

## Consultancy terms and conditions

Please read these Terms and Conditions carefully. All contracts that the Consultant may enter into on behalf of Demystify Security LTD from time to time for the provision of consultancy services shall be governed by these Terms and Conditions.

### TERMS AND CONDITIONS

#### 1. Definitions

1.1 Except to the extent expressly provided otherwise, in these Terms and Conditions:

**"Charges"** means the following amounts:

- (a) the amounts specified in the rate card that accompanies these terms and conditions or
- (b) such amounts as may be agreed in writing by the parties from time to time; and

**"Client"** means the person or entity identified as such in Section 1 of the Statement of Work;

**"Client Materials"** means all works and materials supplied by or on behalf of the Client to the Consultant for incorporation into the Deliverables or for some other use in connection with the Services;

**"Consultant"** means a person representing Demystify Security LTD, a company incorporated in England and Wales (registration number 08214539) having its registered office at 4 Calder Court, Amy Johnson Way, Blackpool, England, FY4 2RH;

**"Contract"** means a particular contract made under these Terms and Conditions between the Consultant and the Client;

**"Deliverables"** means those services specified for the provision of G Cloud services and listed within the applicable service definition and service description and which the Consultant has agreed to deliver to the Client under these Terms and Conditions;

**"Effective Date"** means the date agreed with the client.

**"Intellectual Property Rights"** means all intellectual property rights wherever in the world, whether registrable or unregistrable, registered or unregistered,

including any application or right of application for such rights (and these "intellectual property rights" include copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trademarks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs);

**"Services"** means the consultancy services specified for the provision of G Cloud services and listed within the applicable service definition and service description

**"Statement of Work"** means a written statement of work agreed by or on behalf of each of the parties;

**"Term"** means the term of the Contract, commencing in accordance with Clause 3.1 and ending in accordance with Clause 3.2;

**"Terms and Conditions"** means all the documentation containing the provisions of the Contract, namely the main body of these Terms and Conditions and the Statement of Work, including any amendments to that documentation from time to time; and

**"Third Party Materials"** means the works and/or materials comprised in the Deliverables (excluding the Client Materials), the Intellectual Property Rights in which are owned by a third party.

## **2. Credit**

- 2.1 This document was created using a template from SEQ Legal (<http://www.seqlegal.com>).

## **3. Term**

- 3.1 The Contract shall come into force upon the Effective Date.

- 3.2 The Contract shall continue in force until:

- (a) all the Services agreed by both parties have been completed;
- (b) all the Deliverables have been delivered; and
- (c) all the Charges have been paid in cleared funds,

upon which it will terminate automatically, subject to termination in accordance with Clause 11.

- 3.3 Unless the parties expressly agree otherwise in writing, each Statement of Work shall create a distinct contract under these Terms and Conditions.

## **4. Services**

- 4.1 The Consultant shall provide the Services to the Client in accordance with these Terms and Conditions.
- 4.2 The Consultant shall provide the Services with reasonable skill and care.

## **5. Deliverables**

- 5.1 The Consultant shall deliver the Deliverables to the Client.
- 5.2 The Client must promptly, following receipt of a written request from the Consultant to do so, provide written feedback to the Consultant concerning the Consultant's proposals, plans, designs and/or preparatory materials relating to the Deliverables and made available to the Client with that written request.
- 5.3 The Consultant shall use its best endeavours to ensure that the Deliverables are delivered to the Client in accordance with the timetable agreed with the client.
- 5.4 The Consultant warrants to the Client that:
  - (a) the Deliverables will be free from material defects; and
  - (c) the use of the Deliverables by the Client in accordance with these Terms and Conditions will not:
    - (i) breach the provisions of any law, statute or regulation;
    - (ii) infringe any third party's Intellectual Property Rights; or
    - (iii) give rise to any cause of action against the Client,in each case in any jurisdiction and under any applicable law.

## **6. Licence**

- 6.1 The Consultant hereby grants to the Client a non-exclusive licence to copy, store, distribute, publish, adapt, edit and otherwise use the Deliverables within their business.

## **7. Charges**

- 7.1 The Client shall pay the Charges to the Consultant in accordance with these Terms and Conditions.
- 7.2 All amounts stated in or in relation to these Terms and Conditions are, unless the context requires otherwise, stated exclusive of any applicable value added taxes, which will be added to those amounts and payable by the Client to the Consultant.

## **8. Payments**

- 8.1 The Consultant shall issue invoices for the Charges to the Client from time to time during the Term OR at any time after the relevant Services have been delivered to the Client.
- 8.2 The Client must pay the Charges to the Consultant within the period of 30 days following the issue of an invoice in accordance with this Clause 8.
- 8.3 The Client must pay the Charges by debit card, credit card, direct debit, bank transfer or cheque, (using such payment details as are notified by the Consultant to the Client from time to time).
- 8.4 If the Client does not pay any amount properly due to the Consultant under these Terms and Conditions, the Consultant may:

- (a) charge the Client interest on the overdue amount at the rate of 8% per annum above the Bank of England base rate from time to time (which interest will accrue daily until the date of actual payment and be compounded at the end of each calendar month); or
- (b) claim interest and statutory compensation from the Client pursuant to the Late Payment of Commercial Debts (Interest) Act 1998.

**9. Warranties**

9.1 The Consultant warrants to the Client that:

- (a) the Consultant has the legal right and authority to enter into the Contract and to perform its obligations under these Terms and Conditions;
- (b) the Consultant will comply with all applicable legal and regulatory requirements applying to the exercise of the Consultant's rights and the fulfilment of the Consultant's obligations under these Terms and Conditions; and
- (c) the Consultant has or has access to all necessary know-how, expertise and experience to perform its obligations under these Terms and Conditions.

9.2 The Client warrants to the Consultant that it has the legal right and authority to enter into the Contract and to perform its obligations under these Terms and Conditions.

9.3 All of the parties' warranties and representations in respect of the subject matter of the Contract are expressly set out in these Terms and Conditions and the applicable Statement of Work. Subject to Clause 10.1, no other warranties or representations will be implied into the Contract and no other warranties or representations relating to the subject matter of the Contract will be implied into any other contract.

**10. Limitations and exclusions of liability**

10.1 Nothing in these Terms and Conditions will:

- (a) limit or exclude any liability for death or personal injury resulting from negligence;
- (b) limit or exclude any liability for fraud or fraudulent misrepresentation;
- (c) limit any liabilities in any way that is not permitted under applicable law; or
- (d) exclude any liabilities that may not be excluded under applicable law.

10.2 The limitations and exclusions of liability set out in this Clause 10 and elsewhere in these Terms and Conditions:

- (a) are subject to Clause 10.1; and
- (b) govern all liabilities arising under these Terms and Conditions or relating to the subject matter of these Terms and Conditions, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty,

except to the extent expressly provided otherwise in these Terms and Conditions.

**11. Termination**

11.1 Either party may terminate the Contract by giving to the other party at least 30 days' written notice of termination.

11.2 Either party may terminate the Contract immediately by giving written notice of termination to the other party if the other party commits a material breach of these Terms and Conditions.

11.3 Either party may terminate the Contract immediately by giving written notice of termination to the other party if:

- (a) the other party:
  - (i) is dissolved;
  - (ii) ceases to conduct all (or substantially all) of its business;
  - (iii) is or becomes unable to pay its debts as they fall due;
  - (iv) is or becomes insolvent or is declared insolvent; or
  - (v) convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;
- (b) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party;
- (c) an order is made for the winding up of the other party, or the other party passes a resolution for its winding up (other than for the purpose of a solvent company reorganisation where the resulting entity will assume all the obligations of the other party under the Contract); or
- (d) if that other party is an individual:
  - (i) that other party dies;
  - (ii) as a result of illness or incapacity, that other party becomes incapable of managing his or her own affairs; or
  - (iii) that other party is the subject of a bankruptcy petition or order.

**12. Effects of termination**

12.1 Upon the termination of the Contract, all of the provisions of these Terms and Conditions shall cease to have effect.

12.2 The termination of the Contract shall not affect the accrued rights of either party.

**13. Status of Consultant**

- 13.1 The Consultant is not an employee of the Client, but an independent contractor.
- 13.2 The termination of the Contract will not constitute unfair dismissal; nor will the Consultant be entitled to any compensation payments, redundancy payments or similar payments upon the termination of the Contract.

**14. Subcontracting**

- 14.1 The Consultant may subcontract any of its obligations under the Contract, providing that the Consultant must give to the Client, promptly following the appointment of a subcontractor, a written notice specifying the subcontracted obligations and identifying the subcontractor in question.
- 14.2 The Consultant shall remain responsible to the Client for the performance of any subcontracted obligations.

**15. General**

- 15.1 No breach of any provision of the Contract shall be waived except with the express written consent of the party not in breach.
- 15.2 If any provision of the Contract is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions of the Contract will continue in effect. If any unlawful and/or unenforceable provision would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant provision will be deemed to be deleted).
- 15.3 The Contract may not be varied except by a written document signed by or on behalf of each of the parties.
- 15.4 Neither party may without the prior written consent of the other party assign, transfer, charge, license or otherwise deal in or dispose of any contractual rights or obligations under these Terms and Conditions.
- 15.5 The Contract is made for the benefit of the parties, and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree any amendment, waiver, variation or settlement under or relating to the Contract are not subject to the consent of any third party.
- 15.6 Subject to Clause 10.1, a Statement of Work, together with these Terms and Conditions, shall constitute the entire agreement between the parties in relation to the subject matter of that Statement of Work, and shall supersede all previous agreements, arrangements and understandings between the parties in respect of that subject matter.
- 15.7 These Terms and Conditions shall be governed by and construed in accordance with [English law].
- 15.8 The courts of [England] shall have exclusive jurisdiction to adjudicate any dispute arising under or in connection with the Contract.