



Terms and Conditions

G-Cloud 14

Definitions

This Agreement is between;

Company

{company}, incorporated in {location} under number {number} and having its principal business address at {address} (the “Company”).

Supplier

Metricy Limited, a company incorporated in England and Wales under number 12328049 and having its principal business address at 1 Capital Quarter, 4th and 5th Floor Tyndall Street, Cardiff, CF10 4BQ (the “Supplier”).

Date

This agreement is made on {date}

Scope of services

The Company engages the Supplier to provide the services set out in the Statement of Work (the "Services"). The period of engagement is as set out in the Statement of Work.

Providing the Services

The "Consultant" means the individual(s) assigned to perform the services (and any substitute(s)). Consultant will consist of employees and / or subcontractors of the supplier, as determined by the supplier. The Consultant must provide the Services with all reasonable care and skill, efficiently and in a lawful, proper, and timely manner.

The Supplier must:

- keep such records of the work as the Company may reasonably require;
- provide reports on the Services to such person as the Company may nominate on a monthly basis or more or less frequently as reasonably required by the Company from time to time;
- provide such other information regarding the Services as the Company may reasonably require.

The Supplier must ensure that, if providing the Services at the Company's premises or at any of the Company's client's premises, the Consultant will comply with any applicable policies, procedures, and rules of the Company.

The Supplier must not, and must ensure that the Consultant does not, offer, give, request, or accept bribes and the Supplier must comply, and must ensure that the Consultant complies, with the Bribery Act 2010.

Deliveries shall be considered accepted in scenarios where;

- the Company provides written acceptance.
- the Company does not inform the Supplier of the manner in which said deliverable does not meet the specifications of the Statement of Work
- when all issues raised by Company raised during acceptance testing of deliverable have been resolved
- if the Company releases the respective deliverable into production
- if the deliverables are validated during normal service

Any deliveries beyond the scope of the Statement of Work, not fully tested or not complete due to termination or cancellation of a project shall be accepted "as is".

Timing and location

The Supplier must provide, and must ensure that the Consultant provides, the Services at the times and location set out in the Statement of Work.

Fees and expenses

The Company will pay the Supplier fees for providing the Services as set out in the Statement of Work. The Supplier will invoice fees and any agreed expenses monthly (or as specified in the statement of work). The Company will pay the Supplier any fees due and invoiced within 30 days of the invoice date.

All fees and other sums referred to in this Agreement are exclusive of VAT. The Company will pay to the Supplier such VAT (if any) as may be chargeable from time to time subject to receipt by the Company of an appropriate VAT invoice.

Unless otherwise agreed in the Statement of Work, if the Consultant is required to provide services outside the location where the Consultant is based, the Company will reimburse the Supplier for increased tax and administrative accumulated.

Any sums due from the Supplier to the Company may be deducted from any sums due to the Supplier from the Company.

Confidentiality

During and after the Supplier's engagement by the Company, it must not (and must ensure that the Consultant does not) unless required to do so by law, protected in doing so by a legal right of protected disclosure or doing so in properly providing the Services:

- disclose any of the Company's or any Group Company's trade secrets or confidential information to any person; or
- use any of the Company's or any Group Company's trade secrets or confidential information for any purposes other than the Company's.

The Supplier must ensure that it and the Consultant keeps all trade secrets and confidential information which the Supplier or Consultant obtains or otherwise receives in connection with the Services safely and effectively protected against improper disclosure or use. The Supplier must also use its reasonable endeavours to prevent improper disclosure or use of such trade secrets or confidential information by third parties.

The Supplier will require the Consultant to enter into a direct agreement with the Company or any Group Company about confidentiality (mirroring the obligations above) if required.

The words "confidential information" include but are not limited to:

- lists of the Company's or any Group Company's actual or potential clients.
- details of relationships or arrangements with or knowledge of the requirements of the Company's or any Group Company's actual or potential clients.
- details of the Company's or any Group Company's business methods, finances, prices or pricing strategy, marketing or development plans or strategies.
- details of any tenders, pitches or presentations proposed or made by the Company or any Group Company.
- personal information about any of the Company's or any Group Company's directors or employees.
- information divulged to the Company or any Group Company by a third party in confidence.

Data protection and monitoring

The Supplier acknowledges that the Company may need to process personal data about the Consultant and the Supplier must ensure that the Consultant consents to the Company processing such data for legal, administrative and management purposes. This data may include information relating to arrangements with the Consultant and the Consultant's performance of the Services and for the purposes of record keeping and invoicing. If the Consultant's health affects (or may affect) the provision of the Services, the Company may process information regarding his/her health. The Supplier must

ensure that the Consultant consents to the transfer of data within and outside the European Economic Area.

As a result of the engagement, the Supplier and/or Consultant may have access to personal data about the employees, directors and contractors of the Company or its clients. If the performance of the Services involves the Supplier and/or the Consultant processing personal data (whether as a data controller or data processor), the Supplier must (and must ensure that the Consultant will):

- act only on instructions from the Company or as set out in this Agreement; and
- take appropriate technical and organisational measures to keep the data secure and protect against unauthorised or unlawful processing of such data and against accidental loss or destruction of, or damage to, such data.

The Consultant may, as a result of the engagement, use the Company's computer systems. The Supplier must ensure that the Consultant is aware that the Company monitors its computer systems, that e-mail and internet usage is logged and that e-mails may be opened by persons other than the intended recipient. The Company may access e-mails and use records/logs for business purposes, including ensuring compliance with its policies and applicable laws for virus-checking, conducting investigations and dealing with e-mails in the absence of relevant personnel.

Termination

This Agreement shall automatically expire at close of business on the End Date save that if the Assignment has not been completed by the End Date and the Contracting Body has confirmed to the Company that it wishes to extend the Assignment expiry shall be upon the date of actual completion of the Assignment as notified by the Contracting Body to the Company.

The Company may terminate the Supplier's engagement at any time by giving to the Supplier not less than 5 working days' notice in writing.

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The Company may terminate the Supplier's engagement immediately by giving written notice having immediate effect if:

- the Supplier is in material breach of this Agreement;
- the Supplier fails to meet any agreed key deadline without satisfactory justification
- the Consultant terminates his/her engagement or employment with the Supplier

Upon termination of its engagement the Supplier must (and must ensure that the Consultant will):

- provide such co-operation and information as the Company may reasonably request in connection with the termination and any consequences, including co-operating in a smooth handover of any ongoing work;
- return immediately all items of the Company's or any Group Company's property which the Supplier or Consultant has in its or his/her possession or under its or his/her control in connection with the engagement (including any security pass, disks, tapes, documents, or copies of documents); and
- delete any documents or information belonging to the Company or any Group Company from any personal computer that the Consultant or Supplier may have (unless returning that personal computer to the Company) without retaining copies in any format.

For the avoidance of doubt, the termination of the Supplier's engagement (however arising) will not affect:

- any rights or obligations which have accrued up to the date of termination; or
- any rights or obligations which expressly or impliedly survive the termination of the engagement.

Restrictions

In this Clause:

"Client" means any client of the Company or any Group Company with whom the Consultant or Supplier had material contact by reason of or in connection with the engagement;

"Competitor" means any Person who is carrying on or planning to carry on business in competition with the Company or any Group Company;

"Key Person" means any employee, director or consultant of the Company or any Group Company working in a managerial, financial, technical, sales or marketing capacity (other than an individual in business on his or her own account providing professional independent advisory services to the Company or any Group Company) with whom the Consultant had material contact by reason of or in connection with the engagement; and

"Person" means individual, firm, company, association, corporation or other organisation however constituted.

The Supplier must not (and must ensure that the Consultant will not) at any time during the engagement (either on its or his/her own account or for any other Person) whether directly or indirectly:

- encourage or try to encourage any Person who is a Client to withdraw its custom from the Company or any Group Company;
- solicit or try to solicit the custom of any Person who at any time during the engagement was a Client with a view to supplying that Client with services in competition with the Company or any Group Company;
- supply services to any Person who at any time during the engagement was a Client in competition with the Company or any Group Company;
- solicit or try to solicit any individual who at any time during the engagement was a Key Person;
- employ or enter into partnership or association with or retain the services (or offer to do so) of any individual who at any time during the engagement was a Key Person; or
- provide services to a Competitor if during the engagement the Consultant or Supplier has obtained or otherwise received trade secrets or confidential information which are likely to be of material value to the Competitor and in the course of providing such services to the Competitor there is a material risk that the Consultant or Supplier would (whether inadvertently, carelessly or deliberately) use or disclose such secrets or information.

The Supplier must not (and must ensure that the Consultant will not) at any time during the period of 6 months immediately following the termination of the engagement (either on its or his/her own account or for any Person) whether directly or indirectly:

- encourage or try to encourage any Person who at any time during the 12 months before the termination of the engagement was a Client to withdraw its custom from the Company or any Group Company;

- solicit or try to solicit the custom of any Person who at any time during the 12 months before the termination of the engagement was a Client with a view to supplying that Client with services in competition with the Company or any Group Company;
- supply services to any Person who at any time during the 12 months before the termination of the engagement was a Client in competition with the Company or any Group Company;
- solicit or try to solicit any individual who at any time during the 12 months before the termination of the engagement was a Key Person;
- employ or enter into partnership or association with or retain the services (or offer to do so) of any individual who at any time during the 12 months before the termination of the engagement was a Key Person; or
- provide services to a Competitor if during the engagement the Consultant or Supplier has obtained or otherwise received trade secrets or confidential information which are likely to be of material value to the Competitor and in the course of providing such services to the Competitor there is a material risk that the Consultant or Supplier would (whether inadvertently, carelessly or deliberately) use or disclose such secrets or information.

The Company recognises that it is the Client's intention for the Supplier to provide specialist services directly to the Client in the future. This clause is waived in respects of specialist services provided by the Supplier, should the Client initiate this change.

Force Majeure

Neither party shall be liable to the other as a result of any delay or failure to perform its obligations under the Agreement if and to the extent such delay or failure is caused by an event or circumstance which is beyond the reasonable control of that party which by its nature could not have been foreseen by such a party or if it could have been foreseen was unavoidable.

If such event or circumstances prevents the Company or Supplier from providing any of the Services or Deliverables for more than one week, **{company}** shall have the right, without limiting its other rights or remedies, to terminate the Agreement

Miscellaneous

In this Agreement references to "Group Company" mean any holding company or subsidiary of the Company from time to time and any other subsidiary of any holding company of the Company from time to time, where "holding company" and "subsidiary" have the meanings given in sections 1159 and 1173 of the Companies Act 2006.

The Supplier confirms that it is not entering into the engagement in reliance upon any oral or written representations made to the Supplier by or on behalf of the Company.

This Agreement contains the whole agreement between the Company and the Supplier in connection with the Supplier's engagement by the Company.

Any Group Company may enjoy the benefit and enforce the term of this Agreement in accordance with the Contracts (Rights of Third Parties) Act 1999. Notwithstanding this, neither the Company nor the Supplier require the consent of any Group Company to rescind or vary this Agreement at any time, even if that variation or rescission affects the benefits conferred on such Group Company.

This Agreement will be governed by the laws of England and Wales and the Courts of England and Wales will have non-exclusive jurisdiction to adjudicate any disputes arising under it.