



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 Section 7 of the Statement of Work;
- (b) such amounts as may be agreed in writing by the parties from time to time; and
- (c) amounts calculated by multiplying the Consulting Company's standard time-based charging rates (as notified by the Consulting Company to the Client before the date of the Contract) by the time spent by the Consulting Company's personnel performing the Services (rounded down by the Consulting Company to the nearest quarter hour);

"**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 Consulting Company for incorporation into the Deliverables or for some other use in connection with the Services;

"**Consulting Company**" means **Cipher10 Ltd**, a company incorporated in England and Wales (registration number 11949489) having its registered office at International House, 24 Holborn Viaduct, London, EC1A 2BN;

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

"**Deliverables**" means those specified in Section 4 of the Statement of Work that the Consulting Company has agreed to deliver to the Client under these Terms and Conditions;

"**Effective Date**" means the date of execution of a Statement of Work incorporating these Terms and Conditions;

"**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, trade marks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs);

"**Minimum Term**" means, in respect of the Contract, the period of 12 months beginning on the Effective Date OR the period specified in Section 2 of the Statement of Work;

"**Services**" means the consultancy services specified in Section 3 of the Statement of Work;

"**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 2.1 and ending in accordance with Clause 2.2;

"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, and which are specified in Section 4 of the Statement of Work or which the parties agree in writing shall be incorporated into the Deliverables.

2. Term

2.1 The Contract shall come into force upon the Effective Date.

2.2 The Contract shall continue in force indefinitely OR until:

- (a) all the Services 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 10.

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

3. Services

3.1 The Consulting Company shall provide the Services to the Client in accordance with these Terms and Conditions.

3.2 The Consulting Company shall provide the Services with reasonable skill and care OR in accordance with the standards of skill and care reasonably expected from a leading service provider in the Consulting Company's industry.

4. Deliverables

4.1 The Consulting Company shall deliver the Deliverables to the Client.

4.2 The Client must promptly, following receipt of a written request from the Consulting Company to do so, provide written feedback to the Consulting Company concerning the Consulting Company's proposals, plans, designs and/or preparatory materials relating to the Deliverables and made available to the Client with that written request.

4.3 The Consulting Company shall use its best endeavours to ensure that the Deliverables are delivered to the Client in accordance with the timetable set out in Section 5 of the Statement of Work.

4.4 The Consulting Company warrants to the Client that:

- (a) the Deliverables will conform with the requirements of Section 4 of the Statement of Work as at the date of delivery of the Deliverables;
- (b) the Deliverables when used by the Client in accordance with these Terms and Conditions will not infringe the Intellectual Property Rights of any person.

5. Licence

5.1 The Consulting Company hereby grants to the Client a non-exclusive, worldwide, perpetual and irrevocable licence to copy, store, distribute, publish, adapt, edit and otherwise use the Deliverables (excluding the Third Party Materials and the Client Materials) for the following purposes: corporate records and marketing.

6. Charges

6.1 The Client shall pay the Charges to the Consulting Company in accordance with these Terms and Conditions.

6.2 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 Consulting Company.

7. Payments

7.1 The Consulting Company shall issue invoices for the Charges to the Client on or after the invoicing dates set out in Section 7 of the Statement of Work.

7.2 The Client must pay the Charges to the Consulting Company within the period of 30 days following the issue of an invoice in accordance with this Clause 7.

7.3 The Client must pay the Charges by debit card, credit card, direct debit or bank transfer (using such payment details as are notified by the Consulting Company to the Client from time to time).

7.4 If the Client does not pay any amount properly due to the Consulting Company under these Terms and Conditions, the Consulting Company may:

- (a) charge the Client interest on the overdue amount at the rate of 10% 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.

8. Warranties

8.1 The Consulting Company warrants to the Client that:

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

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

8.3 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 9.1, 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.

9. Limitations and exclusions of liability

9.1 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.

9.2 The limitations and exclusions of liability set out in this Clause 9 and elsewhere in these Terms and Conditions:

- (a) are subject to Clause 9.1; 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.

9.3 Neither party shall be liable to the other party in respect of any loss of profits or anticipated savings.

9.4 Neither party shall be liable to the other party in respect of any loss of revenue or income.

9.5 Neither party shall be liable to the other party in respect of any loss of use or production.

9.6 Neither party shall be liable to the other party in respect of any loss of business, contracts or opportunities.

9.7 Neither party shall be liable to the other party in respect of any loss or corruption of any data, database or software.

9.8 Neither party shall be liable to the other party in respect of any special, indirect or consequential loss or damage.

10. Termination

10.1 Either party may terminate the Contract by giving to the other party not less than 30 days' written notice of termination, expiring after the end of the Minimum Term.

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

- (a) the other party commits any material breach of the Contract, and the breach is not remediable;
- (b) the other party commits a material breach of the Contract, and the breach is remediable, but the other party fails to remedy the breach within the period of 30 days following the giving of a written notice to the other party requiring the breach to be remedied; or
- (c) the other party persistently breaches the Contract (irrespective of whether such breaches collectively constitute a material breach).

10.3 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.

10.4 The Consulting Company may terminate the Contract immediately by giving written notice to the Client if:

- (a) any amount due to be paid by the Client to the Consulting Company under the Contract is unpaid by the due date and remains unpaid upon the date that that written notice of termination is given; and
- (b) the Consulting Company has given to the Client at least 30 days' written notice, following the failure to pay, of its intention to terminate the Contract in accordance with this Clause 10.4.

11. Effects of termination

11.1 Upon the termination of the Contract, all of the provisions of these Terms and Conditions shall cease to have effect, save that the following provisions of these Terms and Conditions shall survive and continue to have effect (in accordance with their express terms or otherwise indefinitely): Clauses 1, 5, 7.2, 7.4, 9, 11, 12.2 and 14.

11.2 Except to the extent that these Terms and Conditions expressly provides otherwise, the termination of the Contract shall not affect the accrued rights of either party.

12. Status of Consulting Company

12.1 The Consulting Company is not an employee of the Client, but an independent contractor.

12.2 The termination of the Contract will not constitute unfair dismissal; nor will the Consulting Company be entitled to any compensation payments, redundancy payments or similar payments upon the termination of the Contract.

13. Subcontracting

13.1 Subject to any express restrictions elsewhere in these Terms and Conditions, the Consulting Company may subcontract any of its obligations under the Contract, providing that the Consulting Company 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.

13.2 The Consulting Company shall remain responsible to the Client for the performance of any subcontracted obligations.

14. General

14.1 No breach of any provision of the Contract shall be waived except with the express written consent of the party not in breach.

14.2 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).

14.3 The Contract may not be varied except by a written document signed by or on behalf of each of the parties.

14.4 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.

14.5 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.

14.6 Subject to Clause 9.1, these Terms and Conditions shall constitute the entire agreement between the parties in relation to the subject matter of these Terms and Conditions, and shall supersede all previous agreements, arrangements and understandings between the parties in respect of that subject matter.

14.7 The Contract shall be governed by and construed in accordance with English law.

14.8 The courts of England shall have exclusive jurisdiction to adjudicate any dispute arising under or in connection with the Contract.