

STANDARD TERMS OF SERVICE

In these Terms, unless the context otherwise requires:

- (i) the "Company" means Park City Consulting Limited;
"Data Protection Legislation" means the UK Data Protection Legislation and (for so long as and to the extent that the law of the European Union has legal effect in the UK) the General Data Protection Regulation ((EU) 2016/679) and any other directly applicable European Union regulation relating to privacy;
"Terms" means these Standard Terms of Service and the other terms set out in the document of which these Standard Terms of Service form part;
"Contract" means the contract between the Company and the Client set out in the document of which these Standard Terms of Service form part;
the "Client" means the person to whom the Company is to provide the Services;
the "Services" means the consultancy of other services to be provided by the Company to the Client pursuant to the Contract;
"UK Data Protection legislation" means any data protection legislation from time to time in force in the UK including the Data Protection Act 1998 or 2018 or any successor legislation;
"Working Hours" means between 9.00 a.m. and 5.00 p.m. on all Mondays to Fridays except public holidays;
- (ii) words importing the singular include the plural, words importing any gender include every gender and words importing persons include every gender and words importing persons include bodies corporate and unincorporated; and (in each case vice versa

The following terms and conditions shall apply to the provision of the Services:

Payment and Expenses

- If the Client fails to make any payment to the Company on the due date then, without prejudice to another right or remedy available to the Company, the Company shall be entitled to:
 - suspend the performance or further performance of its obligations under the Contract;
 - charge the Client interest (both before and after judgement) on the amount outstanding on a daily basis, at the rate of 2 percent per annum above the base rate of Barclays Bank plc (or such other London Clearing Bank as the Company may nominate) from time to time in force, such interest to be calculated from the due date to the date of actual payment (both dates inclusive) compounded quarterly.
- The Client waives all and any future claims and rights of set-off against any payment due under the Contract and agrees to pay all amounts under the Contract regardless of any equity, set-off or cross claim on the part of the Client against the Company.
- All sums payable under the Contract are exclusive of any Value Added Tax.
- Unless expressly agreed to the contrary the Client shall reimburse the Company for all reasonable travelling and subsistence expenses properly incurred in performing the Services.

Time for Performance

- All performance and completion dates given by the Company are estimates only and the time for the provision or completion of any Services under the Contract shall not be of the essence of the Contract. The Services shall be performed or (as the case may be) made available during Working Hours only. If the Client requires performance or availability outside Working Hours then (subject to acceptance by the Company) an additional charge shall be payable at the Company's standard rates in force from time to time and subject to the Company's express agreement.
 - The Company shall not be liable to the Client or be deemed to be in breach of Contract by reason of any delay in performing any failure to perform any of the Company's obligations under the contract where such delay or failure is due to any cause beyond the Company's reasonably control and the Company shall be entitled to a reasonable extension of time for performing such obligations.
 - The Company will endeavour to deal with all enquiries promptly. However, unless agreed otherwise the Company will not be liable to the Client for any liability arising out of any delay in responding to our dealing with queries or enquiries.

Client Instructions and Safe Access

- The Client undertakes promptly to provide the Company with all information and instructions that the Company may reasonably require from time to time to enable the Company to proceed uninterrupted with the performance of the Contract. Any increase in the cost to the Company due to the Client's neglect or default in failing to give such information and instructions shall be paid by the Client.
- The Client shall afford to the authorised personnel of the Company at all reasonable times full and safe access to the Client's premises for the purpose of the Company's performance of the Contract.

Copyright

- If during the performance of the Services the Company creates any copyright work or design in which copyright or design rights may subsist and moral rights as defined by the Copyright, Designs and Patents Act 1988 then all copyright and design rights in such works shall be the absolute property of the Company in accordance with the Copyright, Designs and Patents Act 1988. The Client agrees to waive all rights in respect of any acts of the Company or any acts of third parties done with the Company's authority or in relation to any such works which are the property of the Company by virtue of this Clause.

Liability

- The Client acknowledges that (i) the amount of any consequential loss which arises out of the failure of the Company to comply with its obligations under the Contract is a matter which is better known to and/or more readily ascertainable by the Client than the Company, (ii) the potential extent of the damage that might be caused to the Client is disproportionate to the amounts that can reasonably be charged (and are charged) by the Company to the Client and (iii) the Company is concerned to keep down the costs of the Services under the Contract and this must necessarily involve limited and/or excluding the liability of the Company for any loss or damage caused to the Client in the manner specified in the following provisions (each of which shall be deemed to constitute an independent and separate agreement and shall be individually and severally enforceable as such):
 - In providing the Services to the Client under the Contract, the Company has no obligation, duty or liability to the Client beyond that of a duty to exercise reasonable skill and care.
 - These Terms are in lieu of all warranties, conditions, terms, undertakings and obligations implied by statute, common law, custom, course of dealing or otherwise, all of which are hereby excluded to the fullest extent permitted by law.
 - The Company will not be liable for any loss arising out of any failure by the Client to keep full and up to date security copies of its computer programs and data in accordance with best computing practice or for any loss caused by the Client's failure to comply with its obligations under the contract.
 - The Company shall not be liable to the Client for loss (whether direct or indirect) of profits, business or anticipated savings or for any indirect or consequential loss (including without limitation, loss of programs and data) whatsoever even if the Company shall have been advised of the possibility thereof.
 - Except in respect of a claim for non-payment of monies due under the contract no action regardless of form arising out of or as a consequence of the transactions under the contract may be brought by either part more than two years after the cause of action has accrued.
 - The Company's liability to the Client arising by reason of our in connection with the Contract of however otherwise shall be limited to £20,000 for any one incident or series of connected incidents and £50,000 for any series of incidents related or unrelated in any period of 12 months.
 - The Company shall not be liable in any circumstances whatsoever for the damage caused to the Client or any other person by the negligence, breach or duty of other wrongful act or omission of any independent contractor engaged by the Company or of any direct or indirect sub contractor of any such independent contract or of any employee or agent of any of them.
 - The defences, exclusions, indemnities and limits of liability provided for in these Terms shall apply in any action against the Company in whatsoever and howsoever arising, whether the action be founded for breach of contract, misrepresentation, negligence, breach of statutory duty or otherwise and shall have full effect notwithstanding any termination, breach or repudiation of the contract of whatever nature or howsoever caused or arising.
 - The Client will promptly notify the Company of any incident which could give rise to a claim against the Company in respect of personal injury or death or loss of damage to property.

Termination

- If:
 - either party commits any breach of any of the terms of the Contract and (if capable of being remedied) shall fail to remedy such breach within 30 days after notice in writing from the other party requiring the same: or
 - either party
 - becomes insolvent or makes any voluntary arrangements with its or his creditors or becomes subject to an administration order; or
 - (being a partnership) is dissolved or has a winding up order made against it; or
 - (being a company) goes into liquidation or is dissolved; or
 - (being an individual) dies or suffers an Interim order (within the meaning of the Insolvency Act 1986) to be made against him or suffers the making of a statutory demand or the presentation of a petition for a bankruptcy order; or
 - has a receiver or administrative receiver appointed of it or him or of or over any of its or his property or assets or suffers or permits an encumbrancer to take possession of any of the same; or
 - has any distress for rent or other seizure under execution or other legal process made in respect of its or his estate or assets or has any judgement obtained against it or him; or
 - ceases, or threatens to cease, to carry on business;
 - the other party reasonably apprehends that any of the events mentioned above is about to occur and notifies the first party accordingly; then, and in any such event, and without prejudice to any other right or remedy available to the other party and notwithstanding any other provision of these Terms, the other party shall be entitled to terminate the whole or any part of the Contract or suspend performance or further performance of any of its obligations under the Contract without any liability to the first part and the first party shall notify the other party immediately upon each and every occurrence of any of the events mentioned in paragraph 10.2 above.
- Either party may terminate the whole or any part of the Contract in accordance with these Terms notwithstanding any subsequent performance by it or the other party of any of its obligations under the contract or the subsequent acceptance by the Company of any payment due to it under the terms of the Contract.

Effect of Termination

- On the expiration or termination of the contract all rights and obligations of the parties under the Contract shall automatically terminate except for such rights of action as shall have accrued prior thereto and any rights or obligations which expressly or by implication are intended to come into or continue in force on or after such expiration or termination.

Confidentiality

- Each party shall treat as confidential all information obtained from the other by virtue of its relationship under the Contract and shall not divulge such information to any person (except to such party's own employees and then only to those employees who need to know the same and except as may be required by law or regulatory authority) without the other party's prior written consent provided that these obligations shall not extend to information which was rightfully in the possession of such party prior to the commencement of the negotiations leading to the Contract, which is already public knowledge or becomes so at a future date (otherwise than as a result of a breach of this Condition) or which is trivial or obvious or otherwise of a non-confidential nature.
 - Each party shall ensure that its employees are aware of and comply with the confidentiality and non disclosure provisions contained in this paragraph and each party shall indemnify the other against any loss or damage which the other may sustain or incur as a result of any breach of confidence by any of its employees.
 - The provisions of this paragraph 13 shall survive the termination of this Contract.

Alterations to the Contract

- If at any time during the currency of the Contract the Client wishes to alter the Services then the Client shall provide the Company with full written particulars of such alterations and with such further information as the Company may reasonably require.
 - The Company shall then submit the Client as soon as reasonably practicable a written quotation for such alterations specifying what changes (if any) will be required to the terms of the Contract.
 - Upon receipt of a quotation under paragraph 14.2 the Client may elect either:
 - to accept such quotation in writing in which case the Contract shall be amended in accordance therewith; or
 - to withdraw the proposed alterations in which case the Contract shall continue in force unchanged (subject to paragraph 14.4).
 - The Company shall be entitled to make a reasonable charge on a time [and materials] basis for considering such alterations and (where applicable) preparing the said quotation and if such activity results in a delay in the performance of the obligations of the Company under the Contract then the Company shall not be liable for such delay and shall be entitled to an extension of time for performing its obligations equal to the period of the delay.
 - The Company shall not be obliged to consider or make any alterations to the Contract save in accordance with the foregoing procedure.

Notices

- Any notice required or permitted to be given by either party to the other under these Terms shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice. Where given by first class post such notice will be deemed to have been served 48 hours after posting and proof that the envelope containing the notice was properly addressed and sent prepaid shall be sufficient evidence of service. Notice given in person or by electronic mail or facsimile transmission shall be deemed to be served immediately.

Staff Poaching

- During the continuance of the Company's work under the contract and for a period of 12 months thereafter the Company and the Client mutually agree not to recruit knowingly the staff (which term shall include employees, associates, sub-contractors and consultants in respect of either party) of the other party met or introduced through their relationship hereunder, provided that this paragraph shall not apply to:
 - staff who have applied for position genuinely arising or advertised by either party; or
 - staff who have left the employ of either party for a period of more than 6 months.

Data Protection

17. Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 17 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation. In this clause 17, **Applicable Laws** means (for so long as and to the extent that they apply to the Company) the law of the European Union, the law of any member state of the European Union and/or Domestic UK Law; and **Domestic UK Law** means the UK Data Protection Legislation and any other law that applies in the UK.
- 17.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Client is the data controller and the Company is the data processor (where **Data Controller** and **Data Processor** have the meanings as defined in the Data Protection Legislation). Schedule 1 sets out the scope, nature and purpose of processing by the Company, the duration of the processing and the types of personal data (as defined in the Data Protection Legislation, **Personal Data**) and categories of Data Subject.
- 17.3 Without prejudice to the generality of clause 17.1, the Client will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Company for the duration and purposes of the Contract.
- 17.4 Without prejudice to the generality of clause 17.1, the Company shall, in relation to any Personal Data processed in connection with the performance by the Company of its obligations under the Contract:
- 17.4.1 process that Personal Data only on the written instructions of the Customer unless the Company is required by Applicable Laws to otherwise process that Personal Data. The parties acknowledge that the entering into of the Contract by the Client constitutes the written approval of the Client to the processing of Personal Data for the purposes of the performance of the Services. Where the Company is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Company shall promptly notify the Client of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Company from so notifying the Client;
- 17.4.2 ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- 17.4.3 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
- 17.4.4 not transfer any Personal Data outside of the European Economic Area unless the following conditions are fulfilled:
- 17.4.4.1 the Client or the Company has provided appropriate safeguards in relation to the transfer;
- 17.4.4.2 the data subject has enforceable rights and effective legal remedies;
- 17.4.4.3 the Company complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
- 17.4.4.4 the Company complies with reasonable instructions notified to it in advance by the Client with respect to the processing of the Personal Data;
- 17.4.5 assist the Client, at the Client's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- 17.4.6 notify the Client without undue delay on becoming aware of a Personal Data breach;
- 17.4.7 at the written direction of the Client, delete or return Personal Data and copies thereof to the Client on termination of the Contract unless required by Applicable Law to store the Personal Data; and
- 17.4.8 maintain complete and accurate records and information to demonstrate its compliance with this clause 17 and, on receiving reasonable notice by the Client, use commercially reasonable endeavours to allow for and contribute to audits by the Client or the Client's designated auditor.
- 17.5 The Client consents to the Company appointing (1) professional advisors including lawyers and (2) training and accreditation bodies as third-party processors of Personal Data under this Contract. The Company confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement substantially on that third party's standard terms of business or incorporating terms which are substantially similar to those set out in this clause 17. As between the Client and the Company, the Company shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 17.

Miscellaneous

- 18.
- 18.1 This Contract constitutes a contract for services and nothing in this Contract shall constitute or be construed as constituting or establishing any partnership or joint venture between any of the parties hereto for any purpose.
- 18.2 No waiver of these Terms shall be effective unless made by an express written agreement between the parties and no waiver by either party of any breach of the Contract by the other party shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 18.3 The Company may from time to time at its sole discretion amend or vary these Terms and any such amendment or variation shall be binding on the Client immediately upon proper notice of the amendment or variation being given by the Company to the Client under clause 15 hereof. Copies of the Company's current Terms, as amended or varied from time to time will be available on the Company's website at <http://www.parkcity.co.uk>.
- 18.4 The Contract shall be governed by and construed in accordance with the laws of England and the parties submit to the exclusive jurisdiction of the Colchester County Court for the settlement of all disputes or claims which may arise out of or in connection with the Contract.
- 18.5 The Company may perform any of its obligations or exercise any of its rights under the contract by itself or through any other member of its group of companies, provided that any act or omission of any such other member shall be deemed to be the act or omission of the Company for all the purposes of the Contract.
- 18.6 Notwithstanding that the whole or any part of any provision of these Terms may provide to be illegal or unenforceable the other provisions of these Terms and the remainder of the provision in question shall continue in full force and effect.
- 18.7 The Contract is not assignable by the Client.

Agreement between the parties

19. The Contract supersedes any previous agreement between the parties in relation to the matters dealt with therein and represents (together with any documents referred to therein) the entire agreement between the parties in relation thereto. The Client hereby warrants to the Company that the Client has not been induced to enter into the Contract by any prior representations whether oral or in writing, except as specifically mentioned in the Contract of these Terms, and the Client hereby waives any claim for breach of any such representations which are not so specifically mentioned.

Schedule 1 Processing, Personal Data and Data Subjects

1. Processing by the Company

- 1.1 Scope:** Personal Data in relation to the Contract must only be processed for the purposes detailed below.
- 1.2 Nature:** Any processing operation regarding the personal data such as collecting, recording, organising, structuring, storage, adaption or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of personal data (whether or not by automated means).
- 1.3 Purpose of processing:** to facilitate the performance of the Company's obligations under the Contract.
- 1.4 Duration of the processing:** the duration of the Contract, except to the extent required under applicable law to preserve the Personal Data
- 2. Types of personal data:** name, address, telephone number, email address, date of birth, gender, health, racial or ethnic origin, NI insurance number, salary, banking and financial details and images.
- 3. Categories of data subject:** employees, workers, contractors, agency workers, consultants, directors, members of the Client; next of kin of any of the foregoing.