

Asbestos Jobs Online Service Agreement

TERMS AND CONDITIONS

1. INTERPRETATION

1.1 Definitions

Account Administrator	has the meaning set out in Schedule 2 paragraph 1.3.
Affiliate	any entity that directly or indirectly controls, is controlled by, or is under common control with another entity.
AJO Chronos System	the collection of software deployed on a software as a service basis via the internet developed by the Supplier in relation to its Payroll and SAAS Services (incorporating the Chronos software) to be accessed by the Customer in accordance with the Schedule 2.
Applicable Laws	all applicable laws, statutes, regulations and codes from time to time in force.
Authorised Users	those employees, agents and independent contractors of the Customer who are authorised by the Supplier and/or the Account Administrator (as the case may be) to access the Services and the Deliverables.
Business Day	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
Charges	the sums payable for the Services as set out in the Confirmatory Email or as notified by the Supplier to the Customer from time to time.
Conditions	these terms and conditions as amended from time to time in accordance with clause 15.
Confirmatory Email	the email from the Supplier to the Customer confirming the Services and setting out the Authorised Users who can access the Services and/or Deliverables.
Contract	the contract between the Supplier and the Customer for the supply of Services in accordance with these Conditions.
control	shall be as defined in section 1124 of the Corporation Tax Act 2010, and the expression “ change of control ”: shall be construed accordingly.
Customer	the person or firm who purchases the Services from the Supplier

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whose details and company number are set out in the Order.

Customer Materials	all documents, information, items and materials in any form, whether owned by the Customer or a third party, which are provided by the Customer to the Supplier in connection with the Services, including the items provided pursuant to clause 5.1.5.
Data Controller	has the meaning set out in section 1(1) of the Data Protection Act 1998.
Data Subject	an individual who is the subject of Personal Data.
Deliverables	any documents, products and materials made available to the Customer by the Supplier via asbestosjobsonline.co.uk or such other web address notified by the Supplier to the Customer from time to time in relation to the Services.
Engage(s) (or Engagement or Engaged)	the employment, hire or other use, directly or indirectly and whether under a contract of service or contract for services or otherwise, and/or whether on a permanent, temporary or other basis, of a Worker by or on behalf of the Customer.
Intellectual Property Rights	patents, rights to inventions, copyright and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
Introduce (or Introduction)	the provision to the Customer of details of a Worker, whether or not the Customer had knowledge of that Worker before the Introduction via the Job Board.
Job Board	the job board included as part of the AJO Chronos System.
Order	the Customer's order for the Services which are set out in the Confirmatory Email sent by the Supplier.
Payroll	the payroll of the Customer in relation to the Workers Engaged by the Customer.
Payroll Services	the services to be provided by the Supplier to the Customer as described in Schedule 1.

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Personal Data	has the meaning set out in section 1(1) of the Data Protection Act 1998 and relates only to personal data, or any part of such personal data, in respect of which the Customer is the Data Controller and in relation to which the Supplier is providing services under the Contract.
Processing and process	have the meaning set out in section 1(1) of the Data Protection Act 1998.
SAAS Services	the software as a service to be provided by the Supplier in relation to the AJO Chronos System as described in Schedule 2.
Services	the Payroll Services and the SAAS Services including services which are incidental or ancillary to such services.
Supplier	Asbestos Jobs Online Limited whose details are set out in clause 3.
Timetable	has the meaning set out at Schedule 1 paragraph 2.1.
VAT	value added tax chargeable under the Value Added Tax Act 1994.
Virus	any thing or device (including any software, 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.
Worker	a person Introduced by the Supplier to the Customer via the Job Board to be considered for an Engagement

- 1.2 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time. A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.3 A reference to “**writing**” or “**written**” includes but is not limited to fax and email.
- 1.4 Any words following the terms “**including**”, “**include**”, “**in particular**”, “**for example**” or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

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2. BASIS OF CONTRACT

- 2.1 The Order constitutes an offer by the Customer to purchase Services in accordance with these Conditions.
- 2.2 The Order shall only be deemed to be accepted when the Supplier issues the Confirmatory Email to the Customer at which point and on which date the Contract shall come into existence (“**Commencement Date**”).
- 2.3 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

3. THE SUPPLIER

3.1 The Supplier’s details are as follows:

- Asbestos Jobs Online Limited a company registered in England and Wales;
- Company registration number: 09087534;
- Registered office: Garden Studios, DL08 Shelton Street, London, WC2H 9JQ.
- Registered VAT number: 200 5996 23

3.2 The Customer can contact the Supplier by telephoning its customer service team at 0845 557 8014 or by writing to the Supplier at info@asbestosjobsonline.co.uk, Garden Studios, DL08 Shelton Street, London, WC2H 9JQ.

3.3 The Supplier will contact the Customer if necessary by telephone or by writing to it at the email address or postal address provided to the Supplier by the Customer.

4. SUPPLIER'S RESPONSIBILITIES

4.1 The Supplier shall supply the Services in accordance with the Schedules in all material respects.

4.2 The Supplier shall use reasonable endeavours to meet any performance dates specified in the Schedules but any such dates shall be estimates only and time for performance by the Supplier shall not be of the essence for the performance of the Services.

4.3 The Customer acknowledges that the Supplier may from time to time appoint a subcontractor to undertake the Services.

4.4 The Supplier reserves the right to amend the Schedules if necessary to comply with any Applicable Law if the amendment will not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.

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5. CUSTOMER'S OBLIGATIONS

5.1 The Customer shall:

- 5.1.1 ensure that any Order is complete and that the details in the Confirmatory Email are correct;
- 5.1.2 co-operate with the Supplier (or any appointed subcontractor) in all matters relating to the Services;
- 5.1.3 appoint a manager for the Services (that person shall have the authority to contractually to bind the Customer on matters relating to the Services);
- 5.1.4 provide, for the Supplier and its respective agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to data and other facilities as reasonably required by the Supplier;
- 5.1.5 provide to the Supplier in a timely manner all documents, information, items and materials in any form (whether owned by the Customer or third party) reasonably required by the Supplier in connection with the Services and ensure that they are accurate and complete;
- 5.1.6 inform the Supplier of all health and safety and security requirements that apply at any of the Customer's premises;
- 5.1.7 obtain and maintain all necessary licences and consents and comply with all relevant legislation as required to enable the Supplier to provide the Services including the use of all Customer Materials in all cases before the date on which such Services are to start;
- 5.1.8 ensure that the Authorised Users use the Services and the Deliverables in accordance with these Conditions and shall be responsible for any Authorised User's breach of the Contract;
- 5.1.9 ensure that its network and systems comply with the relevant specifications provided by the Supplier from time to time in relation to the AJO Chronos System; and
- 5.1.10 be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to the Supplier's data centres, 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.

5.2 If the Supplier's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees, then, without prejudice to any other right or remedy it may have, the Supplier

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shall be allowed an extension of time to perform its obligations equal to the delay caused by the Customer.

6. CHARGES AND PAYMENT

6.1 In consideration of the provision of the Services by the Supplier, the Customer shall pay the Charges at the same time as payment of the Payroll in accordance with Schedule 1 as set out in the Invoice.

6.2 The Supplier may increase its Charges:

6.2.1 on an annual basis with effect from each anniversary of the Commencement Date in line with the percentage increase in the Retail Prices Index in the preceding 12-month period (the first such increase shall take effect on the first anniversary of the Commencement Date and shall be based on the latest available figure for the percentage increase in the Retail Prices Index). ; *and*

6.2.2 at any time to take account of changes in Applicable Laws effecting the Services including any relevant tax legislation.

Such change to the Charges shall be set out in the Confirmatory Email sent by the Supplier on confirmation of the Order from time to time.

6.3 The Customer shall pay the Charges to the bank account using the bank details provided by the Supplier to the Customer.

6.4 Without prejudice to any other right or remedy that it may have, if the Customer fails to pay the Supplier any sum due to the Supplier under the Contract on the due date:

6.4.1 the Customer shall pay interest on the overdue amount at the rate of 4% per annum above Barclays Bank plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount; and

6.4.2 the Supplier may suspend all or part of the Services until payment has been made in full.

6.5 All sums payable to the Supplier under the Contract:

6.5.1 are exclusive of VAT, and the Customer shall in addition pay an amount equal to any VAT chargeable on those sums on delivery of a VAT invoice; and

6.5.2 shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

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7. INTELLECTUAL PROPERTY RIGHTS

- 7.1 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any Customer Materials) shall be owned by the Supplier.
- 7.2 The Supplier shall give the Customer access to the AJO Chronos System on the terms set out in Schedule 2.
- 7.3 In relation to the Customer Materials, the Customer:
- 7.3.1 shall retain ownership of all Intellectual Property Rights in the Customer Materials; and
 - 7.3.2 grant the Supplier a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify the Customer Materials for the purpose of providing the Services to the Customer.
- 7.4 The Customer:
- 7.4.1 warrants that the receipt and use of the Customer Materials in the performance of the Contract by the Supplier, its agents, subcontractors or consultants shall not infringe the rights, including any Intellectual Property Rights, of any third party; and
 - 7.4.2 shall keep the Supplier indemnified in full against all costs, expenses, damages and losses, including any interest, fines, legal and other professional fees and expenses awarded against or incurred or paid by the Supplier as a result of or in connection with any claim brought against the Supplier, its agents, subcontractors or consultants for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the receipt or use in the performance of the Contract of the Customer Materials.

8. DATA PROTECTION AND DATA PROCESSING

- 8.1 The Customer and the Supplier acknowledge that for the purposes of the Data Protection Act 1998, the Customer is the Data Controller and the Supplier (and if applicable the Facilitator) is the data processor in respect of any Personal Data.
- 8.2 The Supplier shall process the Personal Data only in accordance with the Customer's instructions from time to time and shall not process the Personal Data for any purposes other than those expressly authorised by the Customer.
- 8.3 The Supplier shall take reasonable steps to ensure the reliability of all its employees who have access to the Personal Data.
- 8.4 The Supplier warrants that, having regard to the state of technological development and the cost of implementing any measures, it will:

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8.4.1 take appropriate technical and organisational measures against the unauthorised or unlawful processing of Personal Data and against the accidental loss or destruction of, or damage to, Personal Data to ensure a level of security appropriate to the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage.

8.4.2 take reasonable steps to ensure compliance with those measures.

8.5 Subject to clause 10.3, each party to the Contract agrees to indemnify and keep indemnified and defend at its own expense the other party against all costs, claims, damages or expenses incurred by the other party or for which the other party may become liable due to any failure by the first party or its employees or agents to comply with any of its obligations under this clause 8.

8.6 The Customer acknowledges that the Supplier is reliant on the Customer for direction as to the extent to which the Supplier is entitled to use and process the Personal Data. Consequently, the Supplier will not be liable for any claim brought by a Data Subject arising from any action or omission by the Supplier, to the extent that such action or omission resulted directly from the Customer's instructions.

8.7 The Supplier may authorise a third party ("**subcontractor**") to process the Personal Data provided that the subcontractors' contract:

8.7.1 is on terms which are substantially the same as those set out in the Contract; and

8.7.2 terminates automatically on termination of the Contract for any reason.

9. CONFIDENTIALITY

9.1 Each party to the Contract undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by clause 9.2.

9.2 Each party may disclose the other party's confidential information:

9.2.1 to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 9; and

9.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

9.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.

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10. LIMITATION OF LIABILITY

- 10.1 Nothing in the Contract shall limit or exclude the Supplier's liability for:
- 10.1.1 death or personal injury caused by its negligence;
 - 10.1.2 fraud or fraudulent misrepresentation; or
 - 10.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.
- 10.2 Subject to clause 10.1, the Supplier shall not be liable to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract for:
- 10.2.1 loss of profits;
 - 10.2.2 loss of sales or business;
 - 10.2.3 loss of agreements or contracts;
 - 10.2.4 loss of anticipated savings;
 - 10.2.5 loss of or damage to goodwill;
 - 10.2.6 loss of use or corruption of software, data or information; and
 - 10.2.7 any indirect or consequential loss.
- 10.3 Subject to clause 10.1, the Supplier's total liability to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract shall be limited to the average annual Charges (calculated by reference to the charges in successive 12 month periods from the Commencement Date paid by the Customer under the Contract.
- 10.4 The terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

11. TERMINATION

- 11.1 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- 11.1.1 the other party commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;
 - 11.1.2 if the other party becomes insolvent, or if an order is made or a resolution is passed for the winding up of the other party (other than voluntarily for the

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purpose of solvent amalgamation or reconstruction), or if an administrator, administrative receiver or receiver is appointed in respect of the whole or any part of the other party's assets or business, or if the other party makes any composition with its creditors or takes or suffers any similar or analogous action in consequence of debt.

- 11.2 Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer at any time.

12. CONSEQUENCES OF TERMINATION

- 12.1 On termination or expiry of the Contract:

12.1.1 the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices for the Charges and interest and, in respect of the Services supplied but for which no invoice has been submitted, the Supplier may submit an invoice, which shall be payable immediately on receipt;

12.1.2 the Customer shall return all of the supplier's equipment (if any). If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of such equipment. Until they have been returned or repossessed, the Customer shall be solely responsible for their safe keeping;

12.1.3 the Customer shall cease to use the AJO Chronos System;

12.1.4 the Supplier shall on request return any of the Customer Materials in the provision of the Services; and

12.1.5 the following clauses shall continue in force: clause 1 (Interpretation), clause 7 (Intellectual property rights), clause 9 (Confidentiality), clause 10 (Limitation of liability), clause 12 (Consequences of termination), clause 16 (Waiver), clause 18 (Severance), clause 23 (Multi-tiered dispute resolution procedure), clause 24 (Governing law) and clause 25 (Jurisdiction).

- 12.2 Termination or expiry of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

13. FORCE MAJEURE

- 13.1 "**Force Majeure Event**" means any circumstance not within a party's reasonable control including, without limitation:

13.1.1 acts of God, flood, drought, earthquake or other natural disaster;

13.1.2 epidemic or pandemic;

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- 13.1.3 terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
 - 13.1.4 nuclear, chemical or biological contamination or sonic boom;
 - 13.1.5 any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition;
 - 13.1.6 collapse of buildings, fire, explosion or accident; and
 - 13.1.7 any labour or trade dispute, strikes, industrial action or lockouts (other than in each case by the party seeking to rely on this clause, or companies in the same group as that party);
 - 13.1.8 non-performance by suppliers or subcontractors (other than by companies in the same group as the party seeking to rely on this clause); and
 - 13.1.9 interruption or failure of utility service.
- 13.2 If a party is prevented, hindered or delayed in or from performing any of its obligations under the Contract by a Force Majeure Event ("**Affected Party**"), the Affected Party shall not be in breach of the Contract or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for more than 4 weeks, the party not affected may terminate the Contract on written notice to the Affected Party

14. ASSIGNMENT AND OTHER DEALINGS

- 14.1 The Contract is personal to the Customer and the Customer shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract.
- 14.2 The Supplier may at any time assign, mortgage, charge, declare a trust over or deal in any other manner with any or all of its rights under the Contract.

15. VARIATION

Except as set out in these Conditions, no variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

16. WAIVER

- 16.1 A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default.
- 16.2 A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it

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prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

17. RIGHTS AND REMEDIES

The rights and remedies provided under the Contract are in addition to, and not exclusive of, any rights or remedies provided by law.

18. SEVERANCE

18.1 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

18.2 If any provision or part-provision of the Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

19. ENTIRE AGREEMENT

19.1 The Contract 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.

19.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

20. NO PARTNERSHIP OR AGENCY

20.1 Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

20.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

21. THIRD PARTY RIGHTS

A person who is not a party to the Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

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22. NOTICES

- 22.1 Any notice given to a party under or in connection with this Contract shall be in writing and shall be:
- 22.1.1 delivered by hand or by pre-paid first-class post or other next Business Day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
 - 22.1.2 sent by fax to its main fax number or if sent by email to the address specified in the Order or Confirmatory Email (as the case may be).
- 22.2 Any notice shall be deemed to have been received:
- 22.2.1 if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
 - 22.2.2 if sent by pre-paid first-class post or other next Business Day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service.
 - 22.2.3 if sent by fax or email, at 9.00 am on the next Business Day after transmission.
- 22.3 This clause does not apply to the service of any proceedings or any documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

23. MULTI-TIERED DISPUTE RESOLUTION PROCEDURE

- 23.1 If a dispute arises out of or in connection with this agreement or the performance, validity or enforceability of it ("**Dispute**") then except as expressly provided in this agreement, the parties shall follow the procedure set out in this clause:
- 23.1.1 either party shall give to the other written notice of the Dispute, setting out its nature and full particulars ("**Dispute Notice**"), together with relevant supporting documents. On service of the Dispute Notice, a director of the Customer and a director of the Supplier shall attempt in good faith to resolve the Dispute;
 - 23.1.2 if a director of the Customer and a director of the Supplier are for any reason unable to resolve the Dispute within 30 days of service of the Dispute Notice, the Dispute shall be referred to the Managing Director of the Customer and Managing Director of the Supplier who shall attempt in good faith to resolve it; and
 - 23.1.3 if the Managing Director of the Customer and Managing Director of the Supplier are for any reason unable to resolve the Dispute within 30 days of it being referred to them, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR. To initiate the mediation, a party must serve notice in writing ("**ADR notice**") to the other party to the

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Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR. The mediation will start not later than 15 days after the date of the ADR notice.

- 23.2 The commencement of mediation shall not prevent the parties commencing or continuing court proceedings in relation to the Dispute under clause 25 which clause shall apply at all times.
- 23.3 If the Dispute is not resolved within 30 days after service of the ADR notice, or either party fails to participate or to continue to participate in the mediation before the expiration of the said period of 30 days, or the mediation terminates before the expiration of the said period of 30 days, the Dispute shall be finally resolved by the courts of England and Wales in accordance with clause 25

24. GOVERNING LAW

The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

25. JURISDICTION

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

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SCHEDULE 1– PAYROLL SERVICES

1 Supplier's Obligations

1.1 The Supplier shall undertake the following Services in relation to Payroll:

1.1.1 preparation of weekly or monthly payslips (as agreed);

1.1.2 managing tax and National Insurance liabilities;

1.1.3 preparation of all year-end returns;

1.1.4 providing P45s for leavers;

1.1.5 providing advice on deadlines; and

1.1.6 attending all necessary meetings.

1.2 The Supplier shall:

1.2.1 complete the end-of-year returns and ensure that they are received by HMRC in time following the end of the tax year;

1.2.2 show completed returns to the Customer for approval before submitting them to HMRC and other necessary authorities as requested by the Customer; and

1.2.3 charge the Customer a fee each time a warning notice of non-payment of tax and/or National Insurance contributions is received from HMRC after the Supplier has provided to the Customer an employer's payment summary.

1.3 The Supplier shall not be responsible or bear any liability for:

1.3.1 the Customer's payments to HMRC in relation to employer's PAYE payments, penalties or interest charges;

1.3.2 any late submission of the employer's annual return to HMRC if the Customer has not, at the Supplier's request, provided the required information to the Supplier by the times set out in the Specification; or

1.3.3 the accuracy of the data provided by the Customer to the Supplier about employees' salaries, or any consequences resulting from any incorrect information provided by the Customer or any of its employees to the Supplier.

2 Timetable

2.1 The Supplier and the Customer agree to the following timetable in order for the Supplier to process the Payroll (unless otherwise agreed in writing between the Supplier and the Customer) ("**Timetable**");

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- 2.1.1 time sheets and information relating to the Engaged Workers shall be submitted to the Supplier on or before 12.00pm on Monday every week;
 - 2.1.2 the Supplier will produce the pro forma Invoice and draft Payroll Report (in accordance with paragraph 4 Schedule 2 below) on Monday every week after receipt of the timesheets at paragraph 2.1.1 above;
 - 2.1.3 the Supplier and Customer will approve the pro forma Invoice and draft Report (in accordance with paragraph 5 Schedule 2 below) on or before Wednesday of that week; and
 - 2.1.4 upon approval, in accordance with paragraph 2.1.3 above, payment of Payroll and the Charges by the Customer shall be made to the Supplier on or before 12pm on Wednesday of that week.
- 2.2 The Supplier will calculate net wages and salaries payable, after appropriate deductions, based upon information supplied to the Supplier by the Customer in accordance with paragraph 3 Schedule 1 and in accordance with the statutory tax and national insurance rates appropriate at the time (as may be applicable).
- 2.3 The Supplier will arrange for the payment of wages and salaries to the Customer's employees using BACS.
- 2.4 The Customer will supply and ensure the accuracy of all necessary information, materials or assistance as the Supplier may reasonably request in connection with the provision of the Payroll Services in accordance with paragraph 5 Schedule 1.
- 2.5 Use of the Supplier to provide the Payroll Services does not revoke or derogate in any way or effect the Customer's statutory obligations as an employer.

3 Customer Obligations

- 3.1 The Customer shall provide to the Supplier in line with the Timetable such information as is reasonably requested by the Supplier in relation to the Workers Engaged by the Customer in order for the Supplier to undertake the Payroll Services including the following:
- 3.1.1 details of the Engaged Workers' bank accounts (namely bank name, address, sorting code, account number and account name);
 - 3.1.2 the personal details of all such Engaged Workers, including name, National Insurance number and home address;
 - 3.1.3 details of hours worked by the Engaged Workers, their rates of pay, bonuses and all other instructions;
 - 3.1.4 details of any money or benefits made available to the Engaged Workers by the Customer or by a third party through the Customer; and

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3.1.5 details of HMRC username, password and login information together with the Customer's employer's reference number (ERN);

3.2 The Customer shall ensure that any updates or changes to such details are made by the Customer within the AJO Chronos System in line with the Timetable.

4 Delivery of Data for Payroll

4.1 The Supplier will arrange for a draft Payroll preview report to be available to the Customer on a weekly or monthly basis (as the case may be) in the AJO Chronos System in line with the Timetable ("**Payroll Report**") and a pro forma invoice of the amount needed to pay the employees in respect of the Payroll together with the Charges due to the Supplier for the Services ("**Invoice**").

4.2 The Supplier will be relieved from liability for non-performance, or delay in performance, of the Payroll Services to the effect that this results from:

4.2.1 a failure by the Customer (or delay) in providing the necessary information/data at paragraph 3.1 above; and/or

4.2.2 inaccurate information/data being provided.

4.3 The Customer will provide and approve the information necessary for the Supplier to undertake the Payroll Services.

5 Approval of Invoice and Payroll Report

5.1 The Customer will check the draft Payroll Report and the pro forma Invoice on the day it is available on the AJO Chronos System in accordance with the Timetable and ensure that the processing date and the Customer bank details are correct within the AJO Chronos System.

5.2 The Customer will check the draft Payroll Report and the pro forma Invoice fully before approving them to ensure their completeness, correctness and accuracy including (but not limited to) the following:

5.2.1 that it is in accordance with the information supplied to the Supplier to calculate the wages and salaries due to the Engaged Workers;

5.2.2 the number of transactions equates to the number of the Engaged Workers;

5.2.3 the total value of payments is in line with the Customer's normal wages and salaries for the period involved; and

no single payment is exceptional, after taking account of overtime and special payments and bonuses;

5.3 The Customer will inform the Supplier in writing of its approval of, or of any errors identified in the draft Payroll Report or the pro forma Invoice in line with the Timetable.

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- 5.4 It is the responsibility of the Customer to ensure that newly Engaged Workers or leavers have been screened correctly prior to approval of the draft Payroll Report and pro forma Invoice.
- 5.5 The Customer acknowledges that it is entirely responsible for checking that the information included in the draft Payroll Report and pro forma Invoice accurately reflects the payments and deductions which the Customer has requested.
- 5.6 Once approved in accordance with paragraph 5.3, the Supplier shall issue a final Payroll Report and Invoice to the Customer.
- 5.7 The Supplier will not be liable for any errors or any inaccurate or outdated information in the Approved Payroll Report and Invoice approved in accordance with paragraph 5.6 above.

6 Money laundering

- 6.1 In accordance with the Terrorism Act 2000, the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2007:

6.1.1 the Supplier may require:

- (a) the Customer, the Customer's employees and/or third parties to provide satisfactory evidence of identity before the Commencement Date; and
- (b) the Customer to provide satisfactory evidence of the source of any funds or other property, the purpose of any instructions or any other matter;

6.1.2 the Supplier shall:

- (a) report to the National Crime Agency or other government or regulatory authority if there appear to be grounds to suspect that the Customer's instructions relate to criminal property, but shall not tell the Customer that it has done so. In such circumstances, the Supplier shall not act on the Customer's instructions further without the consent (deemed or actual) of the National Crime Agency or other government or regulatory authority, and
- (b) retain records of the Customer's identity and any Customer transactions for 6 years after the termination of the Contract.

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SCHEDULE 2: SAAS SERVICES

1. Provision of the AJO Chronos System

- 1.1. The Supplier will provide the SAAS Services to the Customer in consideration of the Customer's paying the Charges in respect of the SAAS Services subject to these Conditions.
- 1.2. Subject to the restrictions set out in these Conditions, the Supplier hereby grants to the Customer a non-exclusive, non-transferable right, without the right to grant sublicences, to permit the Authorised Users to use the Services and the Deliverables solely for the Customer's internal business operations.
- 1.3. The Supplier will authorise the Customer and its Authorised Users pursuant to the Confirmatory Email to access the AJO Chronos System using its Username and Password. One Authorised User shall be designated by the Supplier to be the account administrator who will be authorised to add or delete other Authorised Users ("**Account Administrator**").
- 1.4. The Customer undertakes that each Authorised User shall keep a secure password for his use of the Services and Deliverables and that each Authorised User shall keep his password confidential.
- 1.5. The Customer shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that:
 - 1.5.1. is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
 - 1.5.2. facilitates illegal activity;
 - 1.5.3. depicts sexually explicit images;
 - 1.5.4. promotes unlawful violence;
 - 1.5.5. is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
 - 1.5.6. is otherwise illegal or causes damage or injury to any person or property;and the Supplier 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 paragraph 1.5.
- 1.6. The Customer shall not:

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- 1.6.1. except as may be allowed by any Applicable Law which is incapable of exclusion by agreement between the Customer and the Supplier and except to the extent expressly permitted under the Contract:
 - (a) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the AJO Chronos System and/or Deliverables (as applicable) in any form or media or by any means; or
 - (b) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the AJO Chronos System; or
- 1.6.2. access all or any part of the Services and Deliverables in order to build a product or service which competes with the Services and/or the Deliverables; or
- 1.6.3. use the Services and/or Deliverables to provide services to third parties; or
- 1.6.4. license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Deliverables available to any third party except the Authorised Users, or
- 1.6.5. attempt to obtain, or assist third parties in obtaining, access to the Services and/or Deliverables, other than as provided under this paragraph 1.6.
- 1.7. The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Deliverables and, in the event of any such unauthorised access or use, promptly notify the Supplier.
- 1.8. The rights provided under this paragraph 1 Schedule 2 are granted to the Customer only, and shall not be considered granted to any subsidiary or holding company of the Customer.
- 1.9. The Services including the AJO Chronos System and Deliverables are provided without warranty of any kind. It is assumed the Customer has made investigations into the Services and is satisfied as to their fitness for the Customer's purposes. The Supplier does not warrant that the Services will be, uninterrupted, completely secure or virus-free and the Customer acknowledges that the Services and Deliverables may be subject to limitations delays or other problems inherent with the use of communication networks and facilities such as the internet. The Supplier does not want to warrant that any template agreement provided on the AJO Chronos System is fit for purpose and the Customer is entitled to use its own template agreements in relation to the Engagement of any Workers.

2. Job Board Services

- 2.1. The Supplier will:
 - 2.1.1. supply a Job Board as part of the AJO Chronos System;

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- 2.1.2. ensure that any Worker has given his consent for his details to be submitted for any vacancy for which they are submitted on the AJO Chronos System;
- 2.1.3. provide the Customer full access to the Worker's details that are held by the Supplier on the AJO Chronos System; and also authorise the Customer to contact the Worker directly, and without requiring the prior permission or knowledge of the Supplier;
- 2.1.4. at the Customer's request supply to the Customer or upload copies to the AJO Chronos System of:
 - (a) any relevant qualifications or authorisations; and
 - (b) any non-confidential references,

in the Supplier's possession, except where the Supplier is not permitted to obtain, verify or disclose them.

- 2.2. If more than one supplier submits details of the same Worker to the Customer, the supplier which first submitted the details will be deemed to have Introduced the Worker to the Customer. No subsequent submission of the same Worker's details will be deemed as a valid Introduction, and, if the Customer Engages that Worker in any capacity, no fees or charges of any kind will be payable to any supplier other than the first to submit the Worker's details.
- 2.3. By requesting the Supplier to Introduce Workers for a vacancy, the Customer authorises the Supplier to advertise such a vacancy on the Job Board.
- 2.4. The Customer acknowledges and agrees that in relation to the Job Board:
 - 2.4.1. by requesting the Supplier to carry out an act on its behalf, the Customer authorises the Supplier to act on the Customer's behalf for that purpose; and
 - 2.4.2. by requesting the Supplier to Introduce Workers for a position, the Customer authorises the Supplier to advertise that position.
- 2.5. When requesting the Supplier to Introduce Workers for a vacancy, the Customer will provide to the Supplier the following information:
 - 2.5.1. the Customer's full name, address and registered number, or (if it is not incorporated) its full business and trading name and address, and the nature of its business;
 - 2.5.2. the nature of the vacancy, including the type of work involved, its location, the hours of work, the commencement date and the likely duration;
 - 2.5.3. any risks to health and safety known to the Customer and the steps taken by the Customer to prevent or control such risks;

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- 2.5.4. the experience, training, qualifications and any authorisations which are required by the Customer, including any qualifications or authorisations required by law or any applicable professional body;
 - 2.5.5. any expenses payable by or to the Worker;
 - 2.5.6. the minimum rate of remuneration, the intervals of payment and any other benefits; and
 - 2.5.7. the length of notice to which the Worker would be entitled to receive or be required to give for termination of employment.
- 2.6. The Customer will satisfy itself as to the suitability of any Worker for the vacancy for which the Worker has been Introduced via the Job Board. Without prejudice to the generality of the foregoing, the Customer acknowledges and agrees that it is the Customer's responsibility to:
- 2.6.1. take up and verify references relating to the Worker's qualifications, skills, character and experience;
 - 2.6.2. check the validity of the Worker's qualifications;
 - 2.6.3. ensure, where appropriate, that the Worker is capable of operating any equipment or machinery to the necessary level;
 - 2.6.4. obtain any certificate of sponsorship or permit needed to enable the Worker to work in the United Kingdom; and
 - 2.6.5. ensure that the Worker satisfies any medical requirements or other qualifications that may be appropriate or required by law.
- 2.7. The Customer will notify the Supplier immediately on the occurrence of the first of the following events:
- 2.7.1. a Worker accepts an offer of employment from the Customer; or
 - 2.7.2. the commencement of an Engagement by a Worker.
- 2.8. The Customer:
- 2.8.1. confirms that it is not aware of anything which will cause a detriment to the interests of the Worker or the Customer if it Engages that Worker to fill a vacancy; and
 - 2.8.2. will inform the Supplier immediately if it becomes aware of any circumstances which would render such Engagement detrimental to the interests of the Worker or the Customer.

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3. Warranties, Liability and Indemnities

- 3.1. The Customer accepts and agrees that the Supplier gives no warranty as to the suitability of any Worker for any vacancy.
- 3.2. The Supplier confirms that, in Introducing any Worker to the Customer via the Job Board, it is not aware of anything which will cause any detriment to the interests of that Worker or the Customer if the Customer Engages the Worker to fill a vacancy.
- 3.3. Subject to clause 10.1, neither the Supplier, nor any of its respective staff will be liable to the Customer for any loss, injury, damage, expense or delay incurred or suffered by the Customer arising directly or indirectly from or in any way connected with the Introduction to or the Engagement by the Customer of a Worker, unless such loss, damage, costs or expenses are the direct result of the negligent acts or omissions of the Supplier. In particular, but without limiting the generality of the foregoing, the Supplier will not be liable for any loss, injury, damage, expense or delay arising from or in any way connected with:
 - 3.3.1. any failure of the Worker to meet the Customer's requirements for all or any of the purposes for which the Worker is required by the Customer;
 - 3.3.2. any act or omission of a Worker, whether wilful, negligent, fraudulent, dishonest, reckless or otherwise; or
 - 3.3.3. any loss, injury, damage, expense or delay suffered by a Worker.
- 3.4. The Customer will indemnify and hold harmless the Supplier from and against all claims and losses arising from loss, damage, liability, injury to the Supplier, its employees and third parties, by reason of or arising out of:
 - 3.4.1. any loss, injury, expense or delay suffered or incurred by a Worker, however caused; and/or
 - 3.4.2. any loss, injury, damage, expense or delay suffered or incurred by anyone arising directly or indirectly from or in any way connected with the acts and omissions of a Worker, whether wilful, negligent, fraudulent, dishonest, reckless or otherwise,that arises directly or indirectly out of or in any way connected with the Introduction, Engagement or use of a Worker, the withdrawal by the Customer of a vacancy or any information supplied by the Customer to the Supplier.