

Aphari Ltd – Standard Terms of Business

Scope of this Agreement

1. This Agreement shall govern any Engagement for the supply of services (including the provision of facilities and advice) by Aphari Limited (“Aphari”) to any person, firm or company (“the Client”) except to the extent that they conflict with any accompanying proposal from Aphari (“Proposal”).
2. This Agreement together with any Proposal appended to or referred to in it constitutes the entire agreement between the parties in respect of the matters dealt within it. The Client acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of Aphari which is not set out in the Agreement.

The Engagement

3. Aphari shall perform the services set out in the Proposal using reasonable care and skill (the “Engagement”). The Proposal shall cover the objectives and scope of the Engagement, the expected outcome of the Engagement, its duration, the Aphari staff that may undertake the Engagement, fees to be incurred by the Client and any other information relevant to the Engagement. Aphari shall commence the Engagement, and the Engagement shall expire on, the dates set out in the Proposal.
4. During the course of the Engagement, Aphari shall provide the Client with regular written reports on the progress made in fulfilling the objectives of the Engagement as set out in the Proposal. Progress reports shall be provided at a frequency of not more than monthly.
5. Aphari shall appoint one of its staff to take responsibility for the co-ordination, day-to-day management and quality of the deliverables of the Engagement notwithstanding that Aphari reserves its right to substitute the staff member appointed.
6. Aphari will provide services which reflect the technological and business practices that are most appropriate to the Engagement. All forecasts and recommendations made by Aphari to the Client shall be made in good faith and Aphari gives no guarantee or warranty in respect of the accuracy of such forecasts or recommendations.
7. Security results and findings made by Aphari are accurate only to what is discovered and publically known to the security industry at the time of an assessment or Engagement. Aphari gives no guarantee or warranty in respect of the accuracy of such security results and findings.
8. For the avoidance of doubt, this Agreement shall not constitute a contract of employment between the Client and any employee, officer, worker, consultant or sub-contractor of Aphari working on the Engagement.

Client Obligations

9. To enable Aphari to fulfil the objectives of the Engagement, the Client shall:
 - a. co-operate fully with Aphari in all matters relating to the performance of the Engagement;
 - b. supply information regarding its business and operations relevant to Aphari fulfilling the objectives of the Engagement. Information so provided should be accurate and complete;
 - c. make available to Aphari such office and other facilities as the Client considers necessary for the proper performance of the Engagement;
 - d. work with and inform, in advance, the relevant 3rd party network and service providers of the Client to notify and authorise the Engagement to commence and proceed; and
 - e. obtain and maintain all necessary licences, permissions and consents which may be required before the date on which the Engagement commences.

Fee Estimates, Quotations and Other Commitments

10. Unless otherwise agreed, the fees quoted in the Proposal will be based upon an estimate of the effort and the experience of Aphari staff considered necessary to achieve the objectives of the Engagement (the “Fees”). Should the Engagement require more effort or more experienced staff than specified in the Proposal, Aphari will notify the Client before incurring fees greater than the Fees in the Proposal. On the other hand, should the Engagement require less effort or less experienced staff than originally estimated in the Proposal, the fees

to be incurred by the Client will be proportionally lower. Any changes to the Fees quoted in the Proposal shall be agreed with the Client in writing.

11. For fixed-priced Fees, the fees shall be as set out in the Proposal and agreed with the Client.
12. Estimates or quotations for fees are valid for 30 days from the date of the related quotation or Proposal. All other obligations expressly stated or implied in a quotation or Proposal, including the assignment of named Aphari staff to the Engagement, are also only valid for 30 days from the date of the related quotation or Proposal

Charges

13. In addition to the Fees, Aphari will charge:
 - a. for goods, services and facilities acquired specifically for the Engagement. The charge for such goods, services and facilities will be agreed with the Client before the charges are incurred;
 - b. for reasonable travelling and subsistence expenses incurred by Aphari staff in the performance of the Engagement. Such expenses will be charged to the Client at cost; and
 - c. Value Added Tax, or other taxes, where applicable.

Payment Terms

14. Unless otherwise agreed, all Fees and other charges associated with the Engagement will be invoiced monthly in arrears by Aphari. The Client shall pay each invoice submitted by Aphari within 30 days of the date of issue of each invoice in the currency in which the Fees and charges were cited in the Proposal.

Confidentiality

15. During the course of the Engagement, Aphari and the Client may exchange information which is of a secret or confidential nature and which is neither already known to the recipient nor in the public domain either at the time of disclosure or subsequently through no fault of the recipient. The recipient shall use its best endeavours to keep such information secret and to that end shall not, without the specific prior written consent of the other, permit that information to be:
 - a. disclosed except to those who may need to have such information in connection with the Engagement on a 'need to know basis';
 - b. copied;
 - c. commercially exploited in any way; or
 - d. passed outside the receiving party's control.
16. To protect the Client's confidentiality, Aphari shall not give third parties (including other Aphari clients) access to Aphari's physical work areas where work on the Engagement is being undertaken. Similarly, the Client shall not have access to Aphari's physical work areas except by special arrangement.
17. Except with Aphari's express prior written consent, the Client shall not publish, or make public, any reports which Aphari may deliver to them during the course of the Engagement nor make known to third parties the contents thereof.

Risk

18. Where either party provides the other with any equipment or other goods in the course of the assignment, the recipient shall operate that equipment or use such goods in strict accordance with such instructions (particularly in regard to health and safety) as the supplying party may make available. Risk and responsibility for insuring all items provided under the Agreement shall pass to the Client on delivery to the Client's premises.
19. Save where Aphari's negligence results in personal injury or death (for which Aphari shall be liable), Aphari shall provide its services at the Client's sole risk.

Limitation of Liability

20. Nothing in this Agreement shall exclude Aphari's liability for:
 - a. death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
 - b. fraud or fraudulent misrepresentation; or
 - c. breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982.

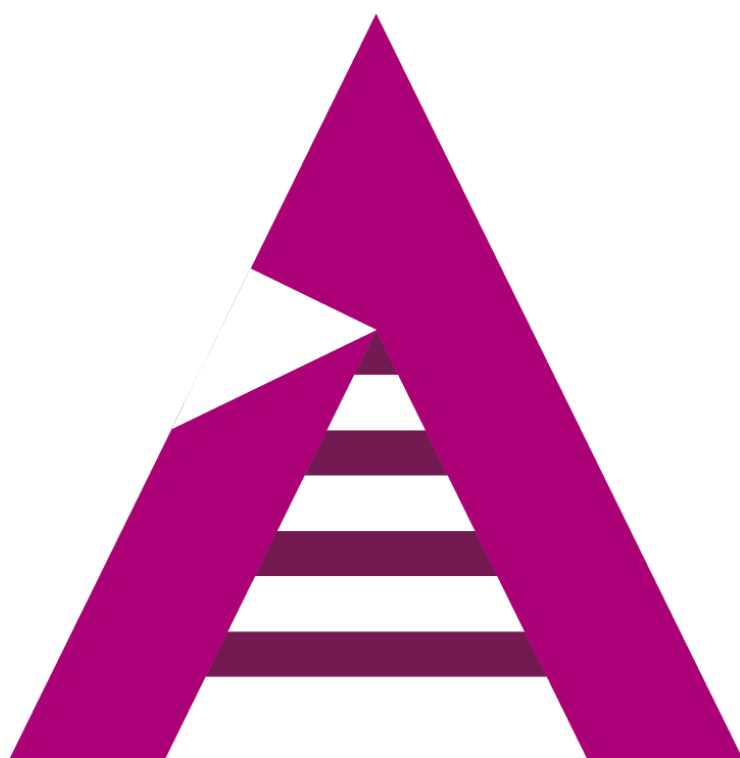
21. Aphari shall under no circumstances whatsoever be liable to the Client, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with this Agreement and Aphari's total liability to the Client in respect of all other losses arising under or in connection with this Agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed a sum equal to one hundred percent (100%) of the Fees payable under this Agreement.

Intellectual Property Rights

22. For the purposes of clauses 22 – 27, the following terms shall have the following meanings:
- Background IPR shall mean in respect of each party, the Intellectual Property Rights owned by or otherwise in the possession of that party before the date of this Agreement, and/or any Intellectual Property Rights created by that party independently of this Agreement, together with any updates and amendments to the same;
 - Foreground IPR shall mean any Intellectual Property Rights created or developed by Aphari specifically for the purposes of the Engagement together with updates and amendments to the same and/or any Intellectual Property Rights arising as a result of the performance of Aphari's obligations under this Agreement. For the avoidance of doubt, the Foreground IPR shall not include Aphari's Background IPR.
 - Intellectual Property Rights means any and all intellectual property rights of any nature, whether registered, registrable or otherwise, including patents, utility models, trademarks, registered designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know-how and any other intellectual property rights that subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures, marketing methods and procedures and advertising literature, including the "look and feel" of any websites, and in each case all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these that may subsist anywhere in the world, in each case for their full term.
23. All Background IPR is and shall remain the exclusive property of the party owning it (or, where applicable, the third party from whom its right to use the Background IPR has derived).
24. Aphari hereby grants to the Client a perpetual, irrevocable, royalty free, non-exclusive licence to use Aphari's Background IPR to the extent required for the Client to receive the services provided by Aphari pursuant to the Engagement and this Agreement.
25. The Client hereby grants to Aphari a perpetual, irrevocable, royalty free, non-exclusive licence to use the Client's Background IPR to the extent required by Aphari to enable Aphari to carry out the Engagement and perform its obligations under this Agreement.
26. Any Foreground IPR shall vest in and be owned by Aphari.
27. Aphari hereby grants to the Client a perpetual, irrevocable, royalty free, non-exclusive licence to use the Foreground IPR for the purposes of receiving the services delivered as part of the Engagement and for any other purpose as may be required by the Client in the normal course of its business, save that the Client shall not be entitled to sub-license, sell or otherwise commercially exploit the Foreground IPR.
28. Nothing in these conditions shall restrict Aphari from dealing with its own intellectual property not falling within the scope of the previous paragraphs 22 – 27 in such manner as it may see fit provided that the security of the Clients' secret or confidential information is not thereby prejudiced.

Governing Law and Jurisdiction

29. This Agreement shall be governed by and construed in accordance with English law. Any dispute arising out of or in connection with this Agreement shall be subject to the exclusive jurisdiction of the courts of England and Wales and the parties hereby submit to the exclusive jurisdiction of those courts for these purposes.



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