

# **ADEW Consulting Terms**

Terms for the Supply of Services

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## **- Terms for the Supply of Services**

### **1. DEFINITIONS**

- 1.1 In these Terms, the definitions and headings to the paragraphs in the Contract Confirmation Note and apply together with the following definitions:
  - 1.1.1 **"Assignment Period"** means the period during which ADEW is engaged by Client to render Services whether or not extended beyond the Assignment End Date;
  - 1.1.2 **"the Contract"** means these Terms and the Contract Confirmation Note
  - 1.1.3 **"Contract Confirmation Note"** means the document attached to these Terms;
  - 1.1.4 **"Intellectual Property"** means any interest or right anywhere in the world in the nature of a patent, copyright, registered design, trademark or other category of tangible or intangible intellectual property whether or not registrable;
  - 1.1.5 **"Personnel"**: means staff supplied by ADEW to Client to carry out the Assignment.

### **2 THE CONTRACT**

- 2.1 These Terms together with the Contract Confirmation Note shall upon being signed by both parties constitute the Contract between Client and ADEW.
- 2.2 No variation or alteration to any part of the Contract shall be valid unless approved in writing by persons duly authorised by ADEW and Client.
- 2.3 In the event of conflict the provisions of the Contract Confirmation Note will override these Terms.

### **3 THE ASSIGNMENT**

- 3.1 Personnel assigned to perform Services and any substitution of them shall be at the absolute discretion of ADEW subject only to Personnel's ability to properly perform the Services.
- 3.2 ADEW shall not be obliged to provide a replacement in the event of illness or injury of Personnel.

### **4 FEES**

- 4.1 ADEW will submit invoices to Client on a monthly basis unless otherwise indicated in the Contract Confirmation Note.
- 4.2 Unless otherwise indicated in the Contract Confirmation Note payment of ADEW's remuneration (together with any applicable VAT) will be made by direct credit to ADEW's bank account on the Friday of the week of receipt of invoice provided it is received prior to 5.00pm on the Tuesday of that week.

## **5 TAXATION**

- 5.1 ADEW shall be responsible for any income tax and national insurance contributions and any other taxes or deductions payable in respect of Personnel for any Assignment Period and nothing in the Contract shall operate to establish a relationship of employer and employee between Client and ADEW or any Personnel.

## **6 LIABILITY**

- 6.1 ADEW shall be liable for any direct loss, damage or injury to Client resulting from the negligent act or omission of itself or Personnel during an Assignment Period provided that liability for such loss or damage shall be limited to the total fees payable for the Services during the Assignment Period.
- 6.2 In no event shall ADEW or Client be liable to the other party in respect of loss of profits, data, business, revenue, goodwill or anticipated savings or indirect or consequential loss or damage (whether caused by negligence or otherwise) or the acts or omissions of any third party (whether as a result of negligence or otherwise) resulting from a breach of the Contract.
- 6.3 ADEW maintains professional indemnity insurance (more details on request), and shall provide a 'Confirmation Of Cover' letter to Client upon demand.
- 6.4 Without prejudice to clauses 6.1 to 6.3 above where any shortcoming in the Services has arisen and ADEW has accepted liability or contested liability has been proven by law, ADEW shall remedy such shortcoming at its own cost.

## **7 CONTRACTOR'S OBLIGATIONS**

- 7.1 ADEW agrees on its own part and on behalf of Personnel as follows:
- 7.1.1 not to engage in any conduct detrimental to the interest of Client during the Assignment Period;
- 7.1.2 to comply with any rules or obligations in force at any Client Site to the extent that they are reasonably applicable;
- 7.1.3 to provide all necessary materials and equipment necessary for the performance of the Services unless such performance requires the use of Client facilities present at any Client Site;
- 7.1.4 at its own cost to ensure that ADEW and all Personnel undertake any training or other activities necessary to maintain appropriate and up to date skills for the proper provision of the Services.
- 7.2 Nothing in the Contract shall bind ADEW or any Personnel to be available during the Assignment Period exclusively for the benefit of Client or restrict ADEW or such Personnel from accepting requests for or performing services to any third party or parties during the Assignment Period.
- 7.3 Client acknowledges that:
- 7.3.1 ADEW has assumed Client to have knowledge, either through its own experience (or procured through employees, associates, representatives or consultants) of the capacity, functionality and any shortcomings of software and/ or hardware (of whatever versions or specification) to be deployed and used by ADEW in the performance of the Services as detailed in the Contract; and

7.3.2 ADEW will assume that Client is satisfied, having exercised that knowledge, that the equipment and methods to be deployed will be satisfactory for its purposes; and

7.3.3 ADEW shall not be responsible for any delay or shortcomings in the provision of the Services due to a failure by any third party supplier approved by Client.

## **8 INTELLECTUAL PROERTY**

8.1 Unless otherwise agreed in writing ADEW acknowledges that all Intellectual Property deriving from the provision of the Services for Client during the Assignment Period shall belong to Client and ADEW hereby assigns to Client all rights in such Intellectual Property whether existing or future **provided always** that such ownership and assignment shall not relate to any standard template previously developed by and deployed by ADEW in delivering the Services or any specialist technique or materials used by ADEW or any Personnel where such technique or materials existed prior to the Assignment Commencement Date and were not developed exclusively for Client in the provision of Services unless otherwise expressly agreed in writing by ADEW and/ or any Personnel concerned.

## **9. CONFIDENTIALITY**

9.1 ADEW (for itself and Personnel) and Client shall use all reasonable endeavours to keep confidential all information received by them relating to any part of the business and affairs of the other party provided that these obligations shall not apply to information which:

9.1.1 is or becomes publicly known through no wrongful act of the party concerned; or

9.1.2 is required to be disclosed by an order of law or other binding authority; or

9.1.3 is disclosed to any adviser of either party bound by a professional duty of confidentiality.

9.2 Each party shall notify the other in writing if it becomes aware of any breach of confidentiality and give all reasonable assistance to the other party in pursuing its rights where a breach of confidence occurs.

## **10. TERMINATION**

10.1 ADEW or Client may terminate the Assignment immediately in the event of any material breach of duty, act of misconduct or incompetence or non-performance by the other party during the Assignment Period which, where capable of remedy, has not been remedied within 21 days of a written notice requiring such remedy.

10.2 Either party may terminate the Assignment in the event that the other party enters into a voluntary arrangement with its creditors or (being an individual) is the subject of a bankruptcy order or (being a partnership, company or other body) enters into any formal proceedings (or anything analogous) for its administration, receivership, winding-up or liquidation (except for the purpose of amalgamation or a solvent reconstruction) or otherwise ceases to trade.

## **11. FORCE MAJEURE**

11.1 If either party is unable to carry out any of its Contract obligations due to a matter beyond its reasonable control ("**a Force Majeure**") the Contract shall continue and both parties' obligations in respect of the matter concerned shall be suspended without liability

until the Force Majeure ceases to exist. Either party may terminate the Contract if the Force Majeure cannot be remedied in all material respects within 4 weeks of its commencement.

## **12. NOTICES**

- 12.1 Any notice to be served by either party shall be in writing and either delivered personally or sent by first class recorded delivery post to the party to whom the notice is addressed at its address set out in the Contract or such other address subsequently notified in writing to the other party.
- 12.2 A notice is deemed duly given if delivered personally when left at the recipient's address for service and if sent by first class recorded delivery post, at 10.00 hours on the working day following the recorded day of delivery.

## **13. GENERAL**

- 13.1 No press or other public statement shall be made in respect of the Assignment without the prior written consent of the other party (consent not to be unreasonably withheld or delayed).
- 13.2 The headings to clauses in these Terms are for ease of reference only and shall not be construed otherwise.
- 13.3 The Contract sets out the entire agreement and understanding between the parties in connection with its subject matter and shall, other than in the case of fraud, override all previous verbal or written agreements and understandings and any implied warranties (so far as permissible at law).
- 13.4 Neither party shall be entitled to assign its rights or obligations under the Contract without the prior written consent of the other (such consent not to be unreasonably withheld or delayed).
- 13.5 No whole or partial failure to exercise and no delay in exercising any right hereunder shall operate as a final waiver thereof unless expressed as such in writing.
- 13.6 Nothing in the Contract is intended to confer a benefit on party other than the parties themselves. Even if a third party has a right to enforce any part of the Contract by virtue of section 1 of the Contracts (Rights of Third Parties) Act 1999, the parties may, notwithstanding section 2(1) of the Contracts (Rights of Third Parties) Act 1999, vary or cancel the provisions of the Contract by agreement between them without requiring the consent of such third party.

## **14. LAW AND JURISDICTION**

- 14.1 The Contract shall be governed by and construed in accordance with English law and each party irrevocably submits to the exclusive jurisdiction of the Courts of England.