

VALIANTYS: PROFESSIONAL CONSULTANCY TERMS (UK)

These Terms set out the basis upon which the Supplier will provide the Consultancy Services (defined below).

Any person submitting an Offer, or making any other representation, on behalf of the Client represents and warrants that they have the legal right and authority to bind the Client to the terms of the Agreement.

1. INTERPRETATION

1.1 The following definitions and rules of interpretation apply in the Agreement.

Agreement: the agreement between the Client and the Supplier comprising: (i) these Terms, (ii) the Proposal, and (iii) any documents specifically referred to or incorporated into these Terms.

Background IP: those Intellectual Property Rights owned by a party prior to the Agreement or which are created or produced at any time independently of the Agreement.

Bribery Laws: the Bribery Act 2010 and all other applicable UK legislation in relation to bribery and corruption.

Business Day: a day other than a Saturday, Sunday or public holiday in England.

Change Control Note: a note detailing the impact (including cost implications) of a requested change to the Consultancy Services, the pro-forma version of which is available at <http://www.valiantys.com/change>.

Client: the legal person (whether company, partnership, individual or otherwise), identified in the Proposal, to whom the Consultancy Services will be provided.

Client Project Manager: the Client's manager for the Project, appointed in accordance with clause 6.1(b).

Confidential Information: all and any confidential information (in whatever form) whether or not marked as such including but not limited to commercial, financial, marketing and technical information relating to the disclosing party's business, services, products, clients, consultants, employees, suppliers, finances, proprietary computer software, website, know how, trade secrets, intellectual property, future product plans, future project plans and documentation in any form or medium whatsoever whether disclosed orally or in writing relating to any of the foregoing (including copies thereof).

Consultancy Services: the professional consultancy services described in the Proposal.

Data Protection Legislation: means all applicable laws and regulations relating to the processing of personal data and privacy including the General Data Protection Regulation 2016/679 (GDPR), the Data Protection Act 2018 and any statutory instrument, order, rule or regulation made under those statutes, as from time to time amended, extended, re-enacted or consolidated. The terms 'Data Controller', 'Data Processor', 'Process(ing)', 'Data Subjects' and 'Personal Data' shall have the meaning given to them in the GDPR;

Data Protection Schedule: the schedule attached to or comprised in the Proposal, setting out the scope, nature, purpose and duration of processing by the Supplier, types of Personal Data and categories of Data Subject.

Deliverable(s): any creation, work, know-how, data, technical or business information, invention (whether patentable or not), design (whether registrable or otherwise), process, formula, copyright work, database, which is created, devised, developed or discovered by the Supplier during the provision of the Consultancy Services either alone or with any other person;

Fees: the fees payable in respect of the Consultancy Services, as specified in the Proposal [or otherwise agreed by the Parties].

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Offer: the offer made by the Client when it confirms acceptance of a Proposal by any means, including by email or by issuing a purchase order pursuant to the Proposal.

Payment Terms: the terms relating to invoicing and payment, as set out in the Proposal.

Project: the project described in the Proposal.

Project Limitations: any limitations, contingencies, prerequisites, conditions or constraints referred to in the Proposal.

Project Milestone: a date by which a part of the Project is estimated to be completed, as set out in the Proposal.

Project Plan: the detailed plan set out in the Proposal, which describes the estimated timetable (including, without limitation, Project Milestones) and responsibilities of each of the parties for, or in connection with, the provision of the Consultancy Services.

Proposal: a proposal issued by the Supplier which describes the key aspects of the Consultancy Services, including (without limitation) the Project Plan, Project Milestones and Payment Terms.

Service Commencement Date: the date from which the Consultancy Services will be provided, as set out in the Proposal or otherwise agreed by the parties.

Supplier: Valiantys Limited (company registration no. 08211416) with registered office at Bridgegate House, 124-126 Borough High Street, London, England, SE1 1LB.

Supplier's Project Manager: the Supplier's manager for the Project, appointed in accordance with clause 3.1(d).

Terms: these terms of service.

Third Party Content: third party materials, software, data, information or other content.

Website: the Supplier's website at <https://valiantys.com/en/>.

2. BASIS OF AGREEMENT

2.1 The Supplier shall issue a Proposal, which shall include (without limitation) a description of the Consultancy Services and the Project Plan.

2.2 Other than those specifically incorporated into a Proposal, any samples, drawings, descriptive matter or advertising issued by the Supplier, and any descriptions or illustrations contained in the Supplier's catalogues, brochures or Website are issued or published for

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the sole purpose of illustration or to provide an approximate idea of the services described in them and shall therefore have no contractual force.

- 2.3 The Client's acceptance of a Proposal by any means, including by issuing a purchase order in response to the Proposal, shall comprise an Offer for the purpose of these Terms. By submitting an Offer or by otherwise accepting these Terms, the Client agrees to contract on the basis of these Terms and in doing so agrees that they prevail over any other terms which the Client may seek to impose or introduce, including (without limitation) any terms set out in or relating to any purchase order, acceptance, confirmation, specification or acknowledgement issued by the Client.
- 2.4 An Agreement will be formed, and shall commence, when the Supplier accepts the Client's Offer, either expressly or by delivering Consultancy Services pursuant to the Offer.
- 2.5 The Agreement will supersede all and any previous agreements in relation to the Consultancy Services, including (without limitation) any non-disclosure agreements entered into by the parties in anticipation of the provision of the Consultancy Services.

3. CONSULTANCY SERVICES

- 3.1 In consideration of the Client's compliance with the terms of the Agreement, including the payment of all applicable Fees, the Supplier shall, with effect from the Service Commencement Date:
- (a) provide the Consultancy Services with reasonable care, skill and ability;
 - (b) use reasonable endeavours to complete the Project, and deliver the Deliverables to the Client, in all materials respects in accordance with the Project Plan, save that any dates set out in the Project Plan are estimates only and time shall not be of the essence;
 - (c) provide suitably qualified and skilled individual or individuals to provide all or any of the Consultancy Services; and
 - (d) appoint the Supplier's Project Manager who shall have authority to contractually bind the Supplier on all matters relating to the Project,
- subject always to any Project Limitations.
- 3.2 The Supplier will use reasonable endeavours to ensure the continuity of the Consultancy Services, including the continuity of the Supplier's Project Manager and any personnel directly engaged in the Consultancy Services, but shall have discretion to make changes where reasonably necessary in the interests of the Supplier's business. Where changes are necessary, the Supplier shall provide replacements of similar status and experience.
- 3.3 If the Consultancy Services do not conform with clause 3.1, Supplier will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Client with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Client's exclusive remedy for any breach of clause 3.1. Notwithstanding the foregoing, the Supplier:
- (a) does not warrant that the Consultancy Services will be uninterrupted or error-free or that the Consultancy Services will meet the Client's requirements;
 - (b) is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Client acknowledges that the Consultancy Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

4. CHARGES AND PAYMENT

- 4.1 The Client shall on or prior to the Service Commencement Date provide to the Supplier valid, up-to-date and complete payment details or approved purchase order information acceptable to the Supplier and any other required valid, up-to-date and complete contact and billing details.
- 4.2 The Supplier shall invoice the Client and the Client will pay all Fees, each in accordance with the Payment Terms. Where the Client provides payment details, the Supplier is hereby authorised to take payment upon issue of invoice.
- 4.3 The Supplier shall also be entitled to charge the Client for any approved expenses reasonably and properly incurred in connection with the Consultancy Services. Such expenses will be invoiced monthly in arrears, including a breakdown of expenses payable in relation to the invoiced period.
- 4.4 All amounts and Fees stated or referred to in the Proposal:
- (a) shall be payable in the currency stated in the Proposal;
 - (b) are non-cancellable and non-refundable;
 - (c) are payable in full, net of all charges, and without set-off, deduction or withholding; and
 - (d) are exclusive of value added tax or other local taxes, which shall be added to the Supplier's invoice(s) at the appropriate rate.
- 4.5 If the Supplier has not received payment of an invoice within 14 days after the due date, the Supplier shall have the right to suspend the Consultancy Services and shall be under no obligation to provide any or all of the Consultancy Services while the invoice(s) concerned remain unpaid. Any invoice disputes must be notified to the Supplier within 5 Business Days of receipt of invoice, failing which the invoice will be deemed accepted and any right of dispute waived.

Time & Materials

- 4.6 Where, or to the extent that, the Services are provided on a time-and-materials basis:
- (a) the Fees payable shall be calculated in accordance with the Supplier's daily fee rates set out in the Proposal;
 - (b) the Supplier's standard daily fee rates are calculated on the basis of an eight-hour day worked between 9.00 am and 6.00 pm on Business Days;
 - (c) the Supplier shall be entitled to charge at an overtime rate of (i) 150% of the normal rate for any time worked by members of the project team on Saturdays or on Business Days outside the hours referred to in clause 4.6(b) on a pro-rata basis, and (ii) 200% of the normal rate for any time worked on Sundays or bank holidays;
 - (d) the Supplier shall ensure that all members of the project team complete time sheets recording time spent on the Project, and the Supplier shall use such time sheets to calculate the charges covered by each relevant invoice; and

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- (e) the Supplier shall invoice the Client monthly in arrears for its charges for time, expenses and materials (together with VAT where appropriate) for the month concerned, calculated as provided in this clause 4. Any expenses, materials and third party services shall be invoiced by the Supplier at cost or, where applicable, in accordance with any agreed budget, fixed sum or limit. Each invoice shall set out the time spent by each member of the project team and, where applicable, shall provide a detailed breakdown of any expenses and materials, accompanied by the relevant receipts.

Fixed Price

- 4.7 Where the Services are provided for a fixed price, the total price for the Services shall be the amount set out in the Proposal. Where staged payments have been agreed, the Fees are payable on the Supplier's achievement of the corresponding Project Milestone. On achieving a Project Milestone, the Supplier shall invoice the Client for the charges that are then payable, together with expenses and the costs of materials (and VAT, where appropriate).
- 4.8 For the avoidance of doubt, any fixed price contained in the Proposal excludes the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the project team in connection with the Services, and the cost of any materials or services reasonably and properly provided by third parties required by the Supplier for the supply of the Services. Such expenses, materials and third party services shall be invoiced by the Supplier at cost unless otherwise agreed.

Cancellation

- 4.9 If any Consultancy Services are cancelled or postponed by the Client, or its representative, prior to commencement the following fees are payable:
- (a) If notice of more than 5 Business Days is given before the scheduled start date, there will be no cancellation charge.
 - (b) If notice of more than 2, but less than or equal to 5 Business Days is given before the scheduled start date, the cancellation charge will be 50% of the relevant Fees.
 - (c) If notice of 2 Business Days or less is given before the scheduled start date, the cancellation charge will be 100% of the relevant Fees.

Once the Consultancy Services have commenced, the Consultancy Services may only be terminated in accordance with the Agreement.

5. CHANGES

- 5.1 The Supplier reserves the right to make changes to the Consultancy Services and changes to equipment, software, technology or other aspects of the Consultancy Services, including (without limitation) changes which are necessary to comply with applicable law or safety requirements or which do not materially adversely affect the nature or quality of the Consultancy Services. The Client acknowledges and accepts that the Supplier may make the said changes, provided they do not materially adversely affect the Consultancy Services.
- 5.2 Subject to clause 5.1, either party may request a change to the Consultancy Services at any time during the term of the Agreement. Where the Client raises the request, it will promptly provide the Supplier with such information as the Supplier may reasonably require in connection with that request. The Supplier shall prepare a Change Control Note in respect of all change requests. A change to the Consultancy Services will be effective only when the Change Control Note is agreed by the parties. The parties agree to act promptly and in good faith with respect to change requests and shall not unreasonably delay or withhold consent to the same.
- 5.3 Subject to clause 5.1 above, any changes to the Consultancy Services or the Agreement shall require the written consent of the parties, not to be unreasonably withheld or delayed.

6. CLIENT'S OBLIGATIONS

- 6.1 The Client shall:
- (a) provide the Supplier with:
 - (i) all necessary co-operation in relation to the Agreement; and
 - (ii) such documents, data, drawings, plans, diagrams, designs, reports, specifications or other information as the Supplier may reasonably require;in order to provide the Consultancy Services, including but not limited to Client Data, security access information and configuration services, and ensure all information is complete, true and accurate in all material respects;
 - (b) appoint the Client Project Manager, who shall have the authority contractually to bind the Client on matters relating to the Consultancy Services;
 - (c) make available such Client staff and applicable sub-contractors or suppliers (if any) as may be required for the Supplier to provide the Consultancy Services and ensure that they co-operate fully with the Supplier in all material respects;
 - (d) carry out all other Client responsibilities set out in the Agreement in a timely and efficient manner;
 - (e) ensure it has all rights, consents and permissions required for its use of Third Party Content (where applicable) and that any use in accordance with the Agreement will not infringe the rights, including the intellectual property rights, of any third party;
 - (f) obtain and maintain all licences, consents, and permissions for which the Client is responsible and which are necessary for the Supplier, its contractors and agents to perform their obligations under the Agreement; and
 - (g) comply with all applicable laws and regulations with respect to its activities under the Agreement.
- 6.2 The Client acknowledges that the Supplier's ability to provide the Consultancy Services depends on the Client satisfactorily complying with the obligations stated in this Agreement and that should the Client delay or fail to perform any such obligations then the Supplier will not be liable in any way for any delay, loss or damage, cost increase or other consequences arising from such delay or failure.
- 6.3 The Client shall not, without the prior written consent of the Supplier, at any time during the Project or for the period of 6 (six) months after the completion of the Project, solicit or entice away from the Supplier or employ or attempt to employ any person who is, or has been, engaged as an employee or sub-contractor of the Supplier, except that the Client shall not be in breach of this clause 6.3 if it hires an employee or sub-contractor of the Supplier as a result of a recruitment campaign not specifically targeted to any employees or sub-contractors of the Supplier.

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7. CLIENT DATA

- 7.1 The Client shall own all right, title and interest in and to all of the Client Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Client Data.
- 7.2 The Client warrants that it owns all rights in the Client Data and that the Supplier's use and processing of the Client Data in accordance with the Agreement will not infringe third party rights. The Client hereby grants the Supplier the non-exclusive worldwide right and licence to process, copy, store, transmit display, print, view and otherwise use the Client Data to the extent required for the provision of the Consultancy Services.
- 7.3 Unless otherwise agreed in writing, the Client shall be responsible for taking and maintaining backup copies of Client Data and the Client accepts the Supplier shall have no responsibility in that respect. The Client undertakes to make and retain a backup of any Client Data prior to providing the same to the Supplier.

8. DATA PROTECTION

- 8.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 8 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- 8.2 The parties acknowledge that:
- (a) if the Supplier processes any Personal Data on the Client's behalf when performing its obligations under the Agreement, it shall do so either as Data Processor for the purposes of the Data Protection Legislation or else as a sub-processor under Article 28(2) GDPR;
 - (b) The Data Protection Schedule describes the scope, nature and purpose of processing by the Supplier, duration of the processing, types of Personal Data and categories of Data Subject; and
 - (c) the Personal Data may be transferred or stored outside the EEA or the country where the Client is located in order to carry out the Consultancy Services and the Supplier's other obligations under the Agreement.
- 8.3 Without prejudice to the generality of clause 8.1, the Client will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Supplier for the duration and purposes of this Agreement so that the Supplier may lawfully use, process and transfer the Personal Data in accordance with this Agreement on the Client's behalf. The Client hereby agrees to indemnify and hold the Supplier harmless from and against any and all liability, actions, claims, damages and other costs arising from or relating to any breach of the Client's said obligations and/or any claim or action brought by any Data Subject(s), other than any claim resulting from the Supplier's breach of the terms of the Agreement.
- 8.4 Without prejudice to the generality of clause 8.1, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under this Agreement:
- (a) process that Personal Data only on the written instructions of the Client unless the Supplier is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Supplier to process Personal Data (Applicable Laws). Where the Supplier is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Supplier shall promptly notify the Client of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying the Client;
 - (b) ensure that it has in place appropriate technical and organisational measures, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
 - (c) not transfer any Personal Data outside of the EEA unless the following conditions are fulfilled:
 - (i) the Client or the Supplier has provided appropriate safeguards in relation to the transfer;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (iv) the Supplier complies with reasonable instructions notified to it in advance by the Client with respect to the processing of the Personal Data;
 - (d) assist the Client, at the Client's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - (e) notify the Client without undue delay on becoming aware of a Personal Data breach;
 - (f) at the written direction of the Client, delete or return Personal Data and copies thereof to the Client on termination of the Agreement unless required by Applicable Law to store the Personal Data; and
 - (g) maintain complete and accurate records and information to demonstrate its compliance with this clause 8.
- 8.5 The Client hereby authorises the Supplier to appoint third-party processors of Personal Data under this Agreement. The Supplier confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement incorporating terms which are substantially similar to those set out in this clause 8. As between the Client and the Supplier, the Supplier shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 8.

9. ANTI-BRIBERY

- 9.1 Each party shall comply with applicable Bribery Laws and use reasonable endeavours to ensure that:
- (a) all of that party's personnel;
 - (b) all of that party's subcontractors; and

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- (c) all others associated with that party, involved in performing services for or on behalf of that party or otherwise involved in this Agreement so comply.
- 9.2 Without limitation to clause 9.1 above:
 - (a) neither party shall (directly or indirectly) offer or give or request, agree to receive or accept any bribe, other improper payment or advantage or bribe any UK or foreign public official in breach of applicable Bribery Laws; and
 - (b) each party shall implement, maintain and enforce adequate procedures designed to prevent persons associated with that party engaging in conduct which contravenes the Bribery Act 2010.
- 9.3 Each party shall immediately notify the other as soon as it becomes aware of a breach of any of the requirements in the foregoing subclauses.
- 10. PROPRIETARY RIGHTS**
- 10.1 Each party shall own all rights in or relating to its Background IP and nothing in the Agreement shall be construed as transferring or assigning any rights therein. Each party hereby grants to the other a non-exclusive, royalty free, worldwide right and licence to use its Background IP to the extent reasonably required for the performance of the other party's obligations under the Agreement.
- 10.2 The Client acknowledges and agrees that the Supplier and/or its licensors own all Intellectual Property Rights in or relating to the Deliverables. The Supplier hereby grants the Client a non-exclusive, royalty free, worldwide right and licence to use the Deliverables to the extent agreed by the parties, including any purposes or uses set out in the Proposal, or, failing agreement, to the extent reasonably required in connection with the operation of the Client's business. The said right is personal to the Client and may not be assigned or sub-licensed to any third party without the prior consent of the Supplier. If the Supplier terminates the Contract under clause 15.1, the said licence will automatically terminate.
- 10.3 The Client acknowledges that any use of Third Party Content is conditional on obtaining and, if necessary, paying for a licence (or sub-licence) of such rights from the relevant licensor or licensors and that any such use will be subject to the applicable third party terms of use.
- 10.4 'Valiantys' and the Valiantys logo are trade marks owned by the Supplier and all rights therein are specifically reserved.
- 11. INSURANCE**
- 11.1 The Supplier shall, for the duration of this Agreement, maintain appropriate insurance cover with a reputable insurance company against all relevant liabilities that may arise under the Agreement.
- 11.2 Without limitation to the above clause, the Supplier shall maintain in effect for the duration of this Agreement and for a period of three years after termination or expiry of this Agreement:
 - (a) public liability insurance cover with a reputable insurance company to a minimum indemnity limit of £1,000,000 per claim or series of connected claims;
 - (b) professional indemnity insurance cover with a reputable insurance company to a minimum indemnity limit of £2,000,000 per claim or series of connected claims; and
 - (c) employer's liability insurance cover with a reputable insurance company to a minimum indemnity limit of £5,000,000 per claim or series of connected claims.
- 12. CONFIDENTIALITY**
- 12.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under the Agreement. 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; or
 - (e) is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.
- 12.2 Each party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of the Agreement.
- 12.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of the Agreement.
- 12.4 Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.
- 12.5 The Supplier acknowledges that Client Data and Client Background IP are Confidential Information of the Client. The Client acknowledges that the Supplier Background IP is Confidential Information of the Supplier.
- 12.6 This clause 12 shall survive termination of the Agreement, however arising.
- 12.7 The Supplier shall be permitted to use the Client's name on its website and for service credentials purposes. Save for that limited right, neither party shall make, or permit any person to make, any public announcement concerning the Agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), 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.
- 13. LIMITATION OF LIABILITY**
- 13.1 This clause 13 sets out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, officers, agents and sub-contractors) to the Client:
 - (a) arising under or in connection with the Agreement;
 - (b) in respect of any use made by the Client of the Consultancy Services; and
 - (c) in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Agreement.

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13.2 Except as expressly and specifically provided in the Agreement:

- (a) the Client assumes sole responsibility for results obtained from the use of the Consultancy Services by the Client, and for conclusions drawn from such use. The Supplier shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to the Supplier by the Client, or any actions taken by the Supplier at the Client's direction; and
- (b) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from the Agreement, including (without limitation) any implied term(s) as to satisfactory quality or fitness for purpose.

13.3 Nothing in the Agreement excludes the liability of the Supplier:

- (a) for death or personal injury caused by the Supplier's negligence;
- (b) for fraud or fraudulent misrepresentation; or
- (c) for any other liability which may not be excluded or limited under applicable law.

13.4 Subject to clause 13.3:

- (a) the Supplier shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for (i) any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, in each case whether direct or indirect, or (ii) any special, indirect or consequential loss, costs, damages, charges or expenses however arising under the Agreement; and
- (b) the Supplier's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Agreement shall be limited to 150% of the total Fees paid or payable under the Agreement during the 12 months immediately preceding the date on which the claim arose. For the avoidance of doubt, the said limit applies to all and any indemnities given by the Supplier.

14. SUSPENSION

Without prejudice to any other right, power or remedy and without liability, the Supplier reserves the right to limit or suspend the Consultancy Services:

- (a) if it is reasonably necessary to protect the interests of the Client or the Supplier, or the interests of any third party (including other Clients) and/or to protect the security or operation of the Supplier's systems or network or those of its Clients;
- (b) if the Client breaches any of the terms of the Agreement or the Supplier reasonably believes the Client has breached or is about to breach;
- (c) if the Client fails to cooperate regarding any suspected or actual breach of the terms of the Agreement; or
- (d) if required to do so by law or further to a request from any regulatory or governmental authority.

15. TERMINATION

15.1 Without affecting any other right or remedy available to it, either party may terminate the Agreement with immediate effect by giving written notice to the other party if:

- (a) the other party fails to pay any amount due under the Agreement on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment;
- (b) the other party commits a material breach of any other term of the Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so; or
- (c) the other party is or may be (in the reasonable opinion of the first party) unable to pay its debts or has a receiver, administrator, administrative receiver or liquidator or similar appointed or calls a meeting of its creditors or ceases for any other reason to carry on business.

15.2 On termination of the Agreement for any reason:

- (a) the Client shall return and make no further use of any equipment, property and other items (and all copies of them) belonging to the Supplier;
- (b) 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 Agreement which existed at or before the date of termination shall not be affected or prejudiced.

16. FORCE MAJEURE

The Supplier shall have no liability to the Client under the Agreement if it is prevented from or delayed in performing its obligations under the Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport 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 sub-contractors, provided that the Client is notified of such an event and its expected duration.

17. CONFLICT

If there is an inconsistency between any of the provisions of the Agreement, the Order shall prevail over the Terms and the Terms shall prevail over any documents referred to or incorporated into the Terms.

18. DISPUTE RESOLUTION

18.1 If a dispute arises under or in connection with this Agreement (**Dispute**), including any Dispute arising out of any amount due to a party, then before bringing any legal proceedings or commencing any other alternative dispute resolution procedure in connection with such Dispute, a party must first give written notice (**Dispute Notice**) of the Dispute to the other party describing the Dispute and requesting that it is resolved under the dispute resolution procedure described in this clause 18.

18.2 If the parties are unable to resolve the Dispute within 30 days of delivery of the Dispute Notice, each party shall promptly (and in any event within five (5) Business Days):

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- (a) appoint a representative who has authority to settle the Dispute and (where available) is at a higher management level than the person with direct responsibility for the administration of this Agreement (**Designated Representative**); and
 - (b) notify the other party of the name and contact information of its Designated Representative.
- 18.3 Acting reasonably and in good faith the Designated Representatives shall discuss and negotiate to resolve the Dispute, including agreeing the format and frequency for such discussions and negotiations, provided that all reasonable requests for relevant information relating to the Dispute made by one party to the other party shall be complied with as soon as reasonably practicable).
- 18.4 If the parties are unable to resolve the Dispute within 30 days after the appointment of both Designated Representatives, either party may proceed with any other available remedy.
- 18.5 Notwithstanding any other provision of this Agreement, a party may seek interim or other equitable relief necessary (including an injunction) where damages would be an inadequate remedy.
- 19. AMENDMENTS OR VARIATIONS**
- The Supplier reserves the right to amend or vary these Terms at any time. The Supplier shall provide 30 days' notice of any such change(s), which shall take effect upon expiry of the said notice. In the event that the Client does not accept the changes, it has the right to terminate the Agreement prior to the end of the 30 day notice period. Save as aforementioned, no variation of the Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 20. WAIVER**
- No failure or delay by a party to exercise any right or remedy provided under the Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 21. RIGHTS AND REMEDIES**
- Except as expressly provided in the Agreement, the rights and remedies provided under the Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.
- 22. SEVERANCE**
- 22.1 If any provision (or part of a provision) of the Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.
- 22.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.
- 23. ENTIRE AGREEMENT**
- 23.1 The Agreement, and any documents referred to in it, constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover.
- 23.2 Each of the parties acknowledges and agrees that in entering into the Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to the Agreement or not) relating to the subject matter of the Agreement, other than as expressly set out in the Agreement.
- 24. ASSIGNMENT**
- 24.1 The Client shall not, without the prior written consent of the Supplier, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Agreement.
- 24.2 The Supplier may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Agreement.
- 25. NO PARTNERSHIP OR AGENCY**
- Nothing in the Agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).
- 26. THIRD PARTY RIGHTS**
- The Agreement does not confer any rights on any person or party (other than the parties to the Agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 27. NOTICES**
- 27.1 Any notice required to be given under the Agreement shall be in writing (which shall include email) and directed to the individual nominated by each party for the receipt of notices. Email notices shall be delivered to the usual email address of the said nominated individual. Hardcopy documents 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 nominated individual, at its address set out in the Agreement, or such other address as may have been notified by that party for such purposes.
- 27.2 A notice delivered by email shall be deemed delivered upon receipt of a successful send receipt and a notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9 am on the first Business 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 at the time at which it would have been delivered in the normal course of post.
- 28. GOVERNING LAW**
- The 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 law of England and Wales.
- 29. JURISDICTION**
- Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Agreement or its subject matter or formation (including non-contractual disputes or claims).