



G-Cloud 15

Terms & Conditions

www.zipporah.co.uk



ZIPPORAH

This Agreement is made between Zipporah Limited (company number 04826999) whose registered office is at Quest House, St Mellons Business Park, Fortran Road, St Mellons, Cardiff CF3 0EY ("Zipporah") and (the "Customer") and consists of this Schedule of Services, Zipporah's General Terms and Conditions, Zipporah's Software Licence Terms and Conditions and the Support Contract Terms and Conditions.

1. Schedule of services provided to the customer

- 1.1 SAAS Licences
- 1.2 Support costs
- 1.3 System costs
- 1.4 Integration costs
- 1.5 Training costs

Any further days training can be purchased at our current standard consultancy rate of £1,000 plus VAT per day, including expenses.

Payment of these costs will be as detailed in the attached Zipporah General Terms and Conditions and the Zipporah Support Contract Terms and Conditions.

Zipporah general terms & conditions

1. Interpretation

1.1 In this Agreement, unless the context otherwise requires:-

“Agreement” means the contract between Zipporah and the Customer incorporating these terms and conditions and the Services Schedule.

“Charges” means the charges payable by the Customer to Zipporah in respect of the Services, as set out in the Services Schedule.

“Customer” means the organisation receiving the services

“Zipporah” means Zipporah Limited

“Services” means the services to be provided by Zipporah including product supply, graphic design, software application development and web development as set out in the Services Schedule.

“Services Schedule” means the Schedule attached to these terms and conditions setting out the particular aspects of the Services to be provided to the Customer.

“Web Site” means a site at which text, graphics, data, files and information are stored electronically and made available to third parties via network technologies.

1.2 Words in the singular shall include the plural and vice versa, and words importing the masculine shall include the feminine and vice versa.

1.3 The headings in this Agreement are for convenience only and shall not affect the construction of the Agreement.

1.4 These Terms and Conditions (together with the matters referred to in the Services Schedule and any specification agreed by the parties) embody the entire understanding of the parties and supersede any prior promises, representations, undertakings or implications. These terms and conditions may only be modified by written agreement between the parties. This condition shall not exclude any liability in respect of any statement made fraudulently by either party prior to the date of the Agreement.

1.5 The employees and agents of Zipporah are not authorised to make any representations concerning the Services unless confirmed by Zipporah in writing. In entering into this Agreement the Customer acknowledges that it does not rely on any such representations that are not so confirmed.

1.6 Nothing in this Agreement shall be construed as creating a legal partnership or contract of employment or a relationship of principal and agent between the Customer and Zipporah and Zipporah shall not at any time or in any circumstances take any action so as to bind (or purport to bind) the Customer nor shall Zipporah hold itself out as having authority to bind the Customer and shall ensure that its staff do not hold themselves out likewise.

- 1.7 A reference to any Act of Parliament, order, regulation, statutory instrument or similar, shall include a reference to any amendment or replacement of it. Reference to any Act of Parliament shall also include any subsidiary legislation made under it.
- 1.8 In the event of any inconsistency between the Terms and Conditions and the Services Schedule the former shall prevail.
- 1.9 The Contracts (Rights of Third Parties) Act 1999 shall not apply to the Agreement.

2. Customer Pre-requisites

Zipporah can only provide the services to the Customer if the Customer has:-

- 2.1 Agreed the charges
- 2.2 Agreed to these Terms and Conditions

3. The Services

- 3.1 Subject to payment of the charges Zipporah shall provide those aspects of the services indicated on the Services Schedule.
- 3.2 Zipporah will use its reasonable endeavours to meet any date proposed by the Customer or Zipporah for the provision of the Services.
- 3.3 The Customer will be provided with support following payment of the support invoice. The Customer will receive the support invoice following completion of the system and to meet agreed specification.
- 3.4 Unless otherwise agreed, the Services do not include the following:-
 - 3.4.1 Additional work resulting from the Customer changing their requirements;
 - 3.4.2 Attendance at the Customer's premises by a Zipporah employee;
 - 3.4.3 The cost of any modifications or alterations to a Customer's computer hardware or systems required to permit the provision of the Services;
 - 3.4.4 The correction of any errors in the Services as a result of alterations or modifications or misuse of the Services by the Customer.

4. Zipporah Design and Development

- 4.1 Where Zipporah designs and develops a software application or website on behalf of the Customer, Zipporah shall do so in accordance with the specification agreed with the Customer. Once agreed, the specification may only be changed with the prior written agreement of Zipporah and the Customer. Zipporah reserves the right to levy an additional charge in respect of extra work undertaken as a result of any requested change to the specification at our standard day rate at the time of request.

- 4.2 Where Zipporah supplies any application software or data in electronic form to a Customer, it is the Customer's responsibility to keep backup copies.
- 4.3 The Customer grants Zipporah a licence to use any trademarks of the Customer required for inclusion in the Customer's website.
- 4.4 The copyright, patent and other intellectual property rights (IPR) directly in connection with the Design and Development by Zipporah shall vest in Zipporah. The Customer shall have access under licence to use any data or material produced in connection with the Zipporah Design and Development.

5. Third Party Services

Zipporah may, acting on the request of the Customer, arrange for a third party to supply services such as domain name registration and website hosting. In all cases where such action is undertaken, the liability for any services offered by the third party shall reside with the third party and not with Zipporah.

6. Improper Use

- 6.1 The Services are provided to the Customer for the exclusive use of the Customer and its lawful employees and agents. The Customer shall not permit any other party to use the Services other than for the purposes agreed with Zipporah save that members of the public shall be entitled to access the system as specified in the Services Schedule.
- 6.2 Any breach of this clause by the Customer shall entitle Zipporah to terminate the Services under Clause 7.4.

7. Term and Termination

- 7.1 The Services shall be provided to the Customer by Zipporah from the date when Zipporah advise the Customer that the Services are ready until such time as the Services are terminated as set out in this Agreement
- 7.2 Where the Customer opts for an annual term, the Customer shall subscribe for a minimum period of twelve months.
- 7.3 Following the expiry of any minimum term which is 12 months, any party may terminate the Services by giving three months prior written notice to the other.
- 7.4 If the Customer:-
 - 7.4.1 Does not pay any Charge within 28 days of it falling due save where any Charge is in dispute or;
 - 7.4.2 Breaches this Agreement in any other way and (in the case of a breach capable of remedy) fails to remedy the breach within 21 days of receipt of a written notice from Zipporah to do so; or

- 7.4.3 Is subject to bankruptcy proceedings, or in Scotland sequestration proceedings, becoming insolvent, making any composition or arrangement with creditors or an assignment for their benefit, any execution distress, diligence or seizure; or if the Customer is a company, being the subject of proceedings for the appointment of an administrator, going into liquidation whether voluntary or compulsory (except for the purpose of amalgamation or reconstruction) or appointing a receiver or an administrative receiver of any assets appointed; or
- 7.4.4 Knowingly provide Zipporah with any false, misleading or inaccurate information for the purposes of obtaining the Services; or
- 7.4.5 Is suspected, in Zipporah's reasonable opinion, of involvement with fraud or attempted fraud or any other criminal offence in connection with the use of Services;
- Then Zipporah shall be entitled, in its absolute discretion, either to terminate this Agreement immediately, or (without losing or reducing any other right or remedy) to suspend the Services (or any part of them) temporarily.
- 7.5 If the Customer gives notice of termination, then the Customer shall remain liable for the Charges due until 21 days after the date when Zipporah receives the notice, or the expiry of the notice, whichever is the later, provided that where any notice is served prior to the expiry of any minimum period of the Services the Customer shall remain liable for the Charges due until the end of that period. In any event, Charges due in respect of the Services provided prior to termination shall remain due and payable. If the Customer has paid to Zipporah any amounts in excess of amounts due in respect of the Charges, Zipporah shall refund any such sums to the Customer within 21 days from the date when the Services actually terminate.
- 7.6 The Customer continues to be liable to pay all Charges that are due for the Services during any period in which the Customer does not comply with this Agreement.
- 7.7 The Customer shall be entitled to terminate the Agreement:
- 7.7.1 Immediately by giving written notice to Zipporah if in the proper opinion of the Customer there has been a material or persistent breach of the Agreement on the part of Zipporah;
- 7.7.2 immediately if Zipporah, its staff or anyone acting on behalf of Zipporah in connection with this Agreement or under any other agreement with the Organisation either offers, gives or agrees to give to anyone any inducement or reward or confers any other benefit in respect of this Agreement or any other agreement with the Organisation (even if Zipporah is unaware of any such action) or otherwise commits an offence under the Prevention of Corruption Acts 1889 to 1916 or section 117(2) of the Local Government Act 1972. Zipporah shall be liable for all and any losses the Organisation suffers as a result of the termination of the Contract under this condition 7.7.2.
- 7.8 Failure by either party at any time to enforce the provisions of the Agreement shall not be construed as a waiver of the right of that party to enforce any provision in accordance with its terms. Either party may waive any right or remedy arising from a breach of the Agreement provided that any such waiver is confirmed in writing and signed on behalf of the party giving the waiver.

8. Charges

- 8.1 The Charges for the Services are as set out in the Services Schedule. The Customer shall pay the Charges as explained in 8.6.
- 8.2 If Zipporah, at the request of the Customer, provides Services to the Customer over and above those provided for in the Services Schedule, then Zipporah reserves the right to charge the Customer for those additional Services at a rate agreed in writing by the parties.
- 8.3 Subject to any provision of this Agreement, liability for Charges shall commence with immediate effect, unless Zipporah notifies the Customer to the contrary.
- 8.4 All Charges are exclusive of value added tax or any similar taxes, levies or duties, which will be added to or charged on invoices at the appropriate rates.
- 8.5 Zipporah reserves the right to vary any Charges or rates on giving not less than 21 days' notice in writing to the Customer. Charges will not be varied within any minimum term. The Organisation is entitled to terminate the Agreement if it does not agree to the varied Charges subject to the provision of clause 7.5 of this Agreement.
- 8.6 Where Zipporah undertakes Design and Development work for a Customer, 50% of the total cost will be due on commencement of the work; a further 50% on Customer acceptance of the system. The system licence fees are payable in full on commencement of the project. Zipporah reserves the right to retain the Design and Development work until the Customer has paid in full. The support and maintenance charges will commence following sign off of the module implementation.

9. Payment

- 9.1 Payment of a deposit of 50% will be made prior to the commencement of any Design and Development and payment of 100% of the licence fee will be made prior to the commencement of the project subject to the provision to the Customer of a proper value added tax invoice. Payment will be made within 28 days of receipt of the relevant invoice where the invoice is undisputed. The Customer agrees to raise queries on any invoice which is disputed as soon as reasonably practicable. The invoice shall be submitted to the address of the Customer specified on the first page of this Agreement. The subsequent Staged and Final payments will be made within twenty eight days (28) of the invoice date as set out in the Services Schedule.
- 9.2 Zipporah may charge interest on any and all overdue amounts from the due date until it receives payment in full at a rate equal to 4 percent per annum over the base lending rate of NatWest Bank plc and to recover its reasonable expenses including legal fees and costs of collection. Interest shall continue to accrue notwithstanding termination of this Agreement for any reason whatsoever. Zipporah reserves the right to withdraw any discount given for payment in advance or payment by any particular means (e.g. Direct Debit) if payments are not honoured on presentation.

- 9.3 No counterclaim or set-off may be deducted by the Customer from any payment due to Zipporah without the prior written consent of Zipporah.

10. Zipporah's General Powers

Zipporah may:

- 10.1 Temporarily suspend the Services for the purpose of repair, maintenance or improvement of any of Zipporah's facilities that are necessary to provide the Services provided that Zipporah has the prior written consent of the organisation to do so, such consent not to be unreasonably withheld. The organisation agrees to respond to such requests within two working days.

Where possible, Zipporah will always carry out repairs and maintenance work outside of the Organisations' business hours.

- 10.2 Vary the technical specification of the Services for operational reasons where agreed in writing by the Customer;
- 10.3 Give instructions about the use of the Services which Zipporah thinks reasonably to be necessary in the interests of safety or of the quality of the Services.

11. Liability

- 11.1 In performing its obligations under these terms and conditions, Zipporah warrants that it will exercise such skill and care in the provision of the Services as may be expected of a competent internet solution provider and that the system and the Services will comply with the specification.
- 11.2 Zipporah shall indemnify and keep indemnified the Customer against all actions claims demands proceedings damages costs charges and expenses whatsoever in respect of or in any way arising out of this Agreement in relation to any and all loss suffered by the Customer (excluding, for the avoidance of doubt, loss of profits) except and to the extent that it may arise out of the act default or negligence of the Customer its agents or employees.
- 11.3 The Customer shall indemnify and keep indemnified Zipporah against all actions claims demands proceedings damages costs charges and expenses whatsoever in respect of or in any way arising out of this Agreement in relation to any and all loss suffered by Zipporah (excluding, for the avoidance of doubt, loss of profits) except and to the extent that it may arise out of the act default or negligence of Zipporah its agents or employees.
- 11.4 The insurance in respect of any personal injury or death of any person arising under a contract of service with Zipporah and arising out of an incident occurring during the course of such person's employment shall comply with the provisions of the Employer's Liability (Compulsory Insurance) Act 1969 and any statutory orders made thereunder.
- 11.5 Zipporah shall at all times maintain insurance cover with a reputable company to include:

11.5.1 Public liability insurance in the minimum sum of £10,000,000 (ten million pounds) per claim; and

11.5.2 Employers liability insurance in the sum of £5,000,000 (five million pounds) per claim.

Zipporah shall supply to the Customer annually and at any other time within 14 days of request evidence satisfactory to the Customer that Zipporah has complied with these insurance requirements.

11.6 Zipporah will for the duration of this Agreement take out and maintain Professional Indemnity Insurance in the sum of five million pounds (£5,000,000).

12. Compliance with Laws and other Requirements

12.1 Zipporah shall comply with all relevant statutes, enactments and regulations in its provision of the Services.

12.2 Zipporah shall act in respect of any user of the system as if it were a public authority for the purposes of the Human Rights Act 1998.

12.3 Zipporah shall ensure that any information supplied by the Customer or a user of the Services is treated as confidential and not disclosed to any person other than the Customer except as may be required by law.

12.4 Zipporah shall comply with the Data Protection Act 2018 and all relevant GDPR and shall:

12.4.1 Act only on the instructions of the Customer when processing personal data (as defined in that Act) received from the Customer;

12.4.2 Take all appropriate security measures to protect against any unauthorised or unlawful processing or accidental loss or destruction of or damage to such personal data;

12.4.3 Provide the Customer with all such information as the Customer may reasonably require to satisfy itself that Zipporah is complying with these obligations;

12.4.4 Permit the Customer to carry out an audit for these purposes at premises belonging to or under the control of Zipporah; and

12.4.5 Return to the Customer all such information at the expiry or earlier termination of the Agreement.

12.5 Zipporah acknowledges that in responding to requests received by the Customer under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 the Customer will be entitled to provide information relating to the Agreement.

12.6 Zipporah shall not in relation to the employment of staff for the purposes of providing the Services or in relation to the provision of the Services to any person unlawfully discriminate and Zipporah shall:

12.6.1 have due regard to the need to eliminate unlawful racial discrimination and to promote equality of opportunity and to provide good relations between different racial groups and shall where reasonably requested by the Customer assess and monitor its policies

and practices as to impact on the promotion of race equality and report on it to the Customer; and

- 12.6.2 In the provision of the Services comply with the duties imposed by the Disability Discrimination Act 1995 as amended and the requirement not to discriminate against disabled persons contained in that Act as if it were a public authority for the purposes of that Act.
- 12.6 Whilst on Customer premises Zipporah shall ensure that its staff comply with the Customer's safety policies and any amendments to them notified to Zipporah and with the proper requirements of the Customer's safety officers.
- 12.7 Save as provided by Conditions 12.1 to 12.5 (inclusive) and Condition 12.8, Zipporah and the Customer shall treat in confidence all information or data disclosed to them or coming to their attention concerning the business and practices of the other and/or any other confidential matter and will not disclose the same to any third party other than to employees or officers who require access in order to perform their duties in connection with this Agreement and who have agreed to treat such data and information as confidential. This Condition 12 shall survive termination of the Agreement.
- 12.8 Condition 12.7 shall not apply to:-
 - 12.8.1 Any information or data that are in the public domain at the Commencement Date
 - 12.8.2 any information or data which subsequently become part of the public domain except where that occurred as a result of a breach of the Agreement by the party to whom the information or data in question were disclosed or
 - 12.8.3 Any information or data possessed by a party prior to disclosure to it by the other party provided it was lawfully acquired from a source other than that third party.

13 Assignment

- 13.1 Zipporah shall not assign the Agreement in whole or in part or sub-contract the provision of the Services or any part of them.

14. Notice

- 14.1 Notices given under this Agreement shall be sent by prepaid first-class post or e-mail as follows:-
- 14.2 Zipporah: the address shown on the front page of the Agreement or any alternative address that Zipporah notifies to the Customer at any time.
- 14.3 The Customer: the address on the front page of the Agreement.
- 14.4 Any such notice shall be deemed to have been made 2 (two) working days from the date of posting (if by letter) and if by email on the date of such transmission except where transmission is made after 5pm when receipt shall be deemed to have occurred on the following working day.

15. **Force Majeure**

- 15.1 Neither party is liable for any breach of this Agreement which is caused by a matter beyond its reasonable control including Acts of God, fire, lightning, explosion, war, disorder, flood, industrial disputes, extremely severe weather or acts of local or central Government or other competent authorities.

16. **Law**

- 16.1 This Agreement is subject to English law and the parties submit to the exclusive jurisdiction of the English courts.

Zipporah software licence terms & conditions

The following are supplemental to, and should be read in conjunction with, Zipporah's General Terms and Conditions

One copy of the Zipporah software shall be supplied to the Customer. Acceptance of the Zipporah software shall be deemed to take place on delivery to the Customer or their agents. The Zipporah software is owned by Zipporah (or any third party licensor) and is supplied on licence subject to the following terms and conditions:-

1. The Customer may use software supplied by Zipporah on any single server and on a second server provided that the computers are not used simultaneously and may copy such original software only for archival or back-up purposes and provided that any copy contains all of the original software's proprietary notices.
2. The Customer shall not modify, translate, reverse engineer, decompile, disassemble (except to the extent that applicable laws specifically prohibit such restriction) or create derivative works based on any Zipporah software or any documentation accompanying such software.
3. Intellectual property rights in all software supplied to the Customer remain the property of Zipporah or its licensor. The Customer agrees to comply with any request reasonably made by the owner of the Intellectual Property Rights and notified to the Organisation in any and all software supplied to the Customer for the protection of the Intellectual Property Rights. However any significant costs incurred as a result of the Customer complying with such a request will be met by the owner of the Intellectual Property Rights.
4. The Customer shall not rent, lease, grant rights in or otherwise dispose of or distribute copies of the Zipporah software.
5. This licence shall terminate automatically on termination of the Services.
6. Upon termination the Customer shall destroy all copies of the Zipporah software.
7. The warranties and limitation of liability contained in Zipporah's General Terms and Conditions apply to the Zipporah software.

Zipporah support contract terms & conditions

The following are supplemental to, and should be read in conjunction with, Zipporah's General Terms and Conditions

Zipporah provide technical support and maintenance to the Customer provided the Customer has a support contract.

Support will only be provided through the Customer's nominated support contacts as agreed with Zipporah.

Scope of support

During the contract term, Zipporah shall render e-mail and telephone support to the Customer during normal working hours.

Support covers priority end user problem investigation and end user problem resolution.

Support procedure

Zipporah will investigate problems reported by the Customer and resolve those problems where the Services fail to conform in all material aspects to functional specifications defined by Zipporah in the Services Schedule.

Problems resulting from the Customer's misuse, alteration or combination of the Services with any hardware or software not identified as compatible by Zipporah, shall be deemed to lie outside the terms of the support contract.

Zipporah's responses to support requests will fall into four categories dependent on the severity of the problem reported.

Critical - System is down, inability to make a booking, any payment issues, all users unable to log in

Zipporah will respond to the client within 30 mins and endeavour to provide a correction or workaround within 8 hours.

High - Any critical issues which have a workaround. Functionality is not working as expected and is preventing some key activity being performed

Zipporah will respond to the client within 1 hour and endeavour to provide a correction or workaround within 1-3 business days.

Medium - Some functionality is not working as expected but does not prevent key activity being performed

Zipporah will respond to the client within 4 business hours and endeavour to provide a correction or workaround within 3-5 business days.

Low - Minor cosmetic or configuration issues, no interruption to day to day system functionality

Zipporah will respond to the client within 8 business hours and endeavour to provide a correction or workaround within 7-10 business days.

Zipporah will make available to Customers holding a valid support contract updates of the software free of charge. A release will contain error corrections and minor enhancements of the current functionality. Where new functionality is available in new modules, then these will be purchased at their individual SAAS fee.

Escalation procedure

Calls are immediately categorised by support personnel. Although the majority of calls will be processed and resolved satisfactorily, there will be instances where action needs to be escalated. The escalation of a problem to Zipporah management may be instigated internally by support staff or externally invoked by the Customer. In response, an action plan will be agreed with the Customer.

Contact details

Support may be obtained in the following ways:-

E-mail: support@zipporah.co.uk

Web: www.zipporah.co.uk

Tel: 02921 202042

Glossary of terms

Support services are available from 09:00 to 17:00 Monday to Friday, UK time.

The foregoing pages of this document comprise the agreement between Zipporah and the Customer, and both parties agree to accept the terms and conditions herein as witness the signatures below:

Signed for and on behalf of Zipporah Limited:

Name

Position

Date

Signed for and on behalf of :

Name

Position

Date