

PROFESSIONAL SERVICES TERMS AND CONDITIONS

PROFESSIONAL SERVICES TERMS AND CONDITIONS

Effective as of 01/04/2023

The Supplier's Master Terms and Conditions (available [here](#)) apply to these Professional Services Terms and Conditions.

Neuways Limited ("Supplier") will provide services and deliverables to the Customer in accordance with these terms and conditions. The Supplier may amend or replace these terms and conditions on one month's written notice to the Customer in which case the Customer will be requested to acknowledge and accept the updated terms and conditions prior to further services and deliverables being provided. For existing Contracts, the terms and conditions in place at the time that the Contract was made continue to apply for that Contract, unless the Customer agrees otherwise in writing. By ordering services and/or deliverables from the Supplier as described in these terms and conditions, the Customer acknowledges and accepts that these terms and conditions apply. Any additional or different terms that the Customer includes in any communication with the Supplier will not be binding on the Supplier or included in any Contract unless expressly agreed upon in writing by the Supplier.

In these terms and conditions, and in any Accepted Proposal or Statement of Work, capitalised words have the meanings given to them in clause 16.

1 Requests for Services

1.1 The Customer may at any time request the Supplier to provide services that are generally available from the Supplier. If the Supplier cannot provide the requested services for whatever reason, the Supplier will notify the Customer.

1.2 When the Supplier receives a request for services from the Customer:

- (a) in the case of Low Priority Tasks (which are tasks estimated to take two hours or less), the Supplier will provide the Services at the Supplier's applicable standard rates without issuing any written proposal or description of the services to be provided;
- (b) in all other cases, issue a Proposal or draft Statement of Work.

When work is commenced as a 'Low Priority Task' the Supplier is not confirming that the work will be completed within the maximum time for a Low Priority Task and may issue a Proposal or Statement of Work if it appears that a longer time period will be required.

1.3 A 'Contract' is made (which in each case include these terms and conditions):

- (a) in the case of Low Priority Tasks, when the Supplier commences supply of the requested Services; or
- (b) in the case of Proposals, if and when a Proposal is accepted in writing by the Customer ('Accepted Proposal'); or

- (c) in the case of Statements of Work, if and when a Statement of Work is signed by both parties.

2 **Provision of Services and Deliverables**

2.1 The Supplier will provide the Services and Deliverables to the Customer:

- (a) with reasonable skill and care;
- (b) within the agreed timeframes (if any);
- (c) in accordance with:
 - i. the Contract;
 - ii. currently accepted principles and practices applicable to the provision of the Services;
 - iii. all applicable laws; and
 - iv. the reasonable instructions of the Customer.

2.2 Where Services and Deliverables are provided in the areas described in clause 2.2 (c) and (d) below, the Customer acknowledges and accepts that the Services and Deliverables are intended to:

- (a) provide guidance to the Customer;
- (b) reduce risk for the Customer;

and while the Supplier draws on the Supplier's relevant experience and skills and information available to the Supplier, the Supplier provides no assurance to the Customer that the Services and Deliverables will meet the Customer's requirements or provide a full solution.

For the purposes of this clause 2.2, the relevant areas are:

- (c) cyber security guidance;
- (d) deliverables to address cyber risks;

3 **Customer's obligations**

3.1 The Customer will:

- (a) in all matters in relation to each Contract act reasonably and make reasonable decisions bearing in mind any time constraints specified in the applicable Accepted Proposal or Statement of Work;
- (b) perform each Contract, make all decisions and provide all sign-offs required of the Customer, and where applicable run acceptance testing, in accordance with the timing in the applicable Accepted Proposal or Statement of Work, subject to performance by the Supplier;

- (c) make available to the Supplier in a timely manner (and in accordance with any timeframes which the Customer has agreed to) all facilities and all assistance, including personnel, information, services and equipment reasonably required by the Supplier;
 - (d) where required to provide data to the Supplier, provide that data in a format suitable for import and otherwise as reasonably requested by the Supplier;
 - (e) meet all of the Customer's obligations as specified in these terms and conditions and in any applicable Accepted Proposal or Statement of Work;
 - (f) provide the Supplier with such access to its systems as reasonably required by the Supplier; and
 - (g) undertake frequent and adequate data backups (or ensure that these are undertaken). The Customer should ensure that backups are always completed, as well as ensuring the backups are secure and checking that they can be successfully restored.
- 3.2 The Supplier has no liability for deficiencies in Services or Deliverables provided to the Customer that result from the acts or omissions of the Customer or which result from provision of the Services or Deliverables in accordance with Customer's instructions.
- 3.3 The Supplier may require access to and/or the use of certain software, information and other things owned by the Customer or owned or licensed to the Customer by the Customer's suppliers ("Customer Materials") in performing the Services and certain Customer Materials may be provided to the Supplier to be incorporated into or used in the development of the Deliverables. The Customer represents and warrants to the Supplier that the Customer has all requisite authority to permit the Supplier to access and use the Customer Materials as required and that such access and use will not infringe any third party's intellectual property rights.

4 Variations and change requests

- 4.1 If the Customer requires any variation to the Deliverables or Services, or any other aspect of an Accepted Proposal or Statement of Work, the Customer will make a request to the Supplier, in writing, with relevant details.
- 4.2 On receipt of a request under clause 4.1, the Supplier will:
- (a) if the request involves two hours' work or less, confirm to the Customer in writing that the Supplier will action the request. All work undertaken in carrying out the request will be charged to the Customer at the Supplier's then current standard hourly rates; or
 - (b) if the request involves more than two hours' work advise the Customer that the Customer must submit a change request in respect of the request under clause 4.3, in which case clauses 4.3 – 4.6 (inclusive) apply.
- 4.3 The Customer may request a change to or in respect of the Deliverables or Services or any other aspect of an Accepted Proposal or Statement of Work by issuing to the Supplier a

written change request, which if required by the Supplier will be written using the Supplier's change request form ("Change Request") in writing (by email or otherwise) or by support ticket.

- 4.4 On receipt from the Customer of a Change Request, the Supplier will provide an estimate to the Customer for the Change Request ('Estimate') and notify the Customer of the likely impact on the timing of the work. All work carried out by the Supplier in preparing an Estimate will be charged to the Customer at the Supplier's then current standard rates, subject to a minimum charge of one hour which will apply to each Change Request received from the Customer.
- 4.5 The Customer has ten Working Days (unless stated otherwise in the Estimate) within which to accept the Estimate (and so confirm that the Customer wishes the Supplier to proceed with the Change Request) and acceptance must be in writing issued to the Supplier.
- 4.6 All communications under this clause 4 may be issued by email.

5 Charges and expenses

- 5.1 Unless otherwise agreed in an Accepted Proposal or Statement of Work:
- (a) all Services are provided on a time and materials basis and the Supplier's standard rates apply;
 - (b) the Supplier will invoice the Customer on a monthly basis or on completion of Services (at the Supplier's discretion); and
 - (c) payment is due 30 days from the date of the invoice.

The Supplier's standard rates apply as set out in the Accepted Proposal or Statement of Work or if not set out there are available on request from the Supplier.

- 5.2 All reasonable accommodation, travel and other expenses incurred in performing the Services and providing the Deliverables will be charged to the Customer provided that such expenses are identified and agreed in advance. Expenses will be invoiced on completion of Services by the Supplier.
- 5.3 Subject to clause 5.5, the Customer must pay all invoices in full without set-off or deduction of any kind.
- 5.4 If required, the Customer will provide its credit card details to the Supplier to be held by an independent third party that is PCI compliant and authorises the Supplier to use the credit card held in this way to pay each invoice issued to the Customer when payment is due. If the credit card payment is not successfully processed for any reason, the amount will remain owing by the Customer.
- 5.5 The Supplier may increase its standard hourly rates from time to time and will endeavour to not be more often than every 6 months.

6 Delay and cost impacts

6.1 Unless expressly agreed otherwise in writing, where specific timing applies for performance of Services or supply of Deliverables, that timing is extended if:

- (a) a delay by the Customer causes the Supplier to be delayed in performance of Services or supply of Deliverables; and
- (b) the Supplier notifies the Customer of the delay or likelihood of delay as soon as this becomes apparent and provides updated timing details (with such evidence as may be reasonably required by the Customer).

6.2 Where there is a change in the Customer personnel involved in a Contract, and such change in personnel results in delays for the Supplier in performing its obligations under that Contract, the Supplier may on notice to the Customer amend the timing for supply of the Services and Deliverables to take account of that change.

7 Personal Data and Data Protection

7.1 Refer to the 'Personal Data and Data Protection' provisions in the Master Terms and Conditions.

8 Intellectual property

8.1 Unless agreed otherwise in an Accepted Proposal or a Statement of Work or otherwise agreed in writing and subject to clause 8.3 and the rights of any third parties, the Customer will own the Intellectual Property in the Deliverables on payment in full for those Deliverables.

8.2 The Customer or its licensors (as applicable) will retain any Intellectual Property rights that the Customer or its licensors (respectively) own in Customer Materials.

8.3 The Supplier owns the Intellectual Property in the means, methods, processes and know-how that the Supplier employs to create the Deliverables or to otherwise perform the Supplier's obligations under each Contract, and in any of the Supplier's pre-existing library code used to create or incorporated into the Deliverables. The Supplier grants the Customer a non-exclusive licence to use the Intellectual Property referred to in this clause to the extent required for the Customer to make use of the Services and Deliverables, and otherwise give effect to a Contract. This licence will survive the termination of a Contract.

8.4 Documentation Deliverables: Where the Supplier prepares documentation under a scoping or discovery Proposal or Statement of Work which describe the design or manner in which a solution will be implemented for the Customer, the Customer is not permitted to provide a copy of the documentation Deliverables to any alternative supplier unless the relevant work has been paid for in full and after giving the Supplier the first opportunity to submit a Proposal for the implementation work or other relevant next stages.

9 Personnel

- 9.1 The Supplier will not change or re-assign personnel that are known by the Customer to be working on a Contract or which have been identified by name to the Customer, without notifying the Customer.
- 9.2 A situation may arise where one of the Supplier's staff members does not work well with one of the Customer's staff members or contractors. If this arises, the party first aware of the issue will raise this with the other party and the Supplier will promptly discuss ways to resolve the issue and restore a favourable working relationship.

10 Warranty by Supplier

- 10.1 The Supplier warrants that it has the ability to perform the agreed Services and that all Services will be performed with due care and skill by people that have the requisite skills, expertise and competency.
- 10.2 The Supplier will perform the Services to the generally accepted standards of professionalism within the Supplier's industry. The Supplier will assign personnel to perform the Services that have the requisite skills, expertise and competency for the project or task.
- 10.3 If a Deliverable includes the production of a document, the Supplier will produce that document from the information available. However, the Supplier cannot warrant the contents, accuracy or use of such information as the Supplier relies on information provided by the Customer and third parties.
- 10.4 Except as expressly provided in a Contract, all warranties, terms and conditions (including without limitation, warranties and conditions as to fitness for purpose and merchantability), whether express or implied by statute, common law or otherwise are excluded to the extent permitted by law.

11 Warranty by the Customer

- 11.1 The Customer warrants that it has all requisite right, power and authority to enter into each Contract and to obtain and use the Services and Deliverables supplied under it.

12 Term and Termination of Contract

- 12.1 Each Contract will commence on the date that the relevant Proposal becomes an Accepted Proposal or the date that the Statement of Work is signed by both parties (as applicable), unless the Accepted Proposal or Statement of Work specifies an alternative commencement date. Contracts for Low Priority Tasks will commence when the Supplier commences supply of the Services.
- 12.2 Each Contract will continue until the Contract is terminated under this clause 12 or in accordance with the Master Terms and Conditions.
- 12.3 Either party may terminate a Contract at any time without cause on giving thirty days' notice in writing to the other party provided that if any work is outstanding under the Contract, such termination will only take effect on completion and payment in full by the

Customer of all such work. The Customer may waive the requirement that the Supplier complete all work but must pay all amounts under the Contract as if that waiver had not been given.

- 12.4 Either party may terminate a Contract immediately (or with effect from any later date that it may nominate) by written notice to the other party if:
- (a) one or more Insolvency Events occurs in relation to that other party. For the purposes of this clause, 'Insolvency Event' means, in respect of a party (other than for the purpose of solvent reconstruction or amalgamation):
 - i. a receiver, manager or liquidator is appointed over the party's undertaking or assets or the party enters into any assignment, composition or arrangement with its creditors; or
 - ii. the party is unable to pay its debts when due or is deemed unable to pay its debts under any law or suspends payment to its creditors.
 - (b) the other party commits a material breach of any of its obligations under the Contract and fails to remedy that breach within 30 days of prior written notice of such breach. For the purposes of this clause 12.2 (b), non-payment by the Customer for a period of 30 days or more after due date of any undisputed invoice constitutes a material breach by the Customer.

13 Consequences of termination

- 13.1 On termination of a Contract, without limiting either party's rights or remedies including any rights or remedies that a party may have under the Master Terms and Conditions:
- (a) all amounts owed to the Supplier under the Contract which accrued before termination will be due and payable in accordance with the payment terms in that Contract;
 - (b) the Supplier will deliver to the Customer all Deliverables paid for by the Customer.
- 13.2 On any termination of a Contract, all clauses which by their nature survive termination, will survive the termination.

14 Liability

- 14.1 Except as provided in clause 14.2, the liability and indemnity provisions in the Master Terms and Conditions apply to every Contract.
- 14.2 The Supplier's liability under each Contract is limited to direct loss only, to the amount paid by the Customer to the Supplier under that Contract.

15 Order of precedence

- 15.1 Unless expressly specified otherwise in these terms and conditions, if there is any inconsistency between:
- (a) these terms and conditions; and

(b) an Accepted Proposal or Statement of Work,

these terms and conditions will take precedence.

16 Definitions and interpretation

16.1 In these terms and conditions:

“Accepted Proposal” has the meaning given to that term under clause 1.3(b), with the relevant accepted proposal being as varied by any Confirmed Changes;

“Confirmed Change” means a change that is carried out under clause 4.2(a) or a Change Request that is approved by the Customer under clause 4.5;

“Contract” has the meaning given to that term in clause 1.3;

“Customer” means the organisation identified as the customer in the Accepted Proposal or Statement of Work or the organisation on whose behalf a Low Priority Task is requested;

“Customer Materials” has the meaning given to that term in clause 3.3;

“Deliverables” means deliverables to be provided by the Supplier to the Customer under an Accepted Proposal or Statement of Work which includes the results of provision of the Services, as varied by any Confirmed Changes (and excludes SaaS subscriptions and licensed software which is supplied, where applicable, subject to the applicable SaaS agreement or software licence agreement (by whatever name called), and is not supplied under these terms and conditions);

“Estimate” has the meaning given to that term in clause 4.4;

“Force Majeure Event” means any war, riot, third party strike, pandemic, civil emergency, natural disaster or other circumstance of a similar nature that is outside of the control of the affected party;

“Intellectual Property” means copyright, patents, designs, trademarks, trade names, goodwill rights, trade secrets, confidential information and any other intellectual proprietary right or form of intellectual property;

“Proposal” means a document issued by the Supplier to the Customer which defines Services and/or Deliverables to be provided to the Customer (if the Proposal becomes an Accepted Proposal) and includes an estimate or quote for provision of those Services and/or Deliverables, a work order, a proposal, a work order or other form of document (noting that ‘Statement of Work is separately defined);

“Services” means services to be provided by the Supplier to the Customer under an Accepted Proposal or a Statement of Work, as varied by any Confirmed Changes (and excludes SaaS subscriptions which are supplied, where applicable, subject to the applicable SaaS agreement (by whatever name called) and is not supplied under these terms and conditions);

“Low Priority Task” means any request for Services made by the Customer to the Supplier (whether by telephone, email or otherwise) where:

- (a) the Customer does not request a Proposal or Statement of Work and the Supplier anticipates that the Services will take the Supplier two hours or less to complete; or
- (b) the parties agree that a Proposal or Statement of Work is otherwise not required;

“Statement of Work” means a document titled ‘statement of work’ and prepared using the Supplier’s usual form of statement of work, as varied by any Confirmed Changes;

“Working Day” means a day other than a Saturday, Sunday or public holiday in the UK.

16.2 Interpretation

- (a) In these terms and conditions, reference to the plural includes reference to the singular, and vice versa.
- (b) Headings inserted in these terms and conditions are for convenience of reference only and do not affect the interpretation of these terms and conditions.