

## Terms and Conditions for the supply of goods and services provided by Technology House IT Solutions Limited

### 1. Definitions

In these terms and conditions, the following phrases shall have the following definitions:

- 1.1 "you" means you, the party accepting the Services and/or purchasing the Goods, details of whom are set out in the Purchase Order and "your" and "yours" shall be construed accordingly;
- 1.2 "Contract" means any contract between you and us for the supply of goods and/ or services, incorporating these conditions including, without limitation, your acceptance of terms set out in a Purchase Order;
- 1.3 "Deposit" means a deposit of an amount equal to 50% (or such other amount specified in the Purchase Order) of the total contract value, including VAT and general sales taxes, but excluding packaging and delivery;
- 1.4 "Goods" means the products that are to be provided by us, including software and hardware items, more particularly described in the Purchase Order;
- 1.5 "we", "us", "our" and "ours" means Technology House IT Solutions Limited (a company registered in England and Wales with registered Number 04322877 and registered office at 18 Vancouver Wharf, Hazel Road, Woolston Southampton SO19 7BN;
- 1.6 "Purchase Order" means our standard form of purchase order or quotation or where no such written form is used, the terms otherwise agreed between you and us setting out the variable terms applicable to each Contract;
- 1.7 "Services" means the services that are to be provided by us as more particularly described in the Purchase Order;
- 1.8 "VAT" means value added tax chargeable under English law for the time being and any similar additional tax.
- 1.9 In these terms and conditions:
  - 1.9.1 clause headings are included for convenience only and shall not affect the construction of these terms and conditions;
  - 1.9.2 words denoting the singular shall include the plural and vice versa;
  - 1.9.3 references to conditions and clauses are references to conditions and clauses within these terms and conditions;
  - 1.9.4 references to "person" includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

### 2. Application of terms

- 2.1 Subject to any variation under condition 2.4 or condition 5 each individual Contract will be governed by and be deemed to incorporate these terms and conditions and all terms set out in the Purchase Order to the exclusion of all other terms and conditions (including any terms or conditions which you purport to apply under your own purchase order, confirmation of order, specification or other document).

- 2.2 Each Purchase Order that we receive from you shall be deemed to be an offer by you to purchase Services subject to these terms and conditions.
- 2.3 We shall not be deemed to accept any Purchase Order that we receive from you until a written acknowledgement of order is issued by us or (if earlier) we begin to provide the Goods and/or Services to you.
- 2.4 No variation to the Contract shall have effect unless expressly agreed in writing between you and us and signed by a person authorised to bind you and us.
- 2.5 Terms appearing on the face of the Purchase Order shall prevail over terms contained in these standard terms and conditions in the event that terms in the former conflict with terms contained in the latter.

### 3. Timescales Commencement and Duration

- 3.1 Timescales shall be shown in the Purchase Order. Such timescales are an estimate only and time shall not be of the essence unless clearly stated as such on the Purchase Order.
- 3.2 The Goods and/or Services supplied under the Contract shall be provided by us, our agents or sub-contractors to you from the date specified in the Purchase Order or such other date agreed between us.
- 3.3 The Goods and/or Services supplied under the Contract shall continue to be supplied until the Goods and/or Services have been properly supplied and/or performed (as the case may be) or otherwise completed in accordance with any term specified in the Purchase Order unless the Contract is terminated in accordance with condition 11.

### 4. Charges Payment and Deposit

- 4.1 You shall pay the costs expressed in the Purchase Order for Goods and/or Services provided by us. Additionally, you shall reimburse us for all expenses reasonably incurred by us providing the Goods and/or Services, provided that we notify you of such expenses prior to incurring them. We shall invoice you for such expenses at the time we supply you with an invoice under condition 4.4 or sooner.
- 4.2 You must pay us the Deposit before we begin to provide the Goods and/or Services. We may cancel or defer commencement of providing the Goods and/or Services until:
  - 4.2.1 we receive the Deposit from you; and
  - 4.2.2 we receive from you any amount due pursuant to condition 4.4.3.
- 4.3 We may revise the rates shown on the Purchase Order by giving you reasonable notice of the revision.
- 4.4 We shall issue our invoice to you:
  - 4.4.1 following the delivery to you of the Goods;
  - 4.4.2 weekly in arrears for our charges for time, expenses and materials (together with VAT where appropriate) for Services provided in the week concerned;

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- 4.4.3 where a Contract includes the provision of Services involving support services, 30 days prior to the commencement, or renewal, of such Contract.
- 4.5 All prices appearing on the Purchase Order shall be exclusive of VAT, packaging, carriage and delivery costs and insurances unless stated in writing to the contrary.
- 4.6 You must pay each of our invoices submitted to you in full and in cleared funds:
- 4.6.1 within thirty days of us issuing you our invoice if we have expressly designated you as being an account customer; or
- 4.6.2 immediately upon receipt of our invoice if we have not designated you as being an account customer.
- 4.7 You must make all payments due to us in pounds sterling or such other predominant form of currency used in England at the time that payment is due.
- 4.8 Without prejudice to any other right or remedy that we may have, if you fail to pay us on the due date, we may:
- 4.8.1 charge interest on such sum from the due date for payment at the annual rate of 4% above the base lending rate from time to time of NatWest Bank plc, accruing on a daily basis and being compounded monthly until payment is made, whether before or after any judgment and we may claim interest under the Late Payment of Commercial Debts (Interest) Act 1998; and
- 4.8.2 suspend all Services and the provision of Goods due under the Contract without incurring any liability to you until payment has been made in full.
- 4.9 You must make all payments due to us under the Contract without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless you have a valid court order requiring an amount equal to such deduction to be paid by us to you.
- 4.10 Time for payment shall be of the essence of the Contract.
- 4.11 All sums payable to us under the Contract shall become due immediately on its termination, despite any other provision. This condition 4.10 is without prejudice to any right to claim for interest under the law, or any such right under the Contract.
- 5. Changes to the Services**
- 5.1 At any time prior to completion of the Services in full, you may request and we may recommend changes to the scope and/or content of the Services in writing.
- 5.2 We will advise you of the likely impact of any requested or recommended changes to the Services.
- 5.3 We and you must not unreasonably withhold agreement to any request or recommendation.
- 5.4 Until such time as a change is formally agreed, we shall continue to perform under the Contract and to be paid as if such change had not been requested or recommended.
- 5.5 Any agreement to a requested or recommended change will become valid as an amendment to the Contract only when recorded in writing and signed by both you and us.
- 6. Your Obligations**
- 6.1 Prior to our performance of the Contract, you shall provide us with all relevant information in connection with the proposed use of any Goods and the purpose for which you require the Services in order that we may advise you as to Goods and/or Services that may be appropriate to you provided that, in the absence of any fraudulent misrepresentation, we shall have no liability for the failure of any Goods or Services to carry out any specialised requirement that you may have.
- 6.2 You must provide us, our employees and agents with such access to your property as is reasonably required to provide the Services and deliver the Goods.
- 6.3 You must ensure that all your equipment is in good working order and suitable for the purposes for which it is used in relation to the Services, compatible with any Goods that are supplied and conforms to all relevant United Kingdom standards and requirements.
- 6.4 You must not, without our prior written consent, at any time from the date on which the Contract is executed to the expiry of six months after the last date of supply of the Services and/ or Goods, solicit or entice away from us or employ or attempt to employ any person who is, or has been, engaged as an employee by us in the provision of the Services and/or Goods.
- 6.5 Any consent given by the us in accordance with condition 6.4 shall be subject to you paying to us a sum equivalent to 20% of the then current annual remuneration of our employee or, if higher, 20% of the annual remuneration to be paid by you to that employee.
- 7. Risk and Title in the Goods**
- 7.1 The Goods are at your risk from the moment that they are delivered or (if sooner) brought into your property or premises.
- 7.2 Ownership of the Goods shall not pass to you until we have received in full (in cash or cleared funds) all sums due to it in respect of:
- 7.2.1 the Goods; and
- 7.2.2 all other sums which are or which become due to us from you on any account.
- 7.3 Until ownership of the Goods has passed to you, you must:
- 7.3.1 hold the Goods on a fiduciary basis as our bailee;
- 7.3.2 store the Goods (at no cost to us) separately from all other goods belonging to you or any third party in such a way that they remain readily identifiable as our property;
- 7.3.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods;
- 7.3.4 maintain the Goods in satisfactory condition and keep them insured on our behalf for their full price against all risks to our reasonable satisfaction. On request you shall produce the policy of insurance to us; and
- 7.3.5 hold the proceeds of the insurance referred to in clause 7.3.4 on trust for us and not mix them with any other money, nor pay the proceeds into an overdrawn bank account.

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- 7.4 Your right to possession of the Goods shall terminate immediately if:
- 7.4.1 you have a bankruptcy order made against you or makes an arrangement or composition with your creditors, or otherwise take the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (if you are a body corporate) convene a meeting of creditors (whether formal or informal), or enter into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or have a receiver and/or manager, administrator or administrative receiver appointed of your undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator or notice of intention to appoint an administrator is given by you or your directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for your winding up or for the grant-ing of an administration order for you, or any proceedings are commenced relating to your insolvency or possible insolvency; or
- 7.4.2 you suffer or allow any execution, whether legal or equitable, to be levied on your property or obtained against you, or fail to observe/perform any of your obligations under the Contract or any other contract between you and us, or you are unable to pay your debts within the meaning of section 123 of the Insolvency Act 1986 you cease to trade; or
- 7.4.3 you actually or purport to encumber or in any way charge any of the Goods.
- 7.5 We shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from us.
- 7.6 You grant us, our agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where your right to possession has terminated, to recover them.
- 8. Quality of Goods and Warranty**
- 8.1 Where we do not manufacture the Goods, we will endeavour to transfer to you the benefit of any warranty or guarantee given to us.
- 8.2 We warrant that (subject to the other provisions of these conditions) upon delivery the Goods will:
- 8.2.1 be of satisfactory quality within the meaning of the Sale of Goods Act 1994;
- 8.2.2 be reasonably fit for the purpose that the Goods were most obviously made for; and
- 8.2.3 be reasonably fit for any particular purpose for which the Goods are being bought if you had made known that purpose to us and we confirmed in writing that it is reasonable for you to rely on our skill and judgement in our identification of specific Goods to fulfil that purpose.
- 8.3 We shall not be liable for a breach of any of the warranties in clause 8.2 unless:
- 8.3.1 you give written notice of the defect or its being unsuitable for a particular purpose to us, and (if the defect is as a result of damage in transit) to the carrier, within 7 days of the time when you discover or ought to have discovered the defect or its being unsuitable for a particular purpose (as the case may be); and
- 8.3.2 we are given a reasonable opportunity after receiving the notice of examining such Goods and you (if asked to do so by us) return such Goods to our place of business for the examination to take place there.
- 8.4 We shall not be liable for a breach of any of the warranties in clause 8.2 if:
- 8.4.1 you make any further use of such Goods after giving notice pursuant to clause 8.3.1; or
- 8.4.2 the defect arises because you failed to follow our and/or the manufacturer's oral or writ-ten instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice; or
- 8.4.3 you alter or repair such Goods without our written consent.
- 8.5 Subject to clauses 8.3 and 8.4, if any of the Goods do not conform with any of the warranties in clause 8.2 we shall at our option repair or replace such Goods (or the defective part) or refund the price of such Goods at the pro rata price specified for those Goods in the Contract provided that, if we so request, you shall return the Goods or the part of such Goods which is defective to us immediately.
- 8.6 If we comply with clause 8.5 we shall have no further liability for a breach of any of the warranties in clause 8.2 in respect of such Goods and any Goods so replaced will belong to us.
- 9. Warranty and Liability**
- 9.1 Subject to clause 8, this clause 9 sets out our entire financial liability (including any liability for the acts or omissions of our employees, agents and sub-contractors) to you in respect of:
- 9.1.1 any breach of the Contract;
- 9.1.2 any use made by you of the Services, the Goods or any part of them; and
- 9.1.3 any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.
- 9.2 We warrant that we will perform the Services with reasonable care and skill. All other warranties, representations, conditions and terms, whether express or implied statutory or otherwise are, to the fullest extent permissible by law, excluded from the Contract.
- 9.3 Nothing in these Conditions or the Purchase Order limits or excludes our liability for:

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- 1.1.1 9.3.1 death or personal injury resulting from our negligence; or
- 9.3.2 for any damage or liability incurred by you as a result of fraud or fraudulent misrepresentation by us; or
- 9.3.3 for any liability incurred by you as a result of any breach by us of the condition as to title or the warranty as to quiet possession implied by section 2 of the Supply of Goods and Services Act 1982.
- 9.4 Subject to condition clause 9.3
- 1.1.2 9.4.1 we shall not be liable for:
- 9.4.1.1 loss of profits; or
- 9.4.1.2 loss of business; or
- 9.4.1.3 depletion of goodwill and/or similar losses; or
- 9.4.1.4 loss of anticipated savings; or
- 9.4.1.5 loss of goods; or
- 9.4.1.6 loss of contract; or
- 9.4.1.7 loss of use; or
- 9.4.1.8 loss of corruption of data or information; or
- 9.4.1.9 any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.
- 9.4.2 our total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of the Contract shall be limited to the aggregate price paid by you for the Goods and Services under the Contract.
- 9.5 Our liability to any person not party to the Contract shall be limited or excluded to the fullest extent permitted by law.
- 10. Drawings and Literature**
- 10.1 All drawings, descriptive matter, specifications and advertising issued by us and any descriptions or illustrations contained in our catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods or Services described in them. They will not form part of the Contract. We do not accept liability for any errors or omissions in our written materials and we reserve the right to change drawings and/or specifications without notice.
- 10.2 The property, copyright and all other intellectual property rights in all inventions, designs, drawings, specifications, processes, documents, drawings, plans, photographs, illustrations prepared and other printed matter and submitted to you or evolved during or as a result of work carried out pursuant to the Contract shall be owned solely by us. You shall not communicate any part of them to any third party without our written consent.
- 11. Termination**
- 11.1 If either you or us are in breach of the Contract and do not make reasonable steps to remedy that breach within 7 days, then the person not in breach may immediately terminate the Contract.
- 11.2 If you are in breach we may:
- 11.2.1 issue an invoice to you for sums payable for time spent by us up to the date of termination plus any sums payable under Clause 4 which shall become due and payable by you immediately; or
- 11.2.2 suspend the performance of our obligations under this or any other contract with you until the breach is remedied. You will have no claim against us on account of our withholding performance of our obligations in these circumstances.
- 11.2 If you commit an act of bankruptcy or go or are put into liquidation (other than solely for amalgamation or reconstruction) or if a receiver is appointed over any part of your assets or if you suffer the seizure of any property for non-payment of any debt, then we may immediately terminate the Contract without notice. You shall have an equal right if we suffer one of those events.
- 11.3 Exercise of the right of termination afforded to you and us shall not prejudice the legal rights or remedies you or us may have against the other in respect of any breach or default of the Contract.
- 11.4 Any termination of the Contract howsoever caused shall not affect any accrued rights or liabilities including, but without limitation, the payment of any monies due.
- 12. Consumer Protection (Distance Selling) Regulations 2000**
- 12.1 These Regulations do not apply where:
- 12.1.1 you have instructed us in a face to face meeting; or
- 12.1.2 you are a limited company; or
- 12.1.3 we are providing the Services to you in the course of your business.
- 12.2 In some circumstances the Regulations allow a 'cooling off' period of 7 working days in which you can cancel your agreement with us for legal services.
- 12.3 You agree that:
- 12.3.1 we may start work for you and incur costs on your behalf within the 7 working days 'cooling off' period. This will affect your right to cancel under the Regulations (see below); and
- 12.3.2 our work for you is ongoing and may not be completed within 30 days.
- 12.4 Where you receive these terms and conditions (or agree them over the Internet) prior to us beginning to provide the Goods and/or Services, you will not be entitled to cancel your agreement with us where we have started work within the 'cooling off' period.
- 12.5 Where you have instructed us by telephone in circumstances in which we routinely enter into contracts for the supply of goods and/or services at a distance (i.e. not a one off submission of instructions by telephone), you are entitled under the Regulations to cancel the Contract within 7 working days after receipt of these terms and conditions or completion of the work (whichever is sooner).

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**13. Assignment and Third Parties**

- 13.1 You may not assign the Contract without our prior written consent (such consent not be unreasonably withheld, conditioned or delayed).
- 13.2 The Contract is made for the benefit of you and us and (where applicable) your and our respective successors and permitted assigns and is not intended to benefit, or be enforceable by, anyone else.

**14. Notices and Communications**

- 14.1 All communications between you and us regarding the Contract must be in writing and delivered by hand or sent by pre-paid first class post or sent by facsimile transmission to the address stated on the Purchase Order.
- 14.2 Communications shall be deemed to have been received:
- 1.1.3 14.2.1 if sent by pre-paid first class post, 2 days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting);
- 1.1.4 14.2.2 if delivered by hand, on the day of delivery;
- 1.1.5 14.2.3 if sent by facsimile transmission on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day.

**15. Whole Agreement and Variation**

The Contract shall represent the only terms and conditions between you and us in respect of the subject matter thereof and shall supersede all representations, promises and proposals, whether they are oral or written. Any terms and conditions set forth in a specification sheet proffered by you or on your own purchase order form or other correspondence shall be without effect. No alterations shall be made to the terms of the Contract unless expressly agreed by you and us, set out in writing and duly signed by authorised representatives.

**16. Waiver**

No terms or conditions hereof shall be deemed waived and no breach or default excused unless such waiver or excuse shall be in writing and signed by the party issuing the same.

**17. Force Majeure**

Neither you nor us will be liable for any delay or failure to perform our respective obligations under the Contract resulting from any cause beyond our reasonable control.

**18. Governing Law**

The laws of England shall govern the Contract and we and you irrevocably submit to the exclusive jurisdiction of the English courts.

**19. Lien**

- 19.1 We shall have a general as well as a particular lien on all of your goods materials or any other property which shall be in our possession in respect of any unpaid account of yours (whether or not in relation to your goods materials or other property) and such lien shall extend to such goods materials or property in the possession of any agent or sub-contractor of ours or directly or indirectly under the control or disposition of us, our agents or sub-contractors.
- 19.2 We shall have the right to sell in the United Kingdom or abroad any of the goods materials or property mentioned in clause 19.1 by public auction or otherwise to pay or retain the costs and expenses of maintaining and exercising such lien. We shall not owe any duty of care to you in respect of such sale.

**20. Severance**

- 20.1 If any provision (or part of a provision) of the Contract is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions will remain in force.
- 20.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, that provision will apply with whatever modification is necessary to make it valid, enforceable and legal.
- 20.3 You and us agree, in the circumstances referred to in condition 20.2, to attempt to substitute for any invalid, unenforceable or illegal provision a valid, enforceable and legal provision which achieves to the greatest extent possible the same effect as would have been achieved by the invalid or unenforceable provision.

Nothing in these terms and conditions shall affect your statutory rights.