



Appendix 1

TERMS AND CONDITIONS, CONSULTANCY

Everllence
filial af Everllence SE, Tyskland
CVR No.: 31611792
Head office: Teglholmsgade 41
2450 Copenhagen SV
Denmark

Everllence
Niels Juels vej 15
9900 Frederikshavn
Denmark

Everllence
Christofferssensvej 6
4960 Holeby
Denmark



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1. Definitions

As used in these Terms and Conditions the capitalized terms and expressions set out in the following shall have the meanings ascribed to them below:

- 1.1 "Agreement" means the Consultancy Agreement entered and signed by both Parties subject to these Terms and Conditions.
- 1.2 "Confidential Information" means, with respect to each Party, any and all information which a Party or its directors, employees, representatives or advisers (including the Consultants), have received or will receive from the other Party in connection with the Agreement (whether disclosed or obtained in writing, orally, in electronic form, by demonstration or otherwise).
- 1.3 "Consultants" mean employees engaged by the Supplier, participating in the provision of the Services to Everllence on behalf of the Supplier.
- 1.4 "Fees" means the fees to be paid by Everllence for the Services provided by the Supplier.
- 1.5 "Intellectual Property Rights" means intellectual property rights of any nature whether registrable or not including without limitation any and all inventions, patents, software codes, utility models, design rights, copyright, know-how, trade secrets, confidential information, trademarks, service marks, trade names and goodwill.
- 1.6 "Everllence" means Everllence, filial af Everllence SE, Tyskland (a Danish registered branch of Everllence SE, Germany), company reg. no. (CVR) 31611792, Tegholmmsgade 41, 2450 Copenhagen SV, Denmark.
- 1.7 "Parties" or "Party" means Everllence and/or the Supplier, as the case may be.
- 1.8 "Services" means any service, which may comprise personal and/or professional development, product or software development, project management services, maintenance, upgrade, rework, support or any other services performed and delivered to Everllence by the Supplier as set out in the Agreement or any purchase order.
- 1.9 "Supplier" means the legal person that has entered into the Agreement with Everllence in order to supply certain Services.
- 1.10 "Terms and Conditions" means this document together with any sub-appendices and/or any amendments as agreed in writing between the Parties

2. Everllence affiliates

- 2.1 Affiliated companies of Everllence are entitled to place purchase orders under the Agreement. Everllence shall not include any affiliate company, therefore no affiliate company shall be obliged under the Agreement unless and to the extent an affiliate company places a purchase order and the Agreement is referenced in such purchase order. Affiliated companies of Everllence can be found on this site:
<https://corporate.man-es.com/company/where-to-find-us>

3. Services

- 3.1 The Supplier shall deliver the Services to Everllence in accordance with Appendix 2 'Scope of Work' to the Agreement.
- 3.2 Supplier's obligations with respect to the Services shall also include such incidental and ancillary obligations, services, functions and responsibilities which are not expressly stipulated but are reasonably required for or form a natural part of Supplier's obligations.
- 3.3 Supplier shall have an initiative obligation with respect to the performance of the Services and the ongoing co-operation between the Parties.
- 3.4 Any changes in the Scope of Work must be agreed between the Parties in writing.
- 3.5 Other provisions than set out in these Terms and Conditions or in the Agreement, in particular Supplier's general terms and conditions, shall not apply, irrespective of whether or not such general terms and conditions have been expressly rejected by Everllence.

4. Consultants

- 4.1 The Supplier shall ensure, that the Services are performed by appropriately experienced, qualified and trained Consultants suitable for the tasks and work to be performed.
- 4.2 The supplier has the full responsibility of the Consultants, including for all the Consultants' acts or omissions, and Everllence shall have no liability with respect thereto.
- 4.3 To secure the continuity and quality of the Services, the Supplier shall not be entitled to replace any of the Consultants performing the Services without written approval from Everllence. The Supplier is only entitled to replace Consultants due to personal circumstances of the Consultant, including termination of employment, illness or other similar circumstances outside the Supplier's control.
- 4.4 Supplier shall comply with any reasonable request by Everllence for replacement of any of the Consultants involved in the performance of the Services. In the event of replacement of Consultants, the Supplier shall ensure that
(i) that the replaced Consultant is appointed without unnecessary delay; (ii) the replaced Consultant possesses the required skills; and (iii) the adverse effects of the replacement are limited.
Supplier is not entitled to request payment of any fees and/or costs in connection with replacement of Consultants.
- 4.5 The Supplier shall ensure that the Consultants apply to and comply with Everllence's security policies as amended and notified to the Supplier from time to time.

5. Delivery terms

- 5.1 Supplier shall deliver the Services at the address of Everllence or such other place of delivery as may be designated by Everllence.
- 5.2 The Supplier shall deliver the Services in accordance with the agreed delivery times. In the event that no specific delivery times has been agreed between the Parties, the Supplier shall deliver the Services without undue delay at Everllence's request.

6. Representations and warranties

- 6.1 The Supplier represents and warrants:
- that the Services shall be performed in accordance with the Agreement and these Terms and Conditions, including without limitation the requirements as specified in Appendix 2 'Scope of Work' to the Agreement, the agreed delivery times and the service- and performance levels;
 - that the Services are free from defects and fit for any purpose held out by Supplier or made known to Supplier by Everllence;
 - that Supplier will perform its obligations with all reasonable skills, care and diligence, including best practice for the given area of work;
 - that the Services will be performed by appropriately experienced, qualified and trained Consultants; and
 - that the Consultants will not incorporate any open source software or other material in Everllence's IT-systems that is
(i) distributed as "free software", or (ii) distributed as "open source software" or distributed under a similar licensing or distribution model, with the effect that any part of Everllence's IT-systems is or may be subject to any terms and conditions that may adversely affect or impair Everllence's or any third party's Intellectual Property Rights.
- 6.2 The Supplier undertakes not to include the Everllence name and logo in any reference lists, promotion materials, presentations, web sites, or alike without written acceptance from Everllence's procurement department.

7. Prices – Fees and expenses

- 7.1 Everllence shall pay the Fees based on actual and effective time and material spent (excluding, e.g. time spent travelling and lunch breaks) based on the hourly rates agreed between the Parties.

- 7.2 Everllence shall not reimburse Supplier for any out-of-pocket expenses incurred by Supplier in the performance of the Services, including, but not limited to, travelling, lodging expenses and/or meals.
- 7.3 The Supplier shall keep a detailed account of the time spent in connection with the delivery of the Services, specifying in each instance the relevant Consultant and the extent and nature of the work performed. The Supplier shall forward copies of time reports with the invoice in question for each of the relevant employees/Consultants.
- 7.4 Supplier shall always apply its resources cost-efficiently, having due regard to the skills and competences required to perform the relevant Services.

8. Terms of payment

- 8.1 All undisputed amounts shall fall due sixty (60) days after the date of Everllence's receipt of Supplier's invoice.
- 8.2 Due to Everllence's automatic handling of incoming invoices, only one customer account per Everllence entity must be created by the Supplier.
- 8.3 The invoice issued by the Supplier shall refer to the Agreement and shall comply with and state the following requirements:
- Purchase order number provided by Everllence.
 - The Supplier's name, address, telephone number, website and e-mail address.
 - Invoice number and invoice date.
 - Delivery date(s).
 - Number and nature of the Services provided.
 - Amount payable per Service rendered and total per item.
 - Total amount ex. VAT, VAT rate and VAT payable.
 - Currency (ISO code).
 - Supplier's bank account number.
- 8.4 Everllence expressly reserves the right to reject any invoice for Services initiated by the Supplier, without the Supplier previously having received a purchase order from Everllence for such Services
- 8.5 Invoices must include the full address as stated below and must be sent as PDF file to the below email address:

Everllence,
filial af Everllence SE, Tyskland
Teglholmsgade 41
2450 Copenhagen
SV
Denmark

E-mail: Incoming-invoice-cph@everllence.com

9. Delay

- 9.1 A delay will be deemed to exist if the Services are not provided in accordance with the agreed delivery times and such delay is attributable to the Supplier.
- 9.2 Other than as set out herein, the general Danish law on remedies for delay or non-delivery shall apply.

10. Insurance and liability

- 10.1 The Supplier shall take out appropriate insurance policies covering the Supplier's potential responsibility resulting from the Agreement.
- 10.2 The Supplier shall provide evidence of its insurance cover at Everllence's request.
- 10.3 In case that an insured event occurs, Everllence and Supplier are obliged to provide each other with information on all relevant circumstances and events associated with the insured event.

10.4 In case of change of liability insurance company, the Supplier shall immediately notify Everllence, and shall provide evidence of its insurance coverage at Everllence's request.

10.5 The Parties shall be liable to pay damages in accordance with Danish law.

11. Everllence's obligations

11.1 Everllence shall allow the Consultants physical access to the premises and systems of Everllence, provided that such access is necessary for the Supplier's provision of the Services to Everllence. In the event that the Services shall be performed at Everllence's premises, Everllence shall make suitable workspace, computers, software and internet access available for the Consultants in order for the Consultants to perform the Services.

11.2 Everllence shall assist in establishing direct contact and co-operation between the Supplier and Everllence's other suppliers when relevant to the Supplier's performance of the Services and/or any third party's provision of services to Everllence. Without limiting the generality of any other provisions, Supplier shall not be entitled to payment of any fees or costs in this respect.

11.3 If Everllence fails to perform its obligations, Supplier shall immediately notify Everllence of such non-performance stating the possible consequences.

12. Defects

12.1 A defect will be deemed to exist in relation to the Services if (i) the Services fail to meet the requirements set out in the Agreement and these Terms and Conditions (including without limitation as specified in Appendix 2 'Scope of work' to the Agreement), (ii) the Services fail to satisfy Supplier's warranties, or (iii) the Services are otherwise defective according to Danish law.

12.2 Upon notice from Everllence or upon becoming aware of a defect, the Supplier shall immediately and free of charge initiate remediation of such defect, taking the nature of such defect into consideration. The remedial work must result in a final resolution of the defect.

12.3 In the event that the Supplier does not initiate its remediation efforts immediately or fails to reach a final solution within a reasonable time, Everllence shall be entitled to stipulate in writing a reasonable period of time for the Supplier's further efforts to remedy such defect. In the event that the Supplier fails to remedy the defect before the expiration of the period thus stipulated, Everllence is entitled to ensure that a third party remedies the defect at the Supplier's expense.

13. Confidentiality and personal data

13.1 All Confidential Information received by a Party shall be held in complete confidence by such Party and its directors, employees or advisers, and shall not without the prior written consent of the other Party be used for any purpose other than in connection with Suppliers performance of the Services agreed upon between the Parties.

13.2 A Party shall not disclose any Confidential Information received by it to any legal or natural person other than those of the Party's employees, Consultants and advisers who are allocated to the performance of the Services agreed upon between the Parties. Said Party shall further ensure that such persons hold Confidential Information confidential on the terms of and as if such persons were subject to these Terms and Conditions.

13.3 The confidentiality obligations shall not include information which (i) has already passed into the public domain otherwise than through breach of this confidentiality obligation; (ii) has been received from an independent third party otherwise than through breach of a confidentiality obligation; or (iii) the receiving Party can demonstrate has been independently developed by that Party prior to disclosure.

13.4 Upon Everllence's request, the Supplier shall ensure that the Consultants sign the confidentiality document 'Confidentiality form for consultants'. Everllence shall receive the signed confidentiality document.

- 13.5 Upon Everllence's termination of the Agreement for any reason, or at Everllence's request, Supplier shall promptly and no later than 10 (ten) working days return to Everllence all tools and all Confidential Information and undertake that he will not thereafter use, or permit others to use, such Confidential Information for any purpose whatsoever. The obligation of the Supplier to return Confidential Information applies irrespectively of the method used by the Supplier to store such Confidential Information.
- 13.6 The termination of the Agreement (irrespective of the reason thereto) shall not in any way affect a Party's confidentiality obligation or restricted use of Confidential Information received from the other Party as set out in these Terms and Conditions and the confidentiality obligations set out in this clause 13 shall continue for 10 (ten) years after any termination of the Agreement.
- 13.7 Subject to complying with applicable law, the Parties expressly consent that the other Party may process the following: (i) names, (ii) emails, (iii) work location, and (iv) phone numbers of the Supplier's or Everllence's employees, respectively, that will have to interact for the provision of Services and to ensure communication between the Parties.

14. Termination for convenience

- 14.1 The Agreement entered into, subject to these Terms and Conditions shall commence on the date specified in the Agreement and shall remain in force until the expiration day specified in the Agreement or until terminated in accordance with these Terms and Conditions.
- 14.2 Everllence may terminate the Agreement for convenience by giving Supplier fourteen (14) days' prior written notice. Supplier shall not be entitled to terminate the Agreement for convenience.

15. Termination for breach

- 15.1 In the event that the Supplier is in any breach of its representations and warranties as set out in clause 6 'Representations and warranties' or is in material breach of any of its obligations to be performed under the Agreement or the provisions hereof, and in either case fails to remedy this default within 5 working days after Everllence has provided the Supplier with a written notice, served by registered mail or by email with the delivery receipt kept on file, Everllence is entitled to terminate the Agreement with immediate effect, and the liability for performance of any obligation shall cease for both Parties as stipulated below.
- 15.2 If a petition for bankruptcy is filed against any of the Parties, or if a trustee is appointed, or if any type of in- court or out-of-court insolvency proceedings is initiated for any of the Parties, the Agreement may, at the other Party's discretion, be terminated with immediate effect by written notice send by email, with the delivery receipt kept on file.
- 15.3 All accounts due and payable at the date of termination shall promptly be paid by the Party owing the same as if the Agreement were still in effect. Accounts not yet due shall be accelerated and promptly paid.
- 15.4 Services ordered but not delivered at the time of termination by Everllence shall, at the option of Everllence, be completed and delivered according to these Terms and Conditions.
- 15.5 For avoidance of doubt, termination shall not affect any rights of either Party accrued before termination.
- 15.6 Supplier's assignment or transfer of any rights or obligations under the Agreement to a third party (e.g. by a sale or transfer of Supplier's company or a part thereof), without Everllence's prior approval, shall be regarded as a breach of the Agreement and entitle Everllence to immediately terminate the Agreement.
- 15.7 In case of any expiration or termination of the Agreement, in accordance with clause 14 'Termination for convenience' and/or this clause 15 'Termination for breach', the Supplier shall have no claims, rights or remedies against Everllence, whether for costs, fees, expenses, compensation, damages or otherwise and whetherbased on contract, tort (including without limitation negligence), strict liability or otherwise.

16. Sub-contractors

- 16.1 The Agreement is personal to the Supplier and the Supplier shall only upon Everllence's prior written approval (which approval shall not be unreasonably withheld) be entitled to use sub-contractors in the performance of said Services. For the avoidance of doubt, any consultant not employed by Supplier shall be deemed a sub-contractor. Even though Everllence has approved that the Supplier may use a Sub-contractor the Supplier shall be the sole contact and responsible party vis-à-vis Everllence.

17. Force majeure

- 17.1 Either Party may be excused from the timely performance of its obligations under the Agreement, where the performance is impeded or prevented by circumstances beyond its control, including but not limited to performance affected by an act of God, labour disputes, civil commotion, governmental or official actions or any other event which was unforeseeable or outside the reasonable control of such Party. The Party shall be temporarily relieved from its obligations during the period of time such events continue.
- 17.2 In the event that the supplier wishes to invoke the force majeure clause, this must be done by contacting Everllence's procurement department in writing with the delivery receipt kept on file.
- 17.3 Should the events continue over a period of three (3) months, Everllence shall have the right, if no other understanding is reached, to terminate the Agreement or a purchase order in whole or in part.

18. Intellectual property rights

- 18.1 Each Party shall retain full ownership of all of its Intellectual Property Rights created, acquired or otherwise obtained prior to the date of execution of the Agreement.
- 18.2 All Intellectual Property Rights developed by the Supplier during the course of performance of the Agreement shall be exclusively owned by Everllence, and Everllence shall be entitled to further assign, license and/or otherwise transfer to any third party (in whole or in part) all Intellectual Property Rights to such developments.
- 18.3 Supplier will defend, indemnify and hold Everllence harmless from and against all losses, damages or costs arising out of or resulting from any action by a third party, against Everllence including without limitation any additional direct and indirect costs for Everllence which is based upon any claim that Everllence's use of the Services and/or any work result delivered by Supplier infringes Intellectual Property Rights proprietary to such third party.

19. Supplier's corporate responsibility

- 19.1 Supplier shall observe and comply with the principles stipulated in Appendix 4 'Code of Conduct for Suppliers and Business Partners' to the Agreement.
- 19.2 If the Supplier engages third parties to fulfil its duties, it shall ensure that any third party complies with the Code of Conduct for Suppliers & Business Partners. Any such engagement of any third party is in all events subject to the express prior written approval of Everllence.
- 19.3 If the Supplier does not comply with the principles stipulated in the Code of Conduct for Suppliers & Business Partners, Everllence has the right to terminate the Agreement with immediate effect.
- 19.4 The Supplier shall comply with all laws and regulations and in particular with the provisions of the OECD Convention of December 17, 1997, the US Foreign Corrupt Practices Act and with all legislation combating bribery of foreign public officials applicable to its activities, and shall hold Everllence harmless from its failure to do so. The Supplier warrants and represents that the agreement entered by the Parties and its performance, including payment of any compensation, does not violate any law, regulation or policy of the Supplier's territory, nor the country of Everllence. The Supplier shall notify Everllence promptly of the enactment of any law or regulation, which would cause the receipt of the compensation to be a violation thereof. To the extent required by law or regulation, the Parties shall be relieved of their respective obligations to perform under the Agreement, including the payment of any compensation, if such performance would violate any law or regulation.
- 19.5 The Supplier acknowledges being acquainted with all applicable laws and conventions against bribery and corruption. The Supplier shall comply with such laws and conventions. Furthermore, the Supplier shall ensure that its directors, employees, agents or representatives comply with such laws and conventions.
- 19.6 Any breach of the obligation in this clause 19 shall be deemed to be grounds for termination of the Agreement. If Everllence terminates the Agreement due to a breach of the obligations under this Clause 19, the Supplier shall, in addition to the remedies available by law and the legal consequences set out in these Terms and Conditions, pay back to Everllence any fees paid by Everllence under the Agreement and cover any financial loss suffered by Everllence as a result of the breach of the obligations under this Clause 19.

- 19.7 If the Agreement subject to these Terms and Conditions or any transactions arising out of the Agreement are the subject of an official inquiry, preliminary investigation or any other form of compliance procedure the Supplier agrees to give all requested information, documents and records to either Everllence directly or a representative appointed by Everllence in connection with the inquiry, investigation or procedure. Except with regard to Everllence, the representative of Everllence shall be under obligations of confidentiality regarding all information, documents and records given to it by the Supplier. Everllence is authorized by the Supplier to, at Everllence's sole discretion, disclose any information given under this clause 19 to the investigative authorities carrying out the inquiry, investigation or procedure.

20. Data privacy

- 20.1 The Parties undertake to observe statutory provisions at all times, in particular those of applicable data protection law, when processing the shared personal data. The parties agree that the applicable data protection law comprises in particular the European General Data Protection Regulation (GDPR) and each of its relevant national implementation laws.
- 20.2 If, upon conclusion of the Agreement or in connection with the provision of the contractual services, the Supplier gains access to personal data for which Everllence is responsible, the Supplier shall ensure compliance with the applicable statutory data protection provisions, in particular, the following provisions shall apply, partly in addition to the statutory obligations:
- 20.2.1 Personal data shall be processed solely for the purpose of fulfilling the contractual duties arising from the respective order ("purpose limitation").
 - 20.2.2 The Supplier shall ensure that its employees only have access to personal data insofar as this is necessary for the fulfilment of the contractual obligations arising from the respective order. All employees shall have been obligated in writing to comply with the applicable data protection regulations. This shall be proven to Everllence upon request.
 - 20.2.3 The Supplier shall undertake to take technical and organizational measures in accordance with the state of the art in order to ensure a level of protection for personal data appropriate to the risk and to permanently safeguard such data. At Everllence's request, the Supplier shall provide the proof of the implementation of the specified technical and organizational measures.
 - 20.2.4 The transfer of personal data to third countries shall only be permitted in compliance with the conditions defined in Art. 44 et seq. of the General Data Protection Regulation (GDPR).
 - 20.2.5 The Supplier shall delete the data without undue delay as soon as the data is no longer required for the performance of the Agreement and in accordance with the correspondent statutory retention periods.
- 20.3 In the event that personal data is processed by the Supplier on behalf of Everllence pursuant to Article 28 of the GDPR, the corresponding Data Processing Agreement shall be concluded between Everllence and the Supplier. In addition, the Supplier will perform information and other transparency obligations towards the data subjects, and where appropriate obtain official approvals and – if required – consent from the data subjects. The personal data may also **not** be published, sold or made accessible to third parties without the express consent of Everllence, unless the Supplier is legally bound to do so. In the event of any data breaches, the Supplier will inform Everllence without undue delay and keep Everllence informed about further action taken, in particular any notifications to authorities or safeguarding of data subjects' rights.

21. Statutory provisions and standards

- 21.1 The Supplier shall be liable for ensuring that the Services comply with all regulations generally and at the place of delivering the Services, in particular, but not limited to, the provisions regarding accident prevention, safety at work and environmental protection.

22. Governing law and dispute resolution

- 22.1 The Agreement and these Terms and Conditions shall be governed by Danish law to the exclusion of its conflict of laws rules.

- 22.2 Should any disagreement arise between the Parties in connection with the Agreement or these Terms and Conditions, the Parties shall seek to initiate negotiations for the purpose of solving the dispute with a positive, cooperative and responsible attitude. If necessary, efforts shall be made to escalate such negotiations to a high level within the Parties' organizations.
- 22.3 When the procedure described in clause 22.2 has been attempted, either of the Parties shall be entitled to demand that the disagreement be solved finally through arbitration.
- 22.4 With reference to clause 22.3 any dispute between the Parties arising out of or in connection with the Agreement or these Terms and Conditions shall be finally settled under the Rules of Danish Arbitration (Voldgiftsinstituttet) by 3 (three) arbitrators appointed in accordance with the said Rules. The place of arbitration shall be Copenhagen, Denmark. The language of the arbitration shall be Danish. The award of the arbitral tribunal shall be final, and the arbitration shall decide the distribution of the costs of the arbitration between the Parties.

23. Miscellaneous

- 23.1 The Agreement and these Terms and Conditions (including any sub-appendices) contain the entire agreement and understanding of the Parties and supersede all other statements, understandings or the like relating to such subject matter. Everllence rejects any differing or supplemental terms, which may be printed or otherwise found.
- 23.2 Everllence has no obligation to promote or to advertise the Services of the Supplier.
