

# **TERMS & CONDITIONS**

**docleaf Limited**

## INTERPRETATION

1.1. In this Agreement the following expressions shall have the following meanings:-

“Agreed”	means agreed between docleaf and the Client in writing and signed by a statutory director of each or Representative of each;
“Confidential Information”	means all information and knowledge which is specific to the business of the relevant party and is communicated or supplied by that party to the other which is of a confidential nature and which is in oral, visual, written or any other form, and shall for the avoidance of doubt include all information relating to their respective customers and/or clients and, in respect of docleaf, all information contained within the Licensed Products.
“Contract letter”	letter outlining the services requested by the client and associated costs;
“Copyright”	means all copyrights, database rights and related rights in the Licensed Products;
“Incident”	means an event, incident, occurrence and/or disaster where clients and/or employees of the Client are or might be affected;
“Intellectual Property”	means the Copyright and the Confidential Information;
"Invention"	means any invention, discovery, design, process, improvement (whether or not patentable) whether or not relating to computer hardware or computer software or copyright work which relates to or is capable of being used in the business of the Client and which is invented, devised, developed, made or created by docleaf (whether alone or in conjunction with any other person);
“the Licence”	means the License granted by docleaf to the Client to use any written instructions, plans or procedures;
“Incident scene”	means at the site or sites of a particular Incident;
“Representative”	means the respective representative appointed by each party pursuant to clause 7;
“RPI”	means the General Index of Retail Prices produced by the Department of Trade and Industry (or any other official index published in

substitution therefor) in the month falling next before the relevant Review Date;

“the Services”

“means the services and obligations specified in the Contract letter or e-mail between docleaf and the Client;

- 1.2. Unless the context otherwise requires, the masculine gender includes the feminine and neuter and the singular number includes the plural, and vice versa.
- 1.3. Headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.
- 1.4. References to any statute, statutory provision, rule or regulation include references to the same as from time to time amended, extended, re-enacted or consolidated and include all related subordinate legislation.
- 1.5. References to clauses and the Schedule and parts and subdivisions thereof are to the clauses of or the Schedule to this Agreement and the part or subdivisions thereof respectively.

## 2. SERVICES

2.1. In these terms and conditions and the recitals:

- 2.1.1. reference to the singular includes a reference to the plural and vice versa;
- 2.1.2. reference to any recital, clause, sub-clause is to a recital, clause or subclause (as the case may be) of these terms and conditions;
- 2.1.3. reference to any gender includes a reference to all other genders; and
- 2.1.4. references to persons in these terms and conditions include bodies corporate, unincorporated associations and partnerships and any reference to any party who is an individual is also deemed to include their respective legal personal representative(s).

### 2.2. Engagement

- 2.2.1. The Client engages docleaf and docleaf agrees to act as consultants to the Client only on the terms and conditions as set out in this document and the contract letter. Any variation to these terms must be explicitly set out and agreed by exchange of letter or e-mail.

### 2.3. Provision of Services

- 2.3.1. The services provided are as outlined in the Contract letter
- 2.3.2. docleaf will provide the Services from its own employees but may assign or sub-contract such Services to any other associate, person, firm, client or organisation to perform any professional, administrative, clerical or secretarial function with prior consent of the client.

## 2.4. **Duties**

- 2.4.1. In consideration of the obligations undertaken by the Client pursuant to this Agreement, docleaf agrees to provide Services to the Client on and subject to the terms of this Agreement and ant Contract letter.
- 2.4.2. docleaf shall use all reasonable care and skill in the provision of Services to the client.
- 2.4.3. docleaf shall comply with all reasonable standards of safety, take due regard and comply with the safety regulations of the Client and all relevant statutory provision which may be in force from time to time, and report to the Client any incident which could give rise to any unsafe working conditions or practices.
- 2.4.4. The work shall commence as soon as practicable after acceptance of the Terms set out in the Contract letter.
- 2.4.5. docleaf reserves the right not to send any personnel to any Site or other location as requested by the Client if docleaf reasonably believes that to do so would present a risk to the life or physical wellbeing of any such personnel.
- 2.4.6. docleaf shall comply with all reasonable standards of safety, take due regard and comply with the safety regulations of the Client and all relevant statutory provision which may be in force from time to time, and report to the Client any incident which could give rise to any unsafe working conditions or practices.

## 3. **DURATION**

- 3.1. docleaf's obligation under this agreement extends solely to the services outlined in the Contract Letter.
- 3.2. Each party undertakes with the other that it will not either during or within one year of the date of termination of this Agreement either on its own account or for any other person, firm or company solicit, interfere with or endeavour to entice away any employee of the other or any employee of any company associated with the other with whom docleaf or the Client has dealt for the purpose of this Agreement.

## 4. **FEES**

- 4.1. In consideration of the provision of the Services by docleaf, the Client agrees to pay to docleaf the charges set out in the contract Letter.
- 4.2. docleaf shall have the right to increase the charging rates for the Services as set out in Schedule 2 on each Review Date by such percentage (if any) as shall be equal to the percentage increase in the RPI in the Year immediately prior to that Review Date.
- 4.3. All invoices in relation to Services shall be due and payable by the Client without set off or counterclaim within 30 days of their receipt by the Client which shall be deemed to occur. Overdue invoices shall carry interest at the rate of 2 per cent above the base rate of Nat West Bank PLC from time to time, to accrue on a daily basis from the due date for payment until cleared funds are received by docleaf.

- 4.4. The Client shall not be entitled to withhold payment of any invoice which it disputes, provided that docleaf agrees to use all reasonable endeavours and to act in good faith to resolve as soon as possible any bone fide query or dispute raised by the Client in respect of any such invoice and to refund to the Client within 30 days any monies found to be repayable to it.
- 4.5. In the event that payment is not received in full by the due date, docleaf reserves the right to suspend Service until full settlement of any outstanding amounts. Such suspension shall be without prejudice to any other rights of the parties.
- 4.6. The Client agrees to pay for any loss or extra cost incurred by docleaf through the Client's instructions or lack of instructions or through any act or default on the part of the Client its servants or agents at the rate of £1,500 per day, pro rata where applicable.
- 4.7. docleaf reserves the right to set a credit limit of £10,000 for any such services. Beyond this, we may ask for a Directors guarantee or for funds to be transferred in advance.
- 4.8. docleaf may from time to time increase the rates referred to in the Contract letter by such an amount as is reasonable and unless the client objects to such increased rates within seven days of notification in writing. All services shall thereafter be the increased rates notified.
- 4.9. Cancellation policy for pre-scheduled training and events:
  - 4.9.1. More than 30 days notice No charge
  - 4.9.2. 21-30days notice 50% of costs
  - 4.9.3. 12-21 days notice 75% of costs
  - 4.9.4. 7 – 14 days notice 90% of costs
  - 4.9.5. 0 – 7 days notice 100% of costs
- 4.10. Refund of retainers: docleaf shall not be liable for refunding any unused portion of paid retainer fees, irrespective of the nature of the termination or failure of contract. This includes insolvency of docleaf.
- 4.11. The Client shall not be entitled to withhold payment of any invoice which it disputes, Provided that docleaf agrees to use all reasonable endeavours and to act in good faith to resolve as soon as possible any bone fide query or dispute raised by the Client in respect of any such invoice and to refund to the Client within 30 days any monies found to be repayable to it.

## **5. REPRESENTATIVES**

- 5.1. Each of docleaf and the Client shall appoint their own respective designated representative with authority to represent them on all day to day matters in connection with this Agreement and notify the other of the name and contact details of their respective appointees. Any change of Representative shall be immediately notified by the appointing party to the other and as between the parties, any such change shall be deemed not to have been effected until such notice shall have been given. Each

Representative shall have the authority to bind his respective appointor in respect of all matters relating to this Agreement, save that he shall not have authority to make or agree any change to the terms of this Agreement itself

## **6. OBLIGATIONS OF THE CLIENT**

- 6.1. The Client shall at all times during the continuance of this Agreement at its own cost co-operate with docleaf to such extent and provide to docleaf such information and assistance as it is Agreed that docleaf may reasonably require in order to enable docleaf duly and punctually to perform its obligations under this Agreement.
- 6.2. Subject to prior consultation with the Client, docleaf may from time to time issue to the Client reasonable regulations governing the manner in which the Services are to be provided, the manner in which the Client is to obtain access to the Services, the documents and procedures to be followed by the Client in connection with the provision of the Services and such other matters as the parties may Agree to be necessary or appropriate. The Client undertakes that it will ensure that its officers, employees and agents will comply with any such regulations in all respects.
- 6.3. Without prejudice to the generality of the foregoing the Client shall permit docleaf to examine and copy any records, documents or other data in the possession of the Client which docleaf and the Client Agree from time to time to be necessary for the provision and/or use of the Services.

## **7. CONFIDENTIALITY**

- 7.1. The expression "Confidential Information" shall mean all information which is specific to the business of the relevant party and is communicated or supplied by that party to the other which is of a confidential nature and which is in oral, visual, written or any other form, and shall for the avoidance of doubt include all information relating to their respective customers and/or clients.
- 7.2. Each of the Client and docleaf acknowledges that the other retains all proprietary rights in the other's Confidential Information. The Client and docleaf respectively shall treat as confidential all Confidential Information which the other (or a third party acting on its behalf) may make available to it and shall:-
  - 7.2.1. not without the prior written consent of the other use any part of the Confidential Information other than for the purpose of this Agreement or save as is necessary to enable it to perform its obligations on the terms of this Agreement;
  - 7.2.2. not without the prior written consent of the other copy, reproduce or reduce to writing any part of it except as may be necessary for the purpose of paragraph 8.2.1. Any copies, reproductions or reductions to writing so made shall be the property of the other and shall be returned or destroyed on conclusion of their continued use;
  - 7.2.3. not without the prior written consent of the other disclose to any person any part of the Confidential Information, other than to its directors and employees who need to know the Confidential Information for the purpose of this Agreement unless:-

- (a) such person is made aware prior to disclosure of the proprietary and confidential nature of the Confidential Information; and
- (b) such person owes an express duty of confidence to the party disclosing the same;
- (c) apply to it no lesser security measures and degree of care than those which it applies to its own confidential or proprietary information.

7.3. Confidential Information shall not include information which is:-

- 7.3.1 known by the Client or docleaf prior to receipt from the other to be free of any restriction of use or disclosure and is not obtained in breach of a duty of confidence owed to the other; or
- 7.3.2 disclosed to the Client or docleaf by a third party at any time provided that third party has not directly or indirectly received it from the other in breach of a duty of confidence owed to that party; or
- 7.3.3 in the public domain in the form in which it is possessed by the party at any time other than as a result of breach of this Agreement.

7.4. The exceptions in sub-clause 8.3 shall not apply to:-

- 7.4.1 specific information because it is embraced by more general information which falls within any one or more of such exceptions;
- 7.4.2 any information which is subject to the banker/customer duty of confidentiality.

7.5. The duty of confidence in this clause 8 shall not apply to any information which is required to be disclosed by any applicable law or by regulation of any recognised stock exchange or by any other regulatory authority provided that:-

- 9.1.1 the recipient notifies the disclosing party of the information to be disclosed prior to such disclosure and of the circumstances in which the disclosure is alleged to be required as early as reasonably possible before such disclosure must be made (or, if that is not possible, as soon as reasonably possible thereafter); and
- 9.1.2 the recipient takes all action to avoid and limit such disclosure.

## **8. OWNERSHIP**

- 8.1. The Emergency Procedures Manual and all information derived from the Services (and all intellectual property rights therein) shall at all times remain the sole property of and be vested in docleaf and the Client shall not acquire any proprietary rights therein.
- 8.2. In no circumstances shall the Client sell, transfer or otherwise make available the Services (including without limitation access to the Emergency Procedures Manual or to any information derived from the Services) or any part thereof to any third party.

## **9. WARRANTIES**

- 9.1. docleaf warrants to and undertakes with the Client that:-
  - 9.1.1 docleaf will provide the Services with due diligence and care;
  - 9.1.2 docleaf will be appropriately qualified and experience personnel in its provision of the Services;
- 9.2. docleaf does not make or include any terms, representations, conditions, warranties or guarantees other than those specifically contained in this Agreement and all of such terms as may be implied by law are hereby specifically excluded (save in all cases where it is contrary to statute to exclude any of the same). In particular, the Client acknowledges and accepts that:
  - 9.2.1 docleaf provides personnel in the Services in an advisory capacity only and that all actions, omissions and statements by the Client are the Client's responsibility;
  - 9.2.2 docleaf has no control (and is therefore not liable or responsible for) over what is said or published in or by the media (whether in printed form or verbally or by way of transmission of still or moving images) or over any reaction to an Incident or the Client's response to it and its effects by any of the Client's customers, clients or suppliers, or the travel industry generally or the general public.

## **10 LIABILITY LIMITATION**

- 10.1 In no circumstances shall docleaf be liable (whether in contract or in negligence or other tort or otherwise) to the Client for any loss other than direct losses and, in particular, without prejudice to the generality of the foregoing, shall not be liable to the Client or any other third party for any indirect or consequential losses (including, but without limitation, loss of business, loss of profit and/or goodwill or loss of reputation) suffered by the Client or any other third party arising out of or in connection with the Services or otherwise in connection with this Agreement (save in respect of death or personal injury arising out of the negligent act or omission or wilful misconduct of docleaf, its employees or agents where the liability of docleaf shall not be so limited).
- 10.2 Notwithstanding anything to the contrary contained in this Agreement, docleaf's maximum aggregate liability in any Year to the Client in relation to liabilities arising under or in relation to this Agreement whether for breach of this Agreement, negligence or other tort or otherwise (other than in respect of death or personal injury arising out of the negligence of docleaf, its employees or agents), in that Year shall not exceed a sum equal to the aggregate fees/charges paid by the Client to docleaf pursuant to this Agreement in that Year.

## **11 FORCE MAJEURE**

- 11.1 Notwithstanding anything else contained in this Agreement, neither party shall be liable for any delay in performing its obligations under any this Agreement if such delay is caused by circumstances beyond its reasonable control (including without limitation any delay caused by any act or omission of the other party). The party so delaying shall promptly notify the other party in writing of the reasons for the delay and the likely duration of the delay and thereafter the performance of such party's obligations shall be

suspended during the period for which such circumstances persist and such party shall be granted an extension of time for performance equal to the period of delay. If such delay continues for more than 30 days the party not affected by Force Majeure may terminate this Agreement forthwith on giving notice in writing to the other, in which event neither party shall be liable to other by reason only of such termination. Save where such delay is caused by the act or omission of the other party (in which event the rights, remedies and liabilities of the parties shall be those conferred and imposed by the other terms of this Agreement and by law) any costs arising from such delay shall be borne by the party incurring the same.

## **12 ENTIRE AGREEMENT**

12.1 This Agreement constitutes the whole of the terms agreed between the parties hereto in respect of the subject matter hereof and supersedes all previous negotiations, understandings or representations and shall be capable of being varied only by an instrument in writing under the hands of directors or other representatives of each of the parties hereto duly authorised in their behalf.

## **13 PROPER LAW AND JURISDICTION**

13.1 This Agreement shall be governed by the laws of England and the parties hereby submit to the exclusive jurisdiction of the English Courts.

## **14 VALUE ADDED TAX**

14.1 All sums are expressed herein as exclusive of VAT, which shall be payable by the Client in addition at the appropriate rate, together with any other tax or duty chargeable in respect thereof.

## **15 WAIVER**

15.1 No failure to exercise and no delay in either party exercising any right, remedy, power or privilege arising under or by virtue of this Agreement shall operate as a waiver thereof nor shall any single defective or partial exercise thereof preclude any other or further exercise of that or any other right remedy or privilege.

## **16 SEVERANCE**

16.1 If any provision of this Agreement is rendered void by any legislation to which it is subject it shall be rendered void to that extent and no further.

## **17 NOTICES**

17.1 Any notice to be given hereunder by either party to the other may be given by first class mail or facsimile transmission addressed to that party at the address herein specified or such other address as such party may from time to time nominate for the purpose hereof, and shall be deemed to have been served:- if given by first class mail, two days after the same shall have been dispatched; if given by facsimile transmission one day after transmission . For the purpose of this clause 18, "day" shall be deemed to exclude any day falling on a weekend or public holiday in England.

**18 PROPER LAW AND JURISDICTION**

18.1 These Terms and Conditions shall be governed by the laws of England and the parties hereby submit to the exclusive jurisdiction of the English Courts.