# General Terms and Conditions for Professional Services

**cbs Corporate Business Solutions Philippines Inc.**
SEC No. CS201624678

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## 1 Scope and conclusion of these General Terms and Conditions

1.1 These General Terms and Conditions shall apply to any performance of work and/or services by cbs Corporate Business Solutions Philippines Inc. (hereinafter: “cbs PH”) for the Client. They also apply to any future work and services performed by cbs PH for the Client insofar as nothing has been expressly agreed to the contrary in writing. Conflicting terms and conditions of the Client shall not apply even if cbs PH does not expressly reject them. Any agreements or side letters deviating from these terms shall not be effective unless approved by cbs PH in writing. Approved deviations shall only apply to a certain individual case and shall have no effect for any future transactions.

1.2 In the case of work performances, cbs PH shall be responsible for controlling and monitoring of the service provision and the achieved results. Services provided by cbs PH serve to support and advise the Client; the Client however shall be responsible for the obtained or achieved results.

## 2 Subject matter of these General Terms and Conditions

2.1 The content and scope of contractual performance is based exclusively on the specific agreements contained in the individual contract with the Client, in particular cbs PH’ Statement of Work (“SoW”). If necessary, the SoW will also determine the input provided by the Client and cbs PH as well as the cooperation obligation of the Client.

2.2 Any services, which are not included in a specific SoW or contract, are not part of the SoW or contract. In particular, installation, introduction and maintenance costs will be part of the contract only if they were expressly agreed upon in writing.

2.3 Both parties are entitled to suggest subsequent changes and additions to the agreed performance stated in the SoW or contract (“Change Request”).

2.4 cbs PH will evaluate change requests from the Client within a reasonable time and submit a written offer for the change in performance, its remuneration and, where applicable, any necessary adjustment to the timetable or other agreements. cbs PH is entitled to reject a requested change in performance if it is technically impossible or involves an unreasonable amount of work. cbs PH may invoice the Client for the costs of assessing any change requests at the agreed hourly rates, alternatively at cbs PH’s usual hourly rates. Until consent is given by the Client, cbs PH shall continue with the performance of the services and/or work in accordance with the existing contract and/or SoW.

2.5 In all other respects, price lists and any advertising documents of cbs PH shall be non-binding and be always subject to change. Generally, services and/or work proposals of cbs PH shall be deemed accepted by the Client if the Client has accepted a written offer from cbs PH within the stipulated time frame or if cbs PH has confirmed any service/work request from the Client. cbs PH’s order confirmation must correspond to the Client’s offer and will then become binding and determine the range of obligations, accepted by cbs PH.

## 3 Rights of use in relation to work results

3.1 With respect to the work results obtained for the Client and transferred to the Client in accordance with the contract and/or SoW, the Client shall, in the absence of a contractual provision to the contrary, have the irrevocable and non-exclusive right, which is unrestricted in terms of time and geographic area to use the work results in order to achieve the economic purposes pursued in the underlying contract.

3.2 Insofar as the Client obtains, on the basis of an express contractual agreement, an exclusive right

of use to the work results, cbs PH shall always be entitled to use its own knowledge or that of its employees, used for the purposes of producing the specific work results, as well as tools and procedures, which are intended or suitable for re-use in the context of other contractual relationships, for the purposes of cbs PH's own business operations. This shall not apply to knowledge which is regarded as the Client's trade or business secret. Even where the Client is granted exclusive rights of use, cbs PH shall always remain entitled to keep and use a copy of the software (source code) and documentation for the purpose of supplementary performance within the framework of its warranty for material defects and/or defects in title.

3.3 The Client shall be entitled to request the source code for the computer programs which have been individually created for the Client, and to which the Client has been granted an exclusive right of use by cbs PH, if and insofar as this source code is in the possession and under the control of cbs PH and always provided cbs PH has the legal right to dispose of the source code. The Client is obliged to use this source code only in accordance with the rights of use which have been granted to the Client. The Client may only disclose the source code to third parties, or otherwise make it available, according to the circumstances of the individual case, always provided that this is necessary to safeguard the legal rights of the Client, e.g. in order to secure the future use of the respective computer programs for the aforementioned purposes, by way of maintenance, development or other processing, independently of cbs PH. Otherwise, the Client is obliged to treat the source code as confidential and must impose the same duties of confidentiality upon third parties to whom it intends to disclose the source code.

## 4 Remuneration

4.1 In the absence of any agreement to the contrary, work and services will be charged, on a time and materials basis, at the hourly rates submitted, alternatively at cbs PH's usual hourly rates, plus the charges and expenses necessary in order to effect performance, in particular travel costs (travelling time, travel expenses, accommodation etc.) and expenses. The same applies to work which falls outside the agreed scope of performance and additional expenditures resulting from incorrect/ incomplete information provided by the Client or unjustified notices of defects, improper use of the system or breaches of duty by the Client.

4.2 When invoicing on a time and materials basis, cbs PH charges the hours worked and the travelling time, costs and expenses incurred, at the applicable hourly or daily rates at the end of each month. The travel expenses are submitted on the basis of actuals and receipts with a brief description of the activity in form of an activity report (as an attachment to the invoice). Where the period of work is shorter, Client receives the invoice at the end of the period. If cbs PH does not receive a written objection to a properly executed activity report from the Client within 5 working days, the activity report is considered accepted by the Client. Every half-hour or part thereof will be charged. The Client is not entitled to call off quotas of less than 4 man-hours per day unless this has been expressly agreed in writing or contractual performance requires lower daily quotas. A "man-day" means 8 working hours.

4.3 Price details for work which is remunerated on a time and materials basis, are estimates. The quantities forming the basis of an estimate are derived from an evaluation of the extent of the work, carried out in good faith, at the time of conclusion of the contract. They may change as a result of the actual circumstances. Where cbs PH discovers in the course of performance that the estimate will be exceeded, it shall notify the Client without delay. In the case of services, cbs PH shall not exceed the quantities forming the basis of the estimated price until it has received the written approval from the Client. With regard to contracts for work, if the contract is based on a cost estimate without cbs PH guaranteeing the accuracy of the estimate and if it turns out that the work cannot be carried out without substantially exceeding the estimate, then cbs PH is only entitled, if the Client terminates the contract for this reason, to part of the remuneration that corresponds to the work already performed and reimbursement of those expenses not included

in the remuneration.

4.4 If the Client's order cannot be completely or partly executed for reasons for which the Client is responsible, the Client will remain committed to the payment of the contract price after deduction of the effectively saved expenses.

4.5 In the case of an agreed fixed price, cbs PH shall invoice for the remuneration pursuant to the payment plan contained in the contract. In the case of remuneration on a time and materials basis, invoicing shall take place at the beginning of the month following performance or, in the case of a shorter performance period, following completion of performance, provided nothing has been agreed to the contrary. Invoices are due for payment, without deductions, within 30 days after the date of invoice. The Client is only entitled to exercise a right of set-off or retention against cbs PH where the Client's claim is undisputed or has been upheld by way of a final court judgment or if it is a counterclaim from the same contractual relationship.

4.6 Price details in the offer/contract are net and exclusive of any statutory or value added tax.

4.7 If the Client's payment is late or delayed, any outstanding payment or invoice amount shall bear interest at 2 percentage points per month above the base rate applicable in each case. Claims for additional losses are not excluded. cbs PH is also entitled to refuse to effect performance where the Client fails to settle an overdue invoice despite payment request.

## 5 cbs PH's Performance

5.1 The work and/or service to be performed by cbs PH for the Client as well as the place of performance is determined in each respective contract or SoW.

5.2 Both contracting parties will mutually designate a Project Manager, who will act as the responsible person in dealing with the respective contracting party for the period of the contract execution.

5.3 At the time of execution of contract or SoW, none of the parties may intervene in employer-legal competencies of the other contracting party. cbs PH's staff members are exclusively bound to cbs PH's instructions.

5.4 The Client's obligations and responsibilities include the punctual execution of the obligations to cooperate which are specified in each contract or SoW. The Client's obligations include without limitation in particular the disclosure (provision) of any required documents, information, programs and equipment, which are significant for the execution of the respective contract at the Client's company, and the supply of the required personnel.

## 6 Cooperation between the parties

6.1 The Client is obliged to provide any and all assistance and make the declarations necessary to ensure contractual performance, professionally and within the agreed deadlines. Where the Client defaults on performance of the duties and obligations for which it is responsible, cbs PH's duty to effect performance shall be suspended for the period of the default if without performance of the Client's said duties, it is impossible or requires unreasonable additional expenditures or efforts. In addition to the agreed remuneration, the Client shall reimburse cbs PH for the additional costs incurred as a result, at the agreed applicable daily or hourly rates. cbs PH shall have the right to give the Client a reasonable period of time for making up for the act to be performed by declaring that cbs PH will terminate the contract if the respective act is not undertaken by the end of the period of time. The respective contract is deemed to be cancelled if the respective act is not made up for by the end of the period of time. Where a timetable has been agreed, the deadlines shall

be postponed according to the duration of the delay.

6.2 Where cbs PH is otherwise obstructed in its contractual performance, it shall notify the Client thereof. The notification should contain information about the likely duration of the delay. Performance deadlines shall be extended by a reasonable amount of time insofar as the delay is not caused by cbs PH or its agents.

## 7 Acceptance (contracts for work only)

7.1 Where the subject matter of the contract involves the creation of a document (concept, technical specification, study, documentation etc.), the Client shall inspect it within 5 working days from submission, with regard to its clarity, accuracy and completeness according to the SoW, and indicate acceptance in writing or otherwise issue a written notification of any defects found. cbs PH shall prepare a written report on the acceptance procedure whose accuracy the Client shall confirm by way of signature. The report shall set out, in full, all defects found, if any, and the reasons for any refusal of acceptance. Minor defects shall not give rise to a right to refuse acceptance but must be remedied in accordance with the warranty. cbs PH shall discuss the document with the Client at the Client's request. Where the costs of the meeting exceed the contractually agreed level, following prior notice, cbs PH may invoice the additional efforts separately according to cbs PH's usual hourly rates. Where acceptance of the document is legitimately refused due to an existing defect, cbs PH shall remedy the reported defect within a reasonable time limit and resubmit it for acceptance. Where the conditions for acceptance have been met, the Client will then indicate acceptance, in writing without delay. Where the contract requires a specification sheet and, based thereon, the creation of software, cbs PH shall only commence creation of the software after successful acceptance of the specification sheet by the Client.

7.2 Where the creation of a software solution forms the subject matter of the contract, cbs PH shall notify the Client that the work is ready for acceptance ("RfA") and jointly with the Client carry out an acceptance test without delay and in any case within 14 days of the RfA, on the basis of an acceptance plan which has been agreed by the parties. This shall stipulate, inter alia, the duration of the acceptance. Following a successful acceptance test, the Client shall indicate acceptance in writing without delay. The Client is only entitled to refuse acceptance due to class 1 defects (see Clause 7.5 below). Class 2 and 3 defects shall not prevent acceptance of the work but must be remedied in the course of subsequent performance. cbs PH shall prepare a written report on the acceptance procedure whose accuracy the Client shall confirm by way of signature. The report shall describe all defects found, categorized according to error classes, and list the reasons for any refusal of acceptance in full. cbs PH shall remedy class 1 defects without delay, inform the Client of this in writing and, where applicable, resubmit the work for acceptance; where the conditions for acceptance have been met, the Client will then indicate acceptance, in writing, without delay. Class 2 defects shall be remedied within 6 weeks; class 3 defects within a reasonable time limit.

7.3 The Client shall provide cbs PH with the conditions necessary for implementation of the acceptance, and described in the acceptance plan, in particular test data, work stations, equipment and test cases (together with details of the purpose, entries and expected system reaction) in good time prior to the start of the acceptance test for the purposes of quality control. The Client is obliged to notify cbs PH, in writing, without delay if during the acceptance test, the Client becomes aware of divergences from the contractually agreed requirements. Any operational use of the software without having carried out the prior testing phase shall be undertaken at the Client's own risk and responsibility.

7.4 If a defect is detected from the Client, cbs PH is entitled to choose whether to remedy the defect or produce a new piece of work. In the case of software, a correction may also take place by way of delivery or installation of a new program version or a workaround. cbs PH is entitled to carry

out such number of attempts to remedy the defects as is appropriate according to the circumstances of the individual case and reasonable for the Client.

7.5 Defects must be reported in writing by way of a detailed and comprehensible description of the symptoms of the defect and, as proof, suitable written records, hard copies and the like, so as to allow reproduction of the defect. Any statutory inspection and reporting obligations remain unaffected.

7.6 Defects are divided into the following classes:

- **Class 1 defect**: The defect has the consequence that the system as a whole, or the part of the system submitted for acceptance, cannot be used.
- **Class 2 defect**: The defect has the consequence that the use of the system is restricted. The defect does not, however, have such a far-reaching effect on the functional capability of the overall work that the system or the part of the system submitted for acceptance, cannot be used; or suitable measures can be used to bypass the defect in such a way and for such a period as is reasonable.
- **Class 3 defect**: all other defects.

7.7 Acceptance is deemed to have occurred if the Client does not accept the work within a reasonable period of time. It shall be equivalent to an acceptance where the Client employs the software in productive operations, after RfA, for a period of at least 6 weeks, in accordance with the contract unless acceptance is legitimately refused.

7.8 Insofar as nothing to the contrary is agreed, definable partial services may be accepted individually in accordance with the regulations of Clauses 7.1 – 7.7. Partial acceptances that have already been declared shall remain unaffected by subsequent acceptance checks for other services.

7.9 The Client shall accept cbs PH's performance of work immediately after a successful acceptance test and/or transfer. An insignificant deviation from the agreed-upon performance features and acceptance criteria will not justify the refusal of acceptance by the Client.

7.10 If the Client does not provide the necessary conditions for the execution of the acceptance in accordance with the contract despite a request in writing, cbs PH's performance of work will be regarded as accepted after a time period of 14 calendar days following cbs PH's request in writing.

## 8 Indemnity

8.1 cbs PH warrants that the goods and services which it delivers are free from any third-party rights which would prevent their use pursuant to the contract and/or SoW.

8.2 Where third parties assert such rights, cbs PH shall, at its own expense, defend the goods and services against the rights asserted by third parties insofar as the Client notifies cbs PH of the assertion of such third-party rights, in writing, without delay, grants cbs PH the necessary powers and authorizations and provide it with appropriate and reasonable support. The Client shall not be entitled to acknowledge claims of third parties and must always leave the resolution of any disputes to cbs PH including any out-of-court settlements or conduct such cases with cbs PH only by mutual agreement.

8.3 Where there are defects in title, cbs PH is entitled to choose either to defend/enforce by suitable means the contractual use of the goods and services delivered against the assertion of third-party rights, or to change or replace them in such a way that the third-party rights are no longer infringed, or the third parties no longer assert an infringement. The agreed functionality of the goods and services supplied may not be unreasonably impaired by the defense measures. cbs

PH continues to be obliged to reimburse the necessary costs of asserting legal rights incurred by the Client which are capable of reimbursement against presentation of proper receipts.

## 9 Limitation of Liability

Client agrees that:

(a) subject to Section 9(b), cbs PH, its affiliates, agents and subcontractors, and each of their partners, principals, members, employees and other personnel served for cbs PH (hereinafter, "cbs PH or its Related Parties") shall not be liable to Client for any actions, claims, damages, liabilities, costs, expenses, or losses in any way arising out of or relating to the Services under a Work Order for an aggregate amount in excess of the fees paid by Client to cbs PH under the applicable Work Order; and

(b) in no event shall cbs PH or its Related Parties be liable for special, indirect, incidental, consequential or punitive damages, costs, expenses or losses of any nature, including, without limitation, lost profits, opportunity costs and lost data. The provisions of this Section 9 shall apply regardless of the form of action, damage, claim, liability, cost, expense, or loss, whether in contract, statute, tort (including, without limitation, negligence), or otherwise.

## 10 Confidentiality, Data Protection

10.1 The parties undertake to treat as confidential all confidential information which becomes known to them under any contract or SOW concluded pursuant to these Terms and Conditions and only to use it for contractually agreed purposes. Confidential information within the meaning of this provision includes any information, documentation, details and data which are designated as such, or which, by their nature, must be regarded as confidential. Excluded from this is only confidential information which was in the public domain at the time of its disclosure or which entered the public domain thereafter, was disclosed to the recipient by a third party without a duty of confidentiality, was already in the possession of, or known to, the recipient at the time of disclosure or was developed by the recipient independently of the confidential information. The duty of confidentiality shall continue for 2 years after the end of the contractual relationship.

10.2 In addition to any contractual obligations, cbs PH's know-how, which is required for performing the work and/or services, is to be particularly held in utmost confidentiality by the Client. Company secrets and know-how of the other contract party may not be used without the other party's previous written approval.

10.3 The parties undertake to abide by and comply with the statutory provisions on data protection and impose a duty to comply with these provisions on their employees in accordance with the provisions of the Personal Data Protection Act 2010.

## 11 Termination

11.1 The termination of contracts for work and services is permitted by giving the other party 2 months prior written notice. Both parties are entitled to terminate the contract with immediate effect for good cause. For the avoidance of doubt, in case of termination the Client will pay cbs PH for any services/work performed until the date the termination becomes effective. Notice to terminate must be in writing.

## 12 Final provisions

12.1 **Entire Agreement / Written form requirement**. This Agreement contains all regulations concerning the object of this Agreement. Additional verbal agreements do not exist. Any modifications and/or addenda to this Agreement shall be in writing.

12.2 **Assignment**. The assignment of any of the parties' rights and obligations under any agreement governed by cbs PH GTC in whole or in part, to third parties is subject to the other parties' prior written consent, such consent shall not be unreasonably withheld. Affiliated Companies shall not be considered as third parties under this Agreement.

12.3 **No Waiver**. Any failure or delay by either party in exercising any right, power or privilege to which it may be entitled under this Agreement shall not be construed a waiver of the right, nor will any single or partial exercise of the right preclude any further exercise of the right.

12.4 **Force Majeure**. Any force majeure making the performance of a service (except payment) or of an obligation substantially more difficult or impossible shall entitle the affected party to postpone the performance of such duty or obligation for the duration of such interference and for a reasonable start-up period. "Force majeure" means any event or circumstances, which is beyond the reasonable control of the party seeking to rely on such force majeure, including natural disasters, war, hostilities, embargo, fire, national strikes, pandemics which could not reasonably have been foreseen by that party at the date of this Agreement, the consequences of which could not reasonably have been avoided by that party, and which prevents that party from carrying out any of its obligations under this Agreement.

12.5 **Non-solicitation**. Neither party shall knowingly solicit or hire, any of the other party's employees involved in the work/services during the term of the applicable contract/SoW and for a period of six (6) months from the termination thereof, without the express written consent of the other party. This provision shall not restrict the right of either party to solicit or recruit generally in the media.

12.6 **Independent Contractor**. The relationship of Client and cbs PH established by these General Terms and Conditions is that of an independent contractor and no employment, agency, trust, partnership or fiduciary relationship is created by these General Terms and Conditions.

12.7 **Compliance with Export restrictions**. Client acknowledges that the work/services under these General Terms or a separate contract or SoW, which may include technology, may be subject to various export control laws and regulations on embargoes, sanctions of an economic, commercial or financial nature and other restrictive measure of the country in which the work/services are rendered or received. Client confirms that it will strictly abide and comply with any such restrictive rules and regulations and not export or re-export the work/services to a restricted country, or one which is subject to any restrictions, without having obtained all required permits and approvals.

12.8 **Invalidity**. Any invalidity of any provisions of these Terms and Conditions or of any individual agreement entered into on their basis shall not affect the validity of any other provision thereunder. In such a case, the parties shall cooperate in creating provisions the economic result of which comes as close as possible to the economic result of an invalid provision in a manner valid under law. The above shall apply accordingly to incomplete provisions.

12.9 **Dispute resolution**. In case any dispute arises out of and in connection with these General Terms and Conditions, a separate agreement or SoW, both parties will endeavour to settle such dispute amicably between themselves within a period of 30 (thirty) days from the date of the first occurrence of such dispute. In the event that the parties fail to reach an agreement within the 30 (thirty) day period (counting from the notification of one party to the other party that a dispute has arisen), any such dispute, arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration by the Singapore International Arbitration Centre ("SIAC") in accordance with the Arbitration Rules of the Singapore International Arbitration Centre ("SIAC Rules") for the time being in force, which Rules are deemed to be incorporated by reference into this clause. The seat, or legal place, of arbitration shall be Singapore. The language to be used in the arbitral

proceedings shall be English.

12.10 **Applicable Law**. All individual agreements entered into under these Terms and Conditions shall be governed by the laws of Singapore under the exclusion of the UN Law on Sales (CISG United Nations Convention on Contracts for International Sale of Goods dated April 11, 1980). Applicability of any law other than Singaporean law by way of applying any principles of private international law is expressly excluded.