

# FlexUp Advisory – General Conditions (Advisory-GC)

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The present FlexUp Advisory General Conditions (“**Advisory-GC**”) govern all advisory services provided by FlexUp (the “**Advisor**”) to users of the FlexUp ecosystem (the “**Clients**”). These Advisory-GC apply whether the Parties have expressly agreed to them directly or incorporated by reference through the FlexUp Advisory Special Conditions (“**Advisory-SC**”). In all cases, the Advisory-GC form an integral part of the Contract.

## Article 1. Definitions and Interpretation

- 1.1 In this Contract, capitalized words are Defined Terms, whose definitions are given in this document or, if not here, elsewhere in the FlexUp Glossary (available on [www.flexup.org/glossary](http://www.flexup.org/glossary))
- 1.2 In case of any terminological discrepancies between these documents of the Contract, the Defined Terms shall be interpreted according to the document priority indicated in the Special Conditions.
- 1.3 The present Advisory-GC is distributed by FlexUp under the terms of the FlexUp Licence, published on the FlexUp website ([www.flexup.org](http://www.flexup.org)).

## Article 2. Scope of Advisory Services

- 2.1 **Nature of this Contract.** The Parties enter into this Contract in the course of their trade, business or profession. Each Party represents and warrants that it is not acting as a consumer and acknowledges that the regulatory frameworks applicable to consumer contracts do not apply to this Contract. Each party acknowledges that this Contract was freely negotiated and that they both had the opportunity to review and obtain independent professional advice, and that the terms are appropriate for a business-to-business commercial transaction.
- 2.2 **Scope of services.** FlexUp provides advisory and support services to assist the Client in structuring, managing, and developing their business and operations, particularly in relation to the FlexUp Economic Model and the use of the FlexUp App (the “**Platform**”) (the “**Advisory Services**”)
- 2.3 **Services category.** Services may include, but are not limited to:
  - a) Strategic, organisational or business consulting, including investment and fundraising support (excluding regulated investment advice);
  - b) Administrative, secretarial and back-office support;
  - c) Legal, regulatory, compliance, and governance assistance (other than reserved activities requiring regulated professional status, unless expressly agreed in writing);
  - d) Operational support and technical expertise;
  - e) Acting as a Secretary of a Project within the meaning of Article 7 of the Charter-GC, where such appointment is expressly agreed in writing. The Secretary shall exercise the functions assigned with the extension expressly set out in the Special Conditions, solely for the purpose and to the extent defined therein.
  - f) Any other advisory tasks requested by the Client and accepted by FlexUp in writing.
- 2.4 **Delegation and Delivery.** Services are performed by FlexUp staff, freelance subcontractors or accredited advisors from FlexUp’s partner network, and the Client acknowledges that FlexUp retains sole responsibility for selecting and assigning such personnel or partners.

## Article 3. Engagement and Acceptance

- 3.1 An Advisory contract between the Parties may be formed by:
  - a) Written agreement signed by both Parties (including electronic signatures),
  - b) The Client’s express acceptance by e-mail or other recorded communication, or
  - c) The Advisor’s performance of services with the Client’s knowledge and without timely objection.
- 3.2 **Consultant Assignment and Applicable Rates**
  - a) The Advisor may, at any time, designate or reassign the consultants, subcontractors or personnel (“**Consultants**”) involved in the performance of the Services. The Advisor shall notify the Client In Writing of

- (i) the identity or role of the Consultants assigned to the Services and (ii) the corresponding hourly rates applicable to each of them (the “**Applicable Rates**”).
- b) The Client shall be deemed to have accepted the Applicable Rates unless it objects In Writing within five (5) business days from receipt of the notification
- c) The Advisor shall not commence, and shall have no obligation to commence, the performance of Services by any newly designated or reassigned Consultant until either (i) the Client has expressly accepted the Applicable Rates, or (ii) the five (5) Business Day period for objection has elapsed without objection.
- d) Acceptance may be express (e.g., confirmation In Writing) or tacit, including through the Client’s failure to object within the period set out in 3.2b). No tacit acceptance shall arise before the expiry of that period.
- e) As soon as a Consultant begins performing Services with the Client’s knowledge and in accordance with Article 3.2c), the new Applicable Rates shall automatically apply to all such Services,.
- f) If the Client objects to the Applicable Rates within the period above, the Parties shall discuss in good faith to find an alternative Consultant or rate. The Advisor shall not be required to provide Services at disputed rates until an agreement is reached.

## Article 4. Orders

- 4.1 **Framework Contract.** This Advisory-GC establishes a general framework governing all the provision of Advisory Services by FlexUp. It remains in force until Termination but does not by itself create a commitment to perform services in the absence of an Order.
- 4.2 **Creation of Orders**
  - a) An Order is created when the Parties agree on specific services to be provided, including:
    - i. Scope of services;
    - ii. Expected tasks or deliverables;
    - iii. Applicable fees, rates, budgets,.
    - iv. Timeline or period;
    - v. Any other specific condition or acceptance criteria, such as for example the specific consultants to be assigned for the assignment.
  - b) Each Order forms an integral part of the Contract and is governed by this Advisory-GC unless expressly agreed otherwise.
  - c) This Contract remains valid even during periods when no Order is created. If no services are required in a given period, no Order is created, and no remuneration is due.
- 4.3 **Execution of Services.** The Parties shall coordinate on a regular basis to discuss on the expected tasks, resources, workload, and indicative budget for upcoming Orders. This coordination typically takes place on a monthly basis but may be carried out more or less frequently depending on the level of activity (e.g., quarterly or annually in case of low activity). Coordination may be conducted by email or through the FlexUp Platform.
- 4.4 **Modification of orders.** Any change to the content of an existing Order (i.e. the scope, fees, deliverables, timeline, resources, etc.) must be issued In Writing and confirmed by both Parties (a “**Change Order**”). Advisor shall not be required to implement any change until mutual agreement has been reached.

## Article 5. Advisor Obligations

- 5.1 **Scope and standard of care.** Advisor shall Deliver Services to Client for Confirmed Orders, on the terms and conditions indicated in the Advisory-SC and perform the Service with the degree of skill, care, diligence and professionalism reasonably to be expected of a service provider experienced in the provision of advisory services similar to those contemplated by this Contract.
- 5.2 **Schedule and plans.** For each Confirmed Order the Parties shall agree on a project plan including milestones, Deliverables and deadlines; and Advisor shall perform the Services in accordance with it. If Advisor reasonably anticipates that any milestone will not be met, he shall notify the Client without undue delay setting out the cause and propose a remediation plan.
- 5.3 **Allocation of personnel.** The Advisor undertakes to allocate the most suitable material and qualified personnel to the performance of the Services, it being specified, however, that it shall be solely responsible for defining such resources, without Client interference.

- 5.4 **Reporting and communication.** The Advisor shall keep the Client reasonably informed of the progress in accordance with the project plan and shall provide status reports at the frequency set out in the corresponding Order (at least monthly unless otherwise agreed). Advisor shall promptly provide any information reasonably requested by the Client to enable the Client to monitor performance.
- 5.5 **Duty to advice and recommendations.** The Advisor shall proactively advise the Client, when appropriate, of risks, alternatives and recommendations reasonably necessary for the proper provision of the Services.
- 5.6 **Obligation of means.** Except to the extent that the Parties expressly agree in writing in the Advisory-SC that a specific Deliverable is an obligation of result, the Advisor's obligations under this Contract are obligations of means.

## Article 6. Client Obligations

- 6.1 **Payment for Accepted Deliveries.** The Client shall pay the Remuneration to the Advisor for each Order following the Delivery Acceptance, in accordance with the Payment Terms defined in these Advisory-GC or, if applicable, in the Special Conditions.
- 6.2 **Payment for Partial or Non-Accepted Deliveries.** Where an Order provides for partial Deliveries, or if the Client has Accepted certain parts of the Delivery but not all, the Client shall pay the proportion of the Remuneration corresponding to the Services delivered and/or Services validly Accepted.
- No payment is due for any Deliverable or part of a Deliverable that has been rejected in accordance with Article 7, unless and until such Deliverable is corrected and subsequently Accepted.
- 6.3 **Client cooperation obligations.** The Client shall cooperate with the Advisor in good faith and in a timely manner and shall provide all documents, information, resources and explanations reasonably required by the Advisor for the proper performance of the Service. The Client shall also ensure that such information is accurate and complete to the best of its knowledge and shall not do, or permit to be done, anything which may hinder, delay or increase the cost of such performance.
- 6.4 **Consequences of Client failure to cooperate.** If the Client fails to comply within ten (10) business days with this obligations of cooperation required for the delivery of a good performance of the Services, the Advisor shall be entitled to:
- a) A reasonable extension of any deadlines affected by such failure;
  - b) Reimbursement of any additional cost reasonably incurred as a direct result of such failure; and
  - c) Suspension of performance until the Client remedies the failure;
  - d) Termination of the affected Order.
- The Advisor shall notify the Client promptly in writing if it considers that the Client has failed to cooperate in accordance with this Article.

## Article 7. Delivery and Acceptance

- 7.1 **Delivery Declaration.** Upon full or partial completion of the Services for each Order, and within ten (10) business days following completion of the applicable Deliverable, the Advisor shall issue to the Client a written declaration of delivery ("**Delivery Declaration**"), indicating:
- a) The Deliverable(s) or Services completed;
  - b) The completion date ("**Delivery Date**");
  - c) The applicable Order reference;
  - d) The total "**Order Amount**", including taxes if applicable; and
  - e) Any other information required under the Order or Special Conditions.
- 7.2 If the Delivery Declaration is not received due to the Client's refusal, configuration of its inbox, filters, system errors, or failure to update its contact details, it shall be deemed received on the date the Advisor attempted delivery.
- 7.3 **Review Period.** Upon receipt of the Delivery Declaration, the Client shall have 15 calendar days ("**Review Period**") to analyse the Delivery and notify the Advisor In Writing of any non-conformities, reservations or defects related to the Delivery ("**Claim**"). The Review Period can be extended only once by 15 days at Client's reasonable request.
- 7.4 **Acceptance.** The Client can:
- a) Explicitly accept the Delivery without reservations ("**Delivery Acceptance**");

- b) If the Client does not make a Claim during the Review Period, the Delivery shall be deemed to have been tacitly accepted by Client (“**Tacit Acceptance**”);

Acceptance, whether express or tacit, only applies to the Deliverables identified in the Delivery Declaration and has the following effects:

- i. The Deliverable is deemed completed for contractual purposes;
- ii. The Advisor may issue Statement for the applicable portion of the Remuneration;
- iii. The Advisor’s obligations for that Deliverable are limited to the warranties defined in the Contract.

**7.5 Claims.** In case of a Claim:

- a) Client must describe with sufficient specificity in detail the grounds of non-conformity and, where possible, the corrective actions sought. (Specificity in description such as the elements of the Deliverable alleged to be non-conforming; the contractual requirements or acceptance criteria not met, the factual basis for the alleged non-conformity).
- b) Both parties shall collaboratively address these concerns and cooperate in good faith aiming to solve the non-conformities.
- c) Following resolution, the Advisor is required to issue a new Delivery Declaration, at which point the Client’s review period will recommence as per Article 7.1a).
- d) The Advisor shall, at its own cost, correct any non-conforming Deliverable within a reasonable time, unless the non-conformity is attributable to the Client’s failure to cooperate.
- e) Once corrections are completed, the Advisor shall issue a revised Delivery Declaration, and a new Review Period shall commence in accordance with Article 7.2.
- f) Corrections under this Article shall not give rise to additional fees unless the non-conformity is attributable to the Client.

**7.6 Partial Acceptance.** Where an Order provides for multiple Deliverables or milestones:

- a) The Client may accept conforming Deliverables and reject only the non-conforming portion; and
- b) Acceptance (express or tacit) applies only to the portion accepted.

Payment for partially accepted Deliveries shall follow Article 6.2.

## **Article 8. Statements and Payment**

- 8.1 “**Statement**” means any document, provisional or final, issued by the Advisor that records amounts calculated, allocated or projected under the Contract or the FlexUp Model, without necessarily constituting an invoice unless expressly designated as such. Depending on the nature of the underlying Contract, Services, or Remuneration, a Statement may take the form of:

- a) An invoice;
- b) A statement or credit note for products or services;
- c) A payslip for salary due to an employee;
- d) A Statement for interest or principal repayment due to a lender;
- e) A confirmation for dividends or buyback of securities;
- f) A notice for taxes due to public entities.

- 8.2 **Statements following Acceptance.** Only after Acceptance of a Delivery, whether express or tacit, the Advisor shall be entitled to issue corresponding Statements to the Client. Where Acceptance applies only to part of a Delivery, the Advisor may issue a Statement only for the Accepted portion.

Each Statement shall:

- i. Reference the relevant Order and Delivery Declaration;
- ii. Itemise the Services Delivered invoiced;
- iii. Show the Order Amount, taxes (if any); and
- iv. Conform to details of pricing and payment terms as set out in this Contract.

- 8.3 **Disputed Statements.** If the Client raises objections to any aspect of the Delivery or the Statement, the Client shall notify the Advisor in writing within five (5) business days of receipt of the Statement, identifying the disputed items in accordance with the Claim requirements in Article 7.5.

The Client shall pay the undisputed portion of the Statement in accordance with the Article 8.4.

Any disputed amount may be withheld pending resolution and shall not incur late-payment penalties, provided that such dispute is raised in good faith and duly substantiated by the Parties.

- 8.4 **Due date.** The Client shall pay each valid Statement by bank transfer to the Advisor's designated bank account. If the Statement is received by the Client before the 15th of a given month, payment is due by the last business day of that same month. If the Statement is received after the 15th of a given month, payment is due by the last business day of the following month. If a due date falls on a non-business day, payment shall be due on the next business day.
- 8.5 **Late payment.** If any undisputed amount is not paid by the due date:
- a) The overdue amount shall automatically accrue interest from the due date until payment as follows:
    - i. A fixed charge of ten percent (10%) of the overdue amount plus interest accruing daily at an annual rate of five percent (5%) from the due date until full payment; or the maximum permitted by applicable law; and
    - ii. if the Client still fails to pay any undisputed amount within fifteen (15) calendar days after receipt of a written notice from the Advisor, then an additional penalty of ten (10%) of the overdue amount plus interest accruing daily at an annual rate of ten percent (10%) for receipt of the notice,
  - b) Advisor may at its discretion, after giving seven (7) calendar days' prior written notice, and without prejudice to any other rights or remedies suspend further performance of the Services until payment obligations in full is received or terminate this Contract in accordance with Article 11 and recover all outstanding sums with the corresponding interest.
- The Advisor's suspension shall not relive the Client of its payment obligations, and the Advisor shall not be liable for delays resulting from suspension.
- 8.6 **Recordkeeping.** The Parties agree that invoices will be submitted and stored through the FlexUp Platform, App or other electronic means. Electronic invoices and records that conform to the Platform's accepted formats shall be deemed valid invoices for payment purposes.

## Article 9. Alternative Payment Options

By exception to the default Statement and payment terms set out in Article 8, the Advisor may at its discretion, offer to the Client an alternative payment arrangement described in this Article 9.

No alternative Payment shall apply unless it is expressly offered by the Advisor and accepted by the Client, both In Writing. Upon acceptance, this article shall govern the payment of the affected Statements and prevail over Article 8 to the extent of inconsistency.

### 9.1 Early Stage Projects

If the Client's project is still in its early stage, the Advisor may offer to extend the due date of one or more invoices for up to six (6) months from the original due date. During the extended period, interest shall accrue on the deferred principal at a rate of twenty-five percent (25%) per annum, calculated on a simple interest basis.

The Client may nevertheless pay at any time before the extended due date without any penalty. Unless the Advisor extends the delay further, or the Parties agree to other options under this Article, the invoices become payable in full, with interest, at the extended due date.

The Parties agree that the deferred payment constitutes commercial credit reflecting the financial risks typically associated with early-stage projects, and the interest rate is not intended as a penalty.

### 9.2 Conversion into FlexUp Credits

If the Client has a FlexUp account and has signed a FlexUp Charter, the Advisor may offer the Client the option to convert all or part of the outstanding amounts (including accrued interest) into FlexUp Credits.

The Client may choose between Credits (Standard) and Credits (Redeemable Tokens), as defined in the Charter-GC (available at [www.flexup.org](http://www.flexup.org)) and will be governed by it.

Conversion into Credits shall constitute full settlement of the outstanding amount and the Advisor shall issue a credit note of such settlement.

- 9.3 **Acknowledgement of commercial risk.** In relation to Article 9.1, the Client expressly acknowledges that the 25% interest rate is a fair reflection of the risk taken by the Advisor and that it is not a loan, penalty or disguised financing charge.

## Article 10. Statements for Associate Contracts

This Article applies only if the Contract is an Associate Contract, following the FlexUp Model and governed by a FlexUp Charter.

### 10.1 Firm Commitments

Commitments with a Firm Priority (“**Firm Commitments**”) are unconditional and payable regardless of the Project’s financial performance.

### 10.2 Flexible Commitments

Commitments with a Flexible Priority (including Preferred, Flex, Superflex, Credit, and Token Priorities, collectively “**Flexible Commitments**”) are conditional and vary according to the Project’s financial performance, as defined in the FlexUp Model under the Charter.

### 10.3 A final Statement (“**Final Statement**”), such as, if applicable, an invoice, specifies the actual amount due and the due date. It may be issued by the Advisor:

- a) For Firm Commitments: after Acceptance of Delivery, for the Amount Due;
- b) For Flexible Commitments: after the Resolution in which the Commitment was processed, for the Amount Payable.

### 10.4 In all other cases, the Advisor may issue a provisional Statement (a “**Proforma**”), which sets out projected amounts or structures but is not legally binding, for example:

- a) During negotiations, when terms are still being finalized;
- b) For a Confirmed Order, before Delivery, when quantities, costs, or dates are not yet fixed;
- c) After Delivery, in respect of Flexible Commitments:
  - i. For Preferred, Flex, and Superflex Commitments, when the Principal and Due Date are known,
  - ii. For Credit and Token Commitments, when the Principal is known,
  - iii. After a Resolution resulting in a Residue greater than zero, for the new Commitment (“**Next Iteration**”) carrying this Residue.

The Advisor shall issue a Final Statement replacing the Proforma as soon as the conditions for Finalization under Article **¡Error! No se encuentra el origen de la referencia.** are met.

## Article 11. Duration and Termination

### 11.1 Definitions

For the purposes of this Article:

- a) “**Cancel**” or “**Cancellation**” means the early cessation of the Contract by either Party, in accordance with the terms set out in this Article or the Special Conditions.
- b) “**Expire**” or “**Expiry**” means the cessation of the Contract upon reaching the Expiry Date, either the initial Expiring Date or, in the case of Renewable Duration contracts (see below), the latest Expiry Date, as specified in the Special Conditions.
- c) “**Terminate**” or “**Termination**” means the cessation of the Contract in whole or in part, for any reason, including Termination or Expiry, whichever occurs first.
- d) “**Material breach**” means a breach of this Contract that fundamentally undermines the performance of the Contract or any Confirmed Order, including but not limited to non-payment, confidentiality breaches, repeated failure to meet milestones or violation of Articles 4, 5, 6, 7 or 8.

### 11.2 Effective Date

The Contract becomes effective on the date expressly specified in the Special Conditions. If no effective date is specified, the Contract becomes effective:

- a) If the Contract is formed by email, the date of the Client’s written acceptance;
- b) If the Contract is signed as an Advisory-SC, the date of the last signature; or
- c) Where the Parties begin performance under a Confirmed Order, on the date of such Order.

### 11.3 Duration

The Contract’s duration shall be as specified in the Special Conditions, and may be:

- a) **Indefinite Duration**: the Contract may be terminated by either Party at any time upon thirty (30) days’ prior written notice, without the need to provide reasons or compensation;

- b) **Fixed Duration:** the Contract shall automatically expire on the date specified in the Special Conditions (the “**Expiry Date**”), unless extended by mutual written agreement; or
- c) **Renewable Duration:** the Contract shall automatically renew for successive periods as defined in the Special Conditions, unless either Party notifies the other, within the specified notice period, of its intention not to renew. If no duration is specified in the Special Conditions, the Contract shall be of **Indefinite Duration**.

#### 11.4 **Completion of Single-Order Contracts.**

A Single-Order Contract of indefinite duration shall be deemed completed only once all related Deliveries have been Accepted and all payment obligations fulfilled.

No new Orders may be placed after Termination or Expiry of the Contract unless the Parties agree otherwise.

#### 11.5 **Termination with cause.**

Either Party may terminate the Contract or any Confirmed Order immediately upon written notice if the other Party:

- a) Commits material breach and fails to cure it within the designated period;
- b) Becomes insolvent, enters liquidation or a comparable procedure;
- c) Engages in fraud, unlawful conduct or conduct that materially damages the terminating Party’s reputation;
- d) Breaches intellectual property obligations under this Contract.

#### 11.6 **Survival of Obligations**

Termination of the Contract, for any reason, shall not affect the rights and obligations of the Parties with respect to Confirmed Orders until Delivery has been Accepted and obligations arising from Article 12, Article 13, Article 14, Article 16 and other articles expressly intended to survive.

#### 11.7 **Return of Materials**

Upon Termination and within ten (10) days, each Party shall return to the other any materials, documents, or items received for the execution of the Contract and shall, upon request, delete or destroy any confidential information, subject to any statutory retention requirements.

### **Article 12. Independent Advisor**

- 12.1 The Parties acknowledge that the Advisor is an independent service provider and not an employee, partner, or agent of the Client. Nothing in this Contract shall be construed to create an employment relationship, partnership, joint venture or agency between the Parties.
- 12.2 The Advisor remains solely responsible for the methods, resources, and personnel used to perform the Services.
- 12.3 The Advisor has no authority to bind the Client or to act in his behalf unless expressly authorised In Writing.
- 12.4 Nothing in this Contract grants exclusivity to either Party unless expressly agreed In Writing.

### **Article 13. Non-Solicitation**

- 13.1 For the duration of this Contract and for twelve (12) months following its Termination, neither Party shall, directly or indirectly, solicit, recruit, or attempt to hire any employee, consultant, or agent of the other Party with whom they had contact in connection with this Contract, without the prior written consent of the other Party.
- 13.2 This restriction does not apply to general job advertisements or recruitment campaigns not specifically targeted at the other Party’s personnel, to subcontractors or freelancers who publicly offer services to multiple clients.
- 13.3 In case of breach, the non-breaching Party shall be entitled to claim compensation for the damages incurred.

### **Article 14. Remediation and Termination for Material Breach**

- 14.1 If either Party (the “**Defaulting Party**”) materially breaches its obligations under this Contract, the other Party (the “**Non-Defaulting Party**”) may issue a written notice specifying the breach in detail.
- 14.2 The Defaulting Party shall have fifteen (15) calendar days from receipt of such notice to remedy the breach or, if the breach cannot reasonably be remedied within that period, to propose fair compensation or another suitable remedy, which the Non-Defaulting Party shall considerate in good faith.

- 14.3 If the breach is not remedied, or no acceptable alternative remedy is agreed within the cure period, the Non-Defaulting Party may terminate the Contract with immediate effect by written notice.

## **Article 15. Expenses**

- 15.1 Each Party shall bear its own internal costs incurred in connection with this Contract, unless otherwise specified herein or agreed in writing.
- 15.2 In addition, the Client shall reimburse the Advisor for any reasonable out-of-pocket expenses incurred in connection with the performance of the Services, provided that such expenses are:
- a) Pre-approved by the Client in writing; or
  - b) If prior approval was not reasonably possible, subsequently notified to and ratified by the Client.
- 15.3 Advisor shall provide supporting documentation for all reimbursable expenses. Such expenses shall be invoiced together with, or separately from, the Remuneration for the Services.

## **Article 16. Confidentiality**

### **16.1 Definition**

“**Confidential Information**” means any non-public information disclosed by one Party to the other, in any form or medium, that is marked as confidential or that should reasonably be understood to be confidential given its nature or the circumstances of disclosure.

### **16.2 Obligations**

Each Party agrees to:

- a) Keep the other Party’s Confidential Information strictly confidential;
- b) Use it strictly for purposes of performing this Contract;
- c) Disclose it only to its employees, contractors, or professional advisers with a need to know, provided they are bound by confidentiality obligations no less strict than this Article;
- d) Protect it with at least the same care it uses for its own confidential information, and in any event no less than reasonable care; and
- e) Promptly notify the other Party of any unauthorized access, use, or disclosure.

### **16.3 Exceptions**

These obligations do not apply to information that:

- a) Is or becomes public through no breach;
- b) Was lawfully known to the receiving Party before disclosure;
- c) Is independently developed without reference to the Confidential Information; or
- d) Must be disclosed under law, court order, or government authority, provided that the receiving Party gives prompt notice and cooperates in limiting the scope of disclosure.

### **16.4 Return or Destruction**

Upon request or termination of the Contract, each Party shall return or destroy all copies of the other Party’s Confidential Information within ten (10) business days, except to the extent retention is required by law, for regulatory or audit purposes, or in routine electronic backups.

### **16.5 Survival**

This Article survives termination or expiry of the Contract for three (3) years, or longer if required by applicable law or by the nature of the Confidential Information.

## **Article 17. Intellectual Property Rights**

### **17.1 FlexUp IP**

All rights, title, and interest in the FlexUp Economic Model, the FlexUp App, associated templates, methodologies, tools, and any other Intellectual Property belonging to the FlexUp (“**FlexUp IP**”) shall remain the exclusive property of the FlexUp, whether created before or during this Contract.

The Parties acknowledge and agree that the use of FlexUp IP is governed by the FlexUp Licence-GC, available at [www.flexup.org](http://www.flexup.org).



Any improvements, adaptations, enhancement, modification, translation or derivative works of FlexUp IP, whether created jointly or separately by the Parties, shall automatically and exclusively belong to FlexUp, as indicated in the FlexUp Licence.

For avoidance of doubt, any jointly-developed output that is based on, incorporates, interacts with, refers to, or is created using FlexUp IP, or that is intended for use within the FlexUp ecosystem, shall be deemed an improvement or derivative of FlexUp IP and shall not constitute Joint Work under Article 17.5.

#### 17.2 **Client IP**

All rights, title, and interest in the Client's business, including but not limited to its products, services, brands, strategies, business plans, fundraising materials, and related deliverables created specifically for the Client ("**Client IP**"), shall belong exclusively to the Client, irrespective of whether they were authored or co-authored by the Advisor in the course of providing the Services.

Client IP does not include FlexUp IP, Advisor's pre-existing materials, or any reusable Advisors tools, models or templates.

#### 17.3 **No Transfer by Implication**

Except as expressly provided, nothing in this Contract shall transfer ownership of one Party's Intellectual Property to the other.

#### 17.4 **Reuse of Know-How and Tools**

The Advisor retains the unrestricted right to use, develop, and commercialize its general knowledge, skills, experience, practices, and tools, including those developed or refined in the course of the Services, provided that such use does not disclose the Client's Confidential Information or copy Client IP.

#### 17.5 **Joint Work**

If during the performance of the Services, the Parties jointly create Intellectual Property that is entirely unrelated to the FlexUp IP, and is not intended for use within the FlexUp ecosystem ("**Joint Work**"), such Joint Work shall be governed by a separate written agreement between the Parties.

Within sixty (60) days from the creation of such Joint Work, the Parties shall negotiate in good faith a written agreement setting out the ownership, licensing and exploitation terms..

Until such agreement is signed:

- a) Each Party shall retain ownership of its pre-existing contributions; and
- b) No Party may commercially exploit the Joint Work without the other Party's prior written consent.

### **Article 18. Liability**

- 18.1 Each Party shall be liable to the other only for proven, direct and reasonably foreseeable damages arising from a breach of its obligations under this Contract.
- 18.2 Neither Party shall be liable for any indirect, consequential, incidental, punitive or special damages, including but not limited to loss of profit, data, business, or goodwill, whether arising from breach of contract, warranty, tort, strict liability or otherwise, even if advised of the possibility of such damages.
- 18.3 Notwithstanding anything else in this Contract, the Advisor's aggregate liability under this Contract shall in no event exceed the total cash amounts actually paid by the Client to the Advisor under this Contract during the twelve (12) months immediately preceding the event giving rise to the claim.
- 18.4 The limitations of liability set forth in this Article does not apply to the event of:
  - a) Fraud or wilful misconduct;
  - b) Breach of confidential obligations;
  - c) Infringement of IP rights;
  - d) Non-payment of amounts owed under this Contract;
  - e) Force majeure.
- 18.5 The Parties acknowledge that the limitations and exclusions set out in this Article are fair and reasonable in light of the nature of the Services provided under this Contract.

## Article 19. Exceptional Circumstances

Neither Party shall be liable for failure nor delay in performance caused by circumstances beyond its reasonable control that could not reasonably have been prevented (“**Force Majeure**”), including but not limited to: natural disasters, acts of government, war, terrorism, civil unrest, labour disputes not caused by the affected Party, cyber-attacks or failures of essential utilities.

In such case, the affected Party shall notify the other as soon as practicable, use all reasonable efforts to mitigate its effects and resume performance as soon as reasonable possible.

If the situation continues for more than three (3) months, either Party may terminate the Contract with immediate effect, subject to settlement of outstanding obligations.

## Article 20. Entire Agreement

- 20.1 By entering into the Contract, the Parties agree without reservation to all its terms and conditions, including the Advisory-GC, any applicable Advisory-SC, any appendices, and any other framework documents published by FlexUp that are explicitly incorporated by reference and available on the FlexUp website ([www.flexup.org](http://www.flexup.org)).
- 20.2 The Contract constitutes the entire agreement between the Parties with respect to its subject matter. It supersedes, all prior agreements, understandings, negotiations, and discussions, whether oral or written, relating to the same subject matter.
- 20.3 The Contract may only be amended by a written document agreed between the Parties, which may be signed or, where expressly agreed, confirmed by email.
- 20.4 If the Contract is an Associate Contract governed by a FlexUp Charter, the applicable Charter-SC and Charter-GC form an integral part of the Contract by incorporation as provided in Article 20.2.
- 20.5 In all cases, the FlexUp Licence-GC, which governs the Client’s use of the FlexUp IP independently of this Contract, is incorporated herein by reference.

Where the Parties have executed a FlexUp Advisory Services Special Conditions (“Advisory-SC”), the Advisory-SC shall supplement and prevail over these Advisory-GC in the event of any conflict.

## Article 21. Assignment

- 21.1 The Contract is concluded *intuitu personae* and may not be assigned or transferred without the express written consent of the other Party.  
  
The Client acknowledges that FlexUp currently operates as a sub-account of COSYS. The Client expressly agrees that COSYS may transfer the FlexUp activity, including this Contract, to a new entity created to operate FlexUp, without requiring additional consent.

## Article 22. No Representation Mandate

- 22.1 The Contract does not confer either Party any type of mandate, power of attorney, or right of representation of any kind. Neither Party may act in the name of or on behalf of the other to negotiate or conclude agreements without that Party’s explicit prior written authorization.
- 22.2 If the Client authorizes the Advisor to act in its name and on its behalf, such authorization must be in writing and shall clearly specify the scope, limits and duration of the representation.

## Article 23. Mutual Independence and Absence of *Affectio Societatis*

- 23.1 The Parties declare and acknowledge that they are and shall remain for the entire duration of the Contract, independent commercial and professional entities, each assuming the risks of its own activity.
- 23.2 The Contract has neither the intent nor the effect of creating any solidarity, association, or joint liability between the Parties.
- 23.3 The Parties expressly confirm that they do not intend to form a de facto company, joint venture, or partnership. They do not pool their property, resources, or industry with a view to making profits or savings.
- 23.4 Any form of *affectio societatis* is expressly excluded.

## **Article 24. Fair and good faith behaviour**

The Parties undertake to act towards each other at all times as loyal partners in good faith and to promptly inform each other of any difficulties that may affect the performance of the Contract.

## **Article 25. Waiver**

The failure of either Party, at any time or for any reason, to require the strict performance of any provision of the Contract shall not be interpreted as a waiver of that Party's right to enforce the same provision in the future. Each clause and condition of the Contract shall remain fully binding.

## **Article 26. Exceptions and Extensions to the General Conditions**

- 26.1 No exception ("**Exception**") or addition ("**Extension**") to these Advisory-GC shall be valid unless it is expressly set out in the Advisory-SC or, where applicable, in an Order.
- 26.2 Each Exception must clearly identify the specific provision of the Advisory-GC from which it derogates. Each Extension must clearly state the additional provision being added.

## **Article 27. Interpretation**

- 27.1 The Contract shall be interpreted, wherever possible, to give effect to all of its provisions.
- 27.2 The headings of the Articles form part of the Contract and may aid in interpretation, but in the event of any inconsistency, the text of the Articles shall prevail.
- 27.3 Unless otherwise specified, "days", "months" and "years" shall mean calendar days, calendar months, and calendar years".

## **Article 28. Severability of clauses**

- 28.1 If any provision of the Contract is held to be invalid, unlawful, or unenforceable, the remaining provisions shall remain in full force and effect.
- 28.2 The Parties shall, in good faith, replace any such invalid or unenforceable provision with a valid provision that most closely reflects the original intent and purpose.
- 28.3 The provisions of this Contract are independent of those of any other agreements between the Parties and shall not be construed as derogating from such other agreements.

## **Article 29. Notice**

- 29.1 Any notice, correspondence, or request under the Contract shall be validly given by electronic mail to the address of each Party indicated in the Contract header, or to any other address subsequently notified in accordance with this Article.
- 29.2 Notices shall be deemed received on the date of transmission, provided no error message is received. If sent outside business hours, they shall be deemed received on the next business day.

## **Article 30. Governing Law and Dispute Resolution**

- 30.1 The Contract, including its validity, interpretation, and performance, shall be governed by French law, unless otherwise specified in the Special Conditions under the heading "Jurisdiction."
- 30.2 The Contract is written in the English language, and only the English text shall be authentic in the event of a dispute. Translations may be provided for convenience only.
- 30.3 The Parties shall first attempt in good faith to resolve any dispute or difference arising from the interpretation or performance of the Contract through amicable negotiations.
- 30.4 If no amicable solution is reached within sixty (60) days from the date one Party formally refers the dispute to the other, the matter shall be submitted to the competent courts in France, or, if applicable, to the courts of the jurisdiction specified in the Special Conditions pursuant to Article 30.1.