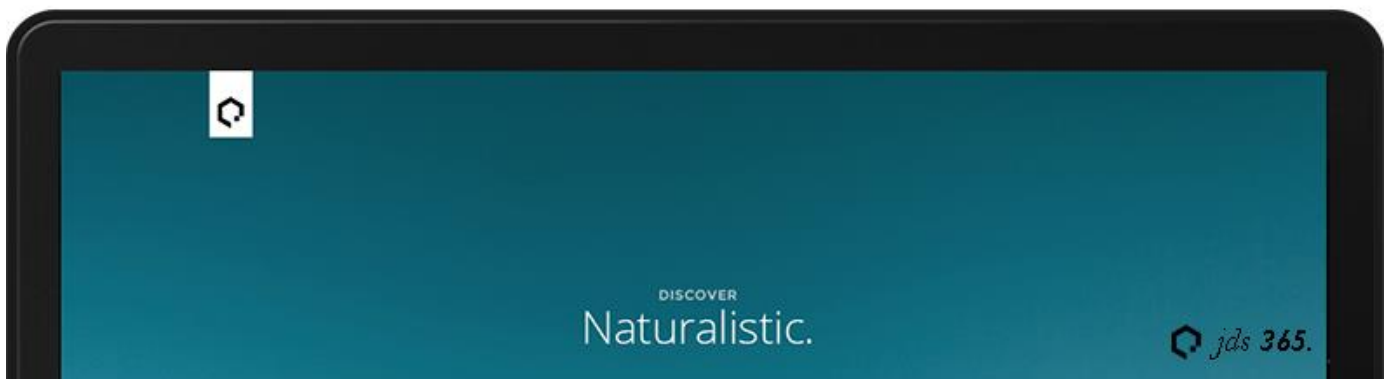
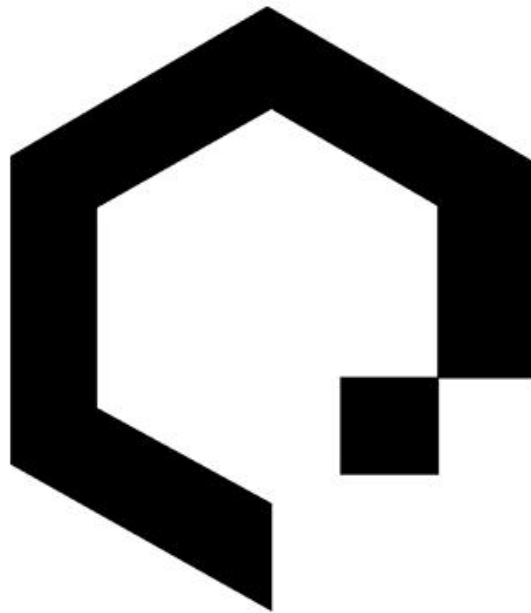


JDS365 Terms and Conditions



Master Service Agreement

This Master Service Agreement (the “**Agreement**”) is entered by and between,
_____, having its principal place of business
at

(hereinafter referred to as the “**Company**”) and Jabsnett Data Solutions (JDS365) Limited, Registered in England number 07548677, having its principal place of business at 53 Fountain Street, Manchester, M2 2AN (hereinafter referred to as the “**Consultancy**”). The Company and the Consultancy shall each be referred individually as a party and collectively as parties. The expression Company and the Consultancy shall mean and include their group and associated companies also. This Agreement consists of these provisions and the attached Statement of Work(s). The effective date of the Agreement shall be _____ (hereinafter referred to as the “**Effective Date**”).

Recitals. The Company has shown interest in engaging the Consultancy in performing the Services and the Consultancy has agreed to perform such Services pursuant to this Agreement. In consideration of their mutual promises and representations, intending to be legally bound, the parties hereby agree as follows:

1. Services.

(a) The Consultancy will provide services to Company as set forth in one or more Statement of Work documents (each an “SOW”) that are executed by the parties from time to time with reference to this Agreement. Each SOW will set forth the details of any services to be provided like software development, consulting, integration, technical services or any other related services (the “Services”), including without limitation their nature, scope, timetable(s), and applicable payments, mode of engagement and pricing model, and so on. Any work product developed by the Consultancy during the performance of the Services shall be referred to as the “Deliverables”. The Consultancy will render the Services in accordance with any specifications and acceptance criteria as set forth in the applicable SOW.

(b) Subject to this Agreement, the Consultancy will have the right to determine the method, details, and means of performing the Services. The Consultancy's obligation to provide the Services shall be performed by one or more employees of the Consultancy as the Consultancy may consider appropriate (the “Staff”). The Consultancy has the right, at its own expense, to enlist additional or substitute Staff in the performance of the Services or may, sub-contract all or part of the Services.

(c) Requests by Company and recommendations by the Consultancy for changes to the Services or Deliverables will become effective on a prospective basis only upon mutual agreement by the parties in writing and are subject to any Consultancy change management procedures set forth in the applicable Statement of Work.

(d) The Consultancy may provide the Services from such locations as are appropriate in the Consultancy's judgment. When necessary the Company will provide the Services with appropriate access to the Company's facilities as is necessary for the effective conduct of the Services.

2. Acceptance.

Acceptance of Services will occur upon Consultancy's performance of the Services. For Deliverables requiring acceptance testing, the parties will develop and mutually agree upon an Acceptance Test Plan ("ATP"). Consultancy will notify Company when a Deliverable is ready for acceptance testing and within five (5) business days of such notice or any other time period as may be mentioned in the applicable SOW, Company will either sign the acceptance report provided by Consultancy or, if Consultancy was unable to complete the ATP, notify Consultancy in writing detailing any failure of the Deliverable to conform to the acceptance criteria in the ATP. Within a reasonable time, Consultancy will correct any such non-conformance and redeliver the Deliverable to the Company. The Company agrees that re-performance of the Services is the sole and exclusive remedy available to the Company. Deliverables will be accepted when Company so advises Consultancy or at the end of five (5) business days if Company fails to give Consultancy written notice of non-conformance within that time period. However, if Company, prior to either event, uses the Deliverable for productive use, it will be deemed accepted upon such use. If a Deliverable is provided on a time-and-expense basis, all corrections will be performed by Consultancy at Company's expense.

3. Fees, Expenses, Payment, Taxes.

(a) In consideration of the Services performed by the Consultancy, Company will, pay the Consultancy the fees set forth in the applicable SOW.

(b) In the event of termination of this Agreement or a SOW, the Company will pay the Consultancy's fees, expenses and other costs payable by Company pursuant to the applicable SOW(s) that have accrued through the date of termination.

(c) Company agrees to pay all invoiced amounts within fourteen (14) days of the Consultancy's invoice date or as stated in the applicable SOW. In addition, the Company will reimburse the Consultancy for any out-of-pocket expenses reasonably incurred by the Consultancy in connection with the performance of the Services, including any ad-hoc travel and travel-related expenses, telephone, courier, postal, packing cost and similar expenses.

(d) The Company shall be solely liable for the payment of all taxes like service tax and other applicable taxes as may become due and payable under any law, rules or regulations as applicable from time to time in relation to the Services hereby agreed to be rendered by the Consultancy.

4. Rights in Programs and Data.

(a) **Pre-existing Intellectual Property Rights.** Neither party will gain by virtue of this Agreement any rights of ownership of copyrights, patents, trade secrets, trademarks or any other intellectual property rights owned by the other. All intellectual property rights existing prior to the Effective Date (the "Pre-existing Intellectual Property Rights") shall belong to the party that owned such rights immediately prior to the Effective Date. Neither the execution of the Agreement, nor the furnishing of any Confidential Information by either party shall be construed as granting to the other party expressly, by implication, by estoppel or otherwise, any license under any invention, patent, trademark, copyright or other proprietary right now or hereafter owned or controlled by the party furnishing same.

(b) **License to Consultancy.** Company grants Consultancy a non-exclusive, worldwide, royalty-free right and license (or sublicense) to use, copy, make derivative works of, distribute, display, perform, and transmit Company's and third parties' intellectual property rights only to the extent necessary for Consultancy to perform its obligations and exercise its rights under this Agreement.

(c) **Deliverables and License to Customer.** Consultancy will retain exclusive ownership in all Deliverables created hereunder and will own all intellectual property rights, title and interest in any ideas, concepts, know how, documentation or techniques developed under this Agreement. Consultancy hereby grants Company a non-exclusive, perpetual, royalty-free, non-transferable right and license to use the Deliverables. Notwithstanding the license grants set forth in this sub-section, any third party software incorporated into any licensed Deliverable will be subject to the license terms applicable to such software and set forth in the Statement of Work.

(d) All right, title, and interest in and to any designs, programs, systems, data, and other materials furnished by Company to the Consultancy for the purposes of performing the Services are and will remain the exclusive property of Company and/or its licensors. The Consultancy will not alter, obscure or remove any copyright notices, trademark notices or other proprietary rights legends placed or embedded by Company on or in its programs, systems, data, or other materials. Notwithstanding any other provision of this Agreement, any third party software incorporated into any licensed Deliverable will be subject to the license terms applicable to such software and set forth in the Statement of Work.

(e) Notwithstanding the foregoing and any other provision of this Agreement, Consultancy hereby reserves the right to suspend the provision of Services if the Company fails to fulfill its payment obligations under this Agreement. Further, the Company agrees that the Consultancy may in its sole discretion retain the portion of the Deliverables and all the rights including the intellectual property rights therein, if the Consultancy has not received all the payments for the Services rendered with respect to such portion of the Deliverable.

(f) Nothing in this Agreement shall limit the Consultancy's right to use and commercially exploit any and all skills, knowledge, know-how, ideas, concepts, techniques, methodologies and expertise created, acquired or developed pursuant to this Agreement.

5. Intellectual Property Infringement.

(a) **Claims.** Consultancy will defend or settle third party claims against Company in accordance with the laws of England & Wales under the exclusive jurisdiction of the Courts of England & Wales under this Agreement and arising out of:

1. Consultancy's infringement of any trade secrets, copyrights, trademarks, service marks or trade names alleged to have occurred, related to the Deliverables; or
2. Consultancy's knowing infringement of the patent of a third party in connection with the performance of the Services or the Deliverables.

(b) **Procedures.** The protection provided in this sub-section 4 will apply provided that Company:

1. promptly notifies Consultancy of any matters in respect of which the protection may apply and of which the Company has knowledge; and
2. cooperates with Consultancy in the defense or settlement of the claim.

Consultancy will have full opportunity to control the response thereto and the defense thereof, including without limitation any agreement relating to settlement. Company may participate, at its own expense, in such defense and in any settlement discussions directly or through counsel of its choice.

(c) **Exclusions.** Consultancy has no obligation for any claim of infringement to the extent arising from:

1. any third party materials;

2. Consultancy's compliance with or use of Company's information, technology, designs, specifications or instructions, including those incorporated into any Statement of Work or Deliverable;
3. modification of the Deliverables by Company or a third party;
4. use of the Deliverables in a way not indicated in the Statement of Work or in any specifications or documentation provided with such Deliverable; or
5. use of the Deliverables with products not supplied by Consultancy, unless otherwise specified by Consultancy in the applicable Statement of Work.

(d) **Infringement.** In the event that an infringement claim regarding a Deliverable appears likely, Consultancy may at its sole discretion, and as Company's sole and exclusive remedy, either:

1. obtain for Company the right to use the infringing Deliverable;
2. modify the infringing Deliverable so that it is no longer infringing;
3. obtain and substitute a functionally similar deliverable that is not infringing; or

e. **Sole and Exclusive Remedy.** This sub-section 5 states Consultancy's entire liability for claims of intellectual property infringement related to Deliverables.

6. Confidential Information. Either party may receive or have access to technical information, information about product plans and strategies, promotions, customers and related technical, information about its employees, financial or business information which the disclosing party considers to be the confidential information of that party or its third party contractors or suppliers ("Confidential Information"). The following will apply to any such Confidential Information:

- a. All non-public information that is shared by and between the parties pursuant to this Agreement shall be treated as Confidential Information under this Agreement. ;
- b. Confidential Information may be used by the receiving party only with respect to the performance of its obligations under this Agreement, and only by the employees of the receiving party and its employees, agents or contractors who have a need to know such information for purposes of this Agreement. The receiving party will protect, and will ensure that its employees, agents and contractors will protect, the disclosed Confidential Information by using the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized use, dissemination or publication of the Confidential Information as the receiving party uses to protect its own confidential information of a like nature;
- c. The receiving party's confidentiality obligations with respect to Confidential Information or any information that is a Trade Secret shall extend as long as such Confidential Information or Trade Secret does not become known to public and is not injected into the public domain.
- d. The confidentiality obligations of the parties will not extend to information that:
 - i. was in the receiving party's possession before receipt from the disclosing party;
 - ii. is or becomes publicly known without breach by the receiving party;
 - iii. is rightfully received by the receiving party from a third party without a duty of confidentiality;
 - iv. is independently developed or learned by the receiving party;
 - v. is disclosed by the receiving party with the disclosing party's prior written approval;

- vi. is disclosed by the receiving party in order to comply with the executive orders of the government or any judicial authority.

7. Warranties.

- (a) The Services will at all times be performed by the Consultancy in accordance with the industry accepted standard;
- (b) The Consultancy's performance of the Services does not and will not violate any applicable law, rule, or regulation; any contracts with third parties; or any third-party rights in any patent, trademark, copyright, trade secret, or similar proprietary right;
- (c) Consultancy warrants that the final Deliverable provided will substantially conform to the relevant acceptance criteria for such Deliverable. The Deliverables will perform substantially in accordance with the specifications and documentation related to such Deliverables for the time period specified in the SOW, if any, following delivery of such Deliverable(s) to Company;
- (d) The above warranties are exclusive and no other warranty, whether written or oral, is expressed or implied. All warranties, conditions or other terms implied by statute or otherwise are excluded to the fullest extent permitted by law.

8. Warranty Exclusions. Consultancy will not be responsible for a breach of warranty that would not have occurred but for:

- (a) changes to a Deliverable, software or hardware interface which were not contemplated under the Agreement;
- (b) errors or defects in software or hardware with which the Deliverable operates or interfaces, or on which the Deliverable or Services otherwise rely; or
- (c) infection, worm or similar malicious code not introduced by Consultancy
- (d) improper use, modification or operation of a Deliverable or any portion thereof.

9. Warranty Disclaimer. Consultancy does not warrant that the operation of the Deliverables will be uninterrupted or error free or conform to any reliability or performance standards beyond those specified in the applicable acceptance criteria specified in the relevant Statement of Work.

10. Limitation of Liability and Remedies.

- (a) Notwithstanding any other provisions of this Agreement, the Consultancy's total aggregate liability shall not exceed the total amount paid by the Company for the affected portion of the Services; that in each case is the subject of the claim.
- (b) Notwithstanding Clause 10(a) hereinabove, in no event will Consultancy or its affiliates, subcontractors and suppliers be liable for any of the following:
 - (i) Damages for loss of data, or software restoration.
 - (ii) Any indirect, incidental, consequential, punitive, special damages, ancillary loss, loss of profit, business interruptions, etc.
 - (i) Damages relating to Company's procurement of substitute products or services other than as provided in this Agreement.

- (j) To the extent allowed by local law, the limitations as mentioned in this Agreement will apply regardless of the basis of liability, including negligence, misrepresentation, breach of any kind, or any other claims in contract, tort or otherwise.

11. Term and Termination.

- (a) **Term.** This Agreement will commence on the Effective Date and continue until termination as provided herein.
- (b) **Termination.** The Company or the Consultancy may terminate this Agreement or any individual SOW(s) in accordance with the below mentioned provisions:
- i. Termination for Convenience. Either party may terminate this Agreement for convenience upon three (3) months prior written notice to the other party.
 - ii. Termination for Cause. Either party may terminate this Agreement on written notice if the other party fails to comply with this Agreement after it has been notified in writing of the nature of the failure and been provided with a reasonable time to cure the failure.
 - iii. Bankruptcy. If either party becomes insolvent, is unable to pay its debts when due, files for bankruptcy, is subject of involuntary bankruptcy, has a receiver appointed, or has its assets assigned, the other party may terminate this Agreement without notice and may cancel any unfulfilled obligations.
- (c) **Prior Orders.** Except as otherwise provided in sub-section below dealing with bankruptcy, the termination of this Agreement will not affect payments due or fulfillment and payment of orders accepted prior to termination. The Consultancy agrees to perform Services till the date of termination of this Agreement and the Company agrees to pay all the fees that are payable to the Consultancy under this Agreement.
- (d) **Consequences of Termination.** Upon termination of this Agreement for any reason, either party will promptly return to the other party all Confidential Information of the other party including data, records, or materials of whatever nature or kind, and all drawings, blueprints, notes, memoranda, specifications, designs, devices, documents and any other material containing or disclosing Confidential Information of such other party. Neither party will retain any such materials without written approval of the other party. Upon termination of any Statement of Work, Company will pay Consultancy for all Services performed and charges and expenses incurred by Consultancy up to the date of termination, and Company will receive all work in progress for which Company has paid.
- (e) **Survival.** Any terms in this Agreement which by their nature extend beyond the termination of this Agreement will remain in effect until fulfilled and will apply to both parties' respective successors and permitted assigns. Any termination under this section will be without prejudice to the terminating party's legal rights and remedies, including injunction and other equitable remedies.

- 12. Non-Hiring.** Each party agrees that it will not, without the prior written consent of the other party, directly or indirectly solicit, hire or retain as an employee or independent contractor any current employee or staff of the other party, during the term of this Agreement and for a period of twenty four (24) months after such individual's relationship with such party is terminated.

13. **Independent Consultancy.** Consultancy is an independent contractor in the performance of this Agreement and neither Consultancy nor any Consultancy personnel are employees or agents of Company. Nothing in this Agreement will be construed as creating a joint venture, partnership or employment relationship between the parties, nor will either party have the right, power or authority to create any obligation or duty, express or implied, on behalf of the other.
14. **Force Majeure.** Neither party will be liable for performance delays or for non-observance or non-performance due to causes beyond its reasonable control. Such acts include fire, lightning, explosion, war, strike, disorder or decrees by the government or competent authorities.
15. **Assignment.** Company may assign, delegate or otherwise transfer all or any part of this Agreement to another entity. However, the Company shall ensure that any such new entity to whom this Agreement is assigned, delegated or transferred agrees to be bound by all the obligations of this Agreement and the payment duties of the Company under this Agreement shall also be extended to such new entity. Any attempted assignment, delegation, or transfer without satisfying the conditions mentioned hereinabove will be null and void.
16. **Export and Import.** Company which exports, re-exports, or imports Services, Deliverables, technology, or technical data purchased hereunder, assumes responsibility for complying with applicable laws and regulations and for obtaining required export and import authorizations. Consultancy may suspend performance if Company is in violation of any applicable laws or regulations.
17. **Dependencies.** Company will make reasonable efforts to comply with the general obligations specified in this Agreement, in a timely manner. Company acknowledges that Consultancy's ability to deliver the Services is dependent upon Company's full and timely cooperation with Consultancy and other third parties, as well as the accuracy and completeness of any information and data Company and such third parties provide to Consultancy. Accordingly, the Company hereby agrees that the Consultancy shall not be held liable if there is any delay, non-performance or partial performance of the Services and if such defects cannot be solely and exclusively attributable to the Consultancy, the Company shall pay the Consultancy additional fees for such delays in accordance with mutually accepted terms and conditions.
18. **Similar Services.** Nothing in this Agreement will prohibit Consultancy from providing Services similar to those provided hereunder to other customers so long as no Confidential Information of the Company is used in the provision of such services. Further, the Consultancy shall retain the right to use the technical know-how, methodology, tools and techniques used and developed in the performance of Services under this Agreement while performing services to other clients also.
19. **Publicity.** Neither party will publicize nor disclose to any third party without the consent of the other party either the price or other terms of this Agreement or the fact of its existence and execution, except as may be necessary to comply with other obligations stated in this Agreement. Notwithstanding the foregoing, Consultancy may use Customer's name and identification of this engagement in connection with internal marketing and to showcase the Company and the Services provided under this Agreement in the general lists of customers and experience. The Consultancy agrees not to use such information on public websites or marketing materials without obtaining prior consent of the Company, such consent not to be withheld unreasonably.
20. **Electronic Orders and EDI.** Where facilitated under local law, the parties may do business electronically, including order placement and acceptance. Once accepted, such orders will create fully enforceable

obligations subject to the terms of this Agreement. Such orders and acceptances will be deemed for all purposes to be an original signed writing. Company and Consultancy will adopt commercially reasonable security measures for password and access protection.

21. **Waiver.** Neither party's failure to exercise or delay in exercising any of its rights under this Agreement will constitute or be deemed a waiver or forfeiture of those rights.
22. **Governing Law; Dispute Resolution.** This Agreement shall be construed in accordance with the laws of England & Wales and all disputes, claims or proceedings between the parties relating to the validity, construction or performance of this Agreement shall be subject to the exclusive jurisdiction of the Courts of England & Wales.
23. **Amendment.** No amendment, modification or waiver of any provision of this Agreement shall be binding unless in writing and conformed to by all the parties hereto.
24. **Entire Agreement.** This Agreement is the entire agreement between Consultancy and Company regarding Company's purchase of, and supersedes and replaces any previous communications, representations, or agreements, or Company's additional or inconsistent terms, whether oral or written. In the event any provision of this Agreement is held invalid or unenforceable the remainder of the Agreement will remain enforceable and unaffected thereby.
26. **Notices.** All notices, authorizations, and requests in connection with this Agreement will be in writing or e-mail and deemed given upon delivery after being: (a) delivered by hand; (b) deposited in the mail, postage prepaid, certified or registered, return receipt requested; (c) sent in e-mail; or (d) sent by air express courier, charges prepaid; and addressed as follows (or to such other address as the party to receive the notice or request so designates by written notice to the other).

By signing below, the duly authorized representatives of the Company and the Consultancy accept and agree to the terms of this MSA as of the MSAs Effective Date.

Signed For and on behalf of the Company:

Name:

Designation:

Signed For and on behalf of the Consultancy:

Name:

Designation:

