

**STANDARD TERMS AND CONDITIONS  
FOR SUPPLY OF SERVICES**

**OF**

**Terry McCann, trading as TJM Consultancy**

**1 DEFINITIONS**

In this document the following words shall have the following meanings:

- 1.1 "Agreement" means these Terms and Conditions together with the terms of any applicable Specification Document;
- 1.2 "Client" means the organisation or person who purchases services from TJM Consultancy;
- 1.3 "Intellectual Property Rights" means all patents, registered and unregistered designs, copyright, trade marks, know-how and all other forms of intellectual property wherever in the world enforceable;
- 1.4 "Confidential Information" of a party (the "disclosing party") means all information or data of the disclosing party, which has value by virtue of not being publicly known and which is disclosed or otherwise made available to the other party (the "receiving party") under this Agreement;
- 1.4 "Specification Document" means a statement of work, project proposal, quotation or other similar document describing the services to be provided by TJM Consultancy;
- 1.5 "Work" means any report, document, electronic file, email, or verbal statement provided by TJM Consultancy to the Client in fulfilment of the Specification Document whether or not such communication is mentioned in the Specification Document.

**2 GENERAL**

- 2.1 These Terms and Conditions shall apply to all contracts for the supply of services by TJM Consultancy to the Client.
- 2.2 Before the commencement of the services TJM Consultancy shall submit to the Client a Specification Document which shall specify the services to be supplied and the price payable. The Client shall notify TJM Consultancy immediately if the Client does not agree with the contents of the Specification Document. All Specification Documents shall be subject to these Terms and Conditions.
- 2.3 TJM Consultancy shall use all reasonable endeavours to complete the services within estimated time frames but time shall not be of the essence in the performance of any services.

**3 PRICE AND PAYMENT**

- 3.1 The price for the supply of services are as set out in the Specification Document. TJM Consultancy shall invoice the Client on completion of services.

- 3.2 Any expenses incurred by TJM Consultancy in the course of preparing the Work are the responsibility of the Client. TJM Consultancy agrees that all expenses incurred must be approved in advance in writing by the Client. Expenses claimed without prior approval will not be the responsibility of the Client. Expenses may include, but are not limited to, costs of travel, accommodation, board, conference registration fees, and ancillary expenses incurred as a direct result of TJM Consultancy's provision of services within the Specification Document.
- 3.3 Invoiced amounts shall be due and payable within 15 days of receipt of invoice. TJM Consultancy shall be entitled to charge interest on overdue invoices from the date when payment becomes due from day to day until the date of payment at a rate of 5% per annum above the base rate of the Bank of England. In the event that the Client's procedures require that an invoice be submitted against a purchase order to payment, the Client shall be responsible for issuing such purchase order before the services are supplied.

#### **4 SPECIFICATION OF THE SERVICES**

All services shall be required only to conform to the specification in the Specification Document. For the avoidance of doubt no description, specification or illustration contained in any product pamphlet or other sales or marketing literature of TJM Consultancy and no representation written or oral, correspondence or statement shall form part of the contract.

#### **5 DELIVERY**

The date of delivery specified by TJM Consultancy is an estimate only. Time for delivery shall not be of the essence of the contract and TJM Consultancy shall not be liable for any loss, costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the goods.

#### **6 CLIENT'S OBLIGATIONS**

- 6.1 To enable TJM Consultancy to perform its obligations under this Agreement the Client shall:
- 6.1.1 co-operate with TJM Consultancy;
  - 6.1.2 provide TJM Consultancy with any information reasonably required by TJM Consultancy;
  - 6.1.3 obtain all necessary permissions and consents which may be required before the commencement of the services; and
  - 6.1.4 comply with such other requirements as may be set out in the Specification Document or otherwise agreed between the parties.
- 6.2 The Client shall be liable to compensate TJM Consultancy for any expenses incurred by TJM Consultancy as a result of the Client's failure to comply with Clause 6.1.
- 6.3 Without prejudice to any other rights to which TJM Consultancy may be entitled, in the event that the Client unlawfully terminates or cancels the

services agreed to in the Specification Document, the Client shall be required to pay to TJM Consultancy as agreed damages and not as a penalty the full amount of any third party costs to which TJM Consultancy has committed and in respect of cancellations on less than five working days' written notice the full amount of the goods and services contracted for as set out in the Specification Document, and the Client agrees this is a genuine pre-estimate of TJM Consultancy's losses in such a case. For the avoidance of doubt, the Client's failure to comply with any obligations under Clause 6.1 shall be deemed to be a cancellation of the services and subject to the payment of the damages set out in this Clause.

6.4 In the event that the Client or any third party, not being a sub-contractor of TJM Consultancy, shall omit or commit anything which prevents or delays TJM Consultancy from undertaking or complying with any of its obligations under this Agreement, then TJM Consultancy shall notify the Client as soon as possible and:

6.4.1 TJM Consultancy shall have no liability in respect of any delay to the completion of any project;

6.4.2 if applicable, the timetable for the project will be modified accordingly;

6.4.3 TJM Consultancy shall notify the Client at the same time if it intends to make any claim for additional costs.

## **7 CONFIDENTIALITY**

7.1 TJM Consultancy and the Client each agree to maintain as secret and confidential, and not to divulge the other's Confidential Information to any third party, and agrees not to use such Confidential Information for any purpose other than that for which it is supplied under this Agreement.

7.2 In relation to the Client's Confidential Information, TJM Consultancy also agrees as follows:-

7.2.1 to treat the Confidential Information in confidence and not to use it in such a way as to procure that we or any third party may at any time obtain commercial advantage over you;

7.2.2 not to copy or write down any part of the Confidential Information except as is reasonably necessary for the purposes aforesaid; and

7.2.3 to treat the Confidential Information with the same degree of care and with sufficient protection from unauthorised disclosure as we use to maintain our own confidential or proprietary information but no less than a reasonable standard.

7.3 The undertakings in 7.1 shall not apply to:

7.3.1 information which at the time of disclosure is published or otherwise generally available to the public;

7.3.2 information which is published or becomes generally available to the public, otherwise than through any act or omission on the part of receiving party;

- 7.3.3 information which the receiving party can show by reasonable written record was in its possession at the time of disclosure and which was not acquired directly or indirectly from the disclosing party; or
- 7.3.4 information rightfully acquired by the receiving party from a third party who did not obtain it under pledge of secrecy to the disclosing party or any third party.
- 7.4 All Confidential Information supplied to or acquired by the receiving party shall on request be returned promptly to disclosing party on termination.
- 7.5 TJM Consultancy shall ensure that its employees and sub-contractors participating in this Project are subject to confidentiality obligations which are no less onerous than the provisions herein and shall be responsible for any breach of confidentiality by such employees and/or sub-contractors.

## **8 ALTERATIONS TO THE SPECIFICATION DOCUMENT**

- 8.1 The parties may at any time mutually agree upon and execute new Specification Documents. Any alterations in the scope of services to be provided under this Agreement shall be set out in the Specification Document, which shall reflect the changed services and price and any other terms agreed between the parties.
- 8.2 The Client may at any time request alterations to the Specification Document by notice in writing to TJM Consultancy. On receipt of the request for alterations TJM Consultancy shall, within 5 working days or such other period as may be agreed between the parties, advise the Client by notice in writing of the effect of such alterations, if any, on the price and any other terms already agreed between the parties.
- 8.3 Where TJM Consultancy gives written notice to the Client agreeing to perform any alterations on terms different to those already agreed between the parties, the Client shall, within 5 working days of receipt of such notice or such other period as may be agreed between the parties, advise TJM Consultancy by notice in writing whether or not it wishes the alterations to proceed.
- 8.4 Where TJM Consultancy gives written notice to the Client agreeing to perform alterations on terms different to those already agreed between the parties, and the Client confirms in writing that it wishes the alterations to proceed on those terms, the Specification Document shall be amended to reflect such alterations and thereafter TJM Consultancy shall perform this Agreement upon the basis of such amended terms.

## **9 WARRANTY**

- 9.1 TJM Consultancy warrants that the services performed under this Agreement shall be performed using reasonable skill and care, and of a quality conforming to generally accepted industry standards and practices, and in accordance with the [MRS Code of Practice](#) where appropriate.
- 9.2 Except as expressly stated in this Agreement, all warranties whether express or implied, by operation of law or otherwise, are hereby excluded in relation to the services to be provided by TJM Consultancy. Use of services provided for commercial and financial decision making is at the

Client's own risk. No liabilities whatsoever are accepted by TJM Consultancy for any actions arising from the use of any report or advice.

## **10 INDEMNIFICATION**

The Client shall indemnify TJM Consultancy against all claims, costs and expenses which TJM Consultancy may incur and which arise, directly or indirectly, from the Client's breach of any of its obligations under this Agreement.

## **11 LIMITATION OF LIABILITY**

- 11.1 Except in respect of death or personal injury due to negligence for which no limit applies, the entire liability of TJM Consultancy to the Client in respect of any claim whatsoever or breach of this Agreement, whether or not arising out of negligence, shall be limited to the price paid by the Client to which the claim relates.
- 11.2 In no event shall TJM Consultancy be liable to the Client for any loss of business, loss of opportunity or loss of profits or for any other indirect or consequential loss or damage whatsoever. This shall apply even where such a loss was reasonably foreseeable or TJM Consultancy had been made aware of the possibility of the Client incurring such a loss.
- 11.3 Nothing in these Terms and Conditions shall exclude or limit TJM Consultancy's liability for death or personal injury resulting from TJM Consultancy's negligence or that of its employees, agents or sub-contractors.

## **12 TERMINATION**

Either party may terminate this Agreement forthwith by notice in writing to the other if:

- 12.1 the other party commits a material breach of this Agreement and, in the case of a breach capable of being remedied, fails to remedy it within 30 calendar days of being given written notice from the other party to do so;
- 12.2 the other party commits a material breach of this Agreement which cannot be remedied under any circumstances;
- 12.3 the other party passes a resolution for winding up (other than for the purpose of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect;
- 12.4 the other party ceases to carry on its business or substantially the whole of its business; or
- 12.5 the other party is declared insolvent, or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or a liquidator, receiver, administrative receiver, manager, trustee or similar officer is appointed over any of its assets.
- 12.6 In the event of Termination for any cause, the Client agrees to transfer to TJM Consultancy payment for work done and expenses incurred at the time of Termination, on the same Payment Terms agreed for the Work.

### **13 INTELLECTUAL PROPERTY RIGHTS**

All Intellectual Property Rights and Copyright produced from or arising as a result of the performance of this Agreement reside with TJM Consultancy unless provision to the contrary has been agreed in writing. Upon completion of the Work and payment of any and all invoices associated with the work TJM Consultancy shall assign to the Client a royalty-free, world-wide licence, exclusive for six months from the date of delivery and thereafter non-exclusive, to use the Work for its legitimate business purposes. All intellectual property rights shall not be transferred to the Client and will always remain the property of TJM Consultancy, and the Client shall not distribute the Work or any Rights belonging to TJM Consultancy to any third party without the prior written consent of TJM Consultancy.

### **14 FORCE MAJEURE**

Neither party shall be liable for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to acts of God, strikes, lock outs, accidents, war, fire, the act or omission of government, highway authorities or any telecommunications carrier, operator or administration or other competent authority, or the delay or failure in manufacture, production, or supply by third parties of equipment or services, and the party shall be entitled to a reasonable extension of its obligations after notifying the other party of the nature and extent of such events.

### **15 INDEPENDENT CONTRACTORS**

The TJM Consultancy and the Client are contractors independent of each other, and neither has the authority to bind the other to any third party or act in any way as the representative of the other, unless otherwise expressly agreed to in writing by both parties. The TJM Consultancy may, in addition to its own employees, engage sub-contractors to provide all or part of the services being provided to the Client and such engagement shall not relieve the TJM Consultancy of its obligations under this Agreement or any applicable Specification Document.

### **16 ASSIGNMENT**

The Client shall not be entitled to assign its rights or obligations or delegate its duties under this Agreement without the prior written consent of TJM Consultancy.

### **17 SEVERABILITY**

If any provision of this Agreement is held invalid, illegal or unenforceable for any reason by any Court of competent jurisdiction such provision shall be severed and the remainder of the provisions herein shall continue in full force and effect as if this Agreement had been agreed with the invalid illegal or unenforceable provision eliminated.

### **18 WAIVER**

The failure by either party to enforce at any time or for any period any one or more of the Terms and Conditions herein shall not be a waiver of them

or of the right at any time subsequently to enforce all Terms and Conditions of this Agreement.

**19 NOTICES**

Any notice to be given by either party to the other may be served by email, fax, personal service or by post to the address of the other party given in the Specification Document or such other address as such party may from time to time have communicated to the other in writing, and if sent by email shall unless the contrary is proved be deemed to be received on the day it was sent, if sent by fax shall be deemed to be served on receipt of an error free transmission report, if given by letter shall be deemed to have been served at the time at which the letter was delivered personally or if sent by post shall be deemed to have been delivered in the ordinary course of post.

**20 ENTIRE AGREEMENT**

This Agreement contains the entire agreement between the parties relating to the subject matter and supersedes any previous agreements, arrangements, undertakings or proposals, oral or written. Unless expressly provided elsewhere in this Agreement, this Agreement may be varied only by a document signed by both parties.

**21 NO THIRD PARTIES**

Nothing in this Agreement is intended to, nor shall it confer any rights on a third party.

**22 GOVERNING LAW AND JURISDICTION**

This Agreement shall be governed by and construed in accordance with the law of England and the parties hereby submit to the exclusive jurisdiction of the English courts.