

# Civil Online

## Terms and Conditions

### 1. Definitions and Interpretation

- a) **Civil Online** is the online service managed and controlled by **SCTS**.
- b) **Agent** is any firm, business or organisation authorised by **SCTS** to register for **Civil Online** and which will receive access to personal data as a part of this agreement.
- c) **Admin User** is a person authorised by the **Agent** and registered by **SCTS** that has permission to set up, maintain and delete **User** accounts on behalf of the **Agent** and able to audit usage by the Agent. There may be more than one person so authorised.
- d) **Data Protection Law** means Law relating to data protection, the processing of personal data and privacy from time to time, including:
  - (a) the Data Protection Act 1998 (the “DPA”);
  - (b) (with effect from 25 May 2018) the General Data Protection Regulation (EU) 2016/679 (the “GDPR”);
  - (c) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (as may be amended by the proposed Regulation on Privacy and Electronic Communications); and
  - (d) any legislation that, in respect of the United Kingdom, replaces, or enacts into United Kingdom domestic law, the General Data Protection Regulation (EU) 2016/679, the proposed Regulation on Privacy and Electronic Communications or any other law relating to data protection, the processing of personal data and privacy as a consequence of the United Kingdom leaving the European Union;
- e) **Purposes** means the accessing of personal data **for** lawful processing within the meaning of Article 6 of the GDPR. Specifically, it is restricted to access to civil case data by the Agent for the purposes of representing and advising their client(s). Access will only be made to information in relation to cases where the Agent is representing one or more of the parties. No other case is to be accessed.
- f) **User** is an individual authorised by the **Agent** and registered by the **Admin User** to use the **Civil Online** system.
- g) **The SCTS** is the Scottish Courts & Tribunals Service.

### 2. General

- a) These terms and conditions govern the use of **Civil Online**, have contractual effect between **SCTS** and each **Agent** and are governed by the law of Scotland.
- b) If any provision of these terms and conditions is unlawful, void or unenforceable then it is deemed severable and shall not affect the validity or enforceability of the remaining provisions.
- c) No informal representation can amend, vary, modify, waive or negate these terms and conditions or any additional conditions imposed on an **Agent** in any respect.

- d) **SCTS** reserves the right to alter these terms and conditions and will publish the current version on the **SCTS** website. Excepting any urgent alteration necessary to protect the security, integrity or stability of **Civil Online** system, **SCTS** will provide the **Agent** with 30 days' notice of any proposed alterations.
- e) Use of **Civil Online** constitutes an acceptance of the terms and conditions then subsisting.

### 3. Agent's rights and obligations

- a) The **Agent** undertakes that it will establish and maintain appropriate corporate governance measures to safeguard **Civil Online** from unauthorised access. This will include individual, password-protected login accounts. No **User** is to share their account details with another person.
- b) The **Agent** undertakes that it will not (and will ensure that any **Admin User** or **User** authorised by it will not) do or omit to do anything that will or may adversely affect the operation, security, integrity, stability or overall efficiency of **Civil Online**.
- c) If an **Agent** at any time (a) ceases to comply with these terms and conditions or (b) becomes aware that its ability to maintain its compliance with them is impaired or likely to become impaired, it must immediately notify **SCTS** of this fact; and its right to use **Civil Online** shall be suspended until such time as the **Agent** can demonstrate to the satisfaction of **SCTS** its ability to maintain compliance with these terms and conditions.
- d) **Civil Online** may not be used in contravention of any legislation currently in force.

### 4. Participation in Civil Online

- a) An **Agent** may use **Civil Online** only in accordance with these terms and conditions. An **Admin User**, on registering a **User** on **Civil Online**, must have sufficient authority to agree to these terms and conditions on behalf of the **Agent**.
- b) **SCTS** may by notice impose additional conditions on that **Agent** which **SCTS** reasonably considers appropriate to protect the security, integrity or stability of **Civil Online**.
- c) An **Agent** must appoint one or more **Admin User** to use **Civil Online** on its behalf, such authorisation being subject to these terms and conditions and any additional conditions specifically applicable to that **Agent**. Where an **Agent** authorises such an **Admin User**, the **Agent** is bound by and liable for the acts and omissions of, and any breaches of such terms and conditions by the **Admin User** as if they were the acts, omissions or breaches of the **Agent**.
- d) An **Agent** may authorise one or more **Users** to use **Civil Online** system on its behalf, such authorisation being subject to these terms and conditions and any additional conditions specifically applicable to that **Agent**. It is the sole responsibility of the **Agent's Admin User** to register such a **User** on **Civil Online**. Where an **Agent** authorises such a **User**, the **Agent** is bound by and liable for the acts and omissions of, and any breaches of such terms and conditions by the **User** as if they were the acts, omissions or breaches of the **Agent**.
- e) An **Agent** must immediately withdraw authority and access to **Civil Online** from any **Admin User** or **User** authorised by the **Agent** who is suspected of or has been

involved in improper use of **Civil Online**, is in breach of these terms and conditions, or whose circumstances have changed such that the **Admin User** or **User** is no longer authorised to act on behalf of the **Agent**.

- f) **SCTS** may terminate **Agent** access to **Civil Online** with immediate effect, or terminate/restrict the authority of any **Admin User** or **User** if **SCTS** reasonably considers that there is a threat to the security, integrity or stability of **Civil Online**.

## 5. Data Protection: general

- a) The parties agree that the nature of the relationship between them is such that the disclosure of Personal Data is on a Data Controller to Data Controller basis. The parties agree that each party is responsible for complying with the obligations incumbent on a Data Controller under **Data Protection Law** (including responding to Subject Access Requests) in relation to the Personal Data that it Processes and that neither party is liable for any actions of the other party which might breach those obligations. The parties agree that they are neither joint Data Controllers nor Data Controllers in common.
- b) **SCTS** shall in no circumstances be liable to the **Agent** for any actions, claims, demands, liabilities, damages, losses, costs, charges and expenses that the **Agent** may suffer or incur in connection with, or arising (directly or indirectly) from, any use of or reliance on the Data or from **SCTS'** delay or failure to comply with its obligations under these terms and conditions; and
- c) use of the Data by the **Agent** is entirely at its own risk and the **Agent** shall make its own decisions based on the Data, notwithstanding that this clause shall not prevent **SCTS** from offering clarification and guidance to the **Agent** as to appropriate interpretation of the Data.

## 6. Data Protection: obligations

- d) In the event that **SCTS** has any reason to believe that the **Agent** is in breach of any of its obligations under this Agreement, **SCTS** may at its sole discretion:
  - i) suspend the disclosure of Data until such time as **SCTS** is reasonably satisfied that the breach has stopped and will not re-occur; and/or
  - ii) require the return or destruction of the Data (in which case the **Agent** shall, no later five Working Days after receipt of such a written request from **SCTS**, at **SCTS'** option, return or permanently erase/destroy all materials held by or under the control of the **Agent** which contain or reflect the Data and not retain any copies, extracts or other reproductions of the Data either in whole or in part).
- e) The **Agent** shall at all times:
  - i) use the Data solely for the **Purposes**;
  - ii) take appropriate technical and organisational measures against unauthorised or unlawful processing and against accidental loss or destruction of, or damage to, the Data (including all measures referred to in the Schedule, if any);
  - iii) process Personal Data only in accordance with the data protection principles and otherwise strictly in accordance with **Data Protection Law**. In particular, the **Agent** will not process the Data outside the European Economic Area other than in compliance with the eighth data protection principle; and
  - iv) delete the Data in its entirety once the **Purposes** have been achieved and in line with the requirements of its record keeping principles. The **Agent** undertakes

that its records management processes, including destruction processes, comply with the requirements of **Data Protection Law**.

- f) The **Agent** shall, promptly (and, in any event, no later than 12 hours after becoming aware of the breach or suspected breach), inform the **SCTS** of any breach or suspected breach of obligations incumbent on a Data Controller under **Data Protection Law** in relation to the Data and of any other unauthorised or unlawful processing of any of the Data and any other loss or destruction of or damage to any of the Data. Such notification shall specify (at a minimum):
- i) the nature of the personal data breach or suspected breach;
  - ii) the date and time of occurrence;
  - iii) the extent of the Data and Data Subjects affected or potentially affected, the likely consequences of any breach (in the case of a suspected breach, should it have occurred) for Data Subjects affected by it and any measures taken or proposed to be taken by the that party to contain the breach or suspected breach; and
  - iv) any other information that the other Party shall require in order to discharge its responsibilities under **Data Protection Law** in relation to such breach or suspected breach.
- g) The **Agent** hereby undertakes:
- v) not to make any copies of the Data except as may be necessary for the achievement of the **Purposes**; and
  - vi) to use all powers competent to it to ensure that all documents and other media containing or reflecting the Data are kept sufficiently secure to ensure that such Confidential Information is not disclosed other than under the terms of this Agreement, including:
    - (1) suitable use of encryption;
    - (2) restricting access to **Civil Online** and **SCTS** documents and other media to the **Agent** staff to the extent required for the **Purposes**. No **Agent** staff should have access to data sets available from **Civil Online** that is not needed for their duties;
    - (3) monitoring usage of **Civil Online** by **Agent** staff on a regular basis (at least quarterly to check that data is only being accessed for one of the **Purposes** set out in this agreement). Any findings or suspicion of inappropriate usage are to be notified as soon as possible to the **SCTS** at [dpo@scotcourts.gov.uk](mailto:dpo@scotcourts.gov.uk) and
    - (4) preventing the documents and other media from being moved (or otherwise accessed from) outside the **Agent's** premises, save to the extent necessary for the **Purposes**, or for direct transit to the **Agent's** secure storage facilities. No paper copies of documents will used when homeworking. No electronic copies of personal data obtained from **Civil Online** are to be saved on personal IT equipment.
- h) If an **Agent** user with access to **Civil Online** permanently leaves the **Agent**; moves to a role that will no longer require access to **Civil Online**; or is suspended pending an internal investigation, the **Admin User(s)** will remove that person's user privilege as soon as possible and at least within one week of any departure, job change or suspension. The **Admin User** will report any problems in achieving this to the **SCTS** as soon as possible. If the **Admin User(s)** is(are) not available, **Agent** officials will notify **SCTS** at [CivilOnlineHelp@scotcourts.gov.uk](mailto:CivilOnlineHelp@scotcourts.gov.uk) as soon as possible and at least within one week of any departure, job change or suspension.

- i) If the **Agent** wishes an additional **Admin User** account(s), this shall be achieved in agreement with **SCTS** personnel and the completion by the **Agent** of any forms required by the **SCTS**.

## 7. Termination and miscellaneous

- a) **SCTS** and the **Agent** may terminate this Agreement on giving 1 month's written notice to the other party of their intention to do so.
- b) This Agreement is personal to each party and neither **SCTS** nor the **Agent** shall, without the prior written consent of the other party, assign to any third party any of their rights or obligations this Agreement.
- c) This Agreement does not create a partnership between the parties to it, nor make such a party the **Agent** of the other for any purpose. This Agreement is not intended to make the **Agent** a data processor of the Data on behalf of **SCTS**.
- d) No delay by any party in enforcing its respective rights will prejudice or restrict the rights of that party and no waiver of any such rights or of any breach of any contractual terms will be deemed to be a waiver of any other right or of any later breach.
- e) If any of the provisions of this Agreement is held by any competent authority to be unlawful or unenforceable in whole or in part, the remainder of the provision in question and the remaining provisions of this Agreement shall continue in full force and effect to the fullest extent possible
- f) This Agreement and the documents referred to herein contain the whole agreement between the parties relating to the subject matter hereof and supersede all prior agreements, arrangements and understandings between the parties relating to that subject matter. This Agreement may only be varied by the written agreement of authorised representatives of both parties.
- g) This Agreement shall, in all respects, be construed and interpreted and shall receive effect in accordance with Scots law and the parties each submit to the non-exclusive jurisdiction of the Scottish courts.