

## AGREED TERMS

### 1. INTERPRETATION

- 1.1 The definitions and rules of interpretation in this condition apply in these terms and conditions (**Conditions**).

**Contract:** the Customer's purchase order and the Supplier's acceptance of it, or the Customer's acceptance of the Quotation under condition 2.2.

**Customer:** the person, firm or company who purchases Services from the Supplier.

**Document:** includes, without limitation, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form.

**Quotation:** the Supplier's quotation for Services.

**Services:** the services to be provided by the Supplier under the Contract as set out in the Supplier's quotation for Services together with any other services which the Supplier provides, or agrees to provide, to the Customer.

**Site:** premises at which the Services are to be provided as set out in the Quotation.

**Supplier:** Lawson Group Limited (company number 04343190) and all associated member companies, whose registered office is at Station Yard, Station Road, Shrivenham, Swindon, SN6 8JL.

**Supplier's Equipment:** any equipment, including tools, systems, cabling or facilities, provided by the Supplier or its subcontractors and used directly or indirectly in the supply of the Services which are not the subject of a separate agreement between the parties under which title passes to the Customer.

**VAT:** value added tax chargeable under English law for the time being and any similar additional tax.

- 1.2 Headings in these conditions shall not affect their interpretation.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.5 A reference to **writing** or **written** includes faxes but not e-mail.

## **2. APPLICATION OF CONDITIONS**

2.1 These Conditions shall:

- (a) apply to and be incorporated into the Contract; and
- (b) prevail over any inconsistent terms or conditions contained, or referred to, in the Customer's purchase order, confirmation of order, acceptance of a quotation, or specification or other Document supplied by the Customer, or implied by trade custom, practice or course of dealing.

2.2 The Customer's purchase order, or the Customer's acceptance of a Quotation constitutes an offer by the Customer to purchase the Services specified in it on these Conditions. No offer placed by the Customer shall be accepted by the Supplier other than:

- (a) by a written acknowledgement issued and executed by the Supplier; or
- (b) (if earlier) by the Supplier starting to provide the Services,

when a contract for the supply and purchase of the Services on these Conditions will be established. The Customer's standard terms and conditions (if any) attached to, enclosed with or referred to in any purchase order or other Document shall not govern the Contract.

2.3 Quotations are given by the Supplier on the basis that no Contract shall come into existence except in accordance with condition 2.2. Any Quotation is valid for a period of 30 days from its date, unless otherwise stated in that Quotation, provided that the Supplier has not previously withdrawn it.

## **3. SERVICES**

3.1 The Services supplied under the Contract shall be provided by the Supplier to the Customer from the date and subject to condition 7 for the period specified in the Supplier's programme of works or as otherwise agreed between the Supplier and the Customer in writing.

3.2 The Supplier shall use reasonable endeavours to provide the Services in accordance in all material respects with the Quotation.

3.3 The Supplier shall use reasonable endeavours to meet the agreed dates but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.

3.4 The Supplier shall use reasonable endeavours to observe all health and safety rules and regulations, and any other reasonable security requirements that apply at any of

the Customer's premises and that have been communicated to it under condition 4.1(d), provided that it shall not be liable under the Contract if, as a result of such observation, it is in breach of any of its obligations under the Contract.

- 3.5 All materials, equipment and tools, drawings, specifications and data supplied by the Supplier to the Customer (including the Supplier's Equipment) shall, at all times, be and remain the exclusive property of the Supplier, but shall be held by the Customer in safe custody at its own risk and maintained and kept in good condition by the Customer until returned to the Supplier, and shall not be disposed of or used other than in accordance with the Supplier's written instructions or authorisation.
- 3.6 Unless otherwise stated in the Quotation, the property in any demolition the arisings shall pass to the Supplier on removal from Site.

#### **4. CUSTOMER'S OBLIGATIONS**

- 4.1 The Customer shall:
- (a) co-operate with the Supplier in all matters relating to the Services;
  - (b) provide the Supplier, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, with access to the Site;
  - (c) provide to the Supplier, in a timely manner, such information as the Supplier may reasonably require and ensure that it is accurate in all respects;
  - (d) inform the Supplier of all health and safety rules and regulations and any other reasonable security requirements that apply at the Customer's premises;
  - (e) where required in the Quotation obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the Services, the installation of the Supplier's Equipment, insofar as such licences, consents and legislation relate to the Customer's business, premises, staff and equipment, in all cases before the date on which the Services are to start; and
  - (f) keep the Supplier's Equipment in accordance with the Supplier's instructions as notified in writing from time to time, and shall not dispose of or use the Supplier's Equipment other than in accordance with the Supplier's written instructions or authorisation.
- 4.2 If the Supplier's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees, the Supplier shall not be liable for any costs, charges or losses sustained or incurred by the Customer arising directly or indirectly from such prevention or delay.

- 4.3 The Customer shall be liable to pay to the Supplier, on demand, all reasonable costs, charges or losses sustained or incurred by the Supplier (including, without limitation, any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) arising directly or indirectly from the Customer's fraud, negligence, failure to perform or delay in the performance of any of its obligations under the Contract, or change in the condition of the Site after the date set out in the Quotation, subject to the Supplier confirming such costs, charges and losses to the Customer in writing.

## **5. CHARGES AND PAYMENT**

- 5.1 In consideration of the provision of the Services by the Supplier, the Customer shall pay the charges as set out in the Quotation, which shall specify whether they shall be on a time and materials basis, a fixed price basis or a combination of both. Condition 5.2 shall apply if the Supplier provides Services on a time and materials basis. Condition 5.3 shall apply if the Supplier provides Services for a fixed price. The remainder of this condition 5 shall apply in either case.

- 5.2 Where Services are provided on a time and materials basis:

- (a) the charges payable for the Services shall be calculated in accordance with the Supplier's standard daily fee rates, as set out in the Quotation as amended from time to time in accordance with condition 5.5;
- (b) the Supplier's standard daily fee rates for each individual person are calculated on the basis of an eight and a half hour day, worked between 7.30 am and 4.30 pm on weekdays (excluding public holidays);
- (c) the Supplier shall be entitled to charge an overtime rate of 125% of the standard daily fee rate on a pro-rata basis for each part day or for any time worked by individuals whom it engages on the Services outside the hours referred to in condition 5.2(b);
- (d) all charges quoted to the Customer shall be exclusive of VAT, which the Supplier shall add to its invoices at the appropriate rate;
- (e) the Supplier shall ensure that every individual whom it engages on the Services completes time sheets recording time spent on the Services, and the Supplier shall use such time sheets to calculate the charges covered by each monthly invoice referred to in condition 5.2(f); and
- (f) the Supplier shall invoice the Customer monthly in arrears for its charges for time, expenses and materials (together with VAT where appropriate) for the month concerned, calculated as provided in this condition 5.2.

- 5.3 Where Services are provided for a fixed price, the total price for the Services shall be the amount set out in the Quotation. The total price shall be paid to the Supplier (without deduction or set-off) as set out in the Quotation.

- 5.4 Any fixed price and daily rate excludes VAT, which the Supplier shall add to its invoices at the appropriate rate.
- 5.5 The parties agree that the Supplier may review and increase its standard daily fee rates. The Supplier will give the Customer written notice of any such increase 30 days before the proposed date of the increase. If such increase is not acceptable to the Customer, it may, within 14 days of such notice being received or deemed to have been received in accordance with condition 7, terminate the Contract with immediate effect by giving written notice to the Supplier.
- 5.6 The prices set out in the Quotation are based on the condition of the Site on the date set out in the Quotation. The parties agree that the Supplier shall be entitled to increase the prices in the event that the condition of the Site changes.
- 5.7 The Customer shall pay each invoice submitted to it by the Supplier, in full and in cleared funds, within 30 days of receipt.
- 5.8 Without prejudice to any other right or remedy that it may have, if the Customer fails to pay the Supplier on the due date, the Supplier may:
- (a) claim interest under the Late Payment of Commercial Debts (Interest) Act 1998; and
  - (b) suspend all Services until payment has been made in full.
- 5.9 Time for payment shall be of the essence of the Contract.
- 5.10 All sums payable to the Supplier under the Contract shall become due immediately on its termination, despite any other provision. This condition 5.10 is without prejudice to any right to claim for interest under the law, or any such right under the Contract.
- 5.11 The Supplier may, without prejudice to any other rights it may have, set off any liability of the Customer to the Supplier against any liability of the Supplier to the Customer.

**6. LIMITATION OF LIABILITY - THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CONDITION**

- 6.1 This condition 6 sets out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents, consultants, and subcontractors) to the Customer in respect of:
- (a) any breach of the Contract;
  - (b) any use made by the Customer of the Services; and

- (c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.
- 6.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 6.3 Nothing in these Conditions limits or excludes the liability of the Supplier:
  - (a) for death or personal injury resulting from negligence; or
  - (b) for any damage or liability incurred by the Customer as a result of fraud or fraudulent misrepresentation by the Supplier.
- 6.4 Subject to condition 6.2 and condition 6.3
  - (a) the Supplier shall not be liable for:
    - (i) loss of profits; or
    - (ii) loss of business; or
    - (iii) depletion of goodwill and/or similar losses; or
    - (iv) loss of anticipated savings; or
    - (v) loss of goods; or
    - (vi) loss of contract; or
    - (vii) loss of use; or
    - (viii) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.
  - (b) the Supplier's 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 price paid for the Services.

## **7. TERMINATION**

- 7.1 Without prejudice to any other rights or remedies which the parties may have, the Supplier may terminate the Contract without liability to the Customer immediately on giving notice to the other if:
  - (a) the Customer fails to pay any amount due under the Contract on the due date for payment and remains in default not less than seven days after being notified in writing to make such payment; or
  - (b) the Customer commits a material breach of any of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or

- (c) the Customer 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 a sole trader) 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; or
- (d) the Customer 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 for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer; or
- (e) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or on connection with the winding up of the Customer other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
- (f) 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 Customer; or
- (g) a floating charge holder over the assets of that Customer has become entitled to appoint or has appointed an administrative receiver; or
- (h) a person becomes entitled to appoint a receiver over the assets of the Customer or a receiver is appointed over the assets of the Customer; or
- (i) a creditor or encumbrancer of the Customer 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 14 days; or
- (j) any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in condition 7.1(d) to condition 7.1(i) (inclusive); or
- (k) the Customer suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or
- (l) there is a change of control of the Customer (as defined in section 574 of the Capital Allowances Act 2001).

7.2 On termination of the Contract for any reason:

- (a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services

supplied but for which no invoice has been submitted, the Supplier may submit an invoice, which shall be payable immediately on receipt;

- (b) the Customer shall return all of the Supplier's Equipment. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them. Until they have been returned or repossessed, the Customer shall be solely responsible for their safe keeping; and
- (c) the accrued rights and liabilities of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination, shall not be affected.

7.3 On termination of the Contract (however arising), the following conditions shall survive and continue in full force and effect condition 6, 7 and 11.

## **8. FORCE MAJEURE**

The Supplier shall have no liability to the Customer under the Contract if it is prevented from, or delayed in performing, its obligations under the Contract or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including (without limitation) strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

## **9. GENERAL**

9.1 The Supplier may, from time to time and without notice, change the Services in order to comply with any applicable safety or statutory requirements, provided that such changes do not materially affect the nature, scope of, or the charges for the Services.

9.2 Subject to condition 9.1, no variation of the Contract or these Conditions shall be valid unless it is in writing and signed by or on behalf of each of the parties.

9.3 A waiver of any right under the Contract is only effective if it is in writing and it applies only to the circumstances for which it is given. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that (or any other) right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that (or any other) right or remedy.

9.4 Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law. Severance

- 9.5 If any provision of the Contract (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the Contract, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- 9.6 If a provision of the Contract (or part of any provision) is found illegal, invalid or unenforceable, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.
- 9.7 The Contract constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter.
- 9.8 Each party acknowledges that, in entering into the Contract, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) (other than for breach of contract), as expressly provided in the Contract. Nothing in this condition shall limit or exclude any liability for fraud.
- 9.9 The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, mortgage, subcontract, or deal in any other manner with all or any of its rights or obligations under the Contract.
- 9.10 The Supplier may at any time assign, transfer, charge, mortgage, subcontract, declare a trust of or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.
- 9.11 Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.
- 9.12 A person who is not a party to the Contract shall not have any rights under or in connection with it.

## **10. NOTICES**

- 10.1 Any notice required to be given under the Contract shall be in writing and shall be delivered personally, or sent by pre-paid first-class post, recorded delivery or by commercial courier to the other party.

10.2 Any notice shall be deemed to have been duly received if delivered personally, when left at the address referred to in the Quotation or, if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

**11. GOVERNING LAW AND JURISDICTION**

11.1 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.

11.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, the Contract or its subject matter or formation (including non-contractual disputes or claims).