

CATALYZE QUOTATION - TERMS AND CONDITIONS FOR CONSULTANCY SERVICES

These terms and condition shall apply to the provision by Catalyze Limited of consultancy services as described in this Quotation, hereinafter called the Services.

1. DEFINITIONS

- 1.1. "Charges" means the charges to be paid by Customer for the Services and which are specified in this Quotation.
- 1.2. "Customer" means the recipient of Services from Catalyze.
- 1.3. "Order" means an Order for Services placed by Customer subject to these terms and conditions for Services pursuant to this Quotation.
- 1.4. "Quotation" means this quotation for the Services submitted by Catalyze to Customer.
- 1.5. "Services" means the services to be provided by Catalyze as specified in this Quotation.
- 1.6. "Timetable" means the timetable within which Catalyze will perform the Services and which is specified in this Quotation.

2. APPLICATION

- 2.1. These terms and conditions shall constitute the entire understanding between the parties relating to the Services to be provided hereunder, and shall supersede any previous communication, representation or agreements by either party whether oral or written relevant to the Services. Customer's additional or different terms and conditions shall not apply. No change to any of the terms and conditions herein shall be valid unless in writing and signed by an authorised representative of each party.

3. OBLIGATIONS OF CATALYZE

- 3.1. Catalyze shall use all reasonable efforts to provide the Services in accordance with the Timetable, but shall not be liable for any failure to meet the Timetable.
- 3.2. Unless otherwise agreed, the Services shall be performed during Catalyze's normal business hours (09.00 to 17.30, Monday to Friday). Catalyze may select any suitably qualified person(s) including subcontractors to perform the Services. Catalyze shall be responsible for the performance of any subcontractors which it appoints.

4. OBLIGATIONS OF CUSTOMER

- 4.1. Customer acknowledges that Catalyze's ability to perform the Services is dependent upon Customer's full and timely co-operation with Catalyze as well as the accuracy and completeness of any information and data Customer provides to Catalyze. Therefore, Customer shall:
 - 4.1.1. provide Catalyze with access to, and use of, all information, data, documentation, computer time, facilities, working space and office services deemed reasonably necessary by Catalyze to provide the Services; and
 - 4.1.2. appoint a representative who shall provide professional and prompt liaison with Catalyze, have the necessary expertise and authority to commit Customer, and be available at all times when the Services are being provided by Catalyze at Customer's premises.
- 4.2. Customer shall be responsible for maintaining an external procedure for the reconstruction of lost or altered files, data, or programs to the extent deemed necessary by Customer, and for actually reconstructing any such materials.

5. FORCE MAJEURE

- 5.1. Catalyze shall not be liable for delays or failure in performance due to unforeseen circumstances or causes beyond Catalyze's reasonable control, including but not limited to any industrial dispute. In the event of such non-performance continuing for more than three (3) months, either party may by giving written notice terminate the provision of further Services.
- 5.2. Should any delay be caused by the default, act or omission of Customer or Customer's servants, agents, employees or subcontractors, then Catalyze may recover any additional costs, charges or expenses incurred by Catalyze as a result of such delay.

6. CHARGES AND PAYMENT

- 6.1. The Charges are as stated in this Quotation and are valid for thirty (30) days from the date of this Quotation. The Charges exclude Value Added Tax, which shall be added to each invoice at the rate applicable at the date of such invoice.
- 6.2. Customer shall pay all invoices within 30 (thirty) days from the date of invoice. Should any sum due to Catalyze remain unpaid after 10 (ten) days from the date of written notice to the Customer, Catalyze shall not be obliged to continue performance under this Quotation with Customer. Catalyze shall be entitled to interest on the amount due at the rate of three (3) per cent per annum above HSBC Bank base rate ruling from time to time, calculated from the date due, and to recover its expenses including legal fees and costs of collection.
- 6.3. Catalyze shall have the right to change payment terms specified herein at any time, if Customer's financial condition or previous payment record so warrants.

7. CHANGES IN OBLIGATIONS

- 7.1. Either party may request variations to any part of the Order and the obligations contained herein. All such requests must be made in writing.
- 7.2. Catalyze shall notify Customer in writing as soon as is reasonably possible following receipt of a written change request from Customer or the making of a written change recommendation from Catalyze, with an estimate of the costs involved and the time required to investigate the proposed change. If Customer instructs Catalyze to proceed with such investigation, Catalyze may charge the

costs incurred in such investigation, whether or not such change is implemented.

- 7.3. Catalyze shall advise Customer in writing of the results of its investigation, giving the effects upon the Charges, the Timetable, the payment terms, and other contract matters, including any required change to the obligations of Customer, should the variation be implemented.
- 7.4. If Customer wishes to proceed with the variation, Customer shall instruct Catalyze in writing to that effect within 15 (fifteen) working days of receipt of such advice, and the Order shall then be deemed modified accordingly.
- 7.5. Until such time as any variation is formally agreed in writing and signed by an authorised representative of each party, Catalyze shall continue to perform and to be paid as if such variation had not been requested or recommended.
- 7.6. If Catalyze makes a recommendation which Customer at its discretion does not wish to adopt, then Customer's refusal to implement the change shall not excuse Catalyze from performance of its obligations under these terms and conditions, except where to continue such performance would contravene any law(s) or regulation(s).

8. CONFIDENTIAL INFORMATION

- 8.1. Each party shall protect against any unauthorised disclosure of the information of the other party which is clearly designated in writing as being confidential (hereinafter referred to as "Confidential Information") by using the same degree of care as it takes to preserve and protect its own confidential information of a similar nature, but in no event shall this be less than a reasonable degree of care. Such obligation shall continue for the duration of the Order and for two (2) years thereafter.
- 8.2. In the event of oral disclosure of Confidential Information, such information shall be treated in accordance with the provisions of this Clause from the time of disclosure, and the information disclosed shall be summarised in writing, marked as being Confidential Information and sent to the other party within ten (10) working days of the initial oral disclosure.
- 8.3. A receiving party shall not be required to treat as confidential any information which is already in its possession, or becomes publicly available, is independently developed by it, or is lawfully obtained from third parties without any restriction on disclosure.
- 8.4. Catalyze may pass Confidential Information to its subsidiaries and any subcontractors involved in the delivery of the Services and in which event:
 - 8.4.1. these companies may only use the Confidential Information for the purposes of this Clause; and
 - 8.4.2. Catalyze hereby warrants that these companies will abide by the terms of this Clause.
- 8.5. The disclosing party warrants that it has the right to disclose any Confidential Information provided to the other pursuant to the provision of the Services.
- 8.6. In the event of termination of any Order the receiving party shall destroy or return to the disclosing party all Confidential Information received pursuant to the provision of the Services together with all partial or complete copies thereof.

9. INTELLECTUAL PROPERTY RIGHTS

- 9.1. All copyright and other intellectual property rights existing prior to the date of the Order shall vest in their originator absolutely.
- 9.2. Customer hereby grants Catalyze a non-exclusive, world-wide, royalty-free licence to Customer's pre-existing copyright and other intellectual property rights to the extent necessary for Catalyze to perform its obligations under the Order and will indemnify Catalyze fully against any breach of this Clause.
- 9.3. Customer warrants that it is able to grant Catalyze all necessary rights and licences in respect of any third party intellectual property rights licensed to Customer to the extent necessary for Catalyze to perform its obligations under the Order and will indemnify Catalyze fully against any breach of this Clause.
- 9.4. Catalyze shall own all intellectual property rights, title and interest in any ideas, concepts, know-how, documentation or techniques developed hereunder. Catalyze hereby undertakes to grant Customer upon request on such terms as may be agreed such licence(s) as are necessary to enable Customer to make use of the same solely for Customer's own internal purposes.
- 9.5. All documentation, educational material and all other written information in any form, including electronic, made available by Catalyze prior to or during the provision of the Services are protected by Catalyze copyright. All such materials are provided for the sole use of Customer and may not be copied or reproduced in any form without the prior written consent of Catalyze. All authorised copies shall carry Catalyze's approved copyright notice.

10. WARRANTIES

- 10.1. Catalyze shall perform the Services in a professional manner in accordance with generally recognised commercial practices and standards.
- 10.2. Due to the consultative nature of the Services, Catalyze makes no warranties of any kind for the Services performed with the exception of that contained in Clause 10.1. Catalyze specifically disclaims all warranties implied by law concerning merchantability or fitness for purpose. Catalyze shall not be responsible for any business decisions made, or actions taken by Customer based on any part of the Services.

11. WARRANTY EXCLUSION

- 11.1. Customer acknowledges that Catalyze shall not be responsible for any failure to provide Services under any

Order if such failure is the result, either directly or indirectly, of the inability of any products to process, provide or receive properly date data (i.e. representations for day, month and year) or to properly exchange date data with any products supplied by Catalyze in accordance with these terms and conditions.

12. REMEDIES AND LIABILITIES

- 12.1. This Clause prevails over all other clauses and sets forth the entire liability of Catalyze, and the sole and exclusive remedies of Customer, whether in contract or in tort (including negligence) or otherwise.
- 12.2. Catalyze does not exclude or limit liability for:
 - 12.2.1. personal injury (including sickness and death) to the extent that such injury results from the negligence or willful default of itself, its servants, agents or subcontractors; or
 - 12.2.2. any breach of any undertaking as to title, quiet possession, and freedom from encumbrance implied by law; or
 - 12.2.3. any fraudulent misrepresentation on the part of Catalyze.
- 12.3. Except as provided in Clause 12.2, the total liability of Catalyze shall not exceed the applicable financial limit for each category of liability specified below.
- 12.4. The financial limits for each category of liability are as follows:
 - 12.4.1. in respect of liability for loss of or damage to tangible property (including real property) arising as a result of the negligence or default of Catalyze, its employees, subcontractors or agents acting within the course of their employment during the provision of the Services, the sum of £500,000 (five hundred thousand pounds); and
 - 12.4.2. in respect of all other liability arising on or after the date of the Order until the earlier of completion of the Services or termination of the Order, the total of the sums invoiced and paid up to the date upon which the liability arose together with any applicable Value Added Tax thereon.
- 12.5. Catalyze shall not be liable for any indirect or consequential loss or, without limitation, for:
 - 12.5.1. loss of actual or anticipated profits;
 - 12.5.2. loss of contracts;
 - 12.5.3. loss of goodwill;
 - 12.5.4. loss of business;
 - 12.5.5. loss of revenue;
 - 12.5.3. loss of anticipated savings; and
 - 12.5.4. loss of data.
13. **NON-SOLICITATION**
 - 13.1. Neither party shall directly or indirectly solicit or offer employment to any of the other party's personnel associated with the Services performed hereunder while such Services are being performed and up to six (6) months after completion of the Services or termination of the Order whichever is later.
 - 13.2. In the event of any breach of this Clause the party in breach shall pay compensation to the other party equivalent to three (3) months of the new employee's gross salary.
14. **DURATION AND TERMINATION**
 - 14.1. Either party may terminate the Order, by notice in writing, in the event of:
 - 14.1.1. breach by the other of any material obligation hereunder and failure to remedy such breach within 30 (thirty) days of receipt of written notice to do so; or
 - 14.1.2. any proceedings in bankruptcy, insolvency or winding up by or against the other party or the appointment of an assignee for the benefit of creditors or of a receiver or of any similar situation arising.
 - 14.2. Upon termination Customer shall pay Catalyze for all Services performed and charges incurred up to the date of termination. Should the sum of such amounts be less than any advance payment received by Catalyze, Catalyze shall refund the difference within 30 (thirty) days of receipt of an invoice from Customer.
15. **MISCELLANEOUS**
 - 15.1. Catalyze may provide the same or similar services to other customers.
 - 15.2. Customer may not assign any rights or obligations without Catalyze's written consent.
 - 15.3. Any required notices shall be given in writing at the registered address of each party or such other address as either party may substitute by written notice to the other.
 - 15.4. Catalyze's failure to exercise any of its rights hereunder shall not constitute or be deemed a waiver or forfeiture of such rights.
 - 15.5. The invalidity or unenforceability of any provision of these terms and conditions shall not affect the validity or enforceability of any other provision of these terms and conditions which shall continue in full force and effect except for any such invalid or unenforceable provision.
 - 15.6. These terms and conditions and the Order shall in all respects be governed by and construed in accordance with the laws of England. The courts of justice of England shall have exclusive jurisdiction in all matters pertaining to or arising therefrom.