



amentum



# Custom Software Development Service G-Cloud 14 Terms & Conditions

# Form A: Conditions for the Supply of Design and/or Consultancy Services

## 1. Definitions and Interpretation

In these Conditions "**Amentum**" shall mean the Amentum company which is to supply the Services under contract to the Client and which is named on the accompanying tender or offer for the Services and shall include its legal representatives, successors and assigns; "**Client**" shall mean the person, firm or company to whom this document is provided or addressed; "**Conditions**" means the terms and conditions contained herein; "**Contract**" means these Conditions, Amentum's tender or offer for the Services and the Client's written acceptance thereof; "**Services**" shall mean the design and/or consultancy services to be supplied to the Client under the Contract. In the event of any conflict or ambiguity between these Conditions and any other document forming part of the Contract, the provisions of these Conditions shall prevail. These Conditions constitute the only conditions upon which Amentum shall supply the Services and shall prevail over any other conditions which the Client may purport to impose. Words importing the singular only also include the plural and vice versa where the context so requires.

## 2. Price

In consideration of the provision of the Services by Amentum, the Client shall pay the price as set out in Amentum's tender or offer. The price of the Services quoted to the Client shall be exclusive of VAT, which Amentum shall add to its invoices at the appropriate rate.

## 3. Terms of Payment and Suspension

3.1 Unless otherwise agreed in writing, Amentum shall be entitled to invoice the Client at the end of each month in which the Services were performed. The Client shall pay each invoice submitted by Amentum in full and in cleared funds within thirty (30) days of the date of invoice to a bank account nominated in writing by Amentum. All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

3.2 In the event of any delay of seven (7) days or more in payment of any sum properly due to Amentum under these Conditions, Amentum shall have the right by notice in writing to suspend further performance of the Services, and if such delay persists for more than forty five (45) days, terminate the Contract by further notice in writing to the Client to such effect. The Client shall grant such extension(s) of time for the performance of the Services as may be fair and reasonable and shall compensate Amentum for all costs and expenses reasonably incurred by Amentum as a result of or in connection with suspension or termination of the Services pursuant to this Condition 3.2. In the event of such termination, Amentum shall cease to have any liability under or in connection with the Contract.

## 4. Information and Access

4.1 The Client shall in a timely manner and at no charge provide Amentum with any information which Amentum may reasonably require in order to perform the Services and access at all reasonable times to any premises and facilities not controlled by Amentum to which access may be reasonably required for the performance of the Services. Amentum shall give the Client reasonable notice of its need for any such information or access.

4.2 Where the performance by Amentum of the Services involves access to any premises and facilities not controlled by Amentum, Amentum shall comply in all respects with the provisions of all laws, orders, regulations and bye laws made by a competent authority that shall be applicable to such premises and facilities and in particular without prejudice to the foregoing, such matters as concern the safety, health and welfare of persons working on such premises and facilities.

## 5. Standard of Performance

Amentum warrants that it shall perform the Services with reasonable skill, care and diligence to be expected, at the time and place of performance, of recognised professionals performing services of a similar type and nature to the Services ("**Standard**"). The warranties set out in this Condition are in lieu of all other express or implied warranties or conditions, including implied warranties or conditions of satisfactory quality and fitness for a particular purpose, in relation to the Contract. Without limiting the generality of the foregoing, Amentum shall not in any way be responsible or liable for any performance or process guarantees of any kind. Amentum shall re-perform (at no additional cost to the Client) such of the Services as may be necessary to rectify any discrepancies, errors or omissions in the drawings, documentation and/or other data supplied by it under the Contract that fail to meet the Standard whether the same shall have been approved by Client or not, provided that such discrepancies, errors or omissions are not due to inaccurate information furnished in writing to Amentum by the Client and provided further that the Client notifies Amentum of such discrepancies, errors or omissions in writing within twelve (12) months of the date of completion of the Services or the date of any earlier termination of the Contract. Amentum's sole liability and obligation, and Client's sole right and remedy, for any error, omission, defect or deficiency in the Services shall be Amentum's obligation to re-perform the Services in accordance with this Condition 5. No other liability shall attach to Amentum for or in connection with any defects, errors, discrepancies or omissions in the Services (including the results thereof).

## 6. Liability

6.1 Without affecting Condition 6.5 but notwithstanding anything else to the contrary in the Contract, Amentum's aggregate Liability shall be limited to a sum not exceeding fifty per cent (50%) of the price of the Services.

6.2 Without affecting Condition 6.5, Amentum shall not have any Liability for:

- (i) any indirect, special, exemplary or consequential loss or damage, or
- (ii) to the extent not covered by Condition 6.2(i), any loss of profit, loss of goodwill, injury to reputation, loss of income, loss of use, loss of revenue, loss of contracts, loss of product, loss of production, loss of business opportunity, loss of savings or anticipated savings, third party losses, loss of use of capital, business interruption, interest or increased financing charges, rental charges or other like risks,

whether or not foreseeable at the date of execution of the Contract or at any time and whether under the express or implied terms of the Contract or at law or in any other way.

- 6.3 The period of Amentum's Liability (including without limitation negligence or by way of indemnity) is two years from the date the cause of action accrued.
- 6.4 Notwithstanding anything else to the contrary, Amentum shall perform the Services to the Standard but shall have no liability whatsoever in respect of any delay howsoever caused or arising.
- 6.5 Nothing in the Contract shall limit or exclude Amentum's liability for fraud (including fraudulent misrepresentation) or where and to the extent that it is otherwise not lawful for Amentum to exclude or limit the liability concerned.
- 6.6 For the purposes of this Condition 6, "Liability" means any liability arising out of or in connection with the Contract whether for breach of contract, for breach of duty, in tort (including without limitation negligence), by way of indemnity or in respect of any rights for the Client to make deductions from payments due or any liability for Amentum to pay the Client (including without limitation any liability for Amentum to pay costs for completing a project after termination) or in respect of any theory of liability or cause of action.
- 6.7 The Client remains solely responsible for their use of the Services pursuant to Amentum's performance. With this respect, the Client shall be solely liable for, and shall indemnify and hold Amentum harmless against any costs, damages, liabilities, fines or penalties claimed against or incurred by Amentum in connection with any allegation or claim raised by a third party that the Services caused any damage pertaining to their use by the Client in their activities.

## 7. Nuclear Liability

Notwithstanding anything to the contrary contained in the Contract, if the Client is the operator of any nuclear power plant or other nuclear installation or the Services relate to a nuclear power plant or other nuclear installation, the Client shall be solely responsible for, waive any claim against and indemnify and hold harmless Amentum and its Affiliates, sub-contractors and/or sub-consultants of any tier in the supply chain against any and all loss and/or liability for (a) damage to property (including without limitation the Client's and/or any third party property); (b) any loss, sudden or accidental pollution, contamination and/or damage to the environment (including costs of reinstatement, costs of preventative measures and/or contamination clean-up costs), (c) death and/or personal or bodily injury, and in the case of (a), (b) and (c) of this Condition 7, caused by and/or arising out of or resulting from the handling, ownership, sampling, transport, testing, use, storage and/or disposal of and/or exposure to radioactive materials and/or any other products with radiological hazardous properties, including without limitation nuclear fuel; nuclear materials; nuclear wastes; and/or radioactive samples and/or products or from any combination of the radioactive properties of nuclear materials with the toxic, explosive and/or hazardous properties of non-nuclear materials, chemicals and/or wastes; or from any ionising radiation emitted by any source of radiation (whether having a civil and/or military application), either arising from or on a nuclear facility or during the transport of any nuclear material or nuclear package to/from a nuclear facility whether such a facility is or was used for military or civil purposes. For the purposes of this Condition, "Affiliate" means in relation to either party each and any subsidiary or holding company of that party and each and any subsidiary of a holding company of that party.

## 8. Intellectual Property

- 8.1 Subject to any pre-existing rights of the Client or any third party, the intellectual property rights in all reports, drawings, designs or other written or electronic information generated by Amentum in the performance of the Services shall vest in or be vested in Amentum. Amentum shall, on a royalty free basis, grant to the Client the right to use and dispose of all such reports, data, drawings, designs and information to such extent as is necessary to enable the Client to make reasonable use of the Services.
- 8.2 The Client warrants that any design, specification or instruction furnished to Amentum hereunder shall not be such as to cause Amentum to infringe any of the intellectual property rights of any third party in the performance of the Services.
- 8.3 The Client may use, reproduce, distribute and publish the reports and information supplied by Amentum hereunder for purposes other than those specified in the Contract only with the prior agreement of Amentum in writing and then subject to the agreement on a case-by-case basis of reasonable terms and conditions.

## 9. Confidentiality

All information obtained by Amentum from the Client for or in connection with the Contract and Amentum's performance of the Services shall be considered confidential and shall not be used by Amentum other than for the purposes of the Services, or divulged by Amentum, its servants or agents to any person, firm or corporation other than to its sub-contractors or consultants engaged in the performance of the Services, without the Client's prior consent in writing. The foregoing restrictions shall not apply to any information disclosed by Client to Amentum which: (a) is or later becomes public knowledge other than by breach of the foregoing paragraph; or (b) is in Amentum's possession with the full right to disclose prior to its receipt; or (c) is independently received by Amentum from a third party having the full right to disclose; or (d) is required to be disclosed by operation of law or pursuant to legal proceedings and Amentum gives prior written notice to the Client of its obligation to disclose.

## 10. Force Majeure

Subject to the Client's obligation to pay for Services performed, Amentum's obligations to perform the Services and the Client's obligations in respect of such Services shall be suspended during an event of Force Majeure. An event of "Force Majeure" occurs when an event which is beyond the reasonable control of the party claiming Force Majeure prevents such party from fulfilling its obligations. Events of Force Majeure include, without limitation, acts of nature (including floods, draught, earthquakes, hurricanes and other adverse weather), war, terrorism or the effects of terrorism, riot, civil disorder, disease, epidemic or pandemic, fire, explosion, interruption or failure of utility service, industrial action, strikes and other labour disputes, acts or orders of government or other authorities. Lack of finances, for whatever reason, is not an event of Force Majeure.

## 11. General

- 11.1 No failure or delay by a party to exercise any right or remedy provided under the Contract 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.
- 11.2 If any Condition or part-Condition of the Contract 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 Condition or part-Condition shall be deemed deleted. Any modification to or deletion under this Condition shall not affect the validity and enforceability of the remainder of the Contract.

- 11.3 Where the Services include the analysis of samples provided by or on behalf of the Client, responsibility for the disposal of the samples remains with the Client and on completion of the analysis Amentum may, at its sole discretion, return them to the Client or dispose of them and in either case the Client shall pay Amentum reasonable costs as an addition to the price for the Services.
- 11.4 No party may assign or transfer in any way any of its rights or obligations under the Contract without prior written consent of the other party which shall not be unreasonably withheld or delayed.
- 11.5 Neither party shall export, directly or indirectly, any technical data acquired from the other party under the Contract (or any products, including software, incorporating any such data) in breach of any applicable export control laws or regulations, to any country for which the government or any agency thereof at the time of export requires an export licence or other governmental approval without first obtaining such licence or approval. Each party undertakes, if requested, to provide the other party with any reasonable assistance (such as an end user undertaking), to enable it to perform any activity required by any competent government or agency in any relevant jurisdiction for the purpose of compliance with any export control law or regulation.
- 11.6 The Client acknowledges that it has reviewed these Conditions and that they have been fairly and reasonably brought to the Client's attention.
- 11.7 Save for any third party rights under Condition 7, no one other than a party to the Contract shall have any right to enforce any of its terms.

## **12. Variations**

The Client shall have the right to order any variation to the Services. Such variations may include additions, deletions, substitutions or any other alterations including changes in the programme for execution thereof. Variations shall not vitiate or invalidate the Contract. Amentum shall, upon receipt of any order for a variation, promptly advise the Client of any effect thereof on the provisions of the Contract, the performance of the Services, or upon the programme. Any increase or decrease in the price for Services shall be determined utilising any prices and rates contained in the Contract for such purpose, or if no such prices and rates are contained in the Contract, on such other basis as may be fair and reasonable having due regard to all the relevant circumstances. No variation of these Conditions shall be binding upon Amentum unless agreed in writing by a duly authorised representative of Amentum.

## **13. Governing Law**

The Contract shall be governed by and construed in accordance with the laws of England and Wales and the parties agree to submit to the non-exclusive jurisdiction of the English courts.



# Next steps

Our suite of G-Cloud services can be delivered standalone or as part of an integrated solution tailored to your specific requirements.

To better understand your current and future needs please reach out to our technical experts, who will work with you to explore and identify potential solutions to your challenges.

For further information please email [oliver.hart@global.amentum.com](mailto:oliver.hart@global.amentum.com)

