

Element Data, Inc.
10900 NE 8th St. Suite 1170
Bellevue, WA 98004

ELEMENT DATA, INC. CONSULTING SERVICES SUPPLEMENTAL TERMS AND CONDITIONS (“SUPPLEMENT”)

If Element Data, Inc. delivers to Customer certain Consulting Services identified in an Order Form, unless otherwise stated, these supplemental terms and conditions (the “Supplement”) and any modifications to the Agreement made herein apply solely to Consulting Services and not to any other Element Data product or service or the Decision Cloud itself. In case of conflict, the terms of the Scope Document shall prevail over any Service Description and the provisions of this Supplement.

1. DEFINITIONS

- (a) “Consultant” means any employee or third party contractor which ELEMENT DATA, INC. utilizes to provide Consulting Services to Customer.
- (b) “Deliverables” means those specific work products or tangible results which are explicitly identified as “Deliverable” under the applicable Order Form. Element Data retains all right, title, and interest in and to the Deliverables, unless otherwise stated in an Order Form.
- (c) “Scope Document” means the document that is provided with and becomes part of the applicable Order Form which further defines the scope of Consulting Services to be provided and other engagement specifics.
- (d) “Service Description” means pre-defined descriptions of services found in effect as of the Order Form Effective Date.

2. TERM AND TERMINATION

2.1 Term. Each Consulting Service shall be effective as of the Order Form Effective Date or as otherwise set forth in that Order Form or Scope Document, and shall remain in effect until end of term or completion of the Consulting Services or terminated earlier by either party in accordance with this Supplement, the applicable Work Order, or the GTC.

2.2 Termination for Convenience. Consulting Services (excluding fixed-price Consulting Services) may be terminated by either party upon thirty

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(30) days' prior written notice.

2.3 Effect of Termination. Customer shall be liable for all payments to Element Data, including all fees and expenses up to the effective date of termination. All Confidential Information (excluding Consulting Services Deliverables that Customer has paid for) of the other party shall upon request of the other party be returned to the Disclosing Party or destroyed with certification of such destruction from an authorized individual.

3. CONSULTING SERVICES WARRANTY

3.1 General. Element Data warrants that it will perform the Consulting Services in a professional workmanlike manner using resources with the skills reasonably required to perform such services.

3.2 Conformance. Element Data warrants that for ninety (90) days following provision of the Consulting Services, the Deliverables (if any) will materially conform with the specifications for that Deliverable in accordance with the respective Service Description or Scope Document.

3.3 Exclusion. Element Data does not warrant error-free or uninterrupted operation of any Consulting Services or Deliverables or that Element Data will correct all non-conformities.

3.4 Claims. Customer shall notify Element Data within ninety (90) days of provision of the Consulting Services or Deliverable in writing of the alleged warranty breach and provide Element Data with a precise description of the problem and all relevant information reasonably necessary for Element Data to rectify such warranty breach. Provided Customer has notified Element Data in accordance with this Section of a warranty breach and Element Data validates the existence of such warranty breach, Element Data will, at its option re-perform the applicable Consulting Services or Deliverable, or refund the fee paid or reallocate quota for the specific non-conforming Consulting Service or Deliverable. This is Customer's sole and exclusive remedy for a warranty breach.

4. CHANGE REQUEST PROCEDURE

Either party can request changes to the Consulting Services in accordance with the form attached to the Order Form or included in the applicable Service Description ("Change Request"). Element Data is not required to perform under a Change Request until agreed to and signed by the parties.

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5. PROVISION OF SERVICES

5.1 Personnel. The selection, assignment or replacement of Consultants is at Element Data's sole discretion and Element Data reserves the right to replace any Consultant at any time at its sole discretion with resource Consultant with equivalent skills.

5.2 Replacement. If at any time Customer or Element Data is dissatisfied with the material performance of an assigned Consultant or a Customer project team member, the dissatisfied party shall promptly report such dissatisfaction to the other party in writing and may request a replacement. The other party shall use its reasonable discretion in accomplishing any such change (which also, in the case of Element Data, shall be subject to staffing availability).

5.3 Delays. If any Consulting Service, in whole or in part, cannot be provided by Element Data due to a Customer issue and Customer fails to provide Element Data with reasonable advance notice, the time agreed to be spent by Element Data resources on such Consulting Service will be charged to Customer.

5.4 Rights. Customer ensures to have all necessary license rights including third party license rights required for the Consulting Services.

6. LIMITATION OF LIABILITY, LIABILITY CAP FOR CONSULTING SERVICES

Consulting Services shall be subject to Section 10 of the GTC, except that the following shall replace and supersede Section 10.2 of the GTC: For any Consulting Services provided under the Agreement, under no circumstances and regardless of the nature of any claim shall the maximum aggregate liability of either party (or their respective Affiliates or ELEMENT DATA, INC.'s subcontractors) to the other or any other person or entity under or in connection with the Agreement, exceed the total fees paid for the applicable Consulting Service under the relevant Order Form or, in the case of Consulting Services which are subscription based or billed on a monthly or annual basis, the fees paid in the twelve (12) month period preceding the date of the incident giving rise to the liability.

7. NON-SOLICITATION

Neither party shall knowingly solicit or hire, the other party's employees
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involved in the Consulting Services during the performance of the Consulting Services or for a period of six (6) months from the termination of the applicable Order Form, without the express written consent of the other party. This provision shall not restrict the right of either party to solicit or recruit generally, including by posting job listings on websites or through social media.

SAMPLE - NOT FOR SIGNATURE