

# Terms & Conditions

Unless a separate written Agreement has been entered into with OCF at the procurement stage, the following Terms and Conditions will apply.

## **Purpose and Objectives**

This Agreement outlines the terms and conditions under which the Supplier will provide specified Services (collectively referred to as “the Services”) to which its Client or its Affiliates. The objective is to provide a basis and framework for the delivery of high quality services that meet the needs of the Client.

## **Parties to the Agreement**

This Agreement is made between OCF Limited (hereinafter referred to as “the Supplier”), and the Client Name listed in Section 1.1 (hereinafter referred to as “the Client”).

## **Duration of Agreement**

The Agreement dates are specified in the ‘Services Schedule’. At the end of this period, Services will cease unless a renewal is taken prior to the Agreements expiry. 90 days prior written notice is required to terminate the Agreement by either party.

## **Non-exclusive Agreement**

It is understood and agreed that this Agreement does not grant to the Supplier any exclusive rights to do business with the Client and also that the Client may contract with other suppliers for the procurement of similar services. Nothing in the Agreement prevents the Supplier from marketing, developing, using and performing similar services or products to other potential clients.

## **Definitions**

“Affiliate” a subsidiary organisation, sister organisation or an organisationally connected entity to either party.

“Commencement date” The date that the Agreement is considered to be effective.

“Defective or inadequate performance” a delivery of services where the performance levels do not meet an agreed minimum criteria.

“Disclosing party” the party who has disclosed confidential information to the other party.

“Initial period” the Agreement period from the commencement date to the first renewal date.

“Intellectual property rights” a registered or non-registered ownership of patents, trademarks, registered design, know-how or copyright.

“Key personnel” persons employed by the Supplier who have a key role in the delivery of the services to the Client.

“Non-standard services” services which are customised to meet the requirements of the Client.

“Place of service delivery” the address or addresses of the Client’s or Supplier’s premises where the Service delivery is deemed to take place.

“Problem escalation” the agreed procedure for alerting and notifying increasingly senior members of the Supplier’s management of the non-resolution of problems.

“Problem management” the agreed procedures for providing support and problem resolution services to the Client.

“Professional fees” the remuneration or compensation, other than reimbursable expenses, due to the supplier for the provision of the Services.

“Receiving party” the party who has received confidential information from the other party.

“Service availability” the times and periods that the Supplier will make the Services available to the Client.

“Specified services” those Services that are specified in Schedule A and Schedule B of this Agreement.

“Standard services” those Services that the Supplier delivers to its Clients without significant customisation.

“Support and Service desk services” the Specified Support Services provided by the Supplier to the Client to assist the Client’s personnel to understand operate and execute the delivered Services.

“Standard Service” the Standard Services to be delivered under this Agreement are as listed, described and specified in “Services Description (section 4) to this Agreement.

#### **Availability**

The availability, operational reliability and response times of the Services to be delivered under this Agreement are as specified in the OCF Agreement Response (section 8) to this Agreement.

#### **Place of Service delivery**

The Services covered by this Agreement are to be delivered at the address or addresses given in ‘Service Agreement Details’.

#### **Changes to Services**

Either party may propose changes to the scope, nature or time schedule of the Services being performed under this Service Level Agreement. The parties will mutually agree to any proposed changes, including adjustments to fees and expenses as a result of any changes to the Services. All changes must be approved in writing by both parties.

#### **Client delays to Services**

The Supplier will be entitled to an adjustment to any penalties or refunds due in respect of inadequate performance if the Supplier is prevented from performing specific Services for any reasons beyond the control of the Supplier which are directly and solely caused by the Client.

#### **Support and Service Desk Services**

The Supplier will provide on-going assistance to the Client to support the Services provided. This will include comprehensive Service desk facilities. The Service Desk services are outlined in ‘OCF Service Desk’.

#### **Payment Terms**

The Agreement fee (together with any Value Added Tax payable thereon) shall be levied by the Supplier in advance of the Start Date in respect of the full term of this Agreement as outlined in section 3. The fees shall on each occasion be payable by the Client within thirty days of receipt of the Suppliers invoice thereafter, unless extended payment terms have been agreed to.

#### **Client Duties and Responsibilities**

##### **Processing and authorisation of invoices**

The Client undertakes to process and settle invoices by the due dates, unless an invoice is under dispute.

##### **Client personnel, facilities and resources**

The Client will ensure the Supplier has timely access to appropriate Client personnel and will arrange for the Supplier personnel to have suitable and safe access to the Client’s facilities and systems. The Client will also provide suitable office space and associated resources for Supplier personnel working on-site including all necessary computing and office resources.

##### **Training on specialised equipment or tasks**

The Client will ensure that all Client personnel who work on the Supplier's systems or equipment are adequately qualified and receive suitable training both to ensure the safety of the Client's personnel and to safeguard the Suppliers systems or equipment.

#### **Approvals and Information**

The Client will respond promptly, and in any case, within five working days, to any Supplier request to provide direction, information, approvals, authorisations or decisions that are reasonably necessary for the Supplier to perform the services.

#### **Quality of Service**

The Supplier warrants that the Services will be performed in a professional and workmanlike manner consistent with industry standards reasonably applicable to such services. If the Client considers that a breach of this warranty has occurred and notifies the Supplier in writing stating the nature of the breach, then the Supplier will be required to urgently correct any affected services in order that they comply with the warranty.

#### **Exclusions**

The Supplier is not responsible for any infringements to third party copyrights, patents or trade secrets where the Client has made amendments to original documents and similar work prepared by the Supplier without the express approval of the Supplier, or where the Client fails to use the most recent versions of such works that have been delivered by the Supplier.

#### **Remedies for breaches**

In the event of any defective performance from the Supplier or failure to furnish the agreed level of service, the Supplier will make all reasonable efforts to restore the service to a good operating condition on an urgent basis.

#### **Force Majeure**

Except in respect of payment liabilities, neither party will be liable for any failure or delay in its performance under this Agreement due to reasons beyond its reasonable control, including acts of war, acts of God, earthquake, flood, riot, embargo, sabotage, governmental act or failure of the Internet, provided the delayed party gives the other party prompt notice of the reasons for such cause.

#### **Physical Access**

The Client is to ensure that the Supplier's employees and sub-contractors are given reasonable authorised access to premises and equipment in order that the Services may be delivered and maintained in accordance with the terms of this Agreement.

#### **Logical Access**

The Client is to ensure that the Supplier's employees and sub-contractors are given necessary access to the software and systems in order that the Services may be delivered and maintained in accordance with the terms of this Agreement.

#### **Compliance with Client Security Policies**

In the event that the Client operates formal security policies, the Supplier will ensure that its employees are made aware of such policies and will also ensure on going compliance with these policy statements. The Client will provide the Supplier with up to date information on its security policies and will keep the Supplier informed about any changes to these policies.

#### **Information and data security measures**

The Supplier will manage information and data security with reasonable efforts to restrict unauthorised access. The Supplier will make best endeavours to ensure that its employees and representatives are fully aware of the risks associated with information and data security.

#### **Termination**

This Agreement starts on the Commencement Date and will run for the agreed term as detailed in the Service Schedule. Any Termination prior to this date must be made in writing with 90 days' notice and agreed by both parties.

**Termination for Convenience**

If either party fails to perform its obligation under this Agreement, and does not, within 90 days of receiving written notice describing such failure, agree to take measures to cure such failure, then this Agreement may be terminated forthwith.

**Termination for Cause**

If either party fails to perform its obligation under this Agreement, and does not, within 90 days of receiving written notice describing such failure, agree to take measures to cure such failure, then this Agreement may be terminated forthwith.

**Payment on termination**

In the event of the termination of this Agreement for any cause, the Supplier will continue to be paid up to the effective date of termination for any fees or expenses due for services delivered up to that date. Any advance fee paid by the Client will be adjusted to the date of termination.

**Notices**

Notices required under this Agreement are to be sent to the address specified in 'Service Agreement Details' to this Agreement. Notices are to be sent in writing by registered post, recorded post, express courier service or personally.

**Standard of care**

Each party will act in good faith in the performance of its respective duties and responsibilities and will not unreasonably delay or withhold the giving of consent or approval required for the other party under this Agreement. Each party will provide an acceptable standard of care in its dealings with the other party and its employees.

**Assignment**

Neither party may assign or otherwise transfer this Agreement without the prior written consent of the other party. In the event that consent for assignment is given, the terms of this Agreement will be binding upon each party's respective successor.

**Severability**

The provisions of this Agreement shall be deemed severable, and the unenforceability of any one of the provisions shall not affect the enforceability of other provisions. In the event that a provision is found to be unenforceable, the parties shall substitute that provision with an enforceable provision that preserves the original intent and position of the parties.

**Changes to the Agreement**

All changes to this Agreement must be approved in writing by authorised officials of both parties and follow the formal change control procedure.

**Non-solicitation**

During the terms of this Agreement and for two years after its expiration or termination, neither party will solicit any employee of the other party for the purposes of offering employment.

**Law**

This Agreement shall be governed by and construed in accordance with English Law and parties hereto hereby submit to the jurisdiction of the English Courts.