



Terms & Conditions

Legacy to Cloud

1 Terms & Conditions

1.1 Definitions

1.1.1 Except to the extent expressly provided otherwise, in these Terms and Conditions:

"Affiliate" means an entity that Controls, is Controlled by, or is under common Control with the relevant entity;

"Assigned Deliverables" means those Deliverables (excluding the Third-Party Materials and the Client Materials) the rights in which are to be assigned (rather than licensed) by the Consultant to the Client under Clause 6, as specified in Section 3 of the Statement of Work;

"Business Day" means any weekday other than a bank or public holiday in England;

"Business Hours" means the hours of 08:30 to 17:30 GMT on a Business Day;

"Charges" means the following amounts:

- (a) the amounts specified in Section 6 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 Consultant's standard time-based charging rates (as notified by the Consultant to the Client before the date of a contract under these Terms and Conditions) by the time spent by the Consultant's personnel performing the Services;

"Client" means the person or entity identified as such in Section 1 of the Statement of Work;

"Client Confidential Information" means:

- (a) any information disclosed by (or on behalf of) the Client to the Consultant during the Term / at any time before the termination of a contract under these Terms and Conditions (whether disclosed in writing, orally or otherwise) that at the time of disclosure:
 - (i) was marked as "confidential"; or
 - (ii) should have been reasonably understood by the Consultant to be confidential;
- (b) the terms of a contract under these Terms and Conditions; and
- (c) specify other confidential information;

"Client Materials" means all works and materials supplied by or on behalf of the Client to the Consultant for incorporation into the Deliverables or for some other use in connection with the Services;

"Consultant" means Rocktime Limited of registered office Arena Business Centres, Holyrood Close, Poole, Dorset BH17 7FJ a company incorporated in England and Wales (registration number 3781061);

"Consultant Indemnity Event" has the meaning given to it in Clause 11.1;

"Control" means the legal power to control (directly or indirectly) the management of an entity (and "Controlled" should be construed accordingly);

"Deliverables" means those deliverables specified in Section 2.3 of the Statement of Work that the Consultant 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];

"Force Majeure Event" means an event, or a series of related events, that is outside the reasonable control of the party affected (including [failures of the internet or any public telecommunications network, hacker attacks, denial of service attacks, virus or other malicious software attacks or infections, power failures, industrial disputes affecting any third party, changes to the law, disasters, explosions, fires, floods, riots, terrorist attacks and wars]);

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

"Licensed Deliverables" means the Deliverables excluding the Assigned Deliverables, the Third Party Materials and the Client Materials;

"Minimum Term" means, in respect of a contract under these Terms and Conditions, the period of 12 months beginning on the Effective Date;

"Permitted Purpose" means the specific use of advice and recommendation provided by the Contractor;

"Services" means the consultancy services specified in Section 2.2 of the Statement of Work;

"Statement of Work" means a statement of work agreed by the parties and incorporating these Terms and Conditions by reference;

"Term" means the term of a contract under these Terms and Conditions, commencing in accordance with Clause 2.1 and ending in accordance with Clause 2.2;

"Terms and Conditions" means these terms and conditions, including any amendments to these terms and conditions 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 2.3 of the Statement of Work or which the parties agree in writing shall be incorporated into the Deliverables.

1.2 Term

1.2.1 A contract under these Terms and Conditions shall come into force upon the Effective Date.

1.2.2 A contract under these Terms and Conditions shall continue in force 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 be subject to termination in accordance with Clause 14.

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

1.3 Services

1.3.1 The Consultant shall provide the Services to the Client in accordance with these Terms and Conditions.

1.3.2 The Consultant shall provide the Services (in accordance with the standards of skill and care reasonably expected from the Consultant's industry).

1.3.3 The Consultant shall devote such of its personnel's time and expertise to the performance of the Services as may be necessary for their satisfactory and timely completion.

1.3.4 The Consultant shall keep the Client informed about the progress of the Services and, in particular, shall promptly provide information about such progress following receipt of a written request from the Client to do so.

1.3.5 The Consultant shall comply with all reasonable requests and directions of the Client in relation to the Services.

1.3.6 The Consultant shall comply with all internal policies and procedures operated by the Client, communicated by the Client to the Consultant and affecting the provision of the Services.

1.4 Deliverables

The Consultant shall deliver the Deliverables to the Client.

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

1.4.3 The Consultant shall use reasonable endeavours to ensure that the Deliverables are delivered to the Client in accordance with the timetable set out in Section 2.4 of the Statement of Work.

4.4 The Consultant warrants to the Client that:

- (a) the Deliverables will conform with the requirements of Section 2.3 of the Statement of Work as at the date of acceptance of the Deliverables;
- (b) the Deliverables will be free from material defects;
- (c) the use of the Deliverables by the Client in accordance with these Terms and Conditions will not:
 - (i) breach the provisions of any law, statute or regulation;
 - (ii) infringe any third party's Intellectual Property Rights; or

1.5 Client Materials

The Client must supply to the Consultant the Client Materials specified in Section 5 of the Statement of Work, in accordance with the timetable specified in Section 2.4 of the Statement of Work.

1.5.2 The Client hereby grants to the Consultant a non-exclusive licence to copy, reproduce, store, distribute, publish, export, adapt, edit and translate the Client Materials to the extent reasonably required for the performance of the Consultant's obligations and the exercise of the Consultant's rights under these Terms and Conditions, together with the right to sub-license these rights to the extent reasonably required for the

performance of the Consultant's obligations and the exercise of the Consultant's rights under these Terms and Conditions.

5.3 The Client warrants to the Consultant that the Client Materials / the use of the Client Materials by the Consultant in accordance with these Terms and Conditions will not:

- (a) breach the provisions of any law, statute or regulation;
- (b) infringe the Intellectual Property Rights or other legal rights of any person; or
- (c) give rise to any cause of action against the Consultant,
in each case [in any jurisdiction and under any applicable law.

1.6 Intellectual Property Rights

1.6.1 The Consultant 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 forming part of the service offered:

1.6.2 The Consultant shall ensure that the Third Party Materials are:

- (a) licensed to the Client in accordance with the relevant licensor's standard licensing terms;
- (b) licensed to the Client on reasonable terms notified by the Consultant to the Client;
- (c) sub-licensed by the Consultant to the Client on reasonable terms notified in writing by the Consultant to the Client; or
- (d) sub-licensed by the Consultant to the Client on the basis of a non-exclusive, worldwide, perpetual and irrevocable licence to use the Third Party Materials in connection with the Deliverables, as reasonably agreed between the parties from time to time].

1.6.3 To the maximum extent permitted by applicable law:

- (a) the Consultant irrevocably and unconditionally waives all moral rights (including rights of paternity and rights of integrity) in respect of the Deliverables to which the Consultant may at any time be entitled; and
- (b) the Consultant undertakes to ensure that all individuals involved in the preparation of the Deliverables will irrevocably and unconditionally waive all moral rights (including rights of paternity and rights of integrity) in respect of the Deliverables to which they may at any time be entitled.

1.6.4 The Consultant must[use best endeavours to:

- (a) do or procure the doing of all acts; and
- (b) execute or procure the execution of all documents,
that the Client may reasonably request from time to time in order to perfect or confirm the Client's ownership of the rights assigned by these Terms and Conditions.

1.7 Charges

1.7.1 The Client shall pay the Charges to the Consultant in accordance with these Terms and Conditions.

1.7.2 If the Charges are based in whole or part upon the time spent by the Consultant performing the Services, the Consultant must obtain the Client's written consent before performing Services that result in any estimate of time-based Charges given to the Client being exceeded or any budget for time-based Charges agreed by the parties being exceeded; and unless the Client agrees otherwise in writing, the Client shall not be liable to pay to the Consultant any Charges in respect of Services performed in breach of this Clause 1.7.2.

1.7.3 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 Consultant.

7.4 The Consultant may elect to vary any element of the Charges by giving to the Client not less than 30 days' written notice of the variation.

1.8 Payments

The Consultant shall issue invoices for the Charges to the Client from time to time during the Term set out in Section 2.6 of the Statement of Work .

1.8.2 The Client must pay the Charges to the Consultant within the agreed payment period following the issue of an invoice in accordance with this Clause 8.

1.8.3 The Client must pay the Charges by using such payment details as are notified by the Consultant to the Client from time to time.

1.8.4 If the Client does not pay any amount properly due to the Consultant under these Terms and Conditions, the Consultant may:

(a) charge the Client interest on the overdue amount at the rate of 8% 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).

1.9 Consultant's Confidentiality Obligations

1.9.1 The Consultant must:

- (a) keep the Client Confidential Information strictly confidential;
- (b) not disclose the Client Confidential Information to any person without the Client's prior written consent, and then only under conditions of confidentiality (approved in writing by the Client);
- (c) use the same degree of care to protect the confidentiality of the Client Confidential Information as the Consultant uses to protect the Consultant's own confidential information of a similar nature, being at least a reasonable degree of care;
- (d) act in good faith at all times in relation to the Client Confidential Information; and
- (e) not use any of the Client Confidential Information for any purpose other than the Permitted Purpose.

1.9.2 Notwithstanding Clause 1.9.1, the Consultant may disclose the Client Confidential Information to the Consultant's officers, employees, professional advisers, insurers, agents and subcontractors who have a need to access the Client Confidential Information for the performance of their work with respect to the Permitted Purpose and who are bound by a written agreement or professional obligation to protect the confidentiality of the Client Confidential Information.

1.9.3 This Clause 1.9 imposes no obligations upon the Consultant with respect to Client Confidential Information that:

- (a) is known to the Consultant before disclosure under these Terms and Conditions and is not subject to any other obligation of confidentiality;
- (b) is or becomes publicly known through no act or default of the Consultant; or
- (c) is obtained by the Consultant from a third party in circumstances where the Consultant has no reason to believe that there has been a breach of an obligation of confidentiality.

1.9.4 The restrictions in this Clause 1.9 do not apply to the extent that any Client Confidential Information is required to be disclosed by any law or regulation, by any judicial or governmental order or request, or pursuant to disclosure requirements relating to the listing of the stock of the Consultant on any recognised stock exchange.

1.9.5 Upon the termination of a contract under these Terms and Conditions, the Consultant will cease to use the Client Confidential Information.

1.9.6 Following the termination of a contract under these Terms and Conditions, and within 10 Business Days following the date of receipt of a written request from the client, the Consultant will destroy or return to the Client (at the Client's option) all media containing Client Confidential Information, and must irrevocably delete the Client Confidential Information from its computer systems.

1.9.7 The provisions of this Clause 1.9 shall continue in force indefinitely following the termination of a contract under these Terms and Conditions following the termination of a contract under these Terms and Conditions.

1.10 Warranties

1.10.1 The Consultant warrants to the Client that:

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

1.10.2 The Client warrants to the Consultant that it has the legal right and authority to enter into a contract under these Terms and Conditions and to perform its obligations under that contract.

1.10.3 All of the parties' warranties and representations in respect of the subject matter of a contract under these Terms and Conditions are expressly set out in these Terms and Conditions and the applicable Statement of Work. Subject to Clause 1.12.1, no other warranties or representations will be implied into that contract and no other warranties or representations relating to the subject matter of that contract will be implied into any other contract.

1.11 Indemnity

1.11.1 The Consultant shall indemnify and shall keep indemnified the Client against any and all liabilities, damages, losses, costs and expenses (including legal expenses and amounts reasonably paid in settlement of legal claims) suffered or incurred by the Client as arising directly as a result of any breach by the Consultant of these Terms and Conditions.

1.11.2 The Client must:

- (a) upon becoming aware of an actual or potential Consultant Indemnity Event, notify the Consultant;
- (b) provide to the Consultant all such assistance as may be reasonably requested by the Consultant in relation to the Consultant Indemnity Event;
- (c) allow the Consultant the exclusive conduct of all disputes, proceedings, negotiations and settlements with third parties relating to the Consultant Indemnity Event; and
- (d) not admit liability to any third party in connection with the Consultant Indemnity Event or settle any disputes or proceedings involving a third party and relating to the Consultant Indemnity Event without the prior written consent of the Consultant, without prejudice to the Consultant's obligations under Clause 1.11.1 and the Consultant's obligation to indemnify the Client under Clause 1.11.1 shall not apply unless the Client complies with the requirements of this Clause 1.11.2.

1.11.3 The indemnity protection set out in this Clause 1.11 shall be subject to the limitations and exclusions of liability set out in a contract under these Terms and Conditions.

1.12 Limitations and exclusions of liability

1.12.1 Nothing in a contract under 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.

1.12.2 The limitations and exclusions of liability set out in this Clause 1.12 and elsewhere in a contract under these Terms and Conditions:

- (a) are subject to Clause 1.12.1; and
- (b) govern all liabilities arising under that contract or relating to the subject matter of that contract, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in that contract.

1.12.3 The Consultant shall not be liable to the Client in respect of any losses;

- a) arising out of a Force Majeure Event.
- b) of profits or anticipated savings.
- c) of revenue or income.
- d) of use or production.
- e) of business, contracts or opportunities.
- f) or corruption of any data, database or software.
- g) in respect of any special, indirect or consequential loss or damage.

1.12.4 The liability of the Consultant to the Client under a contract under these Terms and Conditions in respect of any event or series of related events shall not exceed the greater of the total amount paid and payable by the Client to the Consultant under that contract in the 12 month period preceding the commencement of the event or events.

1.13 Force Majeure

1.13.1 If a Force Majeure Event gives rise to a failure or delay in either party performing any obligation under a contract under these Terms and Conditions (other than any obligation to make a payment), that obligation will be suspended for the duration of the Force Majeure Event.

1.13.2 A party that becomes aware of a Force Majeure Event which gives rise to, or which is likely to give rise to, any failure or delay in that party performing any obligation under a contract under these Terms and Conditions, must:

- (a) promptly notify the other; and
- (b) inform the other of the period for which it is estimated that such failure or delay will continue.

1.13.3 A party whose performance of its obligations under a contract under these Terms and Conditions is affected by a Force Majeure Event must take reasonable steps to mitigate the effects of the Force Majeure Event.

1.14 Termination

1.14.1 The Consultant may terminate a contract under these Terms and Conditions by giving to the Client not less than 30 days' written notice of termination.

1.14.2 The Client may terminate a contract under these Terms and Conditions by giving to the Consultant not less than 30 days' written notice of termination

1.14.3 The Consultant may terminate a contract under these Terms and Conditions immediately by giving written notice of termination to the Client if:

(a) the Client commits any breach / material breach of that contract, and:

(i) the breach is not remediable; or

(ii) the breach is remediable, but the Client fails to remedy the breach within the period of 30 days following the giving of a written notice by the Consultant to the Client requiring the breach to be remedied; or

(b) the Client persistently breaches that contract (irrespective of whether such breaches collectively constitute a material breach).

1.14.4 The Client may terminate a contract under these Terms and Conditions immediately by giving written notice of termination to the Consultant if:

(a) the Consultant commits any breach / material breach of that contract, and:

(i) the breach is not remediable; or

(ii) the breach is remediable, but the Consultant fails to remedy the breach within the period of 30 days following the giving of a written notice by the Client to the Consultant requiring the breach to be remedied; or

(b) the Consultant persistently breaches that contract (irrespective of whether such breaches collectively constitute a material breach).

1.14.5 Either party may terminate a contract under these Terms and Conditions 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 that contract);

(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.

1.15 Effects of termination

1.15.1 Upon the termination of a contract under these Terms and Conditions, 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):

1.15.2 The termination of a contract under these Terms and Conditions shall not affect the accrued rights of either party.

1.16 Notices

1.16.1 Any notice given under these Terms and Conditions must be in writing, whether or not described as "written notice" in these Terms and Conditions.

1.16.2 Any notice given by the Client to the Consultant under these Terms and Conditions must be sent by recorded signed-for post using the relevant contact details set out in Section 2.7 of the Statement of Work.

1.16.3 Any notice given by the Consultant to the Client under these Terms and Conditions must be sent by recorded signed-for post using the relevant contact details set out in Section 2.7 of the Statement of Work.

1.16.4 The addressee and contact details set out in Section 2.7 of the Statement of Work may be updated from time to time by a party giving written notice of the update to the other party in accordance with this Clause 1.16.

1.16.5 A party receiving from the other party a notice by email must acknowledge receipt by email promptly, and in any event within 2 Business Days following receipt of the notice.

1.16.6 A notice will be deemed to have been received at the relevant time set out below or, where such time is not within Business Hours, when Business Hours next begin after the relevant time set out below in the case of notices sent by post, 48 hours after posting.

1.17 Sub-Contracting

1.17.1 The Consultant may subcontract any of its obligations under a contract under these Terms and Conditions, providing that the Consultant 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.

1.17.2 The Consultant shall remain responsible to the Client for the performance of any subcontracted obligations.

1.18 Assignment

1.18.1 The Consultant must not assign, transfer or otherwise deal with the Consultant's contractual rights and/or obligations under these Terms and Conditions without the prior written consent of the Client, such consent not to be unreasonably withheld or delayed, providing that the Consultant may assign the entirety of its rights and obligations under these Terms and Conditions to any Affiliate of the Consultant or to any successor to all or a substantial part of the business of the Consultant from time to time.

1.18.2 The Consultant hereby agrees that the Client may assign, transfer or otherwise deal with the Client's contractual rights and obligations under these Terms and Conditions, such consent not to be unreasonably withheld or delayed, providing that the Client may assign the entirety of its rights and obligations under these Terms and Conditions to any Affiliate of the Client or to any successor to all or a substantial part of the business of the Client from time to time.

1.19 No Waivers

1.19.1 No breach of any provision of a contract under these Terms and Conditions will be waived except with the express written consent of the party not in breach.

1.19.2 No waiver of any breach of any provision of a contract under these Terms and Conditions shall be construed as a further or continuing waiver of any breach of that provision or any other provision of that contract.

1.20 Severance

1.20.1 If a provision of a contract under these Terms and Conditions is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions will continue in effect.

1.20.2 If any unlawful and/or unenforceable provision of a contract under these Terms and Conditions 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.

1.21 3rd Party Rights

1.21.1 A contract under these Terms and Conditions is for the benefit of the parties, and is not intended to benefit or be enforceable by any third party.

1.21.2 The exercise of the parties' rights under a contract under these Terms and Conditions is not subject to the consent of any third party.

1.22 Variation

1.22.1 A contract under these Terms and Conditions may not be varied except by means of a written document signed by or on behalf of each party.

1.23 Entire Agreement

1.23.1 These Terms and Conditions together with the applicable Statement of Work shall constitute the entire agreement between the parties in relation to the subject matter of a contract under these Terms and Conditions, and shall supersede all previous agreements, arrangements and understandings between the parties in respect of that subject matter.

1.23.2 Neither party will have any remedy in respect of any misrepresentation (whether written or oral) made to it upon which it relied in entering into a contract under these Terms and Conditions.

1.23.3 The provisions of this Clause 1.23 are subject to Clause 1.12.1.

1.24 Law and Jurisdiction

1.24.1 Any disputes relating to a contract under these Terms and Conditions shall be subject to the jurisdiction of the courts of England.

1.25 Interpretation

1.25.1 In these Terms and Conditions, a reference to a statute or statutory provision includes a reference to:

- (a) that statute or statutory provision as modified, consolidated and/or re-enacted from time to time; and
- (b) any subordinate legislation made under that statute or statutory provision.

1.25.2 The Clause headings do not affect the interpretation of these Terms and Conditions.

1.25.3 In these Terms and Conditions, general words shall not be given a restrictive interpretation by reason of being preceded or followed by words indicating a particular class of acts, matters or things.

2 Statement of Work

2.1 Client details

The Client [individual name] having its principal place of business at [address].

2.2 Specification of Services

[Specify Services]

2.3 Specification of Deliverables

[Specify Deliverables]

2.4 Timetable

[Insert timetable]

2.5 Client Materials

[Specify Client Materials]

2.6 Financial provisions

[Insert financial provisions]

2.7 Contractual notices

[Consultant contractual notices address details]

[Client contractual notices address details]

The parties have indicated their acceptance of the Terms and Conditions and this Statement of Work by signing below.

SIGNED BY [[individual name] on [.....], the Consultant / [individual name] on [.....], duly authorised for and on behalf of Rocktime Limited]:

.....
SIGNED BY [[individual name] on [.....], the Client / [individual name] on [.....], duly authorised for and on behalf of the Client]:

.....