

STANDARD TERMS AND CONDITIONS

1. Interpretation

In these Terms and Conditions (hereinafter referred to as “these Terms”) the following words and expressions shall have the meanings set opposite them:

- “Client”** means the person, firm, company or organisation to whom the Engagement Letter is addressed;
- “Client Dependencies”** means the time, resources, decisions and other inputs from the Client or its officers, agents or employees upon which delivery of the Project is dependent, as specified in the Work Scope and Schedule;
- “Contract”** means the contract between the Consultant and the Client for the provision of the Services pursuant to the Contract Documents;
- “Confidential Information”** means all technical information, know-how, trade secrets and/or data or information of a confidential nature in any form whatsoever concerning the Project or the activities and the finances, business methods, dealings or affairs of the Client;
- “Contract Documents”** means these Terms, the Professional Service Agreement and Work Scope and Schedule;
- “Consultant”** means Data Culture Change Limited, a company incorporated in Scotland (registered number SC372678) and having its registered office at 17 Brompton Terrace, Perth PH2 7DQ;
- “Contract Period”** means the period within which the Services are scheduled to be provided, as detailed in the Work Scope and Schedule;
- “Deliverables”** means all documents and materials produced by the Consultant in relation to the Project in any form, including computer programs, data, reports and specifications, tapes, disks or other device or record embodying information in any form;
- “Insolvency Event”** means, in relation to any party, if that party makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or sequestrated or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation, or reconstruction) or an encumbrancer takes possession, or a receiver is appointed, over any of its property or assets or it ceases or threatens to cease to carry on its business;

“Key Person”	means David Brownlee;
“the Project”	means the project described in the Work Scope and Schedule;
“Project Fees”	means the fees payable by the Client to the Consultant for the Services as detailed in the Work Scope and Schedule;
“Services”	means the services detailed in the Work Scope and Schedule
“Site(s)”	means the location or locations at which the Services are to be carried out, as detailed in the Work Scope and Schedule.

2. Obligations of the Consultant

- 2.1 The Consultant undertakes to the Client that it will:
- (a) use all reasonable endeavours to provide the Services with reasonable skill and care and within the Contract Period; and
 - (b) comply with all reasonable requests made by the Client in connection with the performance of the Services.
- 2.2 The Consultant warrants to the Client that it has the expertise and experience necessary to provide the Services.
- 2.3 The Client acknowledges and agrees that the ability of the Consultant to fulfil its obligations under the Contract is dependent upon the Client Dependencies and that the Consultant will not be in breach of such obligations where its delay or failure in fulfilling them results wholly or mainly from any delay or failure on the part of the Client or its officers, agents or employees in respect of any of the Client Dependencies.

3. Obligations of the Client

The Client undertakes to the Consultant that it will:

- (a) comply with all reasonable requests made by the Consultant in connection with the performance of the Services;
- (b) provide the Consultant with all reasonable assistance, documentation and information necessary to enable the Consultant to fulfil its obligations under the Contract;
- (c) procure that the Consultant is at all reasonable times given access to the Site(s) for the purpose of performing the Services; and
- (d) pay the Project Fees to the Consultant when due in accordance with the Work Scope and Schedule.

4. Limitation of Liability

- 4.1 The obligations of the Consultant as set out in Clause 2 above represent the full extent of the Consultant's obligations in relation to the Contract and all other obligations, terms, warranties and others implied by statute or common law are, to the fullest extent permitted by law, hereby excluded.
- 4.2 The liability of the Consultant to the Client in respect of all claims which the Client may have against the Consultant arising out of or in connection with the performance of the Contract (whether in contract or delict or otherwise howsoever) shall be limited to the amount of the Project Fees.
- 4.3 Without prejudice to the foregoing, the Consultant shall have no liability to the Client in respect of:
- (a) any loss of profits, loss of goodwill, loss of business, loss of revenue, loss of contracts, loss of anticipated savings; or
 - (b) any type of special, indirect or consequential loss or damage,

suffered or incurred by the Client, howsoever caused PROVIDED THAT nothing in these Terms will limit or exclude any liability of the Consultant for death or personal injury caused by negligence or for fraud.

5. Status of Consultant

The Consultant is an independent Consultant and nothing in the Contract Documents shall render the Consultant or the Key Person an employee, agent or partner of the Client and the Consultant shall not hold itself out as such. The Consultant shall not have any right or power to bind the Client to any obligation.

6. Confidential Information

The Consultant will keep confidential and will not, without the written agreement of the Client, disclose to any third parties or make other use of any Confidential Information communicated to the Consultant by the Client in the course of providing the Services or in any negotiations preceding the entry into the Contract.

7. Intellectual Property

- 7.1 Ownership of all intellectual property rights of any nature (including copyright, design rights, database rights, domain name rights, confidential information, know-how, patents and applications for patents, trade marks, service marks and trade names and similar rights all rights to apply for the same) in the Deliverables shall be vest in the Consultant but the Consultant hereby grants the Client, subject to Clause 7.2, a non-exclusive, royalty-free perpetual worldwide licence to use such rights.

- 7.2 The licence granted under Clause 7.1 will automatically terminate in the event that the Client fails to pay any of the Project Fees when due or if the Client commits any other breach of the Contract.

8. Set off and Lien

In respect of unpaid debts due from the Client, the consultant shall at all times have a general lien on all property in its possession and shall be entitled on the expiry of 14 days' notice to dispose of such goods or property in such a manner and at such price as the Consultant thinks fit and to apply the proceeds towards such debts. The Consultant shall be entitled to set off and withhold against any debts due from the Client all sums which may at any time be due by the Client to the Consultant on any grounds whatsoever.

9. Interest and VAT

- 9.1 Without prejudice to any other remedies of the Consultant in the event of non-payment by the Client, any overdue payment of any Project Fees or other sum due by the Client to the Consultant shall bear interest (as well after as before any decree or judgement) at the rate of 5% per annum above The Royal Bank of Scotland plc base rate for the time being in force from the due date for payment until the date payment is actually received by the Company.

- 9.2 All amounts expressed in this Agreement as being payable by the Client are expressed exclusive of any VAT which may be chargeable thereon.

10. Force Majeure

The Consultant shall have no liability in respect of failure to deliver or perform or delay in delivery or performing any obligation due to any cause outwith the reasonable control of the Consultant including but not limited to Acts of God, fire, floods, wars and disturbance or riot, acts of government, currency restrictions, labour disputes, strikes, unavailability of materials or failure of supplier, carrier or sub-contractor to deliver on time.

11. Termination

- 11.1 The Contract may be terminated forthwith by the Client by notice in writing to the Consultant if:
- (a) the Consultant wholly suspends the Services before completion without reasonable cause;
 - (b) the Consultant suffers any Insolvency Event;
 - (c) the Key Person becomes incapacitated from any cause from effectively performing the Services for four consecutive weeks; or
 - (d) the Consultant commits any material breach of the Contract which, if remediable, has not been remedied by the Consultant within 14 days of receipt of a notice from the Client requiring it to be remedied.

- 11.2 The Contract may be terminated without cause by not less than 28 days' notice in writing by the Client, in which case, the whole Project Fees (or such part thereof as may be specified in the Engagement Letter as payable in these circumstances) and any expenses incurred by the Consultant in connection with the Project shall become immediately due and payable.
- 11.3 The Contract may be terminated forthwith by the Consultant by notice in writing to the Client if:
- (a) the Client suffers any Insolvency Event;
 - (b) the Client fails to pay any sum due to the Consultant when due; or
 - (c) the Client commits any material breach of the Contract which, if remediable, has not been remedied by the Consultant within 14 days of receipt of a notice from the Consultant requiring it to be remedied
- 11.4 In the event of termination by the Consultant pursuant to Clause 11.3, the whole Project Fees and any expenses incurred by the Consultant in connection with the Project shall become immediately due and payable.

12. Assignment

The Contract shall not be assigned or sub-contracted in whole or in part by the Consultant to any other party without the prior written consent of the Client.

13. Miscellaneous

- 13.1 The Contract Documents shall not be varied except as agreed between the Consultant and the Client in writing.
- 13.2 The Contract Documents constitute the entire agreement between the Consultant and the Client relating to the Project and supersede all prior proposals, representations, agreements and negotiations (whether written, oral or implied) relating thereto between the parties, provided that the foregoing shall not apply to any fraudulent misrepresentation.
- 13.3 If any provision of any Contract Document is held to be invalid or unenforceable, in whole or in part, that provision or part shall to that extent be deemed not to form part of the Contract. However, the validity and enforceability of the remainder of the Contract shall not be affected.

14. Law and Jurisdiction

The Contract shall be governed by and construed in accordance with the law of Scotland and the Company and the Client hereby submit to the exclusive jurisdiction of the Scottish courts.