Terms and Conditions for G-Cloud

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1. INTERPRETATION

The definitions and rules of interpretation in this clause apply in these terms and conditions.

1.1 Definitions

Call-Off Agreement: the contract for the supply of services between the Customer and the Supplier.

Contract: the Call-Off Agreement entered into under the Framework Agreement, incorporating these conditions.

Customer: the person, department or company who purchases Services from the Supplier and whose details are set out in the purchase order.

Customer's Project Manager: the Customer's manager for the Project appointed in accordance with condition 5.1(a).

Deliverables: all products and materials developed by the Supplier in relation to the Project in any media, including computer programs, data, diagrams, reports and specifications (including drafts).

Framework Agreement: the overarching contractual terms of Crown Commercial Services, applicable to the provision of G-Cloud services by the Supplier.

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, trade names, domain names, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, moral rights, rights in confidential information (including know-how and trade secrets), and all similar rights worldwide.

Pre-existing Materials: materials which existed before the commencement of the Project.

Project: the project as described in the Project / Implementation Plan.

Project Milestone: a date by which a part of the Project is estimated to be completed.

Project / Implementation Plan: the detailed plan describing the Project and timetable.

Services: the services to be provided by the Supplier.

Supplier: Resolvercouk Limited, R/O Treviot House, 186–192 High Road, Ilford, Essex, IG1 1LR; Co Regn No: 03697543.

Supplier's Project Manager: the Supplier's manager for the Project.

VAT: value added tax chargeable under English law.

1.2 Interpretation rules

1. Clause, Schedule and paragraph headings shall not affect the interpretation of this agreement.

2. A person includes a natural person, corporate or unincorporated body.

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3. References to the singular include the plural and vice versa.

4. References to one gender include all genders.

5. References to a statute include amendments and re-enactments.

6. Writing includes email.

7. References to clauses and Schedules are to this agreement.

2. APPLICATION OF CONDITIONS / OVERRIDING PROVISIONS

2.1 These conditions apply to and are incorporated into the Contract. In the event of inconsistency, the Framework Agreement and the Call-Off Agreement shall prevail.

2.2 No addition to, variation of, exclusion or attempted exclusion of any term of the Contract shall be binding unless in writing and signed by a duly authorised representative of the Supplier.

3. EFFECT OF PURCHASE ORDER FORM

Subject to the Framework Agreement and the Call-Off Agreement, the Customer's purchase order constitutes an offer to purchase the Services. Acceptance occurs on acknowledgement or commencement of work.

4. SUPPLIER'S OBLIGATIONS

4.1 The Supplier shall use reasonable endeavours to manage and complete the Project and deliver the Deliverables in accordance with the Project / Implementation Plan and with reasonable care and skill.

4.2 Performance dates and milestones are estimates only and time is not of the essence.

4.3 The Supplier shall appoint a Supplier's Project Manager with authority to bind the Supplier.

5. CUSTOMER'S OBLIGATIONS

5.1 The Customer shall:

(a) co-operate with the Supplier and appoint a Customer's Project Manager;

(b) provide access to premises, data and facilities;

(c) provide accurate information in a timely manner; and

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(d) prepare premises at its own cost.

5.2 The Customer is responsible for protecting its systems and accepts that the Supplier is not responsible for malware or cyber attacks.

5.3 If Supplier performance is delayed by the Customer, the Customer shall pay reasonable costs incurred.

5.4 The Customer shall not solicit or employ Supplier personnel during the Contract and for six months after completion.

6. CHANGE CONTROL / AMENDMENT TO SCOPE OF SERVICES

6.1 The parties' Project Managers shall meet at reasonable intervals to discuss the Project.

6.2 Change requests must be submitted in writing.

6.3 The Supplier shall provide written estimates covering time, cost and impact.

6.4 No change shall take effect unless agreed in writing.

7. CHARGES AND PAYMENT

7.1 Condition 7.2 applies to time-and-materials Services. Conditions 7.3 and 7.4 apply to fixed-price Services.

7.2 Where Services are provided on a time-and-materials basis:

(a) charges are based on daily rates;

(b) an eight-hour working day applies;

(c) overtime is charged at the Supplier's standard overtime rates;

(d) time sheets are maintained; and

(e) invoicing is monthly in arrears.

7.3 Fixed prices are as set out in the Project Plan.

7.4 Fixed prices exclude expenses and VAT.

7.5 Invoices are payable within 30 days.

7.6 Interest may be charged and Services suspended for non-payment.

7.7 Time for payment is of the essence.

7.8 Amounts become due on termination.

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7.9 Set-off is permitted.

8. INTELLECTUAL PROPERTY RIGHTS

8.1 All Intellectual Property Rights in Deliverables vest in the Supplier. A non-exclusive worldwide licence is granted for reasonable use.

8.2 Use of Pre-existing Materials is subject to third-party licences.

9. CONFIDENTIALITY AND SUPPLIER'S PROPERTY

9.1 Confidential information shall be kept confidential.

9.2 Supplier materials remain Supplier property.

9.3 This clause survives termination.

10. CUSTOMER DATA

10.1 The Customer retains ownership of Customer Data.

10.2 The Supplier shall use reasonable endeavours to restore data from backups.

11. DATA PROTECTION

11.1 The Supplier may process personal data on behalf of the Customer.

11.2 The Customer is the data controller and the Supplier is the data processor.

12. LIMITATION OF LIABILITY

12.1 Liability provisions apply subject to the Framework Agreement.

12.2 Implied warranties are excluded where permitted.

12.3 Liability for death, personal injury and fraud is not excluded.

12.4 Liability is capped at fees paid and excludes indirect loss.

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13. TERMINATION

13.1 Either party may terminate for non-payment, material breach, insolvency or change of control.

13.2 Accrued rights survive termination.

13.3 Termination does not affect existing claims.

14. FORCE MAJEURE

No liability arises for events beyond reasonable control.

15. WAIVER

No waiver unless in writing.

16. RIGHTS AND REMEDIES

Rights are cumulative and subject to the Framework Agreement.

17. SEVERANCE

Invalid provisions are modified or removed without affecting the remainder.

18. ENTIRE AGREEMENT

This agreement constitutes the entire agreement.

19. ASSIGNMENT

Customer assignment requires consent. Supplier may assign.

20. NO PARTNERSHIP OR AGENCY

Nothing creates a partnership or agency.

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21. THIRD PARTY RIGHTS

No third-party rights.

22. NOTICES

22.1 Notices must be in writing and delivered by hand, post, fax or email.

22.2 Notices are deemed received:

(a) by hand, on delivery;

(b) by post, at 9.00 am on the second Business Day after posting; and

(c) by fax or email, at 9.00 am on the next Business Day.

22.3 This clause does not apply to legal proceedings.

23. GOVERNING LAW

This Contract is governed by the law of England and Wales.

24. JURISDICTION

The courts of England and Wales have exclusive jurisdiction, subject to ADR under the Framework Agreement.

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