

WIDER IMPACT CONSULTANCY LIMITED

STANDARD TERMS AND CONDITIONS OF BUSINESS



Beswicks
Alexander House
Bethesda Street
Hanley
Stoke-on-Trent
Staffordshire
ST1 3DX
T: +44 (0)1782 205000
F: +44 (0)1782 285986
www.beswicks.com

1. **INTERPRETATION**

1.1 The definitions and rules of interpretation in this clause apply in these terms and conditions **(Conditions)**.

Contract: your purchase order and our acceptance of it, or your acceptance of a quotation for Services by us under condition 2.2.

Equipment: any equipment, systems, cabling or facilities provided by you and used directly or indirectly in the supply of the Services.

Deliverables: all Documents, products and materials developed by us in relation to the Project Plan in any form, including computer programs, data, reports and specifications (including drafts).

Document: includes, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form.

In-put Material: all Documents, information and materials provided by you relating to the Services including, computer programs, data, reports and specifications.

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Manager: your manager for a Project, appointed in accordance with condition 6.1.

Pre-existing Materials: all Documents, information and materials provided by us relating to the Services which existed prior to the commencement of the Contract including computer programs, data, reports and specifications.

Project: the project as described in Project Plan and as set out in Schedule 1.

Project Milestones: a date by which a part of the Project is estimated to be completed, as set out in the Project Plan.

Project Plan: the detailed plan describing the Project and setting out the estimated timetable (including Project Milestones) and responsibilities for the provision of the Services agreed in accordance with condition 4.

Services: the services to be provided by us under the Contract as set out in the Project Plan.

VAT: value added tax chargeable under English law for the time being and any similar additional tax.

We/us/our: Wider Impact Consultancy Limited, a private company incorporated and registered in England and Wales with company number 5834433 whose registered office is at Unit 103, Staffordshire University Business Village Stoke, 72 Leek Road, Stoke on Trent; ST4 2AR.

You/your: means the person, firm, company or other organisation purchasing the Services.

- 1.2 Condition, schedule and paragraph headings shall not affect the interpretation of these conditions.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.
- 1.4 The schedule forms part of the Contract and shall have effect as if set out in full in the body of these Conditions and any reference to the Contract includes the schedule.
- 1.5 Words in the singular shall include the plural and vice versa.
- 1.6 A reference to **writing** or **written** includes faxes but not e-mail.
- 1.7 Any obligation in the Contract on a person not to do something includes an obligation not to agree, allow, permit or acquiesce in that thing being done.
- 1.8 References to conditions and schedules are to the conditions and schedules of the Contract.

2. **APPLICATION OF CONDITIONS**

- 2.1 These Conditions shall:
 - (a) apply to and be incorporated into the Contract; and
 - (b) prevail over any inconsistent terms or conditions contained, or referred to, in your purchase order, confirmation of order, acceptance of a quotation or specification, or implied by law, trade custom, practice or course of dealing.

- 2.2 Your purchase order, or your acceptance of a quotation for Services by us, constitutes an offer by you to purchase the Services specified in it on these Conditions. No offer placed by you shall be accepted by us other than:
- (a) by a written acknowledgement issued and executed by us; or
 - (b) (if earlier) by us starting to provide the Services,

when a contract for the supply and purchase of those Services on these Conditions will be established. Your standard terms and conditions (if any) attached to, enclosed with or referred to in any purchase order or other Document shall not govern the Contract.

- 2.3 Quotations are given by us on the basis that no Contract shall come into existence except in accordance with condition 2.2. Any quotation is valid for a period of 30 days from its date, provided that we have not previously withdrawn it.

3. **COMMENCEMENT AND DURATION**

- 3.1 The Services supplied under the Contract shall be provided by us from the date of acceptance by us of your offer in accordance with the date specified in the Project Plan.
- 3.2 The Services supplied under the Contract shall continue to be supplied until the Project is completed in accordance with the Project Plan unless the Contract is terminated in accordance with condition 12.

4. **PROJECT PLAN**

- 4.1 The Project Plan(s) shall be agreed in the following manner:
- (a) you shall provide us with a request for a Project Plan, setting out the requirements and specifications of the services which it is requesting from us, including a description of what work is to be done, dates by which each stage of the work is requested to be started and finished, Deliverables, In-put Materials and such other information as we may request to allow us to prepare a draft Project Plan;
 - (b) we shall, as soon as reasonably practicable, provide you with a draft Project Plan; and
 - (c) the parties shall discuss and agree the draft Project Plan and when it has been agreed, they shall both sign a copy of it and it shall become a Schedule to and subject to these Conditions.

4.2 Once the Project Plan has been agreed and signed in accordance with condition 4.1(c), no amendment shall be made to it except in accordance with condition 7 and condition 14.

5. **OUR OBLIGATIONS**

5.1 We shall use reasonable endeavours to provide the Services, and to deliver the Deliverables to you, in accordance in all material respects with the Project Plan.

5.2 We shall use reasonable endeavours to meet any performance specified in the Project Plan, but any such dates shall be estimates only and time shall not be of the essence of the Contract.

6. **YOUR OBLIGATIONS**

6.1 You shall:

- (a) co-operate with us in all matters relating to the Services and appoint your Manager, who shall have the authority contractually to bind you on matters relating to the Services;
- (b) provide, for us, our agents, sub-contractors and employees, in a timely manner and at no charge, access to your premises, office accommodation, data and other facilities as requested by us;
- (c) provide, in a timely manner, such In-put Material and other information as we may request and ensure that it is accurate in all material respects;
- (d) inform us of all health and safety rules and regulations and any other reasonable security requirements that apply at any of your premises;
- (e) [ANY OTHER RELEVANT OBLIGATIONS].

6.2 If our performance of its obligations under the Contract is prevented or delayed by any act or omission by you, your agents, sub-contractors or employees, we shall not be liable for any costs, charges or losses sustained or incurred by you arising directly or indirectly from such prevention or delay.

6.3 You shall be liable to pay to us, on demand, all reasonable costs, charges or losses sustained or incurred by us (including any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) arising directly or indirectly from your fraud, negligence, failure to perform or delay in the performance of any

of its obligations under the Contract, subject to our confirming such costs, charges and losses to you in writing.

- 6.4 You shall not, without the prior written consent of us, at any time from the date of the Contract to the expiry of six months after the completion of the Project, solicit or entice away from us or employ or attempt to employ any person who is, or has been, engaged as an employee or sub-contractor by us in the provision of the Services.
- 6.5 Any consent given by us in accordance with condition 6.4 shall be subject to you paying to us a sum equivalent to 20% of the then current annual remuneration of our employee or sub-contractor or, if higher, 20% of the annual remuneration to be paid by you to that employee or sub-contractor.

7. CHANGE CONTROL

- 7.1 We shall normally meet with you once every month to discuss matters relating to the Project. If either party wishes to change the scope or execution of the Services, it shall submit details of the requested change to the other in writing.
- 7.2 If either party requests a change to the scope or execution of the Services, we shall, within a reasonable time, provide a written estimate to you of:
- (a) the likely time required to implement the change;
 - (b) any variations to our charges arising from the change;
 - (c) the likely effect of the change on the Project Plan; and
 - (d) any other impact of the change on the terms of the Contract.
- 7.3 We may, from time to time and without notice, change the Services in order to comply with any applicable safety or statutory requirements, provided that such changes do not materially affect the nature, scope of, or the charges for the Services.
- 7.4 We may charge for its time spent in assessing a request for change from you on a time and materials basis in accordance with condition 8.

8. CHARGES AND PAYMENT

- 8.1 Condition 8.2 shall apply if we provide the Services on a time and materials basis. Condition 8.3 shall apply if we provide the Services for a fixed price. The remainder of this condition 8 shall apply in either case.

- 8.2 Where the Services are provided on a time and materials basis:
- (a) the charges payable for the Services shall be calculated in accordance with our standard daily fee rates, as amended from time to time by us giving not less than three months written notice to you;
 - (b) our standard daily fee rates for each individual person are calculated on the basis of an 7½ hours per day, worked between 8.30 am and 5.00 pm on weekdays (excluding public holidays);
 - (c) all charges quoted to you shall be exclusive of VAT which we shall add to its invoices at the appropriate rate;
 - (d) where requested, we shall ensure that every individual whom it engages on the Services completes time sheets recording time spent, and we shall use such time sheets to calculate the charges covered by each monthly invoice referred to in condition 8.2(e); and
 - (e) we shall invoice you monthly in arrears for its charges for time, expenses and materials (together with VAT where appropriate) for the month concerned, calculated as provided in this condition 8.2. Each invoice shall set out the time spent by each individual whom it engages on the Services and provide a detailed breakdown of any expenses and materials, accompanied by the relevant receipts.
- 8.3 Where the Services are provided for a fixed price, the total price for the Services shall be the amount set out in the Project Plan. The total price shall be paid to us (without deduction or set-off) in instalments, as set out in the Project Plan on its achieving the corresponding Project Milestone. On achieving a Project Milestone in respect of which an instalment is due, we shall invoice you for the charges that are then payable, together with expenses, the costs of materials and VAT, where appropriate, calculated as provided in condition 8.4.
- 8.4 Any fixed price and daily rate contained in the Project Plan excludes:
- (a) the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the individuals whom we engage in connection with the Services, the cost of any materials and the cost of services reasonably and properly provided by third parties and required by us for the supply of the Services. Such expenses, materials and third party services shall be invoiced by us; and
 - (b) VAT, which we shall add to its invoices at the appropriate rate.
- 8.5 You shall pay each invoice submitted to it by us, in full and in cleared funds, within 30 days of receipt.

- 8.6 Without prejudice to any other right or remedy that it may have, if you fail to pay us on the due date, we may:
- (a) charge interest on such sum from the due date for payment at the annual rate of 2 % above the base lending rate from time to time of National Westminster Bank Plc, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment and we may claim interest under the Late Payment of Commercial Debts (Interest) Act 1998; and
 - (b) suspend all Services until payment has been made in full.
- 8.7 Time for payment shall be of the essence of the Contract.
- 8.8 All sums payable to us under the Contract shall become due immediately on its termination, despite any other provision. This condition 8.8 is without prejudice to any right to claim for interest under the law, or any such right under the Contract.
- 8.9 We may, without prejudice to any other rights it may have, set off any liability of you to us against any liability of us to you.

9. **INTELLECTUAL PROPERTY RIGHTS**

- 9.1 As between the parties, all Intellectual Property Rights and all other rights in the Deliverables and the Pre-existing Materials shall be owned by us. Subject to condition 9.2, we hereby license all such rights to you free of charge and on a non-exclusive, worldwide basis to such extent as is necessary to enable you to make reasonable use of the Deliverables and the Services. If the Contract is terminated, this licence will automatically terminate.
- 9.2 You acknowledge that, where we do not own any Pre-existing Materials, your use of rights in Pre-existing Materials is conditional on us obtaining a written licence (or sub-licence) from the relevant licensor or licensors on such terms as will entitle us to license such rights to you.

10. **CONFIDENTIALITY AND OUR PROPERTY**

- 10.1 You shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to you by us, our employees, agents or sub-contractors and any other confidential information concerning our business or its products which you may obtain. You shall restrict disclosure of such confidential material to such of your employees, agents or sub-contractors as need to know the same for the purpose of discharging your obligations to us,

and shall ensure that such employees, agents or sub-contractors are subject to obligations of confidentiality corresponding to those which bind you.

10.2 All materials, equipment and tools, drawings, specifications and data supplied by us to you (including Pre-existing Materials and our Equipment) shall, at all times, be and remain the exclusive property of us, but shall be held by you in safe custody at its own risk and maintained and kept in good condition by you until returned to us, and shall not be disposed of or used other than in accordance with our written instructions or authorisation.

10.3 This condition 10 shall survive termination of the Contract, however arising.

11. **LIMITATION OF LIABILITY**

YOUR ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF THIS CONDITION

11.1 This condition 11 set out the entire financial liability of us (including any liability for the acts or omissions of its employees, agents and sub-contractors) to you in respect of:

- (a) any breach of the Contract;
- (b) any use made by you of the Services, the Deliverables or any part of them; and
- (c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.

11.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

11.3 Nothing in these Conditions limits or excludes the liability of us:

- (a) for death or personal injury resulting from negligence; or
- (b) for any damage or liability incurred by you as a result of fraud or fraudulent misrepresentation by us.

11.4 Subject to condition 11.2 and condition 11.3

- (a) we shall not be liable, whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation or otherwise for:
 - (i) loss of profits; or
 - (ii) loss of business; or

- (iii) loss of anticipated savings; or
 - (iv) loss of contract; or
 - (v) loss of corruption of data or information; or
 - (vi) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.
- (b) our total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of the Contract shall be limited to the price paid for the Services.

12. TERMINATION

12.1 Subject to condition 12.3, the Contract shall terminate automatically on completion of the Project in accordance with the Project Plan.

12.2 Without prejudice to any other rights or remedies which the parties may have, either party may terminate the Contract without liability to the other on giving the other not less than three months written notice if:

- (a) the other party commits a material breach of any of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or
- (b) an order is made or a resolution is passed for the winding up of the other party, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order of the other party; or
- (c) an order is made for the appointment of an administrator to manage the affairs, business and property of the other party, or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the other party, or notice of intention to appoint an administrator is given by the other party or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986); or
- (d) a receiver is appointed of any of the other party's assets or undertaking, or circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the other party, or if any other person takes possession of or sells the other party's assets; or
- (e) the other party makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way; or
- (f) the other party ceases, or threatens to cease, to trade; or

- (g) there is a change of control of the other party (as defined in section 574 of the Capital Allowances Act 2001); or
- (h) the other party takes or suffers any similar or analogous action in any jurisdiction in consequence of debt.

12.3 On termination of the Contract for any reason:

- (a) you shall immediately pay to us all of our outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, we may submit an invoice, which shall be payable immediately on receipt;
- (b) you shall, return all of our Equipment, Pre-existing Materials and Deliverables. If you fail to do so, then we may enter your premises and take possession of them. Until they have been returned or repossessed, you shall be solely responsible for their safe keeping; and
- (c) the accrued rights of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination shall not be affected.

13. **FORCE MAJEURE**

We shall have no liability to you under the Contract if it is prevented from or delayed in performing its obligations under the Contract or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including strikes, lock-outs or other industrial disputes (whether involving our workforce or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors.

14. **VARIATION**

Subject to condition 4 and condition 7 , we reserve the right to amend these Conditions from time to time.

15. **WAIVER**

- 15.1 A waiver of any right under the Contract is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given.

15.2 Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

16. **NO PARTNERSHIP OR AGENCY**

Nothing in the Contract is intended to, or shall operate to, create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

17. **GOVERNING LAW AND JURISDICTION**

17.1 The Contract and any dispute or claim arising out of or in connection with it or its subject matter, shall be governed by, and construed in accordance with, the law of England and Wales.

17.2 The parties irrevocably agree that the courts of England and Wales shall have non-exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Contract or its subject matter.

Schedule 1 Project Plan

[THE PROJECT PLAN AGREED IN ACCORDANCE WITH CONDITION 4,
INCLUDING ANY PROJECT MILESTONES AGREED]]