

Data Consultancy, AI and Data systems and Project Delivery Services**GCloud15 - Lot 3****2025 – 2028****DUFRAIN TERMS AND CONDITIONS OF BUSINESS (“Terms”)****1. INTERPRETATION**

- 1.1. In these Terms, the definitions and rules as to interpretation set out in Schedule 1 shall apply.

2. THE SERVICES

- 2.1. Dufrain shall provide the Services and deliver the Deliverables described in an applicable SOW (if any) in all material respects with reasonable care and skill and shall provide Personnel to perform such Services.

- 2.2. In the event of there being any issue or failure in the supply by Dufrain of any Services, the Customer shall give Dufrain a reasonable opportunity to correct such issue or failure at Dufrain’s cost.

- 2.3. Dufrain shall not be responsible for any failure to provide the Services and any costs that the Customer may suffer as a result of circumstances outside its reasonable control, including (without limitation):

- (a) **failure by the Customer to fulfil its obligations under this Agreement;**
- (b) **malfunction or breakdown affecting the Internet and/or telecommunications links over which the Services are provided;**
- (c) **inaccuracies and/or omissions in the information provided by the Customer to Dufrain;**
- (d) **failure by any third party supplier to fulfil its obligations under service contracts in place with the Customer.**

3. STATEMENTS OF WORK

- 3.1. The parties may enter into SOWs for Services using the template SOW at Attachment 2.
- 3.2. Each SOW must be agreed in writing by the Parties’ authorised signatories and will be subject to these Terms.
- 3.3. A SOW shall specify amongst other things the Services to be provided, the date on which the Services will be commenced, an estimated completion date and milestone dates to the extent applicable. Dufrain will use reasonable efforts to meet these but they are estimates only.

Dufrain will notify the Customer if it becomes aware of circumstances that may reasonably be anticipated to lead to a change to those dates.

4. PERSONNEL

- 4.1. Dufrain shall take all reasonable efforts to ensure that its Personnel provided to perform the Services have experience appropriate to the Customer's requirements and that they exercise all reasonable skill and care in the performance of their duties.
- 4.2. If any of the Dufrain Personnel are prevented from carrying out their work due to illness, accident or any other cause outside Dufrain's reasonable control, then Dufrain shall use all reasonable efforts to provide replacement Personnel of equivalent skills and experience if agreed between the Parties but only if such incapacity continues for at least 14 consecutive days.
- 4.3. Dufrain shall use all reasonable endeavours to replace any Personnel who are designated to perform the Services who leaves Dufrain's employment or engagement.
- 4.4. Where Dufrain provides the Customer with Personnel under a SOW the Customer acknowledges that such Personnel are entitled to attend Dufrain's internal company meetings (at Dufrain's expense) and be absent for holiday leave and that Dufrain is under no obligation to provide replacement personnel during such periods of absence. Dufrain will use reasonable endeavours to agree any team member holiday plans with the Customer before approving those plans with the relevant Personnel.
- 4.5. The Dufrain Personnel shall at all times throughout the provision of the Services remain the employees, individual contractors or sub-contractors of Dufrain and shall remain under the overall control of Dufrain. Dufrain and the Customer acknowledge and agree that the Dufrain Personnel are not, nor are they deemed to be, for any purposes the employees of the Customer.

5. CUSTOMER'S OBLIGATIONS

- 5.1. The Customer shall:
 - (a) promptly provide Dufrain and the Dufrain Personnel with all information, documents (which shall be accurate in all material respects), support and co-operation and equipment that may reasonably be required by Dufrain to enable it to carry out its obligations under this Agreement;
 - (b) provide all necessary facilities and access and ensure co-operation by the Customer Personnel (at no cost to Dufrain) in the event that Dufrain undertakes any aspect of the Services at the Customer Premises;

- (c) take all reasonable steps to ensure the health and safety of the Dufrain Personnel while they are at the Customer Premises and inform them of any applicable policies and procedures to abide by whilst on the Customer Premises;
- (d) ensure that any equipment (which shall be in good working order) or software which Dufrain is asked to use or modify for the purpose of providing the Services (“**Customer Materials**”) are either the property of the Customer or legally licensed to it and the Customer shall indemnify Dufrain from and against all costs, liabilities, damages and expenses arising out of any third party claim that Dufrain’s use of the Customer Materials infringes that party’s Intellectual Property Rights;
- (e) be solely responsible for the verification and back up of any data both prior to the use of such data by Dufrain or before it is processed by the Deliverables and the continued verification and back up of such data; and
- (f) undertake its responsibilities identified in the relevant SOW or as otherwise agreed between the Parties.

6. **ACCEPTANCE**

Where Acceptance Testing is required by a SOW the provisions set out in the relevant SOW shall apply to such Acceptance Testing.

7. **CHARGES AND PAYMENT TERMS**

- 7.1. The Customer shall pay the Charges in accordance with this Clause 8 and the relevant SOW. The SOW will specify if the Charges are on a time and materials basis, a fixed price basis or a combination of both.
- 7.2. Where the Charges are on a time and materials basis:
 - (a) the Charges shall be calculated in accordance with Dufrain’s standard daily fee rates, as amended from time to time by Dufrain giving not less than three months’ written notice to the Customer;
 - (b) Dufrain’s standard daily fee rates for each Dufrain Personnel are calculated on the basis of an eight-hour day, worked between 9.00 am and 5.30 pm on weekdays (excluding public holidays);
 - (c) Dufrain shall be entitled to charge an overtime rate of on a pro-rata basis for each part day or for any time worked by any Dufrain Personnel whom it engages on the Services outside the hours referred to in Clause 7.2 (b) provided that such overtime is only carried out with the prior written agreement of the Customer;
 - (d) all charges quoted to the Customer shall be exclusive of VAT, which Dufrain shall add to its invoices at the appropriate rate;
 - (e) Dufrain shall ensure that every Dufrain Personnel whom it engages on the Services completes time sheets recording time spent on the Services and it shall use such

time sheets to calculate the Charges covered by each monthly invoice referred to in Clause 8.2(f); and

- (f) Dufrain shall invoice the Customer monthly in arrears for the Charges for time plus and expenses and materials (together with VAT where appropriate) for the month concerned, calculated as above.

7.3 Where the Charges are on a fixed price basis the total price for the Services shall be the amount set out in the SOW (as amended from time to time in accordance with Clause 7.5). The Customer shall pay the total price to Dufrain (without deduction or set-off) in instalments, as set out in the SOW. Dufrain shall invoice the Customer in accordance with the invoice frequency or milestones specified in the SOW for the Charges that are then payable, together with expenses, the costs of materials and VAT, where appropriate.

7.4 Unless otherwise agreed in a SOW Charges on both a time and materials basis and a fixed price basis exclude:

- (a) the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the Dufrain Personnel whom Dufrain engages in connection with the Services, the cost of any materials and the cost of services reasonably and properly provided by third parties and required by Dufrain for the supply of the Services. Such expenses, materials and third party services shall be invoiced by Dufrain at cost; and
- (b) VAT which shall apply at the appropriate rate.

7.5 Dufrain may review and increase its standard daily fee rates and/or the Charges set out in the SOW provided that such charges cannot be increased more than once in any 12 month period. Dufrain shall give the Customer written notice of any such increase three months before the proposed date of that increase.

7.6 Payment of all invoices shall fall due 30 days from the invoice date ("**Due Date**").

7.7 If any sum payable under this Agreement is not paid by the Due Date, then (without prejudice to Dufrain's other rights and remedies) Dufrain may (i) charge interest on that sum on a daily basis (before as well as after any judgment) from the Due Date to the date of payment at the rate of 3% above the base rate of HSBC Bank plc from time to time in force; and (ii) by giving written notice, suspend the Services until the date on which payment is received.

8 **WARRANTIES**

8.1 Dufrain warrants that it will provide the Services with reasonable diligence, skill and care in line with industry best practice.

8.2 Except as otherwise provided for in Clause 8.1 or in any SOW Dufrain does not give any representation, warranty or undertaking as to the effectiveness, quality or fitness for purpose of the Deliverables or the Services. The Customer acknowledges and agrees that any Deliverables provided, developed or used by Dufrain in the course of providing the

Services cannot be tested in advance in every possible operating combination and environment and that it is not possible to produce Deliverables that are error free, and further agrees that the commercially reasonable existence of such errors shall not constitute a breach of this Agreement.

9 INTELLECTUAL PROPERTY RIGHTS

- 9.1 Dufrain owns and shall continue to own its pre-existing Intellectual Property Rights and any Intellectual Property Rights separately created by Dufrain other than for the performance of the Services. If any materials and Intellectual Property Rights described in this Clause must be accessed by the Customer to use or access any Deliverable in accordance with this Agreement or after termination of the Agreement for the operation of the Customer's systems as envisaged by this Agreement, Dufrain hereby grants the Customer a perpetual non-exclusive royalty free licence to use such Intellectual Property Rights and such materials for these sole purposes.
- 9.2 Subject to Clauses 9.1 and provided that the Customer has paid Dufrain in full for the applicable Services, the Intellectual Property Rights in the Services and the Deliverables are hereby assigned to the Customer. The Customer hereby grants a licence to Dufrain to use such Intellectual Property Rights to the extent that, and for as long as, Dufrain requires such use in order to perform the Services provided under any SOW.
- 9.3 For the avoidance of doubt, Dufrain shall be fully entitled to use in any way it deems fit, and shall own, any Know-How.
- 9.4 The Customer shall procure and pay for rights of use in respect of any Third Party Software. Ownership of any Third Party Software is subject to the terms and conditions of the licensor of such Third Party Software and is expressly excluded from any assignment of ownership of the whole or any part of the Services.
- 9.5 Subject at all times to the limitations and exclusions at Clause 12.2 to 12.5 inclusive, Dufrain shall indemnify and keep the Customer fully indemnified against all costs, claims, demands, reasonable expenses and liabilities arising out of or in connection with any claim by a third party that the use of Services by the Customer infringes the Intellectual Property Rights of that third party ("**IPR Claim**"), provided that Dufrain shall have no liability for any IPR Claim:

- (a) that arises as a result of Dufrain relying on instructions and/or specifications of the Customer in the provision of the Services;
- (b) resulting from unauthorised modification of the Deliverables; or
- (c) where the claim for infringement arises as a result of the Customer's use of the Services in breach of this Agreement.

9.6 The Parties agree that in respect of the indemnities given in this Agreement:

- (a) the Party benefiting from the indemnity (the "**Indemnified Party**") shall give written notice to the Party giving the indemnity (the "**Indemnifying Party**") of any claims or proceedings immediately following receipt of them;
- (b) the Indemnified Party shall make no admission of liability and shall give the Indemnifying Party the sole authority to defend or settle the claims or proceedings at the Indemnifying Party's cost and expense; and
- (c) the Indemnified Party shall give the Indemnifying Party all reasonable help in connection with the claims or proceedings, at the Indemnifying Party's cost and expense.

9.7 The Customer agrees that in dealing with any claim for infringement of a third party's Intellectual Property Rights, Dufrain may at its own expense and option:

- (a) pay for the right for the Customer to continue using the Deliverables;
- (b) make any changes to the Deliverables, provided that such changes do not materially affect the functionality of the Deliverables; or
- (c) replace the Deliverables with other deliverables which have functional equivalence and the same performance capacity.

10 **DATA PROTECTION**

10.1 In providing the Services, the Customer acknowledges and agrees that Dufrain shall act as a data processor and the Customer shall be the data controller with regards to the processing of Personal Data. Dufrain shall only process Personal Data in accordance with the written instructions of the Customer and in accordance with this Agreement.

10.2 The Customer shall ensure that the Personal Data which it supplies or discloses to the Customer has been obtained fairly and lawfully and that it has obtained all necessary consents to enable it to supply or disclose the personal data to Dufrain and for Dufrain to process the Personal Data in accordance with this Agreement.

11 **CONFIDENTIAL INFORMATION**

- 11.1 The Parties will abide by the terms of the Schedule 2 in relation to any Confidential Information.

12 **LIMITATION OF LIABILITY**

- 12.1 Neither Party shall exclude or limit its liability for:

- (a) death or personal injury resulting from the negligence of that Party or its directors, officers, employees, contractors or agents;
- (b) fraud or deceit; or
- (c) any other liability which cannot be excluded or limited by law.

- 12.2 Subject to Clause 12.1, and to the extent permitted by law, neither Party shall be liable in contract, tort (including negligence) or for breach of statutory duty or in any other way for:

- (a) (whether they arise directly or indirectly) any loss of profits, business, revenue, opportunity, data, goodwill or reputation; or
- (b) any special or indirect or consequential losses, suffered or incurred by the other Party,

(whether or not such losses were within the contemplation of the parties at the date of this Agreement) in relation to any matter arising out of or in connection with this Agreement.

- 12.3 Subject to Clauses 12.1 and 12.2, the total liability of a Party for any claim in contract, tort, negligence or otherwise arising out of or in connection with the performance or observance of its obligations, or otherwise, in respect of this Agreement shall be limited to the amounts paid or payable by the Customer in the 12 months preceding the course of action to which the claim relates. .

- 12.4 The Customer acknowledges that:

- (a) DufRAIN's obligations and liabilities in respect of the Services are set out in this Agreement and that DufRAIN's express obligations and warranties are in lieu of and to the exclusion of any express or implied warranty, condition, term, undertaking or representation of any kind (statutory or otherwise) relating to anything supplied or Services provided under or in connection with this Agreement; and
- (b) the Services are provided at the Customer's request and the Customer accepts that it is responsible for verifying that the Services are suitable for its own needs.

- 12.5 DufRAIN shall not be liable for any claim made more than two years after termination of this Agreement or relevant SOW (whichever is earlier).

13 **TERMINATION**

- 13.1 Either Party may terminate this Agreement and/or any SOW immediately on written notice to the other Party if the other Party:
- (a) commits any material breach of its duties and fails to remedy that breach within 28 days of receiving written notice of that breach (the 28 day period only applies where a breach is capable of remedy – if it is incapable of remedy the Agreement may be terminated by written notice immediately); or
 - (b) has a winding up petition presented or enters into liquidation whether compulsorily or voluntarily (otherwise than for the purposes of amalgamation or reconstruction without insolvency) or makes an arrangement with its creditors or petitions for an administration order or has a receiver or manager appointed over any of its assets or generally becomes unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or suffers an analogous event in any other jurisdiction.

14 **CONSEQUENCES OF TERMINATION**

- 14.1 All sums payable to Dufrain under this Agreement shall become due immediately on its termination, despite any other provision.
- 14.2 Termination of this Agreement shall be without prejudice to the rights and liabilities of either Party which may have accrued on or at any time up to the date of termination.
- 14.3 The termination or expiry of a SOW will not affect the validity or continuance of any other SOW or this Agreement.
- 14.4 On termination or expiration of this Agreement or an applicable SOW (as the case may be) each Party shall return and cease to use all and any applicable equipment, software, documentation, Confidential Information and other materials belonging to the other Party that are in its possession or control.

15 **VARIATIONS**

Unless otherwise agreed by the Parties, no variation to this Agreement shall be valid unless it is signed by authorised representatives of both Parties.

16 **NON-SOLICITATION**

Neither Party shall, without the prior written consent of the other (such consent to be at the sole discretion of the other), either directly or indirectly, initiate recruitment or solicit or entice away any of the personnel of the other with whom they come into contact as a result of the relationship created by this Agreement, during the term of this Agreement and for a period of six months after the termination of this Agreement.

17 **GENERAL**

- 17.1 **Assignment:** Neither Party may assign its rights or duties under this Agreement without the prior written consent of the other Party (such consent not to be unreasonably withheld or delayed).

- 17.2 **Sub-contracting:** Dufrain may sub-contract the performance of any of its duties under this Agreement.
- 17.3 **Notices:** All notices under this Agreement shall be in writing and shall be sent to the address of the recipient set out above or to such other address as the recipient may have notified from time to time. Any notice may be delivered personally or by commercial courier. Any notice so served shall be deemed to have been delivered:
- (a) in the case of delivery by hand, when delivered;
 - (b) in the case of delivery by commercial courier, at the time of signature on the courier's receipt.
- 17.4 **Publicity:** Dufrain may issue press releases stating that Customer has signed this Agreement, subject to Customer's approval as to form and content. Dufrain may at any time list or reference the Customer (including its logo) as a customer in websites and other marketing materials.
- 17.5 **Remedies:** The Customer agrees that its sole remedy in respect of any untrue statement made to it upon which it relied in entering into this Agreement shall be for breach of this Agreement (unless the statement was made fraudulently).
- 17.6 **Survival:** The following Clauses shall survive termination or expiry: 1, 7, 9, 11, 12, 13, 14, 16, 17 and Schedules 1 and 2.
- 17.7 **Relationship:** The relationship between the parties is that of independent contractors. Neither Party is agent nor partner of the other. Neither Party has any authority to make any commitment in the name of the other Party without that Party's prior written consent.
- 17.8 **Force Majeure:** Neither Party will be liable to the other for any delay in performing or failure to perform any of its obligations (other than a payment obligation) under this Agreement as a result of any cause outside its reasonable control. Subject to the affected Party promptly notifying the other Party in writing of the cause and the likely duration of the delay or non-performance and provided that the affected Party shall use reasonable endeavours to limit the effect of such event on such other Party, such delay or failure will not constitute a breach of this Agreement and the time for performance of the affected obligation(s) will be suspended during the period the cause persists. Notwithstanding the remainder of this Clause, if performance is not resumed within 90 days after that notice, the non-affected Party may by written notice terminate this Agreement with immediate effect.
- 17.9 **Severability:** If any provision of this Agreement or any part of any provision is determined to be partially void or unenforceable by any court or body of competent jurisdiction it shall be void or unenforceable to that extent only and the enforceability of any of the

other provisions or the remainder of any such provision are not to be affected.

- 17.10 **Waiver:** No delay by a Party in enforcing any term or condition of this Agreement shall be or be deemed to be a waiver or in any way prejudice any right of that Party.
- 17.11 **Third Parties:** A person who is not a party to this Agreement shall have no rights under or in connection with it.
- 17.12 **Entire Agreement:** This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof, except in respect of any fraudulent representation made by either Party. This Agreement supersedes all previous agreements and understandings between the Parties with respect to the subject matter of this Agreement. it
- 17.13 **Counterparts:** This Agreement may be signed in any number of counterparts each of which when executed shall constitute an original of this Agreement, but all the counterparts shall together constitute the same Agreement. No counterpart shall be effective until both Parties have executed at least one counterpart.
- 17.14 **Governing Law:** This Agreement is governed by and shall be construed and interpreted in accordance with the laws of England and Wales, and the Parties submit to the exclusive jurisdiction of the courts of England and Wales.

Schedule 1

Interpretation

1. Capitalised terms used in this Agreement have the meanings given to them in this Schedule unless the context requires otherwise.
2. In the event of any inconsistency or conflict between the terms of a SOW and the terms set out in the Terms of Business, the term set out in the SOW shall prevail to the extent of any such conflict or inconsistency.
3. In the event of inconsistency or conflict between the Key Commercial Terms and the Terms of Business, the Terms of Business shall prevail to the extent of any such conflict or inconsistency.

4. References to any statute, enactment, order, regulation or other similar instrument shall be construed as references to the statute, enactment, order, regulation or instrument as amended, consolidated or re-enacted from time to time and includes any subordinate legislation made under the statute or statutory provision (as so amended, consolidated or re-enacted).
5. Except where the context otherwise requires: (a) the singular includes the plural and vice versa; and (b) words denoting persons include firms and corporations and vice versa.
6. Headings are included in this Agreement for ease of reference only and shall not affect interpretation or construction.

Definitions

Acceptance Testing	Any acceptance testing to be carried out in relation to the Deliverables, as set out in a SOW.
Affiliates	An entity controlling, controlled by or under common control with a Party, for as long as such control exists. For the purposes of this definition, “control” or any correlative form thereof, means the ownership of more than 50 percent of the voting stock of such entity, or if such entity is not a corporation, the ability to control the day to day operations and business of such entity.
Agreement	This Master Services Agreement made up of: · The Key Commercial Terms · Attachment 1 – Terms and Conditions of Business (including Schedules 1 and 2) · Attachment 2 – Statement(s) of work and any other attachments to it.
Charges	The amounts payable by the Customer for the Services as set out in the SOW.
Confidential Information	As defined in Schedule 2.

Customer Materials	As defined in Clause 5.1(d).
Customer Premises	The premises (if any) of the Customer where Dufrain delivers the Services as set out in a SOW.
Deliverables	All documents, products and materials developed by the Dufrain Personnel in relation to the Services including data, reports and specifications (including drafts), or any other item or equipment to be supplied by Dufrain to the Customer under or in connection with the Services.
Due Date	As defined in Clause 7.6.
Dufrain Personnel	The employees, contractors or sub-contractors of Dufrain or its Affiliates providing the Services from time to time including (if any) those designated in the applicable SOW:
Effective Date	As set out in the Key Commercial Terms.
Indemnifying Party and Indemnified Party	As defined in Clause 9.6.
Intellectual Property Rights	All copyrights (including copyright in computer software), database rights, rights in inventions, patent applications, patents, trademarks, trade names, know-how, service marks, design rights (whether registered or unregistered), semi-conductor topography rights, trade secrets, rights in confidential information and all other industrial or intellectual property rights of whatever nature.
IPR Claim	As defined in Clause 9.5.
Key Commercial Terms	The key commercial terms agreed between the Parties and set out on page 1 of this Agreement.

Know-how	Any skills, techniques, technical concepts or know-how acquired, developed or used by Dufrain in the course of performing the Services.
Personal Data	Any information which is related to an identified or identifiable natural person.
Services	The services to be provided by Dufrain to the Customer as set out in this Agreement and in a SOW.
Statement of Work or SOW	A document setting out a description of the Services, the date on which the Services will be commenced, an estimated completion date and milestone dates (if applicable with respect to a specific engagement as agreed between the Parties and substantially in the form set out in Attachment 2.
Third Party Software	Any third party software required to provide the Services.

Schedule 2

Confidentiality

1 Confidentiality

1.1 The provisions of this Schedule shall not apply to any Confidential Information that:

- 1.1.1 is or becomes generally freely available to the public (other than as a result of its disclosure by the receiving Party or its Representatives in breach of this Clause);
- 1.1.2 was available to the receiving Party on a non-confidential basis before disclosure by the disclosing Party;
- 1.1.3 was, is or becomes available to the receiving Party on a non-confidential basis from a person who, to the receiving Party's knowledge, is not bound by a confidentiality agreement with the

- disclosing Party or otherwise prohibited from disclosing the information to the receiving Party;
- 1.1.4 was known to the receiving Party before the information was disclosed to it by the disclosing Party; or
- 1.1.5 the Parties agree in writing is not confidential or may be disclosed.
- 1.2 Each Party shall keep the other Party's Confidential Information confidential and shall not:
- 1.2.1 use such Confidential Information except for the purpose of exercising or performing its rights and obligations under this Agreement ("**Permitted Purpose**"); or
- 1.2.2 disclose such Confidential Information in whole or in part to any third party, except as expressly permitted by this Schedule.
- 1.3 Each Party shall take all reasonable steps to ensure that the other's Confidential Information is not disclosed or distributed by its Representatives in breach of the terms of this Agreement.
- 1.4 A Party may disclose the other Party's Confidential Information to those of its Representatives who need to know such Confidential Information for the Permitted Purpose, provided that:
- 1.4.1 it informs such Representatives of the confidential nature of the Confidential Information before disclosure; and
- 1.4.2 at all times, it is responsible for such Representatives' compliance with the confidentiality obligations set out in this Schedule.
- 1.5 A Party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority (including any relevant securities exchange) or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other Party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this Clause it takes into account the reasonable requests of the other Party in relation to the content of such disclosure.
- 1.6 Each Party reserves all rights in its Confidential Information. No rights or obligations in respect of a Party's Confidential Information other than those expressly stated in this Agreement are granted to the other Party or to be implied from this Agreement.
- 1.7 The provisions of this Schedule shall continue to apply after expiry or termination of this Agreement.

- 1.8 Confidential Information means all confidential information (however recorded or preserved) disclosed by a Party, its Affiliates, employees, consultants, officers, representatives, advisers, agents or subcontractors in the performance of this Agreement (together “**Representatives**”) to the other Party or that Party’s Representatives in connection with this Agreement which information is either labelled as such or should reasonably be considered as confidential because of its nature and the manner of its disclosure.