



Pasabi Terms and Conditions

1. TERMS AND CONDITIONS

- 1.1. These are the Terms and Conditions for Cunning Blade Limited (trading as Pasabi), (registered number SC464610) with registered office at Codebase, Argyle House, 3 Lady Lawson Street, Edinburgh, EH3 9DR ("**Pasabi**") in relation to its Services.

2. DEFINITIONS

- 2.1. **Acceptance:** acceptance of an Order Form by Pasabi, as set out in section 4.
- 2.2. **Business Day:** a day other than a Saturday, Sunday or public holiday in England or the United States, when banks in London are open for business.
- 2.3. **Charges:** the charges payable by the Customer for the supply of the Services by Pasabi, being the price for the Services set out in the Order Form.
- 2.4. **Customer:** the customer who requests the Services from Pasabi.
- 2.5. **Customer Data:** all materials, data and other information supplied by the Customer to Pasabi.
- 2.6. **Data Protection Legislation:** means all applicable data protection and privacy laws in force from time to time, including the UK Data Protection Act 2018, the UK GDPR and related subordinate legislation, as may be amended, updated or re-enacted from time to time, and all other legislation and regulatory requirements in force which apply to a party relating to personal data or personally identifiable information.
- 2.7. **Order Form:** the order form for audit and audit report services.
- 2.8. **Quarterly Report Date:** the relevant date for Pasabi to provide the quarterly report to the Customer under the annual audit, with the first Quarterly Report Date being the Services Start Date and then a three month period thereafter.
- 2.9. **Report:** the audit report(s) produced by Pasabi using the Customer Data.
- 2.10. **Services:** the services to be provided by Pasabi pursuant to these Terms and an Order Form, including the Report.

- 2.11. **Services Start Date:** the day on which Pasabi is to provide the Services, as set out in the Acceptance.

3. COMMENCEMENT AND TERM

- 3.1. These Terms shall commence on Services Start Date and shall continue as follows:
- a. for the Initial Term and, thereafter, this agreement shall be automatically renewed for successive periods of 12 months (each a Renewal Period), unless either party notifies the other party of termination, in writing, at least 30 days before the end of the Initial Term or any Renewal Period, in which case this agreement shall terminate upon the expiry of the applicable Initial Term or Renewal Period.

4. ORDERS

- 4.1. A Customer shall submit a signed Order Form to Pasabi for Acceptance. Pasabi may accept or decline Order Forms, or accept an amendment to a submitted Order Form, at its absolute discretion.
- 4.2. Following receipt of an Order Form, Pasabi will notify the Customer when an Order Form has been accepted and inform the Customer of the Services Start Date ("Acceptance"). This Acceptance may be provided by telephone, by email or other form or writing.
- 4.3. The Customer is responsible for ensuring that the Customer

5. SUPPLY OF SERVICES

- 5.1. In supplying the Services, Pasabi shall perform the Services with reasonable care and skill, take reasonable care of all Customer Data in its possession and deliver the Reports using standards and techniques that are of a satisfactory quality and are fit for purpose.

6. CUSTOMER'S OBLIGATIONS

- 6.1. The Customer shall provide Pasabi with the Customer Data, providing that the Customer Data shall not exceed 12 months of data at any time.
- 6.2. Where the Customer has selected the annual quarterly audit option on the Order Form, the Customer shall ensure that the Customer Data is updated and provided to Pasabi no later than one week prior to the Quarterly Report Date.
- 6.3. The Customer will co-operate with Pasabi in all matters relating to the Services and provide, in a timely manner, such information as Pasabi may reasonably require to provide the Services.

- 6.4. The Customer warrants that it is entitled to transfer the Customer Data to Pasabi so that Pasabi may lawfully use, process and transfer the Customer Data in accordance with these Terms on the Customer's behalf.

7. CUSTOMER DATA & DATA PROTECTION

- 7.1. The parties shall comply with their respective obligations under applicable data protection laws.
- 7.2. If the Customer Data includes any personal data (as that term is defined in the Data Protection Legislation), and Pasabi requires to process such data in relation to the Services, then the parties acknowledge that Pasabi shall be deemed the processor and the Customer the controller (as those terms are defined in the Data Protection Legislation) and in any such case:
- a. Pasabi shall process the personal data only in accordance with these Terms and any lawful instructions reasonably given by the Customer from time to time;
 - b. the scope, nature and purpose of the processing by Pasabi is for the provision of the Services. The type of personal data will be the personal data contained within the Customer Data which is required to provide the Services. The categories of data subjects are the individuals whose activities are analysed in relation to the use of the Services. The duration of the processing is concurrent with the duration of this Agreement.
- 7.3. Pasabi warrants that the provision of the Services includes the implementation of sufficient technical and organisational measures to ensure an appropriate level of security in relation to the processing of personal data as required by Data Protection Legislation;
- 7.4. Pasabi shall as far as is possible and proportionate in relation to the nature of the processing, implement technical and organisation measures that assist the Customer with its obligations in relation to the exercise of data subject's rights as required by Data Protection Legislation;
- 7.5. Pasabi shall not transfer any personal data outside of the UK and European Economic Area unless appropriate safeguards are in place and the requirements of the Data Protection Legislation have been met.
- 7.6. The Customer agrees that Pasabi is entitled to use a sub-processor in relation to the provision of Services on condition that (i) Pasabi enters into a contract with the sub-processor under which the sub-processor assumes the same obligations as are imposed on Pasabi under these Terms; and (ii) Pasabi remains fully liable to the Customer for the performance of such third party's obligations.
- 7.7. Pasabi shall notify the Customer without undue delay after becoming aware of any breach of Data Protection Legislation relating to the Customer Data and shall provide such

information as may reasonably be required by the Customer to assess the impact of such breach.

7.8. Pasabi shall, at the choice of the Customer, delete or return all personal data to the Customer when the provision of the Services has been concluded, except where Pasabi is required to retain any such personal data under any separate legal obligation.

7.9. Pasabi shall, at the Customers cost, make available to the Customer such information as the Customer may reasonably request in relation to demonstrating compliance with Data Protection Legislation, and shall participate in audits and inspections where reasonably requested by the Customer in relation to the demonstration of such compliance.

7.10. Pasabi shall be entitled to use the Customer Data for the purposes of its own analysis and research and development but only where the resulting data sets, insights or other analytical products created do not contain any personal data or any other identifiable Customer Data.

8. INTELLECTUAL PROPERTY

8.1. Pasabi and its licensors shall retain ownership of all intellectual property rights in the Services. The Customer and its licensors shall retain ownership of all intellectual property rights in the Customer Data.

8.2. Pasabi grants the Customer a fully paid-up, worldwide, non-exclusive, royalty-free, licence to use any intellectual property rights of Pasabi for the purpose of receiving and using the Services and the Report only. The Customer acquires no rights in or to the Services other than those expressly granted by these Terms.

8.3. The Customer grants Pasabi a fully paid-up, worldwide, non-exclusive, royalty-free, non-transferable licence to copy and modify the Customer Data for the term of these Terms for the purpose of providing the Services to the Customer.

9. CHARGES AND PAYMENT

9.1. In consideration for the provision of the Services, the Customer shall pay Pasabi the Charges in accordance with this section 9.

9.2. All amounts payable by the Customer exclude amounts in respect of value added tax or other applicable sales tax (**VAT**), which the Customer shall additionally be liable to pay to Pasabi at the prevailing rate (if applicable), subject to receipt of a valid VAT invoice.

9.3. Pasabi shall submit an invoice for the Charges plus VAT (if applicable) to the Customer and the Customer shall pay any invoice due and submitted to it by Pasabi, within 30 days of receipt, to a bank account nominated in writing by Pasabi, and by the Services Start Date.

- 9.4. If the Customer fails to make any payment due to Pasabi under these Terms by the due date for payment, then Pasabi shall be entitled to charge interest on the overdue sum from the due date until payment of the overdue sum (whether before or after judgement), and interest shall be charged at an annual rate equal to 3% over the then current base lending rate of the Bank of England at the date the relevant invoice was issued.
- 9.5. If the Customer fails to make payment due to Pasabi under these Terms, Pasabi shall be entitled to suspend the Services until payment of any over due sum is received in full.
- 9.6. All amounts due under these Terms from the Customer to Pasabi shall be paid by in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

10. LIMITATION OF LIABILITY

- 10.1. Nothing in these Terms limits any liability which cannot legally be limited.
- 10.2. Subject to section 10.1, Pasabi's total liability to the Customer under these Terms shall be limited to the Charges payable in respect of the Services.
- 10.3. Neither party shall be liable to the other for any indirect or consequential losses howsoever arising.
- 10.4. Pasabi has given commitments as to compliance of the Services with relevant specifications in section 4. In view of these commitments, the terms implied by the Supply of Goods and Services Act 1982 (or any equivalent legislation) are, to the fullest extent permitted by law, excluded from these Terms.

11. GENERAL

- 11.1. **Confidentiality.** Neither party shall use any other party's confidential information for any purpose other than to perform its obligations under these Terms. Neither party shall (unless required by law) disclose any confidential information to a third party without the prior consent of the other party. Nothing in this Term 10.1 shall prevent any party sharing confidential information with employees, contractors or advisors who need to know such information in relation to provision of the Services.
- 11.2. **Third Party Rights.** These Terms do not confer any rights on any person or party (other than the Customer and Pasabi and, where applicable, their successors and permitted assigns).
- 11.3. **Waiver.** If Pasabi chooses to waive any particular right it has under these Terms on any particular occasion, this does not prevent it from exercising that right on another occasion.
- 11.4. **Severance.** If any part of these Terms are held by a court of law (or similar forum) to be invalid or unenforceable, this shall not affect the validity or enforceability of the rest of the Terms.

- 11.5. **Force Majeure.** Pasabi shall have no liability to the Customer under these Terms if it is prevented from or delayed in performing its obligations under these Terms, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control.
- 11.6. **Notices.** All notices required or permitted under these Terms will be in writing and given by email to the addresses set out in the Order Form or such other email address as parties may intimate from time to time. Any such notice shall be deemed to have been duly received when confirmation of completion of its transmission has been recorded by the sender's email system.
- 11.7. **Governing Law & Jurisdiction.** These Terms shall be governed by Scottish Law. If either party requires to raise court proceedings in relation to any such dispute, then the Scottish courts shall have non-exclusive jurisdiction under these Terms in relation to those proceedings.