

TERMS AND CONDITIONS OF DUE DILIGENCE AND VALUE CREATION SERVICES

BACKGROUND

These Terms and Conditions explain the basis under which PTT Advisors Limited, trading as 'eXcentius', will provide due diligence and/or value creation services (the 'Service') to the Client.

1 SCOPE AND CONTENT

- 1.1 These Terms apply to, and form part of, the Scope between eXcentius and the Client as defined in a letter of engagement 'Engagement Letter' or 'Statement of Works' agreed for each service to be provided. They supersede any previously issued terms and conditions of supply.
- 1.2 Terms specified in the Engagement Letter or Statement of Works take precedence over Terms specified in this document.
- 1.3 The Scope under these Terms shall continue in force until:
 - 1.3.1 the Services comprised in the Scope have been completed by eXcentius;
 - 1.3.2 and if the Scope contains a due diligence or analysis service, the Report has been delivered to the Client;
 - 1.3.3 all the Fees have been paid in cleared funds by the Client to eXcentius; upon which it will terminate automatically, subject to termination in accordance with these Terms.
- 1.4 Certain words and phrases used in these Terms and in the Scope are defined terms which have the meanings set out in paragraph 2.

2 DEFINITIONS

In these Terms and Conditions, the following words and phrases have the following meanings:

'Client'	the person or company buying the Services
'Confirmation of Acceptance'	eXcentius' confirmation that the Client's order has been accepted and a binding agreement has been formed for the supply of the Services
'Parties'	the Client and eXcentius
'Party'	either one of the Client or eXcentius
'Report'	the final written report provided to the Client in accordance with the Scope.
'Scope'	Scope means the letter (or other agreement) recording the basis of our engagement in relation to the Services that we provide to the Client applying to and incorporating these Terms.
'Service', 'Services'	the service or services that the Client is purchasing
'Terms and Conditions'	this document detailing the rights and responsibilities of the Parties

3 SERVICES

- 3.1 eXcentius is under a legal duty to supply the Services using reasonable care and skill.
- 3.2 The Services will be performed so far as reasonably practicable, at such time or times as eXcentius shall decide. Any times, dates or periods given by eXcentius for provision of the Services are estimates only. eXcentius will make reasonable efforts to comply with any such time estimates, and will perform the Services within a reasonable time. However, time is not of the essence in respect of eXcentius' performance of the Services.
- 3.3 Details of the eXcentius director(s), consultants and any other relevant staff that will be responsible for the Client's work will be confirmed in the Scope but may be changed by subsequent written notice to the Client.
- 3.4 We will advise the Client of any circumstances and risks of which we are aware or consider to be reasonably foreseeable that could affect the outcome of our work.
- 3.5 We will not provide the Client with any advice or other services in relation to any of the following;
 - 3.5.1 Financial advice or financial due diligence;
 - 3.5.2 Tax and taxation advice or tax and taxation due diligence;
 - 3.5.3 Legal advice or legal due diligence;
 - 3.5.4 Commercial advice or commercial due diligence;
 - 3.5.5 or any other services not included in the Scope.
- 3.6 Accordingly, any comment or statement made on any of the above matters by any representative of eXcentius may not be relied on and shall not be construed as eXcentius giving advice on or expressing a view on such matters.

4 PRICE AND PAYMENT

- 4.1 Our invoices for the provision of Due Diligence services should be settled within 4 calendar weeks after delivery of our final Report, or at Completion, whichever is sooner.
- 4.2 Our invoices for the provision of value creation services should be settled within 4 calendar weeks of the invoicing date specified in the Engagement Letter or Statement of Works.
- 4.3 Our invoices for disbursements will be billed on monthly basis or at Completion, whichever is sooner, and should be settled within 4 calendar weeks of receipt.
- 4.4 The Client must make payments in accordance with any schedule agreed with eXcentius. Where applicable, Value Added Tax (VAT) will be charged in addition at the rate prevailing at the time that payment is due.
- 4.5 If our work is likely to extend beyond the provision of the contracted services, or we are asked by the Client to carry out supplementary work, we will discuss with the Client the likely costs of carrying out the additional work beyond provision of the originally contracted Services and/or the costs of additional time needed to be spent completing the Scope and any appropriate further charges. Such further charges and if/when agreed with the Client will be added to the Fees comprised within the Scope and become payable on the same terms.
- 4.6 Without prejudice to any other legal right or remedy:
 - 4.6.1 if the amounts not paid to eXcentius when due total 10% or more of the total value of the Services, eXcentius is entitled to suspend the performance of any remaining Services until the outstanding payments are made; and

- 4.6.2 the Client will not refuse to pay any amount which is owed to eXcentius where there is only a minor or inconsequential defect or error in the performance of the Services.

5 CLIENT'S RESPONSIBILITIES

- 5.1 The Client undertakes to provide us with timely, accurate and up to date instructions and information required for the provision of the Services, notify us promptly of any material change in information or circumstances or changes in circumstances, respond to our queries, and deal with documents which we send the Client promptly.
- 5.2 We will be entitled to rely on information which the Client give us without further verification unless expressly agreed otherwise. This includes information provided directly, or through the Client, by other specialist advisors acting on the Client's behalf.
- 5.3 The Client must tell us as soon as possible if matters are or become particularly urgent or require action by a specific time.
- 5.4 To the extent reasonably practicable and so far as it is reasonably able to, the Client shall co-operate with eXcentius in the performance of the Services. Co-operation shall include, but is not limited to:
 - 5.4.1 responding promptly and properly to any correspondence, request, query or communication from or on behalf of eXcentius;
 - 5.4.2 promptly providing any information, documentation, instruction, support or other assistance as eXcentius reasonably requires;
 - 5.4.3 promptly giving access to development code that is compiled and structured in accordance with the requirements of any third-party supplier specified by us;
 - 5.4.4 promptly making any space, resources or facilities available as may reasonably be required by eXcentius; and
 - 5.4.5 paying any and all sums due on time.
- 5.5 If the Client does not comply fully and properly with their responsibilities under this clause, eXcentius may, without prejudice to their legal rights:
 - 5.5.1 charge the Client for any costs or expenses thereby reasonably incurred; or
 - 5.5.2 suspend the provision of the Services until such time as the Client complies, so far as reasonably practicable, with their responsibilities under these Terms and Conditions.

6 SUB-CONTRACTORS

- 6.1 eXcentius can, at its absolute discretion, choose to retain or instruct sub-contractors to carry out the Services in whole or part.
- 6.2 eXcentius shall remain responsible to the Client for the performance of any subcontracted obligations.

7 AGENCY OR PARTNERSHIP

- 7.1 Nothing in these Terms and Conditions is intended to or does imply any partnership, fiduciary relationship, joint venture, agency or any other relationship between the Parties, save as provided for in these Terms and Conditions.

8 LIABILITY AND INDEMNITY

- 8.1 Nothing in these Terms and Conditions seeks to limit the liability of eXcentius for fraudulent acts or omissions, death or personal injury caused in connection with the provision of the Services, whether arising in contract, negligence, tort, breach of statutory duty or otherwise.
- 8.2 Neither Party shall be liable to the other whether in contract, negligence, tort, breach of statutory duty or otherwise for any loss or damage sustained by the other Party indirectly or consequentially and including but not limited to economic loss or loss of profits, goodwill or business in general.
- 8.3 Subject to the rest of this clause, eXcentius' total liability to the Client will not, in any circumstances, exceed GBP£1,000,000.00 (one million pounds Sterling).

9 PROPERTY AND INTELLECTUAL PROPERTY

- 9.1 Any property or intellectual property rights in any material owned by eXcentius shall belong to eXcentius and the Client shall not cause or permit anything to endanger those rights or title, or permit, assist or encourage others to do so.
- 9.2 Any property or intellectual property rights in any material owned by the Client shall belong to the Client and eXcentius shall not cause or permit anything to endanger those rights or title, or permit, assist or encourage others to do so.
- 9.3 This clause is subject to the right of the Parties to use any such material so far as is reasonably required to carry out the agreed Services.

10 CONFIDENTIALITY

- 10.1 The Parties will use their best endeavours to keep confidential any confidential information relating to the other Party that is provided or otherwise accessed in the performance of the Services. Neither Party shall disclose any confidential information without the consent of the other Party, except to comply with an order of a court of competent jurisdiction or if required in connection with legal proceedings relating to these Terms and Conditions.
- 10.2 The Parties' obligations under this clause shall continue after the termination or completion of the Services unless or until the information concerned becomes public knowledge or is otherwise in the public domain through no fault of the Party bound to keep it confidential under this clause.

11 AMENDMENT AND TRANSFER OF RIGHTS

- 11.1 These Terms and Conditions can only be amended by the agreement of the Parties in writing with signatures on behalf of both.
- 11.2 eXcentius is permitted to assign or transfer any rights or obligations under these Terms and Conditions, or subcontract the same for performance to a third party. The Client is not permitted to assign or transfer any rights or obligations under these Terms and Conditions without the prior written permission of eXcentius.

12 SEVERANCE

- 12.1 If any of the provisions of these Terms and Conditions are unlawful, invalid or otherwise unenforceable, they will be severed from the remainder. The Terms and Conditions which are left will remain valid and enforceable.
- 12.2 Either party may terminate the Scope by giving the other party written notice of termination.

13 THIRD PARTIES

- 13.1 For the purposes of the United Kingdom Contracts (Rights of Third Parties) Act 1999, these Terms and Conditions are not intended to and do not confer any rights on any person who is not a Party. Any person who is not a Party does not have the right to enforce any provision of these Terms and Conditions.

14 CIRCUMSTANCES BEYOND THE CONTROL OF THE PARTIES

- 14.1 eXcentius shall not be liable for any delay or failure to perform any term or part of these Terms and Conditions due to circumstances beyond the reasonable control of eXcentius. Such circumstances include – but are not limited to – industrial action, lock out, trade dispute, power failure, internet outage, fire, natural disaster or outbreak of war. As soon as is reasonably possible after the discovery of such circumstances, eXcentius will notify the Client in writing of any anticipated or existing delay or failure in performance.
- 14.2 If the circumstances referred to in this clause continue for a period of longer than 30 days, eXcentius can end the contract by giving 15 days' notice in writing to the Client. All money owing under these Terms and Conditions before the circumstances arose shall be paid immediately.

15 ENTIRE AGREEMENT

- 15.1 These Terms and Conditions and the Confirmation of Acceptance taken together are the entire agreement between eXcentius and the Client and supersede any and all prior terms, conditions, warranties or representations to the fullest extent permitted by law.

16 WAIVER

- 16.1 Any failure or delay by eXcentius in using rights or powers provided by these Terms and Conditions shall not constitute a waiver of the whole or any part of these Terms and Conditions. The partial or sole use of any rights or powers provided by these Terms and Conditions shall not prevent any additional use of the same rights or powers. The rights, powers and remedies in these Terms and Conditions are additional to the rights of the Parties provided by law.

17 GOVERNING LAW AND JURISDICTION

- 17.1 These Terms and Conditions shall be governed by and construed in accordance with English law and the courts of England and Wales will have exclusive jurisdiction in relation to them.