

# Terms and Conditions

## 1. Definitions

1.1 In these conditions the following expressions will have the following meanings:

**“Client”** means the person described as such in a Proposal or if not so described the person who has agreed to purchase the agreed service(s).

**“Company”** means InfoSec Governance Ltd of 73 Duke Street, Darlington, DL3 7SD. Company number: 12289766.

**“Confidential Information”** shall include all business, financial and operational information of a secret and proprietary nature relating to the business of either party which may or may not have been disclosed to the other party.

**“Contract”** means the agreement between the Company and the Client for the sale and/or the provision of services comprising these terms and proposal.

**“Intellectual Property Rights”** means all rights in inventions, patents, trademarks, service marks, trade names, rights in designs, copyrights (including rights in computer software) rights in know-how, moral rights, rights in confidential information, rights in databases, compilation rights and topology rights and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of these which may subsist anywhere in the world (whether or not any of these is registered and including application for registration of any such thing).

**“Proposal”** means the detailed document produced by the Company setting out the Client’s requirements and the price for the Services. These conditions shall apply to each such Proposal.

**“Services”** means the services described in the Proposal to be provided by the Company including any work to be carried out by the Company.

**“Term”** means the period of time specified in the Proposal for the duration of the Contract, commencing on the date on which these conditions are signed by both parties.

1.2 In the event of any inconsistency between the provision of these conditions and the provisions of any Proposal, these conditions shall apply.

## 2. Services

2.1 The Company agrees to supply and the Client agrees to purchase the Services subject to the terms of this Contract.

## 3. Price and payment terms

3.1 The price of the Services is specified in the Proposal which the Client shall pay. Further Services may be included within the Services on a time and materials basis at the Company’s then current standard daily rate, details of which the Company will supply to the Client at the Client’s request.

3.2 Charges will be reviewed annually on the anniversary of this Contract, based on the change in the Retail Prices Index between the anniversary of the Contract and the date 12 months before. Charges may only be varied on the written agreement of both parties.

3.3 The Company may invoice the Client for the price of the Services on or after delivery. Payment will be made by the Client within 14 days of invoice receipt.

3.4 Notwithstanding any other provision of this Contract if the Client fails to make any payment on the due date then without prejudice to any other right or remedy available to the Company will be entitled to:

- i. Cancel any discount that may have been granted to the Client, whereupon the Client shall become liable to pay for all prices in full.
- ii. Charge the Client interest (both before and after any judgement) on the amount unpaid at the rate of 2% per annum above base rate from time to time in force (or at a rate of 15% per annum in the event of such a base rate being abolished or such lesser amount as is maximum permissible by law) until payment is made in full (a part of a month being treated as a full month for the purposes of calculating interest).

3.5 The Client acknowledges that the Company incurs expense in allocating resources to the performance of the Services which may not be readily deployed on other projects immediately in the event of the cancellation by the Client of any of those Services, in which case the Company is entitled to invoice the Client for 30% of the price of the cancelled Services, in addition to any charge payable in relation to any portion of the Services that may be been supplied prior to the date of cancellation.

#### **4. Warranties and limitation of liability**

4.1 The Client confirms that its requirements will be fully notified to the Company in advance for each Service to be performed and that it will inform the Company in writing of all the facts and matters relating hereto and that it will carry out at its expense all things that the Company reasonably requires of it in connection with the performance of the Services.

The Client warrants and represents that it is entitled to grant the Company access to its systems, databases, networks and services, and to otherwise permit the Company to do all things reasonably necessary to be done in order for the Company to perform the Services, and the Client hereby indemnifies the Company and holds the Company harmless from and against all claims, demands, actions, liabilities, costs and expenses (including reasonable legal fees and expenses) incurred by the Company arising out of or in connection with any breach of that warranty and representation.

4.2 The Company warrants that it will perform Services with reasonable skill and care, provided that all other warranties and all representations, conditions, warranties, terms and undertakings, whether express or implied, statutory or otherwise in respect of its Services are hereby excluded to the fullest extent permitted by law. The Company reserves the right if necessary to make minor modifications to the Services that do not materially adversely affect the services.

4.3 Notwithstanding the warranty clause in 4.2, the Company does not warrant that its Services will be error free or that they will detect or address every security issue in relation to the Client's network, systems, workstations, software applications or databases, and in particular non-published forms of unauthorised access, means of access and their solutions.

4.4 The warranty in clause 4.2 does not extend to Services manufactured by, performed by or obtained from a third party in respect of which the Client shall only receive the benefit of any

warranty or guarantee as may be given to the Client by the third-party supplier. The Client is strongly advised to enter into appropriate maintenance agreements with third party suppliers.

- 4.5 Unless otherwise agreed in writing, no brochures, publicity or advertising material whatsoever form part of this Contract.
- 4.6 The Company shall only be liable to the Client for liability arising directly from the Company's own breach of his Contract, negligence or wilful misconduct.
- 4.7 The Company's entire liability under this Contract (including any liability for the acts and omissions of its employee's, agents and sub-contractors) to the Client will be excluded unless the Company is given notice in writing of any claim within 90 days of the Client becoming aware of the circumstances giving rise to the claim.
- 4.8 The aggregate amount for which the Company shall be liable under this Contract shall be limited to refunding any monies paid by the Client in respect of the Services the subject of the claim save that in respect of damaged to tangible property of the Client resulting from the negligence of the Company, the Company's liability will be limited to £250,000.
- 4.9 The Company shall not in any event be liable howsoever and whatever the cause hereof for:
- i. Any loss of data, files or software applications.
  - ii. Any loss or anticipated business, profits or savings.
  - iii. Any type of special indirect or consequential loss of damage of whatever nature.
  - iv. For any damage or loss arising as a result of the Client failing to follow any instructions relating to the Services.
  - v. If the total price for the Services has not been paid by the due date for payment.
- 4.10 Nothing in this Contract shall limit or exclude either party's liability for fraud, or for death or personal injury caused by the party's own negligence or that of its servants or agents.
- 4.11 If a number of events give rise to the same loss then they shall be regarded as giving rise to only one claim under this Contract and nothing in this Contract shall confer any rights or remedies upon the Client to which it would not be otherwise are legally entitled.

## **5. Title, proprietary rights and licenses**

- 5.1 Nothing in this agreement shall amount to a license of any software or tools or any documents or other information or materials in favour of the Client, not transfer to, or invest in the Client any Intellectual Property Rights in any of the Services, software, tools, documents or other information or materials used or supplied by the Company in connection with the performance of the Services, provide that the Client shall have a non-transferable, worldwide, perpetual license to use any report supplied by the Company to the Client only for the Client's own business purposes and not for resale or re-supply to any third party.
- 5.2 All Intellectual Property Rights in the Services, information, software, tools and other materials used or supplied by the Company in connection with the performance of the Services shall remain vested in the owners hereof.
- 5.3 The Client agrees to enter into such software and other licenses as shall be reasonably required in connection with the Services.

## **6. Access Authority**

6.1 The Client will sign by return a letter of authority which provides permission for the Company's employees to access the computer systems of the Customer as understood under the terms of the Computer misuse Act 1990. The Client signatory will confirm that they have the authority to grant permission for the systems involved, and the permission is limited to the system(s) involved within an agreed timescale.

## **7. Termination**

7.1 This contract may be terminated or suspended:

- a. By the Company, if the Client fails to pay any sum to the Company when due; or
- b. By either party if the other fails to remedy any breach or non-performance by it of the Contract (if capable of remedy) within 30 days of receiving notice to do so; or
- c. By either party if the other party is or is deemed to be insolvent or steps are taken to propose any composition scheme or arrangement involving the other party and its creditors, or to obtain an administration order or to appoint any administrative or other receiver to manager of the other party or any of its property or otherwise enforce any security over the other party or reprocess its assets or file a petition in bankruptcy or to wind-up or dissolve the other party or sequesterate its estate, or if done outside England corresponding to any of the above occurs.

7.2 Any termination of this Contract shall not affect the accrued rights or liabilities of either party not the coming into force or continuation of any provision which is expressly or by implication intended to come into or continue in force after such termination.

## **8. Non-solicitation by the Client**

8.1 The Client shall not during the term of this Contract and for a period of 12 months after delivery of the Services solicit or entice or contact any of the Company's staff who have been employed or engaged in the performance of this Contract for the purposes of directly or indirectly soliciting, hiring, retaining or engaging of such person as an employee, director, agent, consultant or contractor.

## **9. Variations to the Contract**

9.1 This Contract constitutes the whole Contract between the parties in relation to its subject matter and supersedes all previous representations, understandings, arrangements and other agreements that may have been given or made between the parties and to the exclusion of any other terms and conditions whether contained in or referred to in the Client's order or correspondence or otherwise. Nothing in this Contract is intended to confer any benefit on any third party (whether herein by name, class, description or otherwise) or any right to enforce a term contained in this Agreement.

9.2 This Contract may only be varied in writing signed by both parties, and no order of the Client is accepted by the Company unless confirmed by the Company in writing, which order shall be subject only to the terms of this Contract and not any terms contained in such order.

## **10. Force Majeure**

10.1 No party shall be liable for failure to perform its obligations under this Contract (save for the obligation if the Client to pay the Company) if the failure results from circumstances beyond its reasonable control.

## **11. Waiver**

11.1 No waiver by either party of any breach of this Contract by the other party shall operate as a waiver of any other breach not shall the innocent party's rights and remedies be prejudiced by any indulgence or forbearance granted to the other party.

## **12. Severability**

12.1 If at any time one or more of the provisions of the contract is held invalid illegal or unenforceable in any respects such provision or part thereof shall be deemed not to be included in the Contract and the validity and enforceability of the remaining provisions shall not be affected or impaired thereby, provided that the Company is not thereby deprived of payment and the Client is not thereby deprived of the substance of the Services.

## **13. Notices**

13.1 Any notice shall be in writing and may be given by delivering or sending the same by pre-paid recorded delivery or first class post, in the case of the Company to its registered office, and in the case of the Client to its address stated in the Proposal or as notified from time to time. Any notices sent by pre-paid delivery or first class post shall be deemed to have been served twenty-four hours after posting.

## **14. Confidentiality**

14.1 No public announcement, press release, communication or circular concerning this Contract will be made or sent by either party without the other party's prior written consent, which shall not be unreasonably withheld or delayed.

14.2 Each party acknowledges that Confidential Information may be disclosed to it or otherwise come to its attention. Each party ("the receiving party") agrees and undertakes that it will hold any Confidential Information in complete confidence and will not disclose it in whole or in part at any time to any third party, nor use Confidential Information for any purpose other than the performance of its obligations under this Contract. This provision shall survive the termination of this Contract for any reason for a period of 2 years commencing immediately on the date of such termination.

14.3 Confidential Information shall not include information which:

- a. At or prior to the time of disclosure by the disclosing party was known to the receiving party as evidenced in writing, except to the extent that such information was unlawfully obtained.
- b. At or after a time of disclosure by the disclosing party becomes generally available to the public other than through any act or omission on the part of the receiving party.
- c. Is received by the receiving party from a third party free to make such disclosure without breaching any legal obligation.
- d. Is independently developed by the receiving party without regard to any of the Confidential Information; or
- e. Is required to be disclosed by law, court order or request by any government or regulatory authority.

## **15. Employee Human rights**

15.1 The Company respects the right for a private and family life as per the Human Rights Act Article 8, and the Company employees have given permission for email and Internet monitoring to take place as part of their employment contract.

## **16. Data Protection Compliance**

16.1 The Company is committed to be fully compliant with the Data Protection Act 2018, and the GDPR. Data is lawfully held and processed for limited purposes, and is not held longer than is necessary.

16.2 Upon signing of this document, the client agrees that their information can be used and stored for the purposes of:

- Direct sales through any means including but not limited to emails and mailshots
- Use within the ISG CRM

16.3 Third party access to the client data will be strictly controlled and only provided on a as needed basis.

16.4 The storage of client information from the services provided by the company will be stored for as long as is deemed fit for the provision of services. This term will be the length of the contract plus 2 years.

16.5 Client information will be kept on the company CRM system until such time that removal is requested.

16.6 All information, client or otherwise will be stored within Europe and may be stored physically or virtually within cloud-based systems.

16.6.1.1 If cloud-based systems are used, they will adhere to GDPR, the UK DPA 2018 and / or the US privacy Shield.

16.6.1.2 All access to cloud based systems will be restricted to authorised personnel only.

16.6.1.3 Cloud based systems, require that Two-factor authentication is mandated.

## **17. Law and Jurisdiction**

17.1 This Contract shall be governed by and constructed in accordance with English law and the parties agree to submit any disputes under it to the non-exclusive jurisdiction of the English Courts.