

TERMS AND CONDITIONS OF SALE – SERVICES

BACKGROUND

These Terms and Conditions explain the basis under which TSG (Service Provider), will provide the Services to the Client.

The Client should read these Terms and Conditions carefully to make sure that they understand what is agreed.

1 DEFINITIONS

In these Terms and Conditions, the following words and phrases have the following meanings:

'Client'	the company buying the Services
'Confirmation of Acceptance'	The Client's confirmation that the Service Providers' Engagement Letter has been accepted and signed, and a binding agreement has been formed for the supply of the Services
"Engagement Letter"	The proposed description of services to be supplied and the commercial terms of the engagement
'Parties'	the Client and the Service Provider
'Party'	either one of the Client or the Service Provider
'Service Provider'	the company selling the Services; contact details at the end of these Terms and Conditions
'Services'	the services described in the Engagement Letter, that the Client is purchasing
'Terms and Conditions'	this document detailing the rights and responsibilities of the Parties

2 SERVICES

2.1 The Service Provider is under a legal duty to supply the Services using reasonable care and skill.

2.2 The Services will be performed so far as reasonably practicable, at such time or times as the Service Provider shall agree with the Client.

3 ORDERING

3.1 By ordering Services from the Service Provider, the Client makes an offer to buy the Services. There is no binding contract between the Parties at the time when the order is made.

- 3.2 The Client will contact the Service Provider by email with Confirmation of Acceptance by signing the Engagement Letter. When the Confirmation of Acceptance is received, there will be a binding contract between the Parties in accordance with these Terms and Conditions. The binding contract will only be for the Services described in the Engagement Letter.

4 PRICE AND PAYMENT

- 4.1 The Client must make payments in accordance with any schedule agreed with the Service Provider. VAT will be charged at the rate prevailing at the time that payment is due.
- 4.2 Where an estimate of the total price has been provided by the Service Provider, the final price for the Services may be higher or lower than the estimate. Circumstances where the price may be different from an estimate include, but are not limited to:
- 4.2.1 the Services taking longer to complete than could have reasonably been anticipated;
 - 4.2.2 the Client making any changes to the Services after the price is agreed; or
- 4.3 Without prejudice to any other legal right or remedy:
- 4.3.1 if any agreed payment is not received by the Service Provider by the due date, they can charge interest on the outstanding sum or sums. Interest will be charged at 8% per annum above the Bank of England base rate, accruing daily from the due date until payment is made;
 - 4.3.2 if the amounts not paid to the Service Provider when due total 10% or more of the total value of the Services, the Service Provider is entitled to suspend the performance of any remaining Services until the outstanding payments are made; and
 - 4.3.3 the Client will not refuse to pay any amount which is owed to the Service Provider where there is only a minor or inconsequential defect or error in the performance of the Services.

5 CLIENT'S RESPONSIBILITIES

- 5.1 The Client shall co-operate fully with the Service Provider in the performance of the Services. Co-operation shall include, but is not limited to:
- 5.1.1 responding promptly and properly to any correspondence, request, query or communication from or on behalf of the Service Provider;
 - 5.1.2 promptly providing any information, documentation, instruction, support or other assistance as the Service Provider reasonably requires;
 - 5.1.3 promptly making any space, resources or facilities available as may reasonably be required by the Service Provider; and
 - 5.1.4 paying any and all sums due on time.
- 5.2 If the Client does not comply fully and properly with their responsibilities under this clause, the Service Provider may, without prejudice to their legal rights:

- 5.2.1 charge the Client for any costs or expenses thereby reasonably incurred; or
- 5.2.2 suspend the provision of the Services until such time as the Client complies, so far as reasonably practicable, with their responsibilities under these Terms and Conditions.

6 SUBSTITUTION

- 6.1 The Service Provider can, at its absolute discretion, choose to substitute an individual consultant, or retain or instruct sub-contractors to carry out the Services in whole or in part, but only with the prior written permission of the Client.

7 AGENCY OR PARTNERSHIP

- 7.1 Nothing in these Terms and Conditions is intended to or does imply any partnership, fiduciary relationship, joint venture, agency or any other relationship between the Parties, save as provided for in these Terms and Conditions.

8 LIABILITY AND INDEMNITY

- 8.1 Nothing in these Terms and Conditions seeks to limit the liability of the Service Provider for fraudulent acts or omissions, death or personal injury caused in connection with the provision of the Services, whether arising in contract, negligence, tort, breach of statutory duty or otherwise.
- 8.2 Neither Party shall be liable to the other whether in contract, negligence, tort, breach of statutory duty or otherwise for any loss or damage sustained by the other Party indirectly or consequentially and including but not limited to economic loss or loss of profits, goodwill or business in general.
- 8.3 Subject to the rest of this clause, the Service Provider's total liability to the Client will not, in any circumstances, exceed the total amount of the price payable by the Client.
- 8.4 In the event that the Client or their servants or agents breach these Terms and Conditions, or are negligent in their actions, the Client will, subject to the limit contained in clause 8.3 hereof, indemnify the Service Provider against any liability, loss, claim, damage, expense suffered by the Service Provider as a result.

9 PROPERTY AND INTELLECTUAL PROPERTY

- 9.1 Any property or intellectual property rights in any material owned by the Service Provider shall belong to the Service Provider and the Client shall not cause or permit anything to endanger those rights or title, or permit, assist or encourage others to do so.
- 9.2 Any property or intellectual property rights in any material owned by the Client shall belong to the Client and the Service Provider shall not cause or permit anything to endanger those rights or title, or permit, assist or encourage others to do so.
- 9.3 This clause is subject to the right of the Parties to use any such material so far as is reasonably required to carry out the agreed Services.

9.4 The Client warrants that any material, whether comprising documents, data, records or any other materials, that it provides to the Service Provider does not infringe the intellectual property rights of any non-Party. Subject to the limit contained in clause 8.3 hereof, the Client agrees to indemnify the Service Provider against any loss, damage, cost, expense or claim of any kind that may arise as a result of such an infringement.

10 **CONFIDENTIALITY**

10.1 The Parties will use their reasonable endeavours to keep confidential any confidential information relating to the other Party that is provided or otherwise accessed in the performance of the Services. Neither Party shall disclose any confidential information without the consent of the other Party, except to comply with an order of a court of competent jurisdiction or if required in connection with legal proceedings relating to these Terms and Conditions.

10.2 The Parties' obligations under this clause shall continue for a period of five (5) years after the termination or completion of the Services unless or until the information concerned becomes public knowledge or is otherwise in the public domain through no fault of the Party bound to keep it confidential under this clause.

11 **AMENDMENT AND TRANSFER OF RIGHTS**

11.1 These Terms and Conditions can only be amended by the agreement of the Parties in writing with signatures on behalf of both.

11.2 The Service Provider is not permitted to assign or transfer any rights or obligations under these Terms and Conditions, or subcontract the same for performance to a third party without the prior written permission of the Client. The Client is not permitted to assign or transfer any rights or obligations under these Terms and Conditions without the prior written permission of the Service Provider.

12 **SEVERANCE**

12.1 If any of the provisions of these Terms and Conditions are unlawful, invalid or otherwise unenforceable, they will be severed from the remainder. The Terms and Conditions which are left will remain valid and enforceable.

13 **THIRD PARTIES**

13.1 For the purposes of the Contracts (Rights of Third Parties) Act 1999, these Terms and Conditions are not intended to and do not confer any rights on any person who is not a Party. Any person who is not a Party does not have the right to enforce any provision of these Terms and Conditions.

14 **CIRCUMSTANCES BEYOND THE CONTROL OF THE PARTIES**

14.1 The Service Provider shall not be liable for any delay or failure to perform any term or part of these Terms and Conditions due to circumstances beyond the reasonable control of the Service Provider. Such circumstances include – but are not limited to – industrial action, lock out, trade dispute (where such industrial action, lock out or trade dispute does not involve the employees of the Parties), power failure, internet outage, fire, natural disaster or outbreak of war. As soon as is reasonably possible after the discovery of such circumstances, the Service Provider will notify the Client in writing of any anticipated or existing delay or failure in performance.

14.2 If the circumstances referred to in this clause continue for a period of longer than 30 days, the Service Provider can end the contract by giving 30 days' notice in writing to the Client. All money owing under these Terms and Conditions before the circumstances arose shall be paid immediately.

15 **ENTIRE AGREEMENT**

15.1 These Terms and Conditions and the Confirmation of Acceptance taken together are the entire agreement between the Service Provider and the Client and supersede any and all prior terms, conditions, warranties or representations to the fullest extent permitted by law.

16 **WAIVER**

16.1 Any failure or delay by the Service Provider in using rights or powers provided by these Terms and Conditions shall not constitute a waiver of the whole or any part of these Terms and Conditions. The partial or sole use of any rights or powers provided by these Terms and Conditions shall not prevent any additional use of the same rights or powers. The rights, powers and remedies in these Terms and Conditions are additional to the rights of the Parties provided by law.

17 **GOVERNING LAW AND JURISDICTION**

17.1 These Terms and Conditions shall be governed by and construed in accordance with English law and the courts of England and Wales will have exclusive jurisdiction in relation to them.

18 **COMPLAINTS**

18.1 In the event of a complaint of any nature the Service Provider can be contacted using the details below.

19 **CONTACT DETAILS**

19.1 The Service Provider is TSGAH, of Dawson House, 5 Jewry Street, London, EC3N 2EX and can be contacted at 020 7469 1500 or finance@tsgqe.uk. In circumstances where the Client is required to contact the Service Provider in writing, they can email them at finance@tsgqe.co.uk.