

## **COGTEX LIMITED (the “Company”)**

### **STANDARD CONSULTANCY SERVICES AGREEMENT TERMS**

#### **Definitions**

In this Agreement, unless the context otherwise requires the following words and expressions have the following meanings:

“Agreement” – This Consultancy Service Agreement including each and every Statement of Works;

“Business Day” – A day other than a Saturday or Sunday when the main clearing banks in London are open for a full range of business banking transactions;

“Data Protection Legislation” – the General Data Protection Regulation (EU 2016/679) and any amendment of or replacement of it in force in England from time to time;

“Deliverables” – the outputs from the provision of the Services including those described in Schedule 1 or in any Statement of Works;

“Intellectual Property Rights” – all patents, rights to inventions, utility models, copyright and related rights, trademarks, trade, business and domain names, rights in goodwill and to sue for passing off, rights in design, rights in computer software, database right, moral rights and other intellectual property rights, in each case whether registered or unregistered and including all applications for and all renewals or extensions of such rights and all similar or equivalent rights or forms of protection in any part of the world;

“Services” – the services to be provided by the Company as specified in Schedule 1 or in any Statement of Works;

“Statement of Works” – a statement agreed between the Company and the Client from time to time specifying works to be carried out by and deliverables to be provided by the Company.

## **1 Interpretation**

1.1 Any reference in this Agreement to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.2 The headings in this Agreement are for convenience only and shall not affect its interpretation.

1.3 Any reference to a clause or Schedule shall be construed as a reference to a clause of or schedule to this Agreement unless expressly stated to the contrary.

1.4 Any reference to a statute or statutory provision is to it as from time to time in force as amended or re-enacted.

1.5 Use of the word "including" is without prejudice to the generality.

## **2 Provision of the Services**

The Company shall provide and perform the Services on the terms and conditions of this Agreement and will do so:

2.1 in compliance with all applicable laws, regulations, our codes of practice and professional standards;

2.2 with reasonable skill and care;

2.3 in accordance with the terms of this Agreement, including the timescales specified in Schedule 1 or any Statement of Works;

2.4 in accordance with good professional practice.

## **3 Personnel**

3.1 The Company shall use its best endeavours to ensure that the same personnel provide the Services in order to maintain continuity through any specific project.

3.2 The Company shall use its reasonable endeavours to ensure that its personnel comply with the Client's site regulations when the Company's personnel are on the Client's premises.

3.3 The Client shall not at any time during the term of this Agreement or for a period of 6 months following its expiry or termination employ or solicit for employment or engage on any basis any member of the Company's personnel (whether employed or engaged on some other basis by the Company) either directly or intermediary to a third party.

## **4 Obligations of the Client**

4.1 The Client shall provide the Company with such information and access to such facilities and personnel as the Company shall reasonably require in order to provide the Services.

4.2 The Client shall make such decisions and provide such instructions as the Company shall require and at the time that the Company requires to enable the Company to provide the Services.

4.3 The Client acknowledges that the Company's ability to provide the Services and to meet any timeframe agreed for the provision of the Services is dependent on the Client providing that information and access and providing those decisions and instructions at the times required by the Company.

## **5 Intellectual Property**

5.1 Any pre-existing Intellectual Property Rights of either party that are made available for use in connection with the provision of the Services shall remain vested in that party; the other party shall have a licence to use those rights so far as may be necessary to enable that party to provide or to enjoy the benefit of the Services.

5.2 All Intellectual Property Rights that are created in the course of the provision of the Services and in the Deliverables shall belong to the Company; the Client shall have a royalty free, perpetual licence to use those rights as envisaged by this Agreement to enable the Client to have the benefit of the Services and the Deliverables for use within the Client's own business.

5.3 The Company warrants to the Client that the Deliverables will not in any way infringe the Intellectual Property Rights of any other person and the Company will indemnify the Client and keep the Client fully indemnified in respect of any losses, liabilities, demands, actions and claims that the Client might incur or suffer as a result of any breach of this warranty.

5.4 If the indemnity in clause 6.3 is to be called upon the Client shall:

5.4.1 promptly notify the Company in writing of the claim;

5.4.2 make no admission or settlement without the Company's prior written consent;

5.4.3 allow the Company to have control over the conduct of the claim including any litigation; and

5.4.4 give the Company such assistance and information that the Company reasonably requires.

5.5 The Company shall have no liability under the indemnity in clause 6.3 where the alleged infringement arises from the Client using the Deliverables in any manner or for any purpose other than those for which they were provided.

## **6 Confidentiality**

6.1 The Company and the Client may during the course of this Agreement and in connection with the Services obtain information relating to the other party which is likely to be interpreted by any reasonable business person as confidential ("Confidential information").

6.2 The receiving party shall:

6.2.1 keep all Confidential Information confidential to those relevant staff in each organisation that need to know not disclose it to any others (save as required by law); and

6.2.2 use the Confidential Information only for the purpose for which it was provided and for no other purpose.

## **7 Fees**

7.1 The Company shall charge and the Client shall pay the amounts set out or calculated in accordance with Schedule 1 and/or the relevant Statement of Works.

7.2 Where the fees are to be calculated on a time, expenses and materials basis, the

Company may increase those fees on giving not less than one month's written notice to the Client (unless otherwise agreed in writing).

7.3 Any sums stated in this Agreement (including in the Schedule and in any Statement of Works) are expressed exclusive of VAT and all other taxes which, where applicable, will be added and payable by the Client in addition.

7.4 The Client shall in addition reimburse the Company for any agreed expenses including those that are specified in Schedule 1 or the relevant Statement of Works provided they are reasonable and properly incurred.

## **8 Payment**

8.1 The Company shall invoice the Client weekly for consultancy services and expenses.

8.2 The Client shall pay all valid and properly submitted invoices not later than 30 days after they are received or at such other times as may be specified in the Schedule or the relevant Statement of Works unless otherwise agreed in writing.

8.3 If the Client does not pay any invoice by the due date for payment the Company may, without prejudice to any other rights and remedies that it may have:

8.3.1 suspend provision of the Services until payment in full including any interest is received; and/or

8.3.2 charge interest on the sum outstanding at the rate set by the Late Payment of Commercial Debts (Interest) Act 1998.

8.4 The Client shall pay all invoices in full without any set-off or deduction.

8.5 Where the Goods or Services provided are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Company to deliver any one or more of the instalments in accordance with these conditions or any claim by the Client in respect of any one or more instalment shall not entitle the Client to treat the Contract as a whole as repudiated.

## **9 Duration**

This Agreement shall commence on the date stated at the beginning and shall continue in force, subject to early termination in accordance with the next following clause, until terminated by either party giving to the other not less than two months' notice, such notice to expire at any time.

## **10 Termination**

Either party may terminate this Agreement forthwith on notice to the other party if that other party:

10.1 is in material breach of any of the terms of this Agreement and, where the breach is capable of being remedied, fails to remedy the breach within 20 Business Days of service of notice specifying the breach and requiring it to be remedied;

10.2 has a petition granted for its winding up or has a liquidator, administrator, receiver or administrator appointed in respect of it, enters into an arrangement with its creditors or ceases, or threatens to cease, trading.

## **11 Events After Termination**

11.1 Termination under clause 11 or clause 12 may be in respect of any individual Statement of Works or in respect of this Agreement including all Statements of Works.

11.2 On termination of this Agreement for any reason and at the end of the provision of the Services, the Company shall return all property, equipment, documentation and other things provided to it by the Client in connection with the provision of the Services.

11.3 Termination of this Agreement or any Statement of Works shall not affect any right or remedy which has accrued due at the time of termination.

## **12. Liability**

12.1 Nothing in this Agreement shall limit or exclude the liability of either party for death or personal injury caused by the negligence of that party, its employees, agents or sub-contractors, or for fraud.

12.2 Subject to clause 14.1, the Company shall have no liability to the Client in connection with this Agreement for any loss of profits, loss of revenue, loss of business, loss of contract, loss

of goodwill, loss of data or failure to make anticipated savings or any indirect or consequential loss, whether this results from breach of contract, negligence or otherwise.

12.3 Subject to clauses 14.1 and 14.2 the maximum aggregate liability of the Company to the Client under or in connection with this Agreement and whether resulting from breach of contract, negligence or otherwise shall not exceed the amount payable by the Client under this Agreement in respect of the 12 months fees or £1,000,000, whichever is the lower, prior to the date on which such liability arises.

## **13 Force Majeure**

13.1 Neither party shall have any liability for any failure to perform or delay in performing any of its obligations under this Agreement if and to the extent that such failure or delay is caused by reasons, circumstances or events beyond the reasonable control of that party.

13.2 If a party is affected by any circumstance or event of the type described in clause 15.1, that party shall notify the other party as soon as reasonably practicable and the parties shall each use all reasonable endeavours to minimise the impact on the obligations that are affected.

## **14 Customised Agreement**

14.1 This Agreement is specific and Customised to the Company and the Client and neither of them shall assign any of their rights under this Agreement without the prior written consent of the other.

14.2 The Company may sub-contract part or parts of its obligations under this Agreement but shall remain liable for the performance of those parts that have been sub-contracted.

15.3 The parties do not intend any person who is not a party to this Agreement to have any rights under it whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

## **15 Entire Agreement**

This Agreement (together with any Statements of Works) constitutes the complete and exclusive agreement between the parties in respect of the subject matter to which it relates and supersedes all prior correspondence, agreements and understandings.

## **16 Status**

16.1 The Company and the Client are each independent contractors and nothing contained in this Agreement shall or shall be capable of creating or constituting between them any partnership or joint venture or any relationship of employment or agency.

16.2 The Company shall have no authority to incur any liability or expense on behalf of the Client or to make any promise, representation or commitment that might be binding on the Client without the prior written consent of the Client.

## **17 Notices**

17.1 Any notices that are required under this Agreement shall be in writing and shall be served on the relevant party at its registered office address.

17.2 Notices may be served by:

17.2.1 personal delivery, in which case they shall be deemed to be served when delivered; or

17.2.2 first class pre-paid post, in which case they shall be deemed to be served on the second Business Day after the day of posting.

## **18 Resolution of Disputes**

If any differences or disputes arise between the Company and the Client in connection with this Agreement, they shall use all reasonable endeavours to resolve them by discussions between themselves, escalating the issues through their respective management structures up to their chief executive officers if necessary.

## **19 Changes, Variations and Waiver**

19.1 If either party wishes to propose a change to the Services or any other provision of this Agreement, that party shall inform the other party of the proposed change and the parties shall work together to determine whether they are willing and able to agree the terms that are necessary to implement the change.

19.2 This Agreement may only be varied or any right under this Agreement waived by a written document signed by authorised representatives of both parties.

19.3 If a party does not on any occasion insist on the strict observance or performance of any rights under or of any provision of this Agreement, that will not amount to a waiver of those rights or that provision.

## **20 Severability**

20.1 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable.

20.2 If such modification is not possible, the relevant provision or part-provision shall be deemed deleted.

20.3 Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

## **21 Law and Jurisdiction**

This Agreement and everything arising in connection with it, including non-contractual matters, shall be governed by English Law and the parties submit to the exclusive jurisdiction of the courts of England.

## **GENERAL TERMS AND CONDITIONS OF SALE - HARDWARE**

### **1. Application**

- 1.1 These Conditions shall apply to any contract (the "Contract") for the sale of any goods and or Services (the "Goods") by the Company to any purchaser (the "Buyer") and shall apply in place of, prevail over and supersede any terms or conditions contained or referred to in the Buyer's order or otherwise or in correspondence, brochures or catalogues or elsewhere or implied by trade, custom, practice or course of dealing unless specifically agreed to in writing by a director or other authorised representative of the Company and any purported provisions to the contrary are hereby excluded or extinguished and the supply of the Goods shall not constitute acceptance of any other terms.
- 1.2 In entering into the Contract the Buyer acknowledges that it has not relied on and the Company shall not be liable for any representation, warranty, advice or recommendation made by or on behalf of the Company unless made fraudulently or as expressly provided in these Conditions.

### **2. Orders and Specifications**

- 2.1 No order submitted by the Buyer shall be deemed to be accepted by the Company unless and until confirmed in writing by the Company's authorised representative.
- 2.2 The Buyer shall be responsible for ensuring the accuracy of any order for Goods (including any specifications) and that the Goods requested are suitable for its needs and providing any necessary information within sufficient time to enable the Company to perform its obligations under the Contract. The Company shall have no liability for the failure of any Goods to meet any specific requirements of a Buyer.

### **3. Price and Payment**

- 3.1 The Company agrees to supply and the Buyer agrees to accept and pay for the Goods at the rates or for the sums quoted in any written Contract expressly incorporating these conditions. Where no price has been quoted, the Company will supply the Goods at the price listed in the Company's current published price list.
- 3.2 The Company shall be entitled, by giving notice to the Buyer at any time prior to delivery of the Goods, to adjust the price to reflect any increase in the cost to the Company of supplying the Goods.
- 3.3 Unless otherwise agreed in writing, all prices are exclusive of VAT (which the Buyer shall additionally pay to the Company), packaging, carriage, delivery and insurance.
- 3.4 Unless otherwise agreed in writing, payment by the Buyer of the price shall be made within 30 days of the date of invoice.
- 3.5 The time of payment of the price shall be of the essence. If the Buyer fails to pay the price for the Goods on or before the due date then, without prejudice to any other right or remedy available to the Company, the Company shall:-

- (a) Be entitled to interest on the outstanding amount at the annual rate of 4 per cent. (4%) above the Barclays' Bank base rate from time to time in force until payment in full is made; and
  - (b) Be entitled to cancel the Contract for the sale of Goods or suspend any further deliveries to the Buyer.
- 3.6 No payments may be withheld or any deduction or withholding made by the Buyer for any reason nor may any claim of the Buyer be set off against any payment due to the Company without the prior written consent of the Company.

#### **4. Delivery**

- 4.1 Unless notified by the Buyer in writing not less than 7 working days prior to delivery, the Company shall deliver the Goods to the address agreed to in writing by the Buyer. Delivery of the Goods to the location (as agreed in accordance with this Clause 4.1) shall constitute delivery to the Buyer and sub-sections (2) and (3) of Section 32 of the Sale of Goods Act 1979 shall not apply to the Agreement. The Company reserves the right to make part/multiple shipments.
- 4.2 Any dates or timescales quoted for delivery of the Goods are estimates only and the Company shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery of the Goods is not of the essence of the Agreement.

#### **5. Title and Risk**

- 5.1 Risk in the Goods shall pass to the Buyer on despatch and the Buyer shall adequately insure the Goods until such time as the property in the Goods passes to the Buyer unless shipped and insured by COGTEX.

#### **6. Confidentiality**

Both parties undertake to treat any information or materials received pursuant to the Contract from the other party or its agents as confidential and not to use or disclose to any third party such information without the other party's prior written consent.

#### **7. Buyer's Warranties**

The Buyer warrants and undertakes where Hardware or Software is supplied:

- 7.1 If it discovers or otherwise becomes reasonably aware that any likely intellectual property rights embodied in any of the Goods have been or are being infringed upon by any third party then it shall promptly notify the Company;
- 7.2 not to lease, rent or hire any of the Goods or copy, reproduce, translate, adapt, vary or modify any part of the Goods other than as may be allowed by the Company by notice in writing from time to time;
- 7.3 Provide the Company upon request with such sales and other information relating to the Goods as the Company may require.

## 8. **Warranty and Liability**

- 8.1 The Company will give credit against subsequent orders for stock delivered to the Buyer in a faulty condition and returned by the Buyer within twelve months of such stock being sold and all conditions and warranties whether express or implied by statute, common law, trade usage or otherwise insofar as they are inconsistent with this warranty shall be excluded to the fullest extent permitted by law.
- 8.2 The Company's liability for direct losses arising out of its negligence, breach of contract or any other cause of action arising out of or in connection with the Contract and these Conditions shall not exceed the amount paid by the Buyer to the Company under the terms of the Contract.
- 8.3 In no event shall the Company be liable for indirect, incidental, exemplary, punitive, special or consequential loss of any kind or the loss of revenue or actual or prospective profits, loss of contracts, savings or business opportunity, reputation or goodwill or loss of or damage to or corruption of data arising out of or in connection with the Contract or these Conditions, whether known, foreseen or foreseeable.
- 8.4 Nothing in these Conditions shall exclude or limit the Company's liability for any death or personal injury caused by the negligence of the Company in providing the Goods.

## 9. **Termination**

- 9.1 The Company may terminate the Contract at any time by giving not less than 30 days' notice.
- 9.2 The Company may terminate the Contract and any other agreement with the Buyer with immediate effect by giving written notice to the Buyer if:-
- (a) The Buyer is at any time in material or persistent breach of any of these terms and conditions; or
  - (b) the Buyer commits any breach of these terms and conditions and (in the case of a breach capable of remedy) fails to remedy such breach within 7 days of having received written notice of such breach; or
  - (c) there is a change of control of the Buyer (where, for the purposes of this clause "control" shall have the meaning given to it by Section 840 Income and Corporation Taxes Act 1988); or
  - (d) if the Buyer has a receiver or an administrative receiver appointed over it or over any part of its undertaking or assets, or convenes a meeting for the purpose of passing or passes, a resolution for winding up (other than for the purpose of a bona fide scheme of solvent amalgamation or restructuring) or a court of competent jurisdiction shall make an order to that effect or become subject to an administration, or enters into voluntary arrangements with its creditors, or ceases or threatens to cease to carry on business or fails or becomes unable to pay its debts as they fall due.

## 10. Trade Marks

The Buyer shall not use any trade mark, trade name, logo, symbol or device of the Company without the prior written consent of the Company and then only in relation to the Goods. Furthermore, the Buyer shall not use any trade mark or trade name of the Company in relation to any Goods which have been altered in any way after being supplied by the Company. For the avoidance of doubt, the Buyer shall not be entitled to alter the Goods without the Company's consent.

## 11. Software Licence

11.1 If the Buyer is supplied with any operating system software licence with the Goods, the Buyer shall sign and return it to the Company within seven days of installation of the software supplied with or as part of the Goods (the "Software"), unless the licence has been supplied on a "shrink-wrap" or "click-wrap" basis.

11.2 If no software licence has been provided to the Buyer with the Goods, the Buyer hereby accepts a non-exclusive, non-transferable licence to use the Software on the following conditions:

- (a) the Buyer shall not copy, reproduce, translate, adapt, vary or modify the Software, nor communicate it to any third party, without the Company's prior written consent; and
- (b) such licence shall be terminable by either party upon 28 days' written notice, provided that the Buyer only terminates the licence if the continued use or possession of the Software by the Buyer infringes a third party's rights, the Company is compelled to do so by law or if the Buyer failed to comply with any term of the Contract or these Conditions.

## 12. Intellectual Property Rights

No rights in copyright (including, without limitation, copyright in software), designs, trademarks, patents, trade secrets, database rights or other intellectual property are granted by the Company to the Buyer except as expressly provided under the Contract.

## 13. Indemnity

The Buyer will fully indemnify and hold harmless and keep fully indemnified the Company from and against all liabilities, losses, damages, costs and expenses (including legal and other professional costs on an indemnity basis) actions and claims incurred by it arising directly or indirectly from the breach by the Buyer of any of its obligations under the Contract or the negligence of the Buyer.

## 14. General Provisions

14.1 The Company shall be entitled to assign, transfer or sub-contract any of the benefits and/or burdens of the Contract at its sole discretion to any third party.

14.2 No inaction or waiver by the Company of any breach of these terms and conditions by the Buyer shall be a waiver of any subsequent breach.

- 14.3 No variation of these terms and conditions shall be effective unless confirmed in writing by the Company and such confirmation contains a specific reference to these terms and conditions being varied. The Contract and these Conditions constitutes the entire agreement between the parties and will supersede all prior agreements or understandings concerning such subject matter.
- 14.4 The Company shall not be liable for any failure to provide the Goods or any breach of these terms and conditions attributable to any circumstance beyond the Company's control.
- 14.5 Any notice to either party shall be in writing and delivered to the contacts and addresses set out in the Contract. If the Contract does not specify any contacts, then any notice shall be in writing and addressed to the company secretary of the receiving party.
- 14.6 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.
- 14.7 The Agreement shall be governed by the laws of England and Wales and subject to the non-exclusive jurisdiction of the English courts.

**COGTEX Ltd, Registered in England No 12578892, registered office: 19-20 Bourne Court, Southend Road, Woodford Green, Essex IG8 8 HD**