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Securious Limited

General Terms of Service

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1. INTERPRETATION

The following definitions and rules of interpretation apply in these Conditions.

1.1 Definitions:

Business Day means a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Business Hours means 9.00am to 5.00pm on a Business Day

Booking means any booking with the Supplier where any part of the Services requires attendance (physical or virtual) by the parties, as set out in clause 4.

Charges means the charges payable by the Client for the supply of the Services as set out in clause 0.

Commencement Date has the meaning given in clause 2.2.

Conditions means these terms of service, the Service Particulars, and privacy policy as amended from time to time in accordance with clause 12.5.

Contract means the contract between the Supplier and the Client for the supply of Services in accordance with the Conditions.

Control has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression 'change of control' shall be construed accordingly.

Client means the person or firm who purchases Services from the Supplier.

Client Default has the meaning set out in clause 5.2.

Client Property means all documents, books, manuals, materials, records, correspondence, papers and information (on whatever media and wherever located) relating to the business or affairs of the Client or its Clients and business contacts, and any equipment, keys, hardware or software provided for the Supplier's use by the Client during the Services, and any data or documents (including copies) produced, maintained or stored by the Client on the Client's or the Supplier's computer systems or other electronic equipment during the Services.

Deliverables means all documents, guides, reports, illustrations and other such materials as set out in the Service Particulars. Unless expressly stated otherwise, any Deliverables produced by the Services do not constitute 'Goods' for the purposes of statutory rules on delivery, transfer of title or risk.

Intellectual Property Rights means patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Order means the Client's order for Services as set out in the Service Particulars.

Services means the services for Cyber Security Consultancy, PCI DSS Compliance, Pentesting, Cyber Essentials, SOC managed service, audits, and scanning, including the Deliverables, as set out in the Service Particulars.

Service Particulars means the description or specification of the Services provided in the document titled 'Service Particulars' that forms part of the Conditions.

Supplier means Securious Limited, incorporated and registered in England and Wales with company number 06337870 whose registered office is at George Parker Bidder Building 4 Babbage Way Clyst Honiton, Exeter, Devon, England, EX5 2FN.

Supplier Materials has the meaning set out in clause 5.1(g).

1.2 Interpretation:

(a) Unless expressly provided otherwise in the Contract, a reference to legislation or a legislative provision:

(i) is a reference to it as amended, extended or re-enacted from time to time; and

(ii) shall include all subordinate legislation made from time to time under that legislation or legislative provision.

(b) Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

(c) A reference to **writing** or **written** includes email.

2. BASIS OF CONTRACT

2.1 The Order constitutes an offer by the Client to purchase Services in accordance with the Conditions.

2.2 These Conditions shall only be deemed to be accepted when the Client follows the acceptance criteria in the Service Particulars - on which date the Contract shall come into existence (Commencement Date) and continue for the duration specified in the Service Particulars or earlier in accordance with clause 10.

2.3 Any descriptive matter or advertising issued by the Supplier, and any descriptions contained in the Supplier's catalogues, brochures or website, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.

2.4 These Conditions apply to the Contract to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

2.5 Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 30 days from its date of issue.

2.6 If for a fixed term, the Engagement will end on the date specified in the Service Particulars.

3. SUPPLY OF SERVICES

3.1 The Supplier shall supply the Services to the Client in accordance with the Service Particulars in all material respects, including adherence to the IASME, PCI QSAC (PCI DSS Qualified Security Assessor Company of the PCI Security Standards Council), NCSC Cyber Essentials Certification Body (which includes current ISO 9001 & ISO 27001) More information can be found by following the links for each, or you can get in touch with us with any queries.

3.2 The Supplier shall use all reasonable endeavours to meet any performance dates specified in the Service Particulars, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.

3.3 The Supplier reserves the right to amend the Conditions if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Supplier shall notify the Client in any such event.

3.4 The Supplier warrants to the Client that the Services will be provided using reasonable care and skill.

3.5 The Supplier shall be entitled to provide the Services through any subcontractors appointed by the Supplier. In the event that any Suppliers or subcontractors are provided, they will be bound by the terms of these Conditions.

3.6 The Services may be supplied, from time to time, through software such as Microsoft Teams, ShareFile, 8x8 software and VOIP phone. It is the responsibility of the Client to download and maintain the relevant software they need to access the Services.

4. BOOKINGS

4.1 All Bookings for the provision of the Services shall be confirmed in writing by the Supplier in the Service Particulars.

4.2 The Supplier reserves the right to cancel or arrange an alternative date for a Booking. In such circumstances, the Supplier will endeavour to provide notice of cancellation or change to the Client. In the event of cancellation, the Client will be entitled to reschedule the Booking, but the Supplier shall not be liable for any other loss or expense arising as further detailed in clause 9 (LIMITATION OF LIABILITY).

4.3 The Client may cancel the Booking by notifying the Supplier by email as soon as reasonably practicable. The Client shall also be deemed to have cancelled the Booking if the Client does not attend the Booking. The Client shall incur the following associated Charges in relation to a cancellation:

(a) 100% for cancellations within 2 Business Days (for virtual/online Bookings);

(b) 50% for cancellations within 4 Business Days (for virtual/online Bookings);

(c) 100% for cancellations within 4 Business Days (for face-to-face Bookings);

(d) 50% for cancellations within 6 Business Days (for face-to-face Bookings);

(e) and any expenses that the Supplier has incurred in travelling to and purchasing accommodation for any face-to-face Booking.

4.4 The Supplier will endeavour to reschedule the Booking in the event that the Client does not attend, but the Client will still be liable for a cancellation fee as per clause 4.3.

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5. CLIENT'S OBLIGATIONS

5.1 The Client shall:

(a) ensure that the terms of the Order and any information reflected in the Service Particulars is appropriate for its requirements;

(b) co-operate with the Supplier in all matters relating to the Services;

(c) provide the Supplier, its employees, agents, Suppliers and subcontractors, with access to the Client's premises, office accommodation and other facilities as reasonably required by the Supplier;

(d) provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;

(e) prepare the Client's premises for the supply of the Services;

(f) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;

(g) keep all materials, equipment, templates, methodology, documents and other property of the Supplier (Supplier Materials) at the Client's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation; and

(h) comply with any additional obligations as set out in the Service Particulars.

5.2 If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Client or failure by the Client to perform any relevant obligation (Client Default):

(a) without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend performance of the Services until the Client remedies the Client Default, and to rely on the Client Default to relieve it from the performance of any of its obligations in each case to the extent the Client Default prevents or delays the Supplier's performance of any of its obligations;

(b) the Supplier shall not be liable for any costs or losses sustained or incurred by the Client arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 5.2; and

(c) the Client shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Client Default.

6. CHARGES AND PAYMENT

6.1 The Charges for the Services shall be calculated as follows:

(a) the Charges as detailed in the Service Particulars, including;

(b) for any deposit or up-front payment requirements, if the Client forfeits the Contract at any point from the Commencement Date by way of breach or otherwise giving notice to terminate, then the Supplier will be entitled to retain and/or recover any such deposit or up-front payment as remuneration for any preparatory work carried out.

(c) for any fixed or initial term of the Contract set out in the Service Particulars, if the Client forfeits the Contract at any point from the Commencement Date by way of breach or otherwise giving notice to terminate, then the Supplier will be entitled to retain and/or recover any such outstanding payments for the full term of the Contract as liquidated damages for breach of Contract.

(d) any additional Charges as a result of the Client requesting or otherwise requiring Services outside the original scope of work detailed in the Service Particulars. If the Service Particulars do not cater for additional Charges, these will be applied at the latest prevailing rate of similar Services already set out in the relevant Service Particulars, or as otherwise agreed in writing between the parties; and

(e) the Supplier shall be entitled to charge the Client for any expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services including travelling expenses (at £0.45 per mile), hotel or other accommodation costs (where the travel time and time spent delivering the Services in one working day exceeds 10 hours), subsistence and any associated expenses.

6.2 The Supplier reserves the right to increase the Charges on an annual basis with effect from each anniversary of the Commencement Date in line with the certification fees.

6.3 The Supplier shall invoice the Client according to the Service Particulars.

6.4 The Client shall pay each invoice submitted by the Supplier:

(a) within 7 days of the date of the invoice or in accordance with any credit terms agreed by the Supplier and confirmed in writing to the Client; and

(b) in full and in cleared funds to a bank account nominated in writing by the Supplier, and

time for payment shall be of the essence of the Contract.

6.5 All amounts payable by the Client under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Client, the Client shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.

6.6 If the Client fails to make a payment due to the Supplier under the Contract within 30 days from the due date, then, without limiting the Supplier's remedies under clause 10, the Client shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 6.6 will accrue each day at 5% a year above the Bank of England's base rate from time to time, but at 5% a year for any period when that base rate is below 0%.

6.7 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

7. INTELLECTUAL PROPERTY RIGHTS

7.1 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Client) shall be owned by the Supplier.

7.2 The Supplier grants to the Client, or shall procure the direct grant to the Client of, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to copy and modify the Deliverables (excluding materials provided by the Client) for the purpose of receiving and using the Services and the Deliverables in its business.

7.3 The licence granted to the Client in clause 7.2 is limited to the Client company and does not extend to any other company in its group, if applicable.

7.4 The Client grants the Supplier a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify any materials provided by the Client to the Supplier for the term of the Contract for the purpose of providing the Services to the Client.

8. DATA PROTECTION

8.1 The Supplier will process any personal data in relation to the Client, limited to directors, employees, agents and contractors of the Client, in accordance with their privacy policy, which can be found here https://securious.co.uk/securious-privacy-policy/

8.2 It is not the intention of the parties for the Supplier to be processing personal data on behalf of the Client. If this changes throughout the term of the Contract, the Client will communicate this to the Supplier and both parties agree to enter into a data processing agreement for the purposes of Article 28 of the UK GDPR.

9. LIMITATION OF LIABILITY

9.1 Nothing in this clause 9 shall limit the Client's payment obligations under the Contract.

9.2 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:

(a) death or personal injury caused by negligence;

(b) fraud or fraudulent misrepresentation; and

(c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

9.3 Subject to clause 9.2 (Liabilities which cannot legally be limited), the Supplier's total liability to the Client for all loss or damage shall not exceed an amount in excess of any Charges actually paid by the Client in the 12 months preceding the date on which the claim arose, exclusively in relation to the project for which the claim arose.

9.4 The caps on the Supplier's liabilities shall be reduced by:

(a) payment of an uncapped liability;

(b) amounts awarded by a court or arbitrator, using their procedural or statutory powers in respect of costs of proceedings or interest for late payment.

9.5 Subject clause 9.1 (No limitation in respect of deliberate default), clause 9.2 (No limitation of Client's payment obligations) and clause 9.3 (Liabilities which cannot legally be limited), this clause 9.6 sets out the types of loss that are wholly excluded:

(a) loss of profits.

(b) loss of sales or business.

(c) loss of agreements or contracts.

(d) loss of anticipated savings.

(e) loss of use or corruption of software, data or information.

(f) loss of or damage to goodwill.

(g) indirect or consequential loss.

(h) the Client's reliance on future PCI DSS compliance, including payment brand fines, at any time after completion of the Services or termination, whichever is sooner; and

(i) Client misrepresentation and related PCI-related penalties.

9.6 The Supplier has given commitments as to compliance of the Services with relevant specifications in clause 0. In view of these commitments, the terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

9.7 Unless the Client notifies the Supplier that it intends to make a claim in respect of an event within the notice period, the Supplier shall have no liability for that event. The notice period for an event shall start on the day on which the Client became, or ought reasonably to have become, aware of its having grounds to make a claim in respect of the event, and shall expire 12 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

9.8 This clause 9 shall survive termination of the Contract.

10. TERMINATION

10.1 Without affecting any other right or remedy available to it, either party may terminate the Contract by giving the other party the written notice within any period for early termination set out in the Service Particulars (if any).

10.2 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

(a) the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing to do so. This clause 10.2 (a) includes compliance with the latest cancellation, suspension and disengagement terms with PCI SSC the assessment lifecycle, where relevant;

(b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in

connection with any analogous procedure in the relevant jurisdiction. This clause 10.2(b) includes that, if the client is an individual, they are declared bankrupt or makes any arrangement with or for the benefit of their creditors or has a county court administration order made against them under the County Court Act 1984;

(c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

(d) the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

(e) there is a change of control of the Client

10.3 Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the Client if the Client fails to pay any amount due under the Contract on the due date for payment.

10.4 Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services under the Contract or any other contract between the Client and the Supplier if:

(a) the Client fails to pay any amount due under the Contract on the due date for payment;

(b) the Client becomes subject to any of the events listed in clause 10.2(c) or clause 10.2(d), or the Supplier reasonably believes that the Client is about to become subject to any of them; and

(c) the Supplier reasonably believes that the Client is about to become subject to any of the events listed in clause 10.2(b).

11. CONSEQUENCES OF TERMINATION

11.1 On termination or expiry of the Contract:

(a) the Client shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Client immediately on receipt;

(b) the Client shall return all of the Supplier Materials and any Deliverables which have not been fully paid for. If the Client fails to do so, then the Supplier may enter the Client's premises and take possession of them. Until they have been returned, the Client shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract;

(c) the Supplier shall immediately deliver to the Client all Client Property in their possession or under their control, except for relating to the Client (please see clause 8). If the Client has not yet paid all sums due under the Contract prior to termination, the Supplier will hold a general and particular lien over Client Property until such sums are paid in full;

(d) The Supplier may also retain workpapers under their compliance obligations.

11.2 Termination or expiry of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

11.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

12. GENERAL

12.1 **Force majeure.** Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control. The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for 15 days, the party not affected may terminate this agreement by giving 15 days' written notice to the affected party.

12.2 **Assignment and other dealings.**

(a) The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.

(b) The Client shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Supplier.

12.3 **Confidentiality.**

(a) Each party undertakes that it shall not at any time during the Contract, and for a period of two years after termination or expiry of the Contract, disclose to any person any confidential information concerning the business, affairs, Clients, clients or suppliers of the other party, except as permitted by clause 12.3(b).

(b) Each party may disclose the other party's confidential information:

(i) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 12.3; and

(ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority, including the Supplier’s disclosure to PCI SSC and the payment brands, where relevant.

(c) Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

12.4 **Entire agreement.**

(a) The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

(b) Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

(c) Nothing in this clause shall limit or exclude any liability for fraud.

12.5 **Variation.** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

12.6 **Waiver**. A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

12.7 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement. If any provision or part-provision of this Contract deleted under this clause 12.7 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

12.8 **Notices.**

(a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be delivered by the communication methods set out in clause 12.8 (b).

(b) Any notice or communication shall be deemed to have been received if sent by email at the time of transmission, or, if this time falls outside business hours in the place of receipt, when Business Hours resume, to the respective email addresses of the Supplier and Client set out in the Service Particulars.

(c) This clause 12.8 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

12.9 **Third party rights.**

(a) Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

(b) The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

12.10 **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the law of England and Wales.

12.11 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.