Tela Protect™ Professional Consultancy Terms & Conditions

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement, unless the context otherwise requires, the following expressions shall have the meanings set out below:

"Agreement"	means the Order Form, Proposal, Statement of Work (where applicable), these Terms and Conditions and any documents expressly incorporated into them.
"Applicable Law"	means all applicable statutes, regulations, codes of practice and regulatory requirements relating to the Services including, but not limited to, UK GDPR, the Data Protection Act 2018, PECR, the Freedom of Information Act 2000 (where applicable), and any successor legislation.
"Business Day"	means Monday to Friday excluding public holidays in England.
"Charges"	means the fees payable by the Customer for the Services as detailed within the Order Form or Proposal together with any additional consultancy charges incurred under this Agreement.
"Commencement Date"	means the date specified in the Order Form upon which the Services commence.
"Company"	means Tela Technology Limited, Company Number 07974624, whose registered office is 4 Station Court, Old Station Road, Hampton in Arden, Solihull, West Midlands, B92 0HA.
"Confidential Information"	means all commercial, financial, technical, operational or personal information disclosed by either party during the course of this Agreement whether disclosed verbally, electronically or in writing.
"Consultancy Services"	means the professional advice, guidance, reviews, assessments, documentation, reports and recommendations provided by the Company.
"Customer"	means the organisation identified within the Order Form.
"Customer Data"	means all information, documents, records and Personal Data made available by the Customer to the Company during the provision of the Services.
"Data Protection Legislation"	means: (a) UK GDPR; (b) the Data Protection Act 2018; (c) the Privacy and Electronic Communications (EC Directive) Regulations 2003; (d) any legislation replacing or amending the above.
"Data Protection Officer (DPO)"	means the individual appointed by Tela Technology Limited to undertake the outsourced Data Protection Officer role on behalf of the Customer.
"Deliverables"	means any reports, policies, procedures, templates, documentation, assessments, recommendations or other work products produced by the Company.
"Emergency Consultancy"	means consultancy requested by the Customer requiring commencement outside normal Business Hours or within four Business Hours of notification.
"Good Industry Practice"	means the degree of skill, care, diligence and foresight reasonably expected of an experienced provider of professional privacy, compliance and information security consultancy services.
"ICO"	means the Information Commissioner's Office.
"Included Hours"	means the monthly consultancy hours included within the Customer's chosen Tela Protect™ package.
"Information Security"	means the preservation of confidentiality, integrity and availability of information and supporting assets.
"Intellectual Property Rights"	means patents, copyright, trademarks, database rights, design rights, know-how, confidential information and all other intellectual property rights whether registered or unregistered.
"Order Form"	means the Company's Order Form, Proposal Acceptance or Service Agreement signed by the Customer.

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	"Personal Data", "Processing", "Controller", "Processor", "Data Subject", "Special Category Data" and **"Supervisory Authority"** shall have the meanings given to them under the Data Protection Legislation.
"Professional Services"	means services requested by the Customer that fall outside the Included Hours and standard scope of the Services, including but not limited to: • Major Personal Data Breaches • ICO Investigations • Large Subject Access Requests • Full Compliance Audits • Full Information Security Policy Reviews • ISO 27001 Consultancy • Privacy Programme Implementation • Training Services • Contract Negotiation • Bespoke Consultancy
"Proposal"	means the quotation or proposal issued by the Company describing the Services.
"Retainer"	means the recurring monthly fee payable for the Tela Protect™ managed consultancy service.
"Services"	means the outsourced Data Protection Officer and consultancy services provided under this Agreement.
"Standard Working Hours"	means 09:00 to 17:30 Monday to Friday excluding public holidays.

1.2 Interpretation

Unless the context otherwise requires:

1. references to legislation shall include any amendments, re-enactments or replacements;
2. words importing the singular include the plural and vice versa;
3. references to one gender include all genders;
4. headings are included for convenience only and shall not affect interpretation;
5. references to "including" shall mean "including without limitation";
6. references to a person include any individual, partnership, company, public authority or other legal entity;
7. where an obligation is placed upon the Customer, that obligation extends to its employees, contractors and representatives acting on its behalf.

2. CONDITIONS OF THE AGREEMENT

2.1 Incorporation

These Terms and Conditions shall:

2.1.1 apply to and form part of the Agreement between the Company and the Customer; and

2.1.2 apply to all Consultancy Services, Deliverables, advice and Professional Services supplied by the Company unless otherwise agreed in writing.

2.2 Order of Precedence

In the event of any inconsistency between documents forming part of this Agreement, the following order of precedence shall apply:

a) the Order Form or Service Agreement;

b) any Statement of Work or Proposal;

c) these Terms and Conditions;

d) any Service Description or Service Catalogue.

2.3 Entire Agreement

This Agreement constitutes the entire agreement between the parties relating to the Services and supersedes all previous discussions, negotiations, representations, correspondence and agreements, whether written or oral.

2.4 Customer Terms

The Company shall not be bound by any terms or conditions contained within any purchase order, supplier onboarding documentation, procurement portal, customer standard terms or similar documentation issued by the Customer unless expressly agreed in writing by a Director of the Company.

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2.5 Variations

No amendment, modification or variation of this Agreement shall be effective unless it is:

a) made in writing; and
b) signed by authorised representatives of both parties.

2.6 Professional Consultancy

The Customer acknowledges that:

2.6.1 the Services constitute professional consultancy services based upon the information available to the Company at the time the advice is provided;

2.6.2 recommendations made by the Company are advisory in nature unless expressly stated otherwise;

2.6.3 the Customer retains responsibility for all operational, commercial and legal decisions relating to its business;

2.6.4 implementation of any recommendation remains the responsibility of the Customer unless separately contracted to the Company.

2.7 No Legal Advice

The Customer acknowledges that the Company does not provide legal services.

Any guidance relating to legislation, regulatory compliance or enforcement action is provided as professional consultancy only and should not be relied upon as legal advice. Where appropriate, the Customer should obtain independent legal advice.

2.8 Good Faith

Both parties agree to act in good faith throughout the term of this Agreement and shall cooperate reasonably with one another to enable the successful delivery of the Services.

2.9 Independent Status

Nothing contained within this Agreement shall create any partnership, joint venture, agency or employment relationship between the Company and the Customer.

The Company shall remain an independent contractor at all times.

2.10 Reliance Upon Information

The Company shall be entitled to rely upon the accuracy and completeness of all information, documentation, records and explanations provided by the Customer.

The Company shall not be responsible for any advice, recommendation or Deliverable that is adversely affected by incomplete, inaccurate or misleading information supplied by the Customer.

3. TERM OF THE AGREEMENT

3.1 Commencement

This Agreement shall commence on the Commencement Date specified in the Order Form and shall continue in accordance with the provisions of this Section unless terminated earlier in accordance with Clause 20 (Termination).

3.2 Initial Term

The Agreement shall remain in force for the Initial Term specified within the Order Form.

Unless otherwise agreed in writing, the Initial Term shall be twelve (12) months.

3.3 Automatic Renewal

Upon expiry of the Initial Term, this Agreement shall automatically renew for successive periods equal to the Initial Term unless either party provides not less than ninety (90) days' written notice prior to the expiry of the then current term.

3.4 Continuity of Services

During the term of this Agreement, the Company shall provide the Services described within the Proposal and Order Form, subject to the Customer complying with the obligations contained within this Agreement.

3.5 Monthly Retainer

The Customer acknowledges that the monthly retainer secures:

- the appointment of a named Outsourced Data Protection Officer;
- availability of professional consultancy time;
- ongoing compliance monitoring;
- access to specialist advice;

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- maintenance of customer records relating to the Services;
- continuity of service throughout the Agreement.

The monthly retainer is payable irrespective of the volume of support requested during any particular month.

3.6 Included Consultancy Hours

Unless otherwise specified within the Order Form, the monthly retainer includes up to eight (8) consultancy hours during each calendar month.

Included hours may be used for Services covered within the agreed scope.

3.7 Unused Hours

Unused consultancy hours shall not accumulate and may not be carried forward into subsequent months unless expressly agreed in writing by the Company.

Unused hours have no cash value and shall not be refunded or credited against future invoices.

3.8 Additional Consultancy

Where the Customer requests Services exceeding the Included Hours or outside the agreed scope, such work shall be treated as Professional Services and charged at the Company's prevailing consultancy rates unless otherwise agreed in writing.

No additional chargeable work shall be undertaken without the Customer's prior approval.

3.9 Suspension of Hours

Where the Customer delays, postpones or fails to provide the information, access or cooperation reasonably required to enable the Company to provide the Services, the Company shall not be obliged to extend the Included Hours or provide additional consultancy without additional charge.

3.10 Temporary Absence

Where the appointed Outsourced Data Protection Officer is unavailable due to annual leave, illness or other reasonable circumstances, the Company reserves the right to appoint another suitably qualified consultant to provide continuity of the Services.

The Company shall use reasonable endeavours to minimise disruption to the Customer.

3.11 Changes to the Service

The Company may recommend amendments to the level of service where:

a) the Customer's business materially changes;
b) regulatory requirements change;
c) the complexity of the Services significantly increases; or
d) the monthly Included Hours are consistently exceeded.

Any change shall be agreed by both parties before taking effect.

3.12 Review Meetings

The Company may conduct periodic service review meetings with the Customer to:

- review compliance activities;
- discuss outstanding recommendations;
- consider regulatory developments;
- assess future consultancy requirements; and
- review whether the current Tela Protect™ package remains appropriate.

4. CONSULTANCY SERVICES

4.1 Provision of Services

The Company shall provide the Consultancy Services described within the Proposal, Order Form or Statement of Work with reasonable skill, care and diligence and in accordance with Good Industry Practice.

The Company shall use appropriately qualified personnel to deliver the Services and shall exercise reasonable professional judgement in the provision of all advice and recommendations.

4.2 Scope of Services

Unless otherwise agreed in writing, the Services may include:

4.2.1 Outsourced Data Protection Officer

Acting as the Customer's appointed Outsourced Data Protection Officer in accordance with the requirements of the UK General Data Protection Regulation and the Data Protection Act 2018, where such appointment is appropriate.

4.2.2 Compliance Advice

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Providing professional advice regarding:

- UK GDPR
- Data Protection Act 2018
- Privacy and Electronic Communications Regulations (PECR)
- Information Commissioner's Office (ICO) guidance
- Information governance
- Privacy best practice
- Information security governance

4.2.3 Compliance Monitoring

Monitoring the Customer's compliance arrangements through:

- documentation reviews;
- compliance meetings;
- policy reviews;
- risk assessments;
- periodic consultancy reviews.

4.2.4 Documentation

Reviewing and providing recommendations relating to:

- Privacy Notices;
- Data Protection Policies;
- Retention Policies;
- Records of Processing Activities (RoPA);
- Data Sharing Agreements;
- Processor Agreements;
- Information Security Policies.

4.2.5 Operational Support

Providing reasonable advice relating to:

- Subject Access Requests;
- Data Subject Rights;
- Personal Data Breaches;
- Data Protection Impact Assessments;
- Regulatory enquiries;
- supplier due diligence;
- day-to-day privacy questions.

4.2.6 Reporting

Producing reports or recommendations summarising:

- compliance observations;
- identified risks;
- recommended actions;
- regulatory developments;
- consultancy activity.

4.3 Consultancy Basis

The Customer acknowledges that:

4.3.1 Consultancy Services are advisory in nature.

4.3.2 Recommendations are provided using the information available to the Company at the time.

4.3.3 The Company does not make operational decisions on behalf of the Customer.

4.3.4 Responsibility for implementing recommendations remains solely with the Customer.

4.4 Independence

Where the Company acts as the Customer's Outsourced Data Protection Officer, the Company shall perform that role independently and shall not be instructed by the Customer regarding the conclusions reached, opinions expressed or advice provided.

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Nothing within this Agreement shall require the Company to approve or endorse processing activities that it reasonably believes to be unlawful or inconsistent with applicable legislation.

4.5 Professional Judgement

The Company reserves the right to provide recommendations which differ from the Customer's preferred course of action where, in the Company's professional opinion, this is necessary to comply with applicable legislation or recognised good practice.

4.6 No Guarantee of Compliance

The Customer acknowledges that:

a) compliance with applicable legislation depends upon many operational, technical and organisational factors outside the Company's control;
b) the Company cannot guarantee regulatory compliance;
c) the Company cannot guarantee that following its recommendations will prevent enforcement action, complaints, claims, investigations or regulatory penalties.

4.7 No Legal Advice

The Services do not constitute legal advice.

The Company provides professional consultancy based upon recognised industry practice and current legislation but does not provide legal representation or legal opinions.

Where legal interpretation is required, the Customer should obtain advice from a suitably qualified solicitor.

4.8 Consultancy Hours

The Services shall be delivered within the Included Hours specified within the Customer's Tela Protect™ package unless otherwise agreed.

Professional Services falling outside the Included Hours shall be chargeable separately.

4.9 Response Times

The Company shall use reasonable endeavours to respond to Customer enquiries within the following target times:

Priority	Target Response
Critical Personal Data Breach	4 Business Hours
Urgent Regulatory Matter	Same Business Day
General Consultancy Request	2 Business Days
Routine Advice	5 Business Days

These response times are targets only and shall not constitute contractual service levels unless expressly agreed within the Order Form.

4.10 Delivery of Services

The Company may provide the Services:

- remotely;
- by telephone;
- via email;
- by video conference;
- on-site at the Customer's premises;
- by written reports or recommendations.

Unless otherwise agreed, the Company shall determine the most appropriate delivery method.

4.11 Use of Subcontractors

The Company reserves the right to engage suitably qualified employees, consultants or subcontractors in the delivery of the Services.

The Company shall remain responsible for the performance of the Services provided by any subcontractor.

4.12 Continuous Improvement

The Company may recommend improvements to the Customer's governance, policies, procedures or security arrangements during the term of the Agreement.

Implementation of such recommendations shall remain at the Customer's discretion unless otherwise agreed.

5. THE COMPANY'S OBLIGATIONS

5.1 Standard of Service

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The Company shall perform the Services with reasonable skill, care and diligence and in accordance with Good Industry Practice.

The Company shall use appropriately qualified personnel possessing suitable knowledge, experience and professional competence to deliver the Services.

5.2 Professional Standards

The Company shall exercise reasonable professional judgement when providing advice, recommendations and Deliverables.

The Company shall perform the Services in accordance with applicable professional standards and recognised industry best practice relevant to the Services being provided.

5.3 Independence

Where appointed as the Customer's Outsourced Data Protection Officer, the Company shall act independently in accordance with Article 38 of the UK General Data Protection Regulation.

The Company shall not permit commercial interests or external influence to compromise its professional judgement or independence.

5.4 Confidentiality

The Company shall maintain the confidentiality of all Confidential Information obtained during the provision of the Services, except where disclosure is required by law or authorised by the Customer.

The Company shall ensure that its employees, consultants and subcontractors are subject to appropriate confidentiality obligations.

5.5 Qualified Personnel

The Company shall ensure that personnel engaged in the provision of the Services possess the appropriate qualifications, experience and competence necessary to perform their duties.

The Company reserves the right to replace personnel where reasonably necessary to maintain service quality or business continuity.

5.6 Business Continuity

The Company shall use reasonable endeavours to ensure continuity of the Services.

Where the named consultant is unavailable due to annual leave, illness or other reasonable circumstances, the Company may appoint another suitably qualified consultant to provide the Services.

5.7 Availability

The Company shall use reasonable endeavours to make consultancy resources available during Standard Working Hours.

Nothing within this Agreement guarantees immediate availability, dedicated resources or exclusive access to any individual consultant unless expressly stated within the Order Form.

5.8 Professional Advice

The Company shall provide advice based upon:

- legislation in force at the time;
- published regulatory guidance;
- recognised industry standards;
- information supplied by the Customer.

The Company shall not be responsible for changes in legislation, regulatory interpretation or case law occurring after advice has been issued unless specifically engaged to provide ongoing updates.

5.9 Deliverables

Where Deliverables are included within the Services, the Company shall provide them in a professional manner and in a format reasonably suitable for the intended purpose.

Deliverables represent the Company's professional opinion at the date of issue and should not be relied upon indefinitely without periodic review.

5.10 Regulatory Guidance

The Company shall use reasonable endeavours to keep the Customer informed of significant regulatory developments that may materially affect the Services provided under this Agreement.

Nothing in this clause obliges the Company to provide legal monitoring services or continuous legislative updates unless specifically included within the agreed scope of Services.

5.11 Insurance

The Company shall maintain appropriate insurance cover throughout the term of this Agreement, including:

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- Professional Indemnity Insurance;
- Public Liability Insurance;
- Employers' Liability Insurance (where required by law).

Evidence of such insurance shall be provided to the Customer upon reasonable written request.

5.12 Records

The Company shall maintain reasonable records relating to the Services performed under this Agreement.

Unless otherwise agreed, such records shall be retained for a minimum period of six (6) years following termination of the Agreement.

5.13 Subcontractors

The Company may appoint employees, consultants or suitably qualified subcontractors to assist in delivering the Services.

The Company shall remain responsible for the performance of any subcontracted Services.

5.14 Continuous Improvement

The Company may recommend improvements to the Customer's compliance, governance, policies, procedures or information security arrangements throughout the duration of the Agreement.

Such recommendations are advisory in nature and implementation remains the responsibility of the Customer.

5.15 No Warranty

Except as expressly stated within this Agreement, the Company gives no warranty that:

- the Services will achieve any particular commercial outcome;
- regulatory investigations will not occur;
- data breaches will be prevented;
- regulatory fines or enforcement action will not be taken;
- implementation of recommendations will ensure legal compliance.

The Services constitute professional consultancy and advice only.

6. THE CUSTOMER'S OBLIGATIONS

6.1 General Obligations

The Customer shall, throughout the duration of this Agreement:

6.1.1 cooperate fully with the Company in connection with the provision of the Services;

6.1.2 provide all information reasonably requested by the Company;

6.1.3 ensure that all information supplied to the Company is complete, accurate and up to date;

6.1.4 ensure that appropriate personnel are available to assist the Company when reasonably required.

6.2 Access

The Customer shall provide the Company with reasonable access to:

- relevant personnel;
- policies and procedures;
- records;
- systems;
- documentation;
- premises (where necessary);

to enable the Company to provide the Services.

6.3 Accuracy of Information

The Customer warrants that all information supplied to the Company is accurate and complete to the best of its knowledge.

The Company shall be entitled to rely upon such information without independently verifying its accuracy.

6.4 Responsibility for Compliance

The Customer acknowledges and agrees that:

6.4.1 it remains solely responsible for complying with all applicable legislation;

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6.4.2 appointment of the Company as an Outsourced Data Protection Officer does not transfer legal responsibility for compliance;

6.4.3 responsibility for implementing recommendations remains with the Customer;

6.4.4 the Customer retains responsibility for all decisions regarding the processing of Personal Data.

6.5 Implementation of Recommendations

The Customer shall consider all recommendations made by the Company in good faith.

Where the Customer elects not to implement recommendations, the Company shall not be liable for any resulting loss, regulatory action or enforcement arising from that decision.

6.6 Notification of Incidents

The Customer shall notify the Company without undue delay upon becoming aware of:

- a Personal Data Breach;
- a suspected Personal Data Breach;
- receipt of correspondence from the Information Commissioner's Office;
- any regulatory investigation;
- receipt of legal proceedings relating to privacy or data protection;
- any cyber security incident likely to affect Personal Data.

6.7 Subject Access Requests

The Customer shall notify the Company promptly upon receipt of any:

- Subject Access Request;
- Right to Erasure Request;
- Restriction Request;
- Data Portability Request;
- Objection to Processing;
- complaint from a Data Subject.

6.8 Internal Resources

The Customer shall appoint an appropriate management representative with authority to:

- provide instructions;
- approve recommendations;
- accept Deliverables;
- authorise additional consultancy.

6.9 Customer Policies

The Customer shall:

- maintain appropriate policies and procedures;
- ensure policies are communicated to employees;
- review policies periodically;
- implement updates where appropriate.

6.10 Staff Awareness

The Customer shall ensure employees receive appropriate training in relation to:

- Data Protection;
- Information Security;
- Confidentiality;
- acceptable use of systems.

Unless otherwise agreed, delivery of staff training is not included within the monthly retainer.

6.11 Third Parties

The Customer shall remain responsible for:

- third-party suppliers;
- processors;
- software providers;
- cloud service providers;
- outsourced services.

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The Company shall not be responsible for the acts or omissions of any third party.

6.12 Licences

The Customer warrants that it holds all licences, permissions and legal authority necessary for the Company to provide the Services.

6.13 Customer Instructions

The Customer shall ensure that instructions provided to the Company:

- are lawful;
- do not conflict with applicable legislation;
- do not require the Company to breach any legal or regulatory obligation.

The Company reserves the right to refuse any instruction that it reasonably believes to be unlawful or unethical.

6.14 Cooperation During Regulatory Investigations

Where the Customer is subject to an investigation by the Information Commissioner's Office or another competent authority, the Customer shall cooperate fully with the Company and provide all information reasonably requested.

6.15 Information Security

The Customer remains responsible for maintaining appropriate technical and organisational security measures, including:

- access controls;
- password management;
- endpoint security;
- patch management;
- backup procedures;
- cyber security controls.

The Company's consultancy does not replace the Customer's operational security responsibilities.

6.16 Insurance

The Customer is responsible for maintaining appropriate insurance relevant to its business activities, including cyber insurance where appropriate.

6.17 Indemnity

The Customer shall indemnify and keep indemnified the Company against all claims, losses, liabilities, costs and expenses arising directly or indirectly from:

a) inaccurate or incomplete information supplied by the Customer;
b) failure to implement recommendations made by the Company;
c) unlawful processing of Personal Data by the Customer;
d) breaches of legislation committed by the Customer or its employees;
e) any act or omission of the Customer causing the Company to become subject to investigation or legal proceedings.

6.18 Duty to Mitigate

The Customer shall take all reasonable steps to mitigate any loss arising from:

- a Personal Data Breach;
- a cyber security incident;
- regulatory action;
- failure of systems or procedures.

6.19 Acceptance of Risk

The Customer acknowledges that no consultancy service can eliminate all regulatory, legal or cyber security risk.

The Customer accepts responsibility for all business decisions relating to risk management.

7. EXCLUSIONS FROM THE SERVICES

7.1 General

Unless expressly stated within the Proposal, Order Form or Statement of Work, the Services provided under this Agreement shall not include any service listed within this Section.

The Company reserves the right to provide any excluded service as a separately chargeable Professional Service.

7.2 Legal Services

The Services do not include:

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7.2.1 the provision of legal advice;

7.2.2 acting as legal representatives;

7.2.3 legal interpretation of legislation;

7.2.4 preparation of legal pleadings;

7.2.5 representation before any Court or Tribunal.

Where legal advice is required, the Customer should seek advice from a suitably qualified solicitor.

7.3 Regulatory Representation

Unless separately agreed, the Services do not include:

- attending formal ICO interviews;
- preparing formal legal responses;
- representing the Customer during regulatory proceedings;
- appeals against regulatory decisions;
- litigation support.

7.4 Major Data Breaches

The monthly retainer does not include consultancy relating to:

- significant Personal Data Breaches;
- major cyber security incidents;
- ransomware incidents;
- large-scale forensic investigations;
- emergency incident management.

Such work shall be treated as Professional Services.

7.5 Subject Access Requests

The monthly retainer includes reasonable advice regarding Subject Access Requests.

The following are excluded:

- reviewing large volumes of documentation;
- document redaction;
- evidence gathering;
- management of complex Subject Access Requests;
- litigation-related disclosure exercises.

7.6 Compliance Audits

The Services do not include:

- full organisational compliance audits;
- certification audits;
- supplier audits;
- physical site inspections;
- penetration testing;
- vulnerability assessments.

7.7 Information Security Consultancy

Unless expressly included, the Services do not include:

- development of Information Security Management Systems;
- full Information Security Policy reviews;
- ISO 27001 implementation;
- Cyber Essentials implementation;
- technical security consultancy;
- firewall configuration;
- penetration testing;
- vulnerability remediation.

7.8 Training

The monthly retainer excludes:

- classroom training;
- awareness workshops;

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- bespoke staff training;
- management training;
- board briefings.

Training may be provided under a separate Professional Services engagement.

7.9 Technical Services

The Services do not include:

- IT support;
- network administration;
- software development;
- hardware maintenance;
- infrastructure management;
- cloud administration;
- Microsoft 365 administration.

Nothing within this Agreement replaces any separate Managed IT Services Agreement between the Company and the Customer.

7.10 Documentation

Unless specifically stated within the Proposal, the Services do not include:

- drafting entirely new policies;
- creating governance frameworks;
- producing bespoke contractual documentation;
- writing employment documentation;
- preparing procurement documentation.

The Company may provide such services separately.

7.11 Project Work

The monthly retainer excludes:

- business transformation projects;
- organisational restructuring;
- mergers and acquisitions;
- large-scale compliance programmes;
- implementation of governance frameworks.

7.12 Third-Party Services

The Company shall not be responsible for:

- software vendors;
- cloud providers;
- outsourced processors;
- consultants appointed by the Customer;
- external auditors.

7.13 Guarantees

The Company does not guarantee:

- regulatory approval;
- certification;
- successful audit outcomes;
- avoidance of ICO investigations;
- avoidance of fines;
- avoidance of cyber incidents;
- compliance where recommendations have not been implemented.

7.14 Professional Services

The following services are specifically excluded from the monthly retainer and shall be charged separately unless otherwise agreed:

- Major Personal Data Breaches
- ICO Investigations and Regulatory Support
- Large Subject Access Requests
- Full Data Protection Compliance Audits
- Full Information Security Policy Reviews

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- Staff Data Protection and Information Security Training
- ISO 27001 Consultancy and Implementation
- Contract Review and Negotiation
- Privacy Programme Implementation
- Data Mapping and Records of Processing Activities (RoPA) Reviews
- Third-Party Supplier and Processor Assessments
- Bespoke Policy and Procedure Development

7.15 Changes to Scope

Where the Customer requests Services outside the agreed scope, the Company may:

a) decline the request;
b) provide a separate quotation;
c) charge the work at the Company's prevailing consultancy rates; or
d) recommend an alternative Tela Protect™ service package more appropriate to the Customer's requirements.

8. PROFESSIONAL SERVICES

8.1 General

Professional Services comprise consultancy, advisory, implementation and project-based work that falls outside the scope of the Services included within the Customer's monthly Tela Protect™ package.

Professional Services shall only be undertaken following agreement between the Company and the Customer.

8.2 Scope of Professional Services

Professional Services may include, but are not limited to:

8.2.1 Major Personal Data Breach response and incident management;

8.2.2 Information Commissioner's Office (ICO) investigations and regulatory support;

8.2.3 Large or complex Subject Access Requests (SARs);

8.2.4 Full Data Protection Compliance Audits;

8.2.5 Full Information Security Policy Reviews;

8.2.6 Staff Data Protection and Information Security training;

8.2.7 ISO 27001 consultancy, implementation and certification preparation;

8.2.8 Contract review and negotiation relating to privacy, information security and data protection;

8.2.9 Privacy Programme implementation;

8.2.10 Data Mapping and Records of Processing Activities (RoPA) reviews;

8.2.11 Third-party supplier and processor assessments;

8.2.12 Bespoke policy and procedure development;

8.2.13 Information governance consultancy;

8.2.14 Information security consultancy;

8.2.15 Any other consultancy requested by the Customer outside the agreed scope of Services.

8.3 Authorisation

The Company shall not undertake chargeable Professional Services unless authorised by the Customer.

Authorisation may be provided by:

a) acceptance of a written quotation;
b) an approved purchase order;
c) written confirmation by email from an authorised representative of the Customer;
d) execution of a Statement of Work.

Where emergency circumstances exist under Clause 8.7, verbal authorisation may be accepted, provided it is confirmed in writing as soon as reasonably practicable.

8.4 Charging Basis

Professional Services shall be charged on one or more of the following bases:

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- hourly consultancy rates;
- half-day consultancy rates;
- full-day consultancy rates;
- fixed-price quotations;
- project pricing; or
- any other charging mechanism agreed in writing.

The applicable charging basis shall be confirmed before work commences.

8.5 Consultancy Rates

Unless otherwise agreed in writing, Professional Services shall be charged at the Company's prevailing consultancy rates in force at the time the Services are delivered.

The Company reserves the right to review and amend consultancy rates in accordance with this Agreement.

8.6 Estimates

Any estimate of time or cost provided by the Company is given in good faith based upon the information available at the time.

Estimates shall not constitute fixed quotations unless expressly stated in writing.

Where the scope of work changes materially, the Company reserves the right to revise the estimate and seek the Customer's approval before continuing.

8.7 Emergency Consultancy

Where the Customer requests urgent assistance relating to:

- a Personal Data Breach;
- a cyber security incident;
- regulatory intervention;
- urgent compliance matters;
- business-critical privacy issues;

the Company shall use reasonable endeavours to provide assistance as soon as reasonably practicable.

Emergency Consultancy shall be charged separately unless expressly included within the Customer's Service Package.

Where work is required outside Standard Working Hours, the Company reserves the right to apply enhanced consultancy rates.

8.8 On-Site Consultancy

Where Professional Services require attendance at the Customer's premises:

a) reasonable travel time may be chargeable;
b) mileage, accommodation and reasonable expenses may be charged where applicable;
c) the Customer shall provide suitable working facilities.

8.9 Customer Responsibilities

The Customer shall ensure that all information, documentation, personnel and facilities reasonably required to deliver the Professional Services are made available promptly.

Delays caused by the Customer may result in revised delivery dates and additional Charges.

8.10 Deliverables

Unless otherwise agreed in writing, Deliverables produced as part of Professional Services shall be deemed accepted by the Customer fourteen (14) days after delivery unless the Customer notifies the Company in writing of any material defect.

The Company's obligation shall be limited to correcting any genuine defect within the agreed scope of the Professional Services.

8.11 Cancellation or Postponement

Where the Customer cancels or postpones Professional Services after work has been scheduled, the Company reserves the right to charge for:

a) work already completed;
b) time reserved for the Customer;
c) any non-refundable travel or accommodation costs incurred;
d) reasonable administrative costs arising from the cancellation.

8.12 Intellectual Property

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Unless otherwise agreed in writing, ownership of all Intellectual Property Rights in Deliverables created as part of Professional Services shall remain vested in the Company.

Upon payment of all Charges, the Customer is granted a perpetual, non-exclusive, non-transferable licence to use the Deliverables solely for its own internal business purposes.

The Customer shall not reproduce, distribute, sell or commercially exploit the Deliverables without the Company's prior written consent.

8.13 No Guarantee of Outcome

The Company shall use reasonable skill and care in providing Professional Services but does not warrant or guarantee that:

a) any regulatory investigation will conclude in the Customer's favour;
b) certification will be achieved;
c) regulatory approval will be obtained;
d) implementation will eliminate all compliance or cyber security risks; or
e) any recommendation will prevent future enforcement action, fines or legal claims.

8.14 Variation of Scope

Where, during the course of Professional Services, the Customer requests additional work or the agreed scope changes materially, the Company may:

a) issue a revised quotation;
b) prepare a revised Statement of Work;
c) charge additional consultancy fees; or
d) suspend the affected work until revised commercial terms have been agreed.

8.15 Relationship to the Retainer

Professional Services are separate from the monthly Tela Protect™ retainer and shall not reduce, replace or extend the Included Hours unless expressly agreed in writing.

Unused retainer hours may not be offset against Professional Services without the Company's prior written agreement.

9. CHARGES AND PAYMENT

9.1 Charges

The Customer shall pay the Charges specified within the Order Form, Proposal or Statement of Work.

Unless otherwise stated, all Charges are exclusive of Value Added Tax (VAT), which shall be payable at the prevailing rate.

9.2 Monthly Retainer

The monthly Tela Protect™ Retainer shall be payable throughout the duration of this Agreement.

The Retainer provides the Customer with:

- access to the agreed Consultancy Services;
- the Included Hours;
- appointment of an Outsourced Data Protection Officer (where applicable);
- ongoing availability of consultancy resources;
- continuity of service.

The Retainer is payable irrespective of whether the Included Hours are fully utilised during any particular month.

9.3 Professional Services

Professional Services commissioned outside the monthly Retainer shall be invoiced separately.

Charges may be based upon:

- Hourly consultancy;
- Half-day consultancy;
- Full-day consultancy;
- Fixed-price quotations;
- Project pricing; or
- Any other commercial arrangement agreed in writing.

9.4 Consultancy Rates

Unless otherwise agreed in writing, additional consultancy shall be charged at the Company's prevailing consultancy rates in force at the time the Services are provided.

9.5 Expenses

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Where agreed in advance, the Customer shall reimburse the Company for all reasonable expenses incurred in providing the Services, including but not limited to:

- travel;
- accommodation;
- subsistence;
- parking;
- courier charges;
- third-party fees.

Supporting evidence shall be provided upon reasonable request.

9.6 Invoicing

The Company shall invoice:

a) Monthly Retainer Charges monthly in advance;
b) Professional Services upon completion or at agreed milestones;
c) Project work in accordance with the agreed payment schedule;
d) Expenses at the time they are incurred or alongside the relevant invoice.

9.7 Payment Terms

All invoices shall be payable within fourteen (14) days from the invoice date unless otherwise agreed in writing.

Payment shall be made by Direct Debit, bank transfer or such other payment method approved by the Company.

9.8 Disputed Invoices

Should the Customer dispute any invoice, the Customer shall notify the Company in writing within fourteen (14) days of receipt, detailing:

a) the amount disputed;
b) the reasons for the dispute;
c) the amount accepted as payable.

Any undisputed amount shall remain payable in accordance with this Agreement.

9.9 Late Payment

If payment is not received by the due date, the Company reserves the right to:

a) charge interest in accordance with the Late Payment of Commercial Debts (Interest) Act 1998;

b) charge reasonable administration costs associated with recovering outstanding sums;

c) suspend all or part of the Services;

d) withhold Deliverables until payment has been received;

e) terminate this Agreement in accordance with Clause 20.

9.10 Suspension for Non-Payment

Where payment remains outstanding for more than fourteen (14) days following the due date, the Company may suspend the provision of the Services until payment has been received in full.

The Customer shall remain liable for all Charges during any period of suspension.

9.11 Recovery Costs

The Customer shall indemnify the Company for all reasonable costs incurred in recovering overdue payments, including:

- legal costs;
- debt recovery agency fees;
- court fees;
- bank charges;
- administrative costs.

9.12 No Set-Off

The Customer shall not withhold payment nor exercise any right of set-off against any sums due to the Company unless required by law or agreed in writing by the Company.

9.13 Credit Assessment

The Company reserves the right to undertake credit checks on the Customer before or during the term of this Agreement.

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Where the Company reasonably believes that the Customer's financial position presents an increased commercial risk, the Company may require:

a) payment in advance;
b) a deposit;
c) staged payments;
d) additional financial security.

9.14 Annual Price Review

The Company may review its Charges annually with effect from 1 April.

Unless otherwise agreed, Charges may increase by up to:

Consumer Prices Index (CPI) published in January plus 3.9% or any successor index published by the Office for National Statistics.

Where the CPI is negative, Charges may still increase by up to 3.9%.

The Company shall provide reasonable notice of any increase.

9.15 Changes to Scope

Where the Customer requests additional Services, amendments to the agreed scope, or additional consultancy beyond the Included Hours, the Company may issue a revised quotation.

No additional chargeable work shall be undertaken without the Customer's prior approval.

9.16 Taxes

The Customer shall be responsible for all taxes, duties or levies arising in connection with this Agreement other than taxes payable by the Company on its own profits.

9.17 Survival

The Customer's obligation to pay all outstanding Charges shall survive termination of this Agreement.

10. SUSPENSION OF SERVICES

10.1 Right to Suspend

Without prejudice to any other rights or remedies available to the Company, the Company may suspend all or part of the Services where:

10.1.1 the Customer fails to pay any undisputed invoice by the due date;

10.1.2 the Customer commits a material breach of this Agreement;

10.1.3 the Company reasonably believes that continuing to provide the Services would result in a breach of applicable law or regulatory obligations;

10.1.4 the Customer fails to provide information, documentation, access or reasonable cooperation necessary for the Company to perform the Services;

10.1.5 continuing the Services would, in the reasonable opinion of the Company, expose the Company to unacceptable legal, regulatory, reputational or commercial risk.

10.2 Notice of Suspension

Where reasonably practicable, the Company shall provide written notice of its intention to suspend the Services, detailing:

a) the reason for the suspension;
b) any action required by the Customer to remedy the matter; and
c) the date upon which the suspension will take effect.

Nothing in this clause shall prevent the Company from suspending the Services immediately where required by law or where immediate suspension is reasonably necessary to protect the interests of the Company or the Customer.

10.3 Effect of Suspension

During any period of suspension:

a) the Company shall have no obligation to provide the suspended Services;
b) the Customer shall remain liable for all Charges payable under this Agreement;
c) any agreed response times shall be suspended;
d) the Company shall not be liable for any delay arising directly from the suspension.

10.4 Restoration of Services

Where the reason for suspension has been remedied to the reasonable satisfaction of the Company, the Company shall use reasonable endeavours to restore the Services as soon as reasonably practicable.

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The Company may require payment of all outstanding Charges before restoring the Services.

10.5 Suspension for Non-Payment

Where the Customer fails to pay any undisputed invoice within fourteen (14) days of the due date, the Company may suspend the Services until all outstanding amounts, together with any applicable interest or recovery costs, have been paid in full.

10.6 Suspension for Regulatory Reasons

The Company may suspend the Services immediately where:

a) continuing to act would conflict with applicable legislation;
b) the Customer instructs the Company to undertake unlawful processing;
c) the Company believes its professional independence as an Outsourced Data Protection Officer has been compromised;
d) continuing to provide the Services may expose the Company or its personnel to legal or regulatory sanction.

10.7 Suspension Following Abuse

The Company reserves the right to suspend the Services where the Customer, its employees or representatives:

a) engage in abusive, threatening or inappropriate behaviour towards the Company's personnel;
b) repeatedly refuse to cooperate in the provision of the Services;
c) knowingly provide false or misleading information material to the Services.

10.8 No Waiver

Suspension of the Services shall not constitute termination of this Agreement and shall not affect any other rights or remedies available to the Company.

10.9 Charges During Suspension

Unless the Agreement is terminated in accordance with Clause 11, the monthly Retainer and any other recurring Charges shall remain payable throughout any period of suspension.

11. TERMINATION

11.1 Right to Terminate

Without prejudice to any other rights or remedies available to either party, this Agreement may be terminated in accordance with this Clause.

11.2 Termination by Notice

Either party may terminate this Agreement by giving the other party not less than ninety (90) days' written notice, such notice not to expire before the end of the Initial Term or any subsequent renewal period.

11.3 Termination for Material Breach

Either party may terminate this Agreement immediately by written notice where the other party commits a material breach of this Agreement which:

a) is incapable of remedy; or
b) if capable of remedy, is not remedied within fourteen (14) days of receiving written notice requiring the breach to be remedied.

11.4 Termination for Non-Payment

The Company may terminate this Agreement immediately where the Customer fails to pay any undisputed invoice within fourteen (14) days following the due date.

Termination under this clause shall not prejudice the Company's right to recover all outstanding Charges together with any applicable interest and recovery costs.

11.5 Insolvency

The Company may terminate this Agreement immediately by written notice if the Customer:

a) enters administration, liquidation or receivership;
b) proposes or enters into any arrangement with its creditors;
c) becomes insolvent or unable to pay its debts as they fall due;
d) ceases, or threatens to cease, trading;
e) is the subject of any analogous insolvency proceedings in any jurisdiction.

11.6 Loss of Trust or Independence

The Company may terminate this Agreement immediately where, in its reasonable opinion:

a) the Customer seeks to improperly influence the Company's professional judgement;
b) the Company's independence as Outsourced Data Protection Officer has been materially compromised;

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c) continuing the engagement would place the Company in breach of applicable legislation or professional obligations;
d) a conflict of interest arises that cannot reasonably be managed.

11.7 Failure to Cooperate

The Company may terminate this Agreement where the Customer repeatedly fails to:

- provide requested information;
- provide reasonable access to personnel or records;
- implement agreed actions necessary for the Company to perform the Services;
- cooperate in the provision of the Services.

11.8 Illegal or Unethical Instructions

The Company may terminate this Agreement immediately where the Customer requests or instructs the Company to undertake any activity which the Company reasonably believes:

a) would breach applicable legislation;
b) would be unethical;
c) would expose the Company to regulatory or legal liability.

11.9 Termination by the Customer

The Customer may terminate this Agreement in accordance with Clause 11.2 or Clause 11.3.

Termination shall not affect the Customer's obligation to pay for:

- Services already provided;
- Professional Services commissioned;
- work in progress;
- any outstanding Charges due under this Agreement.

11.10 Consequences of Termination

Upon termination:

a) the Company shall cease providing the Services;
b) all outstanding invoices shall become immediately due and payable;
c) the Customer shall pay for all Services delivered up to the date of termination;
d) any ongoing Professional Services shall cease unless otherwise agreed in writing.

11.11 Customer Information

Following termination and subject to payment of all outstanding Charges, the Company shall, upon written request:

a) return Customer documentation held by the Company; or
b) securely delete such documentation,

unless the Company is required by law or professional obligations to retain it.

11.12 Confidential Information

Termination shall not affect either party's obligations relating to confidentiality, which shall continue in full force following termination.

11.13 Intellectual Property

Termination of this Agreement shall not affect the Company's ownership of any Intellectual Property Rights existing prior to or created during the performance of the Services.

11.14 Surviving Provisions

The following provisions shall survive termination of this Agreement:

- Charges and Payment;
- Intellectual Property;
- Confidentiality;
- Data Protection;
- Information Security;
- Limitation of Liability;
- Indemnities;
- Non-Solicitation;
- Governing Law;
- Dispute Resolution;
- Any provision which by its nature is intended to survive termination.

11.15 No Liability for Termination

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Except where expressly provided within this Agreement or required by law, neither party shall be liable to the other for any loss arising solely from the lawful termination of this Agreement.

12. INTELLECTUAL PROPERTY RIGHTS

12.1 Ownership

All Intellectual Property Rights existing prior to the Commencement Date shall remain the exclusive property of the party owning such rights prior to entering into this Agreement.

Nothing contained within this Agreement shall operate to transfer ownership of any pre-existing Intellectual Property Rights between the parties.

12.2 Company Intellectual Property

All Intellectual Property Rights in:

a) methodologies;
b) working practices;
c) templates;
d) software;
e) documentation;
f) reports;
g) policies;
h) procedures;
i) presentations;
j) training materials;
k) tools;
l) know-how;
m) frameworks; and
n) other materials created or used by the Company in connection with the Services,

shall remain the exclusive property of the Company unless expressly agreed otherwise in writing.

12.3 Customer Intellectual Property

The Customer shall retain ownership of all Intellectual Property Rights relating to:

- its business;
- business processes;
- trademarks;
- branding;
- confidential information;
- Customer Data;
- existing policies and procedures;
- proprietary documentation.

12.4 Licence to the Customer

Upon payment of all Charges due under this Agreement, the Company grants the Customer a perpetual, non-exclusive, non-transferable licence to use the Deliverables supplied by the Company solely for the Customer's internal business purposes.

12.5 Restrictions

The Customer shall not, without the Company's prior written consent:

a) reproduce Deliverables for commercial sale;
b) license or sublicense Deliverables to any third party;
c) publish Deliverables externally;
d) remove copyright notices;
e) modify Company templates and subsequently represent them as originating from the Company;
f) distribute Deliverables outside the Customer's organisation except where required by law or regulation.

12.6 Generic Knowledge

Nothing within this Agreement shall prevent the Company from using the general knowledge, experience, skills, techniques, methodologies and know-how acquired whilst providing the Services, provided that no Confidential Information belonging to the Customer is disclosed.

12.7 Reusable Materials

The Company may incorporate generic wording, templates, checklists, procedures or methodologies developed during the provision of the Services into future consultancy engagements, provided that:

a) no Confidential Information belonging to the Customer is disclosed;

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b) the Customer cannot be identified;
c) no proprietary Customer documentation is reproduced.

12.8 Customer Materials

The Customer grants the Company a non-exclusive licence to use Customer documentation, records and information solely for the purpose of performing the Services under this Agreement.

Such licence shall automatically terminate upon termination of this Agreement, subject to any legal or regulatory obligations requiring continued retention.

12.9 Third-Party Intellectual Property

Where Deliverables incorporate third-party materials, software, standards or documentation, ownership of such Intellectual Property shall remain with the relevant third party.

The Customer shall comply with any applicable licence terms relating to such materials.

12.10 Copyright

Unless otherwise agreed in writing, copyright in all Deliverables produced by the Company shall remain vested in the Company.

The Customer shall not remove or obscure any copyright or proprietary notices appearing on Company Deliverables.

12.11 Bespoke Deliverables

Where the Company develops bespoke policies, procedures or documentation specifically for the Customer, ownership shall remain with the Company unless the Proposal or Order Form expressly provides otherwise.

The Customer shall receive an unrestricted licence to use such Deliverables internally for the duration of their business operations.

12.12 Open Source and Public Domain Materials

Nothing in this Agreement shall affect the ownership or licensing of any open-source software, public domain materials or regulatory publications referenced within the Deliverables.

12.13 Survival

The provisions of this Clause shall survive termination of the Agreement.

13. CONFIDENTIALITY

13.1 Confidential Information

For the purposes of this Agreement, Confidential Information means all information disclosed by one party ("the Disclosing Party") to the other ("the Receiving Party"), whether before or after the Commencement Date, which is identified as confidential or which ought reasonably to be regarded as confidential, including but not limited to:

a) business plans;
b) financial information;
c) commercial information;
d) pricing;
e) technical information;
f) software;
g) security arrangements;
h) network architecture;
i) customer and supplier information;
j) Personal Data;
k) policies, procedures and governance documentation;
l) intellectual property;
m) trade secrets;
n) reports, assessments and recommendations produced during the Services.

13.2 Confidentiality Obligations

Each party shall:

13.2.1 keep all Confidential Information strictly confidential;

13.2.2 use Confidential Information solely for the purposes of fulfilling its obligations under this Agreement;

13.2.3 not disclose Confidential Information to any third party except as permitted under this Agreement;

13.2.4 exercise at least the same degree of care in protecting Confidential Information as it uses to protect its own confidential information, and in any event no less than reasonable care.

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13.3 Permitted Disclosure

A Receiving Party may disclose Confidential Information only:

a) to its employees, directors, consultants, subcontractors, professional advisers or insurers who have a legitimate need to know the information for the purposes of this Agreement;

b) where required by law, court order or regulatory authority;

c) with the prior written consent of the Disclosing Party.

The Receiving Party shall ensure that all persons receiving Confidential Information are subject to confidentiality obligations no less onerous than those contained within this Agreement.

13.4 Customer Information

The Company acknowledges that, during the provision of the Services, it may obtain access to highly sensitive business, operational and Personal Data belonging to the Customer.

The Company shall use such information solely for the purposes of providing the Services and in accordance with applicable Data Protection Legislation.

13.5 Company Information

The Customer acknowledges that the Company's methodologies, templates, pricing, reports, documentation, security processes and consultancy techniques constitute Confidential Information belonging to the Company.

The Customer shall not disclose such information to any third party without the Company's prior written consent.

13.6 Exclusions

The obligations contained within this Clause shall not apply to information which:

a) is or becomes publicly available other than through breach of this Agreement;
b) was lawfully in the Receiving Party's possession before disclosure;
c) is lawfully obtained from a third party without restriction;
d) is independently developed without reference to the Confidential Information.

13.7 Security of Information

Each party shall implement appropriate technical and organisational measures to protect Confidential Information against:

a) unauthorised access;
b) accidental disclosure;
c) loss;
d) destruction;
e) alteration.

13.8 Return or Destruction

Upon termination of this Agreement, or upon written request by the Disclosing Party, the Receiving Party shall promptly:

a) return all Confidential Information; or
b) securely destroy such Confidential Information,

unless retention is required by law, regulation, insurance requirements or legitimate business record-keeping obligations.

13.9 Public Statements

Neither party shall issue any press release, publicity, marketing material or public announcement relating to this Agreement without the prior written consent of the other party.

Nothing in this clause prevents the Company from identifying the Customer as a client where the Customer has given prior written consent.

13.10 Data Subject Information

Where the Company receives Personal Data in connection with the Services, such information shall be treated as Confidential Information in addition to any obligations imposed by applicable Data Protection Legislation.

13.11 Continuing Obligations

The obligations contained within this Clause shall continue during the term of this Agreement and for a period of six (6) years following its termination, or for so long as the information remains confidential, whichever is longer.

13.12 Injunctive Relief

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Each party acknowledges that unauthorised disclosure of Confidential Information may cause irreparable harm for which damages alone may not be an adequate remedy.

Accordingly, either party shall be entitled to seek injunctive or other equitable relief in respect of any actual or threatened breach of this Clause, without prejudice to any other rights or remedies available at law.

14. DATA PROTECTION

14.1 Compliance with Data Protection Legislation

Both parties shall comply at all times with all applicable Data Protection Legislation in connection with the performance of this Agreement.

Nothing in this Agreement shall relieve either party of its own direct responsibilities under the Data Protection Legislation.

14.2 Roles of the Parties

The parties acknowledge that:

a) the Customer is the Data Controller in respect of Personal Data processed in connection with its business activities;

b) the Company may, depending upon the nature of the Services, act as:

   i. an independent professional adviser;
   ii. a Data Processor acting on behalf of the Customer; or
   iii. a separate Data Controller where required by law.

The parties acknowledge that the Company's role shall depend upon the specific Services being provided.

14.3 Controller Responsibilities

The Customer shall:

14.3.1 ensure that it has lawful authority to provide Personal Data to the Company;

14.3.2 ensure appropriate Privacy Notices have been issued;

14.3.3 ensure all necessary lawful bases and conditions for processing have been established;

14.3.4 remain responsible for determining the purposes and means of processing Personal Data.

14.4 Processor Obligations

Where the Company processes Personal Data solely on behalf of the Customer as a Data Processor, the Company shall:

a) process Personal Data only on documented instructions from the Customer unless otherwise required by law;
b) ensure that personnel authorised to process Personal Data are subject to appropriate confidentiality obligations;
c) implement appropriate technical and organisational security measures;
d) notify the Customer without undue delay after becoming aware of any Personal Data Breach affecting Personal Data processed on behalf of the Customer;
e) assist the Customer, where reasonably requested and at the Customer's expense where appropriate, in responding to Data Subject Requests;
f) assist the Customer in demonstrating compliance with applicable Data Protection Legislation where reasonably required.

14.5 Professional Advice

The Customer acknowledges that the Company's provision of advice, recommendations, reports or opinions concerning Data Protection Legislation does not transfer legal responsibility for compliance to the Company.

Responsibility for compliance with Data Protection Legislation remains solely with the Customer.

14.6 Information Provided by the Customer

The Company shall be entitled to rely upon the accuracy and completeness of all Personal Data and information supplied by the Customer.

The Company shall not be liable for any advice, recommendation or Deliverable adversely affected by inaccurate, incomplete or misleading information supplied by the Customer.

14.7 Security Measures

The Company shall maintain appropriate technical and organisational measures designed to protect Personal Data against accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access.

Such measures shall be proportionate to:

a) the nature of the Personal Data;
b) the risks presented by the processing;
c) current industry practice.

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14.8 International Transfers

The Company shall not transfer Personal Data outside the United Kingdom or any jurisdiction recognised as providing an adequate level of protection unless:

a) the transfer is authorised by the Customer;
b) appropriate safeguards are in place;
c) the transfer is otherwise permitted under applicable Data Protection Legislation.

14.9 Personal Data Breaches

Where the Company becomes aware of a Personal Data Breach affecting Personal Data processed on behalf of the Customer, the Company shall notify the Customer without undue delay and provide reasonable assistance in assessing the incident.

The Customer acknowledges that responsibility for determining whether a Personal Data Breach is reportable to the Information Commissioner's Office or affected Data Subjects remains with the Customer unless otherwise agreed in writing.

14.10 Records

The Company shall maintain appropriate records demonstrating compliance with its obligations under this Agreement where required by applicable Data Protection Legislation.

14.11 Audits

Where the Company acts as a Data Processor, the Customer may, upon giving not less than thirty (30) days' written notice, request reasonable information demonstrating the Company's compliance with this Clause.

Any audit shall:

a) take place during normal Business Hours;
b) minimise disruption to the Company's business;
c) be conducted subject to appropriate confidentiality obligations;
d) be at the Customer's expense unless a material breach is identified.

14.12 Sub-processors

The Customer authorises the Company to appoint appropriately qualified sub-processors where reasonably necessary for the performance of the Services.

The Company shall ensure that any appointed sub-processor is subject to written contractual obligations providing substantially equivalent protection to those contained within this Agreement.

14.13 Retention and Deletion

Upon termination of this Agreement and subject to any legal, regulatory or professional obligation requiring retention, the Company shall securely return or delete Personal Data processed on behalf of the Customer in accordance with the Customer's written instructions.

14.14 Data Subject Requests

Where the Company receives any request directly from a Data Subject relating to Personal Data processed on behalf of the Customer, the Company shall notify the Customer without undue delay and shall not respond directly unless authorised by law or by the Customer.

14.15 Liability

Nothing within this Clause shall make the Company responsible for the Customer's compliance with Data Protection Legislation.

The Customer acknowledges that:

a) it remains solely responsible for its processing activities;
b) appointment of the Company as an Outsourced Data Protection Officer does not transfer accountability under the UK GDPR;
c) implementation of recommendations remains the responsibility of the Customer.

14.16 Survival

The obligations contained within this Clause shall survive termination of this Agreement for so long as either party continues to process Personal Data obtained in connection with the Services.

15. INFORMATION SECURITY

15.1 General

The parties acknowledge that the protection of information assets is fundamental to the successful delivery of the Services.

Each party shall implement and maintain appropriate technical and organisational measures to protect Confidential Information, Personal Data and other information assets against accidental or unlawful destruction, loss, alteration, unauthorised disclosure or unauthorised access.

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15.2 Company's Security Obligations

The Company shall maintain appropriate information security measures, proportionate to the nature of the Services being provided, including where appropriate:

a) logical access controls;
b) multi-factor authentication;
c) encryption of portable devices where appropriate;
d) anti-malware protection;
e) secure remote access;
f) secure disposal of confidential information;
g) appropriate backup and business continuity arrangements;
h) regular security awareness training for personnel.

The Company reserves the right to review and update its security controls in accordance with evolving industry practice.

15.3 Customer Security Obligations

The Customer shall remain solely responsible for the security of its own information systems, infrastructure, networks, devices and business operations.

Without limitation, the Customer shall implement and maintain appropriate:

a) access control procedures;
b) password management policies;
c) endpoint protection;
d) patch management;
e) backup procedures;
f) user awareness training;
g) physical security measures;
h) business continuity arrangements.

15.4 Consultancy Services

Unless expressly included within the Proposal or Order Form, the Services provided under this Agreement do not include:

a) managed cyber security services;
b) penetration testing;
c) vulnerability scanning;
d) firewall administration;
e) security monitoring;
f) security operations centre (SOC) services;
g) managed detection and response (MDR);
h) disaster recovery services;
i) IT support services.

Such services may be provided under a separate agreement with the Company.

15.5 Security Recommendations

The Company may make recommendations concerning improvements to the Customer's information security arrangements.

The Customer acknowledges that:

15.5.1 such recommendations are advisory only;

15.5.2 responsibility for deciding whether to implement recommendations remains solely with the Customer;

15.5.3 the Company shall not be liable where the Customer elects not to implement recommendations.

15.6 Security Incidents

Where either party becomes aware of an information security incident that may materially affect the Services, that party shall notify the other without undue delay where such notification is reasonably necessary to protect the interests of the other party.

Nothing within this clause shall require disclosure of information that would compromise an ongoing investigation or breach legal or regulatory obligations.

15.7 Third-Party Systems

The Company shall not be responsible for the security, availability or resilience of systems, software or services provided by third parties, including but not limited to:

a) cloud service providers;
b) software vendors;

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c) telecommunications providers;
d) managed service providers;
e) hosting providers.

The Company may provide advice concerning such services but accepts no responsibility for their operation or security.

15.8 Compliance Standards

The Company may provide advice regarding recognised information security standards, including but not limited to:

- ISO/IEC 27001;
- Cyber Essentials;
- IASME Governance;
- NCSC guidance;
- CIS Controls.

Unless expressly stated within the Proposal, the Company does not warrant or guarantee that the Customer will achieve certification or compliance with any standard.

15.9 Customer Responsibility

The Customer acknowledges that effective information security requires the ongoing commitment of management and staff.

The Customer remains responsible for:

a) implementing appropriate technical controls;
b) enforcing internal policies;
c) managing user behaviour;
d) maintaining appropriate cyber security governance.

15.10 Use of Third-Party Tools

The Company may utilise third-party software, collaboration platforms or cloud services in delivering the Services.

The Company shall take reasonable steps to ensure that such services are appropriate for their intended purpose but shall not be liable for failures attributable solely to those third-party providers.

15.11 No Guarantee of Security

The Company does not warrant or guarantee that:

a) cyber attacks will be prevented;
b) information security incidents will not occur;
c) malicious software will be detected;
d) unauthorised access will be prevented;
e) data loss will never occur.

The Customer acknowledges that information security risk can only be reduced and managed and cannot be completely eliminated.

15.12 Cooperation

Both parties shall cooperate in good faith regarding information security matters that may affect the provision of the Services.

Where reasonably requested, each party shall provide relevant information necessary to investigate security incidents affecting the Services.

15.13 Survival

The obligations contained within this Clause shall continue following termination of this Agreement for so long as either party retains Confidential Information or Personal Data obtained in connection with the Services.

16. LIMITATION OF LIABILITY

16.1 General

Nothing in this Agreement shall limit or exclude either party's liability where such limitation or exclusion is prohibited by law.

Nothing in this Agreement shall limit or exclude liability for:

a) death or personal injury caused by negligence;
b) fraud or fraudulent misrepresentation;
c) any liability that cannot lawfully be excluded or limited.

16.2 Consultancy Services

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The Customer acknowledges that the Services comprise professional consultancy, advice and recommendations based upon the information made available to the Company at the time the Services are provided.

The Company exercises reasonable skill and care in providing the Services but does not warrant or guarantee any particular outcome.

16.3 Customer Responsibility

The Customer acknowledges that responsibility for:

a) compliance with applicable legislation;
b) governance arrangements;
c) operational decisions;
d) implementation of recommendations;
e) security controls;
f) business processes;

shall remain solely with the Customer.

The appointment of the Company as an Outsourced Data Protection Officer does not transfer statutory accountability from the Customer to the Company.

16.4 No Guarantee

The Company does not warrant or guarantee that:

a) the Customer will achieve or maintain compliance with applicable legislation;
b) regulatory investigations will not occur;
c) regulatory fines or enforcement action will not be taken;
d) Personal Data Breaches will not occur;
e) cyber security incidents will not occur;
f) certification or accreditation will be achieved;
g) implementation of recommendations will eliminate business, legal or regulatory risk.

16.5 Reliance Upon Customer Information

The Company shall be entitled to rely upon all information, documentation and explanations supplied by the Customer.

The Company shall not be liable for any loss arising directly or indirectly from:

a) inaccurate information;
b) incomplete information;
c) misleading information;
d) delayed information;

provided by the Customer.

16.6 Failure to Follow Advice

The Company shall have no liability whatsoever for any loss, claim, investigation, enforcement action or penalty arising where the Customer:

a) fails to implement recommendations;
b) delays implementation;
c) implements recommendations incorrectly;
d) chooses an alternative course of action against the Company's advice.

16.7 Third-Party Systems

The Company accepts no responsibility for:

a) third-party software;
b) cloud service providers;
c) internet service providers;
d) telecommunications providers;
e) hardware manufacturers;
f) third-party processors;
g) external consultants appointed by the Customer.

16.8 Regulatory Decisions

The Company shall not be liable for:

a) decisions of the Information Commissioner's Office;
b) decisions of any Supervisory Authority;
c) judicial decisions;

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d) enforcement notices;
e) monetary penalties;
f) prosecution of the Customer.

16.9 Indirect Losses

To the fullest extent permitted by law, the Company shall not be liable for:

a) loss of profit;
b) loss of revenue;
c) loss of business;
d) loss of contracts;
e) loss of anticipated savings;
f) loss of goodwill;
g) reputational damage;
h) loss of opportunity;
i) indirect, consequential or special losses.

16.10 Financial Cap

Subject to Clauses 16.1 and 16.11, the total aggregate liability of the Company arising out of or in connection with this Agreement, whether in contract, tort (including negligence), breach of statutory duty or otherwise, shall not exceed:

the total Charges actually paid by the Customer under this Agreement during the twelve (12) months immediately preceding the event giving rise to the claim.

16.11 Professional Indemnity

The liability cap contained within Clause 16.10 shall apply irrespective of whether the Company maintains Professional Indemnity Insurance.

The existence of insurance shall not increase the Company's liability under this Agreement.

16.12 Time Limit for Claims

The Customer shall notify the Company of any claim arising under this Agreement within twelve (12) months of becoming aware, or reasonably ought to have become aware, of the circumstances giving rise to the claim.

No claim may be commenced more than two (2) years after completion of the relevant Services.

16.13 Duty to Mitigate

The Customer shall take all reasonable steps to mitigate any loss or damage arising from any matter connected with the Services.

The Company shall not be liable for any loss that could reasonably have been avoided.

16.14 Multiple Claims

Multiple claims arising from the same act, omission or series of connected acts or omissions shall be treated as a single claim for the purposes of applying the liability cap.

16.15 Subcontractors

No employee, consultant, director or subcontractor engaged by the Company shall incur any personal liability to the Customer in connection with the Services.

The Customer agrees that any claim shall be brought solely against the Company.

16.16 Customer Indemnity

The Customer shall indemnify and keep indemnified the Company against all losses, liabilities, costs and expenses arising from:

a) unlawful instructions given by the Customer;
b) breaches of Data Protection Legislation by the Customer;
c) inaccurate information supplied by the Customer;
d) failure by the Customer to comply with its obligations under this Agreement;
e) claims brought against the Company arising from acts or omissions of the Customer.

16.17 Reasonableness

The Customer acknowledges that:

a) the Charges payable under this Agreement have been calculated on the basis of the limitations and exclusions of liability contained within this Clause;
b) the limitations and exclusions contained within this Agreement are fair and reasonable;

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c) if the Customer requires a higher level of liability, this may be negotiated separately, subject to revised Charges and the Company's written agreement.

16.18 Survival

This Clause shall survive termination of the Agreement.

17. NON-SOLICITATION

17.1 General

The Customer acknowledges that the Company's employees, consultants and subcontractors possess specialist knowledge, experience and expertise that are fundamental to the Company's business.

The Customer agrees that the restrictions contained within this Clause are reasonable and necessary to protect the Company's legitimate business interests.

17.2 Non-Solicitation

The Customer shall not, without the Company's prior written consent, directly or indirectly:

a) solicit;
b) recruit;
c) employ;
d) engage;
e) offer employment or consultancy to; or
f) encourage to leave the Company's employment,

any employee, consultant or subcontractor of the Company who has been materially involved in providing the Services under this Agreement.

17.3 Restricted Period

The restrictions contained within Clause 17.2 shall apply:

a) throughout the duration of this Agreement; and
b) for a period of twelve (12) months following termination or expiry of this Agreement.

17.4 Indirect Engagement

The Customer shall not seek to circumvent this Clause by engaging any employee, consultant or subcontractor of the Company through:

a) another company;
b) a recruitment agency;
c) an intermediary;
d) a third-party consultancy;
e) self-employment arrangements; or
f) any other indirect means.

17.5 General Recruitment Exception

Nothing within this Clause shall prohibit the employment of an individual who responds, without prior solicitation by the Customer, to:

a) a publicly advertised vacancy;
b) a general recruitment campaign;

provided that the Customer has not otherwise breached this Clause.

17.6 Liquidated Damages

Where the Customer breaches this Clause, the Customer shall pay to the Company, by way of liquidated damages and not as a penalty, an amount equal to:

twenty per cent (20%) of the greater of:

a) the individual's annual remuneration immediately prior to leaving the Company; or
b) the annual remuneration or consultancy fees payable by the Customer to that individual.

The parties acknowledge that this amount represents a genuine pre-estimate of the costs likely to be incurred by the Company in replacing suitably qualified personnel.

17.7 Additional Remedies

Payment of the liquidated damages specified in Clause 17.6 shall not prejudice the Company's right to seek:

a) injunctive relief;
b) specific performance; or

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c) any other remedy available at law,

where appropriate.

17.8 Survival

The obligations contained within this Clause shall survive termination or expiry of this Agreement for the duration of the Restricted Period.

18. FORCE MAJEURE

18.1 Definition

Neither party shall be liable for any delay in performing, or failure to perform, any obligation under this Agreement where such delay or failure results from an event beyond that party's reasonable control ("Force Majeure Event").

18.2 Force Majeure Events

A Force Majeure Event may include, but is not limited to:

a) acts of God;
b) flood, fire, explosion or severe weather;
c) war, terrorism, civil unrest or armed conflict;
d) epidemic, pandemic or public health emergency;
e) industrial disputes, strikes or labour shortages;
f) failure of utilities, telecommunications or internet services not under the reasonable control of the affected party;
g) interruption or failure of cloud services, hosting providers or other third-party infrastructure upon which the Services reasonably depend;
h) cyber attacks affecting national infrastructure or widespread service providers;
i) changes in law, regulation or governmental restrictions;
j) acts or omissions of governmental or regulatory authorities;
k) any other event beyond the reasonable control of the affected party.

18.3 Notification

The affected party shall notify the other party as soon as reasonably practicable after becoming aware of a Force Majeure Event.

The notice shall include, where reasonably possible:

a) the nature of the Force Majeure Event;
b) the obligations affected;
c) the anticipated duration;
d) the steps being taken to minimise its impact.

18.4 Mitigation

The affected party shall use reasonable endeavours to:

a) minimise the effects of the Force Majeure Event;
b) resume performance of its obligations as soon as reasonably practicable;
c) keep the other party informed of material developments.

18.5 Suspension of Obligations

The obligations affected by the Force Majeure Event shall be suspended only for the duration of the Force Majeure Event.

All other obligations under this Agreement shall remain in full force and effect.

18.6 Payment Obligations

Nothing in this Clause shall relieve the Customer of its obligation to pay for:

a) Services already provided;
b) Professional Services already delivered;
c) invoices properly issued before the Force Majeure Event.

Where the Force Majeure Event prevents the Company from delivering the Services for a prolonged period, the parties shall discuss in good faith any appropriate adjustment to future Charges.

18.7 Extended Force Majeure

Where a Force Majeure Event continues for a continuous period of twelve (12) weeks, and materially prevents the performance of the Agreement, either party may terminate this Agreement by giving thirty (30) days' written notice to the other party.

Neither party shall incur liability to the other solely as a result of such termination.

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18.8 No Force Majeure

The following shall not constitute Force Majeure Events:

a) lack of financial resources;
b) failure to make payment when due;
c) staff shortages that could reasonably have been avoided through normal business planning;
d) failure of subcontractors where alternative suppliers could reasonably have been engaged.

18.9 Business Continuity

The Company shall maintain appropriate business continuity arrangements to support the continued delivery of the Services where reasonably practicable.

The Customer acknowledges that no business continuity arrangements can eliminate all disruption arising from a Force Majeure Event.

18.10 Survival

The rights and obligations contained within this Clause shall survive termination of this Agreement where necessary to deal with any Force Majeure Event occurring prior to termination.

19. GENERAL

19.1 Relationship of the Parties

Nothing contained within this Agreement shall create or be deemed to create a partnership, joint venture, agency, employment relationship or fiduciary relationship between the Company and the Customer.

The Company shall act at all times as an independent contractor.

19.2 No Authority to Bind

Neither party shall have authority to enter into any contract or incur any liability on behalf of the other party unless expressly authorised in writing.

19.3 Good Faith

The parties shall act in good faith and cooperate reasonably with one another to facilitate the successful delivery of the Services.

Nothing in this clause shall oblige either party to act contrary to its legitimate commercial interests or legal obligations.

19.4 Waiver

No delay or failure by either party in exercising any right or remedy under this Agreement shall constitute a waiver of that right or remedy.

Any waiver shall only be effective if made in writing and signed by an authorised representative of the party granting the waiver.

A waiver of one breach shall not constitute a waiver of any subsequent breach.

19.5 Severability

If any provision of this Agreement is held by a court or tribunal of competent jurisdiction to be unlawful, invalid or unenforceable, that provision shall, to the minimum extent necessary, be deemed severed from this Agreement.

The remaining provisions shall continue in full force and effect.

The parties shall negotiate in good faith to replace any invalid provision with one that most closely reflects the original commercial intention.

19.6 Third Party Rights

A person who is not a party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement unless expressly stated otherwise.

19.7 Electronic Signatures

The parties agree that this Agreement may be executed electronically.

Electronic signatures shall have the same legal effect as handwritten signatures.

19.8 Counterparts

This Agreement may be executed in any number of counterparts, each of which shall constitute an original and together shall constitute one Agreement.

19.9 Further Assurance

Each party shall, at its own expense, execute such documents and perform such acts as may reasonably be required to give full effect to this Agreement.

19.10 No Exclusivity

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Nothing within this Agreement shall prevent the Company from providing similar consultancy services to other customers, provided that the Company's obligations of confidentiality are maintained.

19.11 Professional Independence

The Customer acknowledges that the Company may provide consultancy services to organisations operating in similar sectors.

The Company shall ensure that no Confidential Information or Intellectual Property belonging to the Customer is disclosed to any other client.

Where the Company identifies an actual or potential conflict of interest that may materially affect the provision of the Services, the Company shall promptly notify the Customer and take reasonable steps to manage or avoid the conflict.

19.12 Records

The Company may retain working papers, consultancy notes, audit records and other internal documentation generated during the provision of the Services.

Such records shall remain the property of the Company and may be retained in accordance with the Company's document retention policies and any applicable legal or regulatory obligations.

19.13 Compliance with Laws

Each party shall comply with all applicable laws, regulations and codes of practice relevant to the performance of its obligations under this Agreement.

19.14 Anti-Bribery

Each party warrants that it shall comply with the requirements of the Bribery Act 2010 and shall maintain appropriate policies and procedures designed to prevent bribery and corruption.

Neither party shall engage in any activity which would cause the other party to breach applicable anti-bribery legislation.

19.15 Modern Slavery

Each party shall comply with all applicable legislation relating to modern slavery and human trafficking, including the Modern Slavery Act 2015 where applicable.

19.16 Survival

Any provision of this Agreement which expressly or by implication is intended to survive termination shall remain in full force and effect following termination.

20. NOTICES

20.1 Form of Notice

Any notice or other communication given under or in connection with this Agreement shall be in writing and shall be:

a) delivered by hand;
b) sent by pre-paid first-class post or recorded delivery;
c) sent by recognised overnight courier; or
d) sent by electronic mail (email).

20.2 Company Notices

Notices to the Company shall be sent to:

Tela Technology Limited

4 Station Court
Old Station Road
Hampton in Arden
Solihull
West Midlands
B92 0HA
Email: finance@telatechnology.com

or to such other postal or email address as the Company may notify to the Customer from time to time.

20.3 Customer Notices

Notices to the Customer shall be sent to the postal address or email address specified within the Order Form or to any replacement address notified by the Customer in writing.

20.4 Deemed Receipt

A notice shall be deemed to have been received:

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a) if delivered by hand, at the time of delivery;
b) if sent by first-class post or recorded delivery, at 9:00 a.m. on the second Business Day after posting;
c) if sent by recognised overnight courier, upon signed delivery;
d) if sent by email, at the time of transmission provided that no automated error or delivery failure notification has been received.

Where an email is sent outside Standard Working Hours, it shall be deemed received at 9:00 a.m. on the next Business Day.

20.5 Legal Proceedings

This Clause does not apply to the service of legal proceedings or other documents in any legal action or arbitration where service is governed by applicable law or court rules.

20.6 Change of Address

Either party may change its address for service by giving written notice to the other party in accordance with this Clause.

Such change shall take effect five (5) Business Days after receipt of the notice unless a later date is specified.

20.7 Validity of Electronic Communications

The parties acknowledge that electronic communications form part of their normal business relationship.

Subject to this Clause, notices transmitted by email shall be treated as valid written communications.

Where either party reasonably requests confirmation of receipt, the receiving party shall acknowledge receipt as soon as reasonably practicable.

20.8 Survival

The provisions of this Clause shall survive termination of this Agreement where necessary for the purposes of enforcing rights or obligations arising under this Agreement.

21. ENTIRE AGREEMENT, ASSIGNMENT AND VARIATION

21.1 Entire Agreement

This Agreement constitutes the entire agreement between the Company and the Customer relating to the Services and supersedes all previous discussions, negotiations, correspondence, understandings, representations, warranties and agreements, whether written or oral, relating to its subject matter.

21.2 Reliance

Each party acknowledges that, in entering into this Agreement, it has not relied upon any representation, warranty, statement or undertaking made by or on behalf of the other party other than those expressly set out in this Agreement.

Nothing in this Clause shall limit or exclude liability for fraud or fraudulent misrepresentation.

21.3 Pre-Contract Discussions

Any quotations, proposals, presentations, demonstrations, marketing materials or discussions provided before the execution of this Agreement are provided for information only and shall not form part of this Agreement unless expressly incorporated by reference.

21.4 Assignment by the Customer

The Customer shall not assign, novate, transfer, subcontract or otherwise dispose of any of its rights or obligations under this Agreement without the prior written consent of the Company.

Such consent shall not be unreasonably withheld where the proposed assignment forms part of a genuine corporate reorganisation and does not materially increase the Company's obligations or commercial risk.

21.5 Assignment by the Company

The Company may assign, transfer, novate or subcontract all or part of its rights and obligations under this Agreement to:

a) any company within the Tela Technology group;
b) any successor business following a merger, acquisition or corporate restructuring;
c) any suitably qualified subcontractor engaged to assist in the provision of the Services,

provided that such assignment or subcontracting does not materially reduce the standard of the Services.

The Company shall remain responsible for the performance of any Services carried out by subcontractors.

21.6 Business Transfer

The Customer acknowledges that the Company may transfer this Agreement as part of the sale, merger or transfer of all or substantially all of its business, provided the transferee agrees to be bound by the terms of this Agreement.

21.7 Variation

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No amendment, modification or variation of this Agreement shall be effective unless:

a) it is recorded in writing; and
b) it is signed by authorised representatives of both parties,

except where this Agreement expressly permits the Company to amend specific provisions, including Charges, in accordance with Clause 9.

21.8 Regulatory Changes

Where changes in legislation, regulatory guidance or recognised industry standards materially affect the provision of the Services, the Company may propose reasonable amendments to this Agreement.

The parties shall act in good faith to agree any amendments reasonably required to maintain legal or regulatory compliance.

Where agreement cannot be reached within thirty (30) days, either party may terminate the Agreement by giving ninety (90) days' written notice.

21.9 Survival

The rights and obligations contained within this Clause shall survive termination of this Agreement where necessary to give effect to its provisions.

22. GOVERNING LAW AND DISPUTE RESOLUTION

22.1 Governing Law

This Agreement, and any dispute or claim (including any non-contractual dispute or claim) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the laws of England and Wales.

22.2 Good Faith Resolution

In the event of any dispute arising out of or in connection with this Agreement, the parties shall use reasonable endeavours to resolve the dispute promptly and in good faith through discussion and negotiation.

Either party may request a meeting between senior representatives of the parties, which shall take place within fourteen (14) days of such request, unless otherwise agreed.

22.3 Mediation

If the dispute has not been resolved within twenty-eight (28) days of the commencement of negotiations under Clause 22.2, either party may invite the other to participate in mediation administered by the Centre for Effective Dispute Resolution (CEDR) or another mediation provider agreed by the parties.

Unless otherwise agreed, the costs of mediation shall be shared equally between the parties.

Nothing in this Clause shall oblige either party to continue mediation where it reasonably considers that mediation is unlikely to resolve the dispute.

22.4 Urgent Relief

Nothing in this Clause shall prevent either party from seeking:

a) an injunction;
b) specific performance;
c) interim relief;
d) any other urgent remedy,

where such relief is necessary to protect that party's legal rights, Confidential Information, Intellectual Property Rights or other legitimate business interests.

22.5 Jurisdiction

Subject to Clause 22.4, the courts of England and Wales shall have exclusive jurisdiction to determine any dispute or claim arising out of or in connection with this Agreement.

22.6 Continuing Performance

Unless prevented by law or where the Agreement has been terminated, both parties shall continue to perform their respective obligations under this Agreement whilst any dispute is being resolved.

The Customer shall remain liable to pay all undisputed Charges in accordance with Clause 9.

22.7 Costs

Each party shall bear its own legal and professional costs incurred in connection with any dispute unless otherwise:

a) agreed in writing between the parties;
b) awarded by a court of competent jurisdiction; or
c) determined by any applicable statutory provision.

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22.8 Limitation Period

Neither party shall commence legal proceedings arising out of this Agreement unless it has first complied with Clauses 22.2 and 22.3, except where immediate proceedings are reasonably necessary to:

a) preserve legal rights;
b) comply with statutory limitation periods;
c) seek urgent interim relief;
d) recover undisputed debts.

22.9 Survival

The provisions of this Clause shall survive termination or expiry of this Agreement.