

# TERMS AND CONDITIONS

---

## 1. CONTRACT

- a. These terms and conditions together with any other conditions agreed in writing between the Company, acting by a director or company secretary and the Client, acting by a director or an authorised representative, shall form part of and are incorporated into the Contract. Any other representative is expressly not authorised to amend the terms and conditions hereof.
- b. In the event of any conflict or discrepancy between these terms and conditions and any other conditions of business these terms and conditions shall prevail.
- c. These terms and conditions may be amended and/or updated as and when required by Payroll Options Limited, by posting the revised version on the Company's website, <https://PayrollOptions.com/TermsAndConditions/> which shall become effective at the time of posting.

## 2. DEFINITIONS

- a. "**Charges**" shall mean the charges payable by the Customer for the supply of the Services in accordance with clause 4.
- b. "the **Client**" shall mean the company partnership or other body to whom the quotation is addressed.
- c. "the **Company**" shall mean Payroll Options Limited.
- d. "**Conditions**" shall mean these terms and conditions as amended from time to time in accordance with clause 1.
- e. "the **Contract**" shall mean the contract between the Company and the Client commencing from the acceptance of the Quotation by the Client, or by the Company accepting the Client's request to commence the provision of the Services, which said contract shall incorporate the terms contained in the Quotation and these Conditions.
- f. "**Data Protection Legislation**" shall mean the Data Protection Act 2018 and GDPR, and any regulations or secondary legislation made thereunder, as may be amended or updated from time to time.
- g. "**Employees**" shall mean persons employed by the Client.
- h. "**GDPR**" shall mean General Data Protection Regulation ((EU) 2016/679) or, in the event that those regulation shall cease to be directly applicable in the UK, any regulations or legislation which is intended to replace the General Data Protection Regulation.
- i. "**Net Payment List**" shall mean the specific summary report of net payments for all employees, which states payment via BACS, cash or otherwise.
- j. "**Schedule of Services and Additional Charges**" shall mean the schedule available on the Company's website as amended from time to time.
- k. "the **Services**" shall mean the payroll processing services specified in clause 3.
- l. "the **Quotation**" shall mean the quotation prepared by the Company and submitted to the Client in respect of the Services, based on the unit data volumes provided by the Client.
- m. "**Working Days**" shall mean a day other than a Saturday, Sunday, bank or public holiday in England.

### 3. SERVICES

- a. The Services offered by the Company consists of a payroll processing services including calculating employee pension contributions under auto-enrolment or other company pension schemes ('**Payroll Services**'). In addition (where Company has specifically agreed to provide the same) the Services shall include a service for submitting details of employee pension contributions under auto-enrolment or other company pension scheme to the pension provider concerned ('**Pension Processing Services**'). Full details of the Services are set out in the Schedule of Services and Charges, the latest version is available at: <https://PayrollOptions.com/ScheduleOfServicesAndAdditionalCharges>.

The Company shall be entitled to update the Schedule of Services at any time in its discretion by posting the revised version on the Company's website which shall become effective at the time of posting.

- b. For avoidance of doubt the following Services are **not** provided by the Company, unless by prior arrangement:
  - i. Items excluded from Schedule of Services and Charges.
  - ii. Payments to third parties

### 4. CHARGES

- a. The amount that the Company shall be entitled to charge for providing the Services is the amount set out in the Quotation (or, in the absence of a Quotation) the amount specified by the Company in any communication to the Client. Details of items included within the charges indicated on the Quotation are contained within the Schedule of Services and Additional Charges, along with details of ad-hoc costs for additional items not included within the Quotation.
- b. The Company reserves the right to make reasonable additional charges in the following circumstances:-
  - i. If the unit data volumes are greater than those specified in the Client's sample data on which the Quotation is based.
  - ii. If the data supplied is inferior to that in the Client's sample or contains any ambiguity or otherwise present difficulties that could not have been reasonably foreseen by the Company from the Client's sample.
  - iii. If the data supplied is not received by the Company by the required date and time specified in clause 11.a.
  - iv. If details of items included within the charges indicated on the Quotation are contained as additional charges within the Schedule of Services and Additional Charges, along with details of ad-hoc costs for additional items not included within the Quotation.
- c. Where such charges are levied by the Company through the issue of an invoice the Client shall be deemed to have accepted those charges unless the charges are disputed in writing within 10 Working Days of the date of the invoice.
- d. Charges will be reviewed annually on the anniversary of engaging the services of the Company.

## 5. DATA PROTECTION ACT 2018 and GDPR

- a. Details of the approach of the Company to data security and personal data privacy are detailed in the Data Processing Addendum, as amended from time to time. The latest version is available at: <https://PayrollOptions.com/DataProcessingAddendum>
- b. In compliance with the Data Protection Act 2018 and GDPR the Company shall only retain personal data for payroll processing purposes.
- c. The Company is registered with the Information Commissioner's Office under registration number Z5114712.
- d. GDPR
  - i. For the purposes of GDPR the Client is the Data Controller.
  - ii. For the purposes of GDPR the Company is the Data Processor.

## 6. PRESENTATION

- a. The Company reserves the right to alter the contents and manner of presentation of the Services and the method of supply to the Client at any time at its absolute discretion.

## 7. PAYMENT

- a. Subject to the approval by the Company of credit facilities, all payments due to the Company pursuant to the Contract shall be collected in full by direct debit on the last Working Day of the following month as indicated on the invoice.
- b. If the Client fails to pay the Company under this Contract by the due date, then, without limiting the Company's remedies under clause 13, the Client shall pay interest on the overdue sum from the due date until payment is received, whether before or after judgment. Interest under this clause 7b will accrue daily at the rate of 8% per annum above the Bank of England's base rate from time to time, but at 8% per annum for any period when that base rate is below 0%.

## 8. FORCE MAJEURE

- a. The Company shall not be liable to the Client for any delays or failures in performance of the Contract by reason of a Force Majeure event which shall mean any act of God, fire, flood, lightning, interruption or failure of supplies of power, equipment or telecommunication service, strike, trade dispute, labour disturbance, accident or any other circumstances whatsoever outside the reasonable control of the Company.

## 9. LIABILITY

- a. Where the Company is providing Payroll Services and (where applicable) Pension Processing Services on behalf of the Client, the Company will either:
  - i. send the Client a report setting out the amounts to be paid by, or collected from the Client and the recipients of those amounts, or
  - ii. where the Company is acting as a BACS approved bureau, the Company will send the Client a report setting out the amounts that the Company will pay via BACS on the Client's behalf and the recipients of those amounts.
- b. The Company warrants that it shall exercise reasonable skill and care in preparing the reports in clause 9a. Provided always that if any of the said reports contain any inaccuracies or errors due to the Company's failure to exercise reasonable skill and care in preparing them, the

Company's sole responsibility and liability shall be to correct those reports without making any further charge to the Client. However, the Client acknowledges and accepts that it shall be responsible for checking the reports to ensure that the information contained in them is accurate and free from any errors and, in particular, whether any of the recipients who are employees of the Client have elected to opt out of an auto-enrolment or other company pension scheme, and that the Company is notified accordingly in the case of any inaccuracies or errors.

- c. The Client also acknowledges and accepts that it shall be responsible for ensuring that relevant instructions, payroll and pensions data is sent to the Company prior to the deadlines set out in clause 11 and that the Company shall have no liability for any losses which arise (whether wholly or partly) because of the late submission of such instructions and payroll and pensions data.
- d. The Client also accepts that it shall be responsible for the matters referred to in clause 12 and that the Company shall have no liability for any losses which arise (whether wholly or partly) because of the failure of the Client to fully comply with the provisions of clause 12.
- e. Without limiting clauses 9a, to 9d above the Client accepts that the Company will not be liable for any indirect or consequential losses howsoever caused including but not limited to any loss of profit or income, damage to goodwill or reputation, inconvenience and save as set out in clause 9a. above, the cost of rectifying any errors and the consequences of any such errors.
- f. To the extent that the Company has not effectively limited or excluded its liability to the Client pursuant to clauses 9a, 9b, 9c, 9d and 9e, the maximum liability of the Company to the Client, whether such liability shall arise in contract, tort, negligence, breach of statutory duty or otherwise, shall in aggregate not exceed an amount equal to the charges (exclusive of VAT) payable by the Client to the Company for administering the three payroll processing operations (or where applicable, the three payroll and pension processing operations) that immediately preceded the event giving rise to such liability.
- g. The Client agrees that the express warranties made by the Company in clause 9a are in lieu of and to the exclusion of any other warranties, conditions, terms, undertakings or representations of any kind, express or implied.
- h. The Client shall indemnify the Company from and against any claims, demands, losses and liabilities (of whatever nature) brought against or claimed from the Company by any directors or employees of the Client where such claims, demands, losses and/or liabilities arise out of the negligence or breach of statutory duty, or the alleged negligence or the alleged breach of statutory duty, of the Client.
- i. The Company shall make every reasonable effort to deliver the Services by the mutually agreed time. However, the Company cannot guarantee a specific delivery time. Accordingly, the Company's sole obligation to the Client shall be to deliver such work as close to the mutually agreed time as is reasonably practicable.
- j. Notwithstanding any other provision of the Contract, the liability of the parties shall not be limited in any way in respect of:
  - a. death, personal injury caused by negligence;
  - b. fraud or fraudulent misrepresentation;
  - c. any other losses that cannot be excluded or limited by law.

## 10. CONFIDENTIALITY

- a. Each party undertakes not to use or disclose to any third party any confidential business or technical information which may be made available to it or otherwise comes into its possession pursuant to the Contract unless required by law to do so or such information is in the public domain.

## 11. SUBMISSION DEADLINES AND ACCURACY

- a. It is the Client's responsibility:
  - i. to ensure all instructions to the Company have been acknowledged by the Company.
  - ii. to send the initial payroll data (including all necessary pensions data) to the Company, to arrive no later than:
    1. Monthly and four-weekly payrolls: 10:00am 11 Working Days before the first pay date to be processed by the Company.
    2. Weekly and fortnightly payrolls: 10:00am 8 Working Days before the first pay date to be processed by the Company.
    3. If the initial payroll data (including all necessary pensions data) is received after the above deadlines the Company will determine if sufficient time is available for the creation of the payroll and/or to calculate the appropriate pension deductions, and if so an additional charge equivalent to at least a single payroll (or payroll/pension) process will be due to the Company.
  - iii. Monthly or Four-Weekly Payrolls
    1. To send subsequent payroll data (including all necessary pensions data) to the Company to arrive no later than 10:00am 4 full Working Days before pay day.
      - a. Payroll data (including all necessary pensions data) received by the Company after 10:00am 4 full Working Days before pay day will be subject to a late processing surcharge of 25% of that payroll's fee if the required pay date can be achieved, as determined by the Company.
      - b. Payroll data (including all necessary pensions data) received by the Company after 10:00am 3 full Working Days before pay day will be subject to a late processing surcharge of 40% of that payroll's fee if the required pay date can be achieved, as determined by the Company.
  - iv. Weekly or Fortnightly Payrolls
    1. To send subsequent payroll data (including all necessary pensions data) to the Company to arrive no later than 10:00am 3 full Working Days before pay day.
      - a. Payrolls not received by the Company before 10:00am 3 full Working Days before pay day will be subject to a late processing surcharge of 25% or 40% of that payroll's fee, as determined by the Company, if the required pay date can be achieved as determined by the Company.
  - v. To send accurate payroll data (including all necessary pensions data) to the Company, if more than one re-run of the payroll is required per payment period the prevailing supplementary re-run fee will be charged by the Company. A supplementary re-run fee will not be due in the following instances:

1. it is the first correction made for the payroll run;
2. to correct an error made by the Company;
3. to correct an overpayment to an employee who is leaving; or
4. to correct a National Insurance category for an employee.

## **12. BACS PROCESSING RESPONSIBILITIES (only applicable to BACS enabled Clients)**

- a. Client responsibilities
  - i. Maintain appropriate BACS processing limits with their sponsor bank and maintain correct bank account details for each employee.
  - ii. Check the Net Payment List received from the Company and advise the Company in writing or by email of any changes by 10:00am 2 Working Days before pay day.
  - iii. Check the BACS Input report each period available from BACS.
  - iv. Advise the Company of the content of ARUCS and/or AWACS reports received by the Client from BACS.
  - v. If the Client requires a formal BACS Release process prior to transmission, the completed form should be received before mid-day 2 Working Days before pay date. In the event that the completed form is not received by the Company by 5:00pm 2 Working Days before pay date, unless instructed otherwise in writing, regarding that specific pay date, the BACS file will be transmitted and the prevailing late BACS release fee will be charged by the Company in accordance with the Schedule of Services and Additional Charges.
- b. Company Responsibilities
  - i. Send the Client each period a Net Payment List detailing the sort code, account number and net pay of each individual to be paid.
  - ii. Transfer the payments as detailed in the Net Payment List to enable payments to be made on the pay date indicated on the payroll reports.
- c. The Company will not be responsible for any delay error or loss relating to BACS processing where the Client has not complied with their responsibilities under clause 12a.
- d. As part of the authorisation process to enable the Company to act as under the BACS approved bureau scheme on behalf of the Client, the Client will have arranged for the 'Service User Number' issued to the Client by Pay.UK Limited (the operator of the BACS payment scheme in the United Kingdom) or by such other company which may in the future take over operation of that scheme, to be linked to the Company. On termination of this Contract for any reason, it is the Client's responsibility to unlink the Service User Number from the Company and the Client shall do so as soon as reasonably practicable following the termination of this Contract.
- e. The Net Payment List is usually submitted by the Company to the Client's bank on or after 3pm two Working Days prior to pay day. In the event that the Client wishes to amend the Net Payment List after it has been submitted by the Company to the Client's bank, the Company will use reasonable endeavours to do so as soon as practicable following receipt of that request. However, in such circumstances the Client acknowledges as follows:
  - i. The Company cannot amend the Net Payment List once it has been submitted to the Client's bank and subject to the remainder of this clause 12e the Company is only able to withdraw the whole list and resubmit a corrected list.
  - ii. If the Client requests the Company to withdraw a Net Payment List after it has been submitted in order to make such corrections, the Company will use reasonable

endeavours to do so and to correct and resubmit the Net Payment List in the manner required by the Client as soon as is reasonably practicable. However, the Client acknowledges that such corrections may delay payment of salaries etc. being made to the Client's staff on the intended pay day and that the Company shall have no liability for any such delay;

- iii. Any request to withdraw a Net Payment List after it has been submitted must be made by 5pm on the day that such list is submitted by the Company to the Client's bank;
- iv. That notwithstanding sub-clause (iii) above, the Company can only withdraw a Net Payment List if such request is made prior to the Client's bank accepting such request. The time referred to in sub-clause (iii) should not therefore be construed as a final cut off time up to which time the Client is entitled to request the Company to withdraw the Net Payment List.

### **13. TERMINATION**

- a. Without affecting any other right or remedy available to it, either party may terminate this Contract by giving the other party 30 days written notice to expire no earlier than the date falling 6 months after the day on which the Company commenced the provision of the Services.
- b. 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:
  - i. 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 14 days of that party being notified in writing to do so;
  - ii. 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), 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;
  - iii. 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
  - iv. 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.
- c. Without affecting any other right or remedy available to it, the Company may terminate the Contract with immediate effect by giving written notice to the Client if the Client fails to pay any amount due under the Contract on the due date for payment.
- d. On termination of the Contract the Client shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Company shall submit an invoice, which shall be payable by the Client immediately on receipt.
- e. Termination of the Contract shall not affect 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.



- f. 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.
- g. Data Deletion:
  - i. Following termination of the Contract, within 3 months of the final payroll date the payroll database for the Client will be irrevocably deleted.
  - ii. The Client can opt to extend access to the online payslips system for a period of 3, 6 or 12 months following their final payroll date, at an additional cost. After the end of this extension, or where no extension is required, within 1 month, the online payslip data (including any data relating to the calculation or payment of pension deductions) for the Client will be irrevocably deleted.

#### **14. GENERAL**

- a. The Client's acceptance of the Quotation will amount to your acceptance of these **Terms of Conditions**, we ask that you sign, date and return a copy to us.
- b. For the purposes of the Contracts (Rights of Third Parties) Act 1999 and notwithstanding any other provision of this agreement the Contract (including these Conditions) are not intended to, and do not, give any person who is not a party any right to enforce any of their provisions.
- c. If any provision (or part provision) is held to be invalid, illegal or unenforceable, the legality, validity and enforceability of any other provision of the Contract shall not be affected. If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with the minimum such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion or modification, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.
- d. This 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.
- e. 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.

#### **15. NOTICES**

- a. Any notice given to a party under or in connection with the Contract shall be:
  - i. in writing and shall be delivered by hand or
  - ii. 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
  - iii. by email
- b. Any notice shall be deemed to have been received:
  - i. if delivered by hand, on signature of a delivery receipt; or
  - ii. if sent by pre-paid first-class post or other next working day delivery service, at 9.00am on the second Business Day after posting, and confirmation of receipt has been obtained by the sender from the receiver; or



- iii. if sent by email an acknowledgment must be received by the original sender by email from the original recipient. Until such acknowledgment has been received the initial email is deemed to have not been received.
- c. This clause 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.
- d. Any change to the contact details of a party, shall be notified to the other party in accordance with clause 15a and shall be effective:
  - i. on the date specified in the notice as being the date of such change; or
  - ii. if no date is so specified, 5 Working Days after the notice is deemed to be received.

**16. DISPUTE RESOLUTION**

- a. Any dispute arising between the parties out of or in connection with the Contract shall be dealt with in accordance with the provisions of this clause 16.
- b. The dispute resolution process may be initiated at any time by either party serving a notice in writing on the other party that a dispute has arisen. The notice shall include reasonable information as to the nature of the dispute.
- c. The parties shall use all reasonable endeavours to reach a negotiated resolution through the following procedure:
  - i. Within five Working Days of service of the notice, an authorised representative of each of the parties shall meet to discuss the dispute and attempt to resolve it.
  - ii. If the dispute has not been resolved within five Working Days of the first meeting of the authorised representative, then the matter shall be referred to a director of the Company and a person of equivalent seniority of the Client. These representatives shall meet within five Working Days to discuss the dispute and attempt to resolve it.
- d. Until the parties have completed the steps referred to in clause 16c, and have failed to resolve the dispute, neither party shall commence formal legal proceedings except that either party may at any time seek urgent interim relief from the courts.

Signed by:.....for and on behalf of the Client

Dated: .....

Last updated January 2024