

# Terms & Conditions

2024



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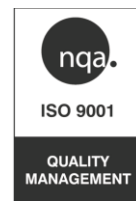


**Our Company:** 2MG Solutions is an NHS and Crown Commercial Services-approved system integrator with experience in application transformation and delivery of digitalisation into the NHS. We dedicated the last 9 years to supporting NHS initiatives' delivery within England, covering compliance and UK regulatory system requirements.

**Customisation:** Our IT and digital services can be customised and scaled according to the company's requirements. Pre-defined, per-user price allows our customers to keep control of all costs. Customised pricing is based on the individual scope and objectives, scale of migration, selected cloud services, and ongoing support requirements. The preliminary planning timeline for each service outlines a general Agile delivery. A specific Implementation Plan is to be developed per each case individually.

## Why Us ?

We are ISO/IEC 27001 and ISO 9001 certified. The ISO 27001 certification of Information Security Management Systems demonstrates our ability to manage the security of our information systems and business-critical information for operational continuity and data protection.



HM Government  
**G-Cloud**  
Supplier



Crown  
Commercial  
Service  
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# PROFESSIONAL SERVICES AGREEMENT

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## BACKGROUND

2MG Solutions provides certain services which Customer desires to obtain on the basis of certain SOW's, executed by the Parties which reference and incorporate this PSA. The SOW's more fully describe the scope, duration, and fees for the Services.

NOW, THEREFORE, in consideration of the mutual promises and obligations in this PSA, the sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, agree as follows:



### 1. Definitions

"Acceptance Period" shall mean the period of 10 (ten) calendar days from the date of delivery of a completed Deliverable to the Customer.

"Affiliate" means any legal entity in the United Kingdom (or outside the United Kingdom as agreed between the parties in a SOW) in which the Customer, directly or indirectly, holds more than fifty percent (50%) of the shares or voting rights. Any such legal entity shall be considered an Affiliate for only such time as such equity interest is maintained.

"Change Request" means the request by either Party to amend, change or vary a SOW by completing the change request form attached to the applicable SOW or using such other document as agreed by the Parties for the purpose of effecting such a change.

"Confidential Information" means, with respect to 2MG Solutions and Customer, all information which 2MG Solutions and Customer protects against unrestricted disclosure to others, including but not limited to: (a) the Software, documentation, Work Product and other 2MG Solutions materials, including without limitation the following information regarding the Software: (i) computer software (object and source codes), programming techniques and programming concepts, methods of processing, system designs embodied in the software; (ii) benchmark results, manuals, program listings, data structures, flow charts, logic diagrams, functional specifications, file formats; and (iii) discoveries, inventions, concepts, designs, flow charts, documentation, product specifications, application program interface specifications, techniques and processes relating to the software;

(b) the research and development or investigations of 2MG Solutions; (c) product offerings, content partners, product pricing, product availability, technical drawings, algorithms, processes, ideas, techniques, formulas, data, schematics, trade secrets, know-how, improvements, marketing plans, forecasts and strategies; and (d) any information about or concerning any third party (which information was provided to 2MG Solutions subject to an applicable confidentiality obligation to such third party). With respect to Customer, "Confidential Information" means all information which Customer protects against unrestricted disclosure to others or which (i) if in tangible form, Customer clearly identifies or states as confidential or proprietary at the time of disclosure; and (ii) if in intangible form (including disclosure made orally or visually), Customer identifies as confidential at the time of disclosure,

"Consultant" means employees and third party contractors which 2MG Solutions utilises to provide Services to Customer.

"Customer" means the party entering into the specific SOW offered by 2MG Solutions. "Data Controller" and "Data Processor" are as defined in Data Protection Legislation.

"Data Protection Legislation" means any legislation in force from time to time which implements the European Community's Directive 95/46/EC and Directive 2002/58/EC and is applicable to the provision of the Services pursuant to this PSA, including the Data Protection Act 1998 and the Privacy and Electronic Communications (EC Directive) Regulations 2003 in the United Kingdom;

"Deliverables" mean such Work Products, if applicable, which are specific outputs that 2MG Solutions provides to Customer, provided such output must be clearly and expressly labelled as a "Deliverable" in the applicable SOW.

"Designated Unit" those technology devices (e.g. hard disks or central processing units) identified by Customer subject to the terms of its License Agreement.

"2MG Solutions" is the main contracting party, confirmed as 2MG Solutions Limited, Company No 09828310, having a registered address of 27 Old Gloucester Street, London, WC1N 3AX, United Kingdom.

"Intellectual Property Rights" means patents of any type, design rights, database rights, moral rights, utility models or other similar invention rights, copyrights, mask work rights, trade secret, know-how or confidentiality rights, trademarks, trade names and service marks and any other intangible property rights, including applications and registrations for any of the foregoing, in any country, arising under statutory or common law or by contract and whether or not perfected, now existing or hereafter filed, issued, or acquired.

“License Agreement” means the agreement between 2MG Solutions under which Customer procured the license rights to use Software utilized within the SOW.

“Material Defect” means the Deliverable fails to substantially comply with the applicable and corresponding acceptance criteria for that Deliverable set forth in the SOW.

“Personal Data” means any personal data (as such term is defined in Data Protection Legislation) processed as part of the Services;

“Software” means (i) any and all software products licensed to Customer under the License Agreement as specified in Software Order Forms, all as developed by or for SAP AG, and/or any of their affiliated companies and delivered to Customer under a License Agreement; (ii) any new releases thereof made available through unrestricted shipment pursuant to the respective support agreement and (iii) all complete copies of any of the foregoing.

“Services” means professional services, provided by 2MG Solutions to Customer under a SOW that references this PSA.

“SOW” means a Statement of Work executed between the parties which references and incorporates this PSA and details the scope, duration and fees for the Services.

“Taxes” means VAT which shall be for Customer’s account.

“Work Product” means any work product or tangible results produced by or with 2MG Solutions pursuant to this PSA or any SOW, including, but not limited to, works created for or in cooperation with Customer.



## **2. Provision of Services.**

2.1 2MG Solutions will subject to the obtaining and maintenance of all consents, licenses and provisions (statutory, regulatory, contractions or otherwise) required for the performance of its obligations herewith under the SOW provide the Services in accordance with the SOW. 2MG Solutions may utilise third party contractors to perform 2MG Solutions' duties. 2MG Solutions shall be responsible for the performance of the Services of such third party contractors to the same extent as 2MG Solutions is responsible for its own performance.

2.2 If any Service, in whole or in part, cannot be provided by 2MG Solutions due to a Customer act or omission and Customer fails to provide 2MG Solutions with reasonable advance notice prior to its act or omission, the time agreed to be spent by 2MG Solutions resources on such Service will be charged to Customer otherwise such time shall be for the expense of 2MG Solutions.

2.3 Notwithstanding the foregoing, any services and Work Products provided by 2MG Solutions to Customer prior to the execution of this PSA or a specific SOW or a Change Request are the sole property and Confidential Information of 2MG Solutions and shall be governed by the terms of this PSA, in particular (but not limited to) sections 9 (Intellectual Property Rights), 10 (Confidentiality) and 13 (Limitation of Liability). If no PSA is completed, all services, work products and deliverables must be returned or deleted and must not be used.



### **3. Acceptance**

3.1 Where acceptance criteria is not specified in the SOW the Deliverables shall be deemed complete and accepted upon execution of the Acceptance Certificate by the Customer.

3.2 In a fixed price SOW where there are Deliverables, the Parties may agree in such SOW that such specific Deliverables can be subject to certain acceptance procedures. In the event that a SOW with Deliverables expressly states that such Deliverables are subject to acceptance procedures then the Customer shall accept or reject the Deliverable during the Acceptance Period only unless otherwise agreed in writing between the parties.

3.3 If the relevant Deliverable passes the agreed acceptance criteria set forth in the SOW, Customer will accept the Deliverable and such acceptance shall not be withheld unreasonably.

3.4 The Customer shall only be entitled to reject a Deliverable due to a Material Defect using reasonable discretion, based on the acceptance criteria set forth in the SOW for that Deliverable. If Customer notifies 2MG Solutions that it has rejected the Deliverable due to a Material Defect then the following shall apply:

3.4.1 Customer shall provide written notice to 2MG Solutions, within the Acceptance Period, specifying the basis of the deficiency;

3.4.2 2MG Solutions shall then have a reasonable period to cure such deficiency and redeliver the Deliverable for an additional Acceptance Period

3.4.3 If Customer (i) fails to reject any Deliverable within the Acceptance Period, in a written document specifying the deficiency, or (ii) installs and uses the Deliverable proactively without 2MG Solutions' approval, then Customer shall be deemed to have accepted such Deliverable as of the last day of the Acceptance Period.

3.4.4 Upon acceptance of a Deliverable, all Services associated with such Deliverable shall be deemed accepted and 2MG Solutions shall have no further obligation with respect to an accepted Deliverable.

3.4.5 A Deliverable shall not be made available for Customer's productive use, unless it has been accepted by Customer.



#### **4. Customer's General Responsibilities.**

4.1 Customer is responsible for making the necessary arrangements to allow 2MG Solutions to perform the Services and if the Services are performed at Customer's site, Customer agrees to provide necessary access to its site including, but not limited to, appropriate access to Customer premises, computer systems and other facilities.

4.2 Customer shall provide and make available all Customer personnel that 2MG Solutions reasonably requires in connection with performance of the Services and as may be further addressed in an applicable SOW. Customer shall appoint a contact person to supply 2MG Solutions with any necessary or relevant information and who shall have the authority to make decisions or obtain decisions from others expeditiously.



#### **5. Change Request Procedure.**

5.1 During the term of a SOW, either Party can agree and execute a Change Request. Both Parties agree to act in good faith to address and mutually agree to any requested Change Requests within a reasonable period of time. For the avoidance of doubt, 2MG Solutions shall not perform any activities or Services under a Change Request until duly executed by the Parties.

5.2 If Customer makes a Change Request to 2MG Solutions the following procedure shall apply:

5.2.1 2MG Solutions will inform Customer within ten (10) working days (which excludes weekends and applicable public holidays) whether the change is possible or not and what impact the change would have on the SOW and/or this PSA with particular reference to the timeline and remuneration.

5.2.2 Customer must thereupon inform 2MG Solutions in writing within five (5) working days whether the Change Request is to apply or whether the contract is to be continued on the existing terms.

5.2.3 If the investigation of a Change Request itself requires substantial work, 2MG Solutions is entitled to bill separately for that work.

5.3 If 2MG Solutions submits a Change Request, Customer must notify 2MG Solutions in writing within ten (10) working days whether it accepts the Change Request or not.

5.4 Until there is agreement about the change, work will continue in accordance with the existing SOW.



## **6. Satisfaction with Personnel.**

6.1 If at any time Customer is dissatisfied with the material performance of an assigned Consultant, Customer shall promptly report such dissatisfaction to the other 2MG Solutions in writing and may request a replacement. 2MG Solutions shall use its reasonable endeavours in accomplishing any such change.



## **7. Compensation of 2MG Solutions.**

7.1 Services will be provided by 2MG Solutions on a fixed price (plus expenses) basis unless otherwise agreed by the Parties in the SOW.

7.2 Unless otherwise agreed in writing, the Services will be invoiced in accordance with the fees or rates listed in or referenced in the SOW, or Schedules and Exhibits thereto, as applicable.

7.3 Fees and other charges described in this PSA do not include Taxes. If 2MG Solutions is required to pay Taxes, Customer shall reimburse 2MG Solutions for such amounts.

7.4 Any payments due to 2MG Solutions shall be payable by the Customer within 30 days of receipt of the corresponding invoice if the Customer does not pay a valid and properly due invoice by the date registered pursuant to the clause. 2MG Solutions may, in addition to the invoice amount charge the Customer late payment interest at a rate of four percent (4%) above the base rate of Lloyds Bank plc from time to time for the period from the expiry of the 30 day period referred to above until such payment is made. Such interest shall accrue on a daily basis.



## **8. Term and Termination.**

8.1 Term of the PSA. This PSA shall be effective as of the Effective Date, specified above, and shall remain in effect for 3 (three) years unless terminated earlier by either Party in accordance with this section 8.

8.2 Termination of the PSA for Convenience. Either Party may terminate this PSA for convenience upon 50 (fifty) days' prior written notice to the other Party. If this PSA is terminated for convenience prior to the completion of one or more SOWs, such termination will not affect the continuation of any such SOW or the applicability of the provisions of this PSA to any such SOW for the remaining term of that SOW.

**8.3** Term of a SOW. Each SOW shall be effective on the effective date set forth in that SOW, and shall remain in effect until completion of the Services or terminated earlier by either Party in accordance with this section 8.

**8.4** Termination of a SOW for Convenience. Except as otherwise agreed in a SOW, each SOW may be terminated by Customer upon 50 (fifty) days' prior written notice to 2MG Solutions. If there is more than one SOW referencing this PSA, SOW may be terminated by Customer for convenience in accordance with the terms of this section without terminating this PSA or the other SOWs.

**8.5** Termination of PSA and/or a SOW for Material Breach, either Party may terminate this PSA:-

8.5.1 upon written notice to the other Party in the event of a material breach of any provision of this PSA by the other Party, provided that where such breach is capable of remedy the Party in breach shall be given a 30 (thirty) day period in which to remedy any breach; or

8.5.2 On 7 days written notice where the Customer's payment obligations of any money under the terms of this PSA or any SOW are overdue by more than 30 (thirty) days; or

8.5.3. immediately if the other Party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or makes an assignment for the benefit of creditors, or

8.5.4. Immediately by written notice if the other Party materially breaches its obligations in sections 10 (Confidential Information) or section 14 (Assignment).

**8.6** Effect of Termination. Customer shall be liable for all payments to 2MG Solutions, including fees for all Services, including expenses, incurred in the performance of such Services up to the date on which any termination of a SOW or the PSA takes effect. In the event of termination of a SOW or the PSA, all Confidential Information of either Party provided in connection with this PSA or SOW, as applicable, in the possession of either Party shall be returned to the other Party or destroyed with certification of such destruction from an individual of authority to bind the respective Party.



## **9. Intellectual Property Rights.**

**9.1** All Intellectual Property Rights belonging to either party prior to signing this PSA shall remain vested in that party

**9.2** 2MG Solutions hereby grants to Customer access rights to additionally derived software created within a project at the request of Customer as described in the associated license agreement and on a non-exclusive basis.

9.3 Subject to clause 9.1 and 9.2, the title to and rights in the Deliverables and Work Products, and all Intellectual Property Rights (excluding copyright) embodied therein, including techniques, knowledge or processes of the work products or Deliverables (whether or not developed for Customer ), shall be the sole and exclusive property of 2MG Solutions. Customer agrees to execute and to ensure its third parties execute such documentation as reasonably necessary to secure 2MG Solutions' title over such rights.

9.4. Customer must immediately notify 2MG Solutions in writing if any third party gains unauthorised access to the property or information to or in which 2MG Solutions retains title or rights and shall take all reasonable steps to stop such unauthorised access and also inform the third party of 2MG Solutions' rights.



## **10. Confidentiality**

10.1 Use of Confidential Information. Confidential Information shall not be reproduced in any form except as required by the receiving Party to perform its obligations under this PSA and/or a SOW. Any reproduction of any Confidential Information of the other shall remain the property of the disclosing Party and shall contain any and all confidential or proprietary notices or legends which appear on the original. With respect to the Confidential Information of the other, each Party : (a) shall take all Reasonable Steps (defined below) to keep all Confidential Information strictly confidential; and (b) shall not disclose any Confidential Information of the other to any person other than its bona fide individuals whose access is necessary to enable it to exercise its rights hereunder. For the purposes of this section 10, "Reasonable Steps" means those steps the receiving Party takes to protect its own similar proprietary and Confidential Information, which shall not be less than a reasonable standard of care. Confidential Information of either Party disclosed prior to execution of this PSA shall be subject to the protections afforded hereunder.

10.2 Exceptions. The above restrictions on the use or disclosure of the Confidential Information shall not apply to any Confidential Information that: (a) is independently developed by the receiving Party without reference to the disclosing Party's Confidential Information, or is lawfully received free of restriction from a third party having the right to furnish such Confidential Information; (b) has become generally available to the public without breach of this PSA by the receiving Party; (c) at the time of disclosure, was known to the receiving Party free of restriction; (d) the disclosing Party agrees in writing is free of such restrictions or (e) Customer hereby acknowledges and consents that 2MG Solutions shall be entitled to disclose the terms of this PSA and any SOW hereunder (if applicable) for the purposes of obtaining Visa and work permit documentation for all non – EU consultant resources used for any Services provided hereunder.

10.3 Confidential Terms and Conditions; Publicity. Customer shall not disclose the terms and conditions of this PSA or the pricing contained therein to any third party. Neither Party shall use the name of the other Party in publicity, advertising, or similar activity, without the prior written consent of the other. 2MG Solutions will take reasonable endeavours to avoid having the reference activities unreasonably interfere with Customer's business.



## 11. Warranty

### 11.1 MG Solutions warrants that:

11.1.1 the Services shall be performed with reasonable skill and care in line with good industry practice for similar sized organization's providing similar services. Unless it is expressly confirmed in writing by 2MG Solutions, no communication of any kind can be construed as imposing on 2MG Solutions any other or more onerous duty or liability than is set forth in this PSA.

11.1.2 the Services shall be carried out by suitably qualified professionals.

11.1.3 the Services shall be undertaken by sufficient number of personnel in order to meet the project timelines as written in the SOW

11.1.4 the Services, Deliverables and any Work Products shall conform with the Customer Requirements set out by Customer and modified by 2MG Solutions in the SOW.

11.1.5 the Deliverables and Work Products are free from defects in workmanship and design

11.2 Upon notice to 2MG Solutions in writing with specific evidence of a breach of section 11.1 MG Solutions will, at the option of the Customer:

11.2.1 re-perform the applicable Services; or

11.2.2 refund the fee paid for the applicable Services.

11.3 Except as set out in this section 11, 2MG Solutions and its licensors disclaim all other warranties or other terms, conditions, representations or statements which might have effect between the parties or be implied or incorporated into this PSA or any collateral contract, whether by statute, common law or otherwise are hereby excluded including the implied conditions, warranties or other terms as to satisfactory quality or fitness for purpose.



## 12. Indemnification

12.1 2MG Solutions shall keep the Customer indemnified against all costs, expenses (including any interest, fines, legal and other professional fees), damage, and expenses awarded against or incurred or paid by the Customer as a result of or in connection with any claim brought against the Customer for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the receipt, use or supply of the Services and the Deliverables to a limit of £2M.

12.2 2MG Solutions' obligation as provided in 12.1 above shall not apply if the alleged infringement or misappropriation arises as a result from any of the following:-

12.2.1 use of any Work Product in conjunction or combined with any software other than the Software unless upon 2MG Solutions' instruction;

- 12.2.2 use of any Work Product with an apparatus other than on a Designated Unit;
- 12.2.3 failure by the Customer to use an update provided by 2MG Solutions or SAP if such infringement or misappropriation could have been avoided by use of the update;
- 12.2.4 Customer 's failure to promptly notify 2MG Solutions in writing of any such claim; or
- 12.2.5 Activities not authorized or licensed by this PSA and/or the License Agreement

12.3 2MG Solutions is permitted to fully control the defence and any settlement of any such claim as long as such settlement shall not include a financial obligation on Customer. In the event Customer declines 2MG Solutions' proffered defence, or otherwise fails to give full control of the defence to 2MG Solutions' designated counsel, then Customer waives 2MG Solutions' obligations under this section 12. Customer shall cooperate fully in the defence of such claim and may appear, at its own expense, through counsel reasonably acceptable to 2MG Solutions. 2MG Solutions expressly reserves the right to cease such defence of any claim(s) in the event the Work Product is no longer alleged to infringe or misappropriation, or is held not to infringe or misappropriation, the third party's rights. 2MG Solutions may settle any claim on a basis requiring 2MG Solutions to substitute for the Work Product alternative substantially equivalent non-infringing programs and supporting documentation. Customer shall not undertake any action in response to any infringement or misappropriation, or alleged infringement or misappropriation of the Work Product that is prejudicial to 2MG Solutions' rights.

12.4 The provisions of this section 12 state the sole, exclusive, and entire liability of 2MG Solutions and its licensors to Customer, and is Customer's sole remedy, with respect to the infringement or misappropriation of third-party Intellectual Property Rights.



### **13. Exclusion of Damages; Limitation of Liabilities**

13.1 Subject to sections 13.3 and 13.4 below, and regardless of the basis of liability, neither 2MG Solutions nor Customer shall be liable to the other or any other party for any loss or damage to the extent that such loss or damage is consequential, indirect, special or punitive; or for any loss (be it direct loss or indirect loss) of: profits, loss of business, loss of or damage to data, loss of business, loss of goodwill, or loss of anticipated savings, whether or not the other Party had been advised of the possibility of such loss or damage.

13.2 Subject to sections 13.3 and 13.4 below, the aggregate liability of each Party to the other or any other Party in connection with this PSA shall not exceed the fees paid under the applicable SOW.

13.3 Nothing in the PSA shall exclude or limit either Party's liability for death or personal injury caused by negligence, breach of the obligations imposed by s.12, Sale of Goods Act 1979 or s.2, Supply of Goods and Services Act 1982, wilful misconduct or fraud, or any other liability which cannot be excluded or limited by applicable law.

1. Nothing in the PSA shall exclude or limit either Party's liability under section 10 (Confidentiality), Customer's liability for any breach of section 27 (Regulatory Matters), section 9 (Intellectual Property Rights) or for any infringement of 2MG Solutions' Intellectual Property Rights.



## **14 Assignment.**

14.1 This PSA not personal to the Customer. The Customer may upon notice to 2MG Solutions assign this PSA to any Group member 2MG Solutions may upon prior notification (i) assign this PSA to any of subsidiaries in the future or (ii) subcontract all or part of the work to be performed under this PSA or a relevant SOW to a third party, provided that 2MG Solutions shall at all times remain responsible for the acts or omissions of such subcontractors.

14.2 Should any alterations be necessary for the specific SOW this PSA covers, then minor amendments can be noted in the SOW at the agreement of both 2MG Solutions and Customer.



## **15 Severance.**

15.1 If any provision or part-provision of this PSA and/or SOW is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this section 15 shall not affect the validity and enforceability of the rest of this PSA and/or SOW.

15.2 If any provision or part-provision of this PSA and/or SOW is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.



## **16 No Waiver.**

16.1 No failure or delay by a Party to exercise any right or remedy provided under this PSA or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.



## **17 Notice.**

17.1 All notices which are required or may be given pursuant to this PSA shall be in writing and shall be deemed to be duly given when delivered to the respective offices of 2MG Solutions or Customer at the addresses set forth in the relevant SOW. Where in this section 17 or elsewhere in this PSA written form is required, that requirement can be met by facsimile transmission or exchange of letters via emails.



## **18 Independent Contractor.**

18.1 The relationship of 2MG Solutions and Customer established by this PSA is that of an independent contractor and no employment, agency, trust, partnership or fiduciary relationship is created by this PSA.



## **19 Force Majeure.**

19.1 Neither Party shall be in breach of this PSA nor liable for delay in performing, or failure to perform, any of its obligations under this PSA if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances, the time for performance of such provision shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed.



## **20 Governing Law.**

20.1 This PSA and any disputes or claims arising out of or in connection with it and its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England and Wales.

20.2 The Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this PSA or its subject matter or formation (including non-contractual disputes or claims).

20.3 The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this PSA. Customer must initiate a cause of action for any claim(s) arising out of or relating to this PSA and its subject matter within 1 (one) year from the date when Customer knew, or should have known after reasonable investigation, of the facts giving rise to the claim(s).



## **21 Non-Solicitation.**

21.1 Neither Party shall knowingly solicit or hire, any of the other Party's employees involved in a SOW during the term of the applicable SOW and for a period of 24 (Twenty Four) months from completion of the Services set out therein, without the express written consent of the other Party. This provision shall not restrict the right of either Party to solicit or recruit generally in the media.



## **22 Third Party Rights Excluding Rights under the Contracts (Rights of Third Parties Act) 1999.**

22.1 Notwithstanding any other provision in this PSA, a person who is not a Party to this PSA shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this PSA.



## **23 Entire Agreement.**

23.1 This PSA, including all applicable SOWs and Schedules thereto, constitutes the entire PSA between the Parties with respect to the subject matter hereof and supersedes and extinguishes all previous PSAs, arrangements, drafts and understandings between the Parties, whether written or oral, relating to the same subject matter.



## **24 Variation.**

24.1 No modifications, amendments, or supplements to this PSA shall be effective for any purpose unless in writing and signed by the authorised signatories of the Parties. The foregoing provision also applies to any waiver of the written-form requirement.



## **25 Precedence.**

25.1 In the event of any inconsistencies between the PSA and a SOW, the SOW shall take precedence over the PSA, provided the SOW explicitly references the provision of the PSA that it amends and states that it supersedes such provision.

25.2 All conflicting or other conditions, including (but not limited to) Customer 's general terms and conditions or Customer 's Purchase Order terms and conditions, are hereby excluded and do not form any part of this PSA or SOW, even where 2MG Solutions has performed Services without expressly rejecting such conditions upon receipt. Any purchase order or other document issued by Customer is for administrative convenience only. If, for reasons related to Customer 's internal arrangements or otherwise, Customer 's conditions of purchase or other standard terms are included by insertion, reference, enclosure, attachment or otherwise in Customer 's acceptance of 2MG Solutions' offer (for example, in Customer 's purchase order), Customer agrees and acknowledges that it shall not be entitled to rely on those conditions or terms and that they are not incorporated in, and do not form any part of the PSA or SOW, and failure to expressly exclude them does not imply their acceptance.



## **26 Regulatory Matters.**

26.1 The 2MG Solutions Confidential Information inclusive of all Work Product and Deliverables are subject to the export control laws of various countries, including without limitation the laws of England and Wales. Customer agrees that it will not submit the 2MG Solutions Confidential Information to any government agency for licensing consideration or other regulatory approval without the prior written consent of 2MG Solutions, and will not export the Confidential Information to countries, persons or entities prohibited by such laws. Customer shall also be responsible for complying with all applicable governmental regulations of the country where Customer is registered, and any foreign countries with respect to the use of the Confidential Information by Customer and/or its subsidiaries



## **27 Survival.**

27.1 Sections 8 (Term), 9 (Intellectual Property Rights), 10 (Confidentiality), 13 (Exclusion of Damages; Limitation of Liabilities), 20 (Governing Law), and 21 (Non-Solicitation) shall survive any termination of this PSA.



## **28 Data Protection.**

28.1 During the performance of the Services, either Party may be given access to the other Party's systems and data in such circumstances that under the Data Protection Legislation one Party shall be the Data Controller and the other a Data Processor.

28.2 In the event that section 28.1 applies, each Party will carry out its obligations under the PSA in accordance with the Data Protection Legislation, including (but not limited) to:

28.3 acting only on the Data Controller's instructions;

28.4 taking all appropriate technical and organisational measures against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, personal data; and;

28.5 Refraining from processing Personal Data outside of the European Economic Area in a manner which would be contrary to those obligations imposed by the Data Protection Principles set out in Schedule 1 of the Data Protection Act 1998.



## 29 Annex - IR35 Statement.

Our services are provided under the terms of the standard G-Cloud 12 Framework Agreement and Call-Off Contract. We do not require additional terms and conditions for this service offering apart from a statement on IR35. This may be required as an annex to any G-Cloud 12 Call-Off Contract as Equal Experts does not provide services deemed to be within IR35 legislation.

This engagement has been deemed to be outside of IR35 legislation. This means that:

- ♦ the Supplier shall use its own initiative as to the manner in which services are to be delivered.
- ♦ the Supplier shall not be supervised, directed or controlled regarding how the services are delivered.
- ♦ the Supplier shall use its own equipment where security requirements permit.
- ♦ the Supplier is expected to provide the services on such hours or days as required to meet any deadlines, as agreed between the Supplier and the Client.
- ♦ the Supplier shall provide the necessary resources to support the Services which shall include one or more specialists.
- ♦ the outputs and deliverables will be linked to payments.
- ♦ the Client is willing to accept substitute personnel with the relevant skills and expertise.



# Contact Us

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