

## Standard Terms and Conditions for the employment of Tersus

This contract will be between the client ('you', 'your') and the operating company ('we', 'us', 'our') identified in our written proposal, which may be by letter, in respect of our services and fees applicable to the commission referred to in the proposal ('the proposal').

1. Unless expressly agreed in writing that these terms are to be varied, these terms have precedence over any others contained on other documents in letters.
2. If, following receipt of our proposal, you instruct us to proceed or to continue with our services, we shall be entitled to assume your acceptance of the proposal and these terms. If we agree to proceed in circumstances where it is clear that the amount or basis of our fee has not yet been agreed, we shall be paid our standard hourly rates and out of pocket expenses (see clause 3 below) unless or until superseded by a later agreement covering such services so undertaken. Upon your acceptance of these terms, subject to any express agreement to the contrary, all services already undertaken in relation to the commission shall be governed by these terms.
3. Our fees and expenses for this commission as set out in the proposal remain open for acceptance for 1 calendar month from the date of the proposal. Work in addition to the proposal will be charged at our quoted or standard hourly rates unless agreed otherwise. We shall be entitled to a fair and reasonable adjustment to our fee where our services are delayed or disrupted as a result of factors outside our control. Out of pocket expenses will be charged at our then standard rates or at cost plus a handling charge of ten percent. All sums quoted are exclusive of VAT unless stated otherwise. Our standard rates are available on request.
4. You agree to pay sums due to us by 'the final date for payment' being 30 days after the date on the invoice covering such amounts (or the date of receipt of the invoice by you if you can show that that was later). Unless agreed to the contrary, payment for work carried out in each calendar month shall become due at the end of that month and shall be charged at our standard rates unless another basis has been agreed and shall be an interim payment on account where an overall fee for the commission has been agreed. Without prejudice to any other rights we may have we may add interest at the rate of statutory interest as set from time to time for the purposes of the Late Payment of Commercial Debts (Interest) Act 1998 from the final date for payment until payment is made in full.
5. If you fail to pay in full by the final date for payment, we reserve the right to either terminate our engagement (and claim damages on the basis of such termination having arisen as a result of your breach) or suspend our services until the outstanding amount, together with interest, has been received.
6. (a) The Customer shall not (except with our prior written consent) directly or indirectly solicit or entice away (or attempt to solicit or entice away) from the employment of the Operating Company, any person employed or engaged by us at any time during the Contract or for a further period of 12 months after the termination of this Contract.  
(b) If the Customer commits any breach of clause 6(a) the Customer shall, on demand, pay us a sum equal to one year's basic salary or the annual fee that was payable by us to that employee, worker or independent contractor plus the recruitment costs incurred by in replacing such person.
7. We will exercise all the reasonable skill and care in carrying out our services under the commission to be expected of an appropriately qualified and competent consultant experienced in carrying out services of the relevant nature for projects of a similar size, scope and complexity to the commission. Save in respect of any breach of this clause 7, we shall not be liable in connection with the carrying out of our services. Unless expressly agreed in writing as a qualification to this clause, we shall not be liable for the performance of any other person not engaged by us, nor responsible for checking or reporting on their performance.
8. When we are required to act on your behalf or as your agent, you agree to indemnify us against all claims against us as a result, except to the extent that any liability arises as a result of any breach of clause 7.
9. We shall not be liable for any breach of this contract if the relevant action in respect of that breach is commenced more than 6 years after completion of our services in respect of this commission.  
Tersus undertakes to maintain Public Liability, Employers Liability – further details of which can be made available on request. Professional Indemnity Insurance will also be maintained during the course of our services and for six years after their completion, providing always that such insurance is available at commercially reasonable rates and terms. The entire liability of Tersus under or in connection with the agreement shall not exceed a multiple of 10 (ten) times Tersus charges for the provision of the services.
10. Our liability under this contract for breach of clause 7 shall be limited to the cover against such liability provided by our professional indemnity insurance, but assuming for this purpose (if it is not the case) that we have complied with our obligation under clause 10.
11. This contract is personal to you and the services and all written reports or other communications shall be for your benefit only and shall not be passed to any other person without our consent. Where third parties need to rely on our services for this commission, we are willing to enter into warranty agreements with such third parties on terms to be agreed with us, commensurate with the risk taken by us and the reward to us under this contract and including where appropriate payment of an additional fee to us in respect of the increased exposure to claims as a result of any such additional agreements.
12. To the extent that this contract is in respect of services relating to construction operations to which Part II of the Housing Grants, Construction and Regeneration Act 1996 applies, the provisions of Section 108 sub-sections (1) to (4) inclusive and Part 1 (Adjudication) of the Scheme for Construction Contracts (England and Wales) Regulations 1998 are incorporated into this contract with the following additional requirements: -
  - a. the adjudicator nominating body to be used for this contract shall be the Chartered Institute of Arbitrators; and
13. The adjudicator to be appointed must be independent of both us and you. This contract is subject to the law of England and Wales and the exclusive jurisdiction of the courts of England and Wales.
14. Quotations are subject to change dependent on the assessment and scope of work undertaken. Work requiring additional time or equipment beyond the limits of the original quotation will be subject to re quotation.
15. Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other

- case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service, commercial courier, or e-mail.
16. All quotes are for the supply of goods and services to UK mainland only. The day rate is defined as up to a maximum of 8 hours on site. We reserve the right to recover travel and hotel costs where this is specifically identified within individual quotations.
  17. Force Majeure. Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under it if such delay or failure result from events, circumstances or causes beyond its reasonable control.
  18. 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. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including noncontractual disputes or claims).
  19. 19.1 The copyright in all information provided by us in connection with the Services belongs to us. However, subject to payment of our fees, we will allow you to use them by granting to you an irrevocable, non-exclusive, royalty free licence to copy and use the documents for all purposes related to the Project. We shall not be liable for any use of such documents for any purpose other than that for which they were prepared.  
19.2 You agree not to provide to any third party any material provided to you by us as part of the Services, without our specific consent.
  20. No amendment or variation to the Contract will be binding on us unless in writing signed by one of our directors.
  21. Tersus shall have no liability to the customer for any loss, damage, costs or other claims for compensation arising from any instruction, drawing or other document, supplied by the customer, which is incomplete, incorrect, inaccurate, or in the wrong form, or arising from their late or non-arrival, or any other fault of the customer.
  22. Additional terms and conditions with respect to health and safety, site specific constraints and access must also be referred to as detailed within specific individual quotations.