

Terms & Conditions

G-Cloud 14

Lot 3

Colt Programme & Project Management

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1. General

This Custom Solutions and Services Schedule (“Schedule”) is entered into between Lumen and Customer and is effective as of the date last signed (“Schedule Effective Date”). “Lumen” is defined for purposes of this Service Schedule as an EMEA Lumen Technologies legal entity that is now a member of the Colt group of companies (Colt Group Holdings Limited, Colt House, 20 Great Eastern Street, London, EC2A 3EH, United Kingdom, registered in England and Wales, under company number 11530966. Corporate and contact information can be found at <https://www.colt.net/legal/colt-group-of-companies>). If Lumen and Customer have not executed a Custom Solutions and Services Schedule, then the standard Custom Solutions and Services Schedule, a copy of which is available upon request, will govern the applicable Statements of Work (“SOWs”) and SOW Change Requests. This Schedule is governed by and incorporates by reference the Lumen Master Service Agreement or other service agreement executed between the parties, or the then current standard Lumen Master Service Agreement if no agreement has been executed. This Schedule, any attached or incorporated documents, Statements of Work (“SOWs”), SOW Change Requests, and the applicable agreement between Lumen and Customer collectively comprise the agreement between the parties (“Agreement”). Capitalized terms used and not otherwise defined in this Schedule will have the meaning set forth in the Agreement.

1.1. Additional General Terms

Service charges are exclusive of taxes and presented without reduction for any Withholding Tax, all of which are the responsibility of the Customer. “Withholding Tax” means any amount or account of tax on sources of income which a payor is obliged to deduct from payments due to a recipient and account for or to any tax authority. In the event that any payment to be made to Lumen under this Service Schedule should be subject to reduction by reason of a Withholding Tax, Customer agrees to pay Lumen such amounts as would have been necessary so that the aggregate net amount received by Lumen after application of a Withholding Tax is the same amount as would have been received by Lumen if there had been no requirement to deduct or withhold such tax. For Services provided outside the United States, Customer or its local affiliate may be required to enter into a separate local country addendum/agreement (as approved by local authorities) (“LCA”) with the respective Lumen affiliate that provides the local Service(s). Such Lumen affiliate will invoice Customer or its local affiliate for the respective local Service(s).

1 Services and Acceptance

This Section replaces the Orders section in the Agreement for Services purchased under this Schedule. Lumen will provide the professional, consulting, analytical, design, technical, implementation, management, and security services (“Services”) identified in the applicable statement of work (“SOW”) pursuant to the Agreement. Services are provided by the Lumen affiliate identified in the SOW; and Lumen may utilize its own employees or subcontractors and may change, modify, or replace any of Lumen network hardware, software, or equipment used to deliver Services. Customer will comply with the responsibilities identified in the SOW or a SOW Change Request. Lumen’s performance will be excused where the Services are contingent upon Customer’s performance until Customer complies with its responsibilities; Lumen will receive additional time to complete the Services after Customer complies. Customer’s noncompliance may result in an adjustment of the charges, including charges for additional hours required to complete the Services. Except as otherwise provided in a SOW, Services will be deemed accepted unless Customer provides written notice of any deficiency to Lumen within three business days after commencement of work or delivery of the Services, including phased delivery of Service, if applicable (the “Acceptance Period”). Such notice must detail and demonstrate the deficiency to Lumen’s reasonable satisfaction. Lumen will remedy the deficiency and will notify Customer accordingly, at which time a new Acceptance Period will begin. Lumen will delay billing until Services are accepted.

1.1 Service Term

The Services will continue for the term specified in the applicable SOW (“Service Term”), unless terminated by either party pursuant to the terms of the Agreement or this Schedule.

2 Customer Responsibilities.

2.1 Charges; Payment

This Section replaces the Commencement of Billing section in the Agreement. Subject to the Services and Acceptance section above, the Service Commencement Date for Services is the date Lumen begins performing Services or as specified in a SOW. Customer will pay all charges (including reasonable travel and living expenses and third-party charges) and any progress payments as set forth in a SOW and all applicable Taxes and Fees. If Lumen cannot complete installation due to Customer delay or inaction, Lumen may begin charging Customer for the Service, and Customer will pay such charges. "MRC" means monthly recurring charge, and "NRC" means non-recurring charge. Charges for certain Services are subject to (a) a property tax surcharge and (b) a cost recovery fee per month to reimburse Lumen for various governmental taxes and surcharges. Such charges are subject to change by Lumen and will be applied regardless of whether Customer has delivered a valid tax exemption certificate.

2.2 Termination

This Section replaces the Cancellation and Termination Charges section in the Agreement. Either party may terminate a SOW upon 30 days prior written notice. Cancellation charges will be identified in the SOW. Customer will remain liable for charges accrued but unpaid as of the termination date.

2.3 Letter of Agency

If applicable, upon the execution of an applicable SOW, Customer will sign a Letter of Agency giving Lumen the limited authority to directly notify the appropriate vendor for the purpose identified in the Letter of Agency. Customer may terminate this authorization at any time upon notice to Lumen. If applicable, Customer will also provide its vendors with a letter (with a copy to Lumen) acknowledging Lumen's role as Customer's agent solely as it relates to the purpose as specifically identified in such letter of agency. As soon as commercially practicable, Customer will provide Lumen with a copy of any contractual commitments between Customer and its vendor that Lumen must be aware of or comply with in order to dispatch such vendor accordingly.

2.4 Non-solicitation

Customer or its third party will not knowingly solicit or recruit for employment or hire any Lumen Resource for one year following the termination of a SOW for which the Lumen Resource performed work for Customer, except that Customer may recruit or hire a Lumen Resource identified by Customer solely as a result of the Lumen Resource's response to a non-specific, general advertisement by Customer. "Lumen Resource" means an employee, consultant or contractor assigned by Lumen to perform the Services.

3 Additional Service Limitations and Disclaimers

3.1 Disclaimer of Warranties

Lumen will not be liable for any damages incurred by Customer or third parties resulting from Customer's non-compliance with any standards which apply to Customer. Each party's total aggregate liability arising from or related to the Services will be limited to the total charges paid or payable under the SOW that gave rise to the claim, except that Customer remains liable for its obligations under the "Charges; Payment section" and any Customer-specific indemnification obligations. Customer's sole remedy for any dissatisfaction in the performance of any of the Services is the SLA, if applicable, or to terminate the relevant SOW. THE SERVICES, INCLUDING ANY DELIVERABLE AND ANY OPEN SOURCE SOFTWARE, ARE PROVIDED "AS IS" WITHOUT ANY WARRANTIES OF ANY KIND, WHETHER STATUTORY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF TITLE, NONINFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, COMPLETENESS, COMPATIBILITY OF SOFTWARE OR EQUIPMENT, OR ANY RESULTS TO BE ACHIEVED THEREFROM. LUMEN MAKES NO WARRANTIES OR REPRESENTATIONS THAT (A) THE SERVICE OR ANY DELIVERABLE WILL BE FREE FROM LOSS OR LIABILITY ARISING OUT OF (I) HACKING OR SIMILAR MALICIOUS ACTIVITY, OR (II) ANY ACT OR OMISSION OF THE CUSTOMER; (B) ALL ERRORS CAN BE CORRECTED; (C) ALL RISKS, POTENTIAL SECURITY AND COMPLIANCE GAPS WILL BE ACCURATELY IDENTIFIED; OR (D) THAT THE SERVICES AND DELIVERABLES WILL BE UNINTERRUPTED, ERROR-FREE, ACCURATE, COMPLETE OR EFFECTIVE IN ACHIEVING CUSTOMER'S SECURITY AND COMPLIANCE RELATED OBJECTIVES.

3.2 Compliance and Security

Lumen has adopted and implemented, and will maintain, a corporate information security program designed to protect data transmitted or processed by Lumen from loss, misuse and unauthorized access or disclosure. Such program includes formal information security policies and procedures. The Lumen information security program is subject to reasonable changes by Lumen from time to time. Customer will ensure that all Customer data transmitted or processed via the Service complies with applicable law and reasonable information security practices, including those involving encryption.

3.3 Intellectual Property; Software

3.3.1 Intellectual Property

Lumen's intellectual property and proprietary rights include any skills, know-how, modifications or other enhancements developed or acquired in the course of configuring, providing, or managing the Service. Each party agrees that it will not, directly or indirectly, reverse engineer, decompile, reproduce or otherwise attempt to derive source code, trade secrets, or other intellectual property from any information, material, or technology of the other party or its licensors. Except as expressly set forth below with respect to Document Deliverables, Customer Technology and Content, nothing in this Schedule or the performance of it conveys, or otherwise transfers any right, title, or interest in any intellectual property or other proprietary rights held by either party or its licensors.

3.3.2 Customer License to Document Deliverables

Upon receipt of full payment, Lumen grants to Customer an irrevocable, perpetual, non-exclusive, world-wide, right and limited license under Lumen's copyright rights to internally use, reproduce, distribute copies of and prepare derivative works of the Document Deliverables ("Deliverable License"); provided however, Customer will treat the Document Deliverables as "confidential" pursuant to the terms of the Agreement and any applicable confidentiality agreement(s) by and between Customer and Lumen unless otherwise agreed to by Lumen. For purposes of this Section, "Document Deliverables" will mean any reports or other documentation prepared by Lumen exclusively for Customer pursuant to an applicable SOW under this Service Schedule.

3.3.3 Software

Customer agrees that any third-party software including any corresponding documentation, provided to Customer by Lumen in connection with the Service will be used strictly in accordance with all applicable licensing terms and conditions. All rights in and to any such third-party software are reserved by and remain with the applicable third parties. Any software (including related documentation) that may be provided by Lumen or its third party licensors to Customer may only be used by Customer in connection with the Services. Customer acknowledges and agrees that it is solely responsible for ensuring its software and systems are current and supportable with respect to any such software. Lumen may require Customer to purchase vendor supported upgrades at an additional cost where needed for Lumen's continued provision of Services; Lumen may charge Customer for support or additional tasks incurred from Customers' continued use of an unsupported configuration. Customer's failure to do so may result in Lumen's inability to provide the Services and Lumen will have no liability in such events.

3.3.4 Third Party Software and Customer Technology

If Customer elects to use Customer provided and/or licensed software in connection with the Services or make such software available to its end users, Customer is solely responsible for (a) selecting, licensing, installing and maintaining any such software, including any related applications and systems; and (b) ensuring adherence to current technical documentation, all applicable licensing terms, requirements, and/or restrictions and all applicable laws with respect to such software. Customer acknowledges that Customer's failure to perform any of the foregoing responsibilities (a)-(b) may result in Lumen's inability to provide the Services, in which case, Lumen will have no liability for failure to provide such Services. To the extent required by Lumen to provide the Services pursuant to an applicable SOW, Customer grants to Lumen a non-exclusive, non-transferable, royalty-free license to use Customer Technology and Content, and to sublicense Customer Technology and Content to Lumen subsidiaries and affiliates and any third parties providing all or part of the Service on behalf of Lumen. All right, title and interest in and to any Customer Technology and Content will remain solely with Customer, its affiliates and their licensors. "Customer Technology and Content" means the technology, content and other information of Customer and its licensors, including Customer's Internet operations design, software tools, hardware designs, algorithms, software (in source and object forms), user interface designs,

architecture, class libraries, objects and documentation (both printed and electronic), know-how, trade secrets and any related intellectual property rights throughout the world.

3.3.5 Freedom of Action

Nothing in the Agreement will preclude Lumen from developing, marketing, and distributing any software or integration code or performing any services similar to the Services for itself or for any third party, provided that Lumen is in compliance with confidentiality obligations under the Agreement.

3.4 Confidentiality

In addition to the confidentiality terms contained in the Agreement, confidential information also includes Lumen Technology and Customer Technology and Content. Lumen Technology and all enhancements and improvements are the exclusive property and confidential information of Lumen. Customer Technology and Content and all enhancements and improvements are the exclusive property and confidential information of Customer. Confidential information will not include Customer data, the obligations for which are governed by the Compliance and Security section. "Lumen Technology" means the proprietary technology of Lumen and its licensors, including services, software (in source and object forms), software tools, hardware designs, algorithms, user interface designs, architecture, class libraries, report formats and the copyright in such reports (which such copyright excludes Customer data), objects and documentation (both printed and electronic), network designs, know-how, trade secrets and any related intellectual property rights throughout the world and also including any derivatives, improvements, enhancements or extensions of Lumen Technology conceived, reduced to practice, or developed during the term of the Agreement.

3.5 Miscellaneous

Customer will defend and indemnify Lumen, its affiliates, agents, and contractors against all third party claims for damages, liabilities, or expenses, including reasonable attorneys' fees, arising from the actions of Customer and its employees as related to the Services or Lumen Resources. All Customer notices for disconnect and termination must be sent via email to Lumen at: EMEA.disconnects@colt.net and must contain the account name, account number, identification of the Service(s), and Service address(es). Such disconnect and termination is effective thirty (30) days after Lumen's receipt of the notice. All Customer notices for Service non-renewal and other routine operational notices will be provided in writing to its Lumen sales representative. Failure to provide disconnect, termination and non-renewal notices in accordance with the terms of this Service Exhibit may result in continued charges, and Lumen will not credit charges for such noncompliance. In the event of a conflict between the terms of the Agreement, this Schedule, any SOW and any Change Request, the order of priority will be the SOW Change Request, the SOW, this Schedule, and then the Agreement. Notwithstanding anything to the contrary in the Agreement, Customer is prohibited from reselling Services provided pursuant to this Schedule or any SOW without the express written consent of Lumen and, if applicable, Lumen's subcontractor. To the extent the Services involve the ongoing storage of or routine access to PHI (as defined under the Health Insurance Portability and Accountability Act of 1996, as amended, "HIPAA"), or Lumen is otherwise acting as a Business Associate (pursuant to HIPAA), Lumen will agree to the terms in its then-current Business Associate Agreement upon Customer's request. Lumen and its affiliates or subcontractors may use and transfer to the United States, or other countries, data or information (including business contact information such as names, phone numbers, addresses and/or email addresses) for the sole purpose of: (i) providing and managing the Services; (ii) fulfilling obligations related to the Services under this Schedule and the Agreement; and (iii) complying with applicable law governing the Services.

4 Disclaimer

Colt's proposal is not intended to create a binding contractual commitment. A signed Colt agreement is required to make pricing/services effective. This document may not be altered or edited to create an agreement. If you wish to purchase services on a term arrangement, please contact your Colt Account Manager.

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