

# Terms and Conditions for the Purchase of Services and/or Goods not for resale (GNFR)

## 1. Definitions

- 1.1 **Business Day:** a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
- 1.2 **Charges:** charges for the Goods and/or Services, payable by the Customer in accordance with the Contract.
- 1.3 **Conditions:** these terms and conditions for the purchase of Goods and/or Services as amended from time to time in accordance with clause 11.4
- 1.4 **Contract:** the contract between the Customer and the Vendor for the sale and purchase of Goods and/or the provision and receipt of Services in accordance with these Conditions.
- 1.5 **Customer:** the company that places an Order with the Vendor, being **Mawdsley-Brooks and Company Limited**, registered in England under company number 44701.
- 1.6 **Goods:** the goods (if any) specified in the Order, to be supplied by the Vendor pursuant to the Contract and including any parts used or installed in the performance of the Services.
- 1.7 **Intellectual Property Rights:** all intellectual property rights pertaining to and subsisting in (without limitation) any copyrights, patents, utility models, trademarks, service marks, design rights (whether registered or unregistered), database rights, know-how, technical information, confidential process information, trade and business names (including internet domain names and email address names), proprietary information rights and all other similar proprietary rights as may exist anywhere in the world and all applications for the registration of the same or rights to apply for registration of any of the foregoing.
- 1.8 **Policies:** the Customer's business policies, as provided to the Vendor and as amended from time to time.
- 1.9 **Order:** the order placed by the Customer, whether in writing, electronically or otherwise, for the supply of Goods and/or Services.
- 1.10 **PO Number:** the purchase order number(s) allocated to each Order.
- 1.11 **Services:** the services (if any) specified in the Order, including the instalment of Goods (if applicable), to be performed by the Vendor pursuant to the Contract.
- 1.12 **Specifications:** the technical or other requirements for the Goods or the scope of work for the Services contained or referred to in the Order
- 1.13 **Vendor:** the person, firm or company from whom the Customer purchases the Goods and/or Services.
- 1.14 **Work Notice:** Vendor's document stating the Services supplied, PO Number and Customer contact details, to be signed by the parties on completion of the work.

## 2. Basis of the Contract

- 2.1 The Order constitutes an offer by the Customer to purchase Goods and/or Services from the Vendor in accordance with these Conditions.
- 2.2 The Order shall be deemed to be accepted by the Vendor upon the earlier of:
  - 2.2.1 the Vendor issuing a written acknowledgment/confirmation of the Order; or
  - 2.2.2 the Vendor doing any act consistent with fulfilling the Order,at which point, and on which date, a Contract comprising such Order and these Conditions shall come into existence.
- 2.3 These Conditions apply to the Contract to the exclusion of any other terms that the Vendor seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

## 3. Supply of Goods and/or Services

- 3.1 The Vendor warrants to the Customer that the Goods shall:
  - 3.1.1 comply with the Specification (and, for the avoidance of doubt, no deviation, substitute or equivalent products shall be acceptable except with the prior written agreement of the Customer);
  - 3.1.2 be new and of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended);
  - 3.1.3 be fit for the purpose made known by the Customer to the Vendor;
  - 3.1.4 be free from defects in design, materials and workmanship; and
  - 3.1.5 comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage and supply of the Goods.
- 3.2 The Vendor shall hold and maintain, throughout the term of the Contract, all licenses, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract.
- 3.3 The Vendor undertakes that it shall perform the Services in accordance with the terms of the Contract and shall, without limitation:
  - 3.3.1 perform the scope of work in accordance with the Specifications;
  - 3.3.2 arrange a suitable start date/time with the Customer's nominated representative/site contact (referred to in the Order);
  - 3.3.3 discuss any deviation, problem or stoppage to the agreed scope of work with the Customer's nominated representative and use its best endeavours to agree a resolution;

# Terms and Conditions for the Purchase of Services and/or Goods not for resale (GNFR)

- 3.3.4 only proceed with a change to the scope of Services and/or Charges following receipt of written confirmation from the Customer;
- 3.3.5 meet any performance dates specified in the Order or agreed in writing between the parties;
- 3.3.6 ensure any anticipated delays to any key dates (including the agreed starting and/or completion dates) are communicated to the Customer's nominated representative;
- 3.3.7 perform the Services with due care, skill and diligence and in accordance with best practice in the Vendor's industry, profession or trade;
- 3.3.8 use personnel who are suitably skilled, qualified and experienced to perform tasks assigned to them;
- 3.3.9 comply with all applicable laws, regulations, or industry codes;
- 3.3.10 observe applicable health and safety rules and workplace policies that apply at the Customer's premises and, if necessary, undertake a site induction program before commencing the work;
- 3.3.11 not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business; and
- 3.3.12 provide a Work Notice upon completion of the Services (which shall be signed by both parties, each party to retain a copy for their records).

## 4. Delivery of Goods

- 4.1 The Vendor shall ensure that the Goods are:
  - 4.1.1 appropriately packed and secured in such manner as to ensure they arrive at their destination in good condition;
  - 4.1.2 accompanied by a delivery note which shows the date of the Order, PO Number, type and quantity of the Goods, any special storage instructions and, if delivered in instalments, the outstanding balance of Goods remaining to be delivered; and
  - 4.1.3 delivered in compliance with all reasonable instructions of the Customer, including any specific delivery instructions or references required on the outer packaging.
- 4.2 Delivery shall be considered completed once the Goods have been checked and signed as either 'received in good condition' or 'not checked' at the delivery location specified in the Order.
- 4.3 Delivery shall be completed during the Customer's normal hours of business and/or during a delivery slot (to be booked by the Vendor) if stated in the Order.
- 4.4 Risk in the Goods shall pass to the Customer on completion of delivery. Title to the Goods shall pass to the Customer once the Customer has paid the Vendor in full for such Goods.
- 4.5 If, for any reason, the Customer is unable to accept delivery of the Goods at the time when the Goods are due and ready for delivery, the Vendor, or the Vendor's shipping representative, shall store and safeguard the Goods until their actual delivery.
- 4.6 The Customer shall (to the extent applicable):
  - 4.6.1 provide the Vendor with reasonable access at reasonable times to the Customer's premises for the purpose of providing the Services;
  - 4.6.2 provide such necessary information for the provision of the Services as the Vendor may reasonably request; and
  - 4.6.3 (by prior arrangement), store any Goods required to fulfil the Services in accordance with the Vendor's reasonable written instructions.

## 5. Vendor Non-Conformance

- 5.1 If the Vendor fails to deliver the Goods and/or to perform the Services by the date(s) stated in the Order, or does not comply with any obligations or warranties set out in clause 3 (including, without limitation, compliance with health and safety rules and workplace policies), the Customer shall be entitled, without prejudice to its other rights, to:
  - 5.1.1 terminate the Order with immediate effect by giving written notice to the Vendor;
  - 5.1.2 refuse to accept any subsequent performance of the Services and/or attempted delivery of the Goods;
  - 5.1.3 require a refund from the Vendor of sums paid in advance for such Services and/or Goods; and
  - 5.1.4 claim damages for any additional costs, losses or expenses incurred by the Customer which are materially attributable to the Vendor's failure to meet such dates.
- 5.2 These Conditions shall extend to any remedial Services and/or replacement Goods supplied by the Vendor.
- 5.3 The Customer's rights under the Contract are in addition to rights and remedies implied by statute and common law.

## 6. Charges, Invoicing, Payments and Payment Terms

- 6.1 The Charges shall be:
  - 6.1.1 the price set out in the Order or otherwise in the acknowledgement/confirmation issued by the Vendor upon receipt of the Order and accepted in writing by the Customer;
  - 6.1.2 inclusive of the costs of packaging, insurance and carriage of any Goods;

# Terms and Conditions for the Purchase of Services and/or Goods not for resale (GNFR)

- 6.1.3 the full and exclusive remuneration of the Vendor in respect of the performance of any Services; and
- 6.1.4 exclusive of any value added tax (VAT), which the Customer shall pay to the Vendor at the prevailing rate, subject to receipt of a valid VAT invoice.
- 6.2 The Order will be invoiced as follows:
  - 6.2.1 *Goods*: the Vendor shall invoice the Customer on or at any time after the Goods have been despatched by the Vendor.
  - 6.2.2 *Services*: the Vendor shall invoice the Customer following completion of the Services and execution by both parties of the Work Notice pursuant to clause 3.3.12.
- 6.3 Invoices must clearly state (as applicable): details of the Goods purchased and/or Services performed, hours worked, travel time (if any), hourly rates, any additional costs / expenses, PO Number, Vendor account number, Vendor VAT number and delivery date / completion date. Invoices without the correct information will not be valid and will be rejected.
- 6.4 The Vendor shall maintain complete and accurate records of the time spent and materials used in providing the Services and shall allow the Customer to inspect such records at all reasonable times upon request.
- 6.5 Customer shall pay correctly rendered invoices in accordance with the payment terms set out in the Order or otherwise agreed between the parties in writing. If terms are not set out in the Order/agreed in writing between the parties, payment shall be due by the end of the month, following the month in which a correctly rendered invoice is received by the Customer. Payment shall be made to the bank account nominated in writing by the Vendor.
- 6.6 It is the Vendor's responsibility to ensure that all bank details are current and correct and that any changes are clearly communicated and accepted by the Customer after a verification process. The Customer takes no responsibility for payments made to an incorrect bank account if the Vendor fails to comply with these terms.
- 6.7 If a party fails to make any payment due to the other party under the Contract by the due date for payment, then, subject to clauses 6.3, 6.5 and 6.6, the other party may charge interest on the overdue sum, from the due date until payment of the overdue sum, whether before or after judgment. Interest will accrue each day at 2% a year above the Bank of England's base rate from time to time. Where a payment is disputed in good faith, interest is only payable after the dispute is resolved on sums found or agreed to be due, from 14 days after the dispute is resolved until payment.
- 6.8 Without limiting any other rights or remedies, the Customer may set off any liability of the Vendor to the Customer against any liability of the Customer to the Vendor.
- 6.9 All invoices and/or statements of account must be sent electronically in PDF format to the Customer's Accounts Payable team at: [accounts.payable@mawdsleys.co.uk](mailto:accounts.payable@mawdsleys.co.uk).

## 7. Insurance

The Vendor shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract, and shall, at the Customer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

## 8. Confidentiality

- 8.1 At the request of the Customer, the Vendor shall sign and comply with the terms of the Customer's standard non-disclosure agreement ("NDA") and such terms shall apply to any information disclosed or made available between the parties in connection with the Contract.
- 8.2 In the absence of an NDA, each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 8.3.
- 8.3 Each party may disclose the other party's confidential information:
  - 8.3.1 to its employees, workers, officers, consultants, agents, subcontractors, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under the Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information; and
  - 8.3.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 8.4 Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

## 9. Compliance with relevant laws and policies

- 9.1 In performing its obligations under the Contract, each party shall:
  - 9.1.1 comply with all applicable laws, statute and regulations from time to time in force; and
  - 9.1.2 comply with the Policies.
- 9.2 Without limitation to the foregoing, the Vendor shall:

# Terms and Conditions for the Purchase of Services and/or Goods not for resale (GNFR)

- 9.2.1** comply with all applicable laws, statutes, regulations and codes relating to anti-facilitation of tax, anti-bribery and anti-corruption and anti-slavery and human trafficking including without limitation the Criminal Finances Act 2017, the Bribery Act 2010 and the Modern Slavery Act 2015; and
- 9.2.2** comply with the Data Protection Act 2018 when processing any personal data provided by the Customer. To the extent that the Vendor is required to process any personal data on behalf of the Customer in connection with the Contract, the Vendor shall prior to such processing enter into the Customer's data sharing agreement.
- 9.3** The Customer may immediately terminate the Contract for any breach of clause 9.1 & 9.2.

## **10. Cancellation and Termination**

- 10.1** The Customer may cancel an Order in whole or in part at any time before the Order is deemed accepted by the Vendor in accordance with clause 2.2, without any liability to the Vendor, by notifying the Vendor in writing.
- 10.2** The Customer may cancel an Order and terminate the Contract at any time, without any liability to the Vendor, if:
- 10.2.1** the Vendor makes a voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction);
- 10.2.2** an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Vendor.
- 10.2.3** the Vendor ceases, or threatens to cease to carry on business; or
- 10.2.4** the Customer reasonably believes that any of the events mentioned above is about to occur.
- 10.3** Termination or expiry of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination or expiry.
- 10.4** Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

## **11. General**

### **11.1 Assignment and other dealings**

- 11.1.1** The Customer may at any time assign any or all its rights or obligations under the Contract.
- 11.1.2** The Vendor may not assign or deal in any other manner with any or all its rights or obligations under the Contract without the prior written consent of the Customer.

**11.2 Subcontracting.** The Vendor may not subcontract any or all its rights or obligations under the Contract without the prior written consent of the Customer. If the Customer consents to any subcontracting by the Vendor, the Vendor shall remain responsible for all the acts and omissions of its subcontractors as if they were its own.

**11.3 Entire agreement.** The Contract (together with any NDA) constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, warranties, representations and understandings between them relating to its subject matter.

**11.4 Variation.** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by the Customer.

**11.5 Waiver.** No waiver by the Customer of any breach of the Contract shall be considered as a waiver of any subsequent breach of the same or any other provision.

**11.6 Severance.** If any provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted. The parties agree that this shall not affect the validity of the rest of the Contract, and they shall negotiate in good faith to agree a replacement provision that achieves the commercial intention of the original provision.

### **11.7 Notices.**

**11.7.1** Any notice given to a party under or in connection with the Contract shall be in writing and shall be:

(a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or

(b) sent by email to the address notified in writing to the other party.

**11.7.2** Any notice shall be deemed to have been received:

(a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the relevant address;

(b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; and

(c) if sent by email, at the time of transmission, or, if this falls outside 9.00am to 5.00pm on a Business Day, at 9:00am on the following Business Day.

**11.7.3** This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

### **11.8 Third party rights.**

The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

**11.9 Governing law & Jurisdiction.**

The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract.