

# Terms & conditions of business (for the supply of Consultancy Services)

## Definitions

- a) "Client" means a person(s), company or firm who purchases the Services from the Company and includes any of their subsidiaries and partners.
- b) "Company" is Design Innov8 Ltd. registered at 9 Waye Avenue, TW5 9SD and any other company, person or representative that has a direct association with Design Innov8 Ltd.
- c) "Contract" means any contract between the Company and the Client for the sale and purchase of the Services incorporating these conditions.
- d) "Delivery Point" means the place where delivery of the Services is to take place under condition 6.
- e) "Services" means any consultancy services agreed in the Contract to be supplied to the Client by the Company (including any parts or parts of them).

**Words in the singular include the plural and in the plural include the singular.**

**A reference to one gender includes reference to the other gender.**

**Condition headings do not affect the interpretation of these conditions.**

## 1. Application of Terms

- 1.1 Subject to any variation under condition 1.3, the Contract shall be on these conditions to the exclusion of all other terms and conditions (including the terms and conditions which the Client purports to apply under any purchase order, confirmation of order, specification or other document).
- 1.2 No terms or conditions endorsed on, delivered with or contained in the Client's purchase order, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.
- 1.3 These conditions apply to all the Company's sales and any variation to these conditions and any representations about the Services shall have no effect unless expressly agreed in writing and signed by a director of the Company. The Client acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract. Nothing in this condition shall exclude or limit the Company's liability for fraudulent misrepresentation.
- 1.4 Each order or acceptance of a quotation for Services by the Client from the Company shall be deemed to be an offer by the Client to buy Services subject to these conditions.
- 1.5 No order placed by the Client shall be deemed to be accepted by the Company unless the order has been authorised by one of the Client's representatives who has authority from the Client to do so.
- 1.6 The Client shall ensure that the terms of its order and any applicable specification are complete and accurate.
- 1.7 Any quotation is given on the basis that no Contract shall come into existence until the Company despatches an acknowledgement of order to the Client. Any quotation is valid for a period of 30 days only from its date, provided the Company has not previously withdrawn it.

## 2. Description of work

- 2.1 It is the sole responsibility of the Client to ensure that the specification for the Services is complete and comprehensive in respect of the intended outcome or purpose of the specification.
- 2.2 All samples, drawings, descriptive matter, models, products, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's brochures are issued or published for the sole

purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract and this is not a sale by sample.

## 3. Company's Obligations

- 3.1 The Company undertakes to the Client that:
  - (a) it will provide the Services to the Client diligently and efficiently using reasonable skill and care;
  - (b) it will provide suitably skilled and appropriately trained personnel to carry out the Services; and
  - (c) the Services will be provided in a professional manner.

## 4. Client's Obligations

- 4.1 The Client shall:
  - (a) where applicable, make available to the Company working space, equipment (when required) and other resources necessary for its work under this Agreement;
  - (b) ensure that its employees co-operate fully with the Company in relation to the provision of the Services;
  - (c) promptly give the Company such information and documents as it may reasonably request for the proper performance of its obligations under this Agreement; and
  - (d) take all reasonable steps to ensure the health and safety of the Company's employees whilst they are on the Client's premises.

## 5. Licence of Materials

- 5.1 Unless otherwise agreed, the Company agrees to grant a perpetual licence of the Intellectual Property in the Materials to the Client for the purposes of its business.

## 6. Delivery

- 6.1 The Client shall take delivery of the Services when tendered in accordance with the Contract.
- 6.2 Any dates specified by the Company for delivery of the Services are intended to be an estimate and time for delivery shall not be made of the essence by notice. If for any reason the Client expects a delay in providing appropriate instructions, documents, licences, authorisations or other material essential for the progression of Services, the Company will be notified in writing by the Client and notice of such delay shall not exceed 120 days.
- 6.3 Subject to the other provisions of these conditions, the Company shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Services (even if caused by the Company's negligence), nor shall any delay entitle the Client to terminate or rescind the Contract unless such delay exceeds 180 days.
- 6.4 If for any reason the Client fails to accept delivery of any of the Services or the Company is unable to deliver the Services on time because the Client has not provided appropriate instructions, documents, licenses or authorisations, the Services shall be deemed to have been delivered and the Client will be invoiced in full for all instalments of the supply of Services after 60 days of the agreed and expected project delivery date subject to any variation under condition 6.2.
- 6.5 The Company may deliver the Services by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the Contract.
- 6.6 Each instalment shall be a separate Contract and no cancellation or termination of any one Contract relating to an instalment shall entitle the Client to repudiate or cancel any other Contract or instalment.

- 6.7 Work which the Client requests to be done which is not subject of a written acceptance or is outside the specification of a contract will be chargeable in accordance with prevailing rates of charge in force from time to time.

## 7. Non-Delivery

- 7.1 The Company shall not be liable for any non-delivery of Services (even if caused by the Company's negligence) unless the Client gives written notice to the Company of the non-delivery within 14 days of the date when the Services would in the ordinary course of events have been received.
- 7.2 Any liability of the Company for non-delivery of the Services shall be limited to supplying the Services within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Services.

## 8. Price

- 8.1 Unless otherwise agreed by the Company in writing, the price for the Services shall be the price set out in the Company's quotation.
- 8.2 The price for the Services shall be exclusive of any VAT which the Client shall pay in addition when it is due to pay for the Services.

## 9. Payment

- 9.1 Payment for Services is due in pounds sterling within 30 days of the date on which the Services are delivered or deemed to be delivered. Any extension of credit by the Company may be withdrawn at any time by the Company.
- 9.2 No payment shall be deemed to have been received until the Company has received cleared funds.
- 9.3 All payments to the Company under the Contract shall become due immediately on its termination despite any other provision.
- 9.4 The Client shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Client has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Client.
- 9.5 If the Client fails to pay the Company any sum due pursuant to the Contract, the Client shall be liable to pay interest to the Company on such sum from the due date for payment. Interest will be at the annual rate of 2% above the base lending rate from time to time of Barclays Bank PLC, accruing on a daily basis until payment is made, whether before or after any judgement. The Company reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.

## 10. Limitations of Liability

- 10.1 Subject to condition 6 and condition 7, the following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Client in respect of:
- (a) any breach of these conditions;
  - (b) any use made or resale by the Client of any of the Services, or any product incorporating any of the Services; and
  - (c) any representation, statement or omission including negligence arising under or in connection with the Contract.
- 10.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.
- 10.3 Nothing in these conditions excludes or limits the liability of the Company:
- (a) for death or personal injury caused by the Company's negligence; or
  - (b) under section 2(3), Consumer Protection Act 1987; or
  - (c) for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or

- (d) for fraud or fraudulent misrepresentation.

10.4 Subject to condition 10.2 and condition 10.3:

- (a) the Company'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 or the Contract shall be limited by the Company's policy for professional indemnity in place at the time of the Contract.
- (b) the Company shall not be liable to the Client for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

10.5 The Company's prices are determined on the basis of the limits of liability set out in these terms and conditions for the supply of consultancy services.

10.6 The Company will indemnify the Client for direct physical injury or death caused whether by defects in the Materials or by the acts of omissions of its employees.

10.7 Neither party shall be liable to the other for any indirect or consequential loss whatever nature, howsoever caused whether occurring in contract, tort or otherwise.

10.8 The Company does not warrant either that the Services will achieve any intended result other than as expressly set out in any specification agreed between the parties or that the implementation by the Client of any designs provided by the Company under this Agreement will be error free.

## 11. Assignment

- 11.1 The Company may assign the Contract or any part of it to any person, firm or company.
- 11.2 The Client shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.

## 12. Force Majeure

- 12.1 The Company reserves the right to defer the date of delivery or to cancel the Contract or reduce the amount of the Services ordered by the Client (without liability to the Client) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company. These include, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, providing that, if the event in question continues for a continuous period in excess of 180 days, the Client shall be entitled to give notice in writing to the Company to terminate the Contract.

## 13. General

- 13.1 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable, it shall be to the extent of such and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 13.2 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English Law and the parties submit to the exclusive jurisdiction of the English courts.
- 13.3 Unless otherwise specifically instructed against by the Client before the commencement of the supply of Services, the Company reserves the right to use images, text, photographs and other material relevant to the particular Services supplied as reference for the purposes of Company marketing material. This includes the display of images on Company websites, brochures and through e-mail. Unless otherwise agreed in writing, the Company reserves the right to use this material without consent from the Client before or after the supply of Services. Where elements of a project are highly confidential, the Company will retain these as such.