



## TERMS AND CONDITIONS OF SALE FOR PROFESSIONAL SERVICES

The Quote offered by Service Express, LLC and its affiliates (**Service Express** or **Supplier**) is subject to these Terms and Conditions of Sale for Professional Services (the **Conditions**). **Services** refers to the professional services to be provided by Supplier and the applicable scope of works set out in the Quote, and **Customer** refers to the person or entity purchasing Services from Service Express as is identified on the face of the Quote. The Supplier and the Customer are together the **Parties** and each a **Party**. **Quote** means the Supplier's quote for Services (which may be in the form of a proposal, statement of work or similar format), as provided to the Customer on or before the date a Contract is formed pursuant to Clause 1 of these Conditions. **Order** means the Supplier's standard order form for Services from time to time, which may include (at Supplier's discretion) a copy of the Quote signed by both Parties. **Deliverables** means any advice, guidance, reports, documentation or other item produced by Supplier as an output of the Services in their final form.

### 1. ORDERING SERVICES.

- (1) These Conditions shall apply to all engagements for Services provided to the Customer by the Supplier. The scope of work applicable to the Services shall be set out in the applicable Quote, which shall be issued subject to these Conditions. If the Customer wishes to proceed on the basis of the Quote, it shall submit a signed Order to the Supplier. An Order submitted by Customer shall be an offer to acquire the Services made subject to these Conditions.
  - (2) An Order shall only be accepted, or deemed accepted, by the Supplier on the earlier of: (i) the Order being signed by an authorized representative of the Supplier; (ii) a written confirmation and acceptance of the Order sent by an authorized representative of the Supplier to the Customer via email; or (iii) the provision of Services by the Supplier. The acceptance of an Order by the Supplier shall constitute a contract (a **Contract**) between the Parties with effect from the date of the Supplier's acceptance (such date being the **Effective Date** of that Contract). Each Contract formed under these Conditions shall be separate from and in addition to all other Contracts between the Parties. Supplier shall not be obliged to accept any proposed Order or any other request for Services, or to provide any Services, unless and to the extent that the Parties enter into a Contract pursuant to these Conditions.
  - (3) These Conditions apply to a Contract, and the supply of Services by the Supplier, to the exclusion of any other terms that the Customer seeks or may seek to impose or incorporate, or which are implied by law, practice or course of dealing, into the Contract. Any standard or pre-printed conditions contained on or referred to in any purchase order, quotation, acknowledgement, electronic procurement system (even if checked by a party as a requirement for registration), invoice or similar document shall have no effect and shall not apply to the Contract. Only modifications or additions to these Conditions expressly agreed in writing by the Supplier and set out in the Order shall form part of the Contract. In the event of any conflict between the Order, these Conditions and any other document, the following order of precedence shall apply in descending order of importance: (i) any special or additional terms and conditions expressly set out in the Order and incorporated into the Contract; (ii) the Conditions mutatis mutandis as if set out in full; (iii) the remainder of the Order; and (iv) any other document expressly referred to in the Order.
2. **TERM.** Each Contract shall commence on its Effective Date and, unless terminated earlier in accordance with its terms or Clause 14(1) below, shall continue until the expiry of the earlier of the period set out in the Contract or the completion of the Services (the "**Term**"). The Contract shall automatically expire on completion of the Term unless otherwise agreed in writing between the Parties, unless terminated earlier in accordance with its terms. Each Service under the Contract shall commence on the date specified in the Order (or where no date is specified from the Effective Date) (the "**Service**

**Commencement Date**"). The Customer acknowledges that, where multiple Services are provided under a Contract, each Service may have a different Service Commencement Date.

3. **RESPONSIBILITIES OF SERVICE EXPRESS.** Service Express shall provide the Services to Customer in consideration of payment of the Charges set forth in the Contract. Service Express shall perform all Services in a workmanlike manner. The Supplier shall use reasonable endeavors to meet any performance dates, delivery dates, start dates or lead times specified in a Contract but any such dates shall be estimates only and time for performance by the Supplier shall not be of the essence of the Contract. Supplier may change any estimated date by the length of any delay resulting from: (i) Customer's intentional actions, neglect or failure to meet its obligations under the Contract; and/or (ii) circumstances beyond Supplier's reasonable control. Any change under this Clause will not give rise to a right for Customer to terminate the Contract.
4. **RESPONSIBILITIES OF CUSTOMER.** As a condition to Service Express' obligation to provide the Services, Customer shall:
  - (1) provide immediately on request all reasonable and free access to any site, premise, equipment, hardware, systems, profiles, network or other place or resource as may be reasonably required or requested by Supplier from time to time in connection with the Services;
  - (2) at the Customer's cost, permit or procure permission from the Supplier, and ensure Supplier has all necessary rights of access (including the obtaining of any permission, authorization or other permit required), to: (A) enter any part of the site(s) specified in the Contract, or any other premise, land or location as may be applicable, that necessary for the Supplier to provide the Services; and (B) carry out any work in connection with the Services (including the installation, moving or replacing of any equipment or parts) at such location(s). Customer shall ensure that a Customer representative is present during any performance of the Services at the Customer's or relevant third party's site or premise;
  - (3) where Services are performed at a Customer or third-party site, make every effort to provide a reasonable environment for the Services to be performed, including abiding by all manufacturer specifications that may be applicable regarding such environmental conditions, and providing all space, power and other facilities as Supplier may reasonably request;
  - (4) promptly provide, without delay, all information and documentation required by the Supplier to enable it to provide the Services. Customer confirms and warrants to Supplier that all such information or documentation so provided, and all statements or expressions of opinion made to the Supplier (whether orally or in writing, including by email) are complete and accurate and that the Supplier may rely on them for the purposes of performing the Services;

(5) immediately inform Supplier of any additional information or documentation, or any change to any previously provided information or documentation, that Customer becomes aware of and may have a bearing on, or impact the Supplier's performance of, the Services; and

(6) perform, keep and maintain regular back-ups or recovery copies of the Customer's software, programs, information, data and other computer records (**Customer Data**) and carry out appropriate system management functions in accordance with best computing practice. Customer assumes the entire risk of, and Supplier shall have no liability (howsoever arising) to Customer in respect of, any alteration, compromise, corruption, or loss of Customer Data (whether before, during or after the performance of the Services howsoever caused or arising), notwithstanding any security or other measure that may be provided by Service Express.

**5. DELIVERABLES.** Where a Contract includes the provision of Deliverables (as specified in the Order), they shall be delivered in such form and format as Supplier may determine, or as otherwise agreed between the Parties in writing. All Intellectual Property Rights in the Deliverables and any other materials provided by the Supplier or developed, produced or generated in connection with the Services, shall remain the property of Supplier. Subject to the payment of the Charges by Customer, Supplier grants Customer a perpetual, royalty free, worldwide, non-transferrable license to use the Deliverables solely for the purposes for which they have been provided. The Deliverables are provided on an "as is" basis based on the information or documentation supplied by Customer, no warranty or representation is made by Supplier as to their accuracy or completeness, or whether they will meet any requirement of the Customer, and Supplier shall have no liability for any loss, damage, liability, expense or cost suffered or incurred by Customer as a result of any errors or omissions contained in the Deliverables.

**6. SERVICE LIMITATIONS.**

(1) Waivers of liability may not be imposed by Customer as a requirement for site access, if site access is necessary in the provision of the Services. Service Express may suspend Services when, in Service Express' reasonable opinion, conditions at Customer's site jeopardize the health or safety of Service Express personnel.

(2) Unless otherwise stated in the scope of work, the Services under this Quote do not include LTU (License to Use) updates, software updates, software support, firmware upgrades, firmware updates, access to any proprietary information of any original equipment manufacturer, or access to technical websites.

(3) Customer accepts, and Supplier does not warrant, that use or provision of the Services will be uninterrupted or error-free. Where the Services include software related Services (including but not limited to software or data migration, installation or updating Services), Supplier does not provide any warranty or guarantee that: (i) any application, database, data, system or other software used, installed or deployed by the Customer prior to commencement of the Services will be compatible with or be error-free after completion of the Services; or (ii) that any application, database, data, system or other software will continue to operate in the same manner or to the same degree or effectiveness as it did prior to completion of the Services. The Supplier shall have no liability in respect of any such incompatibility, reduction or change in performance or erroneous operation of any application, database, data, system or other software following

completion of, arising out of or in connection with the performance of the Services.

**7. CHARGES.**

(1) In consideration of the provision of the Services, the Customer shall pay the Charges in advance. All Charges are to be paid within thirty (30) days of the date of the Supplier's invoice, or such other period as agreed in the Contract (the **Due Date**). Charges may be: (i) recurring (at such frequency and for such periods as set out in the Contract, e.g. monthly, quarterly or annually) or (ii) "one-off" or non-recurring. Recurring Charges may be invoiced up to ninety (90) days prior to their next billing period. One-off Charges will be invoiced on or before commencement of the applicable Service(s) or the relevant work is undertaken.

(2) All Charges shall be paid without deduction, set off or prior demand and no payment shall be considered made until it is received by the Supplier. The Supplier shall be entitled to recover the Charges notwithstanding that performance of the Services may not have taken place as at the date of its invoice and the Customer shall not be entitled to a refund in the event that it does not make use of the Services at its disposal.

(3) Where the Customer disputes an invoice, the nature and detail of the dispute shall be provided in writing within sixty (60) days of the date of the disputed invoice, and the Parties will act promptly and in good faith to resolve the matter. The Customer must make payment of the disputed invoice in full, without set off or deduction, in accordance with the normal payment terms for the invoice. If, after resolving the dispute, it is agreed that any overpayment of Charges has been made by the Customer, Supplier will issue a credit note to Customer to be applied against future invoices in the amount of the overpayment.

(4) The time of payment of the Charges shall be of the essence of the Contract. Receipts for payment will be issued only upon request.

(5) If the Customer fails to make any undisputed payment within thirty (30) days of its Due Date then, without prejudice to any other right or remedy available to the Supplier, the Supplier shall be entitled to (i) immediately on written notice suspend any further performance of the Services or terminate the applicable Contract(s); and (ii) charge the Customer interest accrued daily (both before and after any judgement) on the amount unpaid, at the rate of three (3) per cent per annum above the base rate of Barclays Bank plc from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

(6) The Charges, and any additional charges due under a Contract, are exclusive of any applicable taxes, which the Customer shall pay in addition to the Charges.

**8. LIMITATIONS OF LIABILITY.**

(1) EXCEPT FOR ANY EXPRESS WARRANTIES SET FORTH IN THESE TERMS, TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, ALL SERVICES ARE PROVIDED AS-IS WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

(2) The Parties accept that nothing in these Conditions or the Contract limits or otherwise excludes any liability for: (i) fraud or fraudulent misrepresentation; (ii) the Customer's liability to pay Charges and all other sums properly due under or in

connection with the Contract; or (iii) any liability which cannot be limited or excluded by law.

- (3) SUBJECT TO CLAUSE 8(2), NEITHER PARTY SHALL HAVE ANY LIABILITY TO THE OTHER FOR ANY: (i) LOSS OF: (A) PROFITS; (B) BUSINESS; (C) VALUE; (D) REVENUE; (E) PRODUCTION; (F) DATA; (G) OPPORTUNITY; (H) GOODWILL; OR (I) ANTICIPATED SAVINGS, (IN EACH CASE WHETHER DIRECT OR INDIRECT); AND/OR (ii) ANY LOSS OR DAMAGE ARISING FROM: (A) BUSINESS INTERRUPTION; (B) WASTED EXPENDITURE; OR (C) ANY LIABILITY TO ANY THIRD PARTY, (IN EACH CASE WHETHER DIRECT OR INDIRECT); AND/OR (iii) SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL LOSS OR DAMAGE, HOWSOEVER ARISING AND WHETHER OR NOT SUCH LOSS OR DAMAGE COULD HAVE BEEN ANTICIPATED, EVEN IF REASONABLY FORESEEABLE AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.
- (4) SUBJECT TO CLAUSES 8(2) AND 8(3), EACH PARTY'S TOTAL OVERALL LIABILITY TO THE OTHER FOR ALL LOSSES, LIABILITIES, CLAIMS, DAMAGES, COSTS OR OTHER EXPENSES, OF WHATEVER TYPE OF CLAIM AND HOWEVER ARISING (INCLUDING BUT NOT LIMITED TO IN RESPECT OF CONTRACT, INDEMNITY, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, MISREPRESENTATION, RESTITUTION OR OTHERWISE) ARISING OUT OF OR IN CONNECTION WITH THE SERVICES AND/OR THE CONTRACT SHALL BE LIMITED TO AN AMOUNT IN AGGREGATE NOT EXCEEDING ONE HUNDRED PERCENT (100%) OF THE CHARGES PAID FOR SERVICES UNDER THE CONTRACT.
- (5) Service Express shall not be liable for any delay in or failure of performance due to causes beyond the reasonable control of Service Express.
- (6) This limitation of Service Express' liability will apply regardless of the form of action, whether in contract, tort (including negligence), breach of statutory duty or otherwise arising out of or in connection with its performance, contemplated performance, non-performance or breach of its obligations under these Conditions or a Contract. Any action against Service Express must be brought within six (6) months after the cause of action occurs.
- (7) The provisions of this Clause 12 shall survive the termination of a Contract howsoever caused.

#### 9. CHANGES TO THE CONTRACT AND THE SERVICES

- (1) The Supplier shall be entitled to vary or amend the Conditions from time to time by posting the updated Conditions to its website. It is the Customer's responsibility to determine the latest version of the Conditions in force as at the Effective Date for each Contract and, by entering into a Contract pursuant to Clause 1, shall be deemed to have read, understood and accepted the then current version of the Conditions. Each Contract shall be subject to and incorporate the version of the Conditions in force as at its Effective Date.
- (2) The Supplier shall be entitled to change or amend the technical or operational manner in which it performs or delivers the Service(s) at any time without notice to the Customer, provided that such change(s): (i) do not reduce or materially alter the scope or extent of the Services provided under the Contract; (ii) no additional Charges shall be incurred or due as a result of the change(s); and (iii) there is no amendment to the Term of the Services; (any change that would fall under Clause 9(2)(i) to (iii) being a **Detrimental Change**).

- (3) Save as provided for in Clauses 9(1) and 9(2), no variation of the Contract (including any Detrimental Change) shall be effective unless it is in writing and signed by or on behalf of both Parties.

**10. CONFIDENTIALITY.** Each Party shall treat as confidential all information obtained from the other pursuant to all Contracts, including the terms of the Contract(s), all Deliverables and (save as provided for in these Conditions) the existence of the relationship between them. Each Party agrees to treat such information with the same degree of care and skill as it applies to its own confidential information, use it only for the purpose for which it was disclosed and not to divulge such information to any other person (except to such Party's own Personnel and then only to those Personnel who need to know the same in connection with the Contract) without the other Party's prior written consent. This Clause 10 shall not extend to information which was rightfully in the possession of such Party without breaching the confidentiality of any other party or prior to the Effective Date the commencement of the negotiations leading to the Contract or which is already public knowledge or becomes so at a future date (otherwise than as a result of a breach of this Clause 10). Each Party shall ensure that its Personnel are aware of and comply with the provisions of this Clause 10.

#### 11. DATA PROTECTION

- (1) Both Parties shall comply with the Data Protection Legislation in so far as it is relevant in respect of the provision and use of the Services. For the purposes of the Contract, the terms Data Controller, Data Processor, Personal Data and Processing shall be as defined in the Data Protection Legislation. **Data Protection Legislation** means (i) EU Regulation 2016/679, (ii) UK GDPR, as defined in section 3(10) (as supplemented by section 205(4)) of the UK Data Protection Act 2018; (iii) any applicable national laws and secondary legislation, including the UK Data Protection Act 2018, relating to the handling of Personal Data, as amended or updated from time to time and (iv) any successor legislation, as amended, consolidated, re-enacted or replaced from time to time.
- (2) The Parties acknowledge that the Supplier and the Customer are each independent Data Controllers, and that the Supplier is not considered a Data Processor of the Customer in providing the Services. The Parties further acknowledge that it may be necessary to exchange Personal Data relating to their respective Personnel (such Personal Data being **Business Contact Information**) in order to receive the benefit of or deliver the Services (as applicable). Where a Party receives Business Contact Information from the other Party it does so as Data Controller and shall ensure that it fully complies with the Data Protection Legislation.
- (3) Notwithstanding the provisions of this Clause 11, if it is agreed between the Parties that Supplier will process Personal Data on behalf of Customer in connection with a Contract, the Parties will negotiate in good faith, and enter into, a data processing addendum to that Contract governing such processing.

**12. FORCE MAJEURE.** Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from a Force Majeure Event. If the period of delay or non-performance continues for four (4) weeks, the Party not affected may terminate the Contract by giving thirty (30) days' written notice to the affected Party. **Force Majeure Event** means any event, circumstance or causes beyond a Party's reasonable control, including: acts



of God, riots, war, terrorism, acts of Governmental authorities, fire, flood, hurricane, tornado, earthquake, pandemic, epidemic, endemic, disaster, force majeure declaration of suppliers, or strike, lockout or other form of industrial action (other than a strike, lockout or other form of industrial action of or by its own Personnel).

**13. NOTICES.** Any notice or other communication to be given by a Party to the other under or in connection with the Contract must be in writing and be delivered personally to the recipient's registered office, sent by pre-paid first class post or other next Working Day delivery service to the recipients registered office (or such other address as a Party may notify the other from time to time), or email (to such address as a Party may notify the other from time to time). Any notice shall be deemed given when delivered personally, or if sent by first class or next Working Day delivery service within the USA, on the second Working Day after posting, or where sent by email the next Working Day after transmission. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an email, that such email was sent to the specified email address of the addressee. The provisions of this Clause will not apply to the service of any proceedings or other documents in any legal action.

**14. GENERAL**

- (1) **TERMINATION.** If either party neglects or fails to perform any of its obligations under the Conditions or the Quote and such failure continues for a period of thirty (30) days after written notice thereof, the other party shall have the right to terminate the Quote.
- (2) **NON-SOLICITATION.** During the Term and for twelve (12) months thereafter, the Customer may not solicit, directly or indirectly, any employee of the Supplier who was involved in the provision of the Services. This Clause 14(1) shall not restrict the Customer from hiring employees of the Supplier who apply unsolicited in response to a general advertising or recruitment campaign made to and directed at members of the public at large.
- (3) **COMPLIANCE WITH LAWS.** Each Party shall comply with all applicable anti-bribery and anti-corruption laws, and other laws governing improper payments, in connection with the performance of the Contract, including but not limited to, the U.S. Foreign Corrupt Practices Act of 1977 and the UK Bribery Act 2010, each as amended, and the rules and regulations under it, and each Party shall not act in a way that would cause the other Party to be in violation of such laws (such as, by way of example, providing a kickback, bribe or inappropriate gift to any representative of the other Party or government official or political party in order to obtain or retain business or to secure an improper commercial advantage). Each Party represents that it does not, directly or indirectly, engage in or otherwise support child, slave, prisoner or any other form of forced or involuntary labor, or engage in abusive worker treatment or corrupt business practices, in the supply or receipt of Services, including, without limitation, Human Trafficking. For the purposes of this Clause, "Human Trafficking" means the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Each

Party further represents it does not, directly or indirectly, utilize the labor of North Korean nationals and/or North Korean citizens.

- (4) **ASSIGNMENT.** Supplier may assign the Contract to any of its Affiliates at any time by giving written notice to the Customer. Supplier may subcontract the performance of all or any part of its obligations under the Contract to a subcontractor but shall remain responsible to the Customer for the performance of its obligations under the Contract. Save as provided for by this Clause 14(4), neither Party shall assign the Contract, or assign or subcontract any of its rights or obligations under the Contract, without the prior written consent of the other Party. **Affiliate** means in relation to a Party, any entity that directly or indirectly controls, is controlled by, or is under common control with that Party.
- (5) **SEVERANCE.** If any part or provision of these Conditions or the Contract is or becomes invalid, illegal or unenforceable: (i) the applicable part or provision shall be deemed modified to the minimum extent necessary to make it valid and enforceable, or, if modification is not possible, deleted; and (ii) it shall not affect the validity or enforceability of any other part or provision of these Conditions or the Contract.
- (6) **NO WAIVER.** Any waiver of any right or remedy by a Party shall only be effective if in writing and shall not be deemed a waiver of any subsequent right or remedy. The failure or delay of any Party to exercise or enforce any right or remedy under the Contract or at law shall not be deemed to be a waiver of any such right nor shall it operate so as to bar the exercise or enforcement of that right at a later date.
- (7) **NO PARTNERSHIP.** Nothing in these Conditions or the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the Parties, constitute any Party the agent of another Party, or authorize any Party to make or enter into any commitments for or on behalf of any other Party.
- (8) **THIRD PARTY RIGHTS.** A person who is not a party to the Contract has no right to rely upon or enforce any term of the Contract.
- (9) **ENTIRE AGREEMENT.** These Conditions, the Contract and any documents referred to within them constitute the entire understanding and agreement between the Parties and supersedes and extinguishes all prior agreements, negotiations and/or discussions between them (whether written or oral) in relation to its relevant subject matter. Each Party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these Conditions or the Contract. Each Party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in these Conditions or the Contract.
- (10) **COUNTERPARTS.** The Contract may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one Contract.
- 15. GOVERNING LAW AND JURISDICTION.** These Conditions, the Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with any of them or their respective subject matter or formation shall be governed by and construed in accordance with the law of the State of Delaware (without regard to its conflict of law principles). Each Party irrevocably agrees that the state or federal courts in the state of Delaware shall have



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exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with these Conditions, the Contract or their respective subject matter or formation.