



Contract for provision of G-Cloud services

This agreement dated _____ is made by and between:

(1) Agento Digital Ltd, a company limited by shares, incorporated in England and Wales under company registration number 10748945 whose registered office is at 3rd Floor 86-90 Paul Street, London, EC2A 4NE ("Agento Digital"); and

(2) CLIENT based at _____ ("CLIENT").

Agreement

G-Cloud Framework

Where this agreement is entered into as a call-off contract under the G-Cloud Framework Agreement published by Crown Commercial Service, the parties agree that:

- this agreement constitutes a Call-Off Contract for the purposes of the G-Cloud Framework; and
- in the event of any conflict between this agreement, the proposal, and the G-Cloud Framework Agreement, the order of precedence shall be:
 - the G-Cloud Framework Agreement;
 - this agreement;
 - the proposal.

The parties agree as follows:

1. Definitions

1.1. In this agreement the following definitions apply:

"launch" refers to the launch of the intranet – that is the day on which the intranet will be made available to the intended audience

"proposal" means the project proposal sent by Agento Digital to CLIENT

"the parties" means Agento Digital and CLIENT

"intranet" refers to the intranet supported by Agento Digital under this agreement



- 1.2. Where one of the terms defined in the list above is used it will be written in italics for clarity.
- 1.3. The terms “writing”, “written” etc include any document in electronically readable form, and in particular, electronic mail, but do not include ephemeral systems of communication such as twitter or text messaging.
- 1.4. References to a schedule are to the schedule attached to this agreement.

2. Agreement

- 2.1. Agento Digital will carry out the work described in the proposal and invoice CLIENT in accordance with the payment terms set out in the proposal.
- 2.2. Where the proposal contains an express term (for example as to payment) which conflicts with any term of this agreement, the term in the proposal will take precedence.

3. Payment

- 3.1. Where a day rate or a time-and-materials basis is indicated in the proposal Agento Digital will:
 - 3.1.1. keep a timesheet of time spent working on the proposal, which will be submitted with each invoice;
 - 3.1.2. invoice for each calendar month in arrears.
 - 3.1.3. Agento Digital will adjust the timesheet if it CLIENT raises any reasonable objection to any entry on the timesheet. If no objection is raised within 28 days of submission of a timesheet, CLIENT will be deemed to have accepted it.
- 3.2. Where a fixed fee is quoted, Agento Digital will invoice either:
 - 3.2.1. at launch (if no other date is specified in the *proposal*); or
 - 3.2.2. at times or stages identified in the *proposal*.
- 3.3. Unless otherwise specified, VAT is payable on, and in addition to, any fees quoted in the proposal.
- 3.4. CLIENT will pay the fees within 28 days of receiving Agento Digital's invoice. Payment should be made either by bank transfer to Agento Digital's bank, the details of which are specified in the relevant invoice, or by cheque made payable to Agento Digital Ltd.



4. CLIENT's obligations

- 4.1. The proposal may specify deliverables required of CLIENT that are necessary for the construction of the intranet, including (but not limited to):
 - 4.1.1. identity and branding guidelines or materials;
 - 4.1.2. content (if CLIENT is to supply or edit);
 - 4.1.3. necessary changes to the DNS, if CLIENT is responsible for the DNS registration of the intranet;
 - 4.1.4. comment and signoff on designs, wireframes, prototypes or the pre-live site.
 - 4.1.5. If CLIENT fails to delivery in the time specified in the proposal or otherwise promptly, milestones may be missed and the launch delayed. **Agento Digital will not be liable for any delay caused by any failure of CLIENT to meet its deliverables obligations as specified in the proposal.**

5. Acceptance

- 5.1. Where Agento Digital submits work to CLIENT for approval or where Agento Digital makes the intranet available in its final version before launch to CLIENT, if CLIENT does not raise any objections to the work and/or the intranet within 14 days of submission:
 - 5.1.1. CLIENT will be deemed to have accepted the work; and
 - 5.1.2. (where a final version of the intranet was submitted) the launch will be deemed to have taken place for the purposes of this agreement, even if CLIENT chooses not to make the intranet available thereafter.
- 5.2. Agento Digital will use industry standard issue tracking software. Agento Digital will make all reasonable efforts to fix bugs posted prior to launch, provided they fall within the scope of the proposal.

6. Confidentiality

- 6.1. Under this heading "confidential information" means any information disclosed by one of the parties to the other, which:
 - 6.1.1. is marked or otherwise identified as being confidential; or
 - 6.1.2. ought reasonably to have been understood as being confidential in particular because of the circumstances of its disclosure and the nature of the information disclosed.



- 6.2. The parties agree to keep in confidence all confidential information. The parties will take all reasonable steps to ensure that:
 - 6.2.1. all confidential information is used only for the proper performance of this agreement;
 - 6.2.2. confidential information is only disclosed to another person where it is reasonable to do so in the circumstances;
 - 6.2.3. where confidential information is disclosed to another person, that person is bound, whether by written agreement, or their professional rules, or otherwise, by an obligation of confidentiality at least as stringent as that imposed by this agreement on the parties;
- 6.3. A party is not bound by any obligation of confidentiality concerning information to the extent that it:
 - 6.3.1. was already known to the party before the parties began to negotiate this agreement; or
 - 6.3.2. has become public knowledge, except where that was caused by a breach of this agreement; or
 - 6.3.3. was received from another person who was not bound to keep it confidential;
 - 6.3.4. the obligation conflicts with the order of a court, or a rule of law.



7. Data Protection

For the purposes of this clause, “Data Protection Legislation” means the UK General Data Protection Regulation (“UK GDPR”) and the Data Protection Act 2018, together with any applicable guidance issued by the Information Commissioner’s Office.

Where, in the performance of this agreement, Agento Digital processes personal data on behalf of CLIENT, CLIENT shall be the data controller and Agento Digital shall be the data processor.

Agento Digital shall:

- process personal data only on the documented instructions of CLIENT and only for the purposes of performing this agreement;
- implement appropriate technical and organisational measures to protect personal data against unauthorised or unlawful processing and against accidental loss, destruction or damage;
- ensure that persons authorised to process personal data are subject to obligations of confidentiality;
- notify CLIENT without undue delay upon becoming aware of a personal data breach;
- assist CLIENT, where reasonably requested, in complying with its obligations under Data Protection Legislation, including in relation to data subject rights and security obligations;
- upon termination of this agreement, at CLIENT’s option, delete or return all personal data processed on CLIENT’s behalf, unless retention is required by law.

CLIENT warrants that it has a lawful basis for processing and sharing any personal data provided to Agento Digital under this agreement.

8. Information Security

Agento Digital shall maintain appropriate technical and organisational measures designed to protect CLIENT data against unauthorised access, loss, alteration or disclosure, taking into account the nature of the services and the data processed.

9. Intellectual Property

- 9.1. Unless otherwise specified in the *proposal*, nothing in this agreement is intended to transfer any intellectual property right from one party to the other.
- 9.2. Agento Digital hereby grants a perpetual, irrevocable, world-wide licence to use any of Agento Digital’s intellectual property that is contained in the *intranet*.



- 9.3. Agento Digital uses industry-standard open source products as building blocks for the intranet. These are subject to one or more open source licences. The product and its licence are listed in schedule 1. It is the responsibility of CLIENT to ensure that it complies with all licences listed in schedule 1.
- 9.4. Each party gives the other, for the duration of this agreement only, any permission to use its intellectual property rights that is necessary for the performance of this agreement.

10. Indemnity

- 10.1. Where any material is used by Agento Digital to deliver the intranet at the request of, or by specific agreement with, CLIENT, then CLIENT indemnifies Agento Digital and any of its officers, servants or agents (the "*indemnitees*"), against all third-party claims which may be asserted against or suffered by any of the *indemnitees* relating to the use of that material in the delivery of the intranet.
- 10.2. CLIENT will not bring a claim against Agento Digital in respect of any claim brought against it that, if brought against Agento Digital, would have been covered by the indemnity in the previous clause.
- 10.3. For the purposes of the previous two clauses "claims" includes all demands, claims and liability (whether criminal or civil, in contract, tort or otherwise) for losses, damages, legal costs and other expenses of any nature whatsoever and all costs and expenses (including without limitation legal costs) incurred in connection with any claim.
- 10.4. CLIENT offers the indemnity described above because it accepts that, in agreeing that any material should be included in the intranet, it has taken on itself any risk associated with that material including (but not in any way limited to) that the material may infringe on the rights of a third party.

11. Limitation of liability

- 11.1. Nothing in this agreement shall exclude or limit either party's liability for:
 - 11.1.1. death or personal injury caused by negligence;
 - 11.1.2. fraud or fraudulent misrepresentation; or
 - 11.1.3. any other liability which cannot be excluded or limited by law.
- 11.2. Subject to the above, neither party shall be liable to the other for:
 - 11.2.1. any indirect or consequential loss; or
 - 11.2.2. any loss of profits, loss of business, or loss of anticipated savings,



11.2.3. whether arising in contract, tort (including negligence) or otherwise, even if such loss was foreseeable.

11.3. Subject to the above, Agento Digital's total aggregate liability arising out of or in connection with this agreement shall not exceed the total fees paid or payable by CLIENT under this agreement in the twelve (12) months preceding the event giving rise to the claim.

12. Choice of law and jurisdiction

12.1. This agreement is to be construed in accordance with the law of England and Wales.

12.2. The parties submit to the exclusive jurisdiction of the courts of England and Wales for the resolution of any matter arising out of this agreement.

13. Termination

13.1. Either party may terminate this agreement immediately by written notice if the other party commits a material breach of this agreement which is not remedied within thirty (30) days of written notice requiring remedy.

13.2. CLIENT may terminate this agreement for convenience by giving thirty (30) days' written notice to Agento Digital.

13.3. Upon termination:

13.3.1. CLIENT shall pay Agento Digital for all work properly performed up to the effective date of termination;

13.3.2. any licences granted under this agreement shall remain in effect in respect of work already delivered and paid for;

13.3.3. clauses which by their nature are intended to survive termination (including confidentiality, intellectual property, limitation of liability and governing law) shall survive.

14. Events beyond the parties' control

14.1. Neither party shall be responsible for any failure or delay in performing their obligations under this agreement that is caused by circumstances beyond their reasonable control.

14.2. If, for reasons beyond Agento Digital's reasonable control, the performance of this agreement becomes impossible, Agento Digital may terminate the agreement by giving notice to CLIENT as soon as reasonably practical after Agento Digital became aware that it would not be able to perform.



- 14.3. If this agreement is terminated for the reason just given, Agento Digital's obligation to perform the service and CLIENT's obligation to pay any fees in respect of any unperformed part of the service, shall cease.

15. Miscellaneous

- 15.1. No term of this agreement is intended to be enforceable by anyone other than one of the parties. In consequence, the Contract (Rights of Third Parties) Act 1999 shall not apply.
- 15.2. This agreement may not be amended except by a further agreement in writing between the parties.
- 15.3. If a court, or other competent authority, finds that any term of this agreement is illegal or otherwise unenforceable, that term is to be treated as if it had been severed from this agreement. Its severance will be treated (as far as possible) as having no effect on the remainder of this agreement.
- 15.4. The parties are not in, and do not intend to form a, partnership. Nothing in this agreement should be construed to the contrary.
- 15.5. Nothing in this agreement is intended to create the relationship of "agent" and "principal" between CLIENT and Agento Digital and CLIENT shall have no power to make representations or enter into agreements on behalf of Agento Digital.



Signatures

The parties agree to the terms of this agreement through their authorised signatories.

Signatures of the Parties

For, and on behalf of Agento Digital

For, and on behalf of CLIENT signature

signature

signature

print name

print name

job title

job title

date

date