

TimeTabler Licence Agreement

The Software has been developed to enable schools to work smarter and save time. In that same spirit, we have aimed to draft clear and fair terms to provide for a straightforward contract review. This Software Licence Agreement (**Licence Agreement**) is entered into between the supplier entity (**TimeTabler**) and the customer entity (**Customer**) identified on the applicable Sales Order that incorporates this Licence Agreement by reference.

This Licence Agreement consists of these terms and conditions (**Terms**) and the applicable Sales Order(s), including in each case any addenda, additional documents or policies incorporated into them by express reference.

By: (a) executing a Sales Order that incorporates this Licence Agreement; (b) clicking an icon online indicating acceptance of this Licence Agreement (e.g. "Agree"); (c) paying any invoice issued by TimeTabler referencing this Licence Agreement; or (d) accessing or using the Software (which shall include clicking on the download link), Customer agrees to be bound by this Licence Agreement.

The individual accepting this Licence Agreement on behalf of Customer represents and warrants that they have the authority to bind such entity to this Licence Agreement. If the individual does not have authority, or does not agree with this Licence Agreement, such individual must not accept this Licence Agreement and may not access or use the Software.

Certain words or phrases are defined to have specific meanings when used in this Licence Agreement. Those words and phrases are defined below in Clause 10.

THE TERM OF THIS LICENCE AUTOMATICALLY RENEWS IN ACCORDANCE WITH CLAUSE 8.1.

1. The Software

- 1.1. **Delivery:** Subject to Customer's payment of the Fees, TimeTabler shall deliver one copy of the Software electronically to Customer at the email address provided by Customer during the ordering process (as may be updated in accordance with Clause 9.11 (Notices)) within ten (10) Working Days of acceptance of the Licence Agreement and thereafter within ten (10) Working Days following the commencement of any Extension Term (or, where later, and at TimeTabler's option, within ten (10) Working Days of receipt of the Fees). TimeTabler may, in its sole discretion, elect to deliver the Software to Customer prior to receipt of the Fees, and any such early delivery shall be without prejudice to Customer's obligation to pay the Fees in full when due, and shall not constitute a waiver of TimeTabler's right to require payment as a condition of delivery on any future occasion.
- 1.2. **Licence Grant.** In consideration of the Fees paid by Customer to TimeTabler and compliance with this Licence Agreement, TimeTabler grants to Customer a non-exclusive, non-sublicensable, non-transferable licence for the applicable Licence Term to permit Authorised Users to Use the Software in accordance with the Documentation and strictly for the Purpose. For the purposes of this Clause, **Use** means, subject to the restrictions set out in Clause 1.3, installing and running the Software which shall be restricted to use of the Software in object code form. Customer acknowledges and agrees that it is being granted a licence to permit access to and use of the Software and Documentation and that neither they (nor any part of either of them) are being sold to Customer. This Licence Agreement is personal to the Customer and is restricted to use of the Software solely by, and for the benefit of, the school(s) identified on the Sales Order. For the avoidance of doubt, a separate licence is required for each individual school, and for these purposes a "school" means a single school as identified by its unique Department for Education School/Establishment Number (URN/DfE Number) or, where the school is located outside England and Wales, by the equivalent unique school or establishment identifier issued by the relevant governmental or regulatory authority in that jurisdiction. A single licence may not be shared, pooled or otherwise used across two or more schools, regardless of whether those schools form part of the same multi-academy trust, federation, group, chain or other corporate or organisational structure. Customer shall not permit any school not expressly identified on the Sales Order to access or use the Software. Any use of the Software by, or in respect of, a school that is not listed on the Sales Order, or any use that would result in a single licence covering more than one DfE Number (or equivalent identifier), shall constitute a material breach of this Licence Agreement.
- 1.3. **Restrictions.** Except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under this Licence Agreement, Customer shall not, and shall not allow any person to: (a) use the Software or Documentation: (1) for any purpose other than the Purpose, including to access or use all or any part of the Software or Documentation to develop or build any product or service that is substantially similar to or competitive with the Software, or for competitive analysis; (2) in any manner that violates any applicable laws or regulations, causes damage or injury to, or violates the rights of, a person or property; (3) to directly or indirectly create, train, test or otherwise improve any machine learning algorithms or artificial intelligence system; (b) breach, circumvent, or compromise any security or authentication measures or technical use limitations or restrictions in relation to the Software, including removing, or attempting to circumvent any licence key, activation mechanism or licence enforcement technology; (c) attempt to copy, modify, duplicate, translate or create derivative works of the Software; (d) attempt to decompile, disassemble, reverse engineer or otherwise seek to obtain the source code or reduce to human-perceivable form all or any part of any



Software; (e) remove, obscure or modify any proprietary or other notices or attributions in the Software or Documentation; (f) sell, transfer, assign or license or sublicense, or otherwise commercially exploit, or otherwise make the Software or Documentation available to any third party other than to Authorised Users in accordance with this Licence Agreement.

- 1.4. **Back-up Copies.** Customer may only make back up copies of the Software as may be necessary for its lawful use and in accordance with the terms of this Licence Agreement. Customer shall record the number and location of all back up copies of the Software and take reasonable steps to prevent unauthorised copying.
- 1.5. **System Requirements.** Customer shall be responsible for procuring and maintaining all systems, software, hardware, networks and other components required from time to time in order to access, use and obtain the benefit of the Software (including its network connections and telecommunications links from its systems to the Software).
- 1.6. **Authorised User Activity.** Customer shall be responsible for all activities of its Authorised Users in the Software and shall, and shall ensure that its Authorised Users shall, comply with this Licence Agreement, including any applicable Acceptable Use Policy/Terms of Use presented to its Authorised Users. If an Authorised User does not agree to any such Acceptable Use Policy/Terms of Use, Customer understands that the Authorised User will not be entitled to access or use all or part of the Software.
- 1.7. **Unauthorised Access.** Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Software and the Documentation and, if there is any such unauthorised access or use, promptly notify TimeTabler. Customer shall keep a complete and accurate record of Customer's copying and disclosure of the Software and its Authorised Users, and produce such record to TimeTabler on request from time to time. Customer shall permit TimeTabler to inspect and have access to any premises (and to the computer equipment located there) at or on which the Software is being kept or used, and have access to any records kept in connection with this Licence Agreement for the purposes of ensuring that Customer is complying with the terms of this Licence Agreement, provided that TimeTabler provides reasonable advance notice to Customer of such inspections, which shall take place at reasonable times.
- 1.8. **Technical Support.** TimeTabler shall, as part of this Licence Agreement, provide Customer with technical support in respect of general day-to-day queries relating to the use and operation of the Software (**Standard Support**). Standard Support shall be provided during Working Hours, by such means (including email, telephone and/or online portal) as TimeTabler may designate from time to time. Standard Support does not include, and TimeTabler shall be under no obligation to provide, on-site support, bespoke training, data migration, custom development, integration support, troubleshooting of issues arising from Customer's own infrastructure, network or third-party software, or, save as expressly set out in any Sales Order, any other support services beyond the scope described above. TimeTabler will perform the Gold Start Support Services where indicated and described in each Sales Order. Gold Start Support Services are supplemental to, and not a substitute for, a current Licence Term for the applicable Software. TimeTabler shall provide Standard Support and (where applicable) Gold Start Support Services only in respect of the then-current version of the Software, being the version of the Software incorporating all Maintenance Releases and New Versions made available by TimeTabler to Customer in accordance with Clause 1.9 (Maintenance Releases and New Versions).
- 1.9. **Maintenance Releases and New Versions.** TimeTabler will provide Customer with all Maintenance Releases generally made available to its customers by such means as TimeTabler may designate from time to time. TimeTabler may provide Customer with a New Version of the Software annually on renewal. Customer shall install all Maintenance Releases and New Versions as soon as reasonably practicable after receipt (and in any event within thirty (30) days).

2. Fees

- 2.1. **Invoices and Payment.** TimeTabler shall invoice Customer for the Fees in accordance with any applicable Sales Order. The Fees shall be paid in full in pounds sterling, are non-cancellable and (save as expressly set out in this Licence Agreement) non-refundable, and are exclusive of value added tax and any other applicable sales or local taxes, which shall be added to TimeTabler's invoice(s) at the appropriate rate. Except to the extent expressly specified otherwise in the applicable Sales Order, all invoices shall be payable within thirty (30) days after the date of invoice. Customer shall provide TimeTabler with valid, up to date, complete and accurate billing and contact information (including a valid email address) at all times and shall promptly notify TimeTabler of any change to this information.
- 2.2. **Changes to Fees on Renewal:** TimeTabler shall be permitted to review, increase, and change the amount of, or the payment terms relating to, the Fees in its sole discretion with effect from the start of each Extension Term, provided that TimeTabler shall provide Customer with no less than four (4) months' prior written notice of any change to the Fees under this Clause by posting the changes in the Software or by email (to any email address provided during the order process, in the Sales Order, in Customer's account or otherwise under this Licence Agreement).
- 2.3. **CPI Increase.** In respect of any Licence Agreement with an Initial Licence Term of more than 12 months and save where otherwise provided in any Sales Order, TimeTabler may increase the Fees with effect from each anniversary of the Licence Start Date by an amount not exceeding the greater of: (a) the CPI Rate plus two per cent (2%); and (b) four per cent (4%), without further notice beyond TimeTabler's invoice reflecting the increased Fees. Any increase to the Fees on renewal at the start of a new Extension Term shall be governed by Clause 2.2 above and is



not subject to this Clause.

2.4. **Taxes, Withholdings and Set Off.** Customer shall make all payments under this Licence Agreement free and clear of any set-off, deduction or withholding of any kind, save only as may be required by law. If any such withholding or deduction is required, Customer shall, at the same time as making the payment to which the withholding or deduction relates (and Customer shall provide evidence to TimeTabler that it has so accounted), pay to TimeTabler such additional amount as will, after the deduction or withholding has been made, leave TimeTabler with the same total amount that it would have received if no such withholding or deduction had been required. Customer and TimeTabler shall co-operate to minimise the amount of any tax deduction. If following the making of a tax deduction, TimeTabler determines in its sole discretion and acting in good faith that it has received and retained any credit, relief or other benefit as a result of the tax deduction, TimeTabler shall pay such amount to Customer as TimeTabler determines would leave TimeTabler in the same position as if Customer had not been required to make any tax deduction. TimeTabler shall be entitled to deduct any sum owing from Customer under this Licence Agreement from any sum owing to Customer under this Licence Agreement.

2.5. **Late Payment.** Without prejudice to any other rights and remedies of TimeTabler, if TimeTabler has not received payment of an invoice by the due date for payment in accordance with this Licence Agreement, interest shall accrue on such due amount on a monthly basis from the due date until received in full by TimeTabler at a rate of four per cent (4%) a year above the base rate of the Bank of England from time to time or the maximum amount permitted by applicable law, whichever is lower.

3. Confidentiality

3.1. **Confidentiality Obligations.** Subject to Clauses 3.2 (Exceptions) and 3.3 (Disclosure Required by Law), each party shall use the same degree of care as it uses for its own confidential information of like nature (but no less than reasonable care) to protect the other party's Confidential Information and hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than to fulfil its obligations and exercise its rights under this Licence Agreement. The receiving party may disclose Confidential Information to its employees, agents, contractors and other representatives having a legitimate need to know, provided the receiving party remains responsible for their compliance with, and they are bound to confidentiality obligations no less protective than, this Clause 3 (Confidentiality). Each party shall immediately notify the other in writing if any unauthorised access, use or disclosure of the other's Confidential Information has taken place or is reasonably likely to take place.

3.2. **Exceptions.** A party's Confidential Information shall not be deemed to include information that: (a) is or becomes publicly known other than through any act or omission of the receiving party; (b) was in the other party's lawful possession before the disclosure; (c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure; (d) is independently developed by the receiving party, which independent development can be shown by written evidence; and (e) was authorised for release in writing by the discloser.

3.3. **Disclosure Required by Law.** A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this Clause 3.3, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.

3.4. **Announcements.** Subject to Clause 3.5 (Publicity), no party shall make, or permit any person to make, any public announcement concerning this Licence Agreement without the prior written consent of the other party, except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

3.5. **Publicity.** Subject to any trademark usage guidelines provided to TimeTabler, TimeTabler may include Customer's name, logo and branding for the purposes of marketing TimeTabler's products and services (including in TimeTabler's promotional material, marketing material, announcements and other similar materials), provided always that Customer may revoke such consent at any time and once revoked, TimeTabler shall stop using the same in new materials as soon as reasonably possible.

3.6. **Survival.** The provisions of this Clause 3 (Confidentiality) shall survive termination of this Licence Agreement, however arising.

4. Export

4.1. Neither party shall export, directly or indirectly, any technical data acquired from the other party under this Licence Agreement (or any products, including software, incorporating any such data) in breach of any applicable laws or regulations (**Export Control Laws**), including United States export laws and regulations, to any country for which the government or any agency thereof at the time of export requires an export licence or other governmental approval without first obtaining such licence or approval.

4.2. Each party undertakes: (a) contractually to oblige any third party to whom it discloses or transfers any such data or products to make an undertaking to it in similar terms to the one set out above; and (b) if requested, to provide the



other party with any reasonable assistance, at the reasonable cost of the other party, to enable it to perform any activity required by any competent government or agency in any relevant jurisdiction for the purpose of compliance with any Export Control Laws.

5. Software Warranty

- 5.1. **Software Warranty.** TimeTabler warrants that the Software will conform in all material respects to the Documentation for a period of sixty (60) days from the Licence Start Date (**Warranty Period**), provided that Customer uses the Software in accordance with this Licence Agreement and the Documentation. If, within the Warranty Period, Customer notifies TimeTabler in writing of any defect or fault in the Software constituting a breach of this warranty, TimeTabler shall, at TimeTabler's option, do one of the following: (a) repair the Software; (b) replace the Software; or (c) terminate this Licence Agreement immediately by notice in writing to Customer and, on return of the Software and all copies thereof, refund the portion of the Fees paid by Customer in respect of the period after termination. Customer shall provide all information as may be necessary to assist TimeTabler in resolving the defect or fault, including a documented example of any defect or fault, or sufficient information to enable TimeTabler to re-create the defect or fault.
- 5.2. **Warranty Disclaimer.** Customer understands and agrees that: (a) no warranty is given that the Software is free from defects or that they are bug, virus or error free or that access to them will be uninterrupted; (b) except as expressly set out in this Licence Agreement and to the maximum extent permitted by applicable laws, the Software is provided on an "as is" basis; and (c) the Software has not been developed to meet Customer's individual requirements. Customer shall be solely responsible for determining the fitness of the Software for its purposes and requirements. Except to the extent expressly set out in this Licence Agreement, all warranties, representations, conditions, guarantees and all other terms of any kind whatsoever (whether express or implied by statute, common law, course of dealing or otherwise) are, to the fullest extent permitted by applicable law, excluded from this Licence Agreement, including warranties of merchantability or satisfactory quality, title, fitness for a particular purpose or non-infringement.
- 5.3. **Open-Source Software.** Customer acknowledges that any Open-Source Software provided by TimeTabler is provided "as is" and expressly subject to the disclaimers in Clause 5.2 and TimeTabler provides no warranties (express or implied) and no indemnities with respect to any Open-Source Software provided by TimeTabler.

6. Ownership

- 6.1. **TimeTabler IP.** Customer acknowledges that all Intellectual Property Rights in the Software (including any Maintenance Releases) and Documentation belong and shall belong to TimeTabler or its applicable licensors, and Customer shall have no rights in or to the Software other than the right to use it in accordance with the terms of this Licence Agreement.
- 6.2. **Customer Feedback.** TimeTabler welcomes and encourages Customer's Feedback. Customer may, but is not required to, provide TimeTabler or its subcontractors with Feedback. If Customer does so, TimeTabler shall own all rights, title and interest, including all Intellectual Property Rights, in and to the Feedback. Customer hereby assigns, and shall procure that any Authorised Users assign, to TimeTabler absolutely and with full title guarantee (including by way of present assignment of future Intellectual Property Rights) any Intellectual Property Rights in any Feedback pursuant to this Licence Agreement. Customer hereby waives (and shall ensure that all Authorised Users and any third parties have waived) any moral rights arising in any Feedback pursuant to Chapter IV of the Copyright, Designs and Patents Act 1988, or any broadly equivalent rights in any other jurisdiction.
- 6.3. **TimeTabler Indemnity.** Subject to Clause 7 (Liability), TimeTabler shall indemnify and hold harmless Customer and its officers, directors and employees against any and all Losses incurred by Customer as a result of a third party claim that Customer's or an Authorised User's access to and use of the Software in accordance with this Licence Agreement infringes any Intellectual Property Rights in the United Kingdom. If the Software infringes, or TimeTabler reasonably believes it may infringe, Intellectual Property Rights, TimeTabler may, at its own expense: (a) procure the right for Customer to continue using the Software; (b) replace or modify the Software so that it becomes non-infringing without material loss of functionality; or (c) if such remedies are not reasonably available, terminate this Licence Agreement in relation to the applicable Software on notice to Customer and refund Customer a pro-rata portion of any prepaid and unused Fees for the Software. This Clause 6.3 (TimeTabler Indemnity) is Customer's sole and exclusive remedy, and TimeTabler's (including TimeTabler's employees', agents' and subcontractors') entire obligations and liability for infringement of any third party rights (including Intellectual Property Rights).
- 6.4. **Indemnification Process.** In the event of any claim that may reasonably be considered likely to give rise to a liability under an indemnity (**Claim**), the indemnified party shall: (a) give prompt written notice of the Claim to the indemnifying party specifying the nature of the Claim in reasonable detail; (b) allow the indemnifying party, at the indemnifying party's cost, sole authority to conduct all negotiations and proceedings in relation to the Claim and to settle or compromise the Claim; (c) provide the indemnifying party with reasonable information, assistance and co-operation in the defence or settlement of the Claim; and (d) not make any admission of fault, liability, settlement or compromise in relation to the Claim without the prior written consent of the indemnifying party. The indemnifying party shall keep the indemnified party reasonably informed of material developments and consult with the indemnified party in good faith on the conduct of the claim.



7. Liability

- 7.1. **Unlimited Liabilities.** Nothing in this Licence Agreement limits or excludes: (a) Customer's obligation to pay the Fees as they become due; or (b) the liability of either party: (1) for death or personal injury resulting from negligence; (2) fraud or fraudulent misrepresentation by the other party; or (3) any other liability to the extent that it cannot be limited or excluded under applicable law.
- 7.2. **Excluded Losses.** Subject to Clause 7.1 (Unlimited Liabilities), neither party shall be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for: (a) any loss of profits or revenue (except for the Fees); (b) loss of anticipated savings; (c) loss of contract, business or business opportunity; (d) depletion of goodwill; (e) loss of use or loss or corruption of data; or (f) any special, indirect or consequential loss, in each case arising out of or in connection with this Licence Agreement and whether or not reasonably foreseeable by a party at the Licence Start Date and even if one party had advised the other of the possibility of such loss in advance.
- 7.3. **TimeTabler Excluded Losses.** Subject to Clause 7.1 (Unlimited Liabilities), TimeTabler shall have no liability under this Licence Agreement to the extent that such liability arises from: (a) access to or use of any Software contrary to the Documentation or TimeTabler's written instructions, or in breach of this Licence Agreement; (b) modification or alteration of any Software or Documentation at Customer's direction or by any party other than TimeTabler or its subcontractors; (c) the use of the Software in combination with any other products, services, processes, software, hardware, networks or systems or materials not provided by TimeTabler; (d) delays, interruptions, errors in transmission, service failures or other problems inherent in use of or resulting from the transfer of data over communication networks and facilities, including the internet, or other systems outside TimeTabler's control; (e) Customer's continued use of the Software after TimeTabler has notified Customer of an infringement, defect or other issue giving rise to liability and made a replacement or fix available that would have avoided, remedied or mitigated that infringement, defect or issue; and (f) any defect, fault, claim or issue that would have been avoided, remedied or mitigated by Customer's installation of a Maintenance Release or New Version made available to it, where Customer has failed to install such Maintenance Release or New Version as soon as reasonably practicable in accordance with Clause 1.9 (Maintenance Releases and New Versions). Customer further agrees that nothing contained within the Software constitutes any accounting, taxation, financial, investment, legal or other advice to Customer or its Authorised Users.
- 7.4. **Liability Cap.** Subject to Clause 7.1 (Unlimited Liabilities), TimeTabler's aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising out of or in connection with this Licence Agreement shall not exceed: (a) the total Fees in respect of the applicable Software payable by Customer during the twelve (12) months immediately preceding the date on which the event giving rise to the claim arose (or if such claim arises during the first 12-month period of a Licence Term, during such period); or (b) with respect to TimeTabler's indemnification obligations under Clause 6.3 (TimeTabler Indemnity), the higher of (i) the total Fees in respect of the applicable Software payable by Customer during the twelve (12) months immediately preceding the date on which the event giving rise to the claim arose (or if such claim arises during the first 12-month period of a Licence Term, during such period); and (ii) five thousand pounds (£5,000).

8. Termination

- 8.1. **Licence Term and Automatic Renewal.** This Licence Agreement shall commence on the Licence Start Date and continue for the Initial Licence Term each as specified on the Sales Order. Thereafter and except as expressly stated otherwise in the Sales Order, each Licence Term shall automatically renew for an additional Extension Term unless either party terminates this Licence Agreement on not less than three (3) months' prior written notice to the other, to take effect on the expiry of the Initial Licence Term or the current Extension Term, as the case may be. If Customer: (a) does not give notice to terminate the Licence Agreement in accordance with this Clause 8.1; or (b) otherwise terminates or purports to terminate the provision of this Licence Agreement other than in accordance with the terms of this Licence Agreement, Customer shall be liable to pay as a debt any Fees that TimeTabler has invoiced or would be entitled to invoice in accordance with the terms of this Licence Agreement for any part of the Initial Licence Term and to the extent applicable, the subsequent Extension Term.
- 8.2. **Termination for Cause.** Without prejudice to any rights or remedies already accrued, either party may terminate this Licence Agreement at any time with immediate effect by giving written notice to the other if: (a) the other commits a material breach (including where multiple breaches in aggregate amount to a material breach) of this Licence Agreement which is not capable of remedy or, if capable of remedy, which the defaulting party fails to remedy within thirty (30) days of receiving notice from the other requiring it to do so; or (b) the other party: (i) is unable to pay its debts as defined in section 123 Insolvency Act 1986; (ii) has steps taken for a receiver, administrator or manager to be appointed over the whole or a material part of its business or assets; (iii) is subject to an order being made, a resolution passed or other steps being taken for its winding-up (except for the purposes of a bona fide solvent reorganisation), bankruptcy or dissolution; (iv) proposes or enters into any composition or arrangement with its creditors generally or any class of them; (v) ceases to carry on business or claim the benefit of any statutory moratorium; or (vi) if any event occurs, or proceedings taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in this Clause.
- 8.3. **Effect of Termination.** On termination for any reason: (a) all rights granted to Customer under this Licence



Agreement shall cease; (b) Customer shall cease all activities authorised by this Licence Agreement; (c) Customer shall immediately pay to TimeTabler any sums due to TimeTabler under this Licence Agreement; (d) Customer shall immediately destroy or return to TimeTabler (at TimeTabler's option) all copies of the Software then in its possession, custody or control and, in the case of destruction, certify to TimeTabler that it has done so; and (e) TimeTabler may disable any licence keys, activation codes or other technical means of access to the Software. For the avoidance of doubt, on termination, Customer's right to receive Maintenance Releases and New Versions shall cease.

9. **General**

- 9.1. **Order of precedence.** To the extent of any conflict between any of the terms of this Licence Agreement, the following order of precedence shall be followed (highest priority first): (a) the Sales Order; (b) the Terms; (c) Acceptable Use Policy/Terms of Use.
- 9.2. **Changes to the Licence Agreement.** TimeTabler may amend this Licence Agreement from time to time, by posting the amended version of this Licence Agreement on its website. TimeTabler will use commercially reasonable efforts to post any such amendment at least thirty (30) days prior to its effective date. Amendments to this Licence Agreement will take effect at the commencement of the next Extension Term, except that TimeTabler may specify that amendments will become effective during a then-current Licence Term if: (a) required to address compliance with applicable laws, or (b) required to reflect updates to Software functionality or the introduction of new features. If Customer objects, Customer must notify TimeTabler of its objection under this Clause within thirty (30) days of the posting of the amendment setting out its reasons for objecting and TimeTabler may, in its sole discretion, either permit Customer to: (a) continue using the Software on the unchanged terms until the commencement of the next Extension Term (after which the updated terms shall apply); or (b) terminate the remainder of the then-current Licence Term for the affected Software as its exclusive remedy and TimeTabler will (upon return of the Software) refund any pre-paid fees for the terminated portion of the applicable Licence Term. Further use by Customer of the Software after such period will constitute acceptance of the changes.
- 9.3. **Force majeure.** Neither party shall be liable for any delay or failure in the performance of its obligations for so long as and to the extent that such delay or failure results from events, circumstances or causes beyond its reasonable control, including strikes, lock-outs or other industrial disputes (whether involving a party's workforce or any other party), failure of a utility service or transport or internet or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors. The affected party shall promptly notify the other party in writing of the start of a force majeure event and shall use reasonable endeavours to limit the effect of the force majeure event on the performance of its obligations. If the force majeure event prevents or delays the affected party's performance of its obligations for a period of more than 30 days, the other party may terminate this Licence Agreement on no less than 30 days' notice.
- 9.4. **Injunctive Relief.** Each party acknowledges that monetary damages alone may not be a sufficient remedy for a breach of confidentiality obligations or use of the other's Intellectual Property Rights otherwise than in accordance with this Licence Agreement, and that the other party shall be entitled to seek the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach of the terms of this Licence Agreement.
- 9.5. **No waiver.** A waiver of any right or remedy is only effective if given in writing by a party and shall not be deemed a waiver of any subsequent right or remedy. A delay or failure to exercise, or the single or partial exercise of, any right or remedy by a party does not waive that or any other right or remedy, nor does it prevent or restrict the further exercise of that or any other right or remedy.
- 9.6. **Severance.** If any provision or part-provision of this Licence Agreement is found by any court or administrative body of competent jurisdiction to be invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Licence Agreement. In such an event, 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.
- 9.7. **Entire Agreement, Exclusion of Other Terms.** This Licence Agreement represents the entire agreement between the parties and supersedes any prior agreement, understanding or arrangement between TimeTabler and Customer, whether written or oral, relating to the subject matter they cover and each party understands that it has not relied on any representation, undertaking or promise given by the other, whether expressed or implied, that is not set out in this Licence Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Licence Agreement. The terms of this Licence Agreement apply to the exclusion of any other terms that Customer seeks to impose or incorporate (including any purchase orders, sales orders or invoices).
- 9.8. **Third Party Rights.** No party who is not a party to this Licence Agreement shall be entitled to enforce any term of this Licence Agreement under the Contracts (Rights of Third Parties) Act 1999.
- 9.9. **Assignment and Other Dealings.** Customer may not sub-license, assign, transfer, novate, charge, subcontract or deal in any other manner with any of its rights or obligations under this Licence Agreement. TimeTabler may, in whole or in part, assign, transfer, novate, charge and otherwise deal in any other manner with any right or obligation under this Licence Agreement without Customer's consent. TimeTabler will notify Customer as soon as reasonably



practicable after any such event occurring.

- 9.10. **Counterpart.** This Licence Agreement may be executed in any number of counterparts, each of which constitutes a duplicate original, but all the counterparts together constitute the one agreement. Transmission of the executed signature page of a counterpart of this Licence Agreement by e-mail (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this Licence Agreement.
- 9.11. **Notices.** Any notice required to be given under this Licence Agreement shall be in writing (which shall include email) and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party for the attention of the contact and at the postal address, or sent by email to the other party for the attention of the contact and at the email address, specified during the order process, in the Sales Order or to such other contact, postal and/or email address as may have been notified by that party for such purposes in accordance with this Clause. A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not between Working Hours, on the first Working Day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received on the second Working Day after posting or, if the address for the recipient is outside the country in which the sender is located, on the fifth Working Day after posting. A notice sent by email shall be deemed to have been received at the time of transmission (or if transmission is not in Working Hours, on the first Working Day following transmission) provided that the sender did not receive a delivery failure notice. This Clause 9.11 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 9.12. **Survival.** Any provision of this Licence Agreement which expressly or by implication is intended to come into or continue in force on or after termination of this Licence Agreement shall remain in full force and effect. Termination or expiry of this Licence Agreement 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 Licence Agreement which existed at or before the date of termination or expiry.
- 9.13. **Remedies Not Exclusive.** Except as expressly set out in this Licence Agreement, the rights and remedies provided under this Licence Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.
- 9.14. **No Partnership or Agency.** Nothing in this Licence Agreement is intended 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. Each party confirms it is acting on its own behalf and not for the benefit of any other person.
- 9.15. **Governing law and jurisdiction.** This Licence Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England and Wales and each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle the same.

10. Definitions

- 10.1. The definitions and rules of interpretation in this Clause apply in this Licence Agreement.

Acceptable Use Policy/Terms of Use means the terms and conditions which Authorised Users must agree to in order to access and use the Software, as amended from time to time.

Authorised Users means those individuals who are authorised by Customer to access the Software, being: (a) an employee, consultant, contractor or agent of Customer; (b) a support partner to Customer in respect of the Software; (c) where applicable, pupils of Customer and parents and guardians of such pupils.

Confidential Information means any and all information that is proprietary and/or confidential in nature and is either clearly labelled as such or would, by its nature, reasonably be considered to be confidential. Customer acknowledges that non-public details of the Software and Documentation, pricing, the results of any performance tests of the Software and/or otherwise any information which would be exempt from disclosure in accordance with the provisions of the Freedom of Information Act 2000 constitute TimeTabler's Confidential Information. For the avoidance of doubt, the existence of this Licence Agreement shall not constitute Confidential Information.

CPI means the Consumer Prices Index (all items) published by the UK Office for National Statistics (ONS) (or any official index that replaces it). The **CPI Rate** for any given period means the percentage change in CPI for the preceding twelve (12) month period. If the ONS ceases to publish CPI, or materially changes the basis on which it is calculated, the parties shall use such replacement index, or such adjusted figure, as TimeTabler reasonably determines most closely reflects changes in UK consumer prices.

Documentation means the software and product guides ([TimeTabler Manual](#); [StaffCover Manual](#); [Options Manual](#)) or other documentation which TimeTabler may make available to Customer from time to time, which includes the specification of the Software and any relevant instructions as to how to use the Software.

Extension Term means a one (1) year extension from the end of the Initial Licence Term or current Extension Term, as applicable.

Feedback means comments, questions, suggestions or other feedback, whether in writing or oral, provided by Customer and its Authorised Users relating to the Software and Documentation.



Fees means the licence fees payable by Customer to TimeTabler for use of the Software, as detailed in a Sales Order.

Gold Start Support Services means the support services in respect of the Software as described on the following page: <https://www.timetabler.com/gold-start/>, as updated from time to time.

Initial Licence Term means the initial licence term for the provision of the Software, commencing on the Licence Start Date and ending on the Initial Licence Term end date identified in the applicable Sales Order.

Intellectual Property Rights means patents, utility models, rights to inventions, copyright and related rights, trade marks and service marks, trade names and rights in 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 preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, including all applications for (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.

Licence Start Date means the date identified in the applicable Sales Order or, if earlier, the date this Licence Agreement is deemed accepted in accordance with its terms.

Licence Term means the Initial Licence Term together with any subsequent Extension Term(s), as applicable.

Losses means all liabilities, damages, losses, fines, costs and expenses (including reasonable legal fees and costs).

Maintenance Release means a release of the Software that corrects faults, adds functionality or otherwise amends or upgrades the Software, but which does not constitute a New Version.

New Version means any new version of the Software which from time to time is publicly marketed and offered for purchase by TimeTabler in the course of its normal business, being a version which contains such significant differences from the previous version(s) as to be generally accepted in the marketplace as constituting a new version.

Open-Source Software means any software programs which are licensed under any form of open-source licence meeting the Open Source Initiative's open-source definition from time to time.

Purpose means the purpose of using the Software for Customer's internal and non-commercial purposes. For the avoidance of doubt, the Purpose does not include any commercial purposes of Customer or of any third party.

Sales Order means the order for Software which shall include, without limitation, the duration of the Initial Licence Term and the Fees.

Software means the software to be provided by TimeTabler to Customer as listed in a Sales Order, together with any and all Maintenance Releases and New Versions made available to Customer during the term of this Licence Agreement.

Working Hours means 8.30am to 5pm (UK time) Monday to Friday, excluding public and bank holidays, and **Working Day** shall be construed accordingly.

- 10.2. Clause and paragraph headings shall not affect the interpretation of this Licence Agreement. Unless the context otherwise requires: (a) words in the singular include the plural and in the plural include the singular; (b) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time; (c) a reference to one gender includes a reference to the other genders; and (d) 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. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns. A reference to writing or written includes email.