

# Tickery Limited

## General Terms and Conditions 1.2

Last Updated: 1<sup>st</sup> May 2023

### 1. Definitions

"Service Provider" means Tickery Limited and for the purposes of this Agreement shall include its Staff and any substitutes and sub-contractors as set out below.

"Client" means the customer together with any subsidiary, parent, or associated company as defined by the Companies Act 1985 requiring the services of the Service Provider.

### 2. Technical Services

The Service Provider's obligation to provide the Technical Services shall be performed by one or more employees of the Service Provider as the Service Provider may consider appropriate ("the Staff").

The Service Provider has the right, at its own expense, to enlist additional or substitute Staff in the performance of the Technical Services or may sub-contract all or part of the Technical Services, provided that the Service Provider is reasonably satisfied that such additional Staff or any such sub-contractor has the required skills, qualifications, resources, and personnel to provide the Technical Services to the required standard.

Where the Service Provider provides a substitute or sub-contracts all or part of the Technical Services, the Service Provider shall be responsible for paying the substitute or sub-contractor and shall ensure that any agreement between the Service Provider and any such substitute or sub-contractor shall contain obligations which correspond to the obligations of the Service Provider under the terms of this Agreement and the Service Provider shall remain responsible for the acts or omissions of any such substitute or sub-contractor.

Save as otherwise stated in this Agreement, the Client acknowledges and accepts that the Service Provider is in business on its own account and the Service Provider shall be entitled to seek, apply for, accept and perform contracts to supply its Technical Services to any third party during the term of this Agreement if this in no way compromises or is to the detriment to the performance of the Technical Services specified in the attached Schedule.

### 3. The Contract

This Agreement constitutes the contract between the Client and the Service Provider and governs the performance of the Technical Services by the Service Provider for the Client.

The Service Provider shall not be required to provide any advice and assistance in addition to the Technical Services and any requests to provide such additional advice and assistance shall be subject to the prior approval of the Service Provider and agreement between the Service Provider and the Client as to the level of fees payable for such additional advice and assistance. If such additional advice and assistance is agreed, the Service Provider must notify the Client of the terms upon which such services will be provided including details of any new fee arrangements in order that the fee arrangement between the Service Provider and Client as set out in the Schedule may be adjusted accordingly.

No variation or alteration of these terms shall be valid unless approved by the Client and the Service Provider in writing except where changes to the Technical Services are necessary to comply with applicable safety and other statutory requirements, in which case the Service Provider may make such necessary changes without prior notification to the Client.

A person who is not a party to this Agreement has a right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement in addition to any right or remedy which exists or is available apart from that Act.

#### 4. Undertaking of the Technical Services

The Service Provider warrants to the Client that by entering and performing its obligations under this Agreement it will not thereby be in breach of any obligation which it owes to any third party.

The Service Provider warrants to the Client that it will carry out the Technical Services with reasonable skill and care and as far as possible in accordance with the terms of this Agreement and any other timetables or other targets agreed.

#### 5. Training

The Service Provider warrants to the Client that it has the necessary skills and qualifications to perform the Technical Services.

#### 6. Service Provider Obligations

The Service Provider agrees in accordance with the terms of this contract as follows: -

Not to engage in any conduct detrimental to the interests of the Client which includes any conduct tending to bring the Client into disrepute or which results in the loss of custom or business.

Upon termination of the Agreement, to provide the Client with any data relating to the Client's business; including a backup of any databases and copies of any source code or other documents or files owned by the Client.

#### 7. Equipment

The Service Provider shall provide at its own cost, subject to any agreement to the contrary specified in the Schedule as to any facilities which may be made available by the Client, all such necessary equipment as is reasonable for the satisfactory performance of the Technical Services.

## 8. Invoicing

The Service Provider shall invoice the Client monthly in advance.

## 9. Fees and Payment

Subject to the receipt of the Service Provider's invoice the Service Provider will receive payment from the Client for the Technical Services in accordance with the fees specified in the Schedule.

The Service Provider shall be responsible for any PAYE Income Tax and National Insurance contributions and any other taxes and deductions payable in respect of its Staff in respect of the Technical Services.

All payments will be made directly to the Service Provider according to the terms set out below or in accordance with the attached Schedule.

Payment of the agreed fee must be received within 30 days of receipt of the Service Provider's invoice to ensure continued provision of the Technical Services.

## 10. Obligations of the Client

Throughout the term of this Agreement the Client shall pay the Service Provider the agreed fee in accordance with the above terms.

The Client must notify the Service Provider of any items requiring their attention using the appropriate method as set out in the attached Schedule. Failure to use the appropriate communication method may result in issues not being addressed in a timely fashion.

The Client accepts that the Service Provider will not act as their representative and are therefore not in any position to communicate directly with the Client's customers or suppliers except where such communication directly relates to the provision of the Technical Services.

## 11. Term of the Agreement

This Agreement shall commence in accordance with the attached Schedule and shall continue until either party serves the other written notice of its intention to terminate the Agreement subject to the conditions of termination set out below.

## 12. Termination

Notwithstanding to the above, the Client may at any time with one months' written notice instruct the Service Provider to cease work on the Technical Services, or at any time without notice and without liability require the Service Provider to cease work on the Technical Services, where:

The Service Provider has committed any serious or persistent breach of any of its obligations under this Agreement; or

The Client reasonably believes that the Service Provider has not observed any condition of confidentiality applicable to the Service Provider from time to time; or

If performance of the Technical Services is prevented by the incapacity of the Staff and the Service Provider is unable to provide a replacement member of Staff or a suitable substitute or sub-contractor pursuant to the provisions of clause 2; or

- The Service Provider becomes insolvent, dissolved or subject to a winding up petition; or
- Any member of the Service Provider is guilty of any fraud, dishonesty or serious misconduct

AND the provisions of this clause 11 shall equally apply to any party performing the Service Provider's obligations as provided for in clause 2.

11.1 - The Service Provider may terminate the contract if the Client has committed any serious or persistent breach of any of its obligations under this Agreement or if the Client becomes insolvent, dissolved, or subject to a winding up petition.

11.2 – Specifically, the Service Provider may terminate the contract with immediate effect and without liability if, for any reason, payment of any and all applicable fees are not received within the specified period as defined in clause 9.

11.3 - During the period after which notice has been served by either party, but the notice period has not been completed, the Client shall remain obliged to pay the Service Provider and the Service Provider shall remain obliged to perform the Technical Services as set out in the attached Schedule.

The Service Provider may at any time with one months' written notice instruct the Client of its intention to cease provision of the Technical Services.

During the notice period, the Service Provider will continue to provide the Technical Services and the Client will continue to pay in accordance with the fees set out in the attached Schedule. If the notice period ends part-way through a billing cycle (calendar month), payment will be pro-rated daily according to the following formula:

Monthly Fee x 12 / 365

The Service Provider shall provide the Client with all passwords, access details and other key technical information as may be required for the Client to maintain access to the resources covered by the Technical Services. Additional handover documentation and guidance may be provided at the sole discretion of the Service Provider and subject to the time available within the agreed Schedule.

## 12. INTELLECTUAL PROPERTY

The Service Provider acknowledges that all copyright, trademarks, patents and other intellectual property rights deriving from the Technical Services shall belong to the Client, including any documents or other works prepared by the Service Provider. Accordingly, the Service Provider shall (and shall procure that any relevant member of its Staff) execute all such documents and do all such acts at its own cost as the Client shall from time to time require in order to give effect to its rights pursuant to this clause.

## 13. CONFIDENTIALITY

In order to protect the confidentiality and trade secrets of any Client and without prejudice to every other duty to keep secret all information given to it or gained in confidence the Service Provider agrees as follows:

1. Not at any time whether during or after the performance of the Technical Services (unless expressly so authorized by the Client as a necessary part of the performance of its duties) to disclose to any person or to make use of any of the trade secrets or confidential information of the Client.
2. To deliver up to the Client (as directed) at the end of the Assignment all documents and other materials belonging to the Client (and all copies) which are in its possession including documents and other materials created by it or the Staff during the course of the Agreement.
3. Not at any time to make any copy, abstract, summary or précis of the whole or any part of any document or other material belonging to the Client except when required to do so in the course of its duties under the Assignment in which event any such item shall belong to the Client as appropriate.

The Service Provider shall procure and ensure that the provisions of this clause 13 shall also apply to any sub-contractor performing the Service Provider's obligations provided for in clause 2.

## 14. COMPUTER EQUIPMENT WARRANTY

The Service Provider warrants to the Client that any computer equipment and associated software which it provides to its Staff for the purpose of providing the Technical Services contains anti-virus protection with the latest released upgrade from time to time, and the Service Provider shall procure that the provisions of this clause shall also apply to any computer equipment and associated software provided by any sub-contractor of this Agreement.

## 15. RELATIONSHIP BETWEEN THE CLIENT AND SERVICE PROVIDER

The Service Provider acknowledges to the Client that there is no intention on the part of the Service Provider, its staff, substitutes or-sub contractors or the Client to create an employment relationship between any of those parties and that the responsibility of complying with all statutory

and legal requirements relating to the Staff of the Service Provider (including but not limited to the payment of taxation, maternity payments and statutory sick pay) shall fall upon and be discharged wholly and exclusively by the Service Provider.

If any person should seek to establish any liability or obligation upon the Client on the grounds that the staff are an employee of the Client, the Service Provider shall upon demand indemnify the Client and keep them indemnified in respect of any such liability or obligation and any related costs expenses or other losses which the Client shall incur.

1. The Service Provider shall be responsible for all obligations arising under or in connection with, the National Minimum Wage Act 1998 in connection with its Staff.
2. The Client is under no obligation to offer work to the Service Provider and the Service Provider is under no obligation to accept any work that may be offered by the Client. Neither party wishes to create or imply any mutuality of obligation between themselves either during, or between, any performances of Service under this Agreement

## 16. NOTICES

All notices which are required to be given hereunder shall be in writing and shall be sent to the registered office from time to time of the party upon whom the notice is to be served. Any such notice may be delivered personally or by first class prepaid post or facsimile transmission and shall be deemed to have been served if by hand when delivered, if by first class post 48 hours and if by facsimile transmission when dispatched.

Where email communication has been established between the Client and the Service Provider, notice may be served by email to any address which the Client and Service Provider have previously utilized. In such cases, notice is deemed to have been served on the day the email is sent and the sender shall not be responsible for any delay or failure in delivery.

## 17. LIABILITY

1. The Service Provider shall be liable for any loss, damage or injury to any party (including any loss, damage or liability incurred by the Service Provider whether under its agreement with the Client or otherwise) resulting from the acts or omissions of the Service Provider or its Staff (including substitute or replacement Staff) or from the acts or omission of any sub-contractor to whom the Service Provider sub-contracts the performance of the Technical Services whether or not such act or omission constitutes a breach of this Agreement and the Service Provider shall indemnify and keep indemnified any such party including, without limitation to the foregoing, the Client against any such loss, damage or injury provided that the total aggregate liability of the Service Provider shall not exceed in the case of liability covered by professional indemnity insurance up to £1,000,000.
2. The Service Provider shall ensure the provision of adequate insurance to cover the risk of a claim against the Service Provider pursuant to the terms of this Agreement (including clause 19.1). The Service Provider shall note the interest of the Client with regard to all such

policies of insurances and shall make a copy of all such policies available to the Client upon request.

## 18. GOVERNING LAW AND JURISDICTION

This Agreement shall be construed in accordance with the laws of England & Wales and all disputes, claims or proceedings between the parties relating to the validity, construction or performance of this Agreement shall be subject to the exclusive jurisdiction of the Courts of England & Wales.

## 19. ILLEGALITY

If any provision or term of this Agreement shall become or be declared illegal, invalid or unenforceable for any reason whatsoever including, but without limitation, by reason of the provisions of any legislation or other provisions having the force of law or by reason of any decision of any Court or other body or authority having jurisdiction over the parties of this Agreement such terms or provisions shall be divisible from this Agreement and shall be deemed to be deleted from this Agreement and the remainder of the provisions shall continue in full force and effect provided always that if any such deletion substantially affects or alters the commercial basis of this Agreement the parties shall negotiate in good faith to amend the provisions and terms of this Agreement as necessary or desirable in the circumstances.

## 20. ENTIRE AGREEMENT

This Agreement constitutes the entire understanding between the parties concerning the subject matter hereof.

## 21. FORCE MAJEURE

1. The Service Provider shall not be liable for any breaches of its obligations under this Agreement resulting from causes beyond its reasonable control including but not limited to Acts of God, enemy, fire, flood, explosion or other catastrophe.
2. The Service Provider accepts that the Client shall not be liable for any breaches of its obligations to the Consultancy under its agreement with the Client resulting from causes beyond its reasonable control including but not limited to Acts of God, enemy, fire, flood, explosion or other catastrophe.

## 22. INTERNATIONAL AND BANKING CHARGES

With respect of all payments specified in the associated Proposal or Schedule Document, the Client shall at all times be responsible for any charges relating to transactions made from bank accounts outside the UK and shall ensure that the payments received by the Service Provider match the full amounts due in British Pounds Sterling (£).

### 23. UPDATES TO GENERAL TERMS AND CONDITIONS

The Service Provider reserves the right to update the Terms and Conditions from time to time in accordance with any applicable laws and legislation of the jurisdiction in which the company is based. Such updates will be published via its website, <https://www.tickery.co.uk>, and will take effect on the date they are made publicly available.