



# PRIMARYTECH

**TERMS & CONDITIONS**

**PROFESSIONAL SERVICES**

**EFFECTIVE DATE**

January 2023

## SUPPLIER

- (1) **PRIMARY TECHNOLOGIES LIMITED** is incorporated and registered in England and Wales, with company number 04760864. Its registered office is Suite 1204, K2 Tower, 60 Bond Street, HU1 3EN (**Supplier**) (**PrimaryTech**).

### AGREED TERMS

#### 1. Interpretation

The definitions and rules of interpretation in this clause apply.

##### 1.1 Definitions:

**Agreement:** The terms and conditions of the Professional Services document.

**Customer:** the customer's principal contact for the quote.

**Location:** the place or places where the products are to be delivered.

**Product:** the Products provided by the Supplier specified in the Customer quote.

**Professional Services:** All labour-only services such as but not exhaustive, IT labour services, Consultancy, CPD, and Infrastructure Services.

**Service Charge:** The Charge for the Services.

**Services:** The Services delivered by the Supplier.

**Working Day:** Monday - Friday, Excluding Bank Holidays, between 9 am to 4 pm.

**VAT:** value-added tax chargeable under English law for the time being, as well as any similar additional tax.

#### 2. APPLICATION OF CONDITIONS

##### 2.1 These conditions shall:

- (a) Apply to and be incorporated in the terms and conditions.
- (b) Prevail over any inconsistent terms or conditions contained in, or referred to in, the Customer's purchase order, confirmation of order, specification, or implied by law, trade custom, practice or course of dealing.
- (c) If you do not wish to be bound by these Conditions, the Customer should not order or accept the delivery of the Products.
- (d) Apply to all Professional Services.

2.2 No addition to, variation of, exclusion or attempted exclusion of any term of these terms and conditions shall be binding on the Supplier unless in writing and signed by the Supplier's

Contact or by a duly authorised representative of the Supplier.

#### 3. EFFECT OF PURCHASE ORDER

3.1 The Customer's purchase order or signed order sent to the Supplier constitutes an offer by the Customer to purchase the Supplier's Services. Once the Supplier has accepted an order from the Customer for a Product, the Customer shall not be entitled to cancel that order at any time.

3.2 The acknowledgement copy of the purchase order form by the Supplier, or the Supplier's commencement of work in providing Products or execution of work under the purchase order, shall establish a contract for the supply of those Products and, accordingly, the purchase of the same, by the Customer.

3.4 The Customer's standard terms and conditions (if any) attached to, enclosed with, or referred to in their purchase order shall NOT govern the Suppliers.

#### 4. SUPPLIER'S OBLIGATIONS

4.1 The Supplier shall use reasonable endeavours to provide the Services specified in the Customer's quote.

4.2 The Supplier shall have no obligation to perform any service not expressly agreed upon and will charge an additional cost for works outside the agreed quoted scope of work as per conditions 7 and 7.1.

#### 5. CUSTOMERS' OBLIGATIONS

5.1 The Customer shall:

- (a) Cooperate with the Supplier in all matters relating to the Services and appoint the Customer's Contacts, who shall have the authority to bind the Customer on the issues relating to the Services contractually;
- (b) provide promptly such access to the Customer's premises and data, and such office accommodation and other facilities, as is requested by the Supplier;
- (c) provide promptly such information as the Supplier may request, and ensure that such information is accurate in all material respects; and
- (d) be responsible (at its own cost) for preparing the relevant premises for the supply of the Services;

		checked and authorised to work at the Location
	(e)	Make prompt payment for the Services provided by the Supplier by 15 days after the invoice date.
	(f)	Pay for any additional services requested and provided by the Supplier.
	(g)	Ensure that the customer is contactable during the Supplier's Normal Working Hours.
5.2		If the Supplier's performance of its obligations is prevented or delayed by any act or omission by the Customer, the Customer's agents, the customer's sub-contractors or employees, the Customer shall in all circumstances be liable to pay the Supplier all reasonable costs, charges incurred or losses sustained or incurred by it (including, without limitation, any direct or indirect consequential losses, loss of profit, loss of reputation, loss or damage to property, injury to or death of any person and loss of opportunity to deploy resources elsewhere). The Supplier will confirm all such costs, charges, and losses with the Customer in writing.
5.3		The Customer shall not, without the prior written consent of the Supplier, at any time either during the Contractual Term or after the termination of the Service, solicit or entice away from the Supplier any person associated with the Supplier or employ or attempt to employ any person who is, or has been, engaged as an employee or subcontractor of the Supplier.
5.4		Any consent given by the Supplier per condition 5.3 shall be subject to the Customer paying a sum of money to the Supplier. The sum shall be equivalent to 100% of the then-current annual remuneration of the Supplier's employee or subcontractor or, if a higher remuneration is offered, 100% of the higher annual remuneration to be paid by the Customer to the Supplier.
5.5		The Customer shall inform the Supplier immediately in writing of any change in the identity of the Customer's Contacts at any time during the Service Term. The Supplier shall not be liable for any default element if the Customer fails to update the Supplier, in writing, of any change in the Customer's Contacts.
5.6		Until Services are terminated, the Customer shall
		<i>Cooperation with the Supplier's employees</i>
	(a)	provide the Supplier and subcontractors with full and safe access to the Location and the System providing said agents and subcontractors are suitably
	<b>6.</b>	<b>PRICE</b>
	6.1	Unless a written quotation has been given (after which the price quoted will be fixed for thirty (30) days or such other period as is specified therein), the prices for the Services are subject to alteration without notice. The price charged to the Customer will apply when the Supplier accepts the Order. Orders are not binding upon the Suppliers until accepted by the Supplier. All prices exclude value-added tax (and similar tax), packing, carriage, insurance and installation. These will be added as separate items to the Customer's invoice where applicable.
	6.2	Should the work be delayed or not start for up to six months between the date of order and the commencement date, the Supplier reserves the right to adjust the price of the goods and/or services provided to the Customer. Such adjustments shall be directly correlated to an increase in the Supplier's costs, including but not limited to raw materials, labour, transportation, regulatory changes, or other operational expenses that impact the cost of supplying the goods and services.
	6.3	Any increase in the Customer's cost shall be limited to the actual increase in the Supplier's cost of providing the goods and/or services.
	<b>7.</b>	<b>CHARGES AND PAYMENT</b>
	7.1	Where the additional services are provided:
	(a)	The charges payable for the Services shall be calculated by the hourly charges as listed in Schedule 1, as amended from time to time;
	(b)	Charges payable for the Services are subject to a 12-month review by the Supplier, with the latest charges listed in the newest version of the terms and conditions document.
	(c)	The Supplier's standard daily fee rates are calculated based on an eight-hour day worked between 8.00 am and 5.00 pm on weekdays (excluding weekends and public holidays);
	(d)	The Supplier shall be entitled to charge an overtime rate of an additional 50% of the standard rate for part days and for time worked by team members outside Normal Service Hours.
	(e)	The Supplier shall ensure that all team members complete timesheets recording time spent on

- the Services and using such time sheets to calculate the charges.
- (f) The Supplier shall invoice the Customer in advance for the charges for time, expenses, and materials (together with VAT where appropriate).
- 7.2 Where the Services are provided for a fixed price, the total cost shall be on the relevant customer quotation and paid before work begins. The Customer shall pay all amounts due under this agreement to the Supplier in full without any set-off, counterclaim, deduction, or withholding (other than any deduction or withholding of tax as required by law).
- 7.3 Any fixed price, unless specifically listed, at the discretion of the Supplier, excludes:
- (a) The cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the team in connection with the Services, and the cost of any materials or services reasonably and appropriately provided by third parties required by the Supplier for the supply of the Services. Such expenses, materials and third-party services shall be invoiced by the Supplier at cost and
- (b) VAT, which the Supplier shall add to its invoices at the appropriate rate.
- 7.4 Without prejudice to any other right or remedy that the Supplier may have, if the Customer fails to pay the Supplier on the due date, the Supplier may:
- (a) charge interest on such sums due from the due date for payment at the annual rate of 8% above the Bank of England base rate, accruing daily and being compounded quarterly until payment is made, whether before or after any judgement; and
- (b) suspend all Services until payment has been made in full.
- (c) Immediately invoice for all other orders payable to the Supplier.
- 7.5 Time for payment by the Customer shall be of the essence.
- 7.6 All payments payable to the Supplier under the agreement shall become due immediately on termination of the agreement, despite any other provision. This condition is without prejudice to any right to claim for interest under the law or any such right under the agreement.
- 7.7 The Supplier may, without prejudice to any other rights it may have, set off any liability of
- the Customer to the Supplier against any liability of the Supplier to the Customer.
- 7.8 The Supplier reserves the right to increase any additional charges other than the fees for the Services at any time.
- 7.9 Where payment for Services is made by a third party, such as a holding company, group company, or procurement framework, the Customer shall remain responsible for the terms relating to payments and charges.
- 7.10 At any time during the contractual term, the Supplier reserves the right to adjust the price of the goods and/or services provided to the Customer. Such adjustments shall be directly correlated to an increase in the Supplier's costs, including but not limited to raw materials, labour, transportation, regulatory changes, or other operational expenses that impact the cost of supplying the goods and services.
- 8. SERVICE PREREQUISITES**
- 8.1 All hardware, software, and infrastructure components associated with this order must have been ordered and delivered on time for the commencement of the work.
- 8.2 The Customer shall be responsible for arranging and/or completing any third-party services required before the commencement of the Works.
- 9. COMMENCEMENT OF WORKS**
- 9.1 The date for the commencement of Works will be agreed between the Supplier and the Customer.
- 9.2 If the Customer cancels any Works (or re-schedules and subsequently cancels any Works), then the Customer may be charged a cancellation charge of 75% of the total price of the Works if notice of cancellation is given less than seven (7) calendar days before the scheduled commencement date of the Works as agreed between the Customer and Supplier. The Customer agrees that such a charge amounts to a genuine pre-estimate of the losses suffered by the Supplier on such cancellation.
- 9.3 The Supplier is not responsible for any client-induced delay not as exhaustive but such as;
- (a) Delayed delivery of equipment.
- (b) Access issues or site readiness.
- (c) Delayed payment.
- (d) Changes to the scope of work.

- (e) Failure of hardware or software provided by a third party.
- 9.4 In case of a client-induced delay, the Supplier is entitled to charge as per conditions 7.1 and 7.2.
- 10. ACCEPTANCE TESTING**
- 10.1 The Supplier will perform basic Acceptance Tests to demonstrate to the Customer that the Works listed in the quote is completed.
- 10.2 It is the Customer's sole responsibility to ensure that the works are completed as per the quote and must notify the Supplier of any disputes within 7 days of completion. Beyond this, the Suppliers hold no responsibility, and any remediation work will be chargeable per conditions 7.1 and 7.2.
- 11. WARRANTIES**
- 11.1 The Customer accepts that the Supplier is acting only as a Service provider and is not responsible for verifying that the Hardware or Software will suit its requirements.
- 11.2 Should hardware or software incompatibilities or hardware failure incur, the supplier is entitled to bill for all works in full or part of the bill or charge additional costs.
- 12. INDEMNITY**
- 12.1 The Supplier shall indemnify the Customer against any claim by any other person that the provision of the Services to the Customer per this Agreement infringes that other person's intellectual property rights.
- 13. LIMITATION OF LIABILITY**
- 13.1 Nothing in these conditions excludes the liability of the Supplier:
- (a) For death or personal injury caused by the Supplier's negligence or
- (b) For fraud or fraudulent misrepresentation.
- 13.2 Subject to condition 12.1:
- (a) The Supplier shall not in any circumstances be liable, whether in tort (including without limitation for negligence or breach of statutory duty howsoever arising), contract, misrepresentation (whether innocent or negligent) or otherwise for:
- (i) loss of profits;
- (ii) loss of business;
- (iii) depletion of goodwill or similar losses;
- (iv) loss of anticipated savings;
- (v) loss of goods;
- (vi) loss of contract(s);
- (vii) loss of use;
- (viii) loss or corruption of data or information;
- (ix) Service outage;
- (x) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.
- 14. WAIVER**
- No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- 15. RIGHTS AND REMEDIES**
- The rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.
- 16. SEVERANCE**
- 16.1 Suppose any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable. In that case, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. The relevant provision or part-provision shall be deemed deleted if such modification is impossible. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement.
- 16.2 Suppose any provision or part-provision of this agreement is invalid, illegal or unenforceable. In that case, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable and, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 17. ENTIRE AGREEMENT**
- 17.1 This agreement constitutes the entire agreement between the parties and supersedes it. It extinguishes all previous agreements, promises,

- assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 17.2 Each party acknowledges that in entering into this agreement, it does not rely on, and shall have no remedies concerning, any statement, representation, assurance, or warranty (whether made innocently or negligently) that is not set out in this agreement.
- 17.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or misstatement based on any statement in this agreement.
- 18. ASSIGNMENT**
- 18.1 Without the Supplier's written agreement, the Customer may not assign, transfer, charge, subcontract, or otherwise deal with all or any of its rights or obligations under the contract.
- 18.2 The Supplier may assign, transfer, charge, subcontract, or otherwise deal with all or any of its rights or obligations under the agreement.
- 18.3 This agreement shall bind the Customer and all successors in title. If the Customer organisation is acquired, merged with, or becomes part of another organisation, the terms and conditions of this agreement shall remain in full force and effect, and all obligations under this agreement will be binding upon the successor organisation.
- 19. NO PARTNERSHIP OR AGENCY**
- Nothing in the agreement is intended to or shall operate to create a partnership between the parties or to authorise either party to act as an agent for the other. Neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including without limitation the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).
- 20. THIRD-PARTY RIGHTS**
- No one other than a party to this agreement, its successors, and permitted assignees shall have the right to enforce any of its terms.
- 21. PUBLICITY**
- No announcement or information concerning this agreement or any ancillary matter shall be made or released or authorised to be made or released by either of the parties without the prior written consent of the other party save as
- may be required to enable either of the parties to perform its obligations under this agreement or as required by law.
- 22. NOTICES**
- 22.1 Any notice or other communication given to a party under or in connection with this contract shall be in writing and shall be:
- (a) delivered by hand or by pre-paid first-class post or other next working day delivery service to its registered office;
  - (b) sent by email to an email address to customerservices@primarytech.co.uk
- 22.2 Any notice or communication shall be deemed to have been received:
- (a) If delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
  - (b) if sent by pre-paid first-class post or other next working day delivery service at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service;
  - (c) if sent by email on the next Business Day after transmission, along with a response acknowledging receipt.
- 22.3 This clause does not apply to the service of any proceedings or other documents in the course of any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 23. GOVERNING LAW**
- The agreement and any disputes or claims arising out of or in connection with it or its subject matter or formation (including, without limitation, non-contractual disputes or claims) are governed by and construed per the law of England and Wales.
- 24. JURISDICTION**
- Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

Schedule 1

**Additional Charges: - Hourly and Day Rate**

	<b>Hourly Rate</b>	<b>Day Rate</b>
Helpdesk IT Technician	£50	£350
Onsite IT Technician	£80	£550
Senior IT Technician	£100	£750
IT Consultant	£100	£750
IT Trainer	£90	£650
Telecoms Engineer	£80	£550
Infrastructure Engineer	£80	£550

Terms & Conditions