



condatis
a sitekit company

Information handling classification
Company confidential

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Condatis IAM (Identity & Access Management)

Terms & Conditions

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Definitions

In this Terms and Conditions Agreement the following terms shall have the meanings given to them below:

“Agreement”	means this agreement
“Charges”	means fees due to the Contractor from the Client as specified in this Agreement
“Client”	means the party to which this Agreement is addressed
“Confidential Information”	<p>means any information which has been designated as confidential by either Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person or trade secrets or Intellectual Property Rights of either Party and all personal data and sensitive personal data within the meaning of the Data Protection Act 1998 and the General Data Protection Regulation (GDPR) 2016/679 but does not include information which:</p> <ul style="list-style-type: none">• was public knowledge at the time of disclosure (otherwise than by breach of clause 6);• was in possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing party• is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or• is independently developed without access to the Confidential Information
“Client Materials”	means all materials including without limitation documents in writing, mock-ups, plans, diagrams, designs, CD, DVD or other device or record embodying information in any form, materials, data, reports and specifications provided by the Client to Sitekit whether or not incorporated in the Managed Services and irrespective of the means of delivery
“Contract”	means an agreement awarded under Condatis’ terms and conditions as specified in this Agreement. The Contract includes the entirety of the work that Condatis is commissioned to carry out by the Client



“Intellectual Property”	means patents, utility models, inventions, trademarks, service marks, logos, design rights (whether registrable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, plant variety rights, knowhow, trade or business names, moral rights and other similar rights or obligations whether registrable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off.
“Managed Services”	means a Contract between Condatis and the Client where it is specified what services and software are to be provided by Condatis throughout the period of the Agreement
“Personal Data”	means Personal Data as set out in the Data Protection Act 1998
“Condatis”	means Sitekit Systems Limited, trading as Condatis
“Start Date”	means the date when parties agree in writing the Managed Services should start



1 Grant of licence

- 1.1 Condatis hereby grants the Client a non-exclusive, non-transferable licence to use the Managed Services. No right to sub-licence is granted to the Client
- 1.2 The Client acknowledges and agrees that it shall be solely responsible for obtaining any and all licences or other permissions that may be required in respect of any software, hardware or other computer or telecommunications equipment other than the Managed Services notwithstanding that any of the same may be used by the Client in conjunction with the Managed Services.
- 1.3 Save as expressly set out in this Agreement, the Client is not permitted:
 - 1.3.1 to make copies in whole or any part of the Managed Services or any and all documentation relating thereto other than as permitted by law;
 - 1.3.2 to rent, lease, sub-licence or loan the whole or any part of the Managed Services or any and all documentation relating thereto other than as permitted by law;
 - 1.3.3 to use, reproduce or deal in the Managed Services or any and all documentation relating thereto;
 - 1.3.4 to alter, remove, obscure, conceal or otherwise interfere with any markings on or written on the Managed Services or associated documentation that refers to Condatis or in any way to interfere with any other copyright notices;
 - 1.3.5 to reverse engineer, disassemble, reverse translate, or in any way decode the Managed Services or any copy or part of it in order to derive any source code, save only as is permitted by any applicable law.
- 1.4 The Managed Services will be provided by Condatis commencing on the Start Date (or such other date as may be agreed in writing between the parties).
- 1.5 Condatis may, from time to time and without prior notice, change the Managed Services in order to comply with any applicable regulatory or statutory requirements.
- 1.6 Save as set out in Clause 8, this Agreement shall continue until completion of the Managed Services unless either party issues written notice of termination to the other party at least sixty (60) days before the first or any subsequent anniversary of the Start Date.



2 Condatis obligations

- 2.1 Condatis shall use all reasonable endeavours to carry out the Managed Services in a professional manner using all reasonable skill and care and shall use reasonable endeavours to comply with all applicable laws and regulations from time to time.
- 2.2 Condatis shall not be liable for any breach, non-performance or delay of performance of its obligations under this Agreement to the extent Condatis is unable to comply with or perform the same because of (whether directly or indirectly) the Client's (or its agent's, sub-contractor's or employee's) delay in performance, breach of this Agreement and/or negligent acts and/or omissions.
- 2.3 Condatis shall provide the Managed Services on a non-exclusive basis and may undertake other business on behalf of itself and other clients while this Agreement continues in force.



3 Client obligations

- 3.1 The Client shall cooperate with Condatis and provide such assistance, Client Materials and other information as Condatis shall reasonably require to enable Condatis to provide the Managed Services. The Client shall ensure that such Client Material and other information is accurate and up to date in all material respects.
- 3.2 The Client shall obtain and maintain all necessary licences and consents (including copyright and other third party intellectual property licences) and comply with all relevant legislation in relation to the services and use of material while this agreement continues in force.
- 3.3 The Client shall allow Condatis and its personnel (whether employees, agents or sub-contractors) reasonable access to the Client's facilities and systems, records and personnel (including physical and/or remote digital access) as may be necessary for the performance of the Managed Services from time to time. If Condatis personnel are required to work at the Client's premises the Client shall provide (at its own expense) all such accommodation and related services as Condatis may reasonably require for the performance of the Services. Travel time and expenses shall be reimbursable to Condatis promptly on demand.



4 Charges and payment

- 4.1 In consideration of Condatis providing the Managed Services to the Client, the Client shall pay the Charges to Condatis.
- 4.2 Payment shall be made in £ Sterling in cleared funds to such bank account as may be specified by Condatis from time to time. The sums payable are exclusive of VAT or other sales tax which shall also be borne in full by the Client (if applicable).
- 4.3 Time of payment in accordance with this Clause 4 shall be a material condition of the essence of this Agreement. Unless otherwise agreed in writing between Condatis and the Client, where any payment due hereunder is not made in full within thirty (30) days of the due date, Condatis, without prejudice to its other rights hereunder or in law including any rights to interest under the Late Payment of Commercial Debts (Interest) Act 1998 shall be entitled to suspend performance of the Managed Services (for as long as any Charges remain unpaid) and/or charge interest (before as well as after judgement) on the outstanding amount. Such interest (if charged) shall be compounded monthly at the rate of 2% per annum above the base rate of Condatis' bankers in the UK for the time being in force, from the due date until the sum outstanding is paid in full, and the Client agrees to pay any such interest if charged by Condatis.
- 4.4 All sums payable to Condatis under this Agreement shall become due immediately upon its termination for whatever cause. This Clause 4.4 is without prejudice to any right to claim for interest or on such sums whether under the law or under this Agreement.



5 Intellectual property rights

- 5.1 The Client acknowledges that any and all Intellectual Property created, developed, subsisting or used in or in connection with the Managed Services is and shall remain the sole property of Condatis (or its Licensors).
- 5.2 The Client shall indemnify Condatis fully against all liabilities, costs and expenses that Condatis may incur as a result of the Client's development of the Managed Services if the Client's actions or omissions lead to any actual or alleged infringement of any third party's copyright, patent, trademark or other proprietary right.



6 Confidentiality, data protection

- 6.1 Each party shall keep the other party's Confidential Information confidential and shall only use it for the purpose for which such Confidential Information was disclosed or as permitted by this agreement.
- 6.2 Each party may disclose the other party's Confidential Information only to those of its employees, agents, sub-contractors or advisors who need to know such information and who are bound by obligations of confidentiality equivalent to those imposed by this Agreement.
- 6.3 The provisions of Clause 6.1 shall not apply to any disclosure of Confidential Information where such information:
- Becomes generally public knowledge without a breach of Clause 6
 - Has been independently disclosed, without an obligation of confidentiality, to the other party
 - Is required by a court or regulatory body or is required by law
- 6.4 The Client warrants to Condatis that it shall be responsible for all Personal Data processed by it and used in connection with the Managed Services including without limitation Personal Data included in the Customer Materials and that the Client shall comply with its obligations under the General Data Protection Regulation (GDPR) 2016/679 and all other applicable regulations in respect of Personal Data it collects and processes and uses in connection with the Managed Services. The Client shall indemnify Condatis in respect of any claims, loss and damage arising out of a breach of this Clause 6.4
- 6.5 The Client acknowledges and agrees that Condatis may retain data and documentation (including electronically held data) which has been incorporated into Condatis' materials and systems or which requires to be kept by Condatis for the professional and regulatory purposes following termination of this Agreement
- 6.6 Termination of this Agreement shall not affect any obligation which due to its nature is designed to survive such termination, including without limitation this Clause 6.



7 Limitations of liability

- 7.1 Neither party excludes or limits liability to the other party for:
- a) fraud or fraudulent misrepresentation;
 - b) Any indemnity provision;
 - c) Death or personal injury caused by negligence;
 - d) A breach of any obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
 - e) Any matter for which it would be unlawful for the parties to exclude liability.
- 7.2 Subject to Clause 7.1, neither party shall in any circumstances be liable whether in contract, tort (including for negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, for:
- a) Any loss (whether direct or indirect) of profits, business, business opportunities, revenue, turnover, reputation or goodwill;
 - b) Loss (whether direct or indirect) of anticipated savings or wasted expenditure (including management time); or
 - c) Any loss or liability (whether direct or indirect) under or in relation to any other contract.
- 7.3 Clause 7.2 shall not prevent claims for:
- a) direct financial loss that are not excluded under any of the categories set out in Clause 7.2(a) to Clause 7.2(c); or
 - b) tangible property or physical damage.
- 7.4 Subject to Clause 7.1, Condatis' total aggregate liability (other than its liability to pay any sums properly due and payable under this agreement and for which Condatis shall remain fully liable) in contract, tort (including negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of this agreement or any collateral contract shall be limited to £5 million.



8 Termination

- 8.1 This Agreement shall commence on the Start Date and shall continue until terminated in accordance with this Clause 8 or by the agreement of both parties.
- 8.2 Without prejudice to the generality of Clause 8.1 the parties agree that the Managed Services are provided on an annual basis (unless otherwise specified) provided that the Client pays the Charges in accordance with Clause 4.
- 8.3 Either party may terminate the Agreement if the other party is in material breach of any of its obligations under this Agreement, including but not limited to failure by the Client to meet its payment obligations under Clause 4, and the party in breach fails to remedy the breach (if capable of remedy) within a period of thirty days after receipt of written notice from the other party giving details of the breach.
- 8.4 Either party may terminate the Agreement if the other party ceases trading, or becomes apparently insolvent or has a trustee in sequestration appointed combines with its creditors or has a liquidator, receiver or administrator appointed over all or any of its assets other than for the purposes of amalgamation or reconstruction, or becomes controlled by a third party which was not in this position at the Start Date, or undergoes any analogous act or proceeding.
- 8.5 Termination, however or whenever occasioned, shall be subject to any rights and remedies which Condatis and the Client may have under this Agreement or in law.
- 8.6 Termination of this Agreement shall not affect any rights, obligations or liabilities which have accrued prior to termination or which due to their nature are designed to survive such termination, including without limitation any obligation to pay Charges in accordance with Clause 4 which arises prior to the date of termination.
- 8.7 On termination or expiry of this Agreement subject to Clause 8.8, each party shall return and make no further use of any equipment, property, documents and other items (and all copies of them) belonging to the other party.
- 8.8 If the Client requires Condatis to return any of the Customer Material to the Client following termination or expiry of this Agreement then Condatis shall use all reasonable endeavours to comply with the Client request. The Client agrees to pay Condatis all such additional Charges as Condatis may invoice for any such work carried out by Condatis.



9 Non-solicitation

- 9.1 The Client undertakes that it shall not (without the prior written consent of Condatis) during the term of this Agreement and for a period of one year following its expiry or termination actively solicit, entice, employ or contract the services of any person who is or was employed or engaged by Condatis in carrying out Condatis' obligations under this Agreement.



10 Force Majeure

- 10.1 Neither party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure result from a Force Majeure Event. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for 4 weeks, the party not affected may terminate this agreement by giving 7 days' written notice to the affected party.



11 General

- 11.1 This Agreement constitutes the entire agreement and understanding between the parties regarding its subject matter (excepting any prior confidentiality or non-disclosure agreement which shall continue in accordance with its terms and none of its provisions may be modified or varied in anyway unless agreed in writing between the parties).
- 11.2 Any omission by either party to exercise any available right shall not be interpreted as a waiver of it or any future right.
- 11.3 If any provision of this Agreement is declared to be void or unenforceable by any judicial or administrative authority in any jurisdiction, such provision will be deemed to be severable and the remaining provisions of this Agreement shall remain in full force and effect.
- 11.4 All formal notices required under this Agreement shall be sent by fax and confirming letter or by recorded delivery (or its equivalent) posted within 24 hours of such fax to the address of the party in question shall be deemed to have been received thirty six hours after the time of despatch of the letter.
- 11.5 Other than as set out in Clause 11.6, Condatis shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under this agreement without the prior written consent of the Client.
- 11.6 Condatis may sub-contract elements of work required in the delivery of this Agreement subject always to Condatis being responsible for the acts and omissions of those sub-contractors as though they were its own.



12 Rights of third parties

- 12.1 No party other than a party to this Agreement, their successors and permitted assignees, shall have any right to enforce any of its terms.



13 Applicable law and jurisdiction

- 13.1 This 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.
- 13.2 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 this agreement or its subject matter or formation (including non-contractual disputes or claims).