

TERABYTE
IT SOLUTIONS

Professional Services Terms

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TERABYTE IT SOLUTIONS
PART D
PROFESSIONAL SERVICES TERMS

Where, pursuant to the Agreement, the Customer requests or requires professional services to be provided by Terabyte IT Solutions and Terabyte IT Solutions is willing to provide Professional Services to the Customer, the terms of this Part D shall also apply.

AGREED TERMS:

1. Interpretation

Unless otherwise specified below or on this Order for the Professional Services, any capitalised terms used in this Order shall have the meaning ascribed to them in the Master Services Agreement. The rules of interpretation set out in the Master Services Agreement shall also apply equally to this Order.

1.1 Definitions specific to this Part D

Acceptance: means that the Project Deliverables have passed the Acceptance Tests or have been accepted pursuant to clause 8 of this Order.

Acceptance Tests: means the agreed tests carried out on the Project Deliverables to confirm that they are capable of Acceptance.

Project Deliverables: means any Deliverables, and all works of authorship and materials developed, written or prepared by Terabyte IT Solutions, its employees, agents or sub-contractors in relation to the Project including any and all reports, studies, data, diagrams, charts, specifications, pre-contractual and contractual documents and all drafts of the same and working papers but excluding Terabyte IT Solutions IPRs.

Project Milestones: means the stages of the Project completion as described on this Order.

Project Participants: means those employees, agents or sub-contractors of Terabyte IT Solutions engaged from time to time in providing the Professional Services.

2. Engagement

The Customer shall engage Terabyte IT Solutions and Terabyte IT Solutions shall, in consideration of the payment of the Charges under this Order provide the Professional Services to the Customer in relation to the Project.

3. Term

- 3.1 This Order shall commence on the Order Start Date and shall continue until Completion of the Project, subject to any earlier termination pursuant to clause 9 of this Order or clause 13 of the Master Services Agreement.
- 3.2 In addition to the termination rights in clause 9 of this Order and as set out in the MSA, the Customer shall be entitled to terminate this Order by notice in writing to Terabyte IT Solutions at any time, provided that it pays Terabyte IT Solutions for all the Professional Services provided up to the date of termination and for all reasonable costs and expenses incurred by Terabyte IT Solutions by reason of such early termination including but not limited to:
- (a) any requisite number of days' fees for time spent up to the termination date working on the Professional Services at the time of such termination; and
 - (b) (where the Professional Services) are cancelled by the Customer with less than 1 week(s) before the Professional Services Start Date then 100% of the Charges set out on the Order shall remain payable by the Customer representing the cost to Terabyte IT Solutions of reallocation of the resource allocated the relevant Project;
 - (c) any third party costs, charges or payments which cannot be avoided or mitigated by Terabyte IT Solutions at the date of termination (including any reasonable breakage or third party costs such as termination costs; reallocation costs for resources and any unavoidable costs or expenses).
- 3.2 Terabyte IT Solutions reserves the right to invoice for all costs incurred if the Customer delays the Project for longer than 3 months from the date the order has been approved by the Customer.

4. Terabyte IT Solutions' obligations

- 4.1 Terabyte IT Solutions shall:
- (a) devote to its obligations under this Order such of its time attention and skill as may be necessary for the proper performance of those obligations in order to carry out the Project; and
 - (b) (while its method of work is its own) comply with the reasonable requests of the Customer in relation to the Project.
- 4.2 In the event that any change to the nature or scope of Project and/or the Professional Services is identified as being required by either Terabyte IT Solutions or the Customer a request may be submitted to the other party requesting a change. Any request shall be sufficiently detailed to enable the other party to assess the impact of the proposed change. No such change will become effective until agreed in writing between the parties. Any change so requested shall be processed in accordance with clause 20 of the Master Services Agreement.

5. Customer's obligations

- 5.1 In addition to its obligations set out elsewhere in this Agreement the Customer shall in respect of the Order:
- (a) make available to Terabyte IT Solutions such office computer and secretarial services and parking at its premises free from restriction as may be necessary for its work to be carried out under this Order;
 - (b) ensure that its employees, agents and sub-contractors co-operate fully with Terabyte IT Solutions and the Project Participants in relation to the provision of the Professional Services and that such employees and any such sub-contractors will be qualified to carry out any tasks which they may be assigned in relation to the Project;
 - (c) promptly provide Terabyte IT Solutions with such information and documents as it may reasonably request for the proper performance of its obligations under this Order and be responsible for ensuring that such information is true, accurate, complete and not misleading in any material respect;
 - (d) obtain all third-party consents, licences and rights reasonably required in order to allow Terabyte IT Solutions and the Project Participants to perform the Professional Services; and
 - (e) put in place and maintain adequate security and Virus checking procedures in relation to any computer facilities to which it provides Terabyte IT Solutions with access.

Should the Customer fail to perform any of its obligations under this Order or the Agreement (as a whole) then Terabyte IT Solutions will not be responsible for any delay, cost or Charges increase or other consequences arising from such failure, and the Customer shall reimburse Terabyte IT Solutions for any costs or expenses incurred due to such failure.

6. Personnel

Each of the parties shall each appoint a manager who shall have full authority to take all necessary decisions regarding the Project and the provision of the Professional Services including any written variation of this Order.

7. Charges and expenses

- 7.1 Where the Order specifies that the Charges shall be on a time and materials basis:
- (a) the Customer shall pay Terabyte IT Solutions for the time properly spent by the Project Participants in providing the Professional Services at the hourly / daily charge-out rates specified either on the Order or as identified in the Rate Card;
 - (b) the hourly / daily charge-out rates of any new Project Participants which Terabyte IT Solutions wishes to use from time to time shall be in accordance with the rates set out on the Order or at the Rate Card;
 - (c) Terabyte IT Solutions shall be entitled at any time and from time to time to vary any or all of such hourly/daily charge-out rates provided that no such variation shall have effect unless and until written notice thereof is given to the Customer;

- (d) where Terabyte IT Solutions agrees to maintain full and accurate records of the time spent by the Project Participants in providing the Professional Services it shall produce such records to the Customer for inspection at all reasonable times on request;
- (e) if it shall be necessary for any of the Project Participants to visit the Customer's premises or make any other journeys in the course of providing the Professional Services then the Customer shall reimburse Terabyte IT Solutions for all reasonable travelling and subsistence expenses properly incurred in so doing (and for the avoidance of doubt time spent travelling in this manner shall be included within the time spent by the Project Participants in providing the Professional Services). Apart from minor out-of-pocket expenses claims for reimbursement of expenses shall be paid by the Customer only if accompanied by the relevant receipts. Terabyte IT Solutions may invoice for disbursements separately to any of the Charges as and when they are incurred; and
- (f) Terabyte IT Solutions shall render monthly (save in respect of invoices for disbursements which may be submitted as they are incurred) itemised invoices to the Customer in respect of the said charges and expenses and shall show any Value Added Tax separately on such invoices. Each invoice shall be accompanied by a statement specifying the time spent by each of the Project Participants in providing the Professional Services during the period covered by the invoice.

7.2 Where the Order specifies that the Charges shall be on a fixed cost basis:

- (a) the Customer shall pay Terabyte IT Solutions the Charges within 14 days of the achievement of each Project Milestone and/or as specified on this Order.
- (b) if it shall be necessary for any of the Project Participants to visit the Customer's premises or make any other journeys in the course of providing the Professional Services then the Customer shall reimburse Terabyte IT Solutions for all reasonable travelling and subsistence expenses properly incurred in so doing (and for the avoidance of doubt time spent travelling in this manner shall be included within the time spent by the Project Participants in providing the Professional Services). Apart from minor out-of-pocket expenses claims for reimbursement of expenses shall be paid by the Customer only if accompanied by the relevant receipts. Terabyte IT Solutions may invoice for disbursements separately to any of the Charges as and when they are incurred.

8. Acceptance

- 8.1 All Project Deliverables (which for the purposes of the Master Services Agreement shall be deemed to be Deliverables) shall be deemed to have been Accepted by the Customer if no issues concerning their quality or contents have been raised by the Customer within 3 Business Days of their delivery by Terabyte IT Solutions. The Customer shall not in any event unreasonably withhold or delay its Acceptance.

- 8.2 Completion of the Project shall be deemed to have occurred when all Project Deliverables which are subject to Acceptance by the Customer have been so Accepted pursuant to this clause 8.

9. Termination

Without affecting any other right or remedy available to it, either party may terminate this Order with immediate effect by giving written notice to the other party in the circumstances set out in clause 13 of the Master Services Agreement to the extent that they apply to this Order.

10. Effect of termination

- 10.1 On the expiration or termination of this Order:
- (a) the provisions of clause 14 of the Master Services Agreement shall apply in respect of this Order (rather than the Agreement as a whole);
 - (b) all rights and obligations of the parties under this Order shall automatically terminate except for such rights of action as shall have accrued prior thereto and any obligations which expressly or by implication are intended to come into or continue in force on or after such expiration or termination;
 - (c) the Customer shall pay Terabyte IT Solutions for all unpaid charges and reimbursable expenses accrued up to the date of expiration or termination; and
 - (d) each party will return to the other any property of the other that it then has in its possession or control.

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