

# TERMS & CONDITIONS



DYNAMICS BUSINESS EXCELLENCE

## **DBE-Dynamics Business Excellence LTD.**

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## **TERMS & CONDITIONS OF DBE - DYNAMICS BUSINESS EXCELLENCE**

### **1. General Description**

By this Agreement, the Contracting Parties agree on the services to be provided by DBE-Dynamics Business Excellence LTD, as described in the Appendix on the front. Prior to signing this Agreement, the Client has had the opportunity to ask all the questions and request from DBE-Dynamics Business Excellence SA the necessary documents and decisive information to enable it to make its decision to enter into this Agreement.

The Client has received from DBE-Dynamics Business Excellence LTD all the constituent documents of the Contract and has been able to read and appreciate the terms and scope thereof, at its discretion with the help of external advisors. This Agreement constitutes the sole basis for commercial negotiation. The elements specific to the client's context and/or to the DBE-Dynamics Business Excellence LTD offer have been specified in the Contract or its Appendices.

### **2. Placing an order and forming part of the Agreement**

The placing of the order is made by the signature of this Agreement and the Order Form or „SOW“ detailing the specific conditions of the order, in the format of the document attached as an Appendix to this Agreement. Each Schedule is an integral part of the Agreement.

### **3. Responsibilities**

The performance of DBE-Dynamics Business Excellence LTD's services, as described in the Appendix to this Agreement, is monitored and controlled by the Client, in particular to ensure that the agreed deadlines are met. In this regard, the Client undertakes to actively collaborate with DBE-Dynamics Business Excellence LTD for the proper performance of the services. The services are performed under the responsibility of DBE-Dynamics Business Excellence LTD. Failure by the client to comply with its obligations set out in the Appendices may result in postponements of deadlines and capital gains. DBE-Dynamics Business Excellence LTD and the customer are obliged to notify the other party in writing of all delays resulting from their responsibility.

DBE-Dynamics Business Excellence LTD may transfer the performance of services to third parties (subcontractors). However, it remains responsible for the results of the work of any subcontractors and for its own services.

If a service can only be provided through third parties used by the client, the client assumes sole responsibility for it, to the exclusion of any liability of DBE-Dynamics Business Excellence SA.

### **4. Duration of the Contract**

This Agreement and its Appendices shall enter into force upon signature by the Contracting Parties for the entire period necessary for the performance of the services covered by this Agreement.

### **5. Execution**

The obligations contracted by DBE-Dynamics Business Excellence LTD are automatically considered to have been fulfilled at the time the client goes into production processing with the licensed material or into production of the deliverable or service concerned. In addition, it is expressly agreed between the Parties that the deliverable or service will be automatically deemed validated by the Client in the event of no reaction or return from the Client within five (10) days of its execution or delivery. Processing or productive departure means shutting down the customer's old IT systems.

### **6. Early Termination of the Agreement**

Customer may terminate the Agreement before its term if DBE-Dynamics Business Excellence LTD has wrongfully committed a serious breach of its obligations under this Agreement.

Such a termination is only possible if the customer has previously given DBE LTD a reasonable period of time to remedy the serious breaches by means of a RAR letter with acknowledgement of receipt.

In the event of non-payment by the Client or non-compliance with its contractual obligations by the Client, DBE-Dynamics Business Excellence LTD may, at its sole discretion, suspend its services and/or terminate this Agreement, without compensation or financial compensation to the Client. Termination under these conditions is only possible if DBE-Dynamics Business Excellence LTD has previously given notice to the customer to comply with its contractual obligations by RAR letter with acknowledgement of receipt and granted the customer a period of time to comply with its obligations.

DBE-Dynamics Business Excellence LTD may terminate this Agreement at any time.

The termination of this Agreement at the initiative of DBE-Dynamics Business Excellence LTD shall in no case give rise to the payment of any compensation to the customer by DBE-Dynamics Business Excellence LTD.

In addition, each Party may terminate the Contract by operation of law, in the event of dissolution of the client, amicable or forced transfer of the client's business or cessation of activity, as well as in the event of liquidation or receivership and express or implicit waiver of the continuation of this Contract by the administrator or liquidator.

In any event, regardless of the cause of termination, DBE-Dynamics Business Excellence LTD will retain all payments from the Client previously collected on the date of termination, and DBE-Dynamics Business Excellence SA will invoice (i) its services performed up to the effective date of termination and (ii) the sums incurred from its suppliers or subcontractors, as well as any claims claimed by them, on the effective date of termination.

For the avoidance of doubt, it is specified that neither party may, in any circumstances whatsoever, unilaterally terminate the Contract, only the terms of termination referred to above being authorized.

In the event of a breach of contract, the creditor may not enforce the obligation itself without the prior and express consent of the defaulting debtor, or demand reimbursement from the debtor of any sum incurred for this purpose.

The parties agree that the termination of the Agreement shall not result in the effects of a rescission; the termination of the Contract can only be pronounced by a court decision.

## **7. Deadlines**

The Contracting Parties undertake to observe the contractual deadlines, subject to good cooperation and performance by each of the Parties of its obligations referred to in this Contract. Periodic monitoring of the situation by the Parties will be used to ensure compliance with deadlines. Any delays or delays in the schedule agreed between the Parties shall be reported as soon as possible by the Parties as soon as such delays or delays are noted. Changes to the schedule must be approved by mutual agreement of the Parties. This agreement may only be refused on legitimate and reasonable grounds.

A Contracting Party may be relieved of its contractual obligations, including time limits, if it proves that the delay was caused by the other Party or that the other Party participated in or contributed to it.

## **8. Delivery**

Unless otherwise specified, the delivery times for DBE-Dynamics Business Excellence LTD services are as follows:

- DBE LTD's services take place after the delivery and full payment of the licenses by the customer. This period is no longer binding on DBE LTD if the customer has paid for the licenses late, or if the customer has delayed the delivery of such items. DBE-Dynamics Business Excellence LTD shall proceed to the lifting of any reservation indicated by the client within a reasonable period of time or within a period agreed between the Parties.

For all intents and purposes, it is specified that partial deliveries are authorized, but must be subject to a prior written agreement between the Parties.

In any case, the transfer of custody and risks of DBE-Dynamics Business Excellence LTD to the client relating to the services and deliverables of DBE-Dynamics Business Excellence LTD shall take place from the date of their completion or delivery, without any reservations expressed by the client under the conditions described in this Agreement postponing this transfer.

### **8.1 Work-in-Progress Test Period**

Throughout the duration of the Contract, the Client shall constantly verify the results provided to it (program parts, test results, documentation, etc.), within five (10) days of the delivery and execution of the deliverable or service concerned, in accordance with the guidelines and deadlines of the project schedule. It will immediately notify DBE-Dynamics Business Excellence LTD in the event of any complaints or discoveries of errors. In the absence of a reaction or feedback from the client within the period, or of productive processing with the licensed material or of the production of the deliverable or service concerned, the said deliverable or service will be automatically deemed validated by the client.

### **8.2 Acceptance**

DBE-Dynamics Business Excellence LTD submits any work result to the Client for written approval within five (10) days of delivery and execution of the relevant deliverable or service.

Quote

The Appendix on the front serves as a basis for planning. If, during execution, it cannot be complied with to a significant extent, exceeding by more than 15%, DBE-Dynamics Business Excellence LTD shall inform the customer in writing as soon as possible.

### **9.1 Modification of performance conditions by the Client**

Any changes to the terms of performance requested by the customer are subject to the prior acceptance of DBE-Dynamics Business Excellence LTD and may involve additional services and invoicing by DBE-Dynamics Business Excellence LTD. DBE-Dynamics Business Excellence LTD will notify the customer in a timely and appropriate manner of the additional charges incurred. The Parties shall determine by mutual agreement the procedure concerning the execution and costs of such additional services, on the basis of a quotation previously proposed to the Client by DBE-Dynamics Business Excellence LTD for acceptance and shall formalize the agreement reached by way of an amendment to the contract.

### **9.2 Travel Expenses**

Travel and accommodation expenses are invoiced separately and additionally by DBE-Dynamics Business Excellence LTD. The rates or packages are defined in the Order Form or „SOW“ supplemented with the specific conditions of the project and attached as an Appendix to this Contract.

### **9.3 Terms of payment**

Amounts invoiced by DBE-Dynamics Business Excellence LTD are payable net within thirty (30) days in the manner specified below. In the absence of a written notification by the customer, any invoice will be considered accepted at the end of the payment period.

For the services :

Within thirty (30) days of the customer's receipt of the invoice from DBE-Dynamics Business Excellence LTD; if so agreed: according to the payment schedule set out in the Purchase Order or „SOW“ attached as an Appendix to this Agreement.

### **9.4 VAT**

Prices are in GBP, excluding taxes and VAT.

## **10. Warranty**

For DBE-Dynamics Business Excellence LTD services, the following points should be noted:

DBE-Dynamics Business Excellence LTD guarantees that the products delivered under this Agreement conform to their documentation. These are defects or non-conformities within the meaning of this warranty if functions of the Microsoft Dynamics Business Central modules cannot be put into operation in accordance with the provisions of the relevant documentation.

About the qualities of the original licensed modules of Microsoft Dynamics Business Central, the guarantee of origin according to the terms of the Microsoft Software License Agreement applies, so the liability of DBE-Dynamics Business Excellence LTD is completely excluded in this regard.

### **10.1 the right of warranty**

The customer who notices a defect or non-conformity shall immediately notify DBE SA within five (5) days of the delivery and execution of the deliverable or service concerned. DBE LTD removes defects or non-conformities arising from its services free of charge. Beyond the above-mentioned period of production processing with the licensed material, or of putting into production of the deliverable or service concerned, the said deliverable or service will be automatically deemed validated by the Client and the warranty of DBE-Dynamics Business Excellence LTD will automatically become invalid.

If DBE LTD is working towards the elimination of defects or non-conformities, the customer is not released from the obligation to pay DBE LTD's invoices or meet the deadlines of a payment plan. To the extent that it eliminates or makes every effort to eliminate defects or non-conformities, DBE LTD shall not be liable for any damage to the customer.

### **10.2 Disclaimer of Warranty**

In the customer's production environment, DBE-Dynamics Business Excellence LTD is relieved of its warranty obligations to the extent that errors or defects are not attributable to it, in particular in the following cases:

- Modification of the terms of use and exploitation valid at the time of acceptance.
- Alteration of the product by the customer or third parties.
- Alteration of the product in the event of force majeure;
- The intrinsic quality of the modules provided by Microsoft and covered by the original warranty according to the license agreement.
- Handling errors attributable to the customer or third parties.
- Failure to comply with the guidelines agreed upon by the customer with respect to its support and documentation obligations in context with the warranty.

If DBE-Dynamics Business Excellence LTD finds any errors or defects in the customer's production environment, it must notify the customer immediately. The customer may request DBE-Dynamics Business Excellence LTD to prepare a quotation for the necessary refurbishment work. The Parties will then set the price of these additional services by mutual agreement, based on a quote previously proposed to the Client by DBE-Dynamics Business Excellence LTD for acceptance.

### **11. Liability**

For damages arising from the performance of this Agreement, DBE-Dynamics Business Excellence LTD, in the event of proven fault or serious breach on its part, may be required to reimburse the direct damage up to the amount of the sums paid by the customer in the last twelve (12) months in respect of the services concerned by the said breach. This limitation does not apply to personal injury or property damage caused in a culpable manner.

DBE-Dynamics Business Excellence LTD excludes any liability for damages arising from the non-fulfilment of contractual obligations of the customer, arising from any typical operations or replenishment of data, as well as for indirect damages such as loss of earnings or claims of third parties against customers. These limitations and exceptions also apply to any processors.

DBE-Dynamics Business Excellence LTD shall be relieved of its liability when reasons beyond its control have prevented it from providing the services covered by this Agreement on time or in the required manner. This indemnity limit contributes to the general economic balance of the Contract and remains the consideration for the remuneration of DBE-Dynamics Business Excellence LTD and the prices of the services negotiated between the Parties. In the absence of such a limitation of indemnification and/or exclusion of certain damages, the prices awarded to the customer by DBE-Dynamics Business Excellence LTD would have been different.

Finally, the client waives any recourse against DBE-Dynamics Business Excellence LTD beyond a period of two (2) years after the occurrence of a harmful event.

### **12. Personal data**

If the performance of the Contract involves the processing of personal data held by the customer, the Parties undertake to comply with their respective obligations regarding the applicable legislation on the protection of personal data. As the data controller, the client carries out all the necessary formalities concerning the processing of personal data and determines alone the manner and purposes for which DBE-Dynamics Business Excellence LTD will process this data.

As a service provider, DBE-Dynamics Business Excellence LTD processes such data only based on the written instructions of the customer and to the extent necessary for the performance of the Agreement.

Under the Contract, the Parties undertake to take all necessary precautions to preserve the security and confidentiality of the personal data transmitted and to prevent them from being distorted, damaged or communicated to third parties not authorised by the client. DBE-Dynamics Business Excellence LTD undertakes to use this personal data only for the purpose of providing services.

DBE-Dynamics Business Excellence LTD undertakes to comply with the conditions of processing and/or the destination of the data that has been communicated to it by the client or to which it will have access in the context of the performance of the services of the Contract. In particular, DBE-Dynamics Business Excellence LTD undertakes, during the course of the Contract and beyond, not to exploit for its own account, transfer and/or rent to any third party the personal data collected or to which it may have had access in the context of the execution of the Contract.

### **13. Confidentiality**

The Parties expressly undertake to respect the absolute principle of trade secrets concerning them and not to disclose to third parties, for a fee or free of charge and in any form whatsoever, any information of any kind to which they may have had access pursuant to the Contract, except with prior written authorization designating the beneficiary(ies) of the confidential information, as well as its contents. „Confidential Information“ means non-publicly available Information of a Party (the „Disclosing Party“) disclosed to the other Party (the „Receiving Party“) that is identified as confidential or that can be understood to be confidential and/or proprietary.

Confidential Information does not include Information (i) that the Disclosing Party regularly discloses to third parties without restriction on disclosure, (ii) that the Receiving Party obtains from a third party, without restriction on disclosure and without breach of a non-disclosure obligation or; (iii) that is independently developed by the Receiving Party without access to Confidential Information.

Third party also means any member of the personnel of a Party who is not involved in the achievement of the subject matter of the Contract.

The Parties undertake to comply with this substantial obligation of confidentiality throughout the duration of the performance of the Contract and for a period of five (5) years from its termination, for any reason whatsoever.

In order to ensure the protection of Confidential Information, the Parties guarantee that all their employees, suppliers and any subcontractors are contractually bound not only by the most absolute professional secrecy, but also by the utmost neutrality and discretion with regard to the personnel of the other Party's customers, and that all information provided, all documents entrusted or produced in the context of the performance of this Contract to such persons, All interviews in which they participate are therefore considered strictly confidential.

### **14. Force Majeure**

Initially, cases of force majeure will suspend the obligations of the Parties, except for the obligation to pay by the customer for invoices issued pursuant to the Contract.

The Parties undertake to consult each other as soon as possible and in good faith to study the consequences of the occurrence of a case of force majeure and to seek, as far as possible, appropriate circumvention and prosecution solutions.

If the cases of force majeure last longer than three (3) months, the Contract may be terminated by registered letter with acknowledgment of receipt, at the initiative of either Party, without any compensation.

### **15. Unpredictability**

The Parties have expressly agreed and accepted that the prices agreed in this Agreement may be renegotiated in the following cases, exhaustively listed:

- change in legislation and/or regulations increasing DBE-Dynamics Business Excellence LTD costs by more than 10%.
- new or additional requests from the client not covered by the scope of the Contract.
- any change in the economic or financial context of the Contract and, more generally, any element likely to have an impact on the economy and/or performance of the Contract.

and subject to the provisions of this section.

DBE-Dynamics Business Excellence LTD undertakes to inform the client of such unforeseeable change(s), within a reasonable period of time with the corresponding supporting documents, by registered mail with acknowledgement of receipt.

Upon receipt of this registered letter by the client, the Parties undertake to renegotiate the impact of such a change on the Contract and on the agreed schedule and prices.

If the Parties do not reach an agreement within thirty (30) days from receipt of the registered letter by the Client, either Party may terminate the Contract without compensation or damages by sending a registered letter with acknowledgment of receipt, on the date on which the modification of the law or regulation in question comes into force.

In the event of disagreement relating to the unforeseeable Change(s), the Parties waive the right to refer the matter to the court to adapt and/or modify the prices of the Contract and, more generally, the Contract.

#### **16. Survival of Obligations**

The termination of the Contract, for any reason whatsoever, will leave the obligations of the Parties in terms of intellectual property, confidentiality, personal data, if applicable, to continue within the deadlines indicated in this Agreement.

#### **17. Assignment and transfer of the Agreement**

Any transfer or assignment by the client to a third party of all or part of the rights and obligations it holds under the Contract is subject to the prior, written and express authorization of DBE-Dynamics Business Excellence SA.

DBE-Dynamics Business Excellence LTD may, under its responsibility, entrust to a third party the subcontracting of certain contractual obligations and services.

In the event of a subcontracting, DBE-Dynamics Business Excellence LTD shall remain fully and entirely responsible for the performance and successful completion of the subcontracted services and shall ensure that the subcontractor complies with all the provisions of this Agreement under its responsibility.

#### **18. Governing Law and Jurisdiction**

This Agreement is exclusively subject to English law.

In the event of a dispute, after an unsuccessful attempt at conciliation, express jurisdiction is conferred on the Commercial Court of London, notwithstanding multiple defendants or third-party claims, even for emergency proceedings or protective proceedings.

