



Squared
Change Consultancy
Making Change Happen

Supplier Terms & Conditions

Standard Agreement For Service Orders

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THIS AGREEMENT, is made and entered into this ____ day of _____, 20____,

by and between

whose registered office is at _____

having its principal place of business at _____

hereinafter referred to as "Customer"

and

C SQUARED CONSULTANCY LTD,

whose registered office and principal place of business is at The Old Vicarage, Godolphin Cross, Helston, Cornwall TR13 9RQ hereinafter referred to as "Supplier".

"Parties" means the Customer and the Supplier collectively and each of which may sometimes be referred to individually as a party, but not including any third parties.

WHEREAS, Customer desires to employ Supplier to perform certain special services (the "Services") and Supplier has the personnel, equipment and materials (or may procure) to perform such Services and desires to perform the Services, both parties hereby mutually agree as follows:

1. Scope of Work

Supplier shall perform Services as described in the Order. Such Services may comprise supply of goods, materials and equipment, and/or the provision of consultancy services (which description includes training services).

2. Rates and Prices

Customer agrees to pay Supplier at the Rates and Prices stated in the Order" (the "Price") for providing the Services listed therein.

3. Additional Services

Should the Customer require additional Services, not listed in the attached Order, Supplier shall be requested to submit a proposal covering the additional Services. Where Supplier agrees to provide additional Services, Customer agrees to pay Supplier for all such additional Services performed based on the prior written instructions of Customer at a Price agreed therefor. Such additional Services shall be confirmed in writing by a formal amendment to this Agreement.

4. Customer Obligations

4.1 Customer shall be responsible for providing:-

- i) Customer liaison, for inspection, sign off and acceptance.
- ii) Delivery and re-delivery of goods or equipment which are the subject of the Services when Services are being undertaken at Supplier's premises, as identified in the Order.

COMMERCIAL IN CONFIDENCE

iii) Claims for damages to goods occurring in transit or for shortage in delivery of goods received from carriers shall be considered by Supplier only if the carriers and Supplier receive written notification of such damages or shortage within seven (7) days of arrival or in the event of loss of goods in transit within fourteen (14) days of the date of consignment.

iv) Make available all data, documentation and information necessary for the completion of the Services, in a timely manner, within an agreed programme of work where applicable.

v) Provide access to Customer's premises, facilities, equipment and personnel, and where applicable to same of their third party supplier(s), as and when reasonably required by the Supplier for the performance of the Services

4.2 Where delivery is taken of Services without being checked they shall be deemed to have been accepted by the Customer.

4.3 Customer represents and warrants to Supplier that the facilities, equipment, data, documentation and information to be supplied or provided by the Customer, necessary for the performance by the Supplier of the Services will be in good and proper condition, appropriate for the Services to be performed by Supplier.

5. Term

The term of this Agreement shall be for the period described in the Order. Customer shall pay Supplier for the Services performed prior to the effective date of termination, including but not limited to material and equipment ordered for the performance and any committed cost of the Services contracted.

6. Liability and Indemnity

6.1 Customer and Supplier shall each be responsible for and shall indemnify and hold the other party and its Group harmless from and against any and all loss of or damage to its own property or equipment and that of their respective subcontractors of whatever tier, regardless of cause and even if caused or contributed to by the negligence, fault, strict liability or breach of duty, statutory or otherwise, of the indemnified party or its Group. For the purposes of this clause, property and equipment of Customer's customer and any other intermediary party up to and including the end user shall be deemed to be the property of Customer.

6.2 With regard to third party claims not addressed in subsections above, Supplier shall indemnify and hold Customer harmless from and against any and all claims for loss of or damage to property or any personal injury or death suffered by such third parties to the extent caused by the negligence of Supplier, its employees, agents, servants or subcontractors. Supplier's liability hereunder shall be limited to one hundred percent of the value of the Order and Customer shall indemnify Supplier for any such claim, loss or damage to the extent it exceeds such limit, regardless of cause and even if caused or contributed to by the negligence, fault, strict liability or breach of duty, statutory or otherwise, of Supplier.

6.3 Notwithstanding any other provision of this Agreement to the contrary, neither party shall be liable to the other party for the indirect, consequential or economic losses or damages suffered by the other party or any member of its Group including, but not limited to, loss of profit, loss of revenue, exclusion, loss of use, downtime, loss of production, increased cost of working, loss of contract or business interruption regardless of cause and even if caused or contributed to by the negligence, fault, strict liability, strict products liability, or breach of duty, statutory or otherwise and whether or not foreseeable and each party hereby releases the other party and its Group in this regard.

6.4 The Contracts (Rights of Third Parties) Act 1999 shall apply to the Agreement only to the extent that the Supplier's Group and not any other third party shall be entitled in their own right to enforce the benefit only of the exclusions and limitations in Clause 6 and Clause 19 in the Supplier's favour in this Agreement, but not in any other respect. Further,

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in making a claim under the Agreement, the remedies of any third parties shall be limited to claiming for damages and no third party shall be entitled to assign any benefit conferred on it pursuant to the Agreement. The Parties may rescind or vary any term of the Agreement without the consent of any third party, even if as a result thereof that third party's rights to enforce a term of the Agreement would be varied or extinguished.

7. Insurance

7.1 Supplier shall for the duration of the Agreement maintain the following insurance:-

- i) Employees liability insurance with coverage and limits in accordance with the Order.
- ii) General third party liability insurance in the amount of £1,000,000 any one occurrence.

8. Taxes

8.1 Supplier's Price is subject to the addition of all duties and taxes (including where applicable Value Added Tax at the rate ruling at the relevant tax point).

8.2 Should any Value Added Tax or any other tax, duty, fee or similar charge in substitution therefor be or become payable in respect of the Services, the same will be paid by the Customer or (as the case may be) the Supplier shall be reimbursed by the Customer upon Supplier's first written demand.

9. Inspection and Acceptance

9.1 Unless otherwise agreed in writing, the Supplier shall carry out such tests and inspection as it usually carries out on the Services. Any additional tests or inspection required by the Customer shall be to the Customer's account.

9.2 The Services where they comprise goods, materials or equipment shall be manufactured and released in accordance with the relevant requirements of such public or responsible body or bodies in the United Kingdom to whose jurisdiction, control or regulation the Services may from time to time be subject and in addition such Services as are manufactured by the Supplier shall be inspected and released by the Supplier under its own system of inspection as approved by any such body and such inspection and release shall, subject to Conditions 9.3 below, constitute acceptance by the Customer of all the Services

9.3 The Customer shall inspect the Services and (i) where the Services comprise goods, materials or equipment immediately on receipt thereof and shall within five (5) working days give written notice to the Supplier in detail of any ground on which the Customer alleges that the Services are not in accordance with the Order are defective in material or workmanship or (ii) where the Services comprise consultancy services upon receipt thereof and shall within ten (10) working days or such other period agreed and stated in the Order give written notice to the Supplier in detail of any ground on which the Customer alleges that the Services are not in accordance with the Order or contain errors, and in either case Customer shall return to the Supplier, carriage pre-paid, the Services concerned. If the Customer fails to give such notice the Services shall be conclusively presumed to be in all respects in accordance with the Contract and free from any defect which would be apparent on reasonable examination of the Services and the Customer shall be deemed to have accepted the Services accordingly. In the event that the Customer establishes to the Supplier's reasonable satisfaction that the Services do not conform with the Order or are so defective, the Customer's sole remedy in respect of such non-conformance or defects shall be limited as the Supplier may elect to the replacement, repair or correction of the Services or refund of the Price against return of the Services. The Customer may not accept some only of the Services and reject others unless agreed in writing by the Supplier.

10. Warranty

Supplier will use its judgement in making recommendations and suggestions as to how Services should be performed and will perform Services in a good and workman-like manner in accordance with any operating instructions provided by Customer and Customer shall have the right to inspect the Services as it progresses and at its conclusion. Supplier warrants, at its sole discretion, to re-perform, repair or replace defective Supplier provided goods, materials or equipment, (excluding software which would be the subject of a software licence agreement), for such period as is detailed in the Order hereto, (in any event not to exceed one (1) year), provided that Supplier is notified within five (5) working days of discovery of the alleged defect by Customer and the alleged defective Services are returned to Supplier. Where Services comprise consultancy services, including technical documentation services, the Supplier does not provide warranty. Correction of errors would be undertaken in accordance with Clause 9.3 above unless specified otherwise in The Order hereto. All conditions, warranties, and representations or other terms expressed, implied, statutory, or otherwise in respect of quality, state and condition, fitness for purpose, durability, safety and freedom from defects, skill and care or otherwise are hereby excluded. Supplier accepts no responsibility or liability for any defect (latent or otherwise) which may exist in Customer, or Customer's client supplied materials, equipment or services. The liability of the Supplier under this Clause shall in no event exceed one hundred percent of the Order Price notwithstanding the negligence of Supplier.

11. Title

11.1 Risk in the Services shall pass to Customer on delivery of Services to Customer.

11.2 Title to Services performed shall pass to Customer on receipt by Supplier of all sums due to Supplier under this Agreement.

11.3 No rights of possession, copyright, licenses and free right of use of data, drawings, reports or other documentation including electronic information are granted by Supplier.

12. Payment

12.1 On the acceptance by Customer of satisfactory completion of the Services performed by Supplier, or, if specified elsewhere in the Agreement, on the satisfactory completion of each stage of the Services, or, at the end of each month Supplier shall prepare invoices covering Services performed in accordance with Prices contained in the Order. Invoices shall be payable by Customer within thirty (30) days from date of invoice. Customer agrees to pay interest on any unpaid balance from the date payable until paid at the rate of 2% above current base rate of Barclays Bank.

12.2 Notwithstanding any contrary provisions in this Agreement, Supplier shall not be obliged to proceed with Services for so long as any sum payable to Supplier has become due but remains unpaid by Customer.

12.3 The Supplier shall have the right to maintain an action for the Price notwithstanding that property in the Services may not have passed to the Customer and shall have a lien over any goods, materials, equipment, data, documentation, information or other goods the property of the Customer, or the Customer's third party supplier, in the Supplier's possession against payment in full of all sums due at any time under any Contract.

13. Force Majeure

13.1 The Supplier shall not be considered in breach of the Order if prevented from fulfilling its obligations under the Order by any event of Force Majeure. "Force Majeure" shall include but not be limited to: war, declared or undeclared, acts of God, acts or omissions of Customer, insurrection, acts of Government or rulers of people, boycott's, strikes, lockouts or other industrial disturbances, explosions, riot, rebellion, epidemics, landslides, lightning, earthquakes, fires, storms, floods and washouts and any other causes not within the reasonable control of the party affected.

13.2 In any such event the Supplier may without liability vary the terms of the Order including, but not limited to, extending the time for performing the Order and increasing its Price by such sums as the Supplier considers reasonable in the circumstances to take account of the increased costs incurred by the Supplier in such performance.

14. Independent Supplier

Supplier shall be an independent Supplier with respect to Services performed hereunder and shall not be viewed as the employee or agent of Customer.

15. Compliance

Supplier agrees to comply with all laws (including employment laws), rules and regulations and order of government applicable to the Services in force on the Agreement effective date.

16. Governing Law and Dispute Resolution

16.1 This Agreement shall be governed and construed in accordance with the laws of England and Wales and the jurisdiction of the English courts.

16.2 Any dispute, controversy or claim arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration, which Rules are deemed to be incorporated by reference into this Clause. The tribunal shall consist of a sole arbitrator appointed by the London Court of International Arbitration.

16.3 Neither Party shall have any remedy in respect of this Agreement, any Contracts, or the termination of either, except as expressly provided for in this Agreement or any Contract.

17. Safety

Where work is to be undertaken by the Supplier at either the Customer's or the Customer's third party contractors' premises, Customer shall ensure and be responsible for providing a safe place of work under H&SE Regulations, and take all reasonable steps to ensure regulations are met by their third party contractors.

18. Assignment

Neither party shall have the right to assign this Agreement without the prior written consent of the other party, which shall not unreasonably be withheld.

19. Intellectual Property Rights

19.1 The Customer shall indemnify Supplier against any claim, cost or expense including without limitation, legal fees alleging infringement of trade marks, trade names, patents, copyrights, registered designs or any other IPR which arises as a result of Supplier's compliance with the Customer's specification, designs and instructions.

19.2 The Customer shall notify Supplier forthwith of any claim that the sale or use of the goods infringes any IPR and give authority, information and every reasonable assistance to the Supplier for the defence of any such claim and shall not itself admit, handle, deal with or compromise any such claim except with the written consent of the Supplier.

19.3 The Customer shall comply with all instructions of Supplier and all legislation in relation to the processing, storage and use of the Services. Supplier may without liability cancel or suspend any deliveries or installation or any of the goods which have become the subject of a claim by a third party alleging infringement on any IPR.

19.4 The Agreement does not grant the Customer or any third party any licence, express or implied, under any IPR for any goods or any product, process, design or installation of which form part of and which are the subject of the Services, nor does the sale or supply of supporting information imply the Service do not infringe a third party's intellectual property right.

19.5 Subject to clause 19.6 below and any third party rights, where applicable, all Intellectual Property Rights created as a result of the work undertaken by the Supplier, its agents or subcontractors for the purpose of the Order ("the Results") shall vest in the Customer.

19.6 Any and all Background IPR shall remain vested in and be the absolute property of the Supplier or its third party supplier as the case may be.

20. Patent Infringement

Supplier shall, upon receipt of written request from Customer, indemnify Customer from any damages assessed against Customer by any court of final jurisdiction in respect of suits for patent infringement filed against Customer and undertake the defence of such suits, wherein the alleged patent infringement is based upon material, equipment, and tools furnished and used and processes performed by Supplier under this Agreement except where such infringement arises out of Customer's instruction or specifications, provided that Customer shall give Supplier:

- i) prompt written notice of the commencement or threat of commencement of such suit,
- ii) all co-operation necessary in connection with any such suit, and
- iii) the right to control the defence of and any negotiations for settlement of such suit as well as any appeals and any ancillary litigation deemed necessary by Supplier.

21. Confidentiality

21.1 Supplier and Customer undertake to keep all information including but not limited to records, data, reports, obtained by either party solely from operations under this Agreement strictly confidential and to obtain similar undertakings from any person employed or retained by it.

21.2 The above obligation of confidentiality shall not extend to information which:

- i) is known to Supplier prior to receipt from Customer;
- ii) is disclosed to Supplier by a third party under no obligation of confidence to Customer and having a right to disclose such information; or
- iii) is or shall become part of the public domain through no fault of Supplier.
- iv) was independently developed by Supplier.
- v) is required to be disclosed pursuant to any rule, order, law from a government or regulatory body.

21.3 Notwithstanding the above, Supplier shall retain the right to disclose general information about the Agreement.

22. Notices

All notices to be given under this Agreement shall be in writing and shall be sent to the Parties at their respective addresses.

23. Severability

If any provision (or portion thereof) of this Agreement shall be declared invalid or unlawful, the remaining provisions shall not be affected thereby, and this Agreement shall be construed as if such invalid or unlawful provision (or portion thereof) had never been contained therein.

24. Non Waiver

Neither party's right to require strict performance in accordance with the terms of this Agreement shall be affected or waived by any failure by it to enforce any of the terms hereof.

25. Non Solicitation

Neither party shall during the term of this Agreement or for the first six (6) months following its expiry, termination or determination, make an offer of employment (or an offer for services) to any member of the other party's staff engaged on the project without that other party's prior consent in writing. If either party is found to be in default of this condition, the party in breach shall pay the other party, by way of damages and not as a penalty, 100% of the annual salary of the related member of staff.

26. Trade Controls

In performing their respective obligations under an Order, the parties shall comply in all respects with any and all applicable Trade Control Laws. In the event that any aspect of the Order, which the Supplier will be required to access under the Order could be deemed to be military technology under the International Traffic in Arms Regulations (ITAR) the Customer shall immediately notify the Supplier in writing and secure the necessary licenses to enable performance of the Order. Notwithstanding anything to the contrary the Customer shall defend, indemnify and hold the Supplier and any of its affiliates, agents, subcontractors, representatives harmless in full and on demand and keep them so indemnified from and against all and any costs, claims, damages, penalties, fines, actions, proceedings, losses, liabilities, damages (including legal costs and expenses) which are incurred or suffered by the Supplier or any of its affiliates, agents, subcontractors or representatives resulting directly or indirectly as a result of any act or omission of the Customer in performing their obligations under the clause 26.

27. Code of Conduct

The parties shall at all times:

- Comply with all applicable laws, statutes, and regulations relating to anti-bribery and anti-corruption (Relevant Requirements), including but not limited to the Bribery Act 2010;
- Have and maintain in place throughout the term of this Agreement their own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, designed to ensure compliance with the Relevant Requirements;
- Not do, or omit to do, any act that will cause or lead any other Party to be in breach of any of the Relevant Requirements;
- Promptly report any request or demand for any undue financial or other advantage of any kind received in connection with this Agreement
- Warrant and represent that they:

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Have not been or are not the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence under the Relevant Requirements; or

Have not been or are not listed by any government agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or other government contracts.

28. Change of Law

28.1 The Parties shall monitor, and shall keep the other Party informed in writing of, any changes in applicable laws which may impact the Services.

28.2 The Parties shall promptly meet and assess the cost and the impact of any change in law and, if applicable make any amendments to the Services and/or this Agreement.

28.3 If such change in law results in an unavoidable and demonstrable increase in the direct costs to the Supplier of providing the Services, the Customer shall bear the risk and cost of such changes in law.

29. Entire Agreement

This Agreement, which includes the Order, contains all the terms and conditions agreed upon by the Parties in relation to its subject matter and supersedes any standard conditions of purchase, any other terms & conditions and all prior agreements, understandings and undertakings, whether verbal or written.

IN WITNESS WHEREOF the duly authorised representatives of the Parties have caused this Agreement to be executed as follows:

For and on behalf of:

For and on behalf of:

.....

C SQUARED CONSULTANCY LIMITED

Signature:

Signature:

Name

Name

Date:

Date: