



Terms & Conditions

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Version Control

This is a version-controlled document. Each change is tracked and summarised below. This is to provide transparency and clarity.

Version	Date	Description
1.0	December 2024	Live version of the document issued
DRAFT	September 2024	Creation of the document and services

Introduction

Welcome to Cyberprae's General Terms and Conditions document. This document outlines the standard terms and conditions that govern the engagements and agreements between Cyberprae and its clients. By entering into an agreement with Cyberprae, a client agrees to be bound by these terms and conditions.

Please note that there could also be terms that supersede this document and are agreed upon between Cyberprae and the client and these will be detailed in a specific Service Agreement. In the event of any conflict between the terms of a specific agreement and these general terms and conditions, the terms of the specific agreement will prevail.

A client is not required to sign this General Terms and Conditions document separately, as it is referenced in any agreement that you will be asked to sign by Cyberprae. Each specific agreement will detail the duration, term commitments, commercial and pricing details, and any specific terms related to the services the client is purchasing.

We encourage every client to read this document carefully to understand your rights and obligations. If there are any questions or if further clarification is required, please do not hesitate to contact Cyberprae.

Terms and Conditions

1. DEFINITIONS

- 1.1. As used herein the following terms have the following meanings, unless the context otherwise requires:

'We' or **'Cyberprae'** refers to Cyberprae Limited

'Agreement' refers to any formal, signed, agreement between Cyberprae, the Client and any of Cyberprae's consultants for the provision of Products and/or Services.

'General Terms and Conditions' 'Terms and Conditions' or **'GTC(s)'** means this document.

'Client' or **'You'** means the company with whom Cyberprae has a contract for the provision of services as indicated under the terms of this Agreement

'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;

'Services' means all the work performed by Cyberprae for the Client.

'User' or **'Users'** means people who benefit from the Services delivered under this agreement, typically the Clients employees.

'Charges' means the fees as stated in any agreement that references these terms and conditions

'Service Commencement Date' means the date that Cyberprae starts the delivery of Services, as defined in each Agreement.

2. RESPONSIBILITIES

- 2.1. Any Products and/or Services that Cyberprae deliver will be in accordance with these Terms and Conditions, unless specifically stated.
- 2.2. You acknowledge that any failure by you to perform your responsibilities under these Terms and Conditions in the manner and in accordance with the dates agreed by the parties is likely to have an adverse impact on the timely delivery of Products and/or Services by us under these Terms and Conditions.

3. SERVICE TO BE PROVIDED

- 3.1. Each Agreement between the Client and Cyberprae that references these General Terms and Conditions will define the services that the Client will receive from Cyberprae.
- 3.2. It is the Clients responsibility to ensure that Cyberprae is fully appraised of the existence of and subject to the standard working conditions, rules, regulations and practices normally implemented by the Client. The Client shall ensure that the working conditions and health and safety standards required by English law and regulations are observed in relation to any on-site technicians supplied by Cyberprae.

4. STANDARD OF SERVICES

- 4.1. Cyberprae undertakes for the duration of any Agreement to devote such time, attention, skill and ability to the performance of the Services as is necessary for the proper performance of the Agreement.
- 4.2. Cyberprae will provide the Products and/or Services as detailed in the Agreement. Should the Client experience significant difficulties or have complaints regarding the delivery of the Products and/or Services, then this should be notified to Cyberprae as soon as possible.

5. FEES AND PAYMENT TERMS

- 5.1. The Charges for Products and/or Services will be stated in the Agreement.
- 5.2. We reserve the right to require payment before supply of any Products and/or Services. We shall also carry out all appropriate credit checks before such supply and you shall provide all assistance and permissions reasonably required by us to carry out such checks.
- 5.3. For services that are delivered on an ongoing monthly basis and billing cycle Cyberprae shall submit a monthly invoice based upon the schedule provided with the Agreement.
- 5.4. All invoices are to be collected by Direct Debit, with 30 days terms, unless specifically stated on a separate service Agreement.
- 5.5. Cyberprae will commence charging the client for the Products and/or Services from the Service Commencement Date as detailed in the Agreement. We reserve the right to charge you for the Products and/or Services notwithstanding the Products and/or Services not being available due to either you failing to comply with your obligations under this contract or our reasonable instructions from time to time or a failure of your systems. We also reserve the right to charge you if we are unable to provide the Products and/or Services due to third parties unconnected with us (including your Internet Service Provider) failing to provide either you or us with the necessary information or services to enable us to provide the Products and/or Services.
- 5.6. In the event that as a result of instructions received from you, we order any third party equipment, software or services on your behalf, you will be responsible for and shall indemnify us against all costs we may incur on your behalf to any third party including, without limitation, any costs incurred due to a cancellation on your part or any costs incurred due to you failing to provide such assistance as we may reasonably request including, without limitation, access to your premises at the agreed time.
- 5.7. The Charges and any Expenses do not include taxes. Any applicable taxes (such as VAT) will be added to our invoices at the prevailing rates.
- 5.8. Without prejudice to any of our rights hereunder we shall be entitled to claim interest on a daily basis, before and after judgment of any court, from the due date of payment until the date of actual payment in full of any overdue Charges payable by you at a rate of 4% above Barclays Bank plc's then prevailing base rate.
- 5.9. Without prejudice to any other rights or remedies we may upon seven (7) days prior written notice, withhold the supply of the Products and/or Services in the event that you are overdue with any payment due or are in material breach of these Terms and Conditions, until such time as the payment is made or the breach remedied
- 5.10. In the event that a credit is to be issued by Cyberprae to the Client this will be applied to the Clients account with Cyberprae as opposed to providing a cash refund for the value of the credit(s).
- 5.11. Whilst Cyberprae will look to minimise any impact to the charges as set out in any Agreement it reserves the right to pass on any increases in costs that relate to any third parties, such as Microsoft or other utility and software providers (this will typically, but not exclusively, be in relation to Software Subscriptions and Public Cloud Services).

- 5.12. Any cost increases relating to third parties, as outlined above, will be passed on to the Client as soon as the cost increases to Cyberprae.
- 5.13. On the 1st April each year our charges in respect of services that involve human resource for delivery will increase in line with Consumer Price Index (CPI). The increase applied will be calculated using the CPI from the previous calendar year (January to February for the preceding year).
- 5.14. All Microsoft Charges are pass through charges without any margin being applied by Cyberprae. As such the Client will be responsible for paying all invoices related to any Microsoft charges received via Cyberprae. Should there be any dispute in relation to Microsoft charges then these will be raised with Microsoft, with any subsequent credit notes being passed through to the client. Any payments that Cyberprae are required to make to Microsoft on behalf of the Client must be met by the Client for the term duration stipulated with Microsoft.
- 5.15. On signing an agreement for Microsoft Licensing, the client is authorising Cyberprae to approve the MCA (Microsoft Customer Agreement) on behalf of the client.

6. CONFIDENTIALITY & DATA PROTECTION

- 6.1. Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 6 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation. In this clause 6, Applicable Laws means (for so long as and to the extent that they apply to the Provider) 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.
- 6.2. The parties acknowledge that for the purposes of the Data Protection Legislation, the Client is the data controller and Cyberprae is the data processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation). "Data Subject" means an individual who is the subject of Personal Data.
- 6.3. Without prejudice to the generality of clause 6.1, the Client will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to Cyberprae for the duration and purposes of this agreement.
- 6.4. Without prejudice to the generality of clause 6.1, Cyberprae warrants that it shall, in relation to any Personal Data processed in connection with the performance by Cyberprae of its obligations under this agreement:
 - 6.4.1. process that Personal Data only on the written instructions of the Client unless Cyberprae is required by Applicable Laws to otherwise process that Personal Data. Where Cyberprae is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, Cyberprae shall promptly notify the Client of this before performing the processing required by the Applicable Laws;
 - 6.4.2. 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);

- 6.4.3. ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
- 6.4.4. not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Client has been obtained, and the following conditions are fulfilled:
- 6.4.5. the Client or Cyberprae has provided appropriate safeguards in relation to the transfer;
- 6.4.6. the data subject has enforceable rights and effective legal remedies;
- 6.5. Cyberprae complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
- 6.6. Cyberprae complies with reasonable instructions notified to it in advance by the Client with respect to the processing of the Personal Data;
 - 6.6.1. assist the Client, 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;
 - 6.6.2. notify the Client without undue delay on becoming aware of a Personal Data breach; and
 - 6.6.3. at the written direction of the Client, delete or return Personal Data and copies thereof to the Client on termination of the agreement unless required by Applicable Law to store the Personal Data.
- 6.7. Cyberprae shall keep and shall procure that any human resource supplied to the Client shall keep in strictest confidence details of programs and systems to which the programs belong and the affairs of the Client, or of the Clients customers which may come to their knowledge during the course of providing services hereunder. This undertaking does not relate to information or details which are already known to Cyberprae; which is or becomes public knowledge; or which is disclosed to Cyberprae by a third party in breach of any duty of confidentiality owed to the Client. This clause shall survive termination of this agreement howsoever caused.
- 6.8. Cyberprae will not use personal information provided by the client, except for the purpose of delivering our service (such as email addresses, names and phone numbers in order to establish contact for the delivery of Cyberprae services).

7. LIABILITY

- 7.1. Neither party shall have any liability to the other under or in connection with any Agreement howsoever arising in respect of loss of profits or contract for special, indirect or consequential loss or damage, or for any increased costs or expenses
- 7.2. The exclusion set out in sub-clause 7.1 above shall not apply to personal injury, including death, caused by either party's negligence as the case may be.
- 7.3. In the event of any dispute under the terms of this Agreement which does not prove capable of amicable resolution, the parties agree that, save where there are substantial allegations of fraud, they will submit to Independent Mediation of their dispute through an independent mediator provided through either CEDR or the Academy of Experts and that the costs of mediation shall, in the first instance, be shared equally between them. For the avoidance of doubt, in the event that (fraud excepted) proceedings are commenced by one party to this agreement against the other without there first having been a referral to Independent Mediation, then such proceedings will be stayed pending such referral and the Claimant in such proceedings shall not, in those circumstances, be entitled to any costs up to the date that such proceedings are stayed.

8. RESTRICTIONS

- 8.1. Neither the Client, nor any subsidiary or associated company of the Client, nor any client of the Client shall during this agreement be permitted to utilise the services of any of Cyberprae's staff other than through Cyberprae.
- 8.2. During, or following the termination or expiry of, any Agreement, should the Client, or any subsidiary or associated company of the Client permanently employ any of Cyberprae's technical staff, or other employees, then the Client will pay Cyberprae £30,000 in way of an introduction fee, unless agreed before contact is initiated with the employee in writing.
- 8.3. During, or following the termination or expiry of, this Agreement, should Cyberprae, or any subsidiary or associated company of Cyberprae permanently employ any of the Client's technical staff, or other employees, then Cyberprae will pay the Client £30,000 in way of an introduction fee, unless agreed in writing.
- 8.4. Clauses 8.2 and 8.3 shall survive the termination or expiry of any Agreement for a period of 12 months.
- 8.5. If any software licensing is supplied to the Client on a rental basis then this software must be removed, by Cyberprae, from the Client's systems on termination of this Agreement.

9. TERMINATION

- 9.1. Cyberprae may terminate an Agreement upon the provision of seven days' notice should the Client fail to make payment to Cyberprae.
- 9.2. Should an Agreement be terminated for non-payment then the full remaining value of the contract will become payable by the Client to Cyberprae. In order to calculate the remaining contract value the quantities as detailed on the most recent invoice will be used.
- 9.3. Should the Client require Cyberprae to carry out any project or one off work at the end of an Agreement this work will be chargeable using Cyberprae's standard day rate. Any chargeable work will be approved by the Client prior to the work being conducted.

10. GENERAL

- 10.1. All Agreements and associated Terms and Conditions shall be governed by and construed in accordance with English Law.
- 10.2. Any Agreement, or associated Terms and Conditions, shall not be amended except with prior approval of authorised representatives of both parties.
- 10.3. If at any time one or more of the provisions of this agreement becomes invalid or illegal under any applicable law, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

11. DATA OWNERSHIP

- 11.1. The Client reserves all rights, title and interest (including all intellectual property and proprietary rights) to their Content. This applies to their Applications, Data and Content, excluding any Cyberprae property (intellectual or otherwise).

12. SERVICE DESCRIPTIONS

- 12.1. The Client reserves all rights, title and interest (including all intellectual property and proprietary rights) to their Content. This applies to their Applications, Data and Content, excluding any Cyberprae property (intellectual or otherwise).
- 12.2. Each Service has its own Service Description which each Agreement shall refer to. Cyberprae may combine multiple services in order to deliver a solution to the Client.
- 12.3. Cyberprae reserves the right, without notice, to amend, update or change any Service Description at any time and without notice to the Client, so long as any changes do not materially change the solution being delivered to the Client.
- 12.4. Any changes in the Service Descriptions will be communicated by Cyberprae to the Client.

13. ANCILLIARY FEES

- 13.1. Any courier / transit costs incurred by Cyberprae in direct relation to an Agreement (such as the return of a laptop / PC / server to the Client offices) will be passed on to the Client at cost.

14. RIGHT TO AUDIT

- 14.1. The Client has the right to audit its IT environment provided by Cyberprae in order to ascertain and verify compliance with data protection laws.

15. PUBLICITY

- 15.1. The Client will not make any public disclosure relating to the Charges and terms of any Agreement without the prior written consent of Cyberprae.
- 15.2. The Client gives authorisation to Cyberprae to use the name and logo of the Client as a reference for services being carried out by Cyberprae.

END OF DOCUMENT