

Carruthers and Jackson Limited
Terms of Business

1. Definitions

In this document the following words shall have the following meanings:

"Supplier" means **Carruthers and Jackson Limited** a company registered in England and Wales with Company Registration No. **11243025** and with Registered Address at **3 Croft Road, Hurworth, Darlington, Durham, England, DL2 2HD** and its Affiliated Companies

1.1 "Customer" means **CUSTOMER NAME HERE** a company registered in England and Wales with Company Registration No. **NUMBER HERE** and with Registered Address at **ADDRESS HERE** and its Affiliated Companies

1.2 "Party" or "Parties" means either the Supplier or the Customer

1.3 "Agreement" means these Terms and Conditions together with the terms of any applicable Ordering Document;

1.4 "Affiliate Companies" means those corporations, companies and business entities which are, directly or indirectly, controlled by, controlling or under common control with, control meaning
1.5 ownership of more than 50% of shares or being entitled to appoint the board of directors.

1.6 "Intellectual Property Rights" means all patents, registered and unregistered designs, copyright, trademarks, know-how and all other forms of intellectual property wherever in the world enforceable;

1.7 "Ordering Document" means a Statement of Work order form, or other similar document describing the services to be provided by the Supplier;

2. General

2.1 The Parties have entered into this Agreement to cover the Customer's engagement of the Supplier for Business and IT Consulting services.

2.2 These Terms and Conditions shall apply to all contracts for the supply of services by the Supplier to the Customer.

2.3 Before the commencement of the services the parties shall mutually agree upon and execute an Ordering Document specifying the services to be performed and the fees payable. Unless
2.4 otherwise agreed in the Ordering Document all Ordering Documents shall be subject to these
2.5 Terms and Conditions.

2.6 Where an Ordering Document contains terms that conflict with the Terms and Conditions in this document, the terms in the Ordering Document shall take precedence.

The Supplier shall use all reasonable endeavours to complete the services within estimated time frames

Where the Services are agreed as Time and Materials services the Supplier shall provide any estimates as a quantity of working days where each working day equates to 8 hours. The minimum unit for any service performed by the Supplier and therefore billed to the Customer shall be half (0.5) of a working day and all services shall be rounded to half day units of time

Where the Services are agreed as Time and Materials services the Supplier shall provide estimates of the effort required to deliver the service however these are estimates only, the value of the services will be based on time spend on the engagement which may be greater or less than the amount of the estimates provided

2.7 **3. Fees and payment**

The fees for the performance of the services are as set out in the Ordering Document. the Supplier shall invoice the Customer for the services as detailed therein.

3.1 The Supplier will provide an invoice to the Customer on or shortly after the last Friday of each month for fees owed that have not yet been invoiced to that last Friday of the month:

3.2 3.2.1 Where the Service agreed is a Fixed Price basis the fees will include any payment milestone reached as specified in the ordering document plus any other applicable expenses

3.2.2 Where the Service agreed is a Time and Materials basis the fees will include the cost of all consultant days used at the agreed rate/s plus any other applicable expenses

Invoiced amounts shall be due and payable within 30 days of the date on the invoice.

3.3 In the event that the Customer's procedures require that an invoice be submitted against a
3.4 purchase order to payment, the Customer shall be responsible for issuing such purchase order before the services are rendered. Any delay in providing a Purchase Order number which consequently delays submission of invoice does not extend or change the original invoice date and subsequent payment due date

3.5 Should the Customer fail to pay any amount due from it within 30 days of the due date for payment as set forth herein, the Supplier may charge interest on such overdue amount at a rate of 2% per annum above the base rate of Barclays Bank Plc.

4.1 **4. Customer's obligations**

To enable the Supplier to perform its obligations under this Agreement the Customer shall:

- 4.1.1 co-operate with the Supplier;
- 4.1.2 provide the Supplier with any information reasonably required by the Supplier to perform the services;
- 4.2 4.1.3 obtain all necessary permissions and consents which may be required before the commencement of the services; and
- 4.1.4 comply with such other requirements as may be set out and agreed in the Ordering Document or otherwise agreed between the parties.

The Customer shall be liable to compensate the Supplier for any expenses incurred by the Supplier as a result of the Customer's failure to comply with Clause 4.1.

Without prejudice to any other rights to which the Supplier may be entitled, in the event that the Customer unlawfully terminates or unlawfully cancels the services agreed to in the Ordering Document, the Customer shall be required to pay to the Supplier the full amount as set out in the Ordering Document.

- 4.3 In the event that the Customer or any third party under the control of the Customer, shall omit or commit anything which prevents or delays the Supplier from undertaking or complying with any of its obligations under this Agreement, then the Supplier shall notify the Customer as soon as possible and:
- 4.4
- 4.4.1 the Supplier shall have no liability in respect of any delay caused by the action or inaction as described in Clause 4.1 above;
 - 4.4.2 if applicable, the timetable for the services will be modified accordingly and new cost estimates presented to the Customer if additional time is required to deliver the services;
 - 4.4.3 the Supplier shall notify the Customer at the same time if it intends to make any claim for additional reasonable costs.

5. Alterations to the ordering document

The Parties may at any time mutually agree upon execute a new Ordering Document. Any alterations in the scope of services to be provided under this Agreement shall be set out in the Ordering Document, which shall reflect the changed services and fees and any other terms agreed between the parties.

5.1 The Customer may at any time request reasonable alterations to the Ordering Document, the Supplier shall advise the Customer of the effect of such alterations, if any, on the fees and any other terms already agreed between the parties.

5.2 Where the Supplier agrees to perform any alterations on terms different to those already agreed between the parties, the Customer shall confirm in writing to the Supplier whether or not it wishes the alterations to proceed.

5.3 Where the Supplier gives written notice to the Customer agreeing to perform alterations on terms different to those already agreed between the parties, and the Customer confirms in writing that it wishes the alterations to proceed on those terms, the written confirmation shall automatically become an addendum with precedence to the ordering document.

5.4 Should there be any delay to the Service caused by the agreeing or approval of an alteration to the Service the Customer may be liable for additional costs incurred as a result of the delay

6. Warranty

6.1 the Supplier warrants that the services performed under this Agreement shall be performed using reasonable skill and care, and of a quality conforming to generally accepted industry standards and practices.

6.2 Without prejudice to Clause 6.1, and except as expressly stated in this Agreement, all warranties whether express or implied, by operation of law or otherwise, are hereby excluded in relation to the services to be provided by Carruthers and Jackson Ltd.

7.1

7. Indemnification

7.2 the Supplier shall indemnify the Customer against all claims, costs and expenses which the Customer may incur arising directly from any claims brought against the Customer alleging that any services provided by the Supplier in accordance with the Ordering Document infringe a patent, copyright or trade secret or other similar right of a third party.

The Customer shall indemnify the Supplier against all claims, costs and expenses which the Supplier may incur arising directly from any claims brought against the Supplier alleging that any software provided to the Supplier by the Customer in order for the Supplier to carry out its duties under the Ordering Document infringe a patent, copyright or trade secret or other similar right of a third party.

8. Limitation of liability

Except in respect of death or personal injury due to negligence, and the indemnity provided under Clause 7.1 for which no limit applies, the entire liability of the Supplier to the Customer in respect of any claim other whatsoever or breach of this Agreement, whether or not arising out of negligence, shall be limited to the total fees paid or payable by the Customer under the Ordering Document to which the claim relates.

- 8.1 In no event shall the Supplier be liable to the Customer for any loss of business, loss of opportunity, loss of revenue or loss of profits or for any indirect or consequential loss or damage whatsoever. This shall apply even where such a loss was reasonably foreseeable or the Supplier had been made aware of the possibility of the Customer incurring such a loss.
- 8.2 Nothing in these Terms and Conditions shall exclude or limit the Supplier's liability for death or personal injury resulting from the Supplier's negligence or that of its employees, agents or sub-contractors.
- 8.3 The Supplier has in effect and will maintain in effect during the continuance of Services under this Agreement the following insurance policies:
- 8.4
 - 8.4.1 Public Liability Insurance not less than two million pounds (£2,000,000) in relation to any one claim or series of claims
 - 8.4.2 Employer's liability insurance not less than five million pounds (£5,000,000) or in accordance with any legal requirement for the time being in force in relation to any one claim or series of claims
 - 8.4.3 Professional Indemnity Insurance not less than ten million pounds (£10,000,000) in relation to any one claim or series of claims

9. Termination

- 9.1 Either party may terminate this Agreement forthwith by notice in writing to the other if:
 - 9.2 the other party commits a material breach of this Agreement and, in the case of a breach capable of being remedied, fails to remedy it within 30 calendar days of being given written notice from the other party to do so;
 - 9.3 the other party commits a material breach of this Agreement which cannot be remedied under any circumstances;
 - 9.4 the other party passes a resolution for winding up (other than for the purpose of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect;
 - 9.5 the other party ceases to carry on its business or substantially the whole of its business; or
 - the other party is declared insolvent, or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or a liquidator, receiver, administrative receiver, manager, trustee or similar officer is appointed over any of its assets.

10. Intellectual property rights

- 10.1 All Intellectual Property Rights in any computer programs, documentation and other material provided or produced by the Supplier in connection with the performance of this Agreement will vest in the Customer upon the date of such provision or production. the Supplier shall do all things reasonably necessary at the Customer's request and expense to perfect such vesting, both during and after the continuance of this Agreement. The Supplier hereby waives any moral rights (as defined in the Copyright, Designs and Patents Act 1988) that may arise in performing the service under this Agreement.

11. Force majeure

- 11.1 Neither the Supplier nor the Customer shall be responsible for failure or delay of performance if caused by: an act of war, hostility, or sabotage; act of God; electrical, internet, or telecommunication outage that is not caused by the obligated party; government restrictions (including the denial or cancellation of any export or other license); or other event outside the reasonable control of the obligated party. Both Parties will use reasonable efforts to mitigate the effect of a force majeure event. If such event continues for more than 90 days, either party may cancel unperformed services upon written notice. This section does not excuse either party's obligation to take reasonable steps to follow its normal disaster recovery procedures or your obligation to pay for services provided.

12. Independent contractors

- 12.1 The Supplier and the Customer are contractors independent of each other, and neither has the authority to bind the other to any third party or act in any way as the representative of the other, unless otherwise expressly agreed to in writing by both parties. It is also agreed that no partnership, joint venture or agency agreement exists between the Supplier and the Customer, and each party will be responsible for paying their own employees, including related Taxes and
- 12.2 National Insurance.

- 13.1 The Supplier may, in addition to its own employees, engage sub-contractors to provide all or part of the services being provided to the Customer and such engagement shall not relieve the Supplier of its obligations under this Agreement.

13. Non-solicitation

- 13.2 During the term of any delivery of services under an Ordering Document relating to this Agreement, and for a period of 12 months following the last delivery of services under any Ordering Document related to this Agreement, neither party shall directly or indirectly solicit, induce, recruit, encourage or otherwise endeavour to cause or attempt to cause any employee(s) or subcontractor(s) of the other party who was actively involved in the delivery of Services to leave the employment of that party.

In the event that either party solicit from the other party as defined in clause 13.1 the soliciting party shall pay the other party the sum equivalent to 200% of the full annual remuneration associated with the soliciting party engaging the employee or subcontractor.

14. Assignment

The Customer shall not be entitled to assign its rights or obligations or delegate its duties under this Agreement without the prior written consent of the Supplier.

15. Severability

- 14.1 If any provision of this Agreement is held invalid, illegal or unenforceable for any reason by any Court of competent jurisdiction such provision shall be severed and the remainder of the provisions herein shall continue in full force and effect as if this Agreement had been agreed with the invalid illegal or unenforceable provision eliminated.

15.1 16. Waiver

- 16.1 The failure by either party to enforce at any time or for any period any one or more of the Terms and Conditions herein shall not be a waiver of them or of the right at any time subsequently to enforce all Terms and Conditions of this Agreement.

17. Notices

- 17.1 Any notice to be given by either party to the other may be served by email, personal service or by post to the address of the other party given in the Ordering Document or such other address as such party may from time to time have communicated to the other in writing, and if sent by email shall unless the contrary is proved be deemed to be received on the day it was sent, if given by letter shall be deemed to have been served at the time at which the letter was delivered personally or if sent by post shall be deemed to have been delivered in the ordinary course of post.

18.1 18. Entire agreement

- 19.1 This Agreement contains the entire agreement between the parties relating to the subject matter and supersedes any previous agreements, arrangements, undertakings or proposals, oral or written. Any terms and conditions on a Customer purchase order raised in relation to the delivery of services under this Agreement are hereby excluded and shall have no legal effect. Unless expressly provided elsewhere in this Agreement, this Agreement may be varied only by a document signed by both parties.

19. No third parties

- 20.1 Nothing in this Agreement is intended to, nor shall it, confer any rights on a third party.

20. Governing law and jurisdiction

This Agreement shall be governed by and construed in accordance with the law of England and Wales.

Authorisation

Customer Authorised signatory

Signatory name:

Signatory title:

Signed date:

Signature:

Supplier signatory

Signatory name:

Signatory title:

Signed date:

Signature:

The Effective Date of this Services Agreement (XXXXXX_001_CUSTOMER) is Date, Month, Year.