



PROFESSIONAL SERVICES TERMS AND CONDITIONS

1. SCOPE

These Professional Services Terms and Conditions (“PSTC”) apply to all professional services including without limitation implementation, software development, and consulting services supplied by the Supplier (as defined below) (“**Professional Services**”) (but not including any Installation Services for the Products, which shall be provided in accordance with the General Terms and Conditions (“GTC”)), and are agreed to by the legal entity ordering the Products or Professional Services (“**Customer**”) by means of the applicable order form and/or statement of work incorporating by reference these PSTC (“**Order**”) and the member of the Acrelec group that is stated on the Order (“**Supplier**”) and shall take effect on written acceptance of the Order by the Supplier (“**Order Confirmation**”).

In the Agreement, “**Deliverables**” refers to deliverables such as documents, content, products and materials, including without limitation Software, data, reports and specifications provided by the Supplier under the Agreement. Unless otherwise defined herein, capitalized terms shall have the meaning given to them in the GTC.

2. SUPPLIER’S OBLIGATIONS

- 2.1. The Supplier shall use reasonable endeavors to provide the Professional Services to the Customer in accordance with the applicable Order and the terms and conditions of this Agreement.
- 2.2. The Supplier shall use reasonable endeavors to meet any performance dates specified in the Agreement, but any such dates shall be estimates only and time shall not be of the essence for the Supplier’s obligations under the Agreement.

3. CUSTOMER’S OBLIGATIONS

- 3.1. The Customer shall:
 - (a) co-operate with the Supplier in all matters relating to the Professional Services;

- (b) provide access to the Customer’s premises and data, and such office accommodation and other facilities as may reasonably be requested by the Supplier in advance for the purposes of providing the Professional Services;
- (c) provide such information (in a timely manner and ensuring that it is accurate in all material respects) as the Supplier may reasonably request and the Customer considers reasonably necessary in order to carry out the Professional Services;
- (d) inform the Supplier of all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Customer’s premises; and
- (e) comply with any additional Customer obligations set out in the Agreement.

- 3.2. The Supplier will not be liable for any failure or delay in performing the Supplier’s obligations to the extent caused by a failure or delay by the Customer in complying with the Customer’s obligations under this Agreement (a “**Customer Failure**”). If any additional work is required to be performed by the Supplier as a result of, or if any delay is caused by a Customer Failure, the Supplier shall be entitled to charge the Customer for any additional costs unavoidably incurred by the Supplier in order to fulfil the Supplier’s obligations under this Agreement.
- 3.3. The Customer shall in all circumstances pay the Supplier on demand all reasonable costs, charges and losses sustained or incurred by it as a result of a Customer Failure, subject to the Supplier confirming such costs, charges and losses to the Customer in writing. Such losses shall include, without limitation, any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property, injury to or death of any person, wasted expenditure and loss of opportunity to deploy resources elsewhere.

4. CHANGE CONTROL PROCEDURE

4.1. If either Party wishes to make any changes to the Order, the Parties will follow, subject to any change control procedure set out in the Order, the following procedure (“**Change Control Procedure**”):

4.1.1. the Supplier shall submit a written description to the Customer containing:

4.1.1.1. a detailed description of the change requested;

4.1.1.2. the cost of the change;

4.1.1.3. the effect implementing the change will have on timing and delivery;

4.1.1.4. a description of the obligations of each Party in implementing the change; and

4.1.1.5. provision for signature by the Supplier and the Customer,

hereinafter referred to as a “**Change Control Note**”.

4.2. Without undue delay the Customer shall notify the Supplier of any proposed amendments to the Change Control Note. The Parties will, acting reasonably and in good faith, agree the final Change Control Note.

4.3. Once the Change Control Note has been signed by both Parties it will constitute a binding variation of the Order. No Change Control Note will be binding on either Party unless and until the Change Control Note has been signed by both Parties.

5. FEES AND PAYMENT

5.1. In consideration of the provision of the Professional Services by the Supplier under the Order, the Customer shall pay the fees set out in that Order (“**Professional Services Fees**”).

5.2. Where Professional Services are provided on a time and materials basis:

(a) the Professional Services Fees shall be calculated in accordance with the Supplier's fee rates set out in the Order;

(b) the Supplier's standard fee rates are calculated on the basis of an eight-hour day worked between 8.00 am and 5.00 pm on weekdays (excluding weekends and public holidays) (“**Normal Working Hours**”);

(c) the Supplier shall be entitled to charge an overtime rate of 150% of the normal rate for part days and for time worked by members of the Supplier's personnel outside Normal Working Hours on a pro-rata basis;

(d) the Supplier shall invoice the Customer monthly in arrears for its charges for time, expenses and materials (together with VAT where appropriate) for the month concerned. Any expenses, materials and third-party services shall be added to the invoice at cost by the Supplier. Each invoice shall set out the time spent by each member of the Supplier's personnel and provide a detailed breakdown of any expenses, materials and third-party services, accompanied by the relevant receipts where possible.

5.3. Where Professional Services are provided for a fixed price:

(a) the total price for the Professional Services shall be the amount set out in the Order;

(b) the total price may be paid to the Supplier in instalments, as set out in the Order with reference to achieving agreed milestones set out in the Order; and

(c) on achieving a milestone agreed in the Order in respect of which an instalment is due, the Supplier shall invoice the Customer for the Professional Services Fees that are then payable together with expenses and the costs of materials (and VAT, if applicable).

5.4. Unless otherwise agreed, any price in an Order excludes expenses, which shall include:

(a) the cost of hotels, subsistence, travelling and any other ancillary expenses reasonably incurred by the Supplier's personnel in connection with the Professional Services; and

(b) the cost of any materials or third party services reasonably and properly incurred by the Supplier for the supply of the Professional Services.

5.5. Such expenses, materials and third-party services shall be invoiced by the Supplier at cost which the Supplier shall add to its invoices.

6. INTELLECTUAL PROPERTY RIGHTS

- 6.1. All Intellectual Property Rights and all other rights in the Deliverables and Professional Services shall be owned by the Supplier. The Supplier hereby grants the Customer a non-exclusive, non-transferable and worldwide license for the term of the Order (unless otherwise stated in the Order) to such extent as is necessary to enable the Customer to make reasonable use of the Deliverables as is envisaged by the Parties.
- 6.2. The Customer acknowledges that the Customer's use of the Deliverables is conditional on the Customer's compliance with the Agreement and the Supplier obtaining a written end-user license (or sub-license) of such rights from the relevant licensor or licensors on such terms as will entitle the Supplier to license such rights to the Customer.
- 6.3. In relation to all documents, information, items and materials in any form, whether owned by the Customer or a third party, which are provided by the Customer to the Supplier in connection with the Professional Services (the "**Customer Materials**"), the Customer:
 - a) and its licensors shall retain ownership of all Intellectual Property Rights in the Customer Materials;
 - b) grants to the Supplier a fully paid-up, non-exclusive, royalty-free, non-transferable license to copy and modify the Customer Materials for the term of this Agreement for the purpose of providing the Professional Services to the Customer;

- c) represents and warrants that the Customer Materials do not infringe or misappropriate any third-party proprietary rights (including Intellectual Property Rights);
- d) shall indemnify, defend and hold harmless the Supplier from and against all losses, liabilities, damages, costs and expenses incurred by the Supplier, arising out of or related to any third-party claim that the Customer Materials infringe any Intellectual Property Rights of any third party.

7. GOVERNANCE

- 7.1. The Parties shall manage the Professional Services through the governance structure more specifically detailed in that applicable Order, which shall include each Party appointing a project manager who shall:
 - (a) provide professional and prompt liaison with the other Party; and
 - (b) have the necessary expertise and authority to bind the relevant Party.

8. WARRANTIES

- 8.1. The Supplier warrants that the Professional Services will be provided in a professional manner consistent with industry standards. The Customer must notify the Supplier of any warranty deficiencies within fifteen (15) calendar days from performance of the deficient Professional Services.