

REDCENTRIC

**STANDARD TERMS & CONDITIONS
PROFESSIONAL SERVICE**

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1. PRICE

- 1.1 Delivery of the Contract will be charged to the Client at the fee specified in Schedule 1: Statement of Price and invoiced monthly in arrears unless agreed otherwise in the contract.
- 1.2 The charges are exclusive of Value Added Tax and all taxes or duties, which may be levied upon such fee rates or any part thereof. Value Added Tax and all such taxes or duties shall be paid, where required by law, by the Client as additional charges hereunder.
- 1.3 The fee includes all travel, hotel and subsistence expenses and the cost of materials and external services incurred in performing the Contract unless stated otherwise in Schedule 2. Where additional expenses have been specified, these shall be charged monthly in arrears to the Client.
- 1.4 Time worked beyond the normal working day including weekends and statutory holidays as defined by sub-clause 2.2 below shall be charged additionally at rates determined by the Company. This is to be agreed in writing by the Client prior to the Company undertaking time worked beyond the normal working day. If out of hours work is expected to be required by either party, at the outset of the project this must be made clear and defined in Schedule 2: Statement of Deliverables (Section 3: Deliverables).

2. STAFF

- 2.1 Each party agrees that when its staff are present on the premises of the other party they shall comply with such rules and regulations as are notified to them for the conduct of staff on those premises.
- 2.2 This sub-clause concerns the Company staff engaged in the Professional Service.
 - a) The Company staff shall at all times remain under the direction of the Company, although the Company recognises that the Professional Service may require the Company staff to perform work in relation to an activity managed by the Client and in this event the Client shall be responsible for the direction and management of such activity.
 - b) The length of the normal working day for the Company staff shall be 9:00a.m. to 5:30p.m. with a one-hour midday break. Any unplanned overtime, weekend working and working during statutory holiday must be approved in writing, in advance by both parties.
 - c) The Company shall consult with the Client to coordinate holidays for its staff where appropriate.
 - d) The Client may request replacement of any of the Company staff engaged in providing the Professional Service. Providing that such request is made in writing stating reasons for the request, the Company shall not unreasonably withhold its agreement. The Client shall bear the costs of replacing such staff unless The

Client can show that the reason for its request is some act of misconduct, incompetence or negligence by the staff member concerned.

e) If the Company deems it necessary, it may replace any member of the Company staff, endeavouring to give reasonable notice thereof. The Company shall bear the cost of training replacement staff.

2.3 Each party agrees that for a period until twelve months after the completion of the Contract it shall not employ or engage on any other basis or offer such employment to any of the other party's staff or contractors who have been associated with the provision of the Professional Service without the other party's prior agreement in writing.

2.4 Each party agrees that if it employs or engages any person contrary to sub-clause **2.3** above the party in default shall pay the other party as liquidated damages a sum equivalent to such person's annual salary at the time of leaving the employment of the other party or, in the case of a contractor, a sum equivalent to six months of contracted time.

3. TIMING

The Company undertakes to use its reasonable endeavours to deliver the services described in Schedule 2: Statement of Deliverables by the dates, timescales or schedules stated therein. However, these should be considered as estimates only unless specifically stated otherwise in Schedule 2: Statement of Deliverables.

Delivery timescales will be conditional on time not being lost due to lack of access to key staff or resources or lack of access to or approval of key documentation or specifications or as a result of actions or indecision by the Client.

4. PROGRESS REPORTS AND MEETINGS

The Company & the Client shall form a joint Project team for the purpose of jointly reviewing the progress of the project and deciding upon any subsequent or corrective actions required. The Client and the Company shall ensure that members of the team have sufficient authority to implement any actions identified. Meetings shall occur at least monthly unless otherwise agreed in writing.

5. CHANGES TO THE PROFESSIONAL SERVICE

Either party may request at any time before the contract is terminated, as specified in Clause **12** below, that a change be made to the Professional Service. Each party shall have the right to reject any such change but shall not do so

unreasonably. Changes shall be agreed in writing, with a formal re-issue of the Statement of Deliverables. Redcentric may be notified of change requests at the postal address in Clause 16.

6. PAYMENT

- 6.1** The Company shall submit invoice(s) in respect of charges for the Professional Service defined in the Statement of Deliverables according to the payment profile set out. The Client shall make payment within thirty days of receipt of the invoice unless agreed otherwise in the Statement of Deliverables. Unless otherwise agreed in the Statement of Deliverables, the Professional Service contract will terminate within 12 months of contract signature, and any PS days ("banked days) or PS Credit not used by the Customer within this contract period will lapse.
- 6.2** The Company shall submit invoices in respect of charges for additional expenses or work carried out (as defined in 1.3) arising during each calendar month in the following month. The Client shall make payment within thirty days of receipt of the invoice unless agreed otherwise in the Statement of Deliverables.
- 6.3** If the Client fails to pay any sum due under this Contract within the thirty day period referred to in clauses **6.1** and **6.2** above, interest shall be chargeable thereon from the date of issue of the applicable invoice until the date of payment at the rate of 2.5% (two and one-half percent per annum) above the HSBC Bank PLC base lending rate.
- 6.4** If the Client fails to pay any sum due under this Contract, without prejudice to any other remedy, the Company may after giving the Client seven days notice withdraw the provision of the Professional Service or any part thereof until the payment is made; in which case the price shall be increased by the amount of the costs and expenses incurred by the Company occasioned by such withdrawal.

7. CLIENT RESPONSIBILITIES

- 7.1** Where requested by The Company, the Client agrees to make available an authorised representative ("the Client Project Manager") who shall:
- a) be authorised to make binding decisions for the Client with regard to this Contract; and
 - b) provide The Company with all information concerning the Client's operations and activities, which may be required by the Company for the performance of the Professional Service.
- 7.2** The Client further agrees:
- a) to provide the Company with office accommodation, facilities and access to the Client's premises as may be reasonably required for the conduct of the Professional Service; and

b) to execute all licenses for the Client or third party or pre-existing proprietary items as may be required under sub-clause 9.2 below.

8. PROPERTY RIGHTS

- 8.1 All materials, documentation, computer programs, inventions (whether or not patentable) pictures, audio, video, artistic works and all other works of authorship including all worldwide rights therein under patent, copyright, design right trade secret or other property right created or developed by the Company in providing the Professional Service shall belong to the Company. Save for any Client Confidential Information provided, the Company shall not be obliged to return any material supplied by the Client for the provision of Services.
- 8.2 Any pre-existing proprietary item of the Company or a third party disclosed by the Company to the Client in performing the Professional Service shall remain vested in the Company (or the third party as the case may be) and the rights of the Client to use and reproduce the same are either set out herein or in a separate license which the Client hereby agrees to execute and be bound by.
- 8.3 The Client shall retain title to and all intellectual property rights in any pre-existing or proprietary items, which are submitted by the Client to the Company for the performance of the Professional Service.

9. WARRANTY

- 9.1 The Company undertakes to rectify any errors or issues under this agreement that are notified in writing to the Company by the Client within 60 days of such notification provided such errors or issues are within the scope of the work to be carried out as defined in Schedule 1: Statement of Price.
- 9.2 The Client shall not be liable to pay any fees or other charges in respect of functional errors which are reasonably demonstrated by the Client to be by failure on the part of the Company, its employees, agents or sub-contractors to meet the requirements set out in the Statement of Deliverables.
- 9.3 The Company warranty obligations are solely to rectify errors and issues relating to the Statement of Deliverables. Unless specified otherwise it is outside the scope of this agreement to apply such fixes to general Client systems and processes.

10. ACCEPTANCE

The Client acknowledges and agrees that the express obligations and warranties made by the Company in this agreement are in lieu of, and to the exclusion of, any other warranty, condition, term, undertaking or representation of any kind,

express or implied, statutory or otherwise relating to anything supplied or services provided under or in connection with this agreement, including without limitation, any warranty as to the care, skill, condition, quality, performance, merchantability or fitness for purpose of the Professional Service or any part of them.

11. CONFIDENTIALITY AND PUBLICITY AND COMPETITION

11.1 Each party undertakes at all times to hold in confidence for the other party, to use only for the purpose of this Contract and not to print, publicise or otherwise disclose to any third party, Confidential Information of the other party. "Confidential Information" means any document, material, idea, data or other information which relates to the Company's or the Client's research and development, trade secrets or business affairs or which is marked as confidential and disclosed by either party for the purposes of this Contract. In addition, pre-existing proprietary items referred to in clause 9 shall be considered Confidential Information. "Confidential Information" does not however include any information which:

- a) is known to the receiving party and which is under no obligation of confidence at the time of disclosure by the other party; or
- b) is or becomes public knowledge through no wrongful act of the receiving party; or
- c) is lawfully obtained by the receiving party from a third party who in making such disclosure breaches no obligation of confidence to the other party; or
- d) is independently developed by the receiving party; or
- e) is disclosed by the other party to a third party with no obligation of confidence.

11.2 Notwithstanding 11.1 above, nothing in this Contract shall be construed to prevent or restrict the Company from disclosing or using in the course of its business any technical knowledge, skill or expertise of a generic nature acquired by the Company in the performance of this Contract.

11.3 The Company may refer to the Client's name as a customer of the Company's in publicity material but shall not do so without the Client's prior written permission (which shall not unreasonably be refused). The Client undertakes not to publicise work undertaken by the Company or the use of the Company's name without the prior written consent of the Company, which shall not be unreasonably refused.

12. MINIMUM PERIOD OF CONTRACT; CANCELLATION AND TERMINATION

12.1 The contract shall come into effect on the date this agreement is signed by The Client and is for a period of 12 months unless defined otherwise in Schedule 2: Statement of Deliverables.

12.2 At the end of the period the contract will terminate unless otherwise agreed in writing.

12.3 Either party may terminate this Contract by written notice to the other party if:

- a) the other party commits a material breach of its obligations under this Contract and that party has not remedied the breach within 30 days of receiving notice of such a breach; or
- b) the other party has become bankrupt or suffering the presentation of a winding up petition or entering into liquidation (other than as a solvent company for reconstruction or amalgamation) or having a receiver appointed of its assets or any part thereof or an administration order is made against it.

12.4 Termination shall not prejudice or affect any right of action or remedy, which shall have accrued or shall thereafter accrue to either party.

13. LIMITATION OF LIABILITY

13.1 The Company shall exercise reasonable skill and care in performing the Professional Service but shall not be responsible for the accuracy of advice based on information supplied by the Client or third parties.

Responsibility for the use to which the results of the Professional Service are put shall remain with the Client.

13.2 Except as provided by sub-clause **13.3** and **13.4** below, The Company's liability for damages under or in connection with this Contract, howsoever arising (including but not limited to, breach of contract, negligence or tort or the use or inclusion of any document, material, idea, data or other information) shall be limited to the following sums:

- a) £1,000,000 for physical damage to or loss of tangible property caused by the Company's negligence; or
- b) £50,000 or the total of the sums paid by the Client under this Contract, whichever is the lower, for all other incidents; provided however that the Company shall have no liability for damages in respect of loss of profits or contracts or indirect or consequential loss or damage.

13.3 No claim shall be brought by the Client for damages or for any other remedy for breach of contract unless notice in writing of the claim (specifying in reasonable detail the event, matter or default which gives rise to the claim) has been given to the Company not later than the expiration of three months from the provision of the Professional Service to which the claim relates.

13.4 The limitations and exclusions set out in sub-clause **13.2** and **13.3** shall not apply to personal injury, including death, caused by the Company's negligence.

14. INDEMNITY

14.1 Each party agrees that it shall be liable for and shall indemnify the other (both during and after termination of this agreement) against all costs, claims, demands, liabilities, expenses, damages or losses (including, without limitation,

consequential losses, loss of profit, all interest, penalties, legal and other professional costs) made or brought by any third party, arising out of, directly or indirectly, from the Professional Service delivered under this agreement.

15. FORCE MAJEURE

15.1 Neither party shall be liable for any delay in meeting or for failure to meet any of its obligations under this Contract due to any cause outside its reasonable control, including, without limitation, strikes, lock-outs, Acts of God, war, riot, malicious acts of damage, fire, acts of any government authority or failure of the public electricity supply.

15.2 If either party shall be prevented from meeting any of its obligations under this Contract due to any cause outside its reasonable control, it shall promptly notify the other party in writing and the other party shall grant a reasonable extension for the performance of this Contract, provided however that if either party shall have been prevented from meeting its obligations for more than thirty days following the receipt of such notice then either party may terminate this Contract upon written notice.

16. NOTICES AND OTHER COMMUNICATIONS

Any notice, which includes any other communication whatsoever which is made in accordance with this Contract, should make reference to the Redcentric Contract Reference Number shown on the Contract. Notices shall be sent by first class post or email to the Client at the address stated on the front page of the Contract or to such other address as each respective party may advise by written notice from time to time.

Notification to Redcentric should be :

By post to: Contracts Administration
 Redcentric Managed Solutions Limited
 Central House
 Beckwith Knowle
 Otley Road
 Harrogate
 HG3 1UG

By email to: Purchasing.Contracts@redcentricplc.com

17. ASSIGNMENT

Either party without prior written approval of the other party shall not assign any right or obligation under this Contract or the contract as a whole, (such consent not to be unreasonably withheld); except that The Company may transfer this Contract to another Redcentric Group company.

18. WAIVER

No delay or failure of either party in enforcing against the other party any term or condition of this Contract and no partial exercise by either party of any right hereunder, shall be deemed to be a waiver of any right of that party under this Contract.

19. LEGAL CONSTRUCTION

19.1 This Contract constitutes the complete and exclusive statement of the agreement between the parties with respect to the subject matter it contains and supersedes all earlier proposals, understandings and agreements, whether oral or written.

19.2 Clause headings are inserted for convenience only and shall not affect the interpretation of this Contract.

19.3 The expression "this Contract" means the Redcentric Professional Service Contract, the associated Schedule(s): Statement of Work, these Standard Terms for Professional Service and any other document that the parties expressly agree and designate to form a part of this Contract and includes any variations thereto which have been agreed in writing by the parties.

19.4 English Law shall govern this Contract and the parties hereby submit to the jurisdiction of the English Courts.

HARROGATE (HEAD OFFICE)

Central House
Beckwith Knowle
Harrogate HG3 1UG

THEALE

2 Commerce Park
Brunel Road
Theale
Reading RG7 4AB

CAMBRIDGE

Newton House
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Cowley Road
Cambridge CB4 0WZ

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