

Terms and Conditions

Definitions

- 1.1 **'Customer'** means the person, firm or company placing an order with Resolution
- 1.2 **'Resolution'** means Resolution GB Ltd (Company no. 3928475) the registered office of which is at (4 Bell Street, Whitechurch, Hampshire); and trading address which is at (4 Bell Street, Whitechurch, Hampshire)
- 1.3 **'Contract'** means the contract for the supply of the Services formed by Resolution's acceptance of the Customer's order;
- 1.4 **'Default'** means any act, representation or omission by Resolution its officers, employees or agents which done, made or not done (as the case may be) as a result of any act, representation or omission of any of them (whether deliberate or negligent), in connection with or in relation to this Contract as a result of which Resolution is legally liable to the Customer or any third party whether in contract, tort or otherwise. A number of Defaults which together result in or contribute to substantially the same loss or damage shall be treated as one Default occurring on the date of the occurrence of the last such Default.
- 1.5 **'IPRS'** means patents, copyrights, registered designs, design rights, trade marks, confidentiality and all other intellectual or industrial property rights.
- 1.6 **'Services'** means all services to be supplied to the Customer by Resolution.
- 1.7 **'Software'** means any items of software or material provided in a digital format.

2 Formation of Contract

- 2.1 Proposals and estimates expire 30 days after their date unless revised or confirmed by Resolution in writing.
- 2.2 Any form of proposal whatsoever made by Resolution is subject to alteration or withdrawal without notice until any order arising from it has been accepted by Resolution in writing.
- 2.3 All orders are accepted subject to these terms and conditions. No terms or conditions put forward by the Customer shall be binding on Resolution. No amendments to or variation of this Contract are effective unless they are in writing and signed by a duly authorised officer of Resolution.

- 2.4 The Customer acknowledges that Resolution's proposal, estimate and these terms and conditions (including documents incorporated by reference in these terms and conditions) constitute the entire subject matter of the Contract and that there are no other representations, warranties, conditions, terms or obligations, whether written or oral, express or implied by custom or other wise.
- 2.5 Where the Services include any Software Resolution grants the Customer a non-transferable, non-exclusive licence to use the Software for its business purposes but not further or otherwise. If Resolution is to modify or write any Software for the Customer or provide support for Software this is to be the subject of a separate agreement. Resolution retains ownership of all media on which the Software.
- 2.6 Specific, project related terms and conditions may also be issued in addition to these Standards Terms and Conditions and should be considered part of an overall contract.

3 **Remuneration**

- 3.1 The fees charged for the Services will be those current at the date of despatch. Any discount offered by Resolution and shown on its invoice may only be claimed if payment of that invoice is received by Resolution within the time specified on the invoice.
- 3.2 All fees for the Services are exclusive of all taxes (including Value Added Tax), duties and levies of any kind.
- 3.3 If the prices quoted including any such taxes, levies or duties, the sum quoted is based on the rates in force at the time of quotation and the actual sum paid may be charged by Resolution.
- 3.4 Fees will be invoiced in UK pounds sterling.
- 3.5 Resolution reserves the right to request that it is put in funds by the Customer whenever substantial advance payments or financial commitments, approved by Customer are required on the Customer's behalf.

4 **Payment**

- 4.1 The fees and all associated taxes shall become due in accordance with the Contract and shall be payable without any deduction not later than 30 days of the date of Resolution's invoice.
- 4.2 In the event of delivery of the Services being delayed due to reasons attributed to the Customer, payment is to be made as if no delay had occurred.

- 4.3 The Customer shall be in default if it exceeds the due dates of payment. In the case of delayed payment, the Customer shall, without prejudice to any other claim of Resolution, pay interest on the amount outstanding at the rate of 8% per annum (calculated on a daily basis), as from the due date of payment is received in full.
- 4.4 Compliance with all obligations of Resolution towards the Customer shall be subject to compliance with the terms of payment agreed upon and with all other obligations of the Customer towards Resolution.
- 4.5 The Customer may only set off such claims or assert retention rights in respect of such claims, which are undisputed or have been finally decided.
- 4.6 Resolution has only received a payment when the amount of that payment is irrevocably credited to its bank account.
- 4.7 All payments may at Resolution's option be appropriated to the Contract or any other contract between Resolution and the Customer then due for payment.
- 4.8 If any payment from the Customer to Resolution under the Contract is overdue, Resolution may suspend delivery of further Services or any other contract with the Customer and such suspension shall be deemed to be the Customer's default for the purpose of clause 4.2.
- 4.9 Resolution may exercise a lien over the Customer's goods or material in its possession until all amounts to Resolution are paid in full by the Customer.

5 **Delivery**

- 5.1 All dates for the delivery of the Services are (unless confirmed by Resolution in writing) estimates only and while Resolution will endeavour to avoid delay, Resolution shall under no circumstances whatsoever be liable to the Customer for any loss or damage, whether direct, indirect or consequential, arising from delay in the performance of the Contract.
- 5.2 If Resolution is unable to perform the whole or part of the Contract due to any cause or event beyond its reasonable control including (without limitation) acts of God, acts of government, industrial action, severe weather, default of suppliers or any other such cause or event whatsoever Resolution may, at its option, by notice in writing to the Customer, cancel or suspend the Contract in whole or in part without liability and without prejudice to Resolution's rights to receive payment of the price of all Services previously delivered or work already done.

6 Retention of Title

- 6.1 The risk in the Goods shall pass to the Buyer on Delivery. At that moment, the Buyer shall become responsible for the care and protection of the Goods and shall take out at its own expense adequate and comprehensive all risks cover on the Goods (with a note of Resolution's interest endorsed therein until Resolution has received payment of the price in full).
- 6.2 Notwithstanding Delivery and the passing of risk in the Goods, title in the Goods (including full legal and beneficial ownership) shall not pass to the Buyer until Resolution has received (in cash or cleared funds) payment in full for all Goods supplied by Resolution to the Buyer under all contracts between them. Payment of the full price for the Goods shall include the amount of any interest or other sums payable under contracts between Resolution and the Buyer.
- 6.3 Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as Resolution's fiduciary agent and bailee, and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as Resolution's property. Until that time or until otherwise notified by Resolution in writing or until the happening of any event set out in these Conditions entitling Resolution to terminate this Contract the Buyer shall be entitled to resell or use the Goods in the ordinary course of its business, but shall account to Resolution for the proceeds of the sale or otherwise of the Goods, whether tangible or intangible, including insurance proceeds, and shall keep all such proceeds separate from any monies or property of the Buyer and third parties and, in the case of tangible proceeds, properly stored, protected and insured.
- 6.4 Until such time as the property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold) Resolution shall be entitled at any time to require the Buyer to deliver up the Goods to Resolution and, if the Buyer fails to do so forthwith, to enter upon any premises or vehicles of the Buyer or any third party where the Goods are stored and repossess the Goods.
- 6.5 The Buyer shall not be entitled to pledge or in any way charge by way of security for an indebtedness any of the Goods which remain the property of Resolution.
- 6.6 Where the Buyer uses banking facilities or factoring or an invoice discounting company which involves the selling of debtors or using debtors as security, the Buyer shall notify the bank, the factoring or invoice discounting company concerned of Resolution's interest in the Goods and specifically that title in the Goods has not passed until the invoice has been paid in full and otherwise as set out in these Conditions.

6.7 Resolution retains ownership of and all rights to the concept and content of the Services and the Customer may only use this for the purpose and to the extent specified in the contract.

7 & 8 **Warranty**

The following clause specifies the extent to which Resolution will be liable for Default. Its principal terms are a financial limit on Resolution's liability (except for death or personal injury), the liability of Resolution only for certain defined losses and time limit applicable to both parties for the enforcement of claims Resolution's entire liability and the Customer's sole remedies, whether in contract, tort or otherwise, shall be set out in clause 7.

- 7.1 The Customer accepts that it is its responsibility to select how the Services meet its specific requirements.
- 7.2 Except as expressly provided in this clause, all conditions, representations and warranties (express or implied, statutory or otherwise) are excluded to the extent permitted by law including without limitation and implied warranties or conditions as to quality, fitness for the purpose or reasonable care.
- 7.3 If, within 90 days of receipt of the Services by the Customer:
- 7.4 the medium on which it is supplied is faulty and returned to Resolution it shall replace it without charge.
- 7.6 the Services are shown to the reasonable satisfaction of Resolution not to conform substantially to the specification so as to materially affect the performance of the Services as provided in the specification, Resolution shall use reasonable efforts to ensure that the Services perform substantially in accordance with that specification.
- 7.7 The above warranty shall not apply if:
 - 7.7.1 the Services are not used in accordance with the instruction of Resolution
 - 7.7.2 the Services are altered, modified or converted by the Customer or a third party.
- 7.8 The Customer shall always inform Resolution of any problem or issue (Default) and afford it a reasonable opportunity of correcting that situation including, without limitation, the option of repeating the project or correcting any problem or issue in the same.

- 7.9 Resolution shall not be liable for any loss incurred:
- 7.9.1 after the date Resolution corrects the default
 - 7.9.2 to the extent that Resolution affords the Customer a reasonable opportunity to mitigate or provide additional services
- 8.0 Resolution will accept limited liability for death or personal injury caused by Resolution's Default.
- 8.1 Resolution will accept liability for direct physical damage to tangible property of the Customer resulting from Default, subject to clause 7.9.
- 8.2 Resolution will not be liable for the following loss or damage, however caused and even if foreseeable by Resolution:

Economic loss, which term shall include loss of profits, loss of use of profits, business, revenue, goodwill or anticipated savings loss of damage to the Customer's or a third party's idea special, indirect or consequential loss (other than direct physical damage to tangible property under clause 7.8) arising from the Customer's failure to fulfil its responsibilities or any matter under the control of the Customer or a third party - or loss or damage arising from acting in accordance with the instructions of the Customer, its officers, employees, agents or third parties engaged by the Customer.

Resolution's entire liability for actual damages, in respect of any one Default shall not, in any event, except as provided in clause 7.7 exceed 100% of total purchase price for the Services, which are directly related to the Default.

Except in respect of payments due under this agreement and claims under clause 7.8 no action may be brought by either party against the other more than two years after the cause of action has accrued.

The Customer agrees to indemnify Resolution against all actions, proceedings, claims and demands in any way connected with the Contract or Services brought or threatened against Resolution by a third party except to the extent that Resolution is liable to the Customer for Default.

The Customer acknowledges that:

the price of the Services has been calculated in the basis that Resolution excludes and/or limits its liability to the Customer in accordance with this agreement that the exclusions and limitations contained in this agreement are fair and reasonable in all the circumstances known at the date of this agreement it is not possible to foresee and provide in the agreement (in particular way of adjustments to the price of the Services) for all contingencies which may give rise to loss, damage or liability.

Each of the limitations and exclusions set out above is to be construed as a separate limitation or exclusion, applying and surviving even if for any reason one or other of

the limitations or exclusions is held inapplicable or unreasonable in any circumstances and shall remain in force despite termination of this agreement.

Infringement

Resolution shall indemnify the Customer in respect of the infringement of IPR's of third parties subject to the Customer immediately informing Resolution of any infringement claims raised by third parties and to the Customer proceeding in agreement with Resolution in dealing with such claims and in pursuance of his rights. Should any one of these conditions not be fulfilled, Resolution will be relieved of its obligations.

9.2 Should an infringement of third party IPR's occur and should for this reason the Customer be prevented from using any Services, either in whole or in part, Resolution shall at his own expense and at their option either:

obtain for the Customer the right to use the Services or modify the Services in such a way that they become non-infringing replace the Services by others which does not infringe the IPR's

Resolution shall not be liable insofar as third party claims for infringement of IPR's as a result of Resolution complying with the Customer's instructions or are based on modifications made to the Services or the incorporation of additional material or the combination of the Services with other material or Services not provided by Resolution on the part of the Customer, or on the fact that the Services have been used for a purpose for which they were not intended.

Assignment

10.1 The Contract shall not be assigned in whole or in part by either party without the written consent of the other party, except that Resolution may assign its rights, liabilities and obligations to an associated company without prior written notice.

Cost of Enforcement

The Customer shall pay to Resolution all expenses, including cost of employee's time and legal cost on a full indemnity basis, incurred by or on behalf of Resolution in enforcing the provisions of this Contract.

Headings

Headings to the clauses in this Contract are for ease of reference only and shall not affect the construction of this Contract.

Severability

If any provision of this Contract or part thereof is found to be invalid or unenforceable, the invalidity or unenforceability of such provision or part shall not affect any other provision or the remainder of the provision in which such invalid or unenforceable part is contained which shall remain in full force and effect.

Notices

Any notice pursuant to the Contract shall be in writing signed by (or by some person duly authorised by) the person giving it and may be served by leaving it at or sending it by fax or electronic mail, recorded delivery or registered post to the appropriate address set out herein or such address as shall be notified from time to time.

Any of the foregoing correspondence shall be deemed have reached the party to whom it is addressed as follows:

by mail within the United Kingdom – 2 Business Days after posting
by mail outside the United Kingdom – 7 Business Days after posting
by hand – at actual day and time of receipt
by fax or electronic mail- one hour after the time of transmission

Save that in the case of hand delivery, fax or electronic mail delivery which otherwise would be deemed to be after 17:00 hours on a Business Day or on a day which is not a Business Day shall be deemed to be delivery at 10:00 hours on the next Business Day thereafter.

In proving service of a notice or document it shall be sufficient to prove that delivery was made or that the envelope containing the notice or document was properly addressed and posted as a prepaid first class recorded delivery letter or that the telex or facsimile message was properly addressed and despatched to the correct number as the case may be .

Cancellation

Resolution may cancel the Contract if:

The Customer shall suffer any distress or execution to be levied on its goods; or if it makes any arrangement with its creditors or enters into involuntary or compulsory liquidation or has a receiver, manager or administrator appointed over any of its property or assets: or

If the Customer, being an individual, shall commit a act of bankruptcy or have a receiving order against him; or

The Customer commits a breach of any of the provisions of the Contract and if it is a breach capable of remedy, does not remedy the breach within 30 days of the despatch of written notice from Resolution requiring it to do so; or

The Customer ceases to carry on business.

Acceptance

On behalf of the purchaser I/we understand and accept the conditions printed above and confirm that I am duly authorised by the purchaser to sign these conditions.

Signature

Date

Printed Name

Position

Company