



Registered office
46 St Peter Street
Tiverton
Devon
EX16 6NR

TERMS AND CONDITIONS

1. Interpretation

- 1.1. The definitions and rules of interpretation in this condition apply in these terms and conditions ("**Conditions**").

Contract means the Customer's purchase order and the Supplier's acceptance of it, or the Customer's acceptance of a fee proposal for Services by the Supplier under condition 2.2.

Customer means the person, firm or company who purchases Services from the Supplier.

Deliverables means all Documents, products and materials developed by the Supplier or its agents, subcontractors, consultants and employees in relation to the Services in any form, including computer programs, data, reports and specifications (including drafts).

Document includes, without limitation, 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.

Intellectual Property Rights means all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in designs, rights in computer software, database 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.

Services means the consultancy and advisory services to be provided by the Supplier under the Contract as specified in the fee proposal or order form, together with any other services which the Supplier provides, or agrees to provide, to the Customer.

Supplier means JP Associates (Consultants) Limited whose registered office is at 46 St Peter Street, Tiverton, Devon.

Supplier's Equipment means any equipment, including tools, systems, cabling or facilities, provided by the Supplier or its subcontractors and used directly or indirectly in the supply of the Services.

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

- 1.2. Headings in these conditions shall not affect their interpretation.
1.3. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
1.4. 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.
1.5. A reference to writing or written includes faxes and unless the context otherwise states, email.
1.6. Any obligation in the Contract on a person not to do something includes, without limitation, an obligation not to agree, allow, permit or acquiesce in that thing being done.

2. Application of conditions

- 2.1. These Conditions shall:
2.1.1. apply to and be incorporated into the Contract; and
2.1.2. prevail over any inconsistent terms or conditions contained, or referred to, in the Customer's purchase order, confirmation of order, acceptance of a quotation or fee proposal, or specification or other Document supplied by the Customer, or implied by law, trade custom, practice or course of dealing.
2.2. The Customer's purchase order, or the Customer's acceptance of a fee proposal for Services by the Supplier, constitutes an offer by the Customer to purchase the Services specified in it on these Conditions. No offer placed by the Customer shall be accepted by the Supplier other than:
2.2.1. by a written acknowledgement issued and executed by the Supplier; or
2.2.2. (if earlier) by the Supplier starting to provide the Services, when a contract for the supply and purchase of the Services on these Conditions will be established. The Customer's standard terms and conditions (if any) attached to, enclosed with or referred to in any purchase order or other Document shall not govern the Contract.

- 2.3. Fee proposals are given by the Supplier on the basis that no Contract shall come into existence except in accordance with condition 2.2. Any fee proposal is valid for a period of 30 days from its date, provided that the Supplier has not previously withdrawn it.

3. Supplier's obligations

- 3.1. The Supplier shall use reasonable endeavours to provide the Services and deliver the Deliverables to the Customer, materially in accordance with the Contract.
3.2. The Supplier shall use reasonable endeavours to meet any performance dates specified in the Contract, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
3.3. The Supplier shall use reasonable endeavours to observe all health and safety rules and regulations, and any other reasonable security requirements that apply at any of the Customer's premises and that have been communicated to it under condition 4.1.4, provided that it shall not be liable under the Contract if, as a result of such observation, it is in breach of any of its obligations under the Contract.

4. Customer's obligations

- 4.1. The Customer shall:
4.1.1. co-operate with the Supplier in all matters relating to the Services; provide the Supplier, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, with access to the Customer's premises, office accommodation, land, garden, data and other facilities as required by the Supplier;
4.1.2. be responsible (at its own cost) for preparing and maintaining the relevant premises for the supply of the Services, including identifying, monitoring, removing and disposing of any hazardous materials from any of its premises in accordance with all applicable laws, before and during the supply of the Services at those premises, and informing the Supplier of all of the Customer's obligations and actions under this condition 4.1.3;
4.1.4. inform the Supplier of all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Customer's premises;
4.1.5. obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the Services and the installation of the Supplier's Equipment insofar as such licences, consents and legislation relate to the Customer's business, premises, staff and equipment, in all cases before the date on which the Services are to start;
4.2. If the Supplier's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees, the Supplier shall not be liable for any costs, charges or losses sustained or incurred by the Customer arising directly or indirectly from such prevention or delay.
4.3. The Customer shall be liable to pay to the Supplier, on demand, all reasonable costs, charges or losses sustained or incurred by the Supplier (including, without limitation, any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) arising directly or indirectly from the Customer's fraud, negligence, failure to perform or delay in the performance of any of its obligations under the Contract, subject to the Supplier confirming such costs, charges and losses to the Customer in writing.

5. Charges and payment

- 5.1. In consideration of the provision of the Services by the Supplier, the Customer shall pay the charges as set out in the invoice.
5.2. The Customer shall pay each invoice submitted to it by the Supplier, in full and in cleared funds, within 30 days of receipt to a bank account nominated by the Supplier.
5.3. Without prejudice to any other right or remedy that it may have, if the Customer fails to pay the Supplier on the due date, the Supplier may charge interest on such sum from the due date for payment at the annual rate of [3]% above the base lending rate from time to time of [Barclays Bank plc], accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment and the Customer shall pay the interest immediately on demand. The Supplier may claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.
5.3. Time for payment shall be of the essence of the Contract.
5.4. The Supplier may, without prejudice to any other rights it may have, set off any liability of the Customer to the Supplier against any liability of the Supplier to the Customer.

6. Intellectual property rights

- 6.1. As between the Customer and the Supplier, all Intellectual Property Rights and all other rights in the Deliverables shall be owned by the Supplier. The Customer shall be entitled to use any reports provided by the Supplier for the purpose provided only.

7. Confidentiality and the Supplier's property

- 7.1. The Customer shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or

initiatives which are of a confidential nature and have been disclosed to the Customer by the Supplier, its employees, agents, consultants or subcontractors and any other confidential information concerning the Supplier's business or its products which the Customer may obtain.

- 7.2. The Customer may disclose such information:
- 7.2.1. to its employees, officers, representatives, advisers, agents or subcontractors who need to know such information for the purposes of carrying out the Customer's obligations under the Contract; and
- 7.2.2. as may be required by law, court order or any governmental or regulatory authority.
- 7.3. The Customer shall ensure that its employees, officers, representatives, advisers, agents or subcontractors to whom it discloses such information comply with this condition 7.
- 7.4. The Customer shall not use any such information for any purpose other than to perform its obligations under the Contract.
- 7.5. All materials, equipment and tools, drawings, specifications and data supplied by the Supplier to the Customer (including the Supplier's Equipment) shall, at all times, be and remain as between the Supplier and the Customer the exclusive property of the Supplier, but shall be held by the Customer in safe custody at its own risk and maintained and kept in good condition by the Customer until returned to the Supplier, and shall not be disposed of or used other than in accordance with the Supplier's written instructions or authorisation.
- 8. Limitation of liability**
- 8.1. This condition 8 sets out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents, consultants, and subcontractors) to the Customer in respect of:
- 8.1.1. any breach of the Contract;
- 8.1.2. any use made by the Customer of the Services, the Deliverables or any part of them; and
- 8.1.3. any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.
- 8.2. All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 8.3. Nothing in these Conditions limits or excludes the liability of the Supplier:
- 8.3.1. for death or personal injury resulting from negligence; or
- 8.3.2. for any damage or liability incurred by the Customer as a result of fraud or fraudulent misrepresentation by the Supplier; or
- 8.3.3. for any liability incurred by the Customer as a result of any breach by the Supplier of the condition as to title or the warranty as to quiet possession implied by section 2 of the Supply of Goods and Services Act 1982.
- 8.4. Subject to condition 8.2 and condition 8.3:
- 8.4.1. the Supplier shall not be liable for loss of profits, loss of business, depletion of goodwill and/or similar losses loss of anticipated savings, loss of goods, loss of contract, loss of use, loss of corruption of data or information or any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.
- 8.4.2. the Supplier's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance, or contemplated performance, of the Contract shall be limited to the price paid for the Services.
- 9. Data protection**
- 9.1. The Customer acknowledges and agrees that details of the Customer's name, address and payment record may be submitted to a credit reference agency, and personal data will be processed by and on behalf of the Supplier in connection with the Services.
- 10. Force majeure**
- 10.1. The Supplier shall have no liability to the Customer under the Contract if it is prevented from, or delayed in performing, its obligations under the Contract or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including (without limitation) strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.
- 11. Variation**
- 11.1. The Supplier may, from time to time and without notice, change the Services in order to comply with any applicable safety or statutory requirements, provided that such changes do not

- 11.2. materially affect the nature, scope of, or the charges for the Services.
Subject to condition 11.1, no variation of the Contract or these Conditions shall be valid unless it is in writing and signed by or on behalf of each of the parties.

12. Waiver

- 12.1. A waiver of any right under the Contract is only effective if it is in writing and it applies only to the circumstances for which it is given. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that (or any other) right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that (or any other) right or remedy.

13. Severance

- 13.1. If any provision of the Contract (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 Contract, and the validity and enforceability of the other provisions of the Contract shall not be affected.

- 13.2. If a provision of the Contract (or part of any provision) is found illegal, invalid or unenforceable, the parties shall negotiate in good faith to amend such provision such that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the parties' original commercial intention.

14. Entire agreement

- 14.1. The Contract constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter.

- 14.2. Each party acknowledges that, in entering into the Contract, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) (other than for breach of contract).

15. Assignment

- 15.1. The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, mortgage, subcontractor deal in any other manner with all or any of its rights or obligations under the Contract.

- 15.2. The Supplier may at any time assign, transfer, charge, mortgage, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.

16. Notices

- 16.1. Any notice or other communication required to be given under the Contract shall be in writing and shall be delivered personally, or sent by pre-paid first-class post, recorded delivery or by commercial courier to the other party and for the attention of the person specified in the Contract, or as otherwise specified by the relevant party by notice in writing to the other party.

- 16.2. Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at the address and for the contact referred to in the Contract or, if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

17. Governing law and jurisdiction

- 17.1. The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the law of England and Wales.

- 17.2. The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, the Contract or its subject matter or formation (including non-contractual disputes or claims).