

Terms and conditions of service

"These Terms and Conditions ("Agreement") represent a binding agreement between Fixinc Consulting Partners Limited (NZBN 9429047125490), trading as 'Fixinc,' (hereby known as 'Fixinc', 'us', 'our', 'we'), and the Client (the company named on the Proposal connected to this Agreement), and F24 AG (HRB 158196), trading as 'F24' and acting as the 'Service Provider' that form this agreement. By engaging in our consulting programs and services, you acknowledge your understanding of, and agreement to, the terms outlined herein. These terms serve as a foundation for the professional collaboration between Fixinc and the Client, ensuring clear guidelines for the provision of services, payment obligations, and expectations on both sides. It is essential that you review and comprehend these terms before proceeding with our consulting programs.

This Agreement encompasses a range of clauses that address critical aspects of our engagement, including project duration, payment structure, service provision, confidentiality, intellectual property, and other key considerations. We've also taken into account the various scenarios that may arise during our partnership, such as changes in project scope, Client-related delays, and the provision of additional services.

Please be aware that these terms are mutually agreed upon and designed to foster a productive and transparent collaboration. Any additional specific items or clauses that may need to be added or modified will be done so with your approval, ensuring that the terms remain aligned with the evolving needs of both parties.

It is our commitment at Fixinc to deliver high-quality consulting services that meet your expectations and contribute to your success as a truly resilient organisation. We appreciate your trust in our expertise, and we look forward to a fruitful partnership.

Should you have any questions or require further clarification on any aspect of these terms, please do not hesitate to reach out to us. Your understanding and adherence to these terms are crucial to the effective and successful execution of our consulting programs.

Thank you for choosing Fixinc as your consulting partner.

1. Application

- 1.1. By accepting Goods and/or Services from Fixinc, the Client is considered to have agreed to the relevant terms outlined in this Agreement (including any Schedule), regardless of whether the Client has formally executed this Agreement. In cases where a specifically negotiated Supply Contract has been established between

Fixinc and the Client concerning the Goods and/or Services, the terms specified in the existing Supply Contract will govern the purchase, superseding these terms.

- 1.2. References to a party includes that party's authorised representatives, successors and permitted assigns.

2. Project Implementation Period

- 2.1. The term of contract commences on 15 December 2024. Subscription payments begin on 1 March 2025, therefore the subscription term finishes on 28 Feb 2026 (unless renewed).
- 2.2. The basic term of the subscription agreement is 12 months. The Parties specifically acknowledge the length of the notice period has been fixed taking into consideration the nature and the planned duration of the contractual relationship between the Parties.
- 2.3. The contract will be renewed by another twelve (12) months (period of renewal) unless terminated in writing by either of the parties hereto three (3) months prior to expiry of the basic term or corresponding period of renewal.
- 2.4. Client-Related Delays: Fixinc cannot be held responsible for delays in project completion caused by actions, inactions, or information provided by the Client. Any delays attributable to the Client may result in an extension of the project duration and potential adjustments to associated fees.
- 2.5. Program Scope Agreement: All program details and timescales will be mutually agreed upon during the Engagement Meeting between Fixinc and the Client. The Engagement Meeting serves as a pivotal point for finalising the scope, objectives, and deliverables of the program.

3. Fee Structure and Excessive Time

- 3.1. Fee Structure: The fee provided to the Client encompasses the program's required hours, resources, or products. All time devoted to the program, whether for planning, execution, or evaluation, is considered within this fee structure.
- 3.2. Excessive Time Clause: Should the program necessitate an excessive amount of time beyond the predetermined scope as a result of the Client's enforced delay (as noted in clause 2d), the Client may be required to bear additional costs. Fixinc will communicate any such circumstances and potential additional charges to the Client for approval before proceeding.

4. Payment Terms

- 4.1. Important: Please note that further charges (e.g. user charges) may arise in addition to the charges given here. These charges are listed in this section below. All fees and charges are given per account with regular contract runtime exclusive of statutory taxes.
- 4.2. Includes technical setup for activation of account, import of master data and consulting services for account configuration, training and functional testing (domestic travel included):
 - 4.2.1. FACT24 CIM starter: online + onsite 2 days maximum

- 4.3. If upper package size limits are exceeded, we charge \$ 6 per person per month. Additional Persons Packages can be combined. Multiple / corporate accounts enable organisational / role / rights structures to be set up in line with the client's needs based on organisational units and hierarchies:
- 4.3.1. A single account includes one organisational unit with:
- 4.3.1.1. 10 users for FACT24 ENS+ editions
 - 4.3.1.2. 25 users for FACT24 CIM editions
- 4.4. The standard package includes usage fees according to persons package subscribed: Data volume maximum 50 GB storage; mobile and landline phone, fax connections, SMS text messages, Notifications via Mobile App, Video calls (if booked), MS-Teams or PC client (if booked) depending on the scope of the persons package booked, e.g. 100 minutes (50 mobile minutes and 50 landline minutes or video call minutes), 100 SMS and 100 Notifications via Mobile App, MS-Teams or PC client (if booked) for 100 persons, up to a maximum of 5,000 minutes (2,500 mobile minutes and 2,500 landline minutes or video call minutes), 5,000 SMS and 5,000 Notifications, 5,000 MS-Teams or PC Client Recipients (if booked) for 5,000 persons and above. Additional usage-based system messages in FACT24 will be considered in the included volumes. Each additional minute is charged at \$ 0.09 (landline or video) or \$ 0.38 (mobile), including text-to-speech generation, or each additional SMS at \$ 0.25 or for each additional Notification via Mobile App, MS-Teams or PC client at \$ 0.07. Our charges exclude special numbers (e.g. satellite phones, service numbers subject to charges, etc.), prices can be obtained on a time and cost basis / on request. For Geocoding, 1,000 API requests per month are included. Each additional API request will be charged with 0.08 \$. Upon request it is possible to acquire an additional API requests package for an one-time fee of 27 \$. All details given apply per account per month. Inclusive allowances cannot be accumulated over a period of 12 months, with the exception of annual payments in advance.
- 4.5. Fee for flat rate consists of basic fee plus additional fee depending on the person package(s) selected. The optional flat rate includes all minutes, SMS, text-to-speech and F24 push notifications that arise when the F24 services are used in a fair and proportionate manner. Excluded from this are special telephone numbers (e.g. satellite phones, chargeable service numbers, etc.). F24 expressly reserves the right to check for improper use or abuse in the event of a suspicion of misuse and to invoice any additional volumes that have arisen as a result of improper use on a monthly basis.
- 4.6. For clients with packages of 10,000 persons or above, F24 reserves the right to review usage volumes 6 months after contract start date and then once every 12 months thereafter and to potentially adapt the flat rate fee to a level that covers the external telecommunications cost.

- 4.7. The package for web services interface setup includes one consulting day (8 hours) for requirements analysis, activation and access to a test environment, 1 hour online training session, telephone support and implementation review.
- 4.8. The setup fee depends on the complexity of your requirements, which will be determined in an initial discussion to clarify the technical details. The invoice will be calculated on the basis of the current daily rate.
- 4.9. For the interfaces E-Mail and API one recipient address/endpoint is included. Each additional address/endpoint will be charged at \$ 14 per month. The SMS interface contains one national dial-in-number. Each additional number will be charged at \$ 41 per month. For each SMS interface 1,000 incoming SMS are included per month, each additional incoming SMS will be charged at \$ 0.12. For customers with FACT24 CIM Starter or higher, one interface is included; each additional interface costs \$ 201 per interface.
- 4.10. Price Adjustments: Fixinc reserves the right to adjust pricing for services. Any price changes will be communicated at least two (2) months before they take effect. If a price increase exceeds 5% within a twelve (12)-month period, the client may terminate the agreement by providing one (1) month's notice before the new prices are implemented.
- 4.11. Late Payments: Late payments are subject to interest charges in accordance with New Zealand's statutory late payment interest rate. Fixinc reserves the right to impose an administrative fee of NZD 30.00 for the second and subsequent reminders for overdue payments.
- 4.12. Invoicing Disputes: Clients must notify Fixinc in writing of any invoice discrepancies within thirty (30) days of receiving the invoice. Failure to raise objections within this period will be deemed as acceptance of the charges.
- 4.13. Invoice and Payment Due Date: The establishment fee shall be invoiced within two working days upon the Client's acceptance of these terms and conditions by date and signature via the fee proposal. The Client is required to remit payment for the establishment fee within 14 days of the invoice date.
- 4.14. Consequences of Late Payment: Failure to make payment by the stipulated due dates may result in delays to the project timeline at the discretion of Fixinc. Fixinc reserves the right to suspend project work, reschedule project milestones, or take other appropriate actions to address late payments. It is the Client's responsibility to ensure the timely remittance of these instalments in accordance with the specified due dates. Failure to do so may result in penalties, including an interest fee on overdue amounts, calculated as follows: Interest on overdue invoices = $[(\text{Overdue balance} \times (4\% / 30)) \times \text{Number of days invoice is overdue}]$. This daily interest will continue to accrue until the overdue amount is fully paid. In addition to the interest charges, program activities may be suspended until all outstanding amounts are settled.
- 4.15. Additional Taxes and GST: Fixinc may charge additional taxes for Goods and Services (GST) where applicable and required by law, depending on the

jurisdiction of services rendered and the total amount will be reflected in your invoices. If your organisation is tax exempt from taxes or GST for any reason, you must provide evidence of this to Fixinc prior to the invoice being charged.

- 4.16. Payment Method: Payment must be made to the nominated bank account as specified on the Client's invoice. Any bank fees or charges incurred for international payments to Fixinc's bank account may be borne by the Client.
- 4.17. Purchase Orders or Supplier Contracts: If the Client requires Fixinc to register as a Supplier (or similar) and / or obtain a purchase order number or identification ('PO number'), the Client understands this must be shared with Fixinc within the invoice due date period and any delays incurred as a result do not override the terms of clause 4. It is the sole responsibility of the Client to obtain a PO number in a timely manner for Fixinc accounts (this can be emailed to accounts@fixinc.org once obtained).
- 4.18. Unpaid Invoices Exceeding 60 days: If invoices remain unpaid for a period in excess of 60 days, Fixinc may seek legal action and remedies to collect payments owed and all services will be cancelled indefinitely at any stage of the program's progress inline with the terms set out in clause 10 of the Fixinc Cancellation policy.

5. Travel Expenses

- 5.1. Fixinc reserves the right to modify the travel expense policy at any time, provided that reasonable notice is given to the client of at least thirty (30) days.
- 5.2. Additional On-Site Visits: If the client requests an on-site visit beyond what is covered in the current proposal, Fixinc will charge for the additional visit. The charges will include:
 - 5.2.1. Travel expenses such as transportation, accommodation, and meals as per Fixinc's travel expense policy.
 - 5.2.2. An hourly or daily rate for Fixinc personnel based on the scope and duration of the additional visit.
- 5.3. The client will be informed of these costs in advance and must provide written approval before Fixinc proceeds with the additional visit. If the client declines the proposed costs, the additional visit will not be scheduled.

6. FACT24 Application General Terms

- 6.1. Reporting of Disturbance and Notification of Defects:
 - 6.1.1. The customer shall notify in writing or in text form (e.g. email or fax) any defects and disturbances of the services and systems of FACT24 immediately in detail and in an understandable manner.
- 6.2. Acts of co-operation:
 - 6.2.1. Acts of co-operation and supply by the Client that have been agreed or are necessary and expedient for performance of the contract, including those defined in the contract, shall be performed as essential contractual obligations of the Client. As part of its contractual ancillary obligations, F24 shall store data for the use of services and systems when reporting emergencies for a period of 24 months from the respective report and

shall supply this information to the Client in electronic format on request.
There are no other mutual obligations to store and supply such data.

6.3. Reseller Addendum to the General Terms:

6.3.1. Fixinc, an authorized reseller of F24 AG services, enters into agreements solely with its clients under the jurisdiction of New Zealand law. Fixinc delivers and supports FACT24 services as part of its consulting programs. All liabilities or obligations pertaining to the underlying FACT24 product remain governed by F24's Terms and Conditions and German law, where applicable. This Addendum outlines the roles and responsibilities of Fixinc as a reseller and its direct contractual relationship with the client. All terms related to Fixinc's delivery, support, and management of F24's services are incorporated within Fixinc's Program Terms.

6.4. Subject of the offer:

6.4.1. With acceptance of this offer, the customer acquires the right to use F24's Alerting and Crisis Management Service, FACT24, from Fixinc within the specifically agreed scope.

6.4.2. The FACT24 service is based on systems operated by F24, the Service Provider.

6.4.3. The actual scope of services available depends on the FACT24 version specifically selected by the customer (FACT24 CIM Starter). The scope of services and all other rights and obligations of the parties hereto are based on the statements contained herein as well as the General Terms and Conditions for services supplied by the Service Provider.

6.5. Security and Data Protection:

6.5.1. Safety aspects, availability: By providing multiple systems redundantly at different locations, the service provider increases the availability and reliability of FACT24. The service provider guarantees 99.99% availability annually for the FACT24 Alerting Service and 99.50% availability annually for FACT24 ENS+ Web Administration, FACT24 Web Service Interface and FACT24 CIM Application.

6.5.2. The Service Provider undertakes to make extensive technical and organisational provisions to protect customer data against loss and unauthorised access, and to generally meet all data protection and data safety requirements. Specifically, the Service Provider undertakes to take and implement all measures outlined in the technical and organisational measures section below.

6.5.3. Customer access to FACT24 is via infrastructures outside of the Service Provider's sphere of influence, notably mobile or conventional telephone networks or the Internet. All statements as to availability made herein do not relate to these facilities but are deemed to apply only to the Service Provider's sphere of responsibility.

6.6. Confidentiality, data protection:

- 6.6.1. The parties will treat all confidential information and business secrets of the other party obtained by virtue of the business relationship as confidential provided that such information is not demonstrably (i) otherwise publicly accessible, public knowledge or otherwise made publicly accessible or public knowledge without a breach of this non-disclosure agreement, (ii) already known by the other party at the time of acquisition or subsequently independently created by such other party independent of disclosure, or (iii) obtained by third parties without a breach of a non-disclosure agreement.
- 6.6.2. The Service Provider agrees to use all of the customer's data solely in accordance with the provisions of the applicable data protection laws, notably for the purpose of performance of the contract, and to refrain from disclosing them or making them accessible to unauthorised third parties except with the customer's express consent.
- 6.6.3. Insofar as personal application data is collected, processed and used by the service provider on behalf of the client, the service provider will only process such data pursuant to documented instructions from the client.
- 6.6.4. The Service Provider will be obligated to secrecy and confidentiality all employees assigned to the performance of the contract.
- 6.6.5. The Service Provider's obligation to secrecy will continue beyond termination of the contract.
- 6.6.6. The Service Provider undertakes to comply with all provisions of applicable general and industry-specific data protection laws. Our Data Protection Officer will be happy to answer queries at any time and can be reached at tel. +49 89 2323 638 0; dataprotection@f24.com.
- 6.6.7. You will find the FACT24 procedural message section below.
- 6.7. Client Obligations:
 - 6.7.1. For data protection purposes, data transmission to the FACT24 service is via encrypted and secure internet connection (Transport Layer Security (TLS)). All browsers using FACT24 must support TLS.
 - 6.7.2. Telephonic dialogue with FACT24 is via tone dialling (MFV or DTMF). For that reason, customers' or alarmed persons' telephones used for activation and confirmation must support tone dialling.
 - 6.7.3. The customer is responsible for ensuring that it provides a telephone number for telephone alarms that is assigned to it and that it is entitled to use.
 - 6.7.4. The customer is solely responsible for the administration and operative application relating to FACT24. Obtaining and maintaining adequate skill and experience levels for the assigned operating personnel is the customer's responsibility. Upon customer request the Service Provider will offer appropriate training courses.

- 6.7.5. The customer is obliged to perform at least two test alarms every six months and per account to test system behaviour and identify potential defects.
- 6.7.6. The customer is obliged, for safety reasons, to always verify receipt of the first alarm report. If the customer is still awaiting the alarm report following a lapse of 5 minutes after the time set by him, the customer shall be required to test for proper alerting in a different manner. If it is evident to the customer that the alerting was not activated correctly, he shall be required to test it on his own in a different, alternative manner.
- 6.7.7. Customer agrees to immediately notify the Service Provider in writing of any conspicuousness, interruption, faults and defects in conjunction with FACT24.
- 6.7.8. The customer will provide the Service Provider with the names and contact details of its designated representatives (with authorisation to issue instructions).
- 6.8. Scope of Services:
 - 6.8.1. The scope of the services provided to a customer varies depending on the FACT24 variant or options selected and is determined by the FACT24 features valid at the respective time. The current features (for FACT24 CIM Starter) are included in an accompanying document.
 - 6.8.2. The scope of services does not include the telecommunication and internet infrastructure of the customer or third parties outside of F24's sphere of influence which may be required for the use of FACT24.
- 6.9. Defects and Disturbances:
 - 6.9.1. The liability for defects in the software rests with the original software provider, F24, as per the agreements concerning the quality of the services. Where no explicit agreements on quality exist, applicable legal provisions will determine whether a defect is present.
 - 6.9.2. Fixinc, acting as a reseller, assumes no responsibility for defects, faults, or errors originating from F24's software. Fixinc provides the software "as is," as supplied by F24, and any claims or disputes concerning software quality or functionality must be directed to F24.
 - 6.9.3. Neither F24 nor Fixinc shall be liable for any public comments, reviews, or third-party statements regarding the software.
 - 6.9.4. F24 will immediately inspect any notified defects of its services and initiate their removal, provided that F24 is obligated to remove defects.

7. Health & Safety Compliance

- 7.1. Site Compliance: If any Fixinc personnel enters the Client's premises while carrying out the Client's Program, Fixinc, and its relevant personnel, are committed to full compliance with the Client's site-specific requirements. This compliance shall be in accordance with the most recent site agreement, if any, executed between Fixinc and the Client.

- 7.2. Occupational Health & Safety (H&S) Responsibility: Fixinc acknowledges the importance of the Client's premises having specific occupational health and safety (H&S) and environmental policies, procedures, and conditions of entry. Fixinc agrees that these measures should be reviewed in conjunction with this Agreement before accessing the site.
- 7.3. H&S Documentation: The Client understands that no Fixinc employee, contractor, or registered nominated persons will enter the Client's premises without prior receipt of the Client's Health and Safety documentation. Fixinc shall ensure that this documentation is shared and received before their personnel's arrival.
- 7.4. Client's Right to Enforce Compliance: In the event of any breach of H&S or environment-related obligations by Fixinc or its personnel, the Client reserves the right, without prejudicing its other rights under this Agreement, to require Fixinc and/or its personnel to immediately suspend the supply performance and/or leave the premises.

8. Service Fees and Specifications

- 8.1. Fee Acceptance: Fees are based on the acceptance of all services outlined in the Fee Proposal and are subject to the specifications.
- 8.2. The scope of services is detailed in the Quote section of your proposal and all costs associated are inline with these services only.

9. Service Provision and Delays

- 9.1. Service Hinderance: Should the Client hinder the provision of prescribed services within 12 months from the commencement date, and for subsequent 12-month periods, the affected services may be forfeited, with associated fees still payable.
- 9.2. Scope Change and Additional Work: Any work requested by the Client that falls outside the scope defined in the 'Quote' section of the Client's proposal will be considered additional work. This additional work will necessitate the creation of a separate proposal ID outlining the scope, objectives, and deliverables of the requested additional work.
- 9.3. Additional Fees: The Client acknowledges that additional work may incur extra fees. These fees will be detailed in the additional proposal ID and are separate from the fees associated with the initial program or this proposal.
- 9.4. Work Pause for Additional Work: In the event that additional work is requested during the course of an ongoing program, Fixinc reserves the right to temporarily pause the execution of the additional work until the initial or relevant program is satisfactorily progressed.
- 9.5. Proposal Acceptance: The Client's approval of the additional proposal ID indicates acceptance of the scope and associated fees for the requested additional work. Work on the additional work will commence upon receipt of the Client's approval and agreement to the terms outlined in the additional proposal ID.

10. Cancellation and Changes

- 10.1. Cancellation Policy: Fixinc reserves the right to impose a cancellation fee of 50% of the total session fee if a training activity is cancelled within 7 working days of the confirmed date after the Engagement Meeting and 100% of any travel fees incurred by Fixinc. A full fee applies for cancellations made within 24 hours of the training event. These fees are fair and reasonable to cover costs and time associated with the preparation of the Client's Program.

11. Services and Contact

- 11.1. Service Agreement: Services, as defined in the attached Fee Proposal, will be rendered in accordance with the requirements specified in the signed Fee Proposal, prepared by Fixinc and signed by the Client's authorised representative.
- 11.2. Authorised Signature: Fixinc assumes that any signature affixed to this Agreement or related documents is by an authorised representative of the Client's company, vested with the authority to bind the company to the terms herein.
- 11.3. No Responsibility for Incorrect Signatures: Fixinc does not bear responsibility for the accuracy or correctness of the signature provided. The Client acknowledges that it is their responsibility to ensure that the signatory has proper authorization. Fixinc assumes all signatures provided are authorised to commence work.
- 11.4. Payment Obligations: Regardless of the accuracy of the signature, the payment obligations outlined in this Agreement shall remain valid and enforceable. Any payment commitments initiated by the Client's signature, whether accurate or not, are subject to the terms and conditions specified in this Agreement.
- 11.5. Designated Contact: The Client is to designate a suitable contact person to provide necessary information to Fixinc and coordinate Fixinc's activities on the designated site/s at all times.
- 11.5.1. Fixinc reserves the right to have continued access to a relevant and authorised member of the Client's company at all times during the program's implementation period. It is the Client's responsibility to ensure that a representative of the Client is available during the program's entire schedule between reasonable business hours.
- 11.6. Advice-Only Nature: The consulting services provided by Fixinc are advisory in nature and are not intended as directives or guarantees of specific outcomes. The advice offered is based on professional judgement and industry expertise, and the implementation of such advice is at the discretion of the Client.
- 11.7. No Claims for Disruptive Events: The Client acknowledges and agrees that Fixinc shall not be held liable for any existing, historic, or future claims arising from the outcome of any disruptive event or impact on the Client's business. Fixinc's advice and services are not intended to predict or control the outcome of such events.
- 11.8. Client's Control over Future Events: The Client acknowledges that any events, decisions, or actions taken by the Client, whether in relation to the consulting services provided by Fixinc or otherwise, are entirely within the Client's control. Fixinc does not possess the ability to influence or direct the outcome of such events, decisions, or actions.

- 11.9. No Responsibility for Event Outcomes: The Client acknowledges that Fixinc cannot be held responsible for any outcomes, positive or negative, resulting from future events or circumstances, whether related to the services provided under this specific program or otherwise.

12. Use of Client's Logo and Materials:

- 12.1. Request of Materials: Fixinc wishes to use all Client logos and similar materials in promotional assets including but not limited to the Fixinc website, Fixinc social media accounts, Google (Google My Business), and email marketing.
- 12.2. Consent and Agreement: Fixinc shall not use any of the Client's materials, including but not limited to the Client's logo and registered business name, in any promotional materials without the Client's prior written consent. The terms herein define the initial agreement by Fixinc regarding the use of such materials.
- 12.3. Website Usage: When approved by the Client, Fixinc is granted permission to use the Client's logo on its website for promotional purposes. The Client shall provide a high-quality version of their latest logo for this purpose.
- 12.4. Social Media and Content: Fixinc may use the Client's logo in social media presentations and materials. However, any specific content, imagery, media, or similar that mentions or refers to the Client will not be made public without the Client's prior review and written approval.
- 12.5. Third-Party Channels: Fixinc may use the Client's materials, including the logo, on third-party channels such as publications, industry bodies, emails, and advertising. However, Fixinc will not do so without the Client's prior awareness and written approval.
- 12.6. Logo Modification: Fixinc may modify the Client's logo limited to change of colour to align with Fixinc's branding. Such modifications will be presented to the Client for review and written approval.
- 12.7. Review and Feedback: The Client has the right to review all materials before their use by Fixinc. Furthermore, the Client may provide feedback or a testimonial about their work or program with Fixinc, which Fixinc will promote across its channels.
- 12.8. Authorised Sign-Off: In the event the Client agrees to collaborate and share materials, an authorised member of the Client's company, who is authorised to sign off on marketing materials, must be provided to Fixinc, including their name, phone number, and email.
- 12.9. Termination: In the event the Client wishes to terminate any relationship, program, project, engagement, or similar with Fixinc, Fixinc shall promptly remove all materials related to the Client from its website. However, Fixinc cannot guarantee the removal of materials from external sources such as social media or external articles.
- 12.10. Linking and Attribution: Fixinc shall make every reasonable effort to provide appropriate and relevant links back to the Client's website or social media channels in any materials where the Client's logo or materials are used.

- 12.11. Assessment of Other Client Materials: The Client has the right to assess any other Fixinc client materials that are promoted across Fixinc's channels. This assessment is based on the understanding that such materials are publicly accessible to all, and the Client may review them to ensure there are no conflicts between businesses.

13. Privacy Statement

- 13.1. Data Use and Protection: Fixinc processes personalized data provided by the client exclusively for the execution of services and in accordance with the client's instructions. Fixinc complies with data protection regulations applicable in New Zealand. For services involving F24, data processing adheres to the German Ordinance on Data Protection in the Telecommunications Industry and other applicable German data protection laws.
- 13.2. Data Security and Cyber Resilience: Fixinc has implemented rigorous cyber resilience protocols to safeguard client data. However, Fixinc cannot be held responsible for malicious acts, breaches, or unauthorized access that may compromise data security. Clients will be notified promptly if Fixinc becomes aware of any data breach.
- 13.3. Data Handling and Privacy Policy: Fixinc's comprehensive Privacy Policy governs the collection, storage, and processing of client data. This policy, available on Fixinc's official website, outlines specific practices, retention periods, and protection measures. Data collected as part of Fixinc's programs will only be processed using nominated tools and methods relevant to the program's execution.
- 13.4. Data Retention: Fixinc retains client data only for the duration necessary to achieve program objectives and in compliance with legal requirements. For services executed by F24, data retention is limited to a maximum of twenty-four (24) months, unless otherwise required by law or contractual obligations. Clients may request stored data in electronic format. Upon program completion or client request, Fixinc will securely dispose of or anonymize the data.
- 13.5. Third-Party Data Management and Sharing: Clients are responsible for implementing any additional technical or organizational measures for data management. Costs incurred for these measures will be borne by the client. Fixinc does not share or disclose client data to third parties without express client consent, unless required by law or for legitimate program purposes. When sharing is necessary, Fixinc ensures data privacy and security by imposing confidentiality agreements and implementing security measures.
- 13.6. Data Breach Notification: In the event of a data breach affecting client data, Fixinc will take prompt action to mitigate the breach and notify the client in accordance with applicable data protection laws.
- 13.7. Data Transfer and International Law: Fixinc may transfer client data across international borders as required by the nature of the program. Fixinc and F24

ensure that all such transfers comply with relevant data protection laws and regulations.

- 13.8. Amendments to Privacy Policy: Fixinc reserves the right to update its Privacy Policy to reflect changes in data protection laws and practices. Clients will be informed of any substantial changes to the policy.
- 13.9. Client's Rights and Data Concerns: Clients retain the right to access their data or request its removal at any time. However, such requests may result in suspension or interruption of the program if the data is integral to its execution. For inquiries or concerns regarding data privacy, security, or the Privacy Policy, clients may contact Fixinc's designated Data Protection Officer.

14. Intellectual Property

- 14.1. Ownership of Intellectual Property: Copyright and Intellectual Property in all advice, reports, specifications, calculations, and other documents provided by Fixinc will be vested and remain vested in Fixinc. The Client has a licence to use such Intellectual Property for implementing advice given as part of the services.
- 14.2. Client's Intellectual Property (IP): In the course of providing consulting services, Fixinc may require access to the Client's intellectual property (IP) or proprietary information. Fixinc is committed to implementing best practice procedures and safeguards to ensure the security and confidentiality of the Client's IP.
- 14.3. Security Measures: Fixinc employs rigorous security measures to protect the Client's IP. These measures include industry-standard encryption, access controls, and regular security assessments to maintain the integrity and confidentiality of the Client's IP.
- 14.4. No Responsibility for Unauthorised Access: While Fixinc takes every precaution to safeguard the Client's IP, the Client acknowledges and agrees that Fixinc cannot be held responsible for unauthorised access, data breaches, or breaches of security caused by bad actors or external threats beyond Fixinc's control.
- 14.5. Non-Disclosure Agreement (NDA): Upon request, Fixinc is prepared to sign a separate Non-Disclosure Agreement (NDA) with the Client. The NDA would outline specific terms and conditions related to the protection of confidential information and intellectual property.
- 14.6. Privacy Policy and Terms and Conditions: Fixinc's Privacy Policy and Terms & Conditions are available on our website and govern our approach to data protection and the terms of our engagements. The Client is encouraged to review these documents for further insights into our practices and obligations.

15. Confidentiality

- 15.1. Confidential Information: Each party will treat the other party's confidential information as such and will not disclose, copy, reproduce, or make use of it except as required for the execution of the services or with prior written approval.
- 15.2. Confidential Information: The Client acknowledges that during the course of our engagement, they may gain access to confidential information, trade secrets,

proprietary methods, and other private materials belonging to Fixinc ("Confidential Information").

- 15.3. Non-Disclosure Obligation: The Client undertakes not to disclose, distribute, reproduce, or share any Confidential Information of Fixinc without explicit written consent from Fixinc.
- 15.4. Protection of Trade Secrets: The Client shall exercise due diligence in safeguarding Fixinc's trade secrets and ways of doing business, refraining from any action that could compromise or misappropriate these valuable assets.
- 15.5. Consent for Sharing: If the Client intends to share any Confidential Information or proprietary materials, they must obtain express written consent from Fixinc prior to such sharing.
- 15.6. Legal Measures for Violations: The Client acknowledges that any unauthorised disclosure or misuse of Fixinc's Confidential Information may result in legal action to protect Fixinc's interests and seek appropriate remedies.

16. Non Disclosure Agreement

- 16.1. Interpretation: In this Agreement the following words and expressions shall have the following meanings:
 - 16.1.1. "The Purpose" means discussions and negotiations relating to Fixinc partner program.
 - 16.1.2. "Confidential Information" means any information which is made available by or on behalf of the Disclosing Party to the Receiving Party which the Receiving Party knows to be confidential (whether because it has been characterised as such by the Disclosing Party or otherwise), whether such information is made available directly or indirectly (by way of example only, by inspection) and whether made available orally, in writing, magnetically, by electronic transmission, or by any other means.
 - 16.1.3. "Disclosing Party" means in relation to any Confidential Information whichever of the parties hereto shall have disclosed that information to the other party and references to the Disclosing Party shall be deemed to include any party which is wholly or partly owned or controlled by such party or related to or affiliated with such party in any way.
 - 16.1.4. "Receiving Party" means in relation to any Confidential Information whichever of the parties hereto shall have received that information from the other Party and references to the Receiving Party shall be deemed to include any officer, employee and professional adviser of the Receiving Party.
- 16.2. Undertaking: Each Party acknowledges that the Confidential Information is a valuable, special and unique asset of the Disclosing Party and agrees that for a period of 3 years from the date the Confidential Information is disclosed the Receiving Party will:
 - 16.2.1. keep secret and confidential all Confidential Information received by it;
 - 16.2.2. use the Confidential Information received;

- 16.2.3. not use, copy, adapt, alter, disclose or part with possession of or apply the Confidential Information or any portion of it for any purpose other than the Purpose without the prior written approval of the Disclosing Party in each instance;
- 16.2.4. not at any time copy, disclose, or otherwise make available to any third party any of the Confidential Information without the prior written consent of the Disclosing Party in each instance (even if such party is under a similar restriction on disclosure with the Disclosing Party), other than:
 - 16.2.4.1. to those of the Receiving Party's directors, officers or employees who need to know such Confidential Information in order to fulfil the Purpose and who have been made aware of and accept the provisions of this undertaking; and
 - 16.2.4.2. to those of the Receiving Party's professional advisers who have been made aware of and accept the provisions of this undertaking;
- 16.2.5. use at least the same degree of care to protect the confidentiality of all Confidential Information it receives as it uses to protect its own confidential information including by securely storing all Confidential Information in its custody or control. However in no event shall the Receiving Party use less than a reasonable degree of care to protect Confidential Information received from the Disclosing Party;
- 16.2.6. at the request of the Disclosing Party return or destroy at the Receiving Party's own expense the Confidential Information received by it together with any copies in its possession or control or in the possession or control of its directors, officers, employees or professional advisers, and shall erase any Confidential Information in any materials or documentation prepared or which has been recorded in all media, and the Receiving Party shall provide a declaration signed by a duly authorised officer certifying that all such Confidential Information has been destroyed or returned.
- 16.3. No Application: The undertakings at clause 16.a to 16.b.vi above shall not apply to any Confidential Information which:
 - 16.3.1. is in the public domain at the date of its disclosure or subsequently becomes public knowledge in any way other than in breach of this Agreement;
 - 16.3.2. the Receiving Party can show to have been in its possession prior to receipt from the Disclosing Party;
 - 16.3.3. has been is now or later is independently developed by the Receiving Party without use of or resort to the Confidential Information and can be so proven by written records;
 - 16.3.4. the Receiving Party is required to disclose by any court order or government or regulatory action, provided that the Receiving Party gives the disclosing party at least ten days written notice of such order or action.

- 16.4. Considerations: If only a portion of the Confidential Information falls within sub-clauses 16.c.i to 16.c.iv then the undertakings at clause 16.a to 16.b.vi shall not apply only to that portion.

17. Indemnification and Liability

- 17.1. Each party agrees to indemnify, defend, and hold harmless the other party from and against any liabilities, claims, demands, damages, losses, or costs, including reasonable legal fees, arising from:
- 17.1.1. Wilful acts, omissions, or gross negligence;
 - 17.1.2. Misconduct or breach of statutory obligations; or
 - 17.1.3. Any material breaches of this Agreement.

18. Limitation of Liability

- 18.1. General Liability: The liability of F24 and Fixinc for any claims resulting from the conclusion and performance of the contract shall be limited as follows, with F24-specific provisions governed by German law and Fixinc-specific provisions governed by New Zealand law.
- 18.2. Coverage Limits: Fixinc's liability is limited to the maximum indemnity provided under its insurance policies:
- 18.2.1.1. Professional Indemnity: Up to NZD \$1,000,000 per claim.
 - 18.2.1.2. Public Liability: Up to NZD \$2,000,000 per claim, including personal injury and property damage.
 - 18.2.2. F24's liability for foreseeable damages caused by simple negligence is limited to EUR 500,000 for property damage and EUR 500,000 for purely financial losses.
- 18.3. Gross Negligence and Wilful Acts: In cases of gross negligence:
- 18.3.1.1. Fixinc's liability is limited to its insurance coverage.
 - 18.3.1.2. F24's liability is limited to foreseeable damages typical at the time of contract conclusion, except in cases involving legal representatives or executive officers.
 - 18.3.2. For wilful misconduct, fraudulent intent, or claims under the German Product Liability Law, F24 is fully liable under legal regulations without applying the above limitations.
- 18.4. Exclusions: Neither Fixinc nor F24 shall be liable for:
- 18.4.1.1. Indirect, consequential, or incidental damages, including loss of profits, business, or revenue.
 - 18.4.1.2. Claims arising from fraud, intentional misconduct, or exclusions outlined in their respective policies.
 - 18.4.1.2. Fixinc specifically excludes liability for statutory penalties under health and safety laws, while F24 excludes liability for disturbances in third-party communication devices not provided by F24.
- 18.5. Communication and Third-Party Systems:

- 18.5.1. F24 assumes no responsibility for the availability of communication routes provided by telecommunications service providers unless denied due to intentional or gross negligence by F24.
 - 18.5.2. Fixinc disclaims liability for defects originating from third-party systems or services.
- 18.6. Insurance Representation:
 - 18.6.1. Fixinc represents that it holds comprehensive liability insurance covering professional indemnity, public liability, and statutory liability within the specified limits. The client acknowledges and agrees that Fixinc's total liability is subject to the insurer's terms, conditions, deductibles, and exclusions.
- 18.7. Claims and Notification:
 - 18.7.1. Both parties agree to notify the other party promptly and no later than five (5) business days after becoming aware of any incident or claim.
 - 18.7.2. Cooperation in good faith is required for the investigation, mitigation, and resolution of claims.
- 18.8. Additional Liability Provisions:
 - 18.8.1. F24 will be liable under a guarantee only to the extent specified in the explicit wording of the guarantee statement.
 - 18.8.2. Contributory fault by the client will be taken into account accordingly.
 - 18.8.3. In the absence of other explicitly agreed limitations, F24's liability for typical, foreseeable damages is capped at EUR 500,000. If foreseeable damages exceed this amount, additional insurance coverage must be negotiated with the client covering surplus costs.
- 18.9. Third-Party Claims:
 - 18.9.1. Fixinc's liability for third-party claims, including those involving contractors or affiliates, is limited to the extent of indemnification provided under its insurance policies. Vicarious liability claims also adhere to these limitations.
- 19. Warranty and Termination**
 - 19.1. Limited Warranty: Fixinc provides no warranties or guarantees regarding service performance except as required by law or explicitly stated in the agreement.
 - 19.2. Client's Obligations: If the Client fails to proceed with services or provide necessary information within a specified timeframe, Fixinc may terminate the agreement, with costs payable by the Client.
- 20. Force Majeure**
 - 20.1. Affected Parties: A party affected by a Force Majeure Event (Affected Party) is not liable to the other to perform any obligations under this Agreement to the extent that such failure is caused or due to a Force Majeure Event provided that:
 - 20.1.1. the Affected Party has made all reasonable efforts to minimise the effects such events may have on the performance of its obligations under this Agreement, and;

- 201.2. given the other party prompt notice (as soon as reasonably possible and no later than five business days after the Affected Party becomes aware that a Force Majeure Event has taken place or is likely to take place) of the full particulars of the Force Majeure Event including the nature of the event, an estimate of its likely duration, the obligations affected by it and the extent of its effect on those obligations, and the steps taken or to be taken to rectify it (if possible) or minimise the impact of the Force Majeure Event.
- 20.2. Obligations to All Parties: The obligations under this Agreement are suspended to the extent to which they are affected by the relevant Force Majeure Event as long as the Force Majeure Event continues.
- 20.3. Force Majeure Effects: The affected party must use its best endeavours to remove, overcome or minimise the effects of the Force Majeure Event as quickly as possible. For the avoidance of doubt, this does not require a party to settle any industrial dispute in any way that it considers inappropriate. During any period in which the affected party is not performing obligations because of a claimed Force Majeure Event, the other party may (but is not obliged to) obtain the Goods and/or Services from any other source without incurring any liability to the affected party.
- 20.4. No Liability: If a Force Majeure Event continues for more than 20 days (unless otherwise agreed by the parties in writing), either party may terminate this Agreement by giving at least 14 days' notice to the other party. In the event of termination under this clause, neither party is liable to the other except to the extent of any rights or obligations which accrued before the termination.
- 21. Governing Law and Entire Agreement**
 - 21.1. Governing Law: This agreement shall be governed by the laws of New Zealand.
 - 21.2. Entire Agreement: This Fee Proposal, Terms & Conditions, Privacy Policy and supporting documents constitute the entire agreement and supersede all prior agreements and negotiations.
- 22. Modification and Survival**
 - 22.1. Modification: No modification, amendment, waiver, or termination of this agreement is binding unless confirmed in writing by both parties.
 - 22.2. Survival: Any warranties, indemnities, or licences made under this agreement survive its termination."