

# Standard Terms and Conditions

IT IS AGREED as follows:

## 1. Interpretation

- 1.1 The definitions and rules of interpretation in this condition apply in terms and conditions **“(conditions)”**
- “Contract”** means the customers purchase order and consultants acceptance of it, or the customers acceptance of a quotation for services by the consultant under condition 2.2.
- “Customer”** means the person, firm or company who purchases services from the supplier.
- “Customers equipment”** means any equipment, systems, cabling or facilities provided by the customer and used directly or indirectly in the supply of the services.
- “Deliverables”** means all documents, products and materials developed by the supplier in relation to the services in any form, including design drawings (including provisional drawings), design calculations, design risk assessments, written and/or verbal advice, data, reports and specifications (including drafts).
- “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.
- “In-put material”** means all documents, information and materials provided by the customer relating to the services including (without limitation). Design specifications, design briefs, written notes, drawings, sketches, site details, (Including photographs) computer programs, data, reports and specifications.
- “Pre-existing materials”** means all documents, information and materials provided by the supplier relating to the services which existed prior to the commencement of the contract including design specification, design briefs, written notes, drawings, sketches, site details, (inc photographs) computer programs, data, reports and specifications.
- “Services”** means the services to be provided by the consultant under the contract as set out in the contract quotation together with any other services which the consultant provides or agrees to provide to the customer.
- “Consultant”** means SJG Temporary Works Ltd, of Office 5, Park Farm Courtyard, Easthorpe, Malton, YO17 6QX.
- “VAT”** means 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 The schedule forms part of the contract.
- 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 of the time being in force made under it.

- 1.5 A reference in writing or written includes fax and e-mail.
- 1.6 Any obligation in the contract on a person not to do something includes, without limitation, an obligation not to agree, allow, permit or acquiesce in what is being done.
- 1.7 References to conditions and schedules are to the conditions and schedules of the contract.

## 2. Application of conditions

- 2.1 These conditions shall:
- 2.1.1 Apply to and be incorporated into the contract;
- 2.1.2 Prevail over any inconsistent terms and conditions contained, or referred to, in the customers purchase order, confirmation of order, acceptance of a quotation, or specification or other document supplied by the customer, or implied by law, trade custom, practice or course of dealing.
- 2.2 The customers purchase order, or the customers acceptance of a quotation for the services by the consultant or written or oral instruction to commence with the supply of services, constitutes an offer by the customer to purchase the services specified in these conditions. No offer placed by the customer shall be accepted by the consultant other than:
- 2.2.1 By a written acknowledgement issued and executed by the consultant;
- 2.2.2 (if earlier) by the consultant 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 consultant on the basis that no contract shall come into existence in accordance with conditions 2.2. Any quotation is valid for a period of 7 days from its issue date, provided that the consultant has not previously withdrawn it.

## 3. Commencement and duration

The services supplied under the contract shall be provided by the consultant to the customer from the date of acceptance by the consultant of the customers offer in accordance with conditions 2.2.

## 4. Consultants obligations

- 4.1 The consultant shall use reasonable skill and care to provide the service, to deliver the deliverables to the customers in accordance to material respects with the contract and to meet any performance dates specified in



# Standard Terms and Conditions

the contract, but any such dates shall be estimates only and time shall not be of the essence for performance of the services.

## 5. Customers obligations

- 5.1 The customer shall:
- 5.1.1 Co-operate with the consultant in all matters relating to the service;
- 5.1.2 Provide to the consultant in a timely manner, such input material and other information as the consultants may reasonably require and ensure that it is accurate in all materials respects;
- 5.1.3 Inform the consultant of all health and safety rules and regulations and any other reasonable security requirements that apply at any of the customers premises;
- 5.1.4 Obtain and maintain all necessary licenses and consents and comply with all relevant legislation in relation to the services, the use of in-put material and the use of the customers equipment in relation to the consultants equipment, in all cases before the date on which the services are to start;
- 5.2 If the consultant'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 consultant 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.
- 5.3 The customer shall be liable to pay to the consultant on demand, all reasonable costs, charges or losses sustained or incurred by the consultant (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 customers fraud, negligence, failure to perform or delay in the performance of any of its obligations under the contract, subject to the consultants confirming such costs, charges and losses to the customer in writing.

## 6. Charges and payment

- 6.1 In consideration of the provision of the services by the consultant, the customer shall pay the charges as set out in the quotation provided, which shall specify whether the services shall be provided on a time and materials basis, a fixed price basis or a combination of both. Where no quotation is provided, the consultant will provide the services on a time and materials basis. Condition 6.2 shall apply if the consultant provides services on a time and materials basis. Condition 6.3 shall apply if the consultant provides services for a fixed price. The remainder of this condition 6 shall apply in either case.

- 6.2 Where services are provided on a time and materials basis:
- 6.2.1 The charges payable for the services shall be calculated in accordance with the consultants standard daily fee rates, as set out in schedule 1 and as amended from time to time in accordance with condition 6.5;
- 6.2.2 The supplier shall be entitled to charge an overtime rate of 50% 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 office hours (between 8am and 5pm on weekdays, excluding public holidays);
- 6.2.3 All charges quoted to the customer shall be exclusive of VAT, which the consultant shall add to its invoices at the appropriate rate; currently 20%;
- 6.2.4 The consultant shall invoice the customer monthly in arrears for its charges for time, expenses and materials (together with VAT where appropriate) for the month concerned, or at the end of each section of completed works, calculated as provided in this condition 6.2;
- 6.3 Where services are provided for a fixed price, the total price for the services shall be the amount set out in the contract. The total price shall be paid to the consultant (without deduction or set-off) as set out in the contract. The consultants shall invoice the customer for the charges, together with expenses, the costs of materials and VAT, where appropriate, calculated as provided in conditions 6.4;
- 6.4 Any fixed price contained in the contract excludes:
- 6.4.1 The cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the individuals whom the consultant engages in connection with the services, the cost of any materials and the cost of services reasonably and properly provided by third parties and required by the consultant for the supply of the services. Such expenses, materials and third party services shall be invoiced by the consultant;
- 6.4.2 VAT, which the consultant shall add to its invoices at the appropriate rate;
- 6.5 The parties agree that the consultant may review and increase its standard daily fee rates, provided that such charges cannot be increased more than once in any 12 month period. The consultant will give the customer written notice of any such increase one month before the proposed date of 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 18, terminate the contract by giving one months written notice to the consultant.
- 6.6 The customer shall pay each invoice submitted by the consultant, in full and in cleared funds, within 28 days of receipt to a bank account nominated in writing by the consultant.



# Standard Terms and Conditions

- 6.7 Without prejudice to any other right or remedy that it may have, if the customer fails to pay the consultant on the due date, the consultant may:
- 6.7.1 Charge interest on such sum from the due date for payment at the annual rate of 5% above the base lending rate from time to time of the Bank of England, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgement and the customer shall pay the interest immediately on demand;
- 6.7.2 Suspend all services until payment has been made in full;
- 6.7.3 The consultant may also withdraw Professional Indemnity and Public Liability insurance until payment has been made in full;
- 6.8 Time for payment shall be of the essence of the contract;
- 6.9 All sums payable to the consultant under the contract shall become due immediately on its termination, despite any other provision. This condition 6.9 is without prejudice to any right to claim for interest under the law, or any such right under the contract.

## 7. Intellectual property rights

- 7.1 As between the customer and the consultant, all intellectual property rights in the deliverables and the pre-existing materials shall be owned by the consultant. Subject to condition 7.2, the consultant licenses all such rights to the customer free of charge and on a non-exclusive, worldwide basis to such extent as is necessary to enable the customer to make reasonable use of the deliverables and the services. If the contract terminates, this licence shall automatically terminate.
- 7.2 The customer acknowledges that, where the consultant does not own any pre-existing materials, the customer's use of rights in pre existing materials is conditional on the consultant obtaining a written license (or sub-licence) from the relevant licensor or licensors on such terms as will entitle the consultant to license rights to the customer.

## 8. Confidentiality and the consultant property

- 8.1 The customer acknowledges that in connection with this agreement, it may receive confidential or proprietary technical and business information of the consultant. The customer, its agents and employees shall hold and maintain in strict confidence all confidential information, shall not disclose confidential information to any third party and shall not use any confidential information except as may be necessary to perform its obligation under this agreement, save as may be required by law.

## 9. Limitation of liability – THE CUSTOMERS ATTENTION IS PARTICULARLY DRAWN TO THIS CONDITION

- 9.1 This condition 9 sets out the entire financial liability of the consultant (including any liability for the acts or

omissions of its employees, agents, consultants and subcontractors) to the customer in respect of:

- 9.1.1 Any breach of the contract;
- 9.1.2 Any use made by the customer of the services, the deliverables or any part of them;
- 9.1.3 Any representation, statement or tortious act or omission (including negligence) arising under or in connection with the contract;
- 9.2 All conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the contract.
- 9.3 Subject to condition 9.2 the consultant shall not be liable for:
- 9.3.1 Loss of profits or loss of business; or depletion of goodwill and/or similar losses; or loss of anticipated savings; or loss of goods; or loss of contract; or loss of use; or loss of corruption of data or information; or any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses;
- 9.3.2 The consultants 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;

## 10. Data protection

The customer acknowledges and agrees that details of the customers name, address and payment record may be submitted to a credit reference agency and personal data will be processed by and on behalf of the consultant in connection with the services.

## 11. Termination

- 11.1 Without prejudice to any other rights or remedies which the parties may have, either party may terminate the contracts without liability to the other on giving the other not less than three months written notice or immediately on giving notice to the other if:
- 11.1.1 The other party 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;
- 11.1.2 The other party commits a 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;
- 11.1.3 The other party repeatedly breaches any of the terms of the contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the contract



# Standard Terms and Conditions

- 11.1.4 The other party 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 natural person) 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;
- 11.1.5 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 that other party;
- 11.1.6 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 other party;
- 11.1.7 A floating charge holder over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;
- 11.1.8 A person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- 11.1.9 A creditor or encumbrancer of the other party 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;
- 11.1.10 Any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in condition 11.1.4 to condition 11.1.9 (inclusive);
- 11.1.11 The other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business;
- 11.1.12 There is a change of control of the other party (as defined in section 574 of the capital allowances act 2001);
- 11.2 On termination of the contract for any reason:
- 11.2.1 The customer shall immediately pay to the consultant all of the consultants outstanding unpaid invoices and interest and, in respect of services supplied but for which no invoice has been submitted, the consultant may submit an invoice, which shall be payable immediately on receipt;
- 11.2.2 The customer shall return all of the consultants pre-existing materials and deliverables. If the customer fails to do so, then the consultant may enter the customers premises and take possession of them. Until they have been returned or repossessed, the customer shall be

solely responsible for their safe keeping;

- 11.2.3 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;
- 11.3 On termination of the contract (however arising), the following conditions shall survive and continue in full force and effect: condition 7; condition 8; condition 9; condition 11 and condition 19;

## 12. Variation

- 12.1 The consultant 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 changes for the services. The consultant may from time to time change the services, provided that such changes do not materially affect the nature or quality of the services and, where practicable, it will give the customer at least one months notice of any change.
- 12.2 Subject to condition 12.1, no variation of the contract or these conditions or of any of the documents referred to in them shall be void unless it is in writing and signed by or on behalf of each of the parties.

## 13. Waiver

- 13.1 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 of that (or any other) right or remedy.
- 13.2 Unless specifically provided otherwise, rights arising under the contract are cumulative and do not exclude rights provided by law.

## 14. Severance

- 14.1 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 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.
- 14.2 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.

## 15. Entire agreement

- 15.1 The contract constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter.





# Standard Terms and Conditions

- 15.2 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 or representation (whether made negligently or innocently) other than as expressly provided in the contract.
- 15.3 Nothing in this condition shall limit or exclude any liability for fraud.

## 16. Assignment

- 16.1 The customer shall not, without the prior written consent of the consultant, assign, transfer, charge, mortgage, subcontract, declare a trust of or deal in any matter with all or any of its rights or obligations under the contract.
- 16.2 The consultant may at any time assign, transfer, charge, mortgage, subcontract, declare a trust of or deal in any 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.
- 16.3 Each party that has rights under the contract is acting on its own behalf and not for the benefit of another person.

## 17. Rights of third parties

- 17.1 A person who is not a party to the contract shall not have any rights under or in connection with it.

## 18. Notices

- 18.1 Any notice or other communication required to be given under the contract shall be in writing and/or as required under the construction act and any other legal requirements.
- 18.2 Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at the last known address of the other party or, if sent by pre-paid first class post or recorded delivery, at 9.00am on the second business day after posting or if delivered by commercial courier, on the date and at the time that the couriers delivery receipt is signed.
- 18.3 A notice or other communication required to be given under or in connection with the contract shall not be validly served if sent by e-mail.

## 19. Governing law and jurisdiction

- 19.1 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.
- 19.2 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).

## SCHEDULE 1

FEES - See Schedule of rates

DAILY RATE: £450.00/£500.00/£550.00/£600.00 exclusive of VAT per day.

HOURLY RATE: £56.25/£62.50/£68.75/£75.00 per hour exclusive of VAT.

I agree that all services supplied by SJG Temporary Works Ltd will be in accordance with these terms and conditions.

## CUSTOMER DETAILS:-

Company

Name

Position

Signature

Date

## SUPPLIER DETAILS:-

Company

Name

Position

Signature

Date



YOUR PERMANENT CONTACT FOR TEMPORARY WORKS

0800 3288003

www.BS5975.com

