

TERMS AND CONDITIONS OF SUPPLY

1. Interpretation

1.1 The definitions and rules of interpretation in this condition apply in these terms and conditions (unless the context requires otherwise) **(Conditions)**.

Capacity as agent, consultant, director, employee, owner, partner, shareholder or in any other capacity;

Confidential Information information (whether or not recorded in documentary form, or stored on any magnetic or optical disk or memory) relating to the business, products, affairs and finances of the Customer for the time being confidential to the Customer and trade secrets including, without limitation, technical data and know-how relating to the business of the Customer or any of its business contacts;

Consultancy Fee the fee payable for the Services by the Customer to the Consultant set out in the Summary;

Contract the Customer's purchase order and the Consultant's acceptance of it, or the Customer's acceptance of a quotation for Services by the Consultant under condition 3.2 and in any event incorporating the Summary and these Conditions;

Customer the party identified as such on the Summary which is purchasing Services from the Consultant;

Delivery Date the date of delivery of the Services set out in the Summary;

Insurance Policies professional indemnity insurance and public liability insurance;

Intellectual Property Rights patents, rights to inventions, copyright and related rights, trade marks, trade names and domain names, rights in get-up, rights in goodwill or to sue for passing

off, rights in designs, rights in computer software, database 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 (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which may now or in the future subsist in any part of the world;

Pre-Contractual Statement

any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to these Conditions or not) relating to the Services other than as expressly set out in these Conditions or any documents referred to in them;

Services

the services described in the Summary;

Summary

the summary attached to these Conditions containing the detail of the Contract and the Services to be supplied by the Consultant to the Customer;

Termination Date

the date of termination of the Contract howsoever arising;

Works

all records, reports, documents, papers, drawings, designs, transparencies, photos, graphics, logos, typographical arrangements, software, slide shows, training materials and all other materials in whatever form, including but not limited to hard copy and electronic form, prepared by the Consultant in the provision of the Services.

- 1.2 The headings in these Conditions are inserted for convenience only and shall not affect its construction.

1.3 A reference to a particular law 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.

1.4 A reference to one gender includes a reference to the other gender.

1.5 The schedules to these Conditions form part of (and are incorporated into) these Conditions.

2. **Term**

2.1 The Customer shall engage the Consultant and the Consultant shall provide the Services on the terms of these Conditions.

2.2 The Services shall be delivered on the Delivery Date unless and until terminated as provided by the terms of these Conditions.

3. **Application of Conditions**

3.1 These Conditions shall:

3.1.1 apply to and be incorporated into the Contract; and

3.1.2 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 specification or other document supplied by the Customer, or implied by law, trade custom, practice or course of dealing.

3.2 The Customer's purchase order, or the Customer's acceptance of a quotation for Services by the Consultant, 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 Consultant other than:

3.2.1 by a written acknowledgement issued and executed by the Consultant;

3.2.2 (if earlier) by the Consultant 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.

3.3 Quotations are given by the Consultant on the basis that no Contract shall come into existence except in accordance with condition 3.2. Any quotation is valid for a period of 30 days from its date, provided that the Consultant has not previously withdrawn it.

4. **Consultant's Obligations**

- 4.1 The Consultant shall provide the Services with all due care, skill and ability of a person reasonably skilled in her field and in any event in accordance with the Summary.
- 4.2 If the Consultant is unable to provide the Services due to illness or injury she shall advise the Customer of that fact as soon as reasonably practicable and shall provide such evidence of her illness or injury as the Customer may reasonably require.
- 4.3 The Consultant shall comply with all reasonable standards of safety and comply with the Customer's health and safety procedures from time to time in force at the premises where the Services are provided where notified to her.

5. **Customer's Obligations**

The Customer shall:

- 5.1 provide for the Consultant all necessary and timely access to the premises in order to carry out the Services;
- 5.2 provide all appropriate equipment (including without limitation overhead projector, computer, TV, DVD and CD player) necessary for the Consultant to conduct the Services as agreed on the Summary and ensure the same is in good working order routinely checked and certified according to general safety requirements;
- 5.3 provide suitable and appropriate facilities and/or accommodation for the Consultant to conduct the Services as agreed in the Summary;
- 5.4 provide information and copies of all relevant policies or terms with which the Customer will need to comply in attending the Customer's premises to provide the Services no less than 14 days prior to the Delivery Date;
- 5.5 retain all insurances appropriate to an organisation of its type and shall provide copies of such policy certificates to the Consultant on request;
- 5.6 the Customer acknowledges and agrees that any act or omission by it leading to a breach of this condition 5 or any aspect of it shall prevent the provision of the Services by the Consultant to the Customer and the Consultant shall have no liability to the Customer whatsoever incurred by the Customer as a result of such act or omission or breach.

6. **Fees and Payment**

- 6.1 In consideration of the provision of the Services, the Customer shall pay to the Consultant 50% of the Consultancy Fee on signing and returning the Contract with any purchase order to the Consultant (**Deposit**) and 50% within 7 days of completion of delivery of the Services and on receipt of an appropriate invoice from the Consultant to be issued by the Consultant immediately on completion of the delivery of the Services.
- 6.2 Consultancy Fees shall be payable by cheque or BACS to such bank account notified by the Consultant to the Customer from time to time.
- 6.3 All Consultancy Fees exclude Value Added Tax (if applicable).
- 6.4 Without prejudice to any other right or remedy that it may have, if the Customer fails to pay the Consultant on the due date, the Consultant may charge interest on such sum from the due date for payment at the annual rate of 5% above the base lending rate from time to time of Alliance and Leicester 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 Consultant may claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.
- 6.5 Time for payment shall be of the essence of the Contract.

7. **Confidential Information and Customer Property**

- 7.1 The Consultant acknowledges that she may have access to Confidential Information. The Consultant has therefore agreed to accept the restrictions in this condition 7.
- 7.2 The Consultant shall not (except in the proper course of her duties) either during the term of the Contract or at any time after the Termination Date, use or disclose to any person, firm or company any Confidential Information. This restriction does not apply to:
- 7.2.1 any use or disclosure authorised by the Customer or required by law; or
- 7.2.2 any information which is already in, or comes into, the public domain otherwise than through the Consultant's unauthorised disclosure.
- 7.3 All documents, manuals, hardware and software provided for the Consultant's use by the Customer, and any data or documents (including copies) produced, maintained or stored on the Customer's computer systems or other electronic equipment (including mobile phones provided by the Customer), remain the property of the Customer.

8. **Data Protection**

- 8.1 The Consultant consents to the Customer holding and processing data relating to her for legal, personnel, administrative and management purposes only.
- 8.2 The Consultant consents to the Customer making such information available to those who provide products or services to the Customer (such as advisers), regulatory authorities, governmental or quasi governmental organisations and potential purchasers of the Customer or any part of its business.
- 8.3 Any personal data of staff, agents or contractors of the Customer received by the Consultant in the delivery of the Services, shall only be used by the Consultant in the delivery of the Services and the Consultant shall only transfer such personal data to a third party on the specific request of the Customer and the Customer hereby agrees to indemnify and keep indemnified the Customer in respect of any claim arising and made against the Consultant as a result of such required transfer by the Customer.

9. **Freedom of Information**

The Consultant acknowledges and agrees that if the Customer is subject to the provisions of the Freedom of Information Act 2000, then it will, so far as it is able, assist the Customer in compliance with its obligations under that legislation.

10. **Intellectual Property**

- 10.1 All existing and future Intellectual Property Rights in the Works and all materials embodying such rights to the fullest extent permitted by law are and shall remain vested in the Consultant. Insofar as they do not so vest automatically by operation of law or under these Conditions, the Customer holds legal title in such rights on trust for the Consultant and shall do or procure to be done all such acts and things as may be necessary to vest title in such rights in the Consultant on request.
- 10.2 The Customer undertakes:
- 10.2.1 to only use the Works in relation to the provision of the Services and for no other purpose without the prior written consent of the Consultant;
- 10.2.2 not to register nor attempt to register any of the Intellectual Property Rights in the Works, unless requested to do so by the Consultant.

10.2.3 For the avoidance of doubt, the Customer may not reproduce or otherwise review or reproduce the Works for other organisations or divisions related to it without the permission of the Consultant.

11. Insurance and Liability

11.1 The Consultant shall maintain in force full and comprehensive Insurance Policies in respect of the provision of the Services.

11.2 The Consultant shall ensure that the Insurance Policies are taken out with reputable insurers.

11.3 The Consultant shall on reasonable request of the Customer supply to the Customer copies of such Insurance Policies and evidence that the relevant premiums have been paid.

12. Termination and Cancellation

12.1 Notwithstanding the provisions of condition 2.2, the Customer may terminate the Contract with immediate effect with no liability to make any further payment to the Consultant (other than in respect of amounts accrued prior to the Termination Date) if at any time the Consultant:

12.1.1 is convicted of any criminal offence (other than an offence under any road traffic legislation in the United Kingdom or elsewhere for which a fine or non-custodial penalty is imposed); or

12.1.2 is declared bankrupt or makes any arrangement with or for the benefit of her creditors or has a county court administration order made against her under the County Court Act 1984; or

12.1.3 is incapacitated (including by reason of illness or accident) from providing the Services for an aggregate period of 10 working weeks;

12.1.4 is guilty of any fraud which in the opinion of the Customer brings or is likely to bring the Customer into disrepute or is materially adverse to the interests of the Customer.

12.2 Any termination of the Contract by the Customer (other than in accordance with clauses 12.1.1, 12.1.2 or 12.1.4 shall be subject to the provisions of conditions 12.3 to 12.5 inclusive.

12.3 If the Customer terminates the Contract less than 21 days prior to the Delivery Date, then the Customer shall not be entitled to any repayment of the Deposit.

12.4 If the Customer wishes to alter the Delivery Date after the Contract has been entered into, then it shall notify the Consultant and agree, subject to the Consultant's other commitments,

an alternative Delivery Date, provided always that, where the Customer requests a change of Delivery Date less than 21 days prior to the then agreed Delivery Date, the Consultant shall retain such Deposit and the Customer shall pay an additional 50% of the Consultancy Fee to the Consultant as an additional deposit for the Services to be delivered on the revised Delivery Date and Deposit and Delivery Date shall be construed accordingly.

12.5 If the Customer issues notice in writing to the Consultant to terminate the Contract less than 5 days prior to the Delivery Date, then the Customer shall not be entitled to any repayment of the Deposit and the remainder of the Consultancy Fee shall become immediately due and payable to the Consultant by the Customer.

12.6 The Consultant reserves the right to cancel the Contract for reasons of her or a member of her family's ill health or accident, family bereavement or similar.

12.7 If in such event set out in clause 12.6 above, the Consultant:

12.7.1 requests an alteration of the Delivery Date, the Deposit paid by the Customer to the Consultant shall be retained by the Consultant until the delivery of the Services on the revised Delivery Date;

12.7.2 cancels the Contract on written notice to the Customer to take immediate effect, the Consultant shall reimburse the Customer with the Deposit.

12.8 The Consultant shall have no responsibility whatsoever to the Customer for any costs or expenses incurred by the Customer as a result of any cancellation or reorganisation of the Contract arising as a result of the Consultant exercising its rights under clauses 12.6 and/or 12.7.

13. **Obligations Upon Termination**

On the Termination Date the Consultant shall:

13.1 immediately deliver to the Customer all documents, books, materials, records, correspondence, papers and information (on whatever media and wherever located) relating to the business or affairs of the Customer, any keys, and any other property of the Customer, which is in her possession or under her control;

13.2 irretrievably delete any information relating to the business of the Customer stored on any magnetic or optical disk or memory and all matter derived from such sources which is in her possession or under her control outside the premises of the Customer; and

13.3 provide a signed statement that she has complied fully with her obligations under this condition 12.8.

14. **Status**

14.1 The relationship of the Consultant to the Customer will be that of independent contractor and nothing in these Conditions shall render her an employee, worker, agent or partner of the Customer and the Consultant shall not hold herself out as such.

14.2 These Conditions constitutes a contract for the provision of services and not a contract of employment and accordingly the Consultant shall be fully responsible for any income tax, National Insurance and Social Security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with the performance of the Services, where such recovery is not prohibited by law.

15. **Force Majeure**

15.1 In these Conditions, force majeure will mean any cause preventing either party from performing any or all of its obligations which arises from or is attributable to either acts, events, omissions or accidents beyond the reasonable control of the party so prevented including strikes, lock-outs or other industrial disputes (whether involving the workforce of the party so prevented or of 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, or storm or war, civil war, armed conflict or terrorist attack, nuclear, chemical or biological contamination or sonic boom, but nothing else.

15.2 If either party is prevented or delayed in the performance of any of its obligations under these Conditions by force majeure, that party will forthwith serve notice in writing on the other party specifying the nature and extent of the circumstances giving rise to force majeure, and will, subject to service of such notice, have no liability in respect of the performance of such of its obligations as are prevented by the force majeure events during the continuation of such events, and for such time after they cease as is necessary for that party, using all reasonable endeavours, to recommence its affected operations in order for it to perform its obligations.

15.3 If either party is prevented from performance of its obligations for a continuous period in excess of three months, either party may terminate these Conditions forthwith on service of

written notice upon the party so prevented, in which case neither party will have any liability to the other except that rights and liabilities which accrued prior to such termination shall continue to subsist.

16. Entire Agreement

16.1 These Conditions constitutes the entire agreement and understanding of the Parties and supersedes any previous agreement between the Parties relating to the subject matter of these Conditions.

16.2 Each of the Parties acknowledges and agrees that in entering into these Conditions it does not rely on any Pre-Contractual Statement.

16.3 Nothing in these Conditions shall, however, operate to limit or exclude any liability for fraud.

17. Variation

No variation of these Conditions or of any of the documents referred to in it shall be valid unless it is in writing and signed by or on behalf of each of the parties.

18. Notices

18.1 Any notice or other communication given under these Conditions shall be in writing and signed by or on behalf of the party giving it and shall be served by delivering it personally or sending it by pre-paid recorded delivery or registered post to the address and for the attention of the relevant party set out in condition 18.2 (or as otherwise notified by that party hereunder).

18.2 The addresses of the parties for the purposes of condition 18.3 are:

[Party 1]	
Address:	[]
For the attention of:	[]
[Party 2]	
Address:	[]
For the attention of:	[]

or such other address as may be notified in writing from time to time by the relevant party to the other party.

18.3 Notice given under these Conditions shall not be validly served if sent by e-mail.

19. **Rights of Third Parties (exclusion)**

19.1 No term of these Conditions shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party.

19.2 No term of these Conditions shall be enforceable by a third party (being any person other than the parties).

20. **Governing Law and Jurisdiction**

20.1 These Conditions shall be governed by and construed in accordance with the law of England and Wales.

20.2 Each party irrevocably agrees to submit to the exclusive jurisdiction of the courts of England and Wales over any claim or matter arising under or in connection with these Conditions.