

Terms and Conditions for Professional Services

These terms and conditions ("Terms") govern the professional services that finova agrees to provide to Customer in an Order. These Terms and the Order together form the "Agreement".

1. Definitions

- a. **"Affiliate"** as to a party, means any other legal entity that directly or indirectly controls, or is controlled by or under common control with such party, with 'control' as applied to any legal entity being the direct or indirect ownership of more than fifty percent (50%) of the equity or voting interest in such entity.
- b. **"Change Request"** means an agreed upon written change or modification to the Agreement.
- c. **"Confidential Information"** means any and all information (whether oral, written or in some other tangible or permanent form) disclosed by one party or its Affiliates (the **"Disclosing Party"**) to the other party or its Affiliates (the **"Receiving Party"**) under or in connection with this Agreement and that is marked as confidential, by its nature is confidential or relates to the business or affairs of the Disclosing Party, including but not limited to the Services and the terms of this Agreement.
- d. **"Customer"** means the named customer entity specified in the Order.
- e. **"Data Protection Law"** means the applicable data protection laws of a relevant jurisdiction to which that affected party may be subject.
- f. **"Day"** means a period of eight consecutive hours commencing at 09:00 on weekdays, including a 1-hour lunch break, and excluding national holidays and weekends.
- g. **"Deliverables"** means any reports, documentation, configuration, or work product created by or with finova during the provision of the Services, including any works created for or in cooperation with Customer.
- h. **"Fees"** means the fees for the Services, as set out in the Order.
- i. **"finova"** means, unless otherwise specified on the Order, DPR Consulting Limited, a company registered in England with number 03178610 and whose registered office is at 6th Floor Commodity Quay, St Katharine Docks, London, United Kingdom, E1W 1AZ.
- j. **"finova Personnel"** means employees, consultants, contractors and sub-contractors of finova or any finova Affiliate.
- k. **"IPR"** means all intellectual property rights, including copyrights, patents, patent disclosures and inventions (whether patentable or not), trademarks, service marks, trade secrets, know-how and other confidential information, trade dress, trade names, logos, corporate names and domain names, together with all of the goodwill associated therewith, derivative works and all other rights.
- l. **"Order"** means an order document for the Services agreed between finova and Customer that references these Terms.
- m. **"Pre-Existing Materials"** means any IPR made, created, and/or reduced to practice (including all documents and materials provided by finova (or any of its subcontractors) relating to the Services) which existed prior to the commencement of the Services.
- n. **"Services"** means the professional services performed by finova for Customer, as further described in an Order.
- o. **"Software"** means any software licensed to Customer by finova or a finova Affiliate.

2. Services

- a. finova will perform the Services agreed in the Order, subject to the terms of the Agreement.
- b. The Agreement shall commence on the date of last signature of the Order, or such other date as may be agreed by the parties in writing. Without affecting any other right or remedy available to it, either party may terminate this Agreement with immediate effect by giving written notice to the other party if the other party commits a material breach of this Agreement, and such breach is incapable of cure, or the defaulting party does not cure such breach within 30 days after receipt of written notice of such breach. The Agreement shall remain in full force and effect until the termination or expiration of the Order.
- c. Customer may terminate the Agreement immediately on written notice to finova if required to do so by a regulator.
- d. finova shall perform background investigations in accordance with its policies on all finova Personnel performing Services on-site at Customer's location. While on-site at such location, finova Personnel shall comply with Customer's applicable security and health and safety policies provided to finova in writing a reasonable time in advance of such visit.
- e. Each party acknowledges that the successful and timely rendering of the Services requires good faith and timely cooperation. Customer undertakes to provide finova with access to its personnel, premises, office facilities, documentation and data and any other material set out in the Order within the timescales set out therein or otherwise upon the reasonable request of finova. Customer acknowledges that a failure or delay by it to meet its obligations may impact finova's ability to perform the Services within the estimated time and cost. If the Services are delayed or rendered impossible due to Customer's failure to fulfil its obligations, finova reserves the right to issue invoices for Services already delivered to Customer on the payment dates listed in the Order irrespective of whether the Services have been completed.
- f. Either party may submit a Change Request to the other party for review and consideration. The receiving party shall provide in writing an understanding of the requested Change Request, and an impact assessment in terms of any cost and timetable variations. Finova will implement changes to the Services only upon mutual written agreement of the Change Request.

3. Fees

- a. Unless otherwise specified in the Order, Services are charged on a time and materials basis at finova's then current standard rates for such Services, invoiced monthly in arrears. Customer agrees to be invoiced and will pay all applicable Fees as outlined in the Order. The Fees are exclusive of applicable taxes, which will be added to finova's invoices and paid by Customer. If finova performs Services on-site at Customer's designated location, Customer shall also be responsible for expenses incurred by finova in accordance with finova's then current travel and expense policy, including a per diem meal allowance. All such taxes and reimbursable expenses will be added, where applicable, to finova's invoices.

- b. Unless otherwise provided in the Order, the Fees do not include any charges for the Software, which shall be licensed and paid for under a separate agreement with finova or a finova Affiliate.
- c. finova may increase the Fees on 1 January in each calendar year of the Agreement by the percentage increase in RPI for the preceding 12 months plus 2%, as applied on an annual compounded basis. "RPI" means the index produced from time to time by the United Kingdom's Office for National Statistics as 'RPI All Items', or its successor index.
- d. All payments are due net fifteen days from the date of the invoice. finova may charge interest on outstanding sums from the due date for payment until payment is made accruing on a daily basis and compounded monthly at the rate of 1.5% per month or such maximum annual interest rate permitted by law, whichever is less. finova may also suspend the performance of the Services for so long as any payment remains due and unpaid.

4. Warranty

- a. Finova warrants that the Services will be performed with reasonable skill and care. As the sole remedy for breach of this warranty, finova will re-perform or correct any materially defective Services until they are no longer materially defective, in finova's sole determination, free of additional charge, provided that: (i) Customer promptly notifies finova in writing thereof within seven (7) days of performance of such defective Services and (ii) such defective Services are not caused by, or the result of, the acts or omissions of Customer or anyone acting on its behalf.
- b. Customer warrants that it has all rights and authorisations necessary to provide any materials (including those owned by any third party) it provides to finova in connection with this Agreement, and to grant finova the right to use them for the purposes of this Agreement.
- c. Except as expressly set forth herein, finova makes no warranties, conditions or representations for the Services, express or implied, including but not limited to, implied warranties of merchantability, satisfactory quality or fitness for a particular purpose.

5. Confidentiality

- a. Each party shall: (i) keep the other party's Confidential Information confidential; (ii) not use the other party's Confidential Information except for the purposes of this Agreement and as provided for herein without the prior written consent of the other party; and (iii) not divulge the other party's Confidential Information to any third party, excluding to an Affiliate, except for the purposes of this Agreement and shall procure that each such third party is aware of and complies with these obligations as to confidentiality.
- b. The provisions of clause 5.a shall not apply to any Confidential Information that the Receiving Party can show: (i) is in the public domain other than as a result of a breach of this Agreement or any other obligations of confidentiality; (ii) is or was lawfully received from a third party not under an obligation of confidentiality with respect thereto; (iii) is required to be disclosed under operation of law, by court order or by any regulatory body of competent jurisdiction (but then only to the extent and for the purpose required); or (iv) was developed independently of and without reference to any confidential information disclosed by the Disclosing Party.

6. IPR

- a. Except for any of Customer's Confidential Information or materials, title to all portions of the Services, Deliverables and Pre-Existing Materials provided by finova, and all IPR therein, including all derivative works and any enhancements, improvements or extensions conceived or developed during the Services, are and remain owned by and vested in finova or its licensors.
- b. Subject to finova's receipt of full and final payment for the Services, finova grants to Customer a non-exclusive, non-transferable, irrevocable (unless finova terminates the Agreement for Customer's uncured material breach), non-distributable/resaleable, non-sublicensable license for Customer and its Affiliates to use any Deliverables and Pre-Existing Materials provided to Customer by finova under the Agreement for the internal business purposes of Customer and its Affiliates.
- c. Customer acknowledges that finova provides similar Services to other third parties and finova shall continue to be free to perform similar services for its other customers using its general knowledge, skills, tools, routines, algorithms, Software and experience.

7. IPR indemnity

- a. Provided that Customer complies with clause 7.b below, finova will: (i) defend the Customer against any legal proceedings brought by a third party alleging that the Customer's use of any Deliverables or Pre-Existing Materials in accordance with this Agreement infringes the IPR of that third party (an "IPR Claim"); and (ii) indemnify the Customer for any amount finova agrees in settlement of the IPR Claim, or which is finally awarded by a court of competent jurisdiction against the Customer (with no further right of appeal) as a result of the IPR Claim, provided that this indemnity will not apply to the extent that the IPR Claim results from any: (i) Customer materials forming part of the Deliverables or the authorised use by finova of information, documents, materials, facilities or items supplied by the Customer; (ii) Customer modifying the Deliverables or Pre-Existing Materials without the consent of finova; (iii) combination of the Deliverables or Pre-Existing Materials with third party materials; or (iv) use of the Deliverables or Pre-Existing Materials after the Customer becomes aware of the IPR Claim (unless finova confirms in writing that the Customer can continue to use it or them).
- b. If an IPR Claim is made (or finova reasonably believes one is likely to be made) finova may, at its option: (i) procure the right for the Customer to continue using the affected Deliverables and/or Pre-Existing Materials; (ii) replace or modify the Deliverable(s) and/or Pre-Existing Materials to avoid the potential infringement; or (iii) if finova cannot achieve options (i) or (ii) on terms that are reasonably commercially acceptable to finova, terminate this Agreement immediately upon written notice to the Customer and provide a pro-rata refund of any Fees which the Customer has paid to finova in respect of this Agreement for the period following termination in lieu of damages and without admission of fault.
- c. This clause 7 sets out finova's entire obligation and liability in connection with any allegation that a third party's IPR have been infringed.

8. Personal Data

- a. Each party shall comply with all applicable requirements of Data Protection Law.
- b. To provide the Services to Customer, finova may need to receive limited personal data (as defined in Data Protection Law) to enable it to communicate with Customer ("**Customer Contact Information**"). Customer acknowledges that, other than Customer Contact Information, finova does not want to receive, access, view or otherwise process any personal data in the course of providing the Services, and Customer agrees not to directly or indirectly disclose any such personal data to finova unless finova agrees to receive it in accordance with clause 8.c below. If finova is reviewing or evaluating any databases, datasets or other information in the course of providing Services, Customer shall comply with data minimization principles in deciding whether to provide personal data to finova, and to the fullest extent possible, the Customer shall provide, whether directly or indirectly, information that is anonymized, redacted, or otherwise altered, or "dummy data", whereby it is not feasible for finova to reasonably re-identify any actual individuals from such data ("**Anonymised Information**").
- c. If it is not possible for Customer to provide Anonymised Information, Customer shall notify finova and only provide personal data once finova, at its sole discretion, agrees in writing in a specific agreement or Change Request, to receive it. If finova becomes aware that Customer has provided personal data to it without finova's written agreement, finova shall be entitled to delete it and cease providing the Services until Anonymised Information is provided.

9. Liability

- a. Subject to clause 9.c below, each party's maximum aggregate liability to the other under or in connection with this Agreement (regardless of form of action, whether in contract, negligence or otherwise) shall be limited to the greater of: (i) one hundred and twenty five percent (125%) of the Fees paid or payable to finova under the applicable Order; or (ii) £25,000.
- b. Subject to clause 9.c below, in each case whether arising from negligence, breach of contract or otherwise, even if a party has been advised of the possibility of such loss or damage, in no event shall one party be liable to the other for any loss or damage which does not arise as a direct and natural consequence of the default in question, including but not limited to any indirect, incidental, special or consequential damages, nor, in each of the following cases, whether direct or indirect: loss of profit, loss of revenue or business, loss of anticipated cost savings, loss of goodwill, loss of data, nor any loss or damage to the extent that it would have been avoided or lessened had the affected party taken backup copies of the programs and/or data impacted.
- c. Nothing in the Agreement shall limit or exclude either party's liability for death or personal injury resulting from that party's negligence, for fraud or fraudulent misrepresentation, for infringement of the other party's IPR, or for any other liability the exclusion or limitation of which is not permitted by applicable law.

10. General

- a. Nothing contained in this Agreement shall create a relationship of employer and employee, principal and agent or partnership between the parties.
- b. Neither party may assign this Agreement, nor any of its rights, duties or obligations under this Agreement, without the prior written consent of the other party, except that either party may assign this Agreement to an Affiliate or a successor entity in the event of a merger or acquisition.
- c. finova may subcontract some or all of the Services provided that finova remains responsible to Customer for any acts or omissions of such subcontractor.
- d. Neither party shall be liable to the other for any failure or delay in the performance of its obligations under this Agreement to the extent that such failure or delay arises due to an event that is outside of its reasonable control (provided always that the party so affected promptly notifies the other, in writing, of the cause and anticipated duration of the failure or delay).
- e. The invalidity or unenforceability of any provision of or any part of a provision of or any right arising pursuant to this Agreement shall not affect in any way the remaining provisions or rights, which shall be construed as if such invalid or unenforceable part did not exist.
- f. Any notice or written communication given under or in relation to this Agreement shall be given: (i) in writing and shall be delivered by hand (in which case it shall be deemed to have been given at the time of delivery) or sent by special delivery post (in which case it shall be deemed to have been given on the second day after posting) to the other party at its address set out in the Order or to such other address as it has previously notified to the sending party in writing or by email; or (ii) by email, in which case it shall be deemed to have been given the next business day after being sent. Any email notice or written communication to finova shall be addressed to "legal.corebanking@finova.tech" (or to such other address previously notified by finova).
- g. This Agreement (including non-contractual disputes or claims) shall be governed by and construed and interpreted in accordance with English law and the parties hereby accept the exclusive jurisdiction of the courts located in England.
- h. Nothing in this Agreement shall confer any right or benefit upon any person who is not a party to it whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.
- i. No Change Request, variation or amendment to this Agreement shall be effective unless made in writing and signed by authorised representatives of the parties.
- j. This Agreement sets forth the complete agreement between the parties and supersedes all previous discussions and communications relating to the subject matter of this Agreement.
- k. Both parties acknowledge and agree that the terms and conditions of this Agreement supersede any additional, different, inconsistent or pre-printed terms appearing on the face or reverse side of, or otherwise accompanying, any invoice, sales order, acknowledgement, purchase order or confirmation issued by Customer or finova.