

Terms and Conditions for the supply of Consultancy Services

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1.0 Definitions

- 1.1 "Octavia" means Octavia Information Systems Ltd of WTG Building, 90 Union St, London SE1 0NW
- 1.2 "Customer" means the Company to whom invoices are addressed.
- 1.3 "Consultancy" means the body of work to be performed by Octavia to provide the Customer with a solution, document or the provision of advice and expertise.
- 1.4 "Consultant(s)" means the individual(s) being supplied by Octavia.
- 1.5 "Working Day" means Monday to Friday except for those days that are statutory bank holidays.
- 1.6 "Working Hours" means the standard hours on Working Days during which Octavia will deliver Consultancy services (9.00AM to 5.30PM Monday to Friday)
- 1.7 "Booking Form" means the document that Octavia will issue to the Customer for sign off and return in order to confirm the Consultancy booking.
- 1.8 "Task List" means a list included in the Booking Form that states the tasks, actions and deliverables required in order to fulfil the Customer's requirement. The Task List will determine the steps to be taken by the Consultant in respect of the Consultancy booking.
- 1.9 "Fixed Price" means a pre determined price for the Consultancy that is to be performed by Octavia as stated in the Booking Form.
- 1.10 "Time and Materials" means a variable price dependant upon an hourly / daily rate whereby the final charge will be dependant on the amount of time spent performing Consultancy by Octavia.
- 1.11 "Guide Price" means an indication of what the final price for Time and Materials bookings is likely to be. Guide Prices will in no way bind or limit the final charges that will apply to Consultancy bookings.
- 1.12 "Project" means work that is deemed to be of a different nature / larger scale to that of a Consultancy Services booking whereby a different process and terms and conditions to these will apply.

2.0 General

- 2.1 These Terms and Conditions shall apply to both Fixed Price Consultancy and Time and Materials Consultancy.
- 2.2 Octavia always reserve the right to determine whether Customer requirements will be dealt with as a Consultancy booking or as a Project.
- 2.3 Booking Forms for Octavia's Consultancy Services will include a specified Task List of actions and deliverables intended to fulfil the Customer's requirements and state the Fixed Price or the applicable Time and Materials charging rate.
- 2.4 Where any hardware equipment or software licences or 3rd party services are required in order to fulfil the Consultancy booking these items will be specified and priced on a separate Booking Form for the "Supply of Equipment and 3rd Party Services".
- 2.5 Octavia reserves the right to subcontract work in order to fulfil any Consultancy Bookings or part thereof as they see fit.
- 2.6 These Terms and Conditions will apply to all bookings made by the Customer whether the work in question is to be delivered by Octavia employees or sub contractors representing Octavia.
- 2.7 Octavia reserves the right to allocate and / or substitute Consultants to Consultancy bookings or specific tasks within bookings as they see fit, depending on the skills, experience and availability of Consultants.
- 2.8 Octavia reserves the right to cancel a booking at any point up to the commencement of the consultancy work if necessitated by circumstances beyond Octavia's reasonable control.
- 2.9 When a Consultancy booking requires the installation and configuration of equipment (hardware and software) supplied by the Customer, Octavia will not accept any responsibility for the quality and performance of the equipment in question.
- 2.10 When the Customer purchases equipment (hardware and / or software), the Customer is responsible for all Warranties and Service Agreements with the suppliers / manufacturers of that equipment.
- 2.11 When equipment (hardware and / or software) is supplied via Octavia, Octavia will guarantee the suitability of the equipment specification for the purpose that has been specified by the Customer based upon the information provided by the Customer.



- 2.12 The warranty and insurance of such items remain the responsibility of the Customer.
- 2.13 When equipment (hardware and / or software) is supplied via Octavia, Octavia's Terms and Conditions for Supply of 3rd Party Goods and Services shall apply for the supply of that equipment only.
- 2.14 Octavia will supply Consultancy services within Working Hours on Working Days unless the Customer's requirement specifically states the need for the work to be performed outside these times.
- 2.15 If Consultancy work is to be performed outside of Octavia's standard Working Hours on Working Days, chargeable rates will increase. The actual chargeable rates and fees applicable to such bookings will be confirmed on a case by case basis.
- 2.16 When as part of a Consultancy booking, the Customer requests that text or an image is used for any purpose, the Customer accepts responsibility for ensuring that text or image (either electronic or printed), does not infringe copyright or any other laws.
- 2.17 The Customer accepts that if the use of any text or images provided by the Customer results in Octavia infringing copyright or any other laws, the Customer will be legally liable to pay any fees, fines or other costs associated with their use and publication.
- 2.18 When as part of a Consultancy booking, the Customer requests that software is installed, configured or in any way utilised on their IT system the Customer is responsible for having the appropriate license for the intended use of that software.
- 2.19 The Customer accepts that whilst Octavia may advise on software licensing matters the Customer will be legally liable for maintaining, acquiring and proving that appropriate licensing agreements for all software in use on their IT system exists. Consequently the Customer will be solely legally liable to pay any fees, fines or other costs associated with software licensing.
- 2.20 In undertaking a Consultancy booking, the Consultant will perform the Task List as outlined on the Booking Form and test in order to check the results are satisfactory prior to seeking confirmation from a representative of the Customer that the Task List has been performed / completed.
- 2.21 Confirmation that the Task List has been performed / completed from a representative of the Customer will be sought in the form of a signature upon the Consultancy Booking form.
- 2.22 Upon request from the representative of the Customer, the Consultant will demonstrate the results of their actions in order to confirm that the required results have been achieved.
- 2.23 If the Consultant(s) have been unable to complete all the required tasks stated in the Task List due to lack of time or other factors such as delays or issues with 3rd party items and services, the Consultant may request for a representative of the Customer to confirm completion of the Task List with exceptions.
- 2.24 Unless confirmed with exceptions, confirmation from the Customer will be deemed as acceptance that Octavia have fulfilled their responsibilities in respect of the Consultancy booking and invoices will be raised and issued accordingly.
- 2.25 When exceptions exist meaning the Consultancy booking is not complete, Octavia commit to fulfilling the outstanding tasks as soon as is possible and / or practical.
- 2.26 When exceptions exist from a Task List meaning the Consultancy Booking is not complete, invoices will not be raised and issued until the remaining tasks are concluded unless for any reason it is mutually agreed by both parties that the remaining tasks /actions should not be completed or should be put on hold by the Customer indefinitely, in which case Octavia will raise invoices accordingly for those actions / tasks from the Task List that have been completed.
- 2.27 The Customer accepts that no matter what degree of planning and risk reduction is performed as part of or prior to the delivery of Consultancy, there is a possibility that the work undertaken by Octavia will not achieve the desired results or that the work performed will have an unforeseen and unavoidable impact on another aspect of the Customer's IT system.
- 2.28 Ongoing support in relation to the tasks / deliverables required via Consultancy bookings is excluded from the scope of the Consultancy booking.
- 2.29 Unrelated issues that occur at the same time as the provision of Consultancy will be excluded from the scope of the booking.



3.0 Fixed Price Consultancy

- 3.1 When possible, Octavia will provide a pre determined Fixed Price for Consultancy Services Bookings.
- 3.2 Once the Customer's requirements have been received and qualified, the Consultancy services along with the Fixed Price for the required work will be stated in an Octavia Booking Form that will be sent to the Customer in a timely fashion.
- 3.3 Return of a completed Consultancy Services Booking Form will be deemed as confirmation of the booking and acceptance of the stated Fixed Price.
- 3.4 The returned Booking Form must include a signature from a representative of the Customer who is duly authorised to confirm purchases along with a Purchase Order number if / when applicable; alternatively the Customer may confirm the booking by submitting a written / email confirmation.
- 3.5 Confirmation of a booking by the Customer is taken as full acceptance of these Terms and Conditions.
- 3.6 The work to be performed by the Consultant will be strictly in accordance with the specified tasks from the Booking Form Task List that are intended to achieve the required deliverables as stated on the Booking Form.
- 3.7 Any additional requests for work from the Customer, prior to or during the delivery of Consultancy, will be deemed to be a new / additional requirement and will require a revised or additional Booking Form to be issued.
- 3.8 When a revised or additional Booking Form is issued it will state the revised or additional charges agreed to be levied for the Consultancy.
- 3.9 If due to either a lack of information or incorrect information being provided by the Customer or due to a need to expend effort whilst liaising with 3rd party suppliers or organisations, it is realised that additional tasks to those of the Task List or time is needed to complete the required Consultancy, Octavia reserves the right to re-assess the time / tasks needed and provide a revised or additional Booking Form and Task List.
- 3.10 If the Consultancy Booking requires Octavia to install or utilise equipment that the Customer has not purchased from Octavia, Octavia will in no way guarantee the suitability of the equipment for its intended purpose. Consequently, in circumstances when such equipment provided by the Customer is not suitable, Octavia reserves the right to re-assess the time / tasks needed and provide a revised or additional Booking Form and

- Task List for the Consultancy booking. Alternatively it may be deemed not possible to perform the required tasks in whole or part.
- 3.11 If the Customer requests that Octavia's Consultant(s) deal directly with a 3rd party supplier due to a Warranty or Service issue resulting in a delay that could not have been envisaged Octavia reserves the right to levy additional charges beyond the Fixed Price quoted.
 - 3.12 If it is discovered that any additional hardware equipment or software licences or 3rd party services are required in order to fulfil the Consultancy in addition to that previously stated, Octavia will provide a revised or additional Equipment Booking Form specifying the items required and the costs for those items which will be chargeable in full to the Customer.
 - 3.13 If it is discovered that any additional hardware equipment or software licences or 3rd party services are required in order to fulfil the Consultancy in addition to that previously stated, Octavia may have no choice other than to suspend work until the required items are available / licensed.
 - 3.14 For Fixed Price bookings, if the work required to fulfil the required Consultancy, takes the Consultant longer than that specified, but the additional time is not due to any other factors other than the task being underestimated, Octavia will bear the cost of the additional time taken.
 - 3.15 Whilst the additional time required for Fixed Price bookings will not incur additional charges when the required time to fulfil the Task List has been underestimated, Octavia will not be liable to the Customer as a result of any additional disruption or inconvenience.
 - 3.16 Octavia will attempt to deliver the required work at a convenient point in time for the Customer: however Octavia cannot guarantee availability of Consultants at specific times depending on other commitments.
 - 3.17 When a point in time has been agreed for the work to be performed, Octavia will endeavour to adhere to this time but will not be held liable if the work needs to be postponed or rearranged due to the late delivery of equipment, absence of staff or any other unforeseeable matters that may cause disruption.
 - 3.18 For all Fixed Price Consultancy bookings Consultant(s) will record their hours of work in the Octavia time sheet application. These time sheets will be made available to the Customer upon request.



4.0 Time and Materials Consultancy

- 4.1 When due to the nature of a requirement or upon request from a Customer, Consultancy is to be provided / implemented on a Time and Materials basis a pre-defined Fixed Price can not be offered in advance.
- 4.2 When possible a Guide Price for the Consultancy will be stated but the final charges to apply will be dependant upon the total time spent working on the required tasks as stated in the Task List.
- 4.3 Booking Forms sent to confirm a Time and Materials booking will clearly state the chargeable rate whether it be an hourly, daily or another charge to be agreed.
- 4.4 Return of a completed Consultancy Services Booking Form will be deemed as confirmation of the booking and acceptance of the stated chargeable rate.
- 4.5 The returned Booking Form must include a signature from a representative of the Customer who is duly authorised to confirm purchases along with a Purchase Order number if / when applicable; alternatively the Customer may confirm the booking by submitting a written / email confirmation.
- 4.6 Confirmation of a booking by the Customer is taken as full acceptance of these Terms and Conditions.
- 4.7 The tasks to be performed by the Consultant will be strictly in accordance with that stated in the Task List included in the Booking Form.
- 4.8 Any additional requests for work from the Customer, whether prior to or during the delivery of Consultancy will need to be confirmed in writing.
- 4.9 If an additional request represents a significant alteration to the original request a revised or additional Booking Form will be raised.
- 4.10 If the additional request does not represent a significant alteration to the original request but an extension of the required tasks / deliverables, this will be undertaken without the need for new or revised Bookings Forms to be issued. Subsequently the additional time or a reduction in time will affect the final charges to be levied.
- 4.11 If the Consultancy Booking requires Octavia to install or utilise equipment that the Customer has not purchased from Octavia, Octavia will in no way guarantee the suitability of the equipment for its intended purpose. Consequently, in circumstances when such equipment provided by the Customer is not suitable, Octavia may require more time than envisaged to complete the task. Alternatively it may not be possible to perform the task as required in whole or part.
- 4.12 If it is discovered that any additional hardware equipment or software licences or 3rd party services are required in order to fulfil the Consultancy in addition to that previously stated, Octavia will provide a revised or additional Equipment Booking Form specifying the items required and the costs for those items which will be chargeable in full to the Customer.
- 4.13 If it is discovered that any additional hardware equipment or software licences or 3rd party services are required in order to fulfil the Consultancy in addition to that previously stated, Octavia may have no choice other than to suspend work until the required items are available / licensed.
- 4.14 For all Time and Materials Consultancy bookings Consultant(s) will record their hours of work in the Octavia time sheet application. These time sheets will be submitted with invoices.



5.0 Cancellation of Consultancy services bookings

5.1 The Customer may cancel a confirmed booking as follows and accepts that charges will apply as outlined below:

Cancellation period	Type of Booking	Charge
More than 10 Working Days prior to commencement of the booking	Fixed Price	No Charge
	Time and Materials	No Charge
Between 10 – 5 Working Days Prior to commencement of the booking	Fixed Price	Charge equal to fifty percent (50%) of the total price stated upon the Consultancy Services Booking Form.
	Time and Materials	Charge equal to fifty percent (50%) of the Guide Price stated upon the Consultancy Services Booking Form. No charge if a Guide Price is not stated.
Within 5 Working Days Prior to the commencement of the booking	Fixed Price	Charge equal to the full amount of the total price stated upon Consultancy Services Booking Form
	Time and Materials	Charge equal to the full amount of the Guide Price stated upon Consultancy Services Booking Form. No charge if a Guide Price is not stated.

5.2 Notification of cancellation shall be delivered personally, sent by e-mail, sent by fax or sent by registered post. Notice is deemed to have been served as follows:

5.3 (A) if personally delivered, sent by e-mail or sent by fax: at the time of delivery save that if it is served after 5.30pm it is deemed to have been served at 9am the next Working Day.

5.4 (B) if posted: at the time of delivery.

5.5 If notice is not delivered in person or via registered post by the Customer, the Customer must verbally confirm that the notice to cancel the booking has been received by Octavia.

6.0 Consultancy Invoices

6.1 For work performed on behalf of UK registered companies all amounts invoiced will be subject to VAT payable at a rate of 17.5%.

6.2 Payment of invoices for Consultancy Services must be received in full by Octavia within the payment terms specified on the Invoice.

6.3 The payment terms to be applied to the Consultancy Booking will be stated on the Booking Form, hence the Customer will be deemed to have accepted these payment terms as a result of sign off and return of the Booking Form.

6.4 Octavia reserves the right to recover on a full indemnity basis any costs incurred collecting overdue payments including interest at a rate of 4% above the Bank of England base rate.

7.0 Complaints

7.1 In the event that the Customer is dissatisfied with the quality or performance of a Consultant, the Customer shall inform Octavia immediately, stating the basis for dissatisfaction. If, in the view of Octavia, the situation merits it, Octavia will withdraw the Consultant immediately and will use all reasonable endeavours to provide a replacement.

7.2 In the event of a complaint by the Customer in respect of work performed by a Consultant, in terms of time taken or methodology and techniques used, the Customer shall notify Octavia immediately and no later than 5 working days after the completion of the Consultancy booking. Failure to notify Octavia of such an issue within this time will absolve Octavia from any liability in this respect. Any other complaint by the Customer in respect of any other aspect of the work shall be notified as soon as the fault in question is found.



8.0 Data Protection

- 8.1 Octavia aims to keep the Customer's data as private as possible. The Customer acknowledges that in certain situations Octavia's staff may be in a position to see the contents of files on the Customer's System. Octavia will apply every safeguard to ensure that their staff do not violate the privacy of the Customer's data in any way.
- 8.2 Octavia undertake to comply with the provisions of the Data Protection Act 1998 and any related legislation insofar as the same relates to the provisions and obligations of this Agreement.
- 8.3 Octavia have taken reasonable steps to ensure the reliability of any of their staff who have access to personal data processed in connection with the Agreement;
- 8.4 Octavia undertake to act only on the Customer's instructions in relation to the processing of any personal data in connection with the Agreement; and undertake to allow the Customer access to any relevant premises on reasonable notice to inspect our procedures described above.
- 8.5 The obligations set out in this clause shall remain in force notwithstanding termination of this Agreement.
- 8.6 The Customer understands that they can use encryption and personal security programs to increase the security and privacy of their files. The Customer agrees that if any of its files are particularly private then such precautions will be used. The Customer agrees that if they are required under any professional or statutory regulations to keep their data confidential or secure then they will encrypt them so that Octavia's Consultants cannot have access to them when working on the Customer's equipment.
- 8.7 The Customer understands that Octavia are not authorised by any financial regulators such as the UK Financial Services Authority or the US Securities and Exchange Commission.
- 8.8 Octavia may gather and hold personal data about the Customer's employees, including names, physical and email addresses, and telephone numbers. Octavia do not hold Customer credit card information.
- 8.9 Octavia's Privacy Policy states how Octavia will use and protect personal data. This is included within Octavia's overall IT Security Policy which is available upon request.
- 8.10 All of Octavia's employees sign a Client Data Confidentiality Agreement as part of their Contract of Employment, a copy of which is available on request.

9.0 Intellectual Property Rights

- 9.1 Intellectual property rights in respect of Infrastructure Solutions including Hardware, Operating Systems and 3rd Party Software:
 - 9.1.1 The system shall remain the property of the Customer and legal ownership shall remain vested in the Customer along with any changes made to the system via the Consultancy Booking.
 - 9.1.2 Any documentation created via the Consultancy Booking is the property of the Customer. This will be provided to the Customer upon request as long as the Customer is not in the process of disputing matters relating to the Consultancy Booking or any other work undertaken by Octavia.
 - 9.1.3 The knowledge and expertise that Octavia utilise or gain in order to perform Consultancy as required/requested by the Customer will inherently remain vested in Octavia and the Consultant(s) in question.
- 9.2 Intellectual property rights in respect of Software built by Octavia:
 - 9.2.1 When ownership of the Software remains vested in Octavia:
 - 9.2.1.1 All Intellectual Property Rights and copyright relating to the System that is licensed to the Customer shall remain vested in Octavia in accordance with the license that has been granted by Octavia for the use of the System by the Customer.
 - 9.2.2 When ownership of the Software is transferred to the Customer:
 - 9.2.2.1 No part of the system may be reproduced or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, or stored in a retrieval system, by Octavia without the prior written permission of the copyright owner (the Customer).
 - 9.2.2.2 The intellectual property rights and copyright and all other confidential information in the delivery of Consultancy shall vest in Octavia until conclusion of the Consultancy Booking is approved by the Customer.



9.2.2.3 Upon receipt of the Customer's approval /acceptance for a Consultancy Booking and upon payment from the Customer for all associated charges, Octavia will assign the intellectual property rights and copyright relating to that Consultancy Booking, to the Customer.

9.3 The Booking Form will clearly state whether the ownership of the Software is to remain vested in Octavia or to be transferred to the Customer.

10.0 Warranty

10.1 Octavia warrant that all Consultancy will be performed in a professional and workmanlike manner in accordance with generally accepted industry standards.

10.2 When relevant in respect of the provision of Consultancy, Octavia do not warrant that the operation of the System will be uninterrupted or error free over any specified period of time either during or upon completion of the Consultancy booking.

10.3 Octavia do not warrant the performance of third party Hardware and Software. Advice and support from third party manufacturers will be sought where necessary and when available. Octavia have partnership agreements with key suppliers and manufacturers to enable such support to be obtained but can not warrant the quality or accuracy of advice and support received from 3rd parties.

11.0 Limitation of Liability

11.1 The liability of Octavia for any loss or damage of whatsoever nature and howsoever caused shall be limited to and in no circumstances shall exceed the aggregate price paid for the Consultancy booking.

11.2 In no event shall Octavia, it's partners or suppliers be liable for costs of substitute goods or services, nor will they be liable for loss of profits, loss of data or any indirect, special, incidental, consequential or punitive damages however caused, whether due to a breach of contract, negligence or otherwise unless such liability is determined by a Court of competent jurisdiction, without further recourse to appeal, that it was caused by gross negligence, wilful misconduct or fraudulent acts by Octavia.

12.0 Confidentiality

12.1 Each party undertakes to the other to treat all information (in any form) exchanged in relation to all Consultancy bookings for the duration of the booking and beyond as strictly confidential.

13.0 Solicitation

13.1 The Customer will make no approach or offer relating to employment to a Consultant or any other employee of Octavia introduced by Octavia.

13.2 Upon completion of a Consultancy booking or upon completion / termination of any other bookings / agreements under which Octavia may deliver services to the Customer, the Customer agrees not to engage any Consultant or employee introduced by Octavia in any form without the written consent of Octavia for a period of six months from the conclusion of the most recent booking / agreement.

13.3 Octavia reserve the right to charge the Customer if a Consultant or employee is engaged in employment by the Customer or by any 3rd party introduced by the Customer. It is agreed the Customer shall pay an introductory fee to Octavia the equivalent of 40% of the annual remuneration package (including benefits and commission) of the Consultant or employee in question.

14.0 Entire Agreement

14.1 No addition to or modification of any provision of these Terms and Conditions shall be binding upon the parties, except as set out herein, unless made in writing and signed by a duly authorised representative of each of the parties.

14.2 If any term, clause or condition of these Terms and Conditions is in violation of any applicable law, statute or regulation, the term, clause or condition in question shall be deemed as being deleted without effect to the remainder of these Terms and Conditions.

14.3 These Terms and Conditions shall remain in full force as if the deleted term, clause or condition had not been included. Octavia and the Customer will negotiate, in good faith, alternative terms, clauses or conditions to those deleted that are mutually acceptable to both parties.

14.4 Headings are included for convenience only and shall not affect the interpretation of these Terms and Conditions.



15.0 Notice

15.1 Any notice given under the Agreement by the Customer to Octavia shall be provided in writing by post or fax as set out below:

15.1.1 Postal address: Octavia Information Systems Ltd, WTG Building, 90 Union Street, London, SE1 0NW. Fax Number: 020 7928 9226

15.2 Any notice given under the Agreement by Octavia to the Customer shall be provided to the Customer as set out herein and in accordance with the contact details for the Customer stated in the Agreement. The Customer may change its contact details from time to time if required, by the provision of notice to Octavia.

16.0 Governing Law

16.1 The Agreement shall be governed by and construed in accordance with English law and the parties hereby irrevocably submit to the exclusive jurisdiction of the English courts.

