

STANDARD TERMS AND CONDITIONS FOR THE SUPPLY OF SERVICES

1. DEFINITIONS AND INTERPRETATION

1.1. In this Agreement:

Agreement: this written agreement, including the Specific Terms.

Client: the person or entity buying services from the Consultant.

Consultant: the provider of the Services.

Deliverables: all Documents and other materials that the Consultant has agreed to provide to the Client as part of the Services.

Document: includes, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form.

Effective Date: the date on which the Client countersigns the Letter of Engagement

Fees: Consultant's fees for the Services as set out in Clause 6 and the Specific Terms.

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Specific Terms: the terms set out in the Consultant's letter of offer.

Pre-existing Materials: all Documents, information and materials provided by the Consultant relating to the Services which existed prior to the commencement of this Agreement.

Services: the services to be provided by the Consultant under this Agreement as set out in the Specific Terms, together with any additional services which the Consultant provides or agrees to provide to the Client pursuant to Clause 5.

VAT: value added tax chargeable under English law for the time being and any similar additional tax.

1.2. Clause, schedule and paragraph headings are for ease of reference and do not form part of or affect the interpretation of this Agreement.

1.3. In the event of any ambiguity or inconsistency between the provisions of any Schedule and the provisions of the main body of this Agreement, the latter shall prevail to the extent of the ambiguity or inconsistency.

1.4. Words in the singular shall include the plural and vice versa.

1.5. A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.6. Where the words include(s), including or in particular are used in this Agreement, they are deemed to have the words without limitation following them. Where the context permits, the words other and otherwise are illustrative and shall not limit the sense of the words preceding them.

2. APPOINTMENT AND DURATION

2.1. The Client hereby appoints the Consultant to provide the Services to the Client on the terms and conditions of this Agreement with effect from the earlier of the Effective Date and the date of this Agreement.

2.2. This Agreement shall continue until the Services are completed unless this Agreement is terminated in accordance with Clause 10.

3. CONSULTANT'S OBLIGATIONS

3.1. The Consultant shall provide the Services with the reasonable skill care and diligence as may reasonably be expected of appropriately qualified and experienced consultants with appropriate skill and experience of providing services of a similar scope, type, nature and complexity to the Services.

- 3.2. The Parties acknowledge and agree that the Services exclude and the Consultant has no obligations under this Agreement or otherwise in relation to Asbestos Matters. In this Agreement, "Asbestos Matters" means all matters in relation to asbestos howsoever arising including but not limited to assessment or review of any assessment of whether asbestos is present or is likely to be present in any premises, use, removal, management of risk, management or containment of or interface with asbestos that is or likely to be present in any premises, preparation or evaluation of action plans or systems for managing asbestos risk, repair, notification of work with asbestos, prevention or reduction of exposure, implementation control measures, or maintenance of control measures.
- 3.3. The Client acknowledges and agrees that all duties, obligations and risks howsoever arising in relation to Asbestos Matters remain with the Client and the Client shall take reasonable steps to insure against or otherwise address such risks.

4. CLIENT'S OBLIGATIONS

- 4.1. The Client shall:
- (a) provide in a timely manner any facilities, assistance, Documents, information and materials as the Consultant may reasonably require for the performance of the Services (the "**Client Input**") and ensure that such Client Input is accurate in all material respects; and
 - (b) obtain and maintain any necessary licences and consents as may be required for the performance of the Services, unless and to the extent these are listed in the Specific Terms as forming part of the Services.

5. VARIATION OR ADDITIONAL SERVICES

Either Party may request a change to the scope or execution of the Services. The Consultant has no obligation to perform any varied or additional services unless and until the Parties have agreed the necessary variations to its Fees, the Services, and any other relevant terms of this Agreement to take account of the change and this Agreement has been varied in accordance with Clause 12.

6. FEES AND PAYMENT

- 6.1. In consideration of the provision of the Services by the Consultant, the Client shall pay to the Consultant the Fees.

- 6.2. The Fees are exclusive of VAT and any other applicable duty or tax, which shall be payable by the Client.
- 6.3. Unless otherwise stated in the Specific Terms, payments due to the Consultant shall become due on submission of the Consultant's invoice. The final date for payment (the "**Final Payment Date**") of any invoice shall be 14 days from the due date.
- 6.4. All sums payable under this Agreement are payable in full without deduction, withholding, set-off or counterclaim save as may be required by law.
- 6.5. If the Consultant does not receive a payment or part of a payment by its Final Payment Date, then without prejudice to the Consultant's other rights or remedies:
- (a) the Client shall be liable to pay interest on the overdue amount at an annual rate of 2% above the prevailing base rate of the Bank of England, which interest shall accrue on a daily basis from the date payment becomes overdue until the Consultant has received full payment of the overdue amount together with all interest that has accrued; and
 - (b) the Consultant shall have the right, at its option, to suspend performance of the Services until the Client rectifies matters; or
 - (c) the Consultant shall have the right to terminate this Agreement in accordance with Clause 10.

- 6.6. Upon termination of this Agreement for any reason, the Client shall pay the Consultant the Fees on a pro-rata basis for and in connection with the Services performed up to and including the effective date of termination, whether or not invoiced prior to termination, and the Client shall make full payment of such pro-rated Fees within 28 days of receipt of the Consultant's invoice.

7. INTELLECTUAL PROPERTY RIGHTS

- 7.1. The Client acknowledges and agrees that all Intellectual Property Rights and all other rights in the Services, the Deliverables and the Pre-existing Materials shall vest in and shall be and remain the sole and exclusive property of the Consultant.

- 7.2. Subject to Clause 7.3, the Consultant licenses all such rights to the Client free of charge and on a non-exclusive, worldwide basis to such extent as is necessary to enable the Client to make reasonable use of the Deliverables and the Services in relation to the Project.
- 7.3. If and to the extent that any of Intellectual Property Rights and other rights in the Services, the Deliverables and the Pre-existing Materials include or have been created, produced or developed using any Intellectual Property Rights belonging to a third party, Consultant shall use reasonable endeavours to procure that the Client shall be licensed to use such rights.
- 7.4. If the use of the Pre-existing Materials as specified in this Clause 7 is found to infringe the rights of any third person, the Consultant shall indemnify the Client against all resulting costs, damages and expense.
- 8. CONFIDENTIALITY**
- 8.1. Each Party shall keep in strict confidence all information whether disclosed in writing, orally, or by any other means to the recipient Party before or after the date of this Agreement and which by its nature is confidential, is marked as confidential, for the purposes of this Agreement is clearly intended to be confidential, or which is known or reasonably should be known by the recipient Party to be confidential including but not limited to software products and/or software documentation, software applications, software modules, source code, derivative works, inventions, know-how and ideas, trade secrets, trademark and copyright applications, technical and business plans, technical information, proposals, specifications, drawings, data, computer programs, pricing, costs, financial information, procedures, proposed products, processes, business systems, techniques, services and like technical or business information (the “**Confidential Information**”).
- 8.2. Neither recipient Party shall use any Confidential Information for any purpose other than to perform its obligations under this Agreement.
- 8.3. The recipient Party may disclose Confidential Information to its employees, officers, representatives, advisers, agents or subcontractors who need to know such information for the purposes of carrying out the recipient Party’s obligations under this Agreement.
- 8.4. Each Party shall ensure that its employees, officers, representatives, advisers, agents or subcontractors to whom it discloses Confidential Information comply with this Clause 8.
- 8.5. The obligations of confidentiality contained in this Clause 8 will not apply to Confidential Information which:
- (a) is in the public domain prior to receipt; or
 - (b) enters the public domain after receipt other than as a result of a breach by the recipient Party of any obligation to the disclosing Party;
 - (c) by documentation was known to the recipient Party prior to disclosure by the disclosing Party by reason other than having been previously disclosed in confidence to the recipient Party;
 - (d) was disclosed to the recipient Party on a non-confidential basis by a third party who did not owe any obligation of confidence to the disclosing Party with respect to the disclosed Confidential Information;
 - (e) was independently developed by a Party without reference to the other Party’s Confidential Information; or
 - (f) is required to be disclosed by a court of law or other competent tribunal, or any government body or other regulatory authority.
- 8.6. Each recipient Party shall within 14 days of receipt of a written request from the disclosing Party, return to the disclosing Party or (if requested) destroy all originals and copies of documents (in any form) containing or reflecting any Confidential Information.

9. LIABILITY AND INSURANCE

9.1. This Agreement sets forth the full extent of the Consultant's obligations and liabilities arising out of or in connection with this Agreement, and there are no conditions, warranties, representations or terms, express or implied, that are binding on the Consultant except as specifically stated in this Agreement. Any condition, warranty, representation or term which might otherwise be implied into or incorporated in this Agreement whether by statute, common law or otherwise, is hereby expressly excluded.

9.2. The Consultant shall not be liable to the Client under or in connection with this Agreement for any:

- (a) loss of income, loss of actual or anticipated profits, loss of business, loss of contracts, loss of goodwill or reputation, loss of anticipated savings, loss of, damage to or corruption of data, or for any indirect or consequential loss or damage of any kind, in each case howsoever arising, whether such loss or damage was foreseeable or in the contemplation of the Parties and whether arising in or for breach of contract, tort (including negligence), breach of statutory duty, indemnity or otherwise;
- (b) subject to clause 7.4, use of the Pre-Existing Materials, Deliverables or the Services for any purpose other than that for which they were prepared or provided in relation to the Project;
- (c) delay or failure by the Consultant to perform or comply with any obligation under or term of this Agreement to the extent that such delay or failure is attributable to any act or omission of or by the Client or any of its employees, agents or contractors (including without limitation any breach by the Client of any obligation under or term of this Agreement); or
- (d) any liability howsoever arising in relation to Asbestos Matters.

9.3. The Consultant's maximum aggregate liability to the Client under or in connection with this Agreement, whether arising in or for breach of contract, tort (including negligence), breach of statutory duty, indemnity or otherwise, shall not exceed £1,000,000.

9.4. Without prejudice to Clause 9.2 and Clause 9.3, the Consultant's liability to the Client shall be limited to such sum as it would be fair and equitable to pay having regard to the extent of the Consultant's responsibility for the Client's loss or damage and on the assumption that there are no joint insurance or co-insurance arrangements between the Client and any third party who is responsible to any extent for that loss or damage.

9.5. Nothing in this Agreement shall exclude or in any way limit the Consultant's liability for:

- (a) fraud;
- (b) death or personal injury caused by its negligence;
- (c) breach of terms regarding title implied by s.12 Sale of Goods Act 1979 and/or s2 Supply of Goods and Services Act 1982; or
- (d) any liability to the extent the same may not be excluded or limited as a matter of law.
- (e) breaches under clause 7.4.

9.6. The Consultant shall make all reasonable efforts to maintain insurance coverage against legal liabilities arising out of or in connection with the performance, or otherwise, of its obligations under this Agreement, subject always to the availability of such insurance on commercially reasonable terms.

10. TERMINATION

10.1. Without prejudice to the Parties' other rights or remedies, either Party may terminate this Agreement immediately at any time by written notice to the other Party if:

- (a) the other Party commits a breach of any of the material terms of this Agreement (including in the case of the Client any late or non-payment of any sums payable hereunder) and (if such a breach is remediable) fails to remedy that breach within 30 days after the service of written notice requiring the same; or

- (b) the other Party ceases or threatens to cease to trade (either in whole, or as to any part of division involved in the performance of this Agreement), or becomes or is deemed insolvent, is unable to pay its debts as they fall due, has a receiver, administrative receiver, administrator or manager appointed of the whole or any part of its business or assets, makes or commences negotiations in relation to any composition or arrangements with its creditors or an order or resolution is made for its dissolution or liquidation (other than for the purpose of solvent amalgamation or reconstruction), or takes or suffers any analogous procedure, action or event in any jurisdiction.

10.2. On termination of this Agreement for any reason, the accrued rights and liabilities of the Parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination, shall not be affected.

10.3. On termination of this Agreement (however arising) the following Clauses shall survive and continue in full force and effect: Clause 7 (Intellectual Property Rights), Clause 8 (Confidentiality), Clause 9 (Liability and Insurance), Clause 10 (Termination) and Clause 21 (Governing Law and Jurisdiction).

11. FORCE MAJEURE

11.1. The Consultant shall not be in breach of this agreement, nor liable for any failure or delay in performance of any obligations under this Agreement arising from or attributable to acts, events, omissions or accidents beyond its reasonable control (a “**Force Majeure Event**”).

11.2. The obligations of the Consultant to the Client shall be suspended during the period of the Force Majeure Event.

11.3. If the Force Majeure Event prevails for a continuous period of more than 60 days, either Party may terminate this Agreement by giving 14 days' written notice to the other Party. On the expiry of this notice period, this Agreement will terminate. Such termination shall be without prejudice to the rights of the Parties in respect of any breach of this Agreement occurring prior to such termination.

12. VARIATION

No variation of this Agreement shall be valid unless it is in writing and signed by or on behalf of each of the Parties.

13. WAIVER

13.1. Failure to exercise, or any delay in exercising, any right or remedy provided under this Agreement or by law shall not constitute a waiver of that (or any other) right or remedy, nor shall it preclude or restrict any further exercise of that (or any other) right or remedy.

13.2. No single or partial exercise of any right or remedy provided under this Agreement or by law shall preclude or restrict the further exercise of any such right or remedy.

14. SEVERANCE

14.1. If any provision of this Agreement (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the Agreement, and the validity and enforceability of the other provisions of the Agreement shall not be affected.

15. ENTIRE AGREEMENT

15.1. This Agreement constitutes the whole agreement between the Parties and supersedes any previous arrangement, understanding or agreement between them relating to the subject matter of this Agreement.

15.2. Each party acknowledges that, in entering into this Agreement, it does not rely on any statement, representation, assurance or warranty (a “**Representation**”) of any person (whether a party to this agreement or not) other than as expressly set out in this Agreement. Each Party agrees that the only remedies available to it arising out of or in connection with a Representation shall be for breach of contract as expressly provided in this Agreement.

15.3. Nothing in this Clause shall limit or exclude any liability for fraud.

16. ASSIGNMENT AND SUBCONTRACTING

16.1. Subject to Clause 16.2, neither Party shall, without the prior written consent of the other Party (such consent not to be unreasonably withheld or delayed), assign, transfer, subcontract or deal in any other manner with all or any of its rights or obligations under this Agreement.

16.2. The Consultant may subcontract the Services or any part of this Agreement to any other company within the Consultant's group of companies.

17. NO PARTNERSHIP OR AGENCY

Nothing in this Agreement is intended to, or shall operate to, create a partnership between the Parties, or to authorise either Party to act as agent for the other, and neither Party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

18. RIGHTS OF THIRD PARTIES

A person who is not a Party to this Agreement shall not have any rights under or in connection with it. The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.

19. NOTICES

19.1. Any notice or other communication to be made pursuant to the terms and conditions of this Agreement shall be in writing and shall be sufficient made if:

- (a) sent by pre-paid first-class post; or
- (b) facsimile; or
- (c) delivered by hand

and shall except in the case of delivery by hand be deemed to have been delivered two days after the communication was posted or faxed. If delivered by hand the delivery shall be deemed to have occurred on the same day.

19.2. The address for notices for each Party is as set out in this Agreement or as may be notified by the Parties from time to time.

19.3. Any notice or communication of a routine administrative or operational nature to be given under this Agreement may be made by electronic mail or other electronic means, if agreed between the Party to whom the communication is sent (the "**Receiving Party**") and the party from whom the communication originates (the "**Sending Party**"). The Sending Party and the Receiving Party shall notify each other in writing of the address to which such electronic mail shall be sent and/or any other information required to enable the sending and receipt of information by that means.

19.4. Any electronic communication made between a Sending Party and a Receiving Party under Clause 19.3 shall be effective only when actually received by the Receiving Party in readable form.

19.5. The provisions of this Clause 19 shall not apply to the service of any process in any legal action or proceedings.

20. COUNTERPARTS

20.1. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

21. GOVERNING LAW AND JURISDICTION

21.1. This Agreement and any dispute or claim arising out of or in connection with it or its subject matter, shall be governed by, and construed in accordance with, English law.

21.2. The Parties irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter.