



# Consultancy terms and conditions

Please read these Terms and Conditions carefully. All contracts that the Consultant may enter into from time to time for the provision of consultancy services shall be governed by these Terms and Conditions, and the Consultant will ask the Client for the Client's express written acceptance of these Terms and Conditions before providing any consultancy services to the Client.

## 1. Definitions

1.1 In these Terms and Conditions:

"**Charges**" means:

- (a) the amounts specified in Section 7 of the Statement of Work and elsewhere in these Terms and Conditions;
- (b) such other amounts as may be agreed in writing by the parties from time to time; and

"**Client**" means the person or entity identified as such in Section 1 of the Statement of Work;

"**Client Materials**" means all works and materials supplied by or on behalf of the Client to the Consultant for incorporation into the Deliverables or for some other use in connection with the Services;

"**Consultant**" means Toucan Internet LLP a limited liability partnership incorporated in England and Wales, registration number OC 312200 having its registered office at 14 Austin Friars, London, EC2N 2HE, United Kingdom.

"**Contract**" means a particular contract made under these Terms and Conditions between the Consultant and the Client;

"**Deliverables**" means items specified in Section 4 of the Statement of Work that the Consultant has agreed to deliver to the Client under these Terms and Conditions and such other deliverables as the parties may agree in writing from time to time;

"**Effective Date**" means the start date of execution of a Statement of Work incorporating these Terms and Conditions;

"**Intellectual Property Rights**" means all intellectual property rights wherever in the world, whether registrable or unregistrable, registered or unregistered, including any application or right of application for such rights and these "intellectual property rights" include copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trade marks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs;



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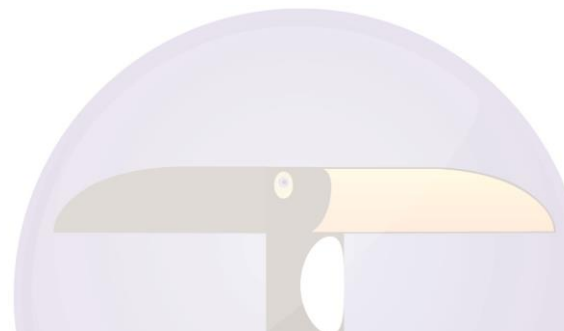


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"**Minimum Term**" means, in respect of the Contract, the period specified in Section 2 of the Statement of Work, if specified;

"**Services**" means the consultancy services specified in Section 3 of the Statement of Work;

"**Statement of Work**" means a written statement of work agreed by or on behalf of each of the parties;

"**Term**" means the term of the Contract, commencing in accordance with Clause 3.1 and ending in accordance with Clause 3.2;

"**Terms and Conditions**" means all the documentation containing the provisions of the Contract, namely the main body of these Terms and Conditions and the Statement of Work, including any amendments to that documentation from time to time; and

"**Third Party Materials**" means the works and/or materials comprised in the Deliverables (excluding the Client Materials), the Intellectual Property Rights in which are owned by a third party, and which are specified in Section 4 of the Statement of Work or which the parties agree in writing shall be incorporated into the Deliverables.

## 2. Credit

2.1 *This document was created using a template from Docular (<https://docular.net>).*

## 3. Term

3.1 The Contract shall come into force upon the Effective Date.

3.2 The Contract shall continue in force until:

- (a) all the Services have been completed;
- (b) all the Deliverables have been delivered; and
- (c) all the Charges have been paid in cleared funds,

upon which it will terminate automatically, subject to termination in accordance with Clause 11.

3.3 Unless the parties expressly agree otherwise in writing, each Statement of Work shall create a distinct contract under these Terms and Conditions.

## 4. Services

4.1 The Consultant shall provide the Services to the Client in accordance with these Terms and Conditions.

4.2 The Consultant shall provide the Services with reasonable skill and care.

## 5. Deliverables

5.1 The Consultant shall deliver the Deliverables to the Client.



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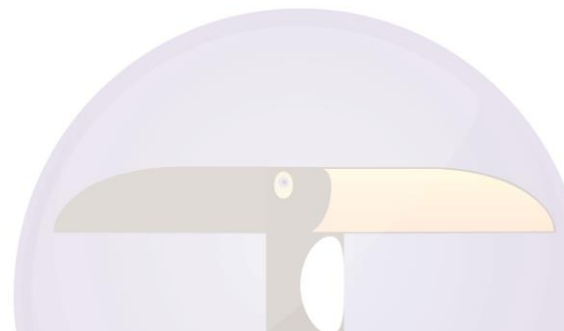


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- 5.2 The Client must promptly, following receipt of a written request from the Consultant to do so, provide written feedback to the Consultant concerning the Consultant's proposals, project specification, plans, designs and/or **preparatory** materials relating to the Deliverables and made available to the Client with that written request.
- 5.3 The Consultant shall use reasonable endeavours to ensure that the Deliverables are delivered to the Client in accordance with the timetable set out in Section 5 of the Statement of Work or agreed by the parties in writing.
- 5.4 The Consultant warrants to the Client that:
- (a) the Deliverables will conform with the requirements of Section 4 of the Statement of Work;
  - (b) the Deliverables when used by the Client in accordance with these Terms and Conditions will not infringe the Intellectual Property Rights or other legal rights of any person, and will not breach the provisions of any law, statute or regulation under any applicable law.

## 6. Licence

- 6.1 The Consultant hereby grants to the Client a non-exclusive, worldwide, perpetual and irrevocable licence to copy, store, distribute, publish, adapt, edit and otherwise use the Deliverables excluding the Third Party Materials and the Client Materials for the following purposes identified in Section 4 of the Statement of Work

## 7. Charges

- 7.1 The Client shall pay the Charges to the Consultant in accordance with these Terms and Conditions.
- 7.2 All amounts stated in or in relation to these Terms and Conditions are, unless the context requires otherwise, stated exclusive of any applicable value added taxes, which will be added to those amounts and payable by the Client to the Consultant.

## 8. Payments

- 8.1 The Consultant shall issue invoices for the Charges to the Client from time to time in advance of and during the Term.
- 8.2 The Client must pay the Charges to the Consultant within the period of 14 days following the issue of an invoice in accordance with this Clause 8 OR on the receipt of an invoice issued for a deposit in accordance with this Clause 8.
- 8.3 The Client must pay the Charges by bank transfer using such payment details as are notified by the Consultant on invoice paperwork.
- 8.4 If the Client does not pay any amount properly due to the Consultant under these Terms and Conditions, the Consultant may:



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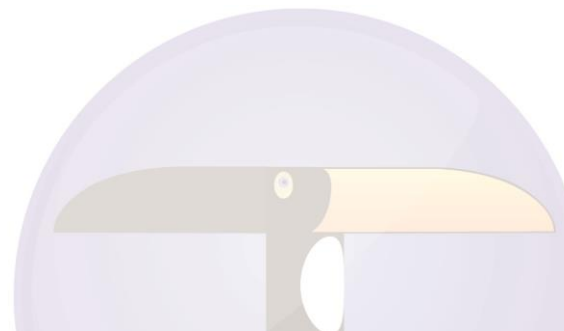


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- (a) charge the Client interest on the overdue amount at the rate of 8% per annum above the Bank of England base rate from time to time on which interest will accrue daily until the date of actual payment and be compounded at the end of each calendar month; or
- (b) claim interest and statutory compensation from the Client pursuant to the Late Payment of Commercial Debts (Interest) Act 1998.

## 9. Warranties

9.1 The Consultant warrants to the Client that:

- (a) the Consultant has the legal right and authority to enter into the Contract and to perform its obligations under these Terms and Conditions;
- (b) the Consultant will comply with all applicable legal and regulatory requirements applying to the exercise of the Consultant's rights and the fulfilment of the Consultant's obligations under these Terms and Conditions; and
- (c) the Consultant has or has access to all necessary know-how, expertise and experience to perform its obligations under these Terms and Conditions.

9.2 The Client warrants to the Consultant that it has the legal right and authority to enter into the Contract and to perform its obligations under these Terms and Conditions.

9.3 All of the parties' warranties and representations in respect of the subject matter of the Contract are expressly set out in these Terms and Conditions and the applicable Statement of Work. Subject to Clause 10.1, no other warranties or representations will be implied into the Contract and no other warranties or representations relating to the subject matter of the Contract will be implied into any other contract.

## 10. Limitations and exclusions of liability

10.1 Nothing in these Terms and Conditions will:

- (a) limit or exclude any liability for death or personal injury resulting from negligence;
- (b) limit or exclude any liability for fraud or fraudulent misrepresentation;
- (c) limit any liabilities in any way that is not permitted under applicable law; or
- (d) exclude any liabilities that may not be excluded under applicable law.

10.2 The limitations and exclusions of liability set out in this Clause 10 and elsewhere in these Terms and Conditions:

- (a) are subject to Clause 10.1; and



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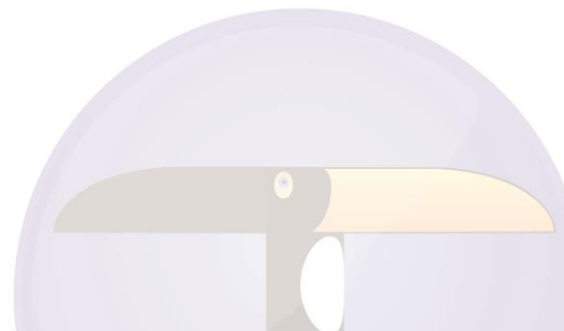


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- (b) govern all liabilities arising under these Terms and Conditions or relating to the subject matter of these Terms and Conditions, including liabilities arising in contract, in tort and for breach of statutory duty, except to the extent expressly provided otherwise in these Terms and Conditions.

- 10.3 The Consultant shall not be liable to the Client in respect of any loss of profits or anticipated savings.
- 10.4 The Consultant shall not be liable to the Client in respect of any loss of revenue or income.
- 10.5 The Consultant shall not be liable to the Client in respect of any loss of use or production.
- 10.6 The Consultant shall not be liable to the Client in respect of any loss of business, contracts or opportunities.
- 10.7 The Consultant shall not be liable to the Client in respect of any loss or corruption of any data, database or software.
- 10.8 The Consultant shall not be liable to the Client in respect of any special, indirect or consequential loss or damage.

## 11. Termination

- 11.1 Either party may terminate the Contract by giving to the other party not less than 30 days' written notice of termination at the end of any calendar month OR after the end of the Minimum Term.
- 11.2 Either party may terminate the Contract immediately by giving written notice of termination to the other party if:
  - (a) the other party commits any breach of the Contract, and the breach is not remediable;
  - (b) the other party commits a breach of the Contract, and the breach is remediable but the other party fails to remedy the breach within the period of 30 days following the giving of a written notice to the other party requiring the breach to be remedied; or
  - (c) the other party persistently breaches the Contract irrespective of whether such breaches collectively constitute a material breach.
- 11.3 Subject to applicable law, either party may terminate the Contract immediately by giving written notice of termination to the other party if:
  - (a) the other party:
    - (i) is dissolved;
    - (ii) ceases to conduct all, or substantially all, of its business;
    - (iii) is or becomes unable to pay its debts as they fall due;
    - (iv) is or becomes insolvent or is declared insolvent; or



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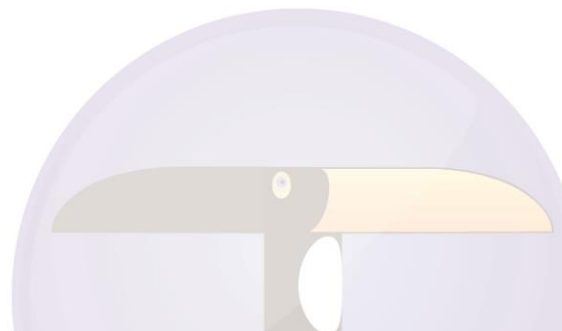


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- (v) convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;
- (b) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party;
- (c) an order is made for the winding up of the other party, or the other party passes a resolution for its winding up other than for the purpose of a solvent company reorganisation where the resulting entity will assume all the obligations of the other party under the Contract; or
- (d) if that other party is an individual:
  - (i) that other party dies;
  - (ii) as a result of illness or incapacity, that other party becomes incapable of managing his or her own affairs; or
  - (iii) that other party is the subject of a bankruptcy petition or order.

11.4 The Consultant may terminate the Contract immediately by giving written notice to the Client if:

- (a) any amount due to be paid by the Client to the Consultant under the Contract is unpaid by the due date and remains unpaid upon the date that that written notice of termination is given; and
- (b) the Consultant has given to the Client at least 30 days' written notice, following the failure to pay, of its intention to terminate the Contract in accordance with this Clause 11.4.

## 12. Effects of termination

- 12.1 Upon the termination of the Contract, all of the provisions of these Terms and Conditions shall cease to have effect, save that the following provisions of these Terms and Conditions shall survive and continue to have effect in accordance with their express terms or otherwise indefinitely: Clauses 1, 6, 8.2, 8.4, 10, 12, 13.2 and 15.
- 12.2 Except to the extent expressly provided otherwise in these Terms and Conditions, the termination of the Contract shall not affect the accrued rights of either party.

## 13. Status of Consultant

- 13.1 The Consultant is not an employee of the Client, but an independent contractor.
- 13.2 The termination of the Contract will not constitute unfair dismissal; nor will the Consultant be entitled to any compensation payments, redundancy payments or similar payments upon the termination of the Contract.

## 14. Subcontracting



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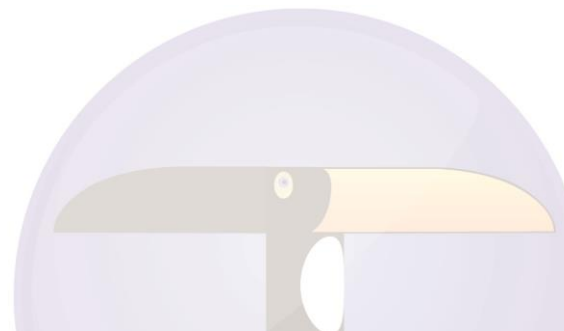


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- 14.1 Subject to any express restrictions elsewhere in these Terms and Conditions, the Consultant may subcontract any of its obligations under the Contract.
- 14.2 The Consultant shall remain responsible to the Client for the performance of any subcontracted obligations.

## 15. General

- 15.1 No breach of any provision of the Contract shall be waived except with the express written consent of the party not in breach.
- 15.2 If any provision of the Contract is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions of the Contract will continue in effect. If any unlawful and/or unenforceable provision would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant provision will be deemed to be deleted).
- 15.3 The Contract may not be varied except by a written document signed by or on behalf of each of the parties.
- 15.4 Neither party may without the prior written consent of the other party assign, transfer, charge, license or otherwise deal in or dispose of any contractual rights or obligations under these Terms and Conditions.
- 15.5 The Contract is made for the benefit of the parties, and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree any amendment, waiver, variation or settlement under or relating to the Contract are not subject to the consent of any third party.
- 15.6 Subject to Clause 10.1, these Terms and Conditions shall constitute the entire agreement between the parties in relation to the subject matter of these Terms and Conditions, and shall supersede all previous agreements, arrangements and understandings between the parties in respect of that subject matter.
- 15.7 The Contract shall be governed by and construed in accordance with English law.
- 15.8 The courts of England shall have exclusive jurisdiction to adjudicate any dispute arising under or in connection with the Contract.



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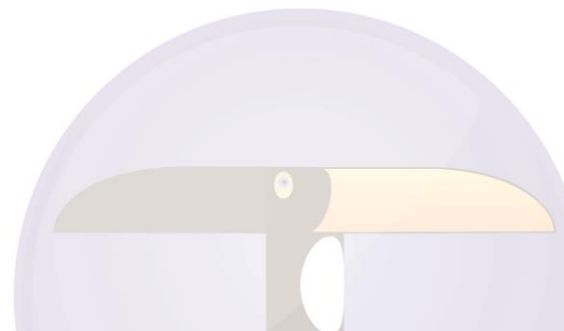


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## STATEMENT OF WORK - Sample

### 1. Client details

The Client is [[individual name] of [address]] OR [[company name], a company incorporated in [England and Wales] (registration number [registration number]) having its registered office at [address]] OR [[partnership name], a partnership established under the laws of [England and Wales] having its principal place of business at [address]].

### 2. Minimum Term

*[Specify Minimum Term]*

### 3. Specification of Services

*[Specify Services]*

### 4. Specification of Deliverables

*[Specify Deliverables] Include the purpose and relate back to section 6.1*

### 5. Timetable

*[Insert timetable]*

### 6. Client Materials

*[Specify Client Materials]*

### 7. Financial provisions

*[Insert financial provisions]*

### 8. Contractual notices

*[Consultant contractual notices address details]*

*[Client contractual notices address details]*

By signing below the parties have indicated their acceptance of this Statement of Work together with the terms and conditions attached to this Statement of Work.



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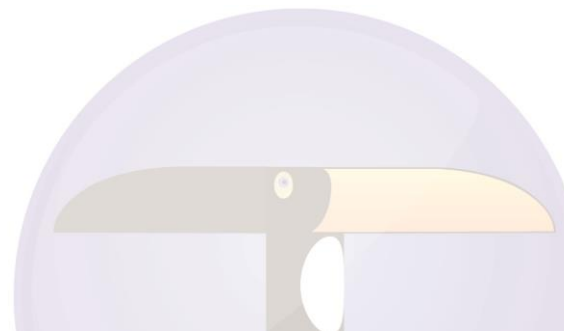


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**SIGNED BY** *[individual name]* on [.....], the Consultant] OR *[individual name]* on [.....], duly authorised for and on behalf of the Consultant]:

.....

**SIGNED BY** *[individual name]* on [.....], the Client] OR *[individual name]* on [.....], duly authorised for and on behalf of the Client]:

.....



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