

TERMS OF BUSINESS

1. IN PLACING AN ORDER WITH JOLLEY CONSULTANCY (“THE SUPPLIER”), YOU CONFIRM THAT YOU THE CUSTOMER HAVE READ AND AGREE TO THE BELOW TERMS OF BUSINESS (“TERMS”). THE SERVICES ARE PROVIDED BY JOLLEY CONSULTANCY OF 4 HARTS GARDENS, GUILDFORD, SURREY.

2. SUPPLY OF SERVICES

2.1 The Customer shall set out in an email which Services it requires and any further details (“Order” and “Specification”). Jolley Consultancy shall then confirm via email its agreement to the Order and Specification and shall provide a fee estimate (“Charges”) for the Services. The Services shall not commence until the parties have agreed in writing to the Order, Specification, Timescales and Charges. The parties shall also agree the date that the Services shall commence (“Start Date”).

2.2 Jolley Consultancy shall use all reasonable endeavours to meet any performance dates (“Timescales”) to be agreed by the parties but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.

2.3 Jolley Consultancy warrants to the Customer that the Services will be provided using reasonable care and skill.

2.4 Any samples, drawings, descriptive matter or advertising issued by Jolley Consultancy and any descriptions or illustrations are for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of these Terms or have any contractual force.

2.5 Should the Customer wish to make any changes to the Order, Specification or Timescales, these must first be agreed in writing by Jolley Consultancy, who shall confirm any consequent changes to the Charges in writing (“Agreed Change”). No Agreed Change shall be effective until 5 working days after Jolley Consultancy has sent the confirmation in writing of the Agreed Change.

2.6 Should Jolley Consultancy produce any documents at the request of the Customer (“Deliverables”) as a result of providing the Services, the parties shall agree any Timescales for delivery of such Deliverables.

3. CUSTOMER’S OBLIGATIONS

3.1 The Customer shall:

- (a) ensure that the terms of the Order and any information it provides in the Specification are complete and accurate;
- (b) co-operate with Jolley Consultancy in all matters relating to the Services;

- (c) provide Jolley Consultancy, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by Jolley Consultancy;
- (d) provide Jolley Consultancy with such information and materials as Jolley Consultancy may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
- (e) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
- (f) comply with all applicable laws, including health and safety laws; and
- (g) keep all materials, equipment, documents and other property of Jolley Consultancy (**Supplier Materials**) at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to Jolley Consultancy, and not dispose of or use Jolley Consultancy Materials other than in accordance with Jolley Consultancy's written instructions or authorisation.

3.2 If Jolley Consultancy's performance of any of its obligations is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):

- (a) without limiting or affecting any other right or remedy available to it, Jolley Consultancy shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays Jolley Consultancy's performance of any of its obligations;
- (b) Jolley Consultancy shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Jolley Consultancy's failure or delay to perform any of its obligations as set out in this clause 3.2; and
- (c) the Customer shall reimburse Jolley Consultancy on written demand for any costs or losses sustained or incurred by Jolley Consultancy arising directly or indirectly from the Customer Default.

4. CHARGES AND PAYMENT

4.1 The Charges for the Services shall be calculated on a fixed fee or retainer basis which shall be agreed by the parties over email. If the quote for the Services needs to be amended, the parties shall agree this in writing.

4.2 Jolley Consultancy shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom Jolley Consultancy engages in connection

with the Services including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by Jolley Consultancy for the performance of the Services, and for the cost of any materials. Any expenses shall be agreed in advance with the Customer.

- 4.3 Jolley Consultancy shall invoice the Customer (i) once the Services are complete, or (ii) in the case of ongoing work, in the first week of every month for the work completed in the previous month.
- 4.4 The Customer shall pay each invoice submitted by Jolley Consultancy:
- (a) within 14 days of the date of the invoice; and
 - (b) in full and in cleared funds to a bank account specified in the invoice, and
 - (c) time for payment shall be of the essence.
- 4.5 All amounts payable by the Customer under these Terms are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under these Terms by Jolley Consultancy to the Customer, the Customer shall, on receipt of a valid VAT invoice, pay to Jolley Consultancy 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.
- 4.6 If the Customer fails to make a payment due to Jolley Consultancy by the due date, then, without limiting Jolley Consultancy's remedies under Clause 8, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this Clause 4.6 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- 4.7 All amounts due shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

5. INTELLECTUAL PROPERTY RIGHTS

- 5.1 All intellectual property rights in or arising out of or in connection with the Services (other than intellectual property rights in any materials provided by the Customer) shall be owned by Jolley Consultancy.
- 5.2 Jolley Consultancy grants to the Customer or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free licence during the term of these Terms to copy and modify the Deliverables (excluding materials provided by the Customer) for the purpose of receiving and using the Services and the Deliverables in its business.
- 5.3 The Customer shall not sub-license, assign or otherwise transfer the rights granted in Clause 5.2.

5.4 The Customer grants Jolley Consultancy a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify any materials provided by the Customer to Jolley Consultancy for the term of these Terms for the purpose of providing the Services to the Customer.

6. DATA PROTECTION

6.1 Both parties will comply with all applicable requirements of the General Data Protection Regulations and Data Protection Act 2018 (“Data Protection Legislation”). This *Clause 6* is in addition to, and does not relieve, remove or replace, a party’s obligations or rights under the Data Protection Legislation.

6.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the controller and the Supplier is the processor.

6.3 Without prejudice to the generality of *Clause 6.1*, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to the Supplier for the duration and purposes of these Terms.

6.4 The Customer hereby consents to the Supplier appointing any third party processor of personal data under these Terms.

7. LIMITATION OF LIABILITY

7.1 Jolley Consultancy has obtained insurance cover in respect of its own legal liability for individual claims not exceeding public liability of £2 million and professional indemnity of £100,000 per claim. The limits and exclusions in this clause reflect the insurance cover the Supplier has been able to arrange and the Customer is responsible for making its own arrangements for the insurance of any excess loss.

7.2 The restrictions on liability in this Clause 7 apply to every liability arising under or in connection with these Terms including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

7.3 Neither party may benefit from the limitations and exclusions set out in this clause in respect of any liability arising from its deliberate default.

7.4 Nothing in these Terms limits any liability which cannot legally be limited, including but not limited to liability for:

- (a) death or personal injury caused by negligence;
- (b) fraud or fraudulent misrepresentation; or
- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

7.5 Subject to clause 7.4, Jolley Consultancy total liability to the Customer shall not exceed 100% of the Charges in the preceding 12 months of any claim.

7.6 This *Clause 7.6* sets out specific heads of excluded loss:

- (a) Subject to Clause 7.2, the types of loss listed in Clause 7.6(b) are wholly excluded by the parties.
- (b) The following types of loss are wholly excluded:
 - (i) loss of profits
 - (ii) loss of sales or business.
 - (iii) loss of agreements or contracts.
 - (iv) loss of anticipated savings.
 - (v) loss of use or corruption of software, data or information.
 - (vi) loss of or damage to goodwill; and
 - (vii) Indirect or consequential loss.

7.7 This Clause 7 shall survive termination of these Terms.

8. TERMINATION

8.1 After the Start Date, and without affecting any other right or remedy available to it, either party may terminate these Terms by giving the other party one month's written notice.

8.2 Without affecting any other right or remedy available to it, either party may terminate these Terms with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of any term of these Terms and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing to do so;
- (b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- (d) the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under these Terms has been placed in jeopardy.

- 8.3 Without affecting any other right or remedy available to it, Jolley Consultancy may terminate these Terms with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under these Terms on the due date for payment; or
- (a) there is a change of Control of the Customer.
- 8.4 Without affecting any other right or remedy available to it, Jolley Consultancy may suspend the supply of Services under these Terms or any other contract between the Customer and Jolley Consultancy if the Customer fails to pay any amount due under these Terms on the due date for payment, the Customer becomes subject to any of the events listed in clause 8.2(b) to clause 8.2(d) or Jolley Consultancy reasonably believes that the Customer is about to become subject to any of them.
- 8.5 Should the Customer wish to cancel the Services prior to work starting by Jolley Consultancy, the Customer must terminate within 5 working days of the Start Date. Failure by the Customer to comply with this obligation will result in the Customer being charged 50% of the Charges for the Services.
- 8.6 Should the Customer have any complaint regarding the Services (“**Complaint**”), it should first seek to resolve such a complaint by arranging a meeting with Jolley Consultancy and following such a meeting, to provide Jolley Consultancy with 30 days in which to resolve the Complaint. Should the Complaint not be resolved (to the reasonable satisfaction of the Customer) within the 30 days, Customer may then terminate the Services. Jolley Consultancy reserves the right to levy further Charges in the event that further Services need to be carried out as a result of a Complaint.

9. **CONSEQUENCES OF TERMINATION**

On termination of these Terms:

- (a) the Customer shall immediately pay to Jolley Consultancy all of the outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, Jolley Consultancy shall submit an invoice, which shall be payable by the Customer immediately on receipt;
 - (b) the Customer shall return all of Jolley Consultancy Materials and any Deliverables which have not been fully paid for. If the Customer fails to do so, then Jolley Consultancy may enter the Customer’s premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with these Terms.
- 9.2 Termination of these Terms shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of these Terms which existed at or before the date of termination.

9.3 Any provision of these Terms that expressly or by implication is intended to come into or continue in force on or after termination of these Terms shall remain in full force and effect.

10. GENERAL

10.1 **Force majeure.** Neither party shall be in breach of these Terms nor liable for delay in performing, or failure to perform, any of its obligations under these Terms if such delay or failure result from events, circumstances or causes beyond its reasonable control.

10.2 **Assignment and other dealings.**

- (a) Jolley Consultancy may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under these Terms.
- (b) The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under these Terms without the prior written consent of Jolley Consultancy.

10.3 **Confidentiality.**

- (a) Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 10.3(b).
- (b) Each party may disclose the other party's confidential information:
 - (i) to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under these Terms. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 10.3; and
 - (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- (c) Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under these Terms.

10.4 **Entire agreement.**

- (a) These Terms constitute the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- (b) Each party acknowledges that in entering into these Terms it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not

set out in these Terms. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in these Terms.

(c) Nothing in this clause shall limit or exclude any liability for fraud.

10.5 **Third party rights.**

Unless it expressly states otherwise, these Terms do not give rise to any rights under these Terms (Rights of Third Parties) Act 1999 to enforce any term of these Terms.

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

10.7 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with these Terms or its subject matter or formation.