

**TUKUNA SOLUTIONS LTD**  
**STANDARD TERMS OF BUSINESS**

**Version Date: 19/06/2023**

**1. Interpretation**

1.1 The definitions and rules of interpretation in this clause apply to these Terms.

**Contract:** the contract between you and us for the supply of Services in accordance with these Terms.

**Intellectual Property Rights:** patents, rights to inventions, copyright and related rights, moral rights, trademarks, trade names and domain names, rights in get-up, rights in goodwill or to sue for passing off, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which may now or in the future subsist in any part of the world.

**Services:** the services that we are providing to you on these Terms.

**Terms:** the terms and conditions set out in this document.

**writing or written:** includes email.

1.2 The headings do not affect the interpretation of these Terms.

1.3 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.4 Unless the context otherwise requires, words in the singular include the plural and in the plural include the singular.

**2. Basis of Agreement**

2.1 These Terms constitute the entire agreement between you and us. You acknowledge that you have not relied on any statement, promise or representation made or given by or on behalf of us that is not set out in these Terms.

2.2 A contract shall be formed between us ("**Contract**") upon you instructing us to commence work in relation to the Services (whether in writing, (including by email) or orally) and shall continue unless and until terminated in accordance with clause 10 below.

2.3 These Terms take precedence over any other terms and conditions (including your own terms of business) and any course of dealing or industry practice.

### **3. Professional Services (“Services”)**

- 3.1 We shall provide the Services with all due care, skill and ability and shall use our reasonable endeavours to meet any timescales set out in the Statement of Work, Project Change Request, proposal, quotation or email correspondence between us, but these dates are estimates only and if we fail to meet these dates you shall not have any legal rights in relation to this.
- 3.2 The Services shall comprise IT consultancy and related professional services, including but not limited to advisory, design, implementation, configuration, troubleshooting, project delivery, optimisation, and technical support activities. The precise scope and deliverables for each engagement shall be as set out in the applicable Statement of Work, Project Change Request, proposal, quotation, or written instructions (including by email) agreed between the parties. Each such document forms part of the Contract and sets out the specific deliverables, responsibilities, and any applicable assumptions or exclusions.
- 3.3 In the event of any inconsistency between these Terms and the document defining the scope of Services, the scope document (Statement of Work, Project Change Request, proposal, quotation, or written instructions) shall take precedence in relation to the Services.
- 3.4 Any Services not expressly described in the applicable scope document shall be treated as out of scope and, if required, will be subject to a separate agreement or change request.

### **4. Licensed Services**

- 4.1 In addition to the Professional Services provided under these Terms, we may also supply software licences, cloud subscriptions, or other third-party licensed services (“Licensed Services”). Licensed Services are provided under separate terms and conditions, including any minimum contract periods or supplier-mandated commitments.
- 4.2 In the event of any inconsistency between this clause 4 and any other clause of these Terms, this clause 4 prevails in relation to Licensed Services.
- 4.3 By placing an order for Licensed Services, you enter into a binding commitment for the full minimum term applicable to those services. Once accepted by us, an order for Licensed Services cannot be cancelled, reduced, or withdrawn except where we expressly agree in writing.
- 4.4 Termination of this Contract under clause 10 (or any other clause) does not terminate, reduce, or otherwise affect your obligations relating to Licensed Services. You must continue to pay all fees due for Licensed Services for the remainder of the committed term.
- 4.5 Without prejudice to our other rights, we may suspend any or all Licensed Services (in whole or in part) on written notice if:
  - (a) you fail to pay any amount due for Licensed Services by the due date stated on the invoice;
  - (b) you are in material breach of this Contract or of any applicable supplier terms; or

- (c) any insolvency event occurs in relation to you (including appointment of an administrator or receiver, a winding-up resolution or order, or any arrangement or composition with creditors). Suspension does not relieve you from your obligation to pay all charges that accrue during the suspension period and for the remainder of the applicable minimum term.
- 4.6 We may also suspend Licensed Services where required or permitted by the relevant supplier or vendor terms, including for suspected fraud, security issues, unlawful use, or breach of acceptable-use policies.
- 4.7 We may apply a suspension in a targeted manner (for specific subscriptions, tenants, or users) or more broadly if we reasonably consider it necessary to protect the services, our suppliers, or our legitimate interests.
- 4.8 During suspension, access to the affected Licensed Services (and associated data) may be limited or unavailable. We do not accept responsibility for any resulting loss, provided the suspension is exercised in accordance with this clause.
- 4.9 We will lift the suspension promptly once the underlying cause is remedied (for example, cleared funds received, or breach cured). Reinstatement may be subject to:
  - (a) payment of any reconnection or supplier reinstatement fees, and
  - (b) your agreement to any reasonable additional assurance measures (such as payment by direct debit, shorter payment terms, or a security deposit).
- 4.10 Suspension does not terminate the relevant Licensed Services or shorten the minimum term. All fees and charges for the full committed term remain payable in accordance with this Contract.
- 4.11 You may increase or upgrade your Licensed Services (including moving to higher-tier plans or adding additional users) at any time. Any such increase or upgrade may be subject to a new minimum-term commitment, which will be advised to you at time of ordering.
- 4.12 You may not cancel, reduce, downgrade, or otherwise decrease your committed quantities or minimum-term obligations during the minimum term unless we expressly agree in writing.
- 4.13 Where we act as billing or administrative partner, you authorise us to take reasonable administrative actions (including renewal, modification, or termination at end-of-term) necessary to meet supplier requirements and your agreed commitments.

## **5. Fees and Booking**

- 5.1 The charges for the Services are as set out in the proposal or quotation.
- 5.2 Where the Services are provided for a fixed price, the total price for the Services shall be the amount set out in the proposal or quotation.
- 5.3 The invoicing schedule shall be as set out in the applicable Statement of Work, Project Change Request, proposal, quotation, or written instructions (including by email) agreed between the parties. This may include invoicing based on milestones, phases, periodically, scheduled dates, or completion of the relevant Services.

- 5.4 If no invoicing schedule is specified in the applicable document, we may invoice 50% on acceptance of the engagement and 50% on completion, unless otherwise agreed in writing.
- 5.5 Where the fees are to be made by a deposit, stage payments or retainers, payment may be taken via direct debit, card payment or failing that, we will invoice you for the deposit in advance and for each stage payment or retainer at the time or at the stage of the project specified in Statement of Work, Project Change Request, proposal, quotation, or written instructions (including by email).
- 5.6 Unless otherwise stated, all work will be conducted on Monday through Friday, during standard UK business hours.
- (a) Standard Hours are:  
09:00-17:00 Monday - Friday, excluding Public Holidays
- 5.7 Any agreed out of hours work will have a multiplier applied to the relevant standard day rate as follows:
- (a) Standard Out of Hours – 1.5x multiplier  
17:00-22:00 Monday – Friday, excluding Public Holidays  
06:00-09:00 Monday – Friday, excluding Public Holidays  
06:00-22:00 Saturday
- (b) Non-Standard Out of Hours – 2x multiplier  
22:00-06:00 Monday - Saturday  
Sundays, and Public Holidays
- 5.8 Where the Services are provided on a time-and-materials basis (whether initially or following on from Services being provided for a fixed fee):
- (a) the charges payable for the Services shall be calculated in accordance with our standard hourly or daily fee rates in force at that time;
- (b) our daily fee rates are calculated on the basis of an eight-hour day worked between 09:00 and 17:00 on weekdays (excluding weekends and public holidays);
- (c) we shall be entitled to apply the multiplier rates specified in clause 5.7 to any time worked outside the standard working hours defined in clause 5.6(a);
- (d) we will invoice you weekly in arrears unless we have agreed in writing otherwise;
- (e) where required, Timesheets will be provided on a weekly basis and will contain minimum of 4-hour, half day, blocks; and
- (f) our then-current standard rates (as notified to you from time to time in accordance with clause 18.3) apply unless otherwise agreed in writing.
- 5.9 All charges are stated exclusive of VAT which shall be added to the charges at the applicable rate (where necessary).
- 5.10 You must pay each of our invoices in full, and in cleared funds, by the due date stated on the invoice, using the payment method specified on the invoice.

- 5.11 Without prejudice to any other right or remedy, if you fail to pay the invoice on the due date, we may:
- (a) charge interest on the sum due from the due date for payment at the annual rate of 4% above the base lending rate from time to time of Starling Bank, accruing on a daily basis and being compounded quarterly until payment is made (whether before or after any court judgment) and you shall pay the interest immediately on our demand; and
  - (b) suspend all Services until payment has been made in full.
- 5.12 All fees and charges are stated exclusive of expenses incurred by us. Subject to your prior written consent, you will reimburse us for all training venues, hotels, subsistence, travelling, stationery, materials, postage, other administrative costs and any other ancillary expenses reasonably incurred by us in providing the Services. Such expenses may be invoiced by us at cost at such times as we think appropriate.

## **6. Other activities**

Nothing in these Terms shall prevent us from being involved in any other activity in any way as long as that does not cause us to breach any of our obligations under these Terms.

## **7. Confidential information and our materials**

- 7.1 We acknowledge that we will have access to confidential information about your business, your suppliers and your customers in the course of providing the Services. We shall not use or disclose to any third party any such confidential information, except where we need to in order to properly perform the Services.
- 7.2 You will keep strictly confidential all information about our business, our suppliers and our customers.
- 7.3 The restrictions in clauses 7.1 and 7.2 do not apply to:
- (a) any use or disclosure required by law;
  - (b) any disclosure authorised by the party who owns the confidential information; or
  - (c) any information which is already public knowledge (otherwise than through unauthorised disclosure by the party to whom the information does not relate).
- 7.4 All property of whatsoever nature that we loan, hire or otherwise supply to you (including any materials, equipment, hardware, drawings, specifications and data) shall, at all times, remain our exclusive property. You agree to keep such items safe and in good condition, and to return them to us in good working order on request. You must not dispose of or use such property other than in accordance with our written instructions or authorisation. If any loaned or hired equipment is lost, damaged, or not returned, you will be liable for the full cost of repair or replacement. Risk in any loaned or hired equipment passes to you upon delivery and remains with you until it is returned to us in good working order.

## **8. Data protection**

- 8.1 We collect and process personal data in accordance with our Privacy Policy that you can view at <https://tukuna.solutions/privacy-policy>

## **9. Intellectual property**

- 9.1 We are the owner or the licensee of all Intellectual Property Rights and all other rights in the Services and any materials, content or other work provided as part of the Services (“Deliverables”) and nothing in these Terms or otherwise shall operate to transfer the ownership of the Intellectual Property Rights in the Services or such materials.
- 9.2 We grant you a fully paid-up, worldwide, non-exclusive, royalty-free licence to copy and modify the Deliverables for the purpose of receiving and using the Services and the Deliverables in your business; and
- 9.3 You grant to us a non-exclusive perpetual, worldwide, royalty free licence to use all or any of your Intellectual Property Rights in any materials or content you submit to us, such as your logo.
- 9.4 You acknowledge that, where we do not own any of the materials or content which we submit to you, your use of rights in such materials or content is conditional on our obtaining a written licence (or sub-licence) from the relevant licensor or licensors on such terms as will entitle us to license such rights to you.

## **10. Termination**

- 10.1 Subject to clause 4 (Licensed Services) and clause 2, either party may terminate this Contract, insofar as it relates to the Professional Services, on one month’s written notice for any reason, with no liability to the other save for liabilities that had already accrued and been incurred prior to the effective date of termination.
- 10.2 You may terminate the Professional Services element of this Contract with immediate effect by written notice if we commit a material breach of this Contract which (if remediable) is not remedied within 14 days after receipt of written notice requiring it to be remedied.
- 10.3 Without prejudice to any other right or remedy, we may terminate the Professional Services element of this Contract with immediate effect by written notice if at any time:
- (a) you fail to make a payment when due and payable under this Contract;
  - (b) you commit any gross misconduct affecting our business;
  - (c) you commit any serious or repeated breach or non-observance of any of the provisions of this Contract;
  - (d) you are convicted of any criminal offence (other than an offence under any road traffic legislation in the United Kingdom or elsewhere for which a fine or non-custodial penalty is imposed);
  - (e) you commit any fraud or dishonesty or carry out business or otherwise act in any manner which in our opinion brings or is likely to bring us into disrepute or is materially adverse to our interests;
  - (f) an order is made or a resolution is passed for your winding up;
  - (g) an order is made for the appointment of an administrator to manage your affairs, business and property;
  - (h) a receiver is appointed of any of your assets or undertaking; or
  - (i) you make any arrangement or composition with your creditors or become bankrupt; or
  - (j) you cease, or threaten to cease, to trade.

- 10.4 For the avoidance of doubt, termination under this clause 10 does not terminate, reduce, suspend, or otherwise affect any Licensed Services ordered by you. You must continue to pay all fees due for Licensed Services for the remainder of their applicable minimum term, and our rights under clause 4 (including any right to suspend for non-payment in accordance with supplier terms) shall continue in full force.
- 10.5 If you terminate any Professional Services engagement (including any Statement of Work, project, fixed-fee engagement, scheduled work, or other agreed scope) before the Services are completed, you shall immediately pay:
- (a) all fees for Services performed up to and including the effective date of termination, whether or not invoiced;
  - (b) all non-cancellable third-party costs and commitments incurred by us in connection with the Services;
  - (c) 100% of the fees for any Professional Services that are scheduled to be performed within the 7 days following the effective date of termination, whether or not such scheduled work was visible to you or involved on-site attendance. For the purposes of this clause, "scheduled" includes any time that we have allocated or reserved for your engagement in our internal scheduling systems, including remote work and internal delivery activities, regardless of whether such time was visible to you; and
  - (d) an early termination charge equal to 50% of the remaining fees that would have become payable for the unperformed portion of the relevant engagement had it proceeded to completion, unless otherwise stated in the applicable Statement of Work.
- 10.6 For fixed-fee or project-based engagements, the "remaining fees" shall be calculated by reference to the agreed price for the engagement, less amounts already invoiced. For time-and-materials engagements with scheduled resource, the "remaining fees" shall be calculated by reference to the fees for booked and allocated days or hours falling after the effective date of termination.
- 10.7 Upon termination of the Professional Services element of this Contract for any reason, we may issue invoices for all sums due under clauses 10.5 and 10.6, together with any other sums then outstanding. Such invoices shall be payable in accordance with the due date stated on the invoice.
- 10.8 Our rights under this clause 10 are without prejudice to any other rights that we might have at law to terminate the Contract. Any delay by us in exercising our rights to terminate shall not constitute a waiver of these rights.
- 10.9 Our rights under this clause 10 are without prejudice to our right to recover any sums owed, including sums owed for Licensed Services under clause 4.
- 10.10 We shall not be obliged to retain documents and information relating to you after termination of this Contract.
- 10.11 On request following termination, you shall immediately return (or, at our option, destroy) all of our property, materials, equipment, hardware, drawings, specifications, data, and confidential information,

and certify such destruction if requested. Our rights in relation to loaned or hired equipment (including risk and replacement/repair cost recovery) remain as set out elsewhere in these Terms.

- 10.12 Termination of the Professional Services element of this Contract, however arising, shall be without prejudice to the parties' rights and remedies accrued as at the effective date of termination. Clauses 4 (Licensed Services), 7 (Confidentiality), 8 (Data protection), 9 (Intellectual property), 10.5-10.11 (to the extent relevant), 11 (Obligations on termination), 13 (Limitation of liability), and any other clause which by its nature is intended to survive termination shall continue in full force and effect.

#### **11. Obligations on termination**

On termination of this Contract you shall immediately pay to us any unpaid fees or other sums payable under this Contract. Termination will not affect either of our outstanding rights or duties, including our right to recover from you any money you owe us under these Terms.

#### **12. Status**

Our relationship to you will be that of independent contractor and nothing in these Terms shall make us your employee, worker, agent or partner.

#### **13. Limitation of Liability**

- 13.1 Other than (i) liability for death or personal injury to any person caused by our negligence, (ii) liability for any fraud or fraudulent misrepresentation made by us or (iii) liability for any other matter which we may not legally exclude or limit, we exclude all liability for any loss or damage suffered by you resulting from the Contract (including all consequential loss or damage howsoever caused and whether or not this was in your or our reasonable contemplation and including any loss or damage suffered by you as a result of advice or opinions given by us or by any of our employees, agents, consultants or subcontractors).

- 13.2 In the event that we are found liable to you for any loss or damage, our total aggregate liability shall be limited to an amount equal to the fees paid by you for the Professional Services giving rise to the claim. This limit applies to **all causes of action**, whether in contract, tort (including negligence), breach of statutory duty, or otherwise.

- 13.3 If we are prevented from or delayed in performing our obligations by your act or omission or by any circumstance outside of our control, we shall not be liable for any costs, charges or losses incurred by you that arise from such prevention or delay.

- 13.4 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from these Terms.

- 13.5 This clause 13 shall survive termination of the Contract.

#### **14. Force Majeure**

- 14.1 Neither party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure results from events, circumstances or causes beyond that party's reasonable control.

- 14.2 The affected party shall notify the other party as soon as reasonably practicable and shall use reasonable endeavours to minimise the effect of the event.
- 14.3 In such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed.
- 14.4 If the period of delay or non-performance continues for more than 6 weeks, the party not affected may terminate the affected Professional Services agreement by giving 14 days' written notice to the affected party. Termination under this clause does not affect any Licensed Services, which shall continue in accordance with clause 4.
- 14.5 You remain liable to pay for Professional Services already performed and for all Licensed Services for the full minimum term.

**15. Non-Solicitation**

- 15.1 You shall not, without our prior written consent, directly or indirectly solicit, entice, employ, engage, or attempt to solicit, entice, employ, or engage any of our employees, consultants, or subcontractors who have been involved in the provision of the Services, whether for your own benefit or for the benefit of any third party.
- 15.2 This restriction shall apply during the term of this Contract and for a period of 12 months after its termination or expiry.
- 15.3 If you breach clause 15.1, you shall pay to us a sum equal to 40% of the employee's or subcontractor's total annual remuneration or fees at the time of the breach, as a genuine pre-estimate of the cost to us of recruiting, training, and replacing that individual. This sum shall be payable within 14 days of demand.
- 15.4 For the purposes of this clause, "solicit" includes any act intended to induce, encourage, or persuade an individual to terminate their relationship with us (or to reduce their commitment to us), whether or not that act results in actual engagement.

**16. Notices**

All notices sent by you to us must be sent to Tukuna Solutions Ltd, 9 Argosy Road, Lyneham, Wiltshire SN15 4AP or by email to [sales@tukuna.solutions](mailto:sales@tukuna.solutions). We may give notice to you at either the e-mail or postal address you provided to us. Notice will be deemed received and properly served 24 hours after an e-mail is sent or three days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that the letter was properly addressed, stamped and placed in the post and, in the case of an e-mail, that the e-mail was sent to the specified e-mail address of the addressee.

**17. Assignment and subcontracting**

- 17.1 We may at any time assign, transfer, subcontract or deal in any other manner with all or any of our rights under these Terms.
- 17.2 You shall not, without our prior written consent, assign, transfer, subcontract or deal in any other manner with all or any of your rights or obligations under these Terms.

## **18. General**

- 18.1 If any court or competent authority decides that any of the provisions of these Terms are invalid, unlawful or unenforceable to any extent, that term will (to that extent only) be 'severed' from the remaining terms, which will continue to be valid to the fullest extent permitted by law.
- 18.2 If we delay in exercising any rights under these Terms or by law, that shall not constitute a waiver of such right or prevent us from exercising that right at a later date.
- 18.3 We may vary these Terms from time to time. Where the Services are provided on a time-and-materials basis, our standard rates may be amended on 30 days' written notice and will apply to Services performed after the effective date of the change. This does not affect any fixed fees or rates expressly agreed in an accepted Statement of Work, proposal or quotation. Changes to Licensed Services pricing will apply in accordance with applicable supplier terms and any notice we provide to you.
- 18.4 A person who is not party to these Terms shall not have any rights under or in connection with them under the Contracts (Rights of Third Parties) Act 1999.
- 18.5 These Terms and any dispute or claim arising out of or in connection with them or their subject matter or formation (including non-contractual disputes or claims) shall be governed by English law and we both agree to the exclusive jurisdiction of the English court.

## **19. Company Information**

Tukuna Solutions Ltd

Company registered in England & Wales

Company Number: 11036443

VAT Number: GB281 1743 10

Registered Office Address: 16 Dorcan Business Village, Murdock Road, Swindon SN3 5HY

Trading Address: 9 Argosy Road, Lyneham, Chippenham, Wiltshire SN15 4AP

**Our registered office and our trading address are administrative locations only and are not open to the public. Visits to either location are strictly by appointment.**