



Master Services Agreement



Master Services Agreement

This Master Services Agreement is intended for clients and partner organisations, whom Herd Consulting is supplying services to.

1.1 Governance

1.1 Parties

1.1.1 This Agreement, herein referred to as the “**Agreement**”, is entered into between

1.1.2 Herd It Consulting Limited whose registered office is Leah’s Yard, Studio F15, 22 Cambridge Street, Sheffield, S1 4HP, registered in England under registration number 14226083 herein referred to as “**Herd Consulting**”; and

1.1.3 [Company Signer.Company] whose registered office is [Company Signer.StreetAddress], [Company Signer.City], [Company Signer.State], [Company Signer.PostalCode], registered in England under registration number [Company Signer.Company Registration Number], herein referred to as “**Client**”.

1.2. Introduction

1.2.1 The Client wishes to engage the Herd Consulting to provide Consultancy Services from time to time. This Agreement sets out the terms upon which Herd Consulting will provide such Consultancy Services to the Client.

1.2.2 Details of the Consultancy Services to be provided by Herd Consulting to the Client may be agreed between Herd Consulting and the Client from time to time and recorded in a Statement of Work (or associated Change Requests) that complements this Agreement.

1.3. General

1.3.1 The headings in this Agreement are for ease of reference only and shall not affect the meaning of the Agreement.

1.3.2 This Agreement shall continue until terminated in accordance with clause 6 hereof or by either party giving notice to the other in writing.

1.3.3 Herd Consulting may sub-contract Consultancy Services, in whole or part, without written consent of the Client unless explicitly specified within the Statement of Work.

1.3.4 This Agreement replaces any previous agreements between Herd Consulting and the Client for the provision and supply of Consultancy Services.

2. Supply of Services.

2.1 Details of the Consultancy Services to be provided by Herd Consulting to Client may be agreed between Herd Consulting and the Client from time to time and recorded in a Statement of Work (or any associated Change Requests) that complement this Agreement.

2.2 Herd Consulting shall provide the Services under the terms hereinafter mentioned.

2.3 Herd Consulting shall not provide any Services to the Client's Client (where applicable), other than as recorded in a Statement of Work and/or Change Request unless otherwise agreed between the Parties.

3. Obligations.

3.1 During the period of this Agreement, Herd Consulting shall provide the Services at such times and at such locations as Herd Consulting and the Client shall agree from time to time.

3.2 Herd Consulting will not represent themselves as legal agents of the Client. For the avoidance of doubt this means that Herd Consulting will not be able to legally bind or in any way negotiate on behalf of the Client. Herd Consulting is, however, expected to say that they are providing the Services for and on behalf of the Client and not for and on behalf of themselves or their company.

3.3 Herd Consulting shall ensure that any Consultant has the required level of skills, experience, and, if appropriate, qualifications to provide the Services under this Agreement. Herd Consulting should ensure where required all of their Consultants hold the necessary security clearance as indicated within the respective Statements of Work (and any associated Change Requests).

3.4 Herd Consulting shall comply with any rules laid down by the Client or the Client's Client when working on their premises that relate to security, health, safety and environment, and any emergency procedures.

3.4 Herd Consulting shall comply with any rules laid down by the Client or the Client's Client with regards to Acceptable IT Use or equivalent.

3.5 Herd Consulting shall be responsible for ensuring compliance with all obligations under the National Minimum Wage Legislation, the Working Time Directive, and any regulations made under these Acts and any other UK or European employment legislation or directive and Herd Consulting will be solely responsible for any liability arising there under and will indemnify the Client and the Client's Client against any liability loss or damage whatsoever arising there under in connection with the provision of the Services under this Agreement.

3.6 The Client does not give any form of guarantee that the Services of Herd Consulting will be required during the duration of this Agreement nor that any payment will be due solely as a result of entering into this Agreement.

3.7 The Client is not obliged to offer work to Herd Consulting and Herd Consulting does not have to accept any work offered under this Agreement.

3.8 Herd Consulting shall be bound by the ethical guidelines of any appropriate professional institute and accept instructions to act on the basis that they will act in accordance therewith.

3.9 Herd Consulting should perform its obligations with due skill and care. In the event that the Client or Client's Client is dissatisfied with Herd Consulting's

Services, Herd Consulting shall at his own expense remedy the dissatisfaction to the Client and Client's Client's satisfaction when reasonably possible.

3.10 Herd Consulting shall be liable for any loss to the Client and Client's Client arising from fraud or dishonesty on the part of its employees in connection with any service provided for in this Agreement.

3.11 Herd Consulting shall provide any equipment reasonably necessary to perform the Services. For the avoidance of doubt, such equipment includes items such as portable computers, post-it notes and marker pens.

3.12 Herd Consulting shall in general be free to offer similar Services to any other organisation providing this does not conflict with the Services that are to be provided to the Client.

3.13 Herd Consulting must not disclose to any other third-party supplier, competitor, or to any of the Client's Clients, the fees or rates paid by the Client to them for the services they provide. This information should be treated with the strictest confidence, and must not be shared verbally, in writing, or over electronic communication methods in any way.

4. Payment.

4.1 The Client shall pay to Herd Consulting a fee for each engagement as set out in the Statements of Work (and any associated Change Requests).

4.2 VAT is payable on the fee at the prevailing rate.

4.3 Herd Consulting shall submit invoices for any Services provided under this Agreement at the end of each month, or in line with any other agreement defined within the respective Statements of Work (and any associated Change Requests). All invoices will be sent as a PDF to an email address provided by the Client.

4.4 The Client will pay Herd Consulting within 30 working days of receipt of an approved invoice.

4.5 The Client reserves the right to refuse or withhold payment in the event Herd Consulting fails to adhere to the terms of this Agreement or complementary Statements of Work (and any associated Change Requests).

4.6 For the avoidance of doubt, no payment will be made in respect of holidays, sickness, pension rights, redundancy pay or other benefits.

4.7 All sums due under this Agreement shall be paid in Great British Pounds Sterling.

5. Expenses.

5.1 Where agreed within a specific Statement of Work, the Client shall reimburse to Herd Consulting all travelling and other expenses which are reasonably incurred in providing the Services and have been agreed with the Client beforehand, provided that on request Herd Consulting shall provide the Client with such receipts, invoices, or other evidence of actual payment of such expenses that the Client may reasonably require.

6. Termination.

6.1 Without limitation, the Client may immediately terminate this Agreement if Herd Consulting or any employee as appropriate shall:

6.1.1 be in breach of any terms of this Agreement which in the case of a breach capable of remedy is not remedied by Herd Consulting within 21 days of receipt of a notice specifying the breach and requiring its remedy;

6.1.2 be guilty of a criminal offence and/or any serious or persistent negligence in respect of his obligations hereunder;

6.1.3 fail or refuse to carry out the Services reasonably and properly required hereunder.

6.2 Either party may terminate this Agreement forthwith if the other party becomes insolvent, has an administrator, receiver or manager appointed in respect of the whole or any part of its assets or business, makes any composition or arrangement with its creditors, takes or suffers any similar action in consequence of debt or an order or resolution is made for its winding-up dissolution or liquidation (other than for the purpose of solvent amalgamation or reconstruction) or any event occurs in a foreign jurisdiction analogous to, or comparable with any of the above.

6.3 Either Party at their absolute discretion by giving written notice to the other Party may terminate for convenience their Agreement giving at least three (3) months' notice to the other Party.

6.4 Termination of this Agreement for whatever reason shall not release either party from any of its obligations under this Agreement which, either expressly or impliedly, are intended to survive the termination of this Agreement, nor will it affect the accrued rights and liabilities of the parties as at the date of termination.

7. Non-solicitation.

7.1 Herd Consulting shall not solicit, interfere with or endeavour to entice away from the Client any person, firm, employee, or company who was at any time during the period of this Agreement a client or an employee of the Client. The Client shall also not solicit, interfere with or endeavour to entice away from Herd Consulting any person or employee who at the time of this Agreement was an employee or client of Herd Consulting.

7.2 Either Party shall not solicit or entice any additional work from either Party with the intention of performing additional services direct through their own businesses. The Client must not enter any form of direct commercial arrangement with any of Herd Consulting's Client without prior written consent from the CEO of Herd Consulting.

8. Confidential information.

8.1 'Confidential information' means any information of a confidential or proprietary nature (irrespective of the form of presentation or communication including, but not limited to, computer software and data, physical objects, and samples) relating to the business, operations, customers, processes, budgets, pricing policies, product information, know-how or strategy of either party.

8.2 Each party undertakes to the other to keep confidential all information (written or oral) concerning the business and affairs of the other that it obtains or receives as a result of the discussions leading up to and the entering into and performance of this Agreement, and in particular shall treat as confidential all of the Confidential Information and use such Confidential Information only for the purpose of performing the Services under this Agreement, save that which is:

- trivial or obvious;
- in or becomes a part of the public domain through no breach or wrongdoing;
- developed independently and without reference to the Confidential Information;
- already in its possession other than as a result of a breach of this Clause 8.

8.3 Upon termination of this Agreement for whatever reason each party will deliver up to the other all working papers or other material and copies provided to them pursuant to this Agreement or prepared by them either in pursuance of this Agreement or previously.

9. Intellectual property.

9.1 Herd Consulting acknowledges that without limitation all copyright in any materials supplied to or produced by the Client or Client's Client on a bespoke or customised basis in connection with this Agreement is and shall remain vested absolutely with the Client or Client's Client.

9.2 Subject to the above clause, any material already held or designed by Herd Consulting or designed specifically by Herd Consulting in order to perform the Services shall remain vested with Herd Consulting provided no other assignment specific arrangement is reached between Herd Consulting and the Client. Where Herd Consulting provides existing intellectual property right protected material to the Client or Client's Client under this Agreement, it shall disclose this to the Client, warrants that it has the right to do so and shall fully indemnify and hold the Client and Client's Client harmless against all loss or liability arising from any third party intellectual property rights claims arising both from such existing material and in relation to any such bespoke work. Except as provided above both parties retain ownership of their pre-existing intellectual property rights protected material.

10. Anti-discrimination.

10.1 Herd Consulting acknowledges that it has responsibilities under UK legislation designed to prevent discrimination against individuals on the basis of their age, race, gender, sexual orientation or disability. Herd Consulting confirms that it is willing and able to meet its responsibilities under this legislation.

11. Bribery.

11.1 Herd Consulting acknowledges that it has responsibilities under the Bribery Act 2010 and confirms that it is willing and able to meet its responsibilities under this legislation.

12. Indemnity.

12.1 It is hereby declared that it is the intention of the parties that this Agreement is an Agreement for services and Herd Consulting shall be responsible for all income tax liabilities and National Insurance or similar contributions in respect of the fees payable under this Agreement and Herd Consulting hereby indemnifies the Client in respect of any claims that may be made by the relevant authorities against the Client in respect of income tax or National Insurance or similar contributions relating to Herd Consulting's Services hereunder.

12.2 Herd Consulting hereby confirms that it has notified His Majesty's Revenue and Customs as necessary of its status and that it has or will account for any indirect tax, corporate tax, income tax and social security liabilities including as appropriate PAYE and Class 1 National Insurance or similar contributions in respect of the fees payable under this Agreement.

12.3 Herd Consulting shall have, maintain (at its own cost) and shall not invalidate such type and amounts of liability insurance with a reputable insurance company as may be sufficient to meet its liabilities in full under this Agreement. Herd Consulting shall provide Herd Consulting with a copy of the policy (or policies) upon request from time to time.

13. Records and audit.

13.1 Herd Consulting shall keep full and accurate records relating to the Services and shall provide information based on these when requested by the Client.

14. Publicity.

14.1 Herd Consulting shall not use the Client or Client's Client for advertising, publicity, or other such purposes without the prior approval in writing of the Client.

15. Marketing.

15.1 Herd Consulting shall not use any of the Client's Client details gained as a result of this Agreement to market or sell their own products or services for a period of 24 months after its termination. Only where prior consent has been agreed with the Client, shall the Herd Consulting contact the Client's Client.

16. Intention of the parties.

16.1 It is the intention of the parties that this Agreement is for the supply of Services, and nothing shall be construed hereunder that any representative of Herd Consulting is an employee of the Client or the Client's Client.

17. Variations.

17.1 No variation to this Agreement shall be valid unless it is in writing and signed by the authorised representatives of both parties.

18. Waiver

18.1 No waiver by either party of any provision of this Agreement shall be binding unless it is expressly confirmed in writing.

19. Severability.

19.1 If any provision of this Agreement is held to be invalid or unenforceable, this will not affect the validity or enforceability of the remaining provisions of this Agreement.

20. Notices.

20.1 A notice required by this Agreement to be given by either party shall be in writing and shall be served by sending the same by registered post or recorded delivery to the last known address of the other party and any receipt issued by the postal authorities shall be conclusive evidence of the fact and date of posting of any such notice.

20.2 All notices under this Agreement must be addressed to a Party as specified below and sent by one of the following methods:

- a) Delivered by hand, and deemed delivered upon receipt;
- b) Sent by prepaid post, certified or registered mail, or other next day delivery service, and deemed delivered at 9am on the second Business Day after posting;
- c) sent by electronic mail and deemed delivered at the time of transmission. Each Party will immediately notify the other in writing if any of the information in the address and contact information section of the Agreement changes.

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20.3 All notices under this Agreement, as per Clause 20.2 must be sent to the respective names, email addresses and postal addresses below:

[Company Signer.Company]

- Contact Name: [Company Signer.FirstName] [Company Signer.LastName]
- Contact Title: [Company Signer.Title]
- Contact Telephone Number: [Company Signer.Phone]
- Contact Email: [Company Signer.Email]
- Postal address: [Company Signer.Company], [Company Signer.StreetAddress], [Company Signer.City], [Company Signer.State], [Company Signer.PostalCode]

Herd Consulting

- Contact Name: Jamie Toyne
- Contact Title: Founder & CEO
- Contact Telephone Number: 07974402579
- Contact Email: jamie.toyne@herd.consulting
- Postal address: Herd Consulting, Studio F15, Leah's Yard, 22 Cambridge Street, Sheffield, S1 4HP

21. Rights of third parties.

21.1 A person who is not a party to this Agreement has no right under the Agreement (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

22. Entire agreement.

22.1 This Agreement, together with any Statements of Work and Change Requests, represents the entire agreement between Herd Consulting and the Client with respect to Services, and supersedes any and all prior agreements, proposals, representations, statements, or understandings, whether written or oral, concerning the same.

22.2 An amendment or waiver of any of the terms or conditions of this Agreement shall only be binding if it is made in writing and duly signed by authorised representatives of both Parties.

23. Force majeure.

23.1 Neither party will be liable for any breach of this Agreement by reason of delay or failure to perform any obligation caused by any event of force majeure including Act of God, explosion, flood, tempest, fire or accident, war or threat of war, sabotage, terrorism, insurrection, civil disturbance or requisition, strikes, lockouts or other industrial action or trade union dispute, power failure or breakdown in machinery or any other event outside the reasonable control of the party affected.

24. General Data Protection Regulation (GDPR).

24.1 Both parties acknowledge and agree that, in order for the parties to perform the contract, it will be necessary for the Client to provide Herd Consulting with some personal information that it holds relating to its staff, clients and any other relevant data subjects for processing by Herd Consulting.

24.2 Herd Consulting acknowledges and agrees that it acts as data processor in relation to personal information supplied by the Client, and the Client acknowledges and agrees that it acts as data controller of such personal information.

24.3 Herd Consulting hereby warrants that it will process such data in accordance with the provisions of the Data Protection Act 2018 and GDPR (EU) 2016/679 Regulation, on the instructions of the Client where relevant, and that it has in place adequate technical and organisational measures to ensure that it processes personal information securely at all times.

24.4 The Client warrants that it processes personal data in accordance with the provisions of Data Protection Act 2018 and GDPR (EU) 2016/679 Regulation and that it has obtained any consents necessary for any processing of personal information under this clause.

24.5 Each party agrees to indemnify and keep the other indemnified against all costs, expenses (including legal expenses), damages, loss, liabilities, demands, claims, actions, or proceedings which the other suffers or incurs as a result of any breach of this clause.

25. Information security.

25.1 Where Herd Consulting is granted access to the Client or Client's Client's Information or systems:

- a) Herd Consulting agrees to follow such aspects of the other parties Information Security Management System or equivalent security guidelines as shall be communicated to them as being applicable.
- b) The Client or Client's Client maintains the right to revoke or limit that access authorisation at any time.
- c) Herd Consulting agrees that only those persons who have been identified and authorised will access that information and any extension of access rights will be requested from the other party before the individual attempts to access the information or system.
- d) Herd Consulting will report any security incident or potential security incident to other immediately it is discovered and agrees to implement any reasonable corrective action identified as a result of that breach.
- e) Herd Consulting shall comply with any reasonable requests from the other with regard to security.
- f) All parties will at all times comply with all Applicable Law relating to information and systems security.

26. Applicable law.

26.1 This Agreement shall be governed by, and construed in accordance with, English law. The Courts of England shall have exclusive jurisdiction in relation to any claim, dispute or difference concerning the engagement letter and any matter arising from it. Each party irrevocably waives any rights it might have to object to an action being brought in those Courts, to claim that the action has been brought in an inconvenient forum, or to claim that those Courts do not have jurisdiction.

By signing this Agreement, the Parties have caused this Master Services Agreement to be executed by their duly authorised representatives as of the Effective Date.

Signature for and behalf of [Company Signer.Company]:

Signature for and behalf of Herd It Consulting Limited:

Name:

Name:

Signature:

Signature:

Job Title:

Job Title:

Date:

Date: