

# Plentific Terms and Conditions

## 1. Background

- 1.1. The Order Form sets out the Services that Plentific will provide to the Customer and the Fees that the Customer will pay for those Services over the Term. These Terms and Conditions govern the provision of those Services. Together the Order Form and these Terms and Conditions form the agreement (the "Agreement")
- 1.2. The terms defined in the Order Form along with the definitions set out below shall apply to this Agreement.

## 2. Term and Termination

- 2.1. The Agreement shall commence on the Effective Date and shall continue for the Term unless terminated in accordance with this Agreement.
- 2.2. Following expiry of the Initial Term, the Agreement shall automatically renew for successive 12-month terms (Renewal Term), unless either Party gives the other notice of its intention to terminate, such notice to be received no later than 90 days prior to the end of the Initial Term or the Renewal Term.
- 2.3. Without affecting any other right or remedy available to it, either party may terminate the Agreement with immediate effect by written notice to the other party if the other party) commits a material breach of the Agreement which is irremediable, or fails to remedy within 60 days after being notified to do so; ii) is subject to any insolvency procedure; or iii) ceases or threatens to cease trade.
- 2.4. On termination of the Agreement, howsoever arising:
  - 2.4.1. the Customer shall immediately cease use of the Services (other than for 30 days to clear existing Work Orders etc.).
  - 2.4.2. the Customer shall pay all outstanding Fees properly due under the Agreement.
  - 2.4.3. both Parties shall comply with their obligations on termination set out in the Data Processing addendum; and
  - 2.4.4. any rights, remedies, obligations, or liabilities of the parties that have accrued up to the date of termination and any clauses that expressly or impliedly are intended to survive termination of the Agreement shall continue in full force and effect.
- 2.5. If the Customer validly terminates the Agreement under clause 2.3 (i) then Plentific shall refund to the Customer, on a pro-rata basis, any prepaid Fees which relate to the period after termination.

## 3. Fees

- 3.1. The Customer shall ensure that all Fees specified in the Order Form are paid in accordance with the payment terms stated on the Order Form. Unless stated otherwise in the Order Form, Fees are payable 30 days from the date of invoice.
- 3.2. Plentific shall be entitled to raise an invoice immediately for any additional services used by the Customer that do not form part of the Order Form and the Order Form shall be amended to reflect the additional services and Fees associated with them.
- 3.3. The basis of the Fees is set out in the Order Form and apply throughout the Term.
- 3.4. If any Fees properly owing to Plentific and invoiced under this Agreement remain unpaid 30 days after the due date then Plentific may, without limiting its other rights and remedies, charge interest on the unpaid invoice which shall accrue on a daily basis from the due date at an annual rate of 3% above the then current base rate of the Bank of England until payment is received and/or provided that it has given a minimum of seven days advance written warning, suspend all Services under any agreements between the Parties until such amounts are paid in full. The Customer recognises that suspension may impact all users of the Services assigned to the Customer.
- 3.5. In the event that any Contractor invoice issued under this Agreement remains unpaid after the due date for payment, the Customer shall be liable to pay an administrative fee of £20.00 in respect of each overdue invoice (Late Payment Administration Fee).
- 3.6. This Late Payment Administration Fee represents a genuine pre-estimate of the additional administrative costs incurred by Plentific in managing and recovering late payments. The Late Payment Administrative Fee is without prejudice to any other rights or remedies available to Plentific under this Agreement or at law, including the right to charge statutory interest under the Late Payment of Commercial Debts (Interest) Act 1998.
- 3.7. The Late Payment Administration Fee shall be invoiced separately from any Fees due under this Agreement. It will be calculated and billed monthly, following reconciliation of outstanding Contractor invoices for the preceding month, and shall be payable in full upon receipt of invoice.
- 3.8. Unless stated otherwise in the Order Form the Fees in respect of Software Services shall be invoiced annually in advance with the Software Service subscription commencing on the Effective Date.
- 3.9. Unless stated otherwise in the Order Form, the Fees in respect of Professional Services shall be invoiced in full prior to the Professional Services commencing. Plentific shall be entitled to charge reasonable travel and subsistence costs in respect of providing Professional Services as agreed in writing, in advance by the Customer.
- 3.10. All amounts specified in the Order Form or SOW (where included) shall be invoiced in and paid in the currency

stated in the Order Form or SOW, are exclusive of VAT or any other sales or other tax (which must be paid in addition) and are not refundable or cancellable except as may be set out in this Agreement.

- 3.11. The Customer is responsible for providing complete and accurate billing and primary contact information and notifying Plentific of any changes to such information.
- 3.12. Where a purchase order number is given by the Customer, Plentific shall include such purchase order number on the invoice, however, if the Customer fails to provide a purchase order number, then it shall not be relieved of its obligation to pay an invoice by the due date.
- 3.13. Unless a different indexation is stated in the Order Form, Plentific shall be entitled to increase the Fees annually on the anniversary of the Effective Date by the application of the most recently published UK Consumer Price Index.

#### 4. Plentific Obligations

- 4.1. Plentific shall provide the Services in accordance with the Agreement and using reasonable care and skill.
  - 4.2. Provision of any Software Service shall be as set out in the Software Service Schedule. Plentific will use reasonably commercial efforts at no cost to the Customer to correct any non-conformance promptly. Such correction constitutes Plentific's sole and exclusive remedy for such non-conformance.
  - 4.3. Plentific shall use commercially reasonable efforts to make the Software Service available 24 hours a day, seven days a week in accordance with and subject to the Software Service Schedule. Plentific will provide reasonable notice of any unscheduled maintenance and where possible will perform such maintenance outside of normal business hours.
  - 4.4. Plentific shall comply with all applicable laws and regulations with respect to the provision of the Services and shall maintain, all necessary licences, consents, and permissions necessary for the performance of its obligations under these Terms and Conditions.
  - 4.5. Plentific reserves the right to vary the Service(s) and Software Services at any time at its sole discretion, providing that the basic functionality is not materially reduced.
  - 4.6. Plentific's general obligations under this clause 4 shall not apply to the extent that any non-conformance is caused by the Customer using the Services or Software Services contrary to Plentific's instructions and Plentific accepts no liability for delays or interruptions resulting from the Customer's failure to comply with its obligations under this Agreement.
  - 4.7. Where the Software Services require implementation activity these will be set out in the Order Form and the SOW. Both Parties shall use reasonable endeavors to comply with their obligations in respect of such implementation and Plentific shall not be liable for any delays caused by the Customer failing to comply with its obligations thereunder. Where delays are caused by the Customer, Fees for implementation activity shall be payable in accordance with the Order Form.
  - 4.8. Plentific does not warrant that use of the Services or Software Services will be uninterrupted or error free or free from viruses. Plentific does not warrant that Services or Software Services will meet your requirements. The Customer acknowledges that the Software or Software Services may be subject to limitations, delays and other problems inherent in the use of third-party communication facilities over the internet.
- 4.9. Plentific accepts no liability for the acts or omissions of any Contractor.

#### 5. Customer Obligations

- 5.1. The Customer shall meet all its responsibilities as set out in the Agreement including ensuring payment of all properly due and owing Fees by the due date.
- 5.2. The Customer shall use all reasonable efforts to ensure that all Contractor invoices, not subject to a genuine dispute, are paid in full and promptly, and in any case, no later than the invoice due date.
- 5.3. The Customer shall be responsible for:
  - 5.3.1. ensuring it has appropriate infrastructure to access and use the Services;
  - 5.3.2. where relevant, keeping a record of all Users and ensuring that it does not exceed the number of User subscriptions purchased and will not allow a User subscription to be used by more than one person. The Customer will provide Plentific with all reasonable access needed to audit use of the Software Services and if that audit reveals an underpayment of Fees the Customer shall pay such underpayment within 10 business days;
  - 5.3.3. ensuring that the Users use the Software Services in accordance with the Agreement and will be responsible for any Users who breach the Agreement; and
  - 5.3.4. compliance with all applicable laws and regulations with respect to its activities under the Agreement.
- 5.4. Unless agreed otherwise by Plentific or required by law, the Services are intended for internal use by the Customer and its Affiliates, and the Customer may not allow anyone other than the Users to access the Services.
- 5.5. The Customer shall not access, store, distribute or transmit any viruses or any material that is unlawful, harmful, defamatory, obscene or infringing or is otherwise illegal or causes damage or injury to any person.
- 5.6. The Customer shall not: except to the extent expressly permitted under this Agreement: i) attempt to copy, modify, create derivative works from all or any portion of the Software Service; ii) attempt to de-compile or reverse engineer or otherwise reduce to human perceivable form all or any part of the Software Service; iii) license, sublicense, resell, transfer, assign, distribute or otherwise commercially exploit the Software Service; iv) access the Software Services to develop a similar or competitive product or a product using similar ideas, features or functionality or graphics or in any way copy the same.
- 5.7. The Customer shall use all reasonably commercial efforts to prevent any unauthorised access to or use of the Software or Software Services and notify Plentific immediately of any unauthorised access.
- 5.8. The Customer warrants that any individual executing any document on behalf of the Customer is properly authorised to do so and that all internal approvals that the Customer may require have been obtained prior to the Order Form being executed.
- 5.9. If the Customer fails to carry out all its responsibilities under the Agreement in the agreed manner Plentific may adjust

any agreed timetable or delivery schedule as reasonably necessary but the Fees will continue to be payable in accordance with the dates set out in the Order Form.

## 6. Third Party Providers

- 6.1. Plentific may receive commission from third parties directly or indirectly as a result of providing the Software Services and shall have no obligation to account to the Customer for such commission.
- 6.2. The Software Services may provide the Customer with access to the websites of third parties and the Customer accesses such at its own risk. Any contract entered, and any transaction completed via a third-party website is between the Customer and the third party.
- 6.3. Plentific accepts no responsibility for services or the acts or omissions of Contractors. The Customer acknowledges that each Contractor is providing services to the Customer on the terms and conditions agreed between the Customer and the Contractor.
- 6.4. The Customer acknowledges that payments made to Contractors will be through third party payment providers. By entering into this Agreement, the Customer accepts the following terms and conditions shall apply to payments made by the Customer to a Contractor under the Stripe Services Agreement and the terms and conditions of such other payment facility made available through our Software Service as may be notified via the Software Service or otherwise. By continuing to use such payment facility the Customer will be deemed to have accepted the terms and conditions with such payment facility .
- 6.5. Plentific shall not be liable for any loss, damage or liability arising from use of such third-party providers, including but not limited to any acts and omissions of third party payment providers utilised by Plentific from time to time.

## 7. Intellectual Property

- 7.1. Subject to the limited rights expressly granted hereunder, Plentific and its licensors reserve all of their rights, title and interest in and to the Software Services, including all of their related intellectual property rights. Plentific grants the Customer a limited, non-transferable, non-sublicensable licence for the Term as needed for the Customer and the Users to make use of the Software or Software Services.
- 7.2. Plentific shall have a royalty free, worldwide, irrevocable, perpetual licence to use or incorporate into the Software or Software Services any suggestions, enhancements or recommendations provided by the Customer and the Customer shall hereby transfer all rights in such suggestions, enhancements, and suggestions.
- 7.3. The Customer grants Plentific a non-exclusive licence during the Term to use the Customer's name and logo to the extent needed to perform its obligations under this Agreement, including the right to use its name in the recruitment of Contractors and for any marketing or promotional purposes.
- 7.4. The Customer shall retain all rights in and ownership of the Customer Data and shall be solely responsible for the legality, reliability, integrity, accuracy, content and quality of the Customer Data supplied by Customer or Users to Plentific.
- 7.5. Plentific shall indemnify the Customer against any claims that the use of the Software infringes any third-party intellectual property rights, provided that: (i) Plentific is given prompt notice of any claim; (ii) Plentific is given sole

authority to defend any claim; and (iii) the Customer provides all reasonable cooperation to Plentific in defending such claim.

- 7.6. In the defence or settlement of any claim under clause 7.5, Plentific may at its own cost and in its own discretion: (i) procure the right for the Customer to continue to use the Services; (ii) replace or modify any element of the Software or Software Services so they become non-infringing provided there is no material degradation in the functionality of the Software or Software Services; or (iii) terminate the Agreement with immediate effect without any additional liability, payment of liquidated damages or other additional costs to the Customer arising from such termination save for providing a pro-rated refund of any prepaid Fees which relate to the period after termination.
- 7.7. In no event shall Plentific be liable for any claim to the extent that the alleged infringement is based on (i) any modification of the Services by Customer or Users; (ii) any use of the Services contrary to Plentific's instructions; or (iii) the Customer's continued use of the Services after notice of the alleged or actual infringement from Plentific or any appropriate authority.

## 8. Confidentiality

- 8.1. Each party shall hold the other's Confidential Information in confidence and not disclose such Confidential Information to any third party (excluding its Affiliates), unless required by law or necessary for the provision of the Services or use the other party's Confidential Information for any purpose other than as allowed or contemplated under the Agreement. This confidentiality obligation shall apply for the Term and a period of 5 years thereafter.
- 8.2. Information shall not be considered to be Confidential Information where i) it is or becomes publicly known other than through any act of omission of the receiving party; ii) it was in the other party's lawful possession prior to the disclosure; iii) it is or was lawfully disclosed to the receiving party by a third party without restriction on disclosure; or iv) it is independently developed by the receiving party and can be demonstrated to have been so developed.

## 9. Liability

- 9.1. Nothing in the Agreement shall serve to exclude or limit either party's liability for death or personal injury arising from negligence or for any fraudulent misrepresentation or for any other liability which cannot be excluded or limited by law.
- 9.2. The Customer shall indemnify Plentific for any loss or damage it incurs as a result of the Customer's breach, infringement or misappropriation of Plentific's intellectual property rights.
- 9.3. Save in respect of any liability arising under clause 9.1 and 9.2 above, or in respect of any claim relating to Plentific's processing of personal data, neither party's total aggregate liability, whether in tort (including negligence or breach of statutory duty), misrepresentation or otherwise, under the Agreement shall exceed the level of the total Fees paid in respect of this Agreement to Plentific in the 12-month period immediately preceding the event giving rise to the claim.
- 9.4. Plentific's liability for any claim in respect of its' processing of personal data on behalf of the Customer shall not exceed a total of one million pounds (£1,000,000.00) or equivalent in the currency stated in the Order Form.

- 9.5. Subject to clauses 9.1 and 9.2 neither party shall be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising.
- 9.6. Except as expressly and specifically provided in this Agreement, all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Agreement.
- 9.7. The parties agree that where the Customer Data contains data which relates to an identified or identifiable natural person then Plentific's processing of such data shall be subject to the Data Protection Schedule and, any additional data processing terms which may be agreed between the parties.

## 10. General

- 10.1. No failure or delay by either party to exercise any right or remedy under the Agreement or under any law shall constitute a waiver of such right or remedy.
- 10.2. If any provision (or part of a provision) of these Terms of Service is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force and such provision shall apply with whatever modification required to give effect to the commercial intention of the parties.

## Definitions

In these Terms of the Service, the below expressions shall have the following meanings:

**Affiliate** means any entity, individual, firm, or corporation, which is directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with one of the parties.

**Agreement** means the Order Form, these Terms of Service (including the Schedules) and any SOW.

**Plentific** means the Plentific entity named in an Order Form and/or SOW as providing the Services.

**Confidential Information** means any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or any of its associated entities, including Customer Data and including information relating to a party's operations, processes, plans, product information, know-how, designs, trade secrets, software, market opportunities and customer, this Agreement or any other information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information under these Terms of Service.

**Contractors** means professional tradespeople or other entities to which you may gain access via the Software Service.

**Customer Data** means the data provided by the Customer or any Users for the purpose of using the Services or facilitating the Customer's use of the Services.

10.3. The Agreement, and any documents referred to in it, constitute the whole agreement between the parties in relation to the provision of the Services.

10.4. Each of the parties acknowledges and agrees that in entering into the Agreement it does so as a business, and not as a partner or agent of Plentific, and that it does not rely on any undertaking, promise, assurance statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to the Agreement or not) relating to the subject matter of the Agreement, other than as expressly set out in the Agreement.

10.5. Neither party shall, without the prior written consent of the other party, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Agreement.

10.6. The Agreement does not confer any rights on any person or party (other than the parties to the Agreement and, where applicable, their successors and permitted assigns).

10.7. Any notice required to be given under the Agreement shall be in writing in the English language and shall be posted to the other party's address stated in the Order Form or emailed to the other party's primary contact. Such notice will be deemed delivered at the time at which it would have been delivered in the normal course of business.

10.8. This Agreement 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 laws of England and Wales.

10.9. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Agreement or its subject matter or formation (including non-contractual disputes or claims).

**Data Protection Schedule** means the data processing addendum set out on the Plentific website.

**Dispatched Work Order** means a Work Order that has moved to either tendering or work in progress status.

**Effective Date** means the date stated as the 'Effective Date' set out in the applicable Order Form and/or the SOW.

**Fees** means the fees set out in the Order Form(s) and/or SOW(s) payable by the Customer for the provision of the Services.

**Inspection** means a created template enabling an inspection related to a specific Unit.

**Order Form** means the order form, or other agreed document, which sets out the details about the Services which are to be provided to the Customer and which has been executed by the parties.

**Platform** means the Plentific software through which the Software Services are accessed.

**Schedules** means the Software Service Schedule, and/or the Data Protection Schedule.

**Services** means the services to be provided by Plentific as set out in the Agreement.

**Software Service** means the software service made available by Plentific as set out in the SOW and/or Order Form or necessary to deliver the Services.

**Software Service Schedule** means the schedule specific to the Software Service as located on the Website, as amended from time to time.

**SOW** means the Statement of Work document which sets out the Plentific and Customer responsibilities to enable Plentific to deliver and the Customer to access the Services.

**Started Inspections** means an Inspection that has moved to in-progress or completed status.

**Term** means the period stated as the term in the Order Form and includes the Initial Term and any subsequent Renewal Terms.

**Unit** means, for each Software Service, as relevant, a unit entered onto the Platform as a distinct physical space or address or similar to allow the storage of data, creation of compliance checks or inspections or other actions against that unit.

**Users** means those employees, agents and independent contractors of the Customer (or any entity associated with the Customer) who are authorised by the Customer to use or receive the benefit of the Services.

**Work Order** means a work order created on the Platform.