CRM Dynamics Limited

Standard Terms and Conditions

1. Interpretation

The following definitions and rules of interpretation apply in these Conditions.

1.1 Definitions:

Business Day: a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Charges: the charges payable by the Customer in accordance with clause 5 for the supplies made under the Contract.

Conditions: these terms and conditions as amended from time to time in accordance with clause 10.6.

Consultancy Services: any services identified in the Order as consultancy services.

Contract: the contract between CRM Dynamics and the Customer for the supply of Services in accordance with these Conditions.

CRM Dynamics: CRM Dynamics Limited registered in England and Wales with company number 07738462.

CRM Dynamics Software: software identified as being subject to a CRMD Licence in the Order.

Customer: the person or firm who purchases from CRM Dynamics.

Customer Default: has the meaning set out in clause 4.2.

Deliverables: the deliverables set out in the Order including, where applicable, CRM Dynamics Software and Third Party Software.

Extended Business Hours: between 8am and 9am; and 5pm and 7pm on Business Days.

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, 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.

Normal Business Hours: 9am to 5pm on a Business Day.

Order: the Customer's order for Services as set out the Customer's written acceptance of CRM Dynamics's quotation.

Services: the services, including the Deliverables, supplied by CRM Dynamics to the Customer as set out in the Specification.

Specification: the description or specification of the Services in the Order.

Support Day: a contractual undertaking by CRM Dynamics to provide Support Services for 7.5 hours.

Support Services: software customisation and development, telephone advice, licence management, attendance at meetings, webinars and associated administration.

Third Party Software: any software supplied to the Customer by CRM Dynamics as the authorised reseller of the third party owner.

1.2 Interpretation:

(a) A reference to legislation or a legislative provision:

(i) is a reference to it as amended, extended or re-enacted from time to time; and

(ii) shall include all subordinate legislation made from time to time.

(b) 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.

(c) A reference to **writing** or **written** includes email.

2. Basis of contract

2.1 The Order constitutes an offer by the Customer to purchase Services and/or a licence of the Deliverables in accordance with these Conditions.

2.2 The Order shall only be deemed to be accepted when CRM Dynamics issues written acceptance of the Order at which point and on which date the Contract shall come into existence.

2.3 Any descriptive matter or advertising issued by CRM Dynamics, and any descriptions or illustrations contained in CRM Dynamics's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.

2.4 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 law, trade custom, practice or course of dealing.

2.5 Any quotation given by CRM Dynamics shall not constitute an offer, and is only valid for a period of 20 Business Days from its date of issue.

3. Supply of Services

3.1 CRM Dynamics shall supply the Services and the Deliverables to the Customer in accordance with the Specification in all material respects.

3.2 CRM Dynamics shall use all reasonable endeavours to meet any performance dates specified in the Order, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services and supply of the Deliverables.

3.3 CRM Dynamics reserves the right to amend the Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services and/or Deliverables, and CRM Dynamics shall notify the Customer in any such event.

3.4 CRM Dynamics warrants to the Customer that the Services will be provided using reasonable care and skill.

3.5 Where the Order includes 'Support Days' the following shall apply:

(a) Support Days shall be used in respect of Support Services only and shall be used up in 15 minute increments ('standard rate');

(b) where more than five 'Support Days' are in an Order, the Support Services will be provided in accordance with the service levels at *https://www.crm-dynamics.co.uk/support-service-levels/*.

(c) Support Days expire automatically on the last day of the Validity Period depending on the number of Support Days purchased in the Order, as follows:

Number of Support Days	Validity Period (from Order Date)
1 to 3	Six months
4 to 5	12 months
6 or more	18 months

(d) Support Days are used up more quickly in the following circumstances (where CRM Dynamics expressly agrees in advance in writing to those circumstances) by applying a multiple to the standard rate:

Circumstances	Multiple
Development work	1.5
Provision in Extended Business Hours	1.5
Provision outside Normal and Extended Business Hours	2.5

4. Customer's obligations

4.1 The Customer shall:

(a) ensure that the terms of the Order and any information it provides to CRM Dynamics from time to time are complete and accurate;

(b) co-operate with CRM Dynamics in all matters relating to the Services and Deliverables;

(c) provide CRM Dynamics, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by CRM Dynamics;

(d) provide CRM Dynamics with such information and materials as CRM Dynamics may reasonably require in order to supply the Services and/or Deliverables, and ensure that such information is complete and accurate in all material respects;

(e) obtain and maintain all necessary licences, permissions and consents which may be required for the Services and/or Deliverables before the date on which the Services are to start;

(f) comply with any obligations set out in the Order.

4.2 If CRM Dynamics's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):

(a) without limiting or affecting any other right or remedy available to it, CRM Dynamics shall have the right to suspend performance of the Services and/or supply of the Deliverables until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays CRM Dynamics's performance of any of its obligations;

(b) CRM Dynamics shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from CRM Dynamics's failure or delay to perform any of its obligations as set out in this clause 4.2; and

(c) the Customer shall reimburse CRM Dynamics on written demand for any costs or losses sustained or incurred by CRM

Dynamics arising directly or indirectly from the Customer Default.

5. Charges and payment

5.1 The Charges are as set out in the Order.

5.2 CRM Dynamics shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom CRM Dynamics engages in connection with the Services including travelling expenses, hotel costs, subsistence and any associated expenses.

5.3 CRM Dynamics reserves the right to increase the Charges annually with effect from each anniversary of the date of the Order.

5.4 CRM Dynamics shall invoice the Customer for:

(a) any Consultancy Services in two equal instalments, the first on the date of the Order, the second on completion of the Consultancy Services; and

(b) all other amounts in advance at the intervals specified in the Order.

5.5 The Customer shall pay each invoice submitted by CRM Dynamics:

(a) within 30 days of the date of the invoice; and

(b) in full and in cleared funds to a bank account nominated in writing by CRM Dynamics, and

time for payment shall be of the essence of the Contract.

5.6 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by CRM Dynamics to the Customer, the Customer shall, on receipt of a valid VAT invoice from CRM Dynamics, pay to CRM Dynamics such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.

5.7 If the Customer fails to make a payment due to CRM Dynamics under the Contract by the due date, then, without limiting CRM Dynamics's remedies under clause 8 the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 5.7 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.

5.8 All amounts due under the Contract 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).

6. Intellectual property rights

6.1 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by CRM Dynamics or its licensor.

6.2 CRM Dynamics grants to the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, non-exclusive licence, during the agreed term for which that Deliverable is to be provided, for the purpose of using each Deliverable in its business. The terms of the licence in respect of CRM Dynamics Software are here *https://www.crm-dynamics.co.uk/software-terms-and-conditions/*; the terms of the licence in respect of Third Party Software are as specified by the owner of that Third Party Software from time to time.

6.3 The Customer shall not sub-license, assign or otherwise transfer the rights granted in clause 6.2.

6.4 The Customer grants CRM Dynamics a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify any materials provided by the Customer to CRM Dynamics for the term of the Contract for the purpose of providing the Services to the Customer.

7. Limitation of liability

7.1 The limits and exclusions in this clause reflect the insurance cover CRM Dynamics has been able to arrange and the Customer is responsible for making its own arrangements for the insurance of any excess loss.

7.2 References to liability in this clause 7 include every kind of liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

7.3 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:

(a) death or personal injury caused by negligence;

(b) fraud or fraudulent misrepresentation; and

(c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

7.4 Subject to clause 7.3, CRM Dynamics's total liability to the Customer in each period of twelve months shall not exceed an amount equal the total amount paid by the Customer under the Contract in respect of the Services and the Deliverables in that twelve months period.

7.5 Subject clause 7.3, the following types of loss that are wholly excluded:

(a) loss of profits.

(b) loss of sales or business.

(c) loss of agreements or contracts.

(d) loss of anticipated savings.

(e) loss of use or corruption of software, data or information.

(f) loss of or damage to goodwill; and

(g) indirect or consequential loss.

7.6 CRM Dynamics has given commitments as to compliance of the Services with relevant specifications in clause 3. In view of these commitments, 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.

7.7 Unless the Customer notifies CRM Dynamics that it intends to make a claim in respect of an event within the notice period, CRM Dynamics shall have no liability for that event. The notice period for an event shall start on the day on which the Customer became, or ought reasonably to have become, aware of its having grounds to make a claim in respect of the event and shall expire twenty four months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

7.8 This clause 7 shall survive termination of the Contract.

8. Termination

8.1 Without affecting any other right or remedy available to it, either party may terminate any licence in respect of a Deliverable by giving the other party 30 days' written notice, such notice to expire at the end of the applicable Term (as set against that Deliverable in the Order).

8.2 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:

(a) the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within thirty days of that party being notified in writing to do so;

(b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

(c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

(d) the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

8.3 Without affecting any other right or remedy available to it, CRM Dynamics may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.

8.4 Without affecting any other right or remedy available to it, CRM Dynamics may suspend the supply of Services under the Contract or any other contract between the Customer and CRM Dynamics if:

(a) the Customer fails to pay any amount due under the Contract on the due date for payment;

(b) the Customer becomes subject to any of the events listed in clause 8.2(c) or clause 8.2(d), or CRM Dynamics reasonably believes that the Customer is about to become subject to any of them; and

(c) CRM Dynamics reasonably believes that the Customer is about to become subject to any of the events listed in clause 8.2(b).

9. Consequences of termination

9.1 On termination of the Contract:

(a) the Customer shall immediately pay to CRM Dynamics all of CRM Dynamics's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, CRM Dynamics shall submit an invoice, which shall be payable by the Customer immediately on receipt;

(b) subject to clause 9.2(b), any licence to use a Deliverable granted to the Customer under the Contract shall terminate.

9.2 Termination of the Contract shall not affect:

(a) any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination;

(b) where termination is by the Customer under clause 8.2, the terms of any licence of Third Party Software granted to the Customer shall continue in force until the end of the current applicable time period (as set out against the Deliverable in the Order).

9.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.

10. General

10.1 Force majeure. Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control.

10.2 **Assignment and other dealings.** Neither party may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract without the prior written consent of the other party, such consent not to be unreasonably withheld or delayed.

10.3 Confidentiality.

(a) Each party 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, except as permitted by clause 10.3(b). Confidential information of the Customer shall include any personal data viewed by staff of CRM Dynamics in the course of providing the Services.

(b) Each party may disclose the other party's confidential information:

(i) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 10.3; and

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

(c) Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

10.4 Personal Data.

(a) In this clause 10.4 the following terms shall have the meanings set against them:

(i) **Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures**: as defined in the Data Protection Legislation.

(ii) **Data Protection Legislation**:

(A) To the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of Personal Data.

(B) To the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which the Customer or Provider is subject, which relates to the protection of personal data.

(iii) **Domestic Law:** the law of the United Kingdom or a part of the United Kingdom.

(iv) **EU GDPR:** the General Data Protection Regulation ((EU) 2016/679).

(v) **EU Law:** the law of the European Union or any member state of the European Union.

(vi) **UK GDPR:** has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

(b) Each party will comply with all applicable requirements of the Data Protection Legislation. This clause 10.4 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation. CRM Dynamics will process personal data as controller in accordance with its privacy policy at *https://www.crm-dynamics.co.uk/privacy-policy/.*

(c) The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and CRM Dynamics is the Processor. The personal data processed by CRM Dynamics will be business card type data of the Customer's staff migrated to CRM Dynamic's cloud server for the limited period during which it is being processed (for example converted to PDF, entered into an excel spreadsheet or cleansed) as part of the Services and any other personal data agreed by the parties in writing from time to time.

(d) Without prejudice to the generality of clause 10.4(b), the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to CRM Dynamics and/or lawful collection of the Personal Data by CRM Dynamics on behalf of the Customer for the duration and purposes of this agreement.

(e) Without prejudice to the generality of clause 10.4(b), CRM Dynamics shall, in relation to any Personal Data processed in connection with the performance by CRM Dynamics of its obligations under this agreement:

(i) process that Personal Data only on the documented written instructions of the Customer unless CRM Dynamics is required by Domestic Law or EU Law to otherwise process that Personal Data. Where CRM Dynamics is relying on Domestic Law or EU Law as the basis for processing Personal Data, CRM Dynamics shall promptly notify the Customer of this before performing the processing required by the Domestic Law

or EU Law unless the Domestic Law or EU Law prohibits CRM Dynamics from so notifying the Customer;

(ii) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

(iii) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and

(iv) not transfer any Personal Data outside the UK/EEA unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:

(A) the Customer or CRM Dynamics has provided appropriate safeguards in relation to the transfer;

(B) the data subject has enforceable rights and effective legal remedies;

(C) CRM Dynamics complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and

(D) CRM Dynamics complies with reasonable instructions notified to it in advance by the

Customer with respect to the processing of the Personal Data;

(v) assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

(vi) notify the Customer without undue delay on becoming aware of a Personal Data Breach;

(vii) at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the agreement unless required by Domestic Law or EU Law to store the Personal Data; and

(viii) maintain complete and accurate records and information to demonstrate its compliance with this clause 10.4 and allow for audits by the Customer or the Customer's designated auditor and immediately inform the Customer if, in the opinion of CRM Dynamics, an instruction infringes the Data Protection Legislation.

(f) The Customer consents to CRM Dynamics appointing its hosting services provider as a third-party processor of Personal Data under this agreement. CRM Dynamics confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement substantially on that third party's standard terms of business and case which CRM Dynamics confirms reflect and will continue to reflect the requirements of the Data Protection Legislation. As between the Customer and CRM Dynamics, CRM Dynamics shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 10.4(f).

10.5 Entire agreement.

(a) 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.

(b) Each party acknowledges that in entering into the Contract it does not rely on, and 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.

(c) Nothing in this clause shall limit or exclude any liability for fraud.

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

10.7 **Waiver**. 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 right or remedy. 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 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.

10.8 Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement. If any provision or part-provision of this Contract deleted under this clause 10.8 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

10.9 Notices.

(a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case);

or sent by email to the address habitually used by the recipient in connection with the Contract.

(b) Any notice or communication shall be deemed to have been received:

(i) if delivered by hand, at the time the notice is left at the proper address;

(ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the fourth Business Day after posting; or

(iii) if sent by email at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 10.9(b)(iii), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

(c) This clause 10.9 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

10.10 **Third party rights.** The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

10.11 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.

10.12 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 provided that either party may enforce any judgement of the courts of England and Wales in the courts of any jurisdiction.