

Terms and conditions of Sales – Services – Witekio UK Ltd

The sale of services (“Services”) and the delivery of work product associated with Services (“Work Product”) by **Witekio UK Limited**, and its divisions, subsidiaries, and affiliates (“Witekio”) to a customer (“Customer”) is subject to only these terms and conditions of sale (“Agreement”) regardless of any terms or conditions in a purchase order, document, or other communication of Customer (“Order”). Witekio rejects all terms in an Order. Services are performed by Witekio or its subcontractor, and may include performance of a task, assistance, support, access to resources, creation of software, or as otherwise described in a Statement of Work (“SOW”).

1. ORDERS.

Unless otherwise stated on the quote, quotes from Witekio are invitations to tender and are subject to change at any time without notice. All Orders are subject to acceptance by Witekio. Contracts between Customer and Witekio are formed upon Witekio’s written acceptance, **Electronic Data Interchange (“EDI”) acknowledgment** or execution of an SOW or Customer’s Order and are subject to this Agreement and the SOW, if any. In the event of a conflict between the terms and conditions of this Agreement and an SOW, the terms and conditions of the SOW shall prevail.

2. CUSTOMER RESPONSIBILITIES.

Witekio may rely on the specific instructions and information provided by Customer in an SOW. The scope of the work to be performed is tentative until confirmed in writing by both parties in the applicable SOW. Witekio is not responsible for any default or delays caused by Customer’s failure to timely confirm an SOW, to provide accurate and timely instructions, to provide comprehensive information, or to provide access to facilities or application environment.

3. PRICES.

- A. The fixed price for Services as specified in the SOW is only subject to change as agreed by the parties.
- B. Services to be provided on a time and materials basis are provided at the total estimated price specified in the SOW. Witekio shall endeavor to notify Customer if performance is expected to exceed the total estimated price. In such event, Customer may terminate the Services and pay the price of Services performed, together with any costs incurred in advance, through the effective date of termination. If Customer elects not to terminate the Services, Witekio will continue performance at an updated estimated price as agreed by the parties.

4. PAYMENT; TAXES; SCHEDULE.

- A. Payment. Payment is due as stated on Witekio’s invoice without offset or any deduction for withholding taxes or any other reason. On any past due invoice, Witekio may charge interest from the payment due date to the date of payment at eighteen percent (18) percent per annum or the maximum amount allowed by applicable law, plus reasonable attorneys’ fees and collection costs, with a minimum fee of forty (40) GBP. At any time, Witekio may change the terms of Customer’s credit. Witekio may apply payments to any of Customer’s accounts. If Customer fails to make any payment when due, Witekio may reschedule or cancel any outstanding Service, Work Product, delivery or order and declare all outstanding invoices due and payable immediately.

- B. Taxes.** Witekio prices and/or quotations do not include sales, use, excise, VAT or similar taxes. Customer shall pay all applicable taxes to Witekio unless Customer provides Witekio with a tax-exempt certificate acceptable to the appropriate taxing authorities. In the event that Customer is required by any applicable law to deduct any amount from the amounts to be paid to Witekio under this Agreement on account of withholding taxes or any other taxes or levies of any kind, Customer shall pay all such additional amounts so that the net amounts received by Witekio are the prices specified on the invoice.
- C. Schedule.** Witekio shall use commercially reasonable efforts to perform Services and deliver Work Product according to schedule. Performance or delivery may be delayed to allow for Customer to provide technical or requirements data, information necessary for Witekio's performance or review and approval of schedule milestones or interim deliverables. The Client acknowledges that Witekio may replace personnel assigned to the Services at any time, provided that the replacement personnel have the necessary qualifications and experience to perform the Services required under this Agreement. Witekio shall use reasonable efforts to minimize any disruption to the Services resulting from the replacement of personnel.
- D. Price indexation.** All prices shall be subject to an annual increase on each anniversary of the effective date of this Agreement. The percentage increase will be based on the Producer Price Index for Business Services for the proceeding twelve (12) months plus 2.25% to supplement hiring cost and continuous skill improvement.

5. OWNERSHIP OF WORK PRODUCT; INTELLECTUAL PROPERTY RIGHTS.

- A.** Each Party shall own and retain all right, title and interest in processes, names, domain names, logos, trademarks, service marks, trade secrets, software, patents, copyrights, proprietary technology and other intellectual property rights owned, developed, acquired or prepared by such party separate from or prior to this Agreement. Witekio shall retain residual knowledge and expertise that which is gained while working under this Agreement. Witekio may enhance its knowledge and experience retained in intangible form in the unaided memories of Witekio's employees as a result of providing Work Product to the Customer.
- B.** Except as otherwise provided in an SOW, and subject to Witekio's receipt of full payment and any reimbursement of costs, Witekio hereby assigns, transfers and conveys any and all of its right, title and interest in and to Work Product to Customer. If under applicable law Witekio may not fully transfer its ownership interest in Work Product to Customer as described above, then to the maximum extent permitted by law, Witekio hereby grants to Customer at no additional cost a perpetual, irrevocable, exclusive, worldwide, royalty-free license to use, execute, produce, display, perform, modify, copy, distribute (internally or externally) copies of such Work Product, including the right to authorize others to do any, some, or all of the foregoing.
- C.** Work Product may be subject to patent, trademark, copyright, design and other intellectual property rights of a third party. Customer is responsible for investigating the need for obtaining in its own name, at its own expense, any and all licenses and approvals necessary for Customer to utilize such third party intellectual property and for paying any associated royalty, license fee or other consideration to the relevant third party.

In no event shall Witekio be responsible or liable to Customer for any loss, cost or damage arising out of or related to the actual or alleged infringement of any such rights.

- D. If Work Product incorporates intellectual property owned by Witekio as described in Section 5(A), then at such fee as the parties may agree, Witekio will grant a perpetual, irrevocable, non-exclusive, worldwide, royalty free license to use such intellectual property to Customer.

6. CONFIDENTIALITY.

- A. Each party acknowledges that it will have access to certain confidential information of the other party concerning the other party's business, plans, suppliers, technology, and products, and other information held in confidence by the other party ("Confidential Information"). Confidential Information includes but is not limited to: (i) the terms and conditions of this Agreement; (ii) proprietary information of a party and its affiliates; and (iii) all other information in tangible or intangible form that is marked or designated as confidential or that, under the circumstances of its disclosure, should be considered confidential. This Agreement does not transfer from one party to the other any right, title and interest in or to any Confidential Information. Neither party may use in any way, for its own account or the account of any third party, except as expressly permitted by or required to achieve the purposes of this Agreement, or disclose to any third party (except as required by law or to that party's attorneys, accountants and other advisors as reasonably necessary), any of the other party's Confidential Information, and each party will take reasonable precautions to protect the confidentiality of such information, at least as stringent as it takes to protect its own Confidential Information. This Section 6 will remain in effect: (i) with respect to Confidential Information that constitutes a trade secret under applicable law, for so long as such Confidential Information constitutes a trade secret; and (ii) with respect to any other Confidential Information, for a period of three (3) years from the expiration or termination of this Agreement.
- B. Confidential Information does not include information that:
- is known to the receiving party prior to receipt from the disclosing party, other than from a source having an obligation of confidentiality to the disclosing party;
 - becomes known (independently of disclosure by the disclosing party) by the receiving party other than from a source having an obligation of confidentiality to the disclosing party;
 - becomes publicly known or otherwise ceases to be secret or confidential, except through a breach of this Agreement by the receiving party; or
 - is independently developed by the receiving party. The receiving party may disclose Confidential Information pursuant to the requirements of a court or governmental agency or by operation of law, provided that it gives the disclosing party reasonable prior written notice sufficient to permit the disclosing party to contest such disclosure.
- C. In addition to any other rights or damages either party may have, either party may obtain injunctive or other equitable relief to restrain any breach or threatened breach or otherwise to specifically enforce the provisions of Section 6 of this Agreement in any court of competent jurisdiction notwithstanding Section 16(A); it being acknowledged by both parties that money damages alone would be inadequate to compensate either party for a breach of this Section 6.

7. WITEKIO WARRANTY.

- A. Services - Fixed Price. If Customer purchases Services for a fixed-price, Witekio warrants to Customer that:
- Services will be performed in a professional and workmanlike manner conforming to the requirements of

the applicable SOW; and (b) Work Product, as delivered by Witekio and properly installed and operated, will materially conform to the specifications set forth in the applicable SOW. Upon Witekio's receipt of Customer's notice of a Material Non-Conformance of Services or Work Product to comply with the foregoing within ninety (90) days from the date of completion of Services or delivery of Work Product, as applicable, Witekio shall, in its sole discretion: (a) re-perform the Services; (b) repair Work Product; (c) replace Work Product; or (d) if (a), (b) or (c) are not commercially practicable, refund the price of the Services or Work Product. The foregoing shall be Customer's sole and exclusive remedy for a failure of Services or Work Product under this warranty.

"Material Non-Conformance" means a demonstrable gap between the written specifications and/or a relevant test plan with acceptance criteria documented and agreed prior to Services. Demonstration of non-conformance must include a bug report with the acceptance criteria not met (with complete information and/or environment to easily reproduce the issue in a Witekio environment) and the investigation report explaining that such deviation comes from Services or delivery of Work Product developed by Witekio.

- B. Services - Time and Materials.** If Customer purchases Services on a time and materials basis: (i) Witekio makes no warranty of Work Product and it is delivered to Customer "AS IS"; and (ii) Witekio shall provide Services as described in the applicable SOW in a professional and workmanlike manner for the specified number of hours.
- C. Work Product - Disabling Devices.** Witekio shall not knowingly include any virus, Trojan horse, worm, trap door, back door, or other disabling device in Work Product designed to permit unauthorized access to damage, delete, or disable hardware, software or data in Work Product. Witekio will use commercially reasonable efforts to prevent such code or devices from being introduced into the systems of Witekio. In the event that Work Product, as delivered by Witekio, contains such code or disabling device not intended by Witekio, as notified to Witekio within ninety (90) days of the date of delivery and confirmed by Witekio, Witekio shall, at no cost to Customer, and as Customer's sole and exclusive remedy for breach of this warranty, make available to Customer a new copy of Work Product which is free of such code or disabling device.
- D. SOFTWARE.** ALL THIRD PARTY SOFTWARE AND OPEN SOURCE SOFTWARE ARE PROVIDED "AS-IS" WITH NO WARRANTY. CUSTOMER SHALL BE RESPONSIBLE FOR COMPLIANCE WITH ANY APPLICABLE THIRD PARTY OR OPEN SOURCE LICENSE.
- E. DISCLAIMER.** CUSTOMER ASSUMES TOTAL RESPONSIBILITY FOR USE OF WORK PRODUCT AND USES THE SAME AT ITS OWN RISK. EXCEPT AS SPECIFICALLY SET FORTH IN THIS SECTION 7, WORK PRODUCT AND SERVICES ARE PROVIDED TO CUSTOMER "AS IS" WITHOUT ANY WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, SYSTEM INTEGRATION, DATA ACCURACY, QUIET ENJOYMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. WITEKIO DOES NOT REPRESENT OR WARRANT THAT WORK PRODUCT OR SERVICES WILL PREVENT UNAUTHORIZED ACCESS BY THIRD PARTIES, BE UNINTERRUPTED, SECURE OR ERROR FREE.

8. CUSTOMER WARRANTY.

Customer warrants to Witekio that Customer's requirements, including designs, specifications, directions and instructions, materials and intellectual property provided by Customer to Witekio do not: (i) infringe any patent, copyright, trade mark, trade name, registered design, or proprietary right of a third party; (ii) violate any obligation of Customer related to confidential information; (iii) subject Witekio to any restriction limiting permitted use hereunder; or (iv) require Witekio to pay a fee or royalty.

9. LIMITATION OF LIABILITY.

- A. In any action under or relating to this Agreement, whether based in contract, warranty, tort (including negligence) or any other legal theory, Witekio shall not be liable for any indirect, special, incidental, punitive or consequential damages; loss of profits, revenue, data, customers, or use; rework, repair, manufacturing expense, costs of product recall, or injury to reputation; even if Witekio has been advised of the possibility of such damages or losses and notwithstanding the failure of essential purpose of any remedy in this Agreement.**
- B. In no event shall Witekio's liability arising out of or in connection with this Agreement exceed the total amount paid to Witekio under the applicable SOW.**
- C. Witekio shall not be liable for any loss or damage arising out of significant changes to, or errors, omissions or inaccuracies in, the information provided by Customer; or for any claims based on Witekio's compliance with Customer's designs, specifications or instructions.**

10. FORCES BEYOND WITEKIO'S CONTROL.

Witekio will not be in breach of this Agreement and will not be liable for failure to fulfill its obligations under this Agreement, if any such failure or delay is due to or arising out of any legal theory of force majeure, an act of nature, act or omission of Customer, act of a governmental authority, including laws, regulations, orders or decrees, operational disruptions, man-made or natural disaster, or extreme natural event, plague, epidemic, pandemic, shortage of labor, energy, fuel, materials, strike, labor action, criminal act, war (whether declared or not), hostilities, invasion, act of foreign enemies, extensive military mobilization, terrorism, civil unrest or civil war, riot, rebellion and revolution, delay in delivery or transportation, inability to obtain labor or materials through regular sources, communication or power failures, Act of God, or any cause beyond its reasonable control. Where the duration of the impediment invoked has the effect of substantially obstruct Witekio of what it was reasonably entitled to expect under this Agreement, Witekio has the right to terminate the contract by notification within a reasonable period to the other Party. Witekio may terminate the contract if the duration of the impediment exceeds one hundred and thirty (130) days.

11. NON-SOLICITATION.

During the performance of any SOW and for one (1) year after receipt of last payment thereunder, Customer shall not, without the prior written consent of Witekio, directly or indirectly offer employment or hire any current or former employee, subcontractor or consultant of Witekio who was directly involved in the performance of any SOW under this Agreement. This provision does not restrict the right of Customer to solicit or recruit generally in the media and does not prohibit Customer from hiring an employee of Witekio who answers any advertisement or who otherwise voluntarily applies for hire without having been initially personally solicited or recruited by Customer or Customer's agents.

12. EXPORT CONTROL.

Certain Products, Services, Work Product and related technology and documentation ("Items") sold by Witekio are subject to export control regulations of the United States, the European Union, Japan, and/or other countries, excluding boycott laws ("Export Laws"). Customer shall comply with such Export Laws and obtain any license, or permit or other approval required to transfer, export, re-export or import the Items. Customer acknowledges that related technology consists of "Technical Data" and "Technical Assistance". Technical Data may be in the form of blueprints, plans, diagrams, modals, tables, engineering, design and specifications, manuals and instructions written or recorded on media or devices such as disk, tape, or read-only memories. Technical Assistance may be in the form of instructions, skills training, working knowledge, or consulting services. Customer shall not directly or indirectly export, re-export, or transfer (or cause to be exported, re-exported or transferred) any Items to any country, jurisdiction, individual, corporation, organization, or entity to which such export, re-export, or transfer is restricted or prohibited by Export Laws, including sanctions or embargoes administered by the United States Government, the European Union, Japan or by any other applicable government authority.

13. GOVERNMENT CONTRACTS. (U.S. ONLY)

Witekio is a distributor of "Commercial Items" as defined in FAR 2.101 which includes installation services, maintenance services, repair services, training services and other services procured from Witekio for support of a commercial item or service sold in the commercial marketplace. Witekio does not intend to sell products to the U.S. Government or a higher-tier contractor that fail to meet the "commercial item" definition in FAR 2.101. Accordingly, Witekio agrees only to the clauses in the Federal Acquisition Regulation ("FAR") and agency FAR supplements (as applicable based on the U.S. Government customer) that are explicitly required to be inserted in subcontracts for commercial items as set forth in FAR 52.244-6(c)(1), FAR 52.212-5(e)(1), and DFAR 252.244-7000 if this Agreement is a subcontract under a Department of Defense prime contract. In accordance with FAR 12.211, Customer will receive only those rights in technical data customarily provided to Witekio by a service provider or provided by Witekio to commercial customers. These rights shall not be interpreted as providing to Customer unlimited rights in data, software, intellectual property rights provided by a service provider or any other third party; or for Witekio's commercial software. Witekio specifically rejects the flow down of any terms not applicable to services.

14. ELECTRONIC ORDERS.

If any part of the purchase and sale good or services under this Agreement utilizes EDI, Customer's internal portal, third party portal, or any other electronic means ("Electronic Purchase Order"), this Agreement will continue to apply as between Customer and Witekio. Customer's acceptance of Witekio's acknowledgment request or Witekio's specification of details with respect to Electronic Purchase Orders via writing, email or other

EDI shall be binding on Customer. The parties agree that electronic signatures may be used for all purposes under this Agreement and shall be legally valid, effective and enforceable for all purposes hereunder.

15. ENVIRONMENTAL COMPLIANCE.

Where applicable, Customer is responsible for all obligations and liabilities under the European Union's (i) Waste Electrical and Electronic Equipment Directive (2012/19/EU), (ii) Packaging Waste Directive (94/62/EC) and (iii) Batteries Directive (2006/66/EC), all as amended and all related national implementing measures in force from time to time.

16. GENERAL.

- A. This Agreement shall be governed, construed, and enforced in accordance with the laws of the country where the Witekio entity that accepted Customer's Order is located ("Governing Country") without reference to any conflict of laws principles. Neither party may bring an action arising out of or related to this Agreement more than two (2) years after the cause of action arose. The courts of the Governing Country shall have jurisdiction and venue over all controversies arising out of, or in connection with this Agreement. Each party consents to the exercise by any such court of personal jurisdiction over them and each party waives any objection it might otherwise have to venue, personal jurisdiction, inconvenience of forum, and any similar or related doctrine. Each party hereby waives to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any litigation directly or indirectly arising out of, under or in connection with this Agreement. **THE PROVISIONS OF THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS SHALL NOT APPLY TO THIS AGREEMENT.**
- B. The prevailing party in any legal proceedings brought by or against the other party to enforce any provision or term of this Agreement shall be entitled to recover against the non-prevailing party the reasonable attorneys' fees, court costs and other expenses incurred by the prevailing party.
- C. No party not a party to this Agreement shall be entitled to enforce or take the benefit of any of its terms under the Contracts (Rights of Third Parties) Act of 1999 (UK) or under any other similar applicable law, statute or regulation.
- D. Customer shall collect, process and transfer all personal data provided by Witekio under this Agreement in strict accordance with applicable law including, but not limited to, the California Consumer Privacy Act of 2018 ("CCPA") and the EU General Data Protection Regulation (2016/679) with relevant national implementing law. Customer shall use and retain personal data solely for the purpose of facilitating communication and collaboration and for purchasing Services from Witekio under this Agreement and for no other purposes. If personal data of EU residents is being transferred to countries outside the EU / EEA, Customer shall ensure by appropriate means that such personal data continues to be handled and processed in accordance with the data protection principles of purpose limitation and necessity; data accuracy, data quality and proportionality; data security and confidentiality. Rights of data subjects (access, rectification, deletion and objection) must be ensured. As required by the CCPA, Customer hereby certifies its understanding of the obligations and restrictions in this section and shall comply with such obligations and restrictions. If you have a particular concern about the adequate protection of your personal data, you may make an inquiry at: dpo@witekio.com.
- E. Customer may not assign this Agreement or any right or obligation hereunder without Witekio's prior written consent. Witekio's affiliates may perform Witekio's obligations under this Agreement.
- F. Customer shall comply with all applicable laws, rules and regulations, including, but not limited to anticorruption laws such as U.S. Foreign Corrupt Practices Act, UK Bribery Act and local implementation legislation of the OECD Anti-bribery Convention.
- G. This Agreement may only be modified in a writing signed by the authorized representatives of both Witekio and Customer.

- H.** Witekio and Customer are independent contractors. This Agreement does not establish a joint venture, agency relationship, or partnership between the parties.
- I.** Witekio's failure to object to any document, communication, or act of Customer will not be deemed a waiver of any of term or condition of this Agreement.
- J.** If any provision of this Agreement is held to be unenforceable by a court of competent jurisdiction, the parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible to the fullest extent permitted by applicable law. The unenforceability or invalidity of any term or condition will not affect the remainder of the terms or conditions.
- K.** The parties agree that electronic signatures may be used for all purposes under this Agreement and shall be legally valid, effective and enforceable for all purposes hereunder.
- L.** Witekio may translate this Agreement into any language for ease of comprehension but, in the event of any conflict or inconsistency between the Agreement and the translated version, the English version shall prevail.
- M.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all other prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof.