

RED BADGER SHORT FORM TERMS AND CONDITIONS

BETWEEN:

- (A) Red Badger Consulting Limited (incorporated in England & Wales with company number 07242017) of 2 Old Street Yard, London, EC1Y 8AF ("**Red Badger**"); and
- (B) [NAME OF COMPANY] (incorporated in England & Wales with company number [NUMBER]) of [REGISTERED OFFICE ADDRESS] ("**Client**").

IT IS HEREBY AGREED AS FOLLOWED

1. INTERPRETATION

- 1.1 Capitalised words in these terms and conditions shall be given the meaning as set out in Schedule 1

2. WORK ORDERS

- 2.1 Each Work Order shall incorporate and be subject to these terms and conditions and will bind the parties only if and when the relevant Work Order has been signed by both of them. Together with these terms and conditions, the Work Order shall constitute the entire agreement between the Client and Red Badger in respect of the Services under the Work Order, and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 2.2 Should any of the Special Conditions set out in a Work Order conflict with these terms and conditions, then those Special Conditions shall prevail.
- 2.3 If not agreed otherwise in the respective Work Order, a Work Order can be terminated by either party for convenience on ninety (90) days' written notice.

3. CLIENT OBLIGATIONS

- 3.1 Client undertakes to promptly provide the Client Materials and co-operate with Red Badger in all matters relating to the Services.
- 3.2 Client shall not unreasonably withhold, delay, or condition any approvals or acceptance required by Red Badger in the performance of the Services.

4. RED BADGER OBLIGATIONS

- 4.1 Red Badger agrees to:
 - 4.1.1 apply such time, attention, resources, trained personnel and skill as may be necessary or appropriate for its proper supply of the Services;
 - 4.1.2 comply with all lawful and reasonable directions regarding the Services and Deliverables communicated to it from time to time by Client; and
 - 4.1.3 keep Client Materials safe and secure while they are in the possession or control of Client.
- 4.2 Red Badger will not be deemed in breach of its obligations to Client under this Agreement or otherwise liable for any delay caused by:
 - 4.2.1 an act or omission of Client; or
 - 4.2.2 a third party outside of the control of Red Badger.
- 4.3 Red Badger may use individual contractors as part of the performance of the Services provided that Red Badger remains liable for such performance or non-performance of the individual contractor.

5. PAYMENT

- 5.1 Red Badger will invoice the Client in accordance with the Work Order or if not detailed in the Work Order, then at the end of each calendar month.
- 5.2 Except for Fees due on signature of a Work Order, (in which case they shall be payable on signature) Client shall pay Red Badger the Fees for undisputed Services/Deliverables without deduction or set-off (together with any VAT invoiced and payable thereon) within 30 days of receipt of an invoice.

6. INTELLECTUAL PROPERTY RIGHTS

- 6.1 All IPRs in Client Materials shall belong to or be validly licensed to Client for use by Red Badger as part of the Services, and Client grants Red Badger a non-exclusive and revocable licence to use the same internally and only as necessary for all purposes relating to the Services. Red Badger may not disclose, transfer, publish, sell, distribute, copy or reproduce (in full or part) any Client Materials for or to any other third party.
- 6.2 Subject to full payment of the Fees in respect of each Deliverable, Red Badger assigns to Client, by way of present assignment of future rights, all IPRs in such Deliverable (excluding any Pre-existing Materials and third party materials) and grants Client a non-exclusive licence to use any Pre-existing Materials in the Deliverable only for the ordinary use, operation, maintenance and improvement of that Deliverable and as otherwise envisaged under the Work Order.
- 6.3 Client acknowledges that Red Badger may use third-party software and materials in and as part of the Services. Such third-party software and materials will remain vested in the third-party licensor and it may be used by Client only on the licence terms applicable to such third-party software and materials. Client further acknowledges that Red Badger gives no other warranties or undertakings in relation to the third-party software and materials. Red Badger however will not use any third-party software and/or material in and as part of the Services if the license terms of such third party software or material do not allow the commercial use of Client in general and especially as stated in the applicable Work Order without the approval of Client.
- 6.4 Red Badger shall retain ownership of all its know-how and methodologies used in performance of the Services and development of any software.

7. CONFIDENTIALITY

- 7.1 Each party undertakes that it will keep secret and confidential the terms of the Work Order and any information supplied by either party in connection with the Services or in connection with the business of the other and in connection with the Services and shall only disclose such information or part thereof (except to its own employees and advisers and then only on a need to know basis) with the other party's prior written consent provided that this clause shall not extend to information which was and can be shown to be rightfully in a party's possession prior to the commencement of the Services or which is in the public domain (other than as a result of a breach of this clause).
- 7.2 A party's confidentiality obligations shall not prevent any disclosure required by law, any governmental or regulatory authority (including any relevant securities exchange), any court or other authority of competent jurisdiction.

8. DATA PROTECTION, SECURITY AND INTEGRITY

- 8.1 The parties do not envisage that either party will process personal data controlled by the other party in the performance of this agreement. Therefore, neither party shall transfer personal data in its control to the other party for processing on its behalf before the parties have entered into a separate data processing agreement compliant with Applicable Laws in respect of the protection of personal data.
- 8.2 For the purposes of this clause 8, the terms "personal data", "processing" and "controlled" shall have the meaning given to them in the General Data Protection Regulation (Regulation (EU) 2016/679 (GDPR) and Data Protection Act 2018.

9. LIABILITY AND WARRANTY

- 9.1 Red Badger warrants that:
- 9.1.1 it shall supply the Services with reasonable skill and care;
 - 9.1.2 the Services shall be supplied as set out in the Work Order and these terms and conditions;
 - 9.1.3 it shall not infringe any third party intellectual property rights (subject to 9.2 below) in the Deliverables (except insofar as any such infringement results from use of the Client Materials) created by Red Badger.
- 9.2 Red Badger gives no warranty or representation in connection with any unpublished patent or any patent of which it is not and should not be reasonably aware without making specific enquiry.
- 9.3 Nothing in the Agreement shall exclude or limit liability for fraud or death or personal injury caused by negligence.
- 9.4 Subject to clause 9.3 above, the aggregate liability of Red Badger to the Client for any and all loss or damage direct or otherwise and howsoever caused whether in tort, contract or otherwise, that is not or cannot be excluded shall not exceed the level of 125% of the Fees payable to Red Badger under the Work Order.
- 9.5 Subject to clauses 9.3 and 9.4, Red Badger shall not be liable for and gives no warranty or representation in respect of: (a) any indirect, (b) incidental, (c) special or consequential loss or damage, (d) loss of profits, (e) business, (f) revenue, (g) data or use, incurred by Client or any third party, whether in an action in contract or tort or otherwise;
- 9.6 Red Badger will not be liable in any amount for failure to perform any obligation hereunder if such is caused by the occurrence of any unforeseen contingency beyond the control or reasonable control of Red Badger including Internet, communications and power outages, fire, flood, war or act of God.
- 9.7 Each of Red Badger and Client represents, warrants and undertakes to the other that it has the requisite power and authority to enter into these terms and conditions and a Work Order and to perform fully its obligations hereunder.
- 9.8 Except as expressly stated in these terms and conditions, Red Badger does not give any other warranty in respect of the Services or Deliverables and all other warranties, whether express or implied, are excluded to the fullest extent permitted by law.
- 10. TERMINATION**
- 10.1 Either party may terminate a Work Order, or applicable part thereof, in the event that the other materially breaches any term (including non-payment of any sum due) and fails to remedy the same within 28 days of receiving written notice of the same. In the event that the Client fails to make any payment due hereunder by the due date, then Red Badger shall be entitled to suspend the provision of all or part of the Services until such time as such payment is received in full.
- 10.2 A party may terminate the Work Order immediately upon written notice to the other party if the other party shall (i) cease carrying on business in the normal course, or (ii) shall call a meeting of its creditors or make a proposal for a voluntary arrangement within Part I of the Insolvency Act 1986 or for any other composition or scheme of arrangement with (or assignment for the benefit of) its creditors, or (iii) shall be unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (iv) if a trustee, receiver, administrative receiver or other similar officer is appointed in respect of all or any part of its business or assets, or (v) it is wound up (otherwise than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or (vi) it is the subject of an administration order.
- 11. NON-SOLICITATION**
- 11.1 During the term of this Agreement and for 6 months after its expiry or termination, the Parties will not solicit or entice away from the other, or employ or attempt to employ, any person who is, or has been, engaged as an employee of the other party.

12. GENERAL

- 12.1 Time is not of the essence of for the Services under the Work Order and any dates are best estimates only.
- 12.2 Nothing in these terms and conditions shall be deemed to constitute a partnership or agency relationship and neither of the parties shall do or suffer to be done anything whereby it may be represented as a partner or agent of the other.
- 12.3 If at any time any part of the terms and conditions is or becomes unenforceable, such part will be construed as far as possible to reflect the parties' intentions or severed from the terms and conditions and the remainder of the provisions will remain in full force and effect.
- 12.4 Client shall not assign these terms and conditions or the Work Order in whole or in part without the prior written consent of Red Badger.
- 12.5 Only the Client and Red Badger shall be entitled to enforce any provision pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 12.6 These terms and conditions and a Work Order are made and shall be construed in accordance with the laws of England and the parties submit to the exclusive jurisdiction of the English courts for any disputes.

Signed and agreed for and on behalf of: Red Badger Consulting Limited	Name		Please sign here:
	Title		
	Date	[DD/MM/YYYY]	
Signed and agreed for and on behalf of: [Client Name]	Name		Please sign here:
	Title		
	Date	[DD/MM/YYYY]	

Schedule 1: Definitions

"Client Materials"	Means such materials, data, designs, instructions and any other content provided by Client to Red Badger to use as part of the Services.
"Client"	Means the named entity set out in the Work Order.
"Deliverables"	Means the agreed deliverables to be provided to Client by Red Badger as set out in the Work Order.
"Fees"	Means the sums payable to Red Badger by Client as set out in the Work Order.

"IPRs" or "Intellectual Property Rights"	Means patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how) and all other intellectual property rights, in each case whether registered or unregistered and including all applications 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.
"Pre-existing Materials"	any software, data, methods, knowhow or other materials and Intellectual Property Rights of a Party which were in existence prior to the date of the Work Order, or in case of Red Badger, which were created for or at the request of a party other than the Client, and any modifications, amendments or improvements made thereto during the Services.
"Services"	Means the agreed services to be provided by Red Badger to Client as set out in the Work Order.
"Work Order"	The written commercial details of the particular Services to be undertaken by Red Badger.

Schedule 2: EXAMPLE WORK ORDER

WORK ORDER

This Work Order, along with the terms of the Red Badger Short Form Terms and Conditions shall form the entire agreement with respect to the Services set out herein.

Date of this Work Order	[Date]
Between ("Red Badger")	Red Badger Consulting Limited (incorporated in England & Wales with company number 07242017) of 4th floor, 2 Old Street Yard, London, EC1Y 8AF.
And ("Client")	[insert Client] (incorporated in England & Wales with company number [insert number]) of [address].

Contact Details

Red Badger		Client	
Contact	[RB Contact]	Client Product Owner	[Client Contact]
Telephone	020 3567 0555	Telephone	[Client Tel]
Email	hello@red-badger.com	Email	[Client Email]

Service Specification

The Services, Deliverables, Fees & Milestones, Client Materials and Term summarised below:

Services	<i>The services you will be supplying, for example software development, design, installation, configuration, maintenance, technical support.</i>
Deliverables	<p><i>The software, data, documentation and any other materials you will provide in the course of the project.</i></p> <p>The parties will use an agile delivery process. As used in this Statement of Work, "agile" delivery process is an iterative approach to project management and software development that helps teams to deliver value faster. It is a group of methodologies that demonstrate a commitment to tight feedback cycles and continuous improvement. The Agile team delivers work in small, but consumable, increments. Requirements, plans, and results are evaluated continuously so teams have a natural mechanism for responding to change quickly.</p> <p>As an agile project, the full list of deliverables may change according to the Client's Product Owner's reasonable discretion, in consultation with the delivery team, always with the aim of meeting the agreed priorities and avoiding waste.</p>
Fees & Milestones	<i>Where applicable include details of any specific milestones and the fees due in respect of them</i>
Client Materials	<i>These are the materials that you need from the Client to carry out your work</i>
Term	<i>This is only if you are agreeing to provide any of the services for a particular term</i>

Termination	<i>This Work Order can be terminated by Client upon 4 weeks prior written notice. Client might terminate this Work Order in the event that the underlying MSA is terminated with the same end date.</i>
Special Conditions	<i>This should cover anything additional that you want to agree and can be used to deal with any changes to terms and conditions, E.g. any agreed notice period for the Work Order to terminate on [Client may terminate the Work Order on [number of days] written notice to Red Badger]</i>

Personnel and Fees

Role	Day Rate	Days	Total
...

Fees

Total Cost Excluding VAT and Expenses	£
Expenses Estimate	£
3 rd Party Estimate	£
Total Value of Work Order Requiring Purchase Authorisation	£
Estimated Project Start Date	[Date]
Estimated Project End Date	[Date]

- Expenses are charged at cost
- Our consultants work to a guideline 8 hour day to preserve sustainability and quality of pace and output
- All costs are excluding VAT

Payment Terms

Red Badger will submit an invoice for the agreed amount at the end of each calendar month, and the invoice will be payable within 30 days.

Payment

Address Red Badger will send invoices to	Client payment will be made to
[Address]	[Details]

Please also send payment confirmation to the following addresses:

Red Badger Finance
[Details]

Authorisation

This Work Order and the Red Badger Short Form Terms and Conditions have been read and accepted by the Parties set out below:

Signed and agreed for and on behalf of: Red Badger Consulting Limited	Name		Please sign here:
	Title		
	Date	[DD/MM/YYYY]	
Signed and agreed for and on behalf of: [Client Name]	Name		Please sign here:
	Title		
	Date	[DD/MM/YYYY]	