



# WhiteSpider Business Terms and Conditions

*“Building relationships,  
creating value, delivering quality”*



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# 1 DEFINITIONS

- 1) "Client" means the client to whom WhiteSpider is providing Services and/or Equipment.
- 2) "WhiteSpider" means WhiteSpider Enterprise Services Limited, its subsidiaries and any of its subcontractors.
- 3) "Services" means the services and activities which WhiteSpider will perform as described in a Quotation, Statement of Works or Proposal
- 4) "Data" means Client data to the extent that it relates to their requirements for Services or is necessary for the proper provision of the Services to the Client
- 5) "Normal Working Hours" means 9.00 am to 5.00 pm where the individual(s) undertaking the work is located on a UK Working Day.
- 6) "Working Day" means Monday to Friday, excluding Bank or other Public holidays in England.
- 7) "Statement of Works" (SoW) means a document agreed by the parties which specifies Services and/or Equipment to be provided and the requirements for their provision.
- 8) "Proposal", similar to a Statement of Works, means the document agreed by the parties specifying Services and/or Equipment to be provided and requirements for their provision (from here on included in the term "Statement of Works")
- 9) "Quotation" means a document that just identifies the Services and/or Equipment to be supplied, and the cost of these items (from here on included in the term "Statement of Works")
- 10) "Equipment" or "Hardware" means the products sold by WhiteSpider as set out in the SoW, Proposal or Quotation.
- 11) "Software" refers to any software sold by WhiteSpider, whether associated to specific equipment, or software sold separately.
- 12) "Out of Hours" means time outside of Normal Working Hours.
- 13) "Packaged Service" means a standard pre-defined and repeatable service offering which WhiteSpider will perform as described in a SoW.
- 14) "Project Initiation Document" a.k.a. "PID" means the document setting out the overall project deliverables.
- 15) "Purchase Order" means a document issued by the Client to WhiteSpider, agreeing to the types, quantities, and agreed prices of Services and/or Equipment and authorising WhiteSpider to deliver such Services and/or Equipment
- 16) "Request for Change" is a formal request for a change in the agreed deliverables, addition or change in scope, to the work identified in the SoW which will record the work to be done as well as the assumed impact of the work.
- 17) "On Site" refers to a Client site, but not necessarily the site where the equipment is held
- 18) "Remote Location" refers to a location other than a Client site.

## 2 TERMS AND CONDITIONS

### 2.1 Orders

1. All contracts for the provision of Services and Equipment by WhiteSpider shall be deemed to incorporate these Terms and Conditions, which shall prevail over any other terms from the Client. Once an order has been received, if the Client wishes to cancel the order, the Client will be liable for the cancellation and postponement charges as set out in these Terms and Conditions (see "Cancellation / Postponement" below).
  - a. The only exception to clause 2.1.1 is in the case where a Director of WhiteSpider has signed a 'Supply Agreement' with the customer and the terms conflict. In this instance the 'Supply Agreement' may override these Terms and Conditions.
2. All orders are subject to acceptance and to availability to provide the Services ordered: WhiteSpider is entitled to refuse any order placed by the Client.
3. The Client undertakes that all details it provides to WhiteSpider for purchasing Equipment or Services are correct.
4. A order will be deemed to have been received when a Purchase Order referencing the SoW has been received by WhiteSpider

### 2.2 Prices

1. Charges for Services and Equipment, in addition to any appropriate VAT, are invoiced at the price as set out in the SoW, unless otherwise agree by both parties.
2. The SoW is valid for 30 days only from the date of the SoW unless otherwise stated therein.
3. For the supply of Equipment where the original vendor pricing is based on another currency, the WhiteSpider reserved the right to limit the validity of the prices supplied to 7 days from the date of the SoW. Further, in the case where the currency fluctuates by more than 1% during that period, WhiteSpider reserves the right to adjust the pricing should WhiteSpider's supplier make such a change, and such change would make it commercially unviable for WhiteSpider to transact.
4. WhiteSpider reserves the right to modify:
  - a. Prices of Equipment based on prices received from its suppliers
  - b. From time to time its standard rate of Services to the Client.
5. Any estimates provided by WhiteSpider for the cost of Services and Equipment shall be estimates only. Whenever estimated prices are quoted, WhiteSpider shall use all reasonable efforts to perform the relevant Services at the estimated price but in no event shall such estimates constitute a fixed price, or a not-to-exceed price agreement unless stated otherwise in the SoW.
6. Prices in the SoW are only the costs for WhiteSpider to deliver the Services and/or Equipment. Prices do not include VAT or other taxes due.

### 2.3 Delivery, Title and Risk

1. WhiteSpider shall use reasonable endeavours to despatch Equipment by the date agreed with the Client but does not accept liability for failure to deliver within the

stated time where this is caused by circumstances beyond WhiteSpider's control. This may include, but shall not be limited to, delays caused by couriers or manufacturer lead times. If it appears a delay may be likely, WhiteSpider shall use all reasonable efforts to contact the Client and advise of the delay.

2. WhiteSpider does not accept liability for shortages or damage to deliveries unless the Client notifies WhiteSpider of the shortage or damage in writing within 48 hours of receipt of the delivery.
3. The Client is required to be able to accept the Equipment when they are ready for delivery within Normal Working Hours.
4. WhiteSpider will endeavour to supply all equipment in a single order. In the event that this is not possible, the Client shall be required to accept multiple deliveries.
5. Title and risk in the Equipment shall pass to the Client on delivery. In any event title in Software shall remain with the software vendor.
6. If the Client cannot accept delivery, WhiteSpider may, at its own discretion: (a) store and insure the Equipment at the Client's expense and risk or (b) re-arrange delivery provided that WhiteSpider may charge the Client for the additional delivery costs incurred.

## 2.4 Pre-requisites & Essential Requirements

1. The Client shall provide WhiteSpider and its staff sufficient working space, as well as such access to the Client's personnel, files and equipment at the Client's facility, as WhiteSpider reasonably deems necessary for the performance of the Services.
2. The Client shall:
  - a. Comply with the obligations set out in these Terms and Conditions;
  - b. Undertake the specific obligations specified in the SoWs or PID;
  - c. Ensure that any assumptions or dependencies set out in the SoW or PID are fulfilled or complied with.
3. If the Client fails to fulfil any of its responsibilities under these Terms and Conditions in a proper and timely manner and such failure causes a delay in the performance of the Services or results in additional costs to WhiteSpider, WhiteSpider shall take such action as it deems reasonably prudent and shall provide the Client with a written specification of such delay and the resulting costs. The Client agrees to pay these costs to WhiteSpider at the then current standard WhiteSpider rates for the Services involved.
4. In the event that WhiteSpider needs to remove (as part of the agreed Services), or is otherwise requested to remove any of the Client's hardware from its site, unless it is otherwise specifically agreed in writing by the parties at the time, WhiteSpider shall be entitled to assume that all data of a sensitive nature and personal data (as defined by the Data Protection Act 1998) has been removed from the tapes or other media and the Client agrees to indemnify WhiteSpider from all and any claims and proceedings made or brought by any person in respect of any loss, damage or distress to that person by reason of any wrongful disclosure of any personal data on any such media or tapes.
5. Client shall be solely responsible for maintaining back-up copies of all data.
6. All such network cabling and associated sockets should be in their correct location and tested by the Client prior to the Equipment installation date.

7. All agreed Equipment locations will be final and adequate power sockets must be available.
8. No additional work will be undertaken if not included in the SoW unless jointly agreed by both WhiteSpider and the Client. A Request for Change may be drawn up by WhiteSpider to cover such work, which must be agreed and signed by the Client before such additional work will be carried out.
9. Under no circumstances will any Equipment be released, or the Client given access to any Equipment, until WhiteSpider has finished the Services unless otherwise expressly stated in the SoW or PID.
10. Any existing equipment belonging to the Client being utilised or connected, must be fully operational and fully accessible to WhiteSpider during the installation.
11. Delays on site caused by faulty equipment not supplied by WhiteSpider, or services not being ready, or access restrictions may incur additional charges at the then current WhiteSpider rates.

## 2.5 Professional Service Performance

1. WhiteSpider shall use reasonable endeavours to provide the Services by the date agreed with the Client but does not accept liability for failure to deliver within the stated time where this is caused by circumstances beyond WhiteSpider's reasonable control. If a delay is likely, WhiteSpider shall contact the Client and advise of the delay.
2. The services WhiteSpider performs may be undertaken either On Site or at a Remote Location. The location of the work will be agreed between WhiteSpider and the Client at the outset of the project.
3. Unless otherwise agreed, for any On Site work the arrival time is for a 9.00am start on the date booked.
4. Installation and completion dates are estimates and dependent on factors including, but not limited to, the Client complying with its obligations and third parties complying with their obligations, therefore installation and completion dates are not guaranteed.
5. The Client is required to give WhiteSpider access to provide/install the Services within Normal Working Hours and Out of Hours (where agreed).
6. If the Client cannot allow WhiteSpider access to provide/install the Services on the agreed date WhiteSpider may re-arrange provision/installation of the Services provided that WhiteSpider may charge the Client for the additional costs incurred at the then current WhiteSpider rates.
7. Upon completion of the Services work, WhiteSpider will hand the solution over to the Client. At this point, aside from any agreed exceptions, the work is deemed to be completed and full responsibility passes to the Client.
8. The Services are deemed to be fully accepted if the Client has not raised any concerns in writing with WhiteSpider within 3 days after the work is handed over.

## 2.6 Software

1. Any software provided as part of the Services is subject to any accompanying End User License Agreement and the terms thereof. The Client agrees to be bound by the same.

## 2.7 Divisibility

1. WhiteSpider reserves the right to provide its Services by instalments and render a separate invoice in respect of each such instalment.
2. If the company exercises its right to provide its Services in accordance with subparagraph (1) above, then any delay in the provision of such Services, or failure to deliver any further instalment or instalments, shall not entitle the Buyer to reject the contract or the Services of any other instalment or to withhold payment in respect of any instalment previously Serviced.

## 2.8 Payment

3. WhiteSpider shall invoice the Client on any payment dates specified in the SoW.
4. If no payment dates are specified in the SoW, and unless otherwise agreed in writing, WhiteSpider shall invoice the Client at the end of each calendar month for all Services undertaken during that month.
5. Any Equipment will, unless otherwise agreed, be invoiced as follows:
  - a. 90% within one week of the date of the Purchase Order.
  - b. 10% within one week of the delivery date of the Equipment. If the Equipment is delivered in multiple deliveries, WhiteSpider will issue an invoice for each delivery.
6. Payment is due no later than thirty (30) days following date of invoice unless alternate credit terms have been agreed in writing with WhiteSpider.
7. If payment is not made on the due date, WhiteSpider will be entitled to charge daily interest on the outstanding balance at the rate of 3% per annum above Lloyds Bank base lending rate.
8. The provision of any services outside the scope of the Services as set out in the SoW shall be billed through an agreed Request for Change to the Client at the then current WhiteSpider rates for such services.
9. WhiteSpider invoices will, where appropriate, include VAT charged at the prevailing rate at the date of invoice. The Client is responsible for paying the full amount, including VAT, on any invoice.
10. Should any element of an invoice be disputed the Client remains responsible for making payments as they are due on all other elements of the invoice.

## 2.9 Cancellation/Postponement

1. Once a Purchase Order has been received for the services defined within the SoW, the Client will be liable for the following:
  - o Service cancellation and postponement charges, unless jointly agreed by all parties;
    - Less than 48 hours in advance of agreed commencement date of Services - 100% of the service order value
    - 5 days to 48 hours in advance of agreed commencement date of Services - 75% of the service order value
    - 10 days to 6 days in advance of agreed commencement date of Services - 50% of the service order value
    - 11 days to 14 days in advance of agreed commencement date of Services - 25% of the service order value

- 14 days or more in advance of agreed commencement date of Services - No Charge
- 100% of any 3<sup>rd</sup> Party Equipment (hardware or software) costs that cannot be cancelled. WhiteSpider will endeavour to re-assign any Equipment but until or unless this happens the Client is liable for the costs.

## 2.10 Confidentiality

1. Both WhiteSpider and the Client acknowledge that they may receive information and material constituting trade secrets concerning the business, finances, systems, products and documentation of the other ("Confidential Information"). Confidential Information shall be limited to information clearly identified as confidential. Both WhiteSpider and the Client agree to protect and preserve the confidentiality of the other's Confidential Information using the same standard of care as it uses to protect its own Confidential Information of a similar nature, but in no event using a lesser standard than a reasonable standard of care. The parties agree to hold each other's Confidential Information in confidence while the Services are being performed and for a period of three years thereafter.
2. Both WhiteSpider and the Client will only divulge Confidential Information to those employees, sub-contractors and agents who have entered into a binding written agreement to maintain confidentiality and for whom knowledge of the Confidential Information is necessary for the proper performance of their duties.

## 2.11 Intellectual Property

1. Any documentation provided to the customer shall remain the property of WhiteSpider until the completion and signoff of the project.
2. During the project (until completion signoff), the client agrees not to share any documentation produced by WhiteSpider with another 3<sup>rd</sup> Party, unless stated otherwise in the SoW or agreed in writing by WhiteSpider.
3. All Intellectual Property rights in the Services provided by WhiteSpider shall belong to WhiteSpider.

## 2.12 Warranties

WhiteSpider warrants that: -

1. it shall use reasonable skill and care to carry out the Services to the generally accepted industry standards and the Services shall be supplied and rendered by appropriately experienced, qualified and trained personnel in a professional and workmanlike manner
2. the Services will be free from defects for a period of 3 days after completion. The Client shall report in detail any deficiencies in the Services to WhiteSpider in writing within 30 days of completion of the Project. In the event of a breach of warranty, the Client shall allow WhiteSpider the opportunity to correct errors or re-perform the Services to comply with the warranties set out in sub clause (1)
3. the Services, when supplied, shall conform to the description and service level agreements set out in the relevant SoW or PID;
4. the provision of the Services, and Client's use thereof, shall not infringe any Intellectual Property Rights of any third party. This warranty does not apply



- insofar as it relates to items of hardware, software or other equipment manufactured by third party OEMs;
5. where the provision of the Services involves the supply or fitting of spare parts, title to such parts shall pass to the Client once the relevant part is fitted and the parts removed shall become the property of WhiteSpider, unless otherwise specified in a SoW or PID;
  6. WhiteSpider cannot be held responsible for any fault or damage not caused by WhiteSpider. In the event of a claim arising relating to the level of skill and judgement applied during providing Services, WhiteSpider reserves at its sole discretion the right to appoint an independent expert in the field to appraise the work carried out in the execution of the Services. Additionally, WhiteSpider cannot be held responsible for equipment installed or configured when the equipment has subsequently been altered or configured by persons other than WhiteSpider.
  7. In relation to Equipment, WhiteSpider warrants that WhiteSpider does not supply products on a trial basis. The Client is strongly advised to check suitability and specifications of Equipment before ordering.
    - a. In some instances, the Client may benefit from special price discounts issued by a manufacturer for their benefit. Such Equipment is not returnable to the manufacturer and may not be sold to other Clients.
    - b. In some instances, WhiteSpider may provide 'Proof of Concept' or similar solutions. In this case, all the relevant terms of this agreement still apply.
  8. Unless otherwise stated in the manufacturer's documentation, all Equipment delivered to a UK mainland address carries a manufacturer's warranty. Should the Client wish to make a warranty claim, the Client must comply with the manufacturer's instructions and warranty procedure.
  9. Except as set out here all warranties and conditions, whether express or implied by statute, common law or otherwise relating to the Services are hereby excluded to the fullest extent permitted by law.
  10. The Client warrants that it has the authority to provide information and personal data to WhiteSpider and authorises WhiteSpider to handle the Client's information and personal data and to transfer it to third parties to the extent required to deliver the Services.

## 2.13 WhiteSpider's liability

1. WhiteSpider shall under no circumstances be liable for any consequential or indirect damage or loss, however caused, including (but not restricted to) loss of business or profits in the ordinary course, loss of goodwill, damage to trading relationships, loss of data and other financial loss. WhiteSpider's liability in respect of all other losses shall be limited to the invoiced amount of the relevant order.
2. Nothing in this agreement shall limit WhiteSpider's liability for death, personal injury fraud or fraudulent misrepresentation.

## 2.14 Force Majeure

1. Where, despite its reasonable efforts, WhiteSpider is unable to perform an obligation due to circumstances beyond its reasonable control, it shall not be deemed to be in breach of its contract with the Client.

## 2.15 Termination

1. If either party materially breaches any of its obligations and the breach has not been remedied within 30 days after written notice is given to the defaulting party specifying the breach, the party not in default may by written notice terminate this agreement (including the relevant Statements of Works) as of the date specified in such termination notice.
2. Either party may terminate this agreement, the relevant SoW or suspend work if:
  - a. the other party fails to promptly pay any amount due to be paid under this agreement or SoW; or
  - b. the other party passes a resolution for winding up (save for solvent amalgamation or reconstruction) or suffers a winding-up order being made against it; or
  - c. a receiver, administrative receiver, administrator or similar officer is appointed over the other party.

## 2.16 Errors and Omissions

1. WhiteSpider makes every effort to ensure that all prices and descriptions quoted are correct and accurate. In the case of a manifest error or omission, WhiteSpider will be entitled to rescind the contract, notwithstanding that it has already accepted the Client's order and/or received payment from the Client. WhiteSpider's liability in that event will be limited to the return of any money the Client has paid in respect of the order. In the case of a manifest error in relation to price, the Client will be entitled to purchase the Equipment or Services by paying the difference between the quoted price and the correct price, as confirmed in writing by WhiteSpider after the manifest error has been discovered.
2. A 'manifest error', as the term is used in sub-paragraph (1) above, means, in relation to an incorrect price, a price quoted in error by WhiteSpider which is more than 10% less than the price that would have been quoted had the mistake not been made.

## 2.17 Compliance with relevant requirements

1. The Client shall:
  - a. comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (Relevant Requirements);
  - b. not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
  - c. have and shall maintain in place throughout the term of this agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirement, the Relevant Policies and clause (a), and will enforce them where appropriate;
  - d. promptly report to WhiteSpider any request or demand for any undue financial or other advantage of any kind received by the Client in connection with the performance of this agreement;

- e. immediately notify WhiteSpider if a foreign public official becomes an officer or employee of the Client or acquires a direct or indirect interest in the Client (and the Client warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of this agreement);
- f. Breach of this clause shall be deemed a material breach.
- g. For the purpose of this clause, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively.

## 2.18 General

1. If any provision in these Terms and Conditions is held to be invalid or unenforceable, it shall be deemed severed from the Terms and Conditions and this shall not affect the validity or enforceability of the remaining provisions.
2. Any variation of these Terms and Conditions must be in writing and signed by a duly authorised WhiteSpider official.
3. Any notices given under these Terms and Conditions shall be in writing and sent (a) by first class pre-paid post to the last known address of the party; or (b) by fax to their last known fax number; or (c) by e-mail to the last notified e-mail address of the party.
4. These Terms and Conditions shall be governed by and construed in accordance with the laws of England & Wales and the parties submit to the non-exclusive jurisdiction of the English courts.
5. WhiteSpider may at its discretion record telephone transactions for staff training and quality control purposes.