

TERMS AND CONDITIONS FOR SUPPLY OF CONSULTANCY SERVICES

ACTICA/OV002D008-1.0

REDACTED TEXT under FOIA Section 40 Personal Information.

10th November 2021

List of Contents

1	Definitions	3
2	The service	4
3	The assignment	5
4	The Client's responsibilities	6
5	Payment	7
6	Health and safety	8
7	Confidentiality	9
8	Conflicts of interest	10
9	Indemnity and insurance	11
10	Termination	12
11	Notices	13
12	Disputes and resolution	14
13	Governing Law	15

INTENTIONALLY BLANK

1 Definitions

- 1.1 “Client” means the organisation that is purchasing the Services from the Consultant.
- 1.2 “Fees” means the price or rate for the Assignment given in the Purchase Order.
- 1.3 “Key Personnel” means any person named on the Purchase Order as key personnel or any person who the Client notifies the Consultant is to be regarded as key personnel during the course of the Assignment.
- 1.4 “Premises” means any land or building where the Assignment is to be carried out.
- 1.5 “Assignment” means the consultancy services described in the Purchase Order and any associated documentation.
- 1.6 “Order Number” means the unique number that appears on the Purchase Order.
- 1.7 “Parties” means the Client and the Consultant.
- 1.8 “Proposal” means the work the Consultant has proposed should be undertaken in request to the Client’s requirements.
- 1.9 “Purchase Order” means an order for consultancy services served by the Client on the Consultant which includes a description of the Assignment, the Fees payable and any terms applying to the Assignment which are additional to these Terms and Conditions.
- 1.10 “Consultant” means the person, firm or company whose name appears as the addressee in the Purchase Order.
- 1.11 “Terms and Conditions” means these terms and conditions for the supply of consultancy services.

2 The service

- 2.1 The services that will be provided will be as defined in the Proposal.
- 2.2 Where a timetable is set out in the Proposal, unless otherwise agreed, it is only intended for planning and estimating purposes.
- 2.3 The Services will be carried out at the location(s) detailed in the Proposal.
- 2.4 Where individual staff are named for the delivery of the work, every reasonable effort will be made to ensure these staff are utilised. If changes to our named staff are necessary, we will give reasonable notice of the changes and provide you with details of the replacement staff.
- 2.5 Either the Client or the Consultant may request changes to any aspect of the services. Requests must be sufficiently detailed to assess impact on, for example, cost or timetable. Any changes must be detailed in a revised Contract agreed by both parties.
- 2.6 To aid project management the Client and the Consultant will each name a contact that will be responsible for managing all issues relating to the performance of the Contract.
- 2.7 The Consultant shall submit progress reports to the Client at a frequency to be agreed by both parties.
- 2.8 If at any time during the provision of the services the Client wishes to discuss the quality of the Services, the Client should write to the Consultant's Project Authority in charge of the Assignment as named in the Proposal.
- 2.9 The Consultant shall undertake to promptly and carefully consider any complaint and shall take all such actions as are reasonably necessary to satisfy the Client.

3 The assignment

- 3.1 The Consultant shall carry out and complete the Assignment:
- a. in accordance with the Purchase Order;
 - b. in accordance with the Consultant's Proposal;
 - c. with reasonable skill, care and diligence;
 - d. to the reasonable satisfaction of the Client;
 - e. (where applicable) using staff or agents with appropriate skills and qualifications.
- 3.2 The Consultant will prepare the deliverables listed in the proposal document and deliver these to the Client.
- 3.3 The Client will accept the deliverables, when either the terms of engagement are met or the Client makes use of the deliverables, whichever occurs first.
- 3.4 The Client shall be deemed to have accepted any deliverable if no requests for change to the deliverable have been made by the Client within ten working days of its receipt.
- 3.5 All intellectual property rights (including the copyright) in any reports, documentation or materials are hereby assigned to and shall vest in the Client. This condition shall survive the termination of this Contract.
- 3.6 Save where the Assignment uses documentation and materials supplied by the Client, the Consultant warrants that none of the documentation and materials used or created as part of the Assignment shall infringe any patent, trade mark, registered design, copyright or other rights in industrial property of any third Party.

4 The Client's responsibilities

- 4.1 The Consultant's performance is dependent on the Client carrying out its responsibilities as set out in the proposal document.
- 4.2 The Client shall provide all information and documents necessary and reasonably required to enable the Consultant to provide the services that are required.
- 4.3 The Consultant will not be liable for any loss or damage arising from reliance on any information or materials supplied by the Client or from any inaccuracy or other defect in any information or materials supplied.
- 4.4 The Client shall make available the required staff and key stakeholders to provide assistance as reasonably required enabling the Consultant to provide the required services.
- 4.5 Where the Client is using third parties to provide information or support to a project, unless specifically agreed otherwise, the Client will be responsible for the management of the third parties and the quality of their input and work.

5 Payment

- 5.1 The Client shall pay the Consultant the required Fees as stated in the Purchase Order for carrying out the Assignment.
- 5.2 The Consultant shall submit an invoice for the Assignment to the Client's address for invoices given in the Purchase Order. The invoice shall contain the Order Number, a description of the part of the Assignment to which it refers and the applicable Fees.
- 5.3 The Consultant shall be entitled to be reimbursed its reasonable expenses actually and reasonably incurred in connection with the Assignment subject to production of such receipts and documentation as the Client reasonable requires. Expenses shall be reimbursable at the Client's standard rates, which the Client shall provide on request.
- 5.4 The Client shall pay the Consultant within 30 days of receipt and agreement of invoices, submitted monthly in arrears, for work completed to the satisfaction of the Client.
- 5.5 In addition to the Price, the Client shall pay the Consultant a sum equivalent to any Value Added Tax chargeable in respect of the Assignment. Value Added Tax shall be shown as a separate item on the Consultant's invoice.
- 5.6 The Consultant shall be entirely responsible for the payment of all and any income tax, national insurance contributions and any similar liabilities on any Fees earned under this Contract.

6 Health and safety

- 6.1 The Consultant shall notify the Client of any health and safety hazards that may arise in connection with the performance of this Contract.
- 6.2 Where the Assignment is being carried out at Premises owned or occupied by the Client, the Client shall notify the Consultant of any health and safety hazards which may exist or arise at its premises and which may affect the Consultant. The Consultant shall draw these hazards to the attention of any of its employees, subcontractors or agents who may be affected by them and instruct such persons in connection with any necessary safety measures.

7 Confidentiality

- 7.1 The Consultant undertakes to comply and to procure that its employees comply with the provisions of the Official Secrets Acts 1911 to 1989.
- 7.2 The Consultant undertakes to keep secret and not to disclose and to procure that its employees, sub-contractors and agents keep secret and do not disclose any information of a confidential nature which it has obtained by reason of this Contract. Nothing in this clause applies to information that is already in the public domain or the possession of the Consultant other than by reason of breach of this clause.
- 7.3 The provisions of this Condition shall survive the termination of this Contract however that occurs.

8 Conflicts of interest

- 8.1 The Consultant shall disclose to the Client any actual or potential conflict of interest arising from the Assignment as soon as is reasonably practicable after becoming aware of the conflict.
- 8.2 If the Parties are unable to resolve the conflict to the reasonable satisfaction of the Client, the Client shall be entitled to terminate the Contract with immediate effect.

9 Indemnity and insurance

- 9.1 The Consultant warrants that the work done in relation to the Assignment is covered by a policy of professional indemnity insurance. At the request of the Client the Supplier shall produce the relevant policy of insurance.
- 9.2 Notwithstanding anything to the contrary contained elsewhere in this Contract the total liability of the Consultant under or in connection with this Contract whether in contract or in tort in negligence or for breach of statutory duty or otherwise shall be limited to the Fee.
- 9.3 No action or proceedings under or in connection with this Agreement whether in contract or in tort, in negligence or for breach of statutory duty or otherwise shall be commenced against the Consultant after the expiry of 6 years from the date of completion of the Services or such earlier date as may be prescribed by law.
- 9.4 The liability of the Consultant hereunder for any claim or claims shall be further limited to such sum as the Consultant ought reasonably to pay having regard to its responsibility for the loss and damage suffered and on the basis that:
- a. all other persons providing professional services or labour or materials plant or equipment for incorporation in the assignment or executing the assignment or any part thereof shall be deemed to have provided contractual undertakings on terms no less onerous than that set out in this Agreement to the Client (whether or not they have been so provided) in respect of the provision of their services or labour or materials or plant or equipment in respect of executing the assignment or any part thereof; and
 - b. there are no exclusions or limits of liability nor joint insurance or co-insurance provisions between the Client and any other Party referred to in this clause any such other Party who is responsible to any extent for the loss or damage is contractually liable to the Client for the loss and damage; and
 - c. all other parties referred to in this clause shall be deemed to have paid the Client such contribution which it would be just and equitable for them to pay having regard to the extent of their responsibility for the loss or damage. The Client shall indemnify and hold harmless the Consultant from and against any claims liabilities costs and expenses in excess of the limit calculated as aforesaid.

10 Termination

- 10.1 The Contract will apply from the commencement date stated in the proposal document or from the date the two parties sign the contract.
- 10.2 The contract will apply until all services and deliverables have been provided unless it is terminated earlier in accordance with the terms detailed in the remainder of this section.
- 10.3 The Client may terminate the contract at any time by giving no less than 30 days written notice.
- 10.4 Where the Client terminates the contract in this way, the Client will pay the Consultant for all services provided up to the termination and for all costs necessarily incurred as a result of the early termination of the services.
- 10.5 The Contract may be terminated by either Party in the event of a breach by the other Party of the contract by serving notice requiring the breach to be remedied within 30 days.
- 10.6 The Consultant may suspend the Contract if circumstances arise that, in our opinion, materially adversely affect the basis on which the contract was entered.
- 10.7 Either Party may terminate the Contract in the event that the other Party becomes insolvent.
- 10.8 On the termination of the Contract both the Client and the Consultant will return to the other any property of the other that it then has in its possession or control and the Client shall pay forthwith on demand all fees and expenses in respect of the services performed under the contract up to the date of such termination together with all reasonable costs and expenses incurred by the Consultant in connection with and in consequence of such termination.

11 Notices

- 11.1 Any notice or other communication given under or pursuant to this Contract must be given in writing and must be delivered in person or sent by post.

12 Disputes and resolution

- 12.1 Before resorting to litigation, the Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with this Contract.
- 12.2 If the Parties are unable to resolve the dispute, either Party may, at any time, refer the dispute to mediation by a neutral advisor or mediator ("the Mediator").
- 12.3 If the Parties are unable to agree on a Mediator within 7 days of the request by one Party to refer the dispute to mediation, they shall apply to the Centre for Dispute Resolution ("CEDR") to appoint a Mediator.
- 12.4 The Parties shall seek to agree directions for how the mediation is conducted and, failing agreement, they shall seek directions from the Mediator.
- 12.5 If the Parties reach agreement on the resolution of their dispute the agreement shall be reduced to writing and shall be binding.

13 Governing Law

- 13.1 Unless the Purchase Order specifies otherwise, this Contract shall be governed by and construed in accordance with the law of England and Wales and shall be subject to the exclusive jurisdiction of the courts of England and Wales.