  
respects.

each shall be considered capable  
with the provision in question in all

23.4 The Client may terminate  
notice to the Developer

with immediate effect by written

23.4.1 the Software  
is rejecting the

Acceptance Retests and the Client  
se 9.9.3[.] OR [; or

23.4.2 the Supplier  
19.8.]

its obligations under sub-Clause

23.5 The termination of  
remedies, obligations  
Parties under this Agreement

without prejudice to any rights,  
ve already accrued to either of the

23.6 The Client may terminate  
Developer. On termination  
Developer or, at the  
Licensed Software  
of the Licensed Software  
or on any other equipment  
deleted.

any time by written notice to the  
he Client shall either return to the  
destroy all material copies of the  
on and shall ensure that all copies  
y, whether on the Client Hardware  
led by the Client, are permanently

23.7 This Agreement shall  
the Licence, but the  
Licence.

only on the expiry or termination of  
this Agreement shall not affect the

**24. Effects of Termination**

Upon termination of this Agreement

24.1 any sum owing by either  
Agreement shall be

under any of the provisions of this  
and payable;

24.2 each Party shall, as  
other Party any  
documentation belonging  
licence granted by the  
any part thereof, of  
same and shall certify  
or deleted;

practicable and possible, return to the  
and all related materials and  
it is not the subject of a current  
any and all copies of the whole or  
option, shall destroy or delete the  
r Party that it has been destroyed

24.3 each Party shall (either  
required by any  
immediately cease  
Information, and shall  
at the other Party  
materials in its possession  
Information and shall  
Information has been

red to in Clause 15 or as may be  
overnment or regulatory body),  
y or indirectly, any Confidential  
delete, or return to the other Party,  
nts, digital media, or any other  
contain or record any Confidential  
e other Party that no Confidential  
the same has been destroyed or

A

M

P

L

E

S

deleted. In the event that any Confidential Information is retained, the Party shall retain it in writing;

Confidential Information is required to be retained, the Party shall inform the other Party of such retention in writing;

24.4 notwithstanding the fact that the Client may retain copies of any Confidential Information incorporated into any Software or other materials to the extent necessary for the Client's business;

Notwithstanding Clause 24.3, the Client may retain copies of any Confidential Information incorporated into any Software or other materials to the extent necessary for the Client's business; at the Client is entitled to retain to the extent necessary for the Client's business;

24.5 [the Developer shall deliver to the Client all documents, data, and any other materials created or used in connection with this Agreement which have not otherwise been paid for by the Client, and the Developer shall retain all Intellectual Property Rights in such materials unless they have already been assigned to the Client;]

Notwithstanding Clause 24.3, the Client may retain copies of any Confidential Information incorporated into any Software or other materials to the extent necessary for the Client's business; at the Client is entitled to retain to the extent necessary for the Client's business;

24.6 all Clauses which, by their nature, relate to the period after the expiry or termination of this Agreement shall remain in full force and effect;

Notwithstanding Clause 24.3, the Client may retain copies of any Confidential Information incorporated into any Software or other materials to the extent necessary for the Client's business; at the Client is entitled to retain to the extent necessary for the Client's business;

24.7 termination shall not constitute an admission of liability on the part of either Party in respect of any damages or other remedy which the terminating Party may have in respect of the Agreement before the date of termination;

Notwithstanding Clause 24.3, the Client may retain copies of any Confidential Information incorporated into any Software or other materials to the extent necessary for the Client's business; at the Client is entitled to retain to the extent necessary for the Client's business;

24.8 other than as set out in Clause 24.5, neither Party shall be liable to the other for any damages or other remedy which the terminating Party may have in respect of the Agreement before the date of termination;

Notwithstanding Clause 24.3, the Client may retain copies of any Confidential Information incorporated into any Software or other materials to the extent necessary for the Client's business; at the Client is entitled to retain to the extent necessary for the Client's business;

**25. Force Majeure**

25.1 No Party to this Agreement shall be liable to the other for any failure or delay in performing its obligations under this Agreement which results from any cause that is beyond the reasonable control of that Party, limited to: power failure, natural disasters, civil unrest, fire, flood, industrial action, acts of terrorism, acts of war, governmental action or any other cause which is beyond the control of the Party in question.

Notwithstanding Clause 24.3, the Client may retain copies of any Confidential Information incorporated into any Software or other materials to the extent necessary for the Client's business; at the Client is entitled to retain to the extent necessary for the Client's business;

25.2 [In the event that a Party is unable to perform its obligations under this Agreement for a continuous period of <<insert period>>, the other Party shall have the right to terminate this Agreement by written notice at the end of such period. In the event of such termination, the Parties shall agree to reasonable payment for the Software Development Services performed up to the date of termination. Such payment shall take into account the value of any Intellectual Property Rights and other commitments entered into in reliance on the performance of this Agreement.]

Notwithstanding Clause 24.3, the Client may retain copies of any Confidential Information incorporated into any Software or other materials to the extent necessary for the Client's business; at the Client is entitled to retain to the extent necessary for the Client's business;

**26. No Waiver**

No failure or delay by either Party in performing its obligations under this Agreement shall be deemed to be a waiver of any provision of this Agreement or a breach of the same or any other provision of this Agreement.

Notwithstanding Clause 24.3, the Client may retain copies of any Confidential Information incorporated into any Software or other materials to the extent necessary for the Client's business; at the Client is entitled to retain to the extent necessary for the Client's business;

A

M

P

L

E

S

**27. Further Assurance**

Each Party shall execute all such deeds, documents and things as may be necessary to carry out the terms of this Agreement into full force and effect.

**28. Costs**

Subject to any provisions to the contrary, each Party shall pay its own costs of and incidental to the negotiation, preparation, execution and carrying into effect of this Agreement.

**29. Set-Off**

[Neither] OR [Either] Party shall be entitled to set-off any sums in any manner from any payments due or sums received under this Agreement or any other agreement at any time.

**30. Assignment and Sub-Contracting**

30.1 [Subject to sub-Clause 30.2, neither Party may assign (otherwise than by floating charge) or sub-license any of its rights hereunder, or subcontract or otherwise delegate any of its obligations hereunder without the written consent of the other Party, which consent shall not be unreasonably withheld].

30.2 [[Subject to sub-Clause 30.1, [Each] Party shall be entitled to perform any of the obligations hereunder (other than obligations of a personal nature) by it through any other member of its group or through any subcontractor or subcontractors. Any act or omission of such a subcontractor shall, for the purposes of this Agreement, be deemed to be an act or omission of the Party in question.]

**31. Time**

31.1 [The Parties agree that time is of the essence of this Agreement.]

**OR**

31.2 [The Parties agree that time is not of the essence of this Agreement for guidance only and shall be varied by mutual agreement.]

**32. Relationship of the Parties**

Nothing in this Agreement shall be deemed to constitute a partnership, joint venture, agency or other relationship other than the contractual relationship expressly provided for in this Agreement.

**33. Non-Solicitation**

33.1 Neither Party shall, for a period of <<insert period>> after its termination of this Agreement, employ or contract the services of any person who is or was previously employed or contracted by the other Party at the time of termination of this Agreement and for a period of <<insert period>> after its termination of this Agreement.

A

M

P

L

E

S

any time in relation to that Party].

without the express written consent of

33.2 Neither Party shall, after its term period after its termination Party any customer or Party cause damage to the Party [without the express written consent of that Party]

agreement and for a period of <<insert period>> after its termination Party any customer or Party cause damage to the Party [without the express written consent of that Party]

A

34. **Third Party Rights**

34.1 [No part of this Agreement shall confer rights on any third parties and accordingly the Contract (Rights of Third Parties) Act 1999 shall not apply to this Agreement.]

agreement and for a period of <<insert period>> after its termination Party any customer or Party cause damage to the Party [without the express written consent of that Party]

**OR**

34.2 [The Parties acknowledge that the Agreement is intended to benefit and shall so benefit <<insert name of third party / parties>> for the purposes of the Contract (Rights of Third Parties) Act 1999 and, subject to the provisions thereof, the Parties agree not to confer any rights on any other third parties under the Agreement.]

agreement and for a period of <<insert period>> after its termination Party any customer or Party cause damage to the Party [without the express written consent of that Party]

34.3 Subject to this Clause, the Agreement shall continue and be binding on the transferee, successors and assigns of the Party as required.

agreement and for a period of <<insert period>> after its termination Party any customer or Party cause damage to the Party [without the express written consent of that Party]

M

35. **Notices**

35.1 All notices under this Agreement shall be in writing and be deemed duly given if signed by, or on behalf of, the authorised officer of the Party giving the notice.

agreement and for a period of <<insert period>> after its termination Party any customer or Party cause damage to the Party [without the express written consent of that Party]

35.2 Notices shall be deemed to have been given:

agreement and for a period of <<insert period>> after its termination Party any customer or Party cause damage to the Party [without the express written consent of that Party]

35.2.1 when delivered to the recipient by hand or other messenger (including a registered messenger) at the recipient's address, at any time of the day or night, or

agreement and for a period of <<insert period>> after its termination Party any customer or Party cause damage to the Party [without the express written consent of that Party]

35.2.2 when sent, by post, by electronic mail or e-mail and a successful transmission is generated; or

agreement and for a period of <<insert period>> after its termination Party any customer or Party cause damage to the Party [without the express written consent of that Party]

35.2.3 on the fifth business day after the date of posting by ordinary mail; or

agreement and for a period of <<insert period>> after its termination Party any customer or Party cause damage to the Party [without the express written consent of that Party]

35.2.4 on the tenth business day after the date of posting by airmail, if mailed by airmail, or

agreement and for a period of <<insert period>> after its termination Party any customer or Party cause damage to the Party [without the express written consent of that Party]

In each case notices shall be deemed to have been given to the most recent address, e-mail address, or facsimile address of the Party.

agreement and for a period of <<insert period>> after its termination Party any customer or Party cause damage to the Party [without the express written consent of that Party]

P

36. **Entire Agreement**

36.1 [Subject to Clause 35, this Agreement contains the entire agreement between the Parties and may not be modified except by a written agreement signed by the duly authorised representatives of the Parties.]

agreement and for a period of <<insert period>> after its termination Party any customer or Party cause damage to the Party [without the express written consent of that Party]

36.2 Each Party acknowledges that, in entering into this Agreement, it does not rely on any representation, warranty, statement or other provision (made orally or in writing) other than those expressly provided in this Agreement.

agreement and for a period of <<insert period>> after its termination Party any customer or Party cause damage to the Party [without the express written consent of that Party]

L

E

S

37. **Counterparts**

This Agreement may be signed by one or more Parties to it on separate copies which shall be an original, but all copies together shall constitute one and the same instrument.

number of counterparts and by the Parties when so executed and delivered together shall constitute one and the same instrument.

A

38. **Severance**

In the event that one or more provisions of this Agreement are found to be unlawful, invalid or otherwise unenforceable, those provision(s) shall be deemed severed from the remainder of this Agreement. The remainder of this Agreement shall be valid and enforceable.

of this Agreement is found to be unlawful, invalid or otherwise unenforceable, those provision(s) shall be deemed severed from the remainder of this Agreement. The remainder of this Agreement shall be valid and enforceable.

39. **Dispute Resolution**

39.1 The Parties shall attempt to resolve any dispute arising out of or relating to this Agreement through their appointed representatives who have the authority to bind them.

dispute arising out of or relating to this Agreement through their appointed representatives who have the authority to bind them.

39.2 [If negotiations under this clause do not resolve the matter within <<insert period>> days of the date of the last attempt to resolve the matter, the parties will attempt to resolve the matter through an agreed Alternative Dispute Resolution (ADR) procedure.

do not resolve the matter within <<insert period>> days of the date of the last attempt to negotiate, the parties will attempt to resolve the matter through an agreed Alternative Dispute Resolution (ADR) procedure.

39.3 [If the ADR procedure does not resolve the matter within <<insert period>> days of the date of the last attempt to resolve the matter, either Party may refer the dispute to arbitration by either Party.

39.2 does not resolve the matter within <<insert period>> days of the date of the last attempt to resolve the matter, either Party may refer the dispute to arbitration by either Party.

39.4 The seat of the arbitration shall be England and Wales. The arbitration shall be governed by the Arbitration Act 1996 and Rules for Arbitration as agreed by the Parties. In the event that the Parties are unable to agree on a set of Rules for Arbitration, either Party may, upon giving written notice to the other Party, apply to the President or Deputy President for the Chartered Institute of Arbitrators for the appointment of an arbitrator and for any decision on rules that may be required.

39.3 shall be England and Wales. The arbitration shall be governed by the Arbitration Act 1996 and Rules for Arbitration as agreed by the Parties. In the event that the Parties are unable to agree on a set of Rules for Arbitration, either Party may, upon giving written notice to the other Party, apply to the President or Deputy President for the Chartered Institute of Arbitrators for the appointment of an arbitrator and for any decision on rules that may be required.

39.5 Nothing in this Clause shall prevent either Party from applying to a court for an injunction or other relief.

either Party or its affiliates from applying to a court for an injunction or other relief.

39.6 The Parties hereby agree that the award and outcome of the final method of dispute resolution under this Clause shall [not] be final and binding on both Parties.

and outcome of the final method of dispute resolution under this Clause shall [not] be final and binding on both Parties.

40. **Law and Jurisdiction**

40.1 This Agreement (including any dispute resolution provisions therefrom or associated with it) shall be governed by, and construed in accordance with, the law of England and Wales.

all matters and obligations arising out of or relating to this Agreement shall be governed by, and construed in accordance with, the law of England and Wales.

40.2 Subject to the provisions of this Clause (including dispute resolution), any dispute, controversy, proceeding or claim (including any dispute resolution proceedings) between the Parties relating to this Agreement (including any dispute resolution provisions therefrom or associated with it) shall be referred to and determined by the courts within the jurisdiction of the courts of England and Wales.

(including dispute resolution), any dispute, controversy, proceeding or claim (including any dispute resolution proceedings) between the Parties relating to this Agreement (including any dispute resolution provisions therefrom or associated with it) shall be referred to and determined by the courts within the jurisdiction of the courts of England and Wales.

M

P

L

E



of England and Wa

S

A

M

P

L

E

SIGNED for and on behalf of the D  
<<Name and Title of person signing

\_\_\_\_\_  
Authorised Signature

Date: \_\_\_\_\_

SIGNED for and on behalf of the C  
<<Name and Title of person signing

\_\_\_\_\_  
Authorised Signature

Date: \_\_\_\_\_

S

A

M

P

L

E

**Software Specification**  
<<Insert Software Specification>>

S

A

M

P

L

E

**The Documentation**

<<Insert details of Documentation>>

S

A

M

P

L

E

**1. Client Hardware**

<<Insert details of Client Hardware

**2. Licensed Users**

<<Insert details of Licensed Users

S

A

M

P

L

E

**Client Software**

<<Insert details of Client Software

S

A

M

P

L

E

## The Software

### [1. Bespoke Software

<<Insert details of Bespoke Software

### [2. Developer Standard Software

<<Insert details of Developer Standard Software

### [3. Developer Modified Software

<<Insert details of Developer Modified Software

### [4. Third-Party Software

<<Insert details of Third-Party Software

S

A

M

P

L

E

**Project Plan**

<<Insert detailed Project Plan including (optionally, if desired) development

, installation, and completion, and

S

A

M

P

L

E



**1. Project Fees**

<<Insert details of Project Fees>>

**2. Developer's Rates**

<<Insert relevant fees charged by

S

A

M

P

L

E

Developer's Data Protection <i><<name>>

<<Attach Notice or Policy>>]

S

A

M

P

L

E

Client's Data Protection <<insert

<<Attach Notice or Policy>>]

S

A

M

P

L

E

S

## 1. Personal Data Processing

### Scope

<<Insert description of the scope of processing to be carried out>>.

### Nature

<<Insert description of the nature of processing to be carried out>>.

### Purpose

<<Insert description of the purpose of processing to be carried out>>.

### Duration

<<Insert details of the duration of processing>>.

## 2. Types of Personal Data

<<List the types of personal data to be processed>>.

## 3. Categories of Data Subject

<<List the categories of data subject to be processed>>.

## 4. Organisational and Technical Measures

<<Describe the organisational and technical measures to be implemented as referenced in 17.5.2>>.

]

A

M

P

L

E

**Acceptance Tests**

<<Insert details of Acceptance Tests

**Acceptance Retests**

<<Insert details of Acceptance Retests

S

A

M

P

L

E