

Tersus Standard Terms and Conditions for the Purchase of Services

1. INTERPRETATION

1.1 **Definitions.** In these Conditions, the following definitions apply:

1.2 **Business Day:** a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Charges: the charges payable by the Customer for the supply of the Services in accordance with clause 6.

Commencement Date: has the meaning set out in clause 2.1.

Conditions: these terms and conditions as amended from time to time in accordance with clause 15.7.

Contract: the contract between the Customer and the Supplier for the supply of Services in accordance with these Conditions.

Customer: Tersus Consultancy Limited registered in England and Wales with company number 01912115

Customer Materials: has the meaning set out in clause 3.3(i).

Deliverables: all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including without limitation drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Order: The Customer's order for the supply of Services, as set out in the Customer's purchase order form, or in the Customer's written acceptance of the Supplier's quotation as the case may be.

Services: the services, including without limitation any Deliverables, to be provided by the Supplier under the Contract as set out in the Specification.

Specification: the description or specification for the Services agreed in writing by the Customer and the Supplier.

Supplier: the person or firm from whom the Customer purchases the Services.

1.2 Construction. In these Conditions, the following rules apply:

- (a) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) a reference to a party includes its successors or permitted assigns;
- (c) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or reenacted;
- (d) any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- (e) a reference to writing or written includes faxes and e-mails.

2. BASIS OF CONTRACT

2.1 The Order constitutes the Customer's acceptance of the Supplier's quotation to provide the Services in accordance with these Conditions at which point, and on which date the Contract shall come into existence (Commencement Date).

2.2 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

3. SUPPLY OF SERVICES

3.1 The Supplier shall from the Commencement date, or the date set out in the Order (whichever is the later) and for the duration of this Contract provide the Services to the Customer in accordance with the terms of the Contract.

3.2 The Supplier shall meet any performance dates for the Services specified in the Order or notified to the Supplier by the Customer.

3.3 In providing the Services, the Supplier shall:

- (a) co-operate with the Customer in all matters relating to the Services, and comply with all instructions of the Customer;
- (b) perform the Services with all the reasonable skill, care and diligence to be expected of a qualified and experienced member of the Supplier's industry, profession or trade undertaking Services similar in size, scope and character;
- (c) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with this Contract;
- (d) ensure that the Services and Deliverables will conform with all descriptions and specifications set out in the Specification, and that the Deliverables shall be fit for any purpose expressly or impliedly made known to the Supplier by the Customer;
- (e) provide all equipment, tools and vehicles and such other items as are required to provide the Services;
- (f) use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the Customer, will be free from defects in workmanship, installation and design;
- (g) obtain and at all times maintain all necessary licences, accreditations or consents, and comply with all applicable laws and regulations;
- (h) observe all health and safety rules and regulations and any other security requirements that apply at any of the Customer's premises;
- (i) hold all materials, equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier (Customer Materials) in safe custody at its own risk, maintain the Customer Materials in good condition until returned to the Customer, and not dispose or use the Customer Materials other than in accordance with the Customer's written instructions or authorisation; and
- (j) not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Customer may rely or act on the Services.

3.4 The Supplier shall be able to make changes to the Services which are necessary to comply with any applicable law or health and safety requirement and which do not materially affect the nature or quality of the Services with the Customer's consent and entirely at the Supplier's own cost.

4. CUSTOMER REMEDIES

4.1 If the Supplier fails to perform the Services by the applicable dates, the Customer shall, without limiting its other rights or remedies, have one or more of the following rights: (a) to terminate the Contract with immediate effect by giving written notice to the Supplier; (b) to refuse to accept any subsequent performance of the Services which the Supplier attempts to make; or (c) to claim damages for any additional costs, loss or expenses incurred by the Customer which are in any way attributable to the Supplier's failure to meet such dates.

4.2 These Conditions shall extend to any substituted or remedial services provided by the Supplier.

4.3 The Customer's rights under this Contract are in addition to its rights and remedies implied by statute and common law.

5. CUSTOMER'S OBLIGATIONS

The Customer shall: (a) procure for the Supplier reasonable access at reasonable times to the premises necessary for the purpose of providing the Services; and (b) procure the provision to the Supplier of such information as the Supplier may reasonably request and the Customer considers reasonably necessary for the purpose of providing the Services.

6. CHARGES AND PAYMENT

6.1 The Charges for the Services shall be set out in the Order and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by the Customer, the Charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.

6.2 The Supplier shall invoice the Customer monthly (or on such other interval as may be stated in the Order) and/or on completion of the Services as stated in the Order. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including but not limited to the relevant purchase order number.

6.3 In consideration of the supply of the Services by the Supplier, the Customer shall pay the invoiced amounts within 60 days of the date of a correctly rendered invoice to a bank account nominated in writing by the Supplier.

6.4 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (VAT). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.

6.5 If the Customer is or at any time up to the final payment under this clause 6 becomes a "contractor" for the purposes of the Construction Industry Scheme under the Finance Act 2004 (CIS) the Customer's obligation to make any payment under or in connection with this Contract is subject to the provisions of the CIS.

6.6 If a party fails to make any payment due to the other party under the Contract by the due date for payment, then the defaulting party shall pay interest on the overdue amount at the rate of 4% per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The defaulting party shall pay the interest together with the overdue amount. This clause shall not apply to payments that the defaulting party disputes in good faith. The parties acknowledge that the liability under this clause is a substantial remedy for the purposes of section 9(1) of the Late Payment of Commercial Debts (Interest) Act 1998.

6.7 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services and shall allow the Customer to inspect such records at all reasonable times on request.

6.8 The Customer may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to the Customer against any liability of the Customer to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract.

7. INTELLECTUAL PROPERTY RIGHTS

7.1 In respect of any goods that are transferred to the Customer under this Contract, including without limitation the Deliverables or any part of them, the Supplier warrants that it has full clear and unencumbered title to all such items, and that at the date of delivery of such items to the Customer, it will have full and unrestricted rights to transfer all such items to the Customer.

7.2 The Supplier assigns to the Customer, with full title guarantee and free from all third party rights, all Intellectual Property Rights in the products and the Services, including for the avoidance of doubt the Deliverables.

7.3 The Supplier shall obtain waivers of all moral rights in the products, including for the avoidance of doubt the Deliverables, and the Services to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.

7.4 The Supplier shall, promptly at the Customer's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as the Customer may from time to time require for the purpose of securing for the Customer the full benefit of the Contract, including all right, title and interest in and to the Intellectual Property Rights assigned to the Customer in accordance with clause 7.2.

7.5 All Customer Materials are the exclusive property of the Customer.

8. INDEMNITY

8.1 The Supplier shall keep the Customer indemnified against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the Customer as a result of or in connection with:

(a) any claim brought against the Customer for actual or alleged infringement of a third party's copyright or intellectual property rights, breach of confidentiality, libel, slander or defamation arising out of, or in connection with, the receipt, use or supply of the Services, to the extent that the claim is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors; and

(b) any claim made against the Customer by a third party arising out of, or in connection with, the supply of the Services, to the extent that such claim arises out of the breach, breach of duty of care, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors.

8.2 This clause 8 shall survive termination of the Contract.

9. INSURANCE

For the duration of the Contract and for a period of 6 years thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance and public liability insurance sufficient to cover the liabilities that may arise under or in connection with the Contract and shall, on the Customer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

10. CONFIDENTIALITY

10.1 A party (receiving party) shall keep in strict confidence all technical or commercial know-how, specifications, certification (and results), inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (disclosing party), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction. All personal data provided to the supplier shall be dealt with in a confidential manner and at all times in accordance to the General Data Protection Regulations.

10.2 This clause 10 shall survive termination of the Contract.

11. COMPLIANCE WITH RELEVANT REQUIREMENTS

11.1 The Supplier shall:

(a) comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (Relevant Requirements);

(b) not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK; (c) have and shall maintain in place throughout the term of this Contract its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and clause 11.1(b), and will enforce them where appropriate;

(d) promptly report to the Customer any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the performance of this Contract; (e) at the date of this Contract, and annually thereafter, certify to the Customer in writing signed by an officer of the Supplier, compliance with this clause 11 by the Supplier and all persons associated with it under clause

11.2. The Supplier shall provide such supporting evidence of compliance as the Customer may reasonably request. 11.2 The Supplier shall ensure that any person associated with the Supplier in connection with this Contract does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Supplier in this clause 11 (Relevant Terms). The Supplier shall be responsible for the observance and performance by such persons of the Relevant Terms and shall be directly liable to the Customer for any breach by such persons of any of the Relevant Terms.

11.3 Breach of this clause 11 shall entitle the Customer to terminate the Contract with immediate effect by giving written notice to the Supplier.

11.4 For the purpose of this clause 11, the meaning of adequate procedures and whether a person is associated with another person shall be determined in accordance with the Bribery Act 2010 (and any guidance issued under section 9 of that Act). For the purposes of this clause 11 a person associated with the Supplier includes but is not limited to any subcontractor of the Supplier

12. TERMINATION

12.1 Without limiting its other rights or remedies, the Customer may terminate the Contract by giving the Supplier 20 Business Days written notice. 12.2 Without limiting its other rights or remedies, the Customer may terminate the Contract with immediate effect by giving written notice to the Supplier if:

- (a) the Supplier commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 10 Business Days of receipt of notice in writing to do so;
- (b) the Supplier repeatedly breaches any of the terms of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Contract;
- (c) the Supplier suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- (d) the Supplier commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;
- (e) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Supplier (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;
- (f) the Supplier (being an individual) is the subject of a bankruptcy petition order;
- (g) a creditor or encumbrancer of the Supplier attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 10 Business Days;
- (h) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Supplier (being a company);
- (i) a floating charge holder over the assets of the Supplier (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (j) a person becomes entitled to appoint a receiver over the assets of the Supplier or a receiver is appointed over the assets of the Supplier;
- (k) any event occurs, or proceeding is taken, with respect to the Supplier in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 12.2(c) to clause 12.2(j) (inclusive);
- (l) the Supplier suspends or threatens to suspend, or ceases or threatens to cease to carry on, all or a substantial part of its business; or
- (m) the Supplier (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

12.3 Without limiting its other rights or remedies, if there is a change of control of the Supplier (within the meaning of section 1124 of the Corporation Tax Act 2010) the Customer may, at its option, either terminate the Contract with immediate effect by giving written notice to the Supplier or re-negotiate the terms of the Contract with the Supplier.

12.4 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination.

12.5 Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

13. CONSEQUENCES OF TERMINATION

On termination of the Contract for any reason, the Supplier shall immediately deliver to the Customer all Deliverables whether or not then complete and return all Customer Materials. If the Supplier fails to do so, then the Customer may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.

14. FORCE MAJEURE

14.1 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.

14.2 The Supplier shall use all reasonable endeavours to mitigate the effect of a Force Majeure Event on the performance of its obligations.

14.3 If a Force Majeure Event prevents, hinders or delays the Supplier's performance of its obligations for a continuous period of more than 8 weeks, the Customer may terminate this Contract immediately by giving written notice to the Supplier.

15. GENERAL

15.1 Assignment and other dealings.

(a) The Customer may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

(b) The Supplier may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Customer.

15.2 Notices.

(a) 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, fax or e-mail.

(b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 15.2(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.

(c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

15.3 Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

15.4 Waiver. A waiver of any right or remedy under the Contract or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

15.5 No partnership or agency. Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

15.6 Third parties. A person who is not a party to the Contract shall not have any rights to enforce its terms.

15.7 Variation. Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by two directors of the Customer.

15.8 Non-Solicitation

(a) The Supplier shall not (except with the prior written consent of the Customer) directly or indirectly solicit or entice away (or attempt to solicit or entice away) from the employment of the Customer any person employed or engaged by the Customer at any time during the Contract or for a further period of 12 months after the termination of this Contract other than by means of a national advertising campaign open to all comers and not specifically targeted at any of the staff of the Customer.

(b) If the Supplier commits any breach of clause 15.8(a) the Supplier shall, on demand, pay to the Customer a sum equal to one year's basic salary or the annual fee that was payable by the Customer to that employee, worker or independent contractor plus the recruitment costs incurred by the Customer in replacing such person.

15.9 Governing law. 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. 15.10 Jurisdiction. 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