

Terms of Business of Tootechnical Ltd ('the Consultancy')

(September 2015 revision)

1. Services

The Consultancy will provide services as agreed in a Letter of Engagement / Quotation, so far as is reasonably practicable within any agreed timescale, and with all proper skill and care. As an independent professional, the Consultancy will not require or be subject to supervision, direction or control as to its daily activities or the manner of performance thereof, and itself accepts the responsibility for the proper provision of Services. For the avoidance of doubt, the Client shall not (and does not have the right to) exercise supervision, direction or control as to the manner of performance of the Services. The Consultancy is responsible for maintaining reasonable continuity in personnel providing Services on its behalf, but reserves the right in its sole discretion to make changes from time to time; no additional charge will be made for any handover period, and the Consultancy remains responsible for Services performed by any individual on its behalf.

2. Copyright and Intellectual Property Rights

'Deliverable' means a work produced by the Consultancy in the course of Services for delivery to the Client. Where pre-existing works are incorporated in any Deliverable, the Client has non-exclusive irrevocable world-wide royalty free licence to use modify and distribute such pre-existing works, but only as part of the Deliverable; all other rights in the pre-existing works are reserved. Subject thereto, all rights in any Deliverable pass to the Client upon payment of all fees due to the Consultancy which relate to that Deliverable, and the Consultancy will execute a formal assignment thereof on request by the Client.

3. Charges and Payment

Estimates are subject to change if based on incorrect information provided by the Client, or if any specified dependencies / facilities are not available on time, or if any equipment required to be provided by the Client fails to operate correctly (save where the engagement itself is for the repair thereof).

All sums due shall be invoiced and paid as specified in the Letter of Engagement / Quotation. The Client will pay the Consultancy's invoices within 30 days, plus VAT. Unless otherwise specified, where payment is on a time and materials basis, the Consultancy may invoice monthly.

If any of the Consultancy's invoices becomes overdue, the Consultancy may suspend provision of Services, and any agreed timescale will be automatically extended; the Consultancy may also terminate an engagement at any time when any payment is more than 7 days overdue.

4. Liability

Neither party excludes liability for death, personal injury, fraud, repudiatory breach, or otherwise where it is not lawful to do so. Subject thereto, (a) neither party shall be liable for any loss or damage in excess of the higher of (a) £100,000, and (b) 125% of the total fees payable in respect of an engagement; (b) each party expressly excludes liability for economic, consequential or indirect loss or damage of any kind, or for loss of profit, business, revenue, goodwill or anticipated savings; and (c) any liability or remedy for innocent or negligent (but not fraudulent) misrepresentation is expressly excluded.

5. Termination

Either party may terminate any engagement by one month's written notice to the other, or by immediate written notice if the other is in material breach or if the other becomes insolvent. Any rights or obligations of a continuing nature shall survive termination.

6. Non-poaching of staff

Neither party will engage, employ or otherwise solicit for employment any person who during the previous 12 months was an officer, employee, partner, or sub-contractor of the other and with whom such party had material contact in connection with any engagement, until 6 months after the end of that engagement.

7. Terms

A contract for an engagement formed on the basis of a Letter of Engagement / Quotation referencing these terms is governed only by these terms and by no others, except where both parties

expressly agree in writing. In particular, it is agreed that any Purchase Order or other such document from the Client is intended for the Client's own administrative purposes only, and that notwithstanding its wording, neither a Purchase Order nor its content will have any legal effect. Save to the extent expressly provided, all conditions, warranties or other terms implied by statute or common law are hereby excluded to the fullest extent permitted by law.

8. Confidentiality

Unless the parties have signed a separate agreement containing more specific provisions in relation to confidentiality (in which case the provisions of such agreement will continue to apply in lieu of this clause), each party will keep any confidential information disclosed by the other secret. Neither party may use or take advantage of any such confidential information without the discloser's consent, even after the end of an engagement. This obligation does not apply to (i) information known to the receiver before disclosure by the other party, and free of any obligation of confidentiality, or (ii) information independently developed or acquired by the receiver, without reference or access to the discloser's confidential information, and free of any obligation of confidentiality, or (iii) information which becomes public knowledge without fault on the part of the receiver, or (iv) disclosures made to the extent required by some applicable legal or regulatory requirement.

9. Status

The Client is a client of a business undertaking carried on by the Consultancy, and it is not the intention of either to create or allow to arise any employee/employer relationship between the Client and any individual providing Services on behalf of the Consultancy. The Consultancy will ensure that all remuneration it pays any personnel engaged on the Services is paid and taxed as employment income, within the meaning of the Income Tax (Earnings and Pensions) Act 2003 as amended.

10. Agency Workers Regulations 2010 ('AWR')

The Consultancy is a business carried on by (and substantially owned by) the individual(s) who it is envisaged will have primary responsibility for the provision of the Services. If any supervision and direction of any individual providing Services on behalf of the Consultancy is required, the Consultancy is responsible for providing such supervision and direction. No individual providing Services on its behalf will work under the supervision and direction of the Client. The understanding and intention of all parties is that no individual providing Services on behalf of the Consultancy will be an 'agency worker', within the meaning of AWR, and that AWR will not apply in respect of any engagement under these Terms.

11. Law

These terms and any non-contractual disputes or claims between the parties are governed by the laws of England & Wales, whose courts shall have sole jurisdiction in relation to all matters arising.