



Terms and conditions

G Cloud 15

1. Definitions

In these Conditions, the following words shall have the following meanings:

"Conditions"	these terms and conditions of business;
"Contract"	the agreement (which shall be governed by these Conditions) between datb and the Client for the provision of the Services;
"Client"	the company, corporation or partnership to whom datb is to provide consultancy services and whose particulars may appear in the Proposal;
"Deliverables"	items which datb is required to deliver or does deliver to the Client as part of the Services;
"Fee"	the sum(s) detailed in the Proposal;
"datb"	day at the beach limited of 85 Stoke Newington Church Street, London N16 0AS
"Methodologies"	the core methodologies and documents used by datb in providing the Services;
"Parties"	datb and the Client;
"Proposal"	the proposal issued by datb to the Client relating to the provision of services to the Client;
"Services"	the services to be delivered by datb to the Client which may be detailed in the Proposal;
"VAT"	Value Added Tax.

2. Applicability

These Conditions shall govern the Contract and all other contracts for the supply of services by datb. In particular, these Conditions shall prevail in the event of any conflict between these Conditions and any terms and conditions which appear on or in any document referred to in these Conditions or in any other communication passing between the Parties.

3. Appointment

The Client hereby appoints datb to provide the Services to the Client. datb accepts the appointment.

4. Services

4.1 datb shall use its reasonable endeavours to provide the Services to the Client at the times and within the timescales detailed in the Proposal or otherwise as shall be agreed between the parties.

4.2 datb warrants that it shall perform the Services with reasonable skill and care and in accordance with all reasonable instructions of the Client.

5. Fees, Expenses and other Benefits

- 5.1 The Client shall pay to datb the Fee and otherwise make payment for the Services in accordance with the terms presented in the Proposal.
- 5.2 datb shall also be reimbursed by the Client for all normal expenses reasonably and properly incurred by datb in the provision of the Services, except where excluded under the terms of the proposal.
- 5.3 The amounts payable to datb under Conditions 5.1 and 5.2 above shall be paid when specified in the Proposal or otherwise within twenty-eight (28) days after the receipt of datb's invoice;
- 5.4 The amounts specified in clauses 5.1 and 5.2 above shall be exclusive of any VAT or other turnover taxes which may be payable in connection with the supply of the Services by datb which shall additionally be payable by the Client.

6. Intellectual Property

- 6.1 datb warrants that it has the right to use the Methodologies to supply the Deliverables to the Client.
- 6.2 datb hereby grants to the Client a non-exclusive licence to use the Deliverables.
- 6.3 The Client recognises datb's title to the Methodologies and the Deliverables and shall not claim any right, title or interest in them or any part of them.
- 6.4 In the event of becoming aware of any infringement of datb's rights in the Methodologies or the Deliverables or of any activity being carried out by any third party which might in the reasonable opinion of the Client amount to such an infringement, the Client shall promptly notify datb. The Client shall provide such assistance as is reasonably required at the reasonable expense of datb in preventing such infringement.

7. Liability and Indemnity

- 7.1 Subject to Conditions 4.2 and 6.1 above, datb gives no warranties, conditions, guarantees or representations in relation to the provision of the Services and all other warranties, conditions, guarantees or representations (other than those made fraudulently), whether express or implied, oral or in writing are hereby excluded.
- 7.2 datb does not seek to exclude its liability for death or personal injury arising from the provision of the Services to the extent that it results from negligence. datb shall also be liable to the Client for any direct physical damage to tangible property other than death or personal injury to the extent that it results from the proven negligence of datb, its employees, agents or sub-contractors up to a maximum of one million pounds; £1,000,000.
- 7.3 The liability of datb arising out of or in connection with the Contract shall be limited to the aggregate amount paid (or to be paid) by the Client to datb in respect of the Services in relation to which such liability arose.
- 7.4 Except as where expressly provided for by these Conditions, datb shall not in any event be liable for any indirect, special or consequential losses or damages, howsoever arising, in connection with or arising out of the provision, use of or otherwise relating to the Services, or in respect of any loss of anticipated profits, business, revenue, customers or losses relating to or associated with wasted overheads or similar costs.
- 7.5 Except in respect of liability for death or personal injury, no action, regardless of form, arising out of the performance of the transactions under the Contract may be brought by the Client more than two (2) years after the cause of such action has accrued.
- 7.6 datb shall at its own expense acquire and maintain public liability insurance cover with a reputable insurance company in respect of its liabilities under the Contract up to a maximum sum of one million pounds; £1,000,000 and will on request by the Client produce copies of the respective policies and insurance.

8. Relationship

- 8.1 The relationship of datb to the Client shall be that of independent contractor and it shall have no authority to bind or carry out negotiations on behalf of the Client.
- 8.2 datb shall be wholly responsible for all taxes (apart from VAT or other sales or supply taxes) arising from any monies or benefits paid to it under the Contract.

9. Confidentiality

- 9.1 Neither party shall during or at any time after the termination of the Contract for any reason disclose, divulge or make use of any information of a confidential nature relating to the other party or its business which was acquired either directly or indirectly by the recipient as a result of the provision of the Services.
- 9.2 The provisions of Condition 9.1 above shall cease to apply to information which enters the public domain other than directly or indirectly by reason of the default of either party.

10. Termination

Either party shall be entitled to terminate the Contract forthwith by notice in writing to the other if:

- 10.1 the other commits an irremediable breach of these Conditions, persistently repeats a remediable breach or commits any remediable breach and fails to remedy it within thirty (30) days of receipt of notice of the breach requiring remedy of the same; or
- 10.2 the other becomes the subject of a voluntary arrangement, receivership, administration, liquidation or winding-up; or
- 10.3 the other is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
- 10.4 the other becomes the subject of any distraint, execution or other similar process; or
- 10.5 the other is resident in a jurisdiction other than England and Wales and an event similar to any of those specified in Conditions 10.2 to 10.4 inclusive occurs to or in relation to it; or
- 10.6 the other ceases or threatens to cease to carry on business; or
- 10.7 either party reasonably apprehends that any of the events specified in Conditions 10.2 to 10.5 inclusive is about to occur in relation to the other and notifies the other accordingly substantiating its reasons for such apprehension.

11. General

- 11.1 The remedies available to the Parties under the Contract shall be without prejudice to any other rights, either at common law or under statute, which either may have against the other.
- 11.2 The failure or delay of either party to enforce or to exercise, at any time or for any period of time, any term of or any right, power or privilege arising pursuant to the Contract does not constitute and shall not be construed as a waiver of such term or right and shall in no way affect either party's right later to enforce or exercise it nor shall any single or partial exercise of any remedy, right, power or privilege preclude any further exercise of the same or the exercise of any other remedy, right, power or privilege.
- 11.3 The invalidity or unenforceability of the whole or any part of any term of, or any right arising pursuant to the Contract shall not in any way affect the remaining terms or rights which shall be construed as if such invalid or unenforceable term or right did not exist.
- 11.4 Any notice or written communication required or permitted to be served on or given to either party under the Contract shall be delivered by hand or sent by recorded delivery mail to the other party at its address set out above or to such other address which it has previously notified to the sending party and shall be deemed to have been given when actually received or, if sent by recorded delivery mail and returned marked "gone away" or to the like effect, on return of such recorded delivery mail.
- 11.5 The Contract is personal to the Parties and neither party may assign, transfer, sub-contract or otherwise part with the Contract or any right or obligation under it without the prior written consent of the other except to any company which is its holding company or to any of its

wholly-owned subsidiary companies or any wholly-owned subsidiary companies of such holding company within the meaning of section 736 of the Companies Act 1985.

- 11.6 Neither party shall be liable to the other if its performance of its obligations under the Contract (other than an obligation to pay money) is prevented or hindered due to any circumstances outside its control.
- 11.7 The Contract and these Conditions contain all the terms agreed by the Parties relating to the subject matter of the Contract and supersede any prior agreements, understandings or arrangements between them, whether oral or in writing, and no representation (unless made fraudulently), undertaking or promise shall be taken to have been given or been implied from anything said or written in negotiations between the parties prior to the Contract except as set out in the Contract or in these Conditions.
- 11.8 No variation or amendment to the Contract or these Conditions shall be effective unless in writing signed by authorised representatives of the Parties.
- 11.9 The construction, validity and performance of the Contract is governed by the law of England and the Parties accept the jurisdiction of the English Courts.