



# Consultancy Services Terms & Conditions

## 1. Application

1.1. These Terms of Business shall apply to the provision of the Services by Veliax to the Customer.

## 2. Interpretation

2.1. In this Agreement, unless the context otherwise requires, the following expressions shall have the following meanings:

- 2.1.1. Agreement: the agreement between the Customer and Veliax for the purchase of the Services comprising the Proposal, these Terms of Business and any other documents expressly included by reference.
- 2.1.2. Business Day: a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business;
- 2.1.3. Veliax Personnel: all officers, employees, agents, consultants and contractors of Veliax engaged in the performance the Services.
- 2.1.4. Charges: the charges payable by the Customer for the Services as set out in the Proposal and payable in accordance with clause 6 (Charges and Payment).
- 2.1.5. Customer: the person or firm who purchases the Services from Veliax Ltd.
- 2.1.6. Customer Data: the data provided by the Customer for the purpose of facilitating the delivery of the Services.
- 2.1.7. Customer Materials: all documents, information and materials in any form, whether owned by the Customer or a third party, which are provided by the Customer to Veliax in connection with the Services.
- 2.1.8. Data Protection Legislation: means:
  - 2.1.8.1. the General Data Protection Regulation (GDPR), the Data Protection Act 2018, the Privacy and Electronic Communications (EC Directive) Regulations 2003; and
  - 2.1.8.2. any other legislation in force from time to time relating to privacy and/or the Processing of Personal Data and applicable to the provision and receipt of Services under this Agreement; and
  - 2.1.8.3. any statutory codes of practice issued by the relevant supervisory authority in relation to such legislation.
- 2.1.9. Deliverables: any output of the Services (excluding the Customer Materials) to be provided by Veliax to the Customer as specified in Proposal.
- 2.1.10. Effective Date: has the meaning set out in clause 2.1.
- 2.1.11. Intellectual Property Rights: patents, rights to inventions, copyright and related rights, moral rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
- 2.1.12. Parties: the Customer and Veliax Ltd.
- 2.1.13. Personal Data: has the meaning given to it in the Data Protection Legislation.
- 2.1.14. Proposal: the proposal document sent by Veliax to the Customer, setting out the details of the Services to be provided and the basis upon which Veliax proposes to provide them.
- 2.1.15. Service Commencement Date: the date on which the delivery of the Services is due to commence as set out in the Proposal, or otherwise agreed.
- 2.1.16. Services: the service(s) and / or any associated solutions / products to be provided by Veliax to the Customer as set out in the Proposal
- 2.1.17. Terms of Business: these terms of business governing the supply of Services by Veliax to the Customer.

- 2.2. A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

### 3. Basis of this agreement

- 3.1. The Agreement shall be deemed agreed and binding on the parties on the earlier of:
- 3.1.1. receipt by Veliax of a Purchase Order, or an electronic or hard copy of the Proposal signed by the Customer;
  - 3.1.2. commencement of the delivery of the Services (in whole or in part) by Veliax and receipt of the Services by the Customer; or
  - 3.1.3. any act by the Customer consistent with receipt of the Services.
- 3.2. This Agreement shall commence on the Effective Date and shall continue until the last remaining Service is completed, or earlier terminated, in accordance with this Agreement.
- 3.3. This Agreement applies to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 3.4. Where there is a direct conflict between the terms set out in the Proposal and these Terms & Conditions, the terms in the Proposal shall prevail in respect of such conflict.
- 3.5. Any Proposal is only valid for acceptance for a period of 20 Business Days from its date of issue.

### 4. Supply of the Services

- 4.1. The following clauses 4.1.1 to 4.1.7 shall apply to the provision of all Services.
- 4.1.1. So far as is reasonably practicable within any agreed timescale, Veliax shall supply the Services to the Customer in accordance with this Agreement in all material respects.
  - 4.1.2. Veliax shall use reasonable endeavours to meet any performance dates specified in the Proposal, but any such dates shall be estimates only and time for performance by Veliax shall not be of the essence under this Agreement.
  - 4.1.3. Veliax reserves the right to amend this Agreement if necessary, to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and Veliax shall notify the Customer in any such event.
  - 4.1.4. If Veliax's performance of its obligations under this Agreement is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees, then, without prejudice to any other right or remedy it may have, Veliax shall be entitled to an extension of time to perform its obligations under this Agreement which is equal to the delay caused by the Customer. In such circumstances Veliax shall have no liability in respect of such delay in the provision of the Services and shall invoice Customer for any Charges incurred as a result.
  - 4.1.5. The Services are for Customer's benefit only and may not be used or relied upon by any other person or for any other purpose, and Veliax shall not be liable in either circumstance.
  - 4.1.6. Notwithstanding the remainder of this Agreement, to the extent the Services include the provision of reports by Veliax to the Customer, Customer acknowledges that the purpose of any reports is solely for Veliax to highlight any risks that it has identified in performing the Services and to make recommendations. Veliax shall not be liable to the extent that Customer does not implement these recommendations.
- 4.2. To the extent the Services comprise in whole or in part of any data protection training and consultancy Services, the following clauses 4.2.1 to 4.2.2 shall also apply. In the event of a conflict between the following clauses 4.2.1 to 4.2.2 and the remaining terms of this Agreement, the following clauses 4.2.1 to 4.2.2 shall prevail.
- 4.2.1. Customer acknowledges and agrees that its overall compliance with Data Protection Legislation is its responsibility, and that Veliax's provision of data protection training and consultancy services will not absolve Customer of this responsibility or guarantee Customer's overall compliance with Data Protection Legislation.

4.2.2. Customer acknowledges that its Processing activities, and therefore any associated risks, can frequently change, and that Veliax will be dependent on Customer to promptly bring such changes to Veliax's attention so that Veliax may re-scope the specific tasks and activities allocated to it as necessary in order to perform the data protection training and consultancy Services.

## 5. Customer Obligations

### 5.1. The Customer shall:

- 5.1.1. co-operate with Veliax in all matters relating to the Services;
- 5.1.2. provide Veliax, its employees, agents, consultants and subcontractors with:
- 5.1.3. in a prompt manner, any information, documents or materials which may reasonably be required by Veliax in the delivery of the Services and, in relation to any information so provided, ensure that such information is complete and accurate in all material respects;
- 5.1.4. access to the Customer's premises, equipment, personnel and other facilities as reasonably required by Veliax for the delivery of the Services in a timely manner and at no charge to Veliax; and
- 5.1.5. any relevant rules, regulations and policies in respect of Customer's premises and equipment which Customer considers Veliax should reasonably comply with in order to deliver the Services;
- 5.1.6. keep Veliax its employees, agents, consultants and subcontractors (as appropriate) informed of any special requirements relating to the delivery or receipt of the Services. If Veliax's compliance with such requirements give rise to an increase in the actual cost to Veliax of providing the Services, the Charges may be increased accordingly; and
- 5.1.7. obtain and maintain all necessary licences and consents and comply with all relevant legislation as required to enable Veliax to provide the Services.
- 5.1.8. Veliax shall not be liable for its provision of the Services to the extent that Customer has not materially complied with its obligations in this clause 5.

## 6. Non-Solicitation

- 6.1. The Customer shall not, without the prior written consent of Veliax, at any time from the Effective Date to the expiry of 1 year after the last of the Services to be provided under this Agreement, solicit or entice away from Veliax or employ or attempt to employ any Veliax Personnel.

## 7. Charges and payment

- 7.1. In consideration of the provision of the Services by Veliax, the Customer shall pay the Charges.
- 7.2. Unless otherwise stated in the Proposal, the Charges shall be calculated on a per day or per hour basis using the relevant rates for Veliax Personnel as set out in the Proposal. Work will be carried out during core office hours (0900 - 1730 Monday to Friday) or as agreed with the Customer.
- 7.3. Veliax shall invoice Customer and Customer shall pay for the Services (to a bank account provided on the invoice or as otherwise directed by Veliax) as follows, or as otherwise set out in the Proposal:
- 7.4. Veliax shall invoice the Customer monthly in arrears or, if earlier, on the provision of a draft report to Customer or completion of the relevant Services. Customer shall pay any invoice submitted by Veliax within 30 days of the date of the invoice.
- 7.5. The Customer shall pay the reasonable expenses of Veliax Personnel, as further detailed in the Proposal, monthly in arrears following submission of an appropriate invoice.
- 7.6. Failure by the Customer to pay any Charges when they fall due may, at Veliax's discretion, result in Veliax suspending delivery of the Services.
- 7.7. Without prejudice to any other right or remedy that it may have, if the Customer fails to pay Veliax any sum due under this Agreement on the due date, the Customer shall pay interest

on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this will accrue each day at 4% a year above the European Central Bank's base rate from time to time.

7.8. All sums payable to Veliax under this Agreement:

7.8.1. are exclusive of VAT, and the Customer shall in addition pay an amount equal to any VAT chargeable on those sums on delivery of a VAT invoice; and shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

7.9. All Services agreed in the Agreement must be assigned dates on which they shall be delivered within 12 months of the Effective Date (or as specified in the Proposal). Any Services which are not assigned dates to be delivered within 12 months of the Effective Date shall remain payable in full by the Customer.

8. Intellectual property rights

8.1. All Intellectual Property Rights in or arising out of the Services and/or Deliverables (excluding the Customer Materials) shall be owned by Veliax and/or its licensors.

8.2. In relation to the Deliverables:

8.2.1. Veliax and its licensors shall retain ownership of all Intellectual Property Rights in the Deliverables; and

8.2.2. Veliax grants the Customer or shall procure the direct grant to the Customer of, a worldwide, non-exclusive, non-sublicensable, royalty-free licence to copy the Deliverables for the purpose of receiving and using the Services and the Deliverables.

8.3. In relation to Customer Materials:

8.3.1. the Customer and its licensors shall retain ownership of all Intellectual Property Rights in the Customer Materials; and

8.3.2. the Customer grants to Veliax a worldwide, non-exclusive, royalty-free, licence to copy and modify the Customer Materials for the sole purpose of providing the Services to the Customer.

8.3.3. the Customer warrants that the receipt and use of the Customer Materials in the delivery of the Services by Veliax, its agents, subcontractors, or consultants shall not infringe any Intellectual Property Rights of any third party; and shall indemnify Veliax in full against all costs, expenses, damages and losses, including any interest, fines, legal and other professional fees and expenses awarded against or incurred or paid by Veliax as a result of or in connection with any claim brought against Veliax, its agents, subcontractors, consultants or any Veliax Personnel for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the receipt or use of the Customer Materials in the delivery of the Services.

9. Customer Data

9.1. As between the Parties, the Customer shall own all right, title and interest in and to all of the Customer Data.

9.2. The Customer grants Veliax an irrevocable, unlimited and royalty-free licence to use the Customer Data provided to Veliax for the purposes of delivering the Services.

9.3. Each party warrants that for the purposes of this Agreement it:

9.4. shall comply with the provisions of the Data Protection Legislation, including without limitation that it:

9.4.1. shall use Personal Data in accordance with the permissions or consents obtained from the data subjects (as defined in the Data Protection Legislation) or otherwise in accordance with the Data Protection Legislation;

9.4.2. shall communicate to the other party the terms of any permissions or consents obtained from the data subjects;

9.4.3. shall have in place appropriate technical and organisational security measures against unauthorised or unlawful Processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data and shall take all reasonable steps to ensure

- the reliability of its personnel who have access to such Personal Data and to impose obligations of confidentiality upon such personnel and to ensure that such personnel are aware of their responsibilities under the Data Protection Legislation;
- 9.4.4. shall not transfer Personal Data outside the European Economic Area save in accordance with the Data Protection Legislation;
- 9.4.5. shall comply with any request or notice it receives from a data subject in its capacity as a data controller;
- 9.4.6. shall upon request provide such assistance as is reasonably necessary to the other party to enable that party to comply with its obligations as a data controller (as defined in the Data Protection Legislation);
- 9.4.7. shall inform the other party as soon as reasonably practicable of the discovery of any actual or suspected data-breach relating to the Processing of Personal Data in connection with this Agreement;
- 9.4.8. shall, except to the extent prohibited by applicable law, inform the other party upon receipt of a complaint from a data subject or if approached by any regulatory body in connection with its compliance with the Data Protection Legislation in connection with this Agreement;
- 9.4.9. shall, except to the extent prohibited by applicable law, consult the other party in good faith as to the timing, manner and content of any response to a complaint from a data subject or approach by any Regulatory Body in connection with compliance with the Data Protection Legislation in connection with this Agreement.

## 10. Limitation of liability

- 10.1. Nothing in this Agreement limits any liability which cannot legally be limited, including, but not limited to, liability for:
- 10.1.1. death or personal injury caused by negligence; and
- 10.1.2. fraud or fraudulent misrepresentation.
- 10.2. Subject to clause 10.1:
- 10.2.1. Veliar shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising; and
- 10.2.2. Veliar's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with this Agreement shall be limited to the total Charges paid or payable under this Agreement.
- 10.3. This clause 10 shall survive termination of this Agreement.

## 11. Confidentiality

- 11.1. Each party may be given access to confidential information from the other party in order to perform its obligations under this Agreement. Each party shall hold the other's confidential information in confidence and not make the other's confidential information available to any third party, or use the other's confidential information for any purpose other than the implementation of this Agreement.
- 11.2. 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 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.
- 11.3. The Customer acknowledges that its information may be used by Veliar on an anonymised basis without limitation including compiling and publishing reports. This clause shall survive termination of this Agreement, however arising.

## 12. Termination

- 12.1. Without affecting any other right or remedy available to it, either party to this Agreement may terminate them with immediate effect by giving written notice to the other party if:
  - 12.1.1. the other party commits a material breach of any term of this Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
  - 12.1.2. the other party takes any step or action in connection with its entering administration, provisional liquidation, bankruptcy or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; or
  - 12.1.3. Without affecting any other right or remedy available to it, Veliax may terminate this Agreement with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Agreement on the due date for payment.
- 12.2. On termination of this Agreement:
  - 12.2.1. the Customer shall immediately pay to Veliax all of Veliax's outstanding invoices and interest and, in respect of the Services supplied but for which no invoice has been submitted, Veliax may submit an invoice, which shall be payable immediately on receipt;
  - 12.2.2. Veliax shall on request return all Customer Materials not used up in the provision of the Services;
  - 12.2.3. Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination of this Agreement shall remain in full force and effect.
- 12.3. Termination of this Agreement shall not affect any of the rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination.

## 13. Force majeure

- 13.1. Veliax shall have no liability to the Customer under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of Veliax or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that the Customer is notified of such an event and its expected duration.

## 14. Variation

- 14.1. No variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

## 15. Waiver

- 15.1. No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

## 16. Severance

- 16.1. If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement.

## 17. Entire agreement

- 17.1. This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations, and understandings between them relating to its subject matter.
- 17.2. Each party acknowledges that in entering into this Agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance, or warranty (whether made innocently or negligently) that is not set out in this Agreement.

## 18. Assignment and Sub-Contracting

- 18.1. Veliax may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.

## 19. No partnership or agency

- 19.1. Nothing in this Agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

## 20. Third party rights

- 20.1. These Agreement does not confer any rights on any person or party (other than the parties to this Agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

## 21. Notices

- 21.1. Any notice required to be given under this Agreement shall be in writing and shall be delivered by hand or sent by post or email to the other party at its address set out in this Agreement, or such other address as may have been notified by that party for such purposes.
- 21.2. A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent email shall be deemed to have been received at the time of transmission (as shown by the time sent in respect of an email).

## 22. Governing law

- 22.1. This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England and Wales.

## 23. Jurisdiction

23.1. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).