

## Terms and Conditions

### INTERPRETATION

1. Unless the context otherwise requires, the following phrases shall have the following meanings in these Terms and Conditions:

“Agreement” means these Terms and Conditions, plus any documents referenced in them, including (but not limited to) the quotation and any schedule of payments subsequently agreed;

“Company”, “we” or “us” means Urban Foundry Ltd. (formerly called Trilein Ltd.), company number 6692527, whose registered office is situated at Unit 2, National Waterfront Museum, Swansea SA1 3RD;

“Client” or “you” means the organisation or individual that has requested a quote from us and/or receives products or services from the Company;

“Expenses” means costs incurred by the Company as a direct result of working for the Client, which would not otherwise have been incurred as part of our day to day overheads – it excludes items or services purchased on behalf of the Client;

“Parties” means the Company and the Client;

“quote” or “quotation” means the written proposal/quotation provided to the Client by the Company (for the avoidance of doubt this refers to the most recent quote submitted for the Commission and includes ‘tender’ documents);

“brief” means the instruction given by the Client (which may be written or verbal) upon which our quote is based;

“Commission” means the work outlined in the quote;

“fees” means the total net costs set out in the quote, which may include expenses, payable by the Client to the Company. The fees will have VAT added at the rate in force at the time of invoicing;

“normal working hours” means between 9am and 5pm on weekdays – it excludes weekends, bank holidays and the period between Christmas Eve and New Years Day inclusive.

Any gendered terms used in this document are purely for convenience and the masculine shall apply to the feminine and vice versa. Similarly, words in plural shall also refer to the singular and vice versa. Any items that are capitalized and not capitalized shall carry the same meaning unless the text states otherwise.

2. The headings in these Terms and Conditions are for convenience only and shall not affect its interpretation.

3. Any reference to a clause or schedule shall be construed as a reference to a clause of or schedule to these Terms and Conditions unless expressly stated to the contrary.

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4. The Company enters into the commission on these Terms and Conditions. No modifications or alterations to these Terms and Conditions will be valid unless expressly accepted in writing by the Company.

### GENERAL

5. The Company agrees to undertake the Commission for the fees indicated and within the timescale indicated in the quote. By accepting any services from the Company the Client is agreeing: to pay the fees for work received (as detailed in the quote); that any assumptions specified in the quote and/or these Terms and Conditions are correct (unless agreed otherwise in writing by the Company); and, to be bound by these Terms and Conditions.

### INFORMATION

6. By accepting the quote the Client agrees that the requirements outlined in the brief and shown in the quote meet the Client's needs. The Client agrees to immediately disclose in writing to the Company any changes to information already supplied.

7. a) The Client agrees to provide a named person as the point of contact for the commission and the Company shall be entitled to look to him/her for the support, direction and co-ordination of the Company's work for the Client. Any changes in these reporting lines will be notified to the Company in writing as soon as possible. The named person must have sufficient authority to deal with the Company for the purposes of the commission.

b) The Client agrees to supply any additional information relating to the services required that may reasonably be requested by the Company and acknowledges that failure to do so or taking undue time to do so may result in delays to the completion date.

c) Any documents provided by the Client to the company should be provided electronically wherever possible. Wherever hard copy documents are provided that have any sensitive content and/or are one of a kind to be returned in the same condition, then the Client agrees that it is their responsibility to make the Company aware of this and that this will be done in writing in advance. Clients agrees to make copies of any sensitive or 'one of a kind' documents wherever possible and supply us with the copies. If this is not possible then the Client agrees that originals will be provided in a meeting where the handover will be noted by the Company, or sent to the Company via recorded postal delivery and the Client agrees that they will be responsible for insuring any one of a kind documents. The Company will not accept liability for documents lost in the post. The Company agrees to keep any sensitive documents secure and will return them (or delete them if provided electronically) at the end of the commission.

d) The Client agrees that they are responsible for ensuring that, to the best of their knowledge and belief, information provided to the Company is accurate and reliable.

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e) The Company agrees to cooperate with Freedom of Information (FOI) requests that our Clients are required by law to deal with. Time spent on complying with such requests will be chargeable – this time can be deducted from time allocated to other tasks within the commission, or an additional fee can be levied to cover time spent. We allow for a modest amount of general administrative time with all contracts, which are likely to cover basic correspondence in relation to small FOI requests but protracted or detailed requirements may not be covered within this time. Time will be charged in line with the day/hourly fees in our quotation. If you have not given confirmation that we can levy additional charges by the time we are required to comply with the request then we will deduct the time from the commission allocation – if this results in us having to curtail our work in other areas to compensate then you agree this will not constitute a breach of contract. If the FOI request is submitted after we have completed work for you, we will cooperate insofar as we are able but time taken to do so will be chargeable at our standard hourly rates.

## COPYRIGHT

8. a) Copyright of all written, photographic and audio-visual materials produced specifically for the commission will rest with the Client, who will acknowledge the work of the Company in any documents produced, provided that the company's full fees in conducting the work (including any expenses agreed) have been paid.

b) The Company reserves the right to withdraw its name from any documents produced as a result of the contract.

c) The Company will retain copyright of all processes, workshop materials, guidance notes, questionnaire/interview schedules and templates, photographic or audio-visual materials, and any other processes/materials that predate the commission, including any that are adapted in order to undertake the commission and produce written reports, and may use them at its discretion for any future work.

9. Quotes and their supporting materials remain copyright of the Company at all times. No part of a quote may be provided to competitors or other organisations or reproduced for any purposes other than the Client's own internal procedures for appointing a contractor to conduct this commission. With the exception of the quoted fee, the contents of our quotations are deemed commercially sensitive and therefore exempt from FOI requests. For the avoidance of doubt the total quoted fee may be disclosed to third parties but not its breakdown into specific task areas.

## CONSENTS

10. a) The Client agrees to ensure that any and all necessary consents, licenses and authorities required from any person, firm, or authority for the commission to proceed are in place prior to work commencing, and will supply the Company with evidence of this on demand, unless the securing of these is explicitly stated as part of the commission.

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b) Without prejudice to 10a) above, the Client agrees to indemnify the Company against all actions, proceedings, costs, charges, claims, expenses and demands arising from any failure on the part of the Client to obtain such consents.

### INDEMNITY

11. a) The Company agrees to undertake the Commission with reasonable care and skill. However, the Company will not be responsible for any losses, penalties, surcharges, interest or other liabilities arising from the supply by you or others of delayed, incorrect or incomplete information, or your or others' failure to supply any appropriate information.

b) The Client agrees to hold harmless and indemnify the Company against any misrepresentation intentional or unintentional supplied orally or in writing in connection with this agreement.

c) The Client agrees that you will not hold the Company liable for any failure to procure finance from any source.

d) The Client agrees that it is their responsibility to determine the risks associated with any particular course of action adopted as a result of the work undertaken by the Company, including obtaining any and all legal and professional advice necessary in order to carry out those actions. The Client further agrees that it is their responsibility to competently deliver any actions and that you will not hold the Company liable for any failure of future actions taken as a result of advice or guidance provided as part of the Commission that arise as a result of poor planning or execution on the part of the Client, its representatives or any other entities.

e) The Client and the Company each agree to maintain, at their own expense, comprehensive policies of insurance as is suitable having regard to the circumstances and the provisions of the Agreement and to cover the liability of the other party in respect of any act or default for which it may become liable to indemnify the other party under the terms of this Agreement.

f) In all instances, the Company's maximum aggregate liability to the Client is limited to the levels of indemnity insurance held by the Company at the time of this Agreement commencing. Both parties agree that they have satisfied themselves of levels of cover of the other party prior to entering into this Agreement.

### CONFIDENTIALITY

12. a) Where the Client provides confidential information the Company agrees that it shall, at all times, be kept confidential, except as required by law or as provided for in regulatory, ethical or other professional pronouncements applicable to the engagement. We conform with the General Data Protection Regulation (GDPR) and we confirm that we are registered with the Information Commissioner's Office (ICO).

b) Our privacy policy is available to view via a link in the footer of our website and provides full details of how we gather, handle and store data and the Client agrees that the provisions outlined in that policy are adequate for its needs and also that it will

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in turn respect and abide by our privacy requirements. You agree to ensure that any changes to your details are communicated promptly to the Company.

c) The Client agrees that it is fully compliant with the General Data Protection Regulation (GDPR) and that it has the necessary policies, processes and procedures in place to comply and that this includes adequate staff training in GDPR compliance and that other third parties you may use and/or work with who will come into contact with any personal data that we pass on to you are also compliant with GDPR.

d) The Client agrees that it accepts the Company's right to preserve the confidentiality of research and consultation respondents.

e) Where the Company is required to gather and transfer personal data to the Client as a Data Processor, the Company will only do so where informed consent has been granted by individuals taking part in the commission ('respondents'). For the avoidance of doubt in such instances, prior to gathering information, the Company will make clear to respondents that we are a Data Processor and that we will pass on all information gathered to the Client who is the Data Controller. You agree to inform us of any third parties that you may in turn share personal data with and the full range of purposes that the data will be used for so that we can provide full transparency at the point of gathering information and be clear on our legal basis for gathering, processing and storing that personal data. Where consent is our legal basis then we will always give individuals the choice of whether to continue and we will make consent as 'granular' as we can, in other words if the personal data is to be used for a variety of reasons by you as the Data Controller then we will give respondents the choice of which elements they opt in to. The Client agrees that where individuals refuse to provide their personal details it will not constitute a breach of contract. The Client further confirms that any data that is passed to it by the Company containing personal identifiers is fully the responsibility of the Client and that it has taken adequate precautions to ensure data is protected and only used for the purposes for which it has been gathered. The Client and the Company agree to inform the other immediately upon discovery of any breach of confidentiality and the Client agrees to indemnify the Company against any breaches of data protection that occur as a result of the actions or inactions of the Client or its partners.

f) Nothing in this agreement shall prevent the Company from using the name and logo of the Client in any list of clients used by the Company for its own promotional purposes unless the Client has previously notified the Company in writing that it is unwilling for its name and/or logo to be used in that way. It is the responsibility of the Client to ensure that any such notice has been received by the Company. The Company will only use such logos in statements of fact to demonstrate that we have worked with/for the Client – we will not use your logo or name to suggest that you endorse us/our work unless you have specifically provided us with a testimonial/reference for that purpose.

g) The Client agrees that it shall not disclose, attempt to sell, or gift any materials or processes that the Company provides as part of this commission unless explicitly agreed in writing by the Company in advance or unless it is clearly stated as a requirement in the original brief and also specified in our quote.

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## INDEPENDENCE

13. The Client agrees to acknowledge and allow for our independence and objectivity and agrees not to undertake any activity that will directly or indirectly alter the responses of respondents to any research we conduct.

14. a) We will correct any factual, grammatical or typographical errors in written reports that we produce prior to submitting a final copy to you. We proofread our work internally prior to submitting our final version to you but unless we have specified it in our original quote, we do not commission external proofreaders. We will correct any minor typographical errors that we have missed in final reports at our cost and resend them to you promptly in electronic format with corrections, provided that they are sent to us promptly. Where we are required to print anything for you as part of the contract, we will ask you to sign off a final electronic version prior to doing so. If any typographical errors are discovered after you have signed off the final version and it has been sent to print, then all print costs remain payable in full. In this instance, we will accept one set of final amendments (which must be restricted to typographical errors only) and we will correct any such errors and return a copy in electronic format at our own cost, but the Client agrees to meet the cost of any reprints in full on top of our original contract fee. For the purposes of billing any such reprints will be treated in the same way as any other materials purchased on behalf of a Client.

b) We will give fair consideration to any reasonable amendments you request to any written reports we produce that relate to style, presentation, interpretation or opinion, but in commissioning the work the Client acknowledges our independence and our right to refuse to make such changes and agrees that our refusal to make such amendments will not constitute a breach of contract, or grounds for withholding any payment. In the event that we cannot agree changes with you, we will make it clear that it is our final position and at that point you agree not to withhold sign-off of a final report.

c) When considering amendments to reports where we are responsible for creating the text and most or all artwork, then we will make a reasonable number of amendments to correct errors, but Clients agree to a 'fair use' of our time. Particularly, Clients agree to collate all internal feedback into one set of comments per draft, which are specific, non-conflicting, and represent the Client's wishes. Time spent dealing with conflicting or confusing requirements for amendments is billable at our standard hourly rates and is not included in our quotations. Without prejudice to Clause 14a, once an initial set of changes has been made, we allow for up to two further sets of amendments to written reports, but further changes after a first set of comments from a Client should be restricted to matters of style/minor clarification/typographical errors. Any further rounds of amendments to written reports after a third iteration are not included in fixed fee quotations and will be charged at our standard hourly rates.

d) We will not undertake externally commissioned proof reading or translation unless it is specified in the brief and we have specified this in our quotation. If we do produce the written content, or have specified proof reading in our quote, this will only be done once all other content is signed off.



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- e) For any design work using text and artwork provided by a client we require these to be provided in appropriate formats without ambiguity and it is the client's responsibility to ensure that all text is proof read and correct and that the correct logos/artwork have been provided (unless the creation of artwork/text; amendment into certain formats; and/or proof reading is explicitly stated as part of a written brief).
- f) For any design work, then our fees allow for one set of iterations, which must be collated and unambiguous. Any further amendments will be charged at our standard hourly rate.
- g) The Client agrees that any delay in completion of a contract due to a Client's inability to secure feedback and/or sign-off within a reasonable timescale (at most 30 days from us requesting that feedback from you) will not constitute a breach of contract.
- h) If our invoicing is subject to receiving your feedback or sign-off on a stage of work then you agree that if you take more than 30 days to feedback/sign-off on reports then we may submit our invoice(s) and that you will pay our invoice(s) in full within our standard payment terms (as specified on our invoices).
- i) The Client agrees not to amend or alter the findings of any reports produced by us during or after our commission, nor to misrepresent our conclusions/findings. If amendments are made by the Client in an electronic document to illustrate a desired change, they must be clearly marked as tracked changes/comments or similar when returned to us and we reserve the right to refuse to make such changes. If the Client wishes to use certain passages/phrases from our reports for marketing or other purposes then they may do so, and we accept that Clients will use positive elements for publicity purposes. However, the Client agrees not to intentionally misrepresent our work through selective use of text that is misleading in comparison to our overall findings.
- j) We reserve the right to remove our name from any reports/materials we produce if we do not feel the above Clauses have been complied with by Clients.
- k) The Client agrees that our relationship with them will be communicated to third parties accurately – the Client may not state that we endorse them/their products/services without our prior written consent.

### CLIENT'S PERSONNEL, PREMISES AND EQUIPMENT

15. If the Company is required to work on the Client's premises, the Client agrees to provide the Company with office accommodation, meeting space(s), telephone, fax, photocopying and minor secretarial services that are directly related to our Commission without charge or deduction of fees. Any advertisements for activities relating to the Commission, or reproductions of consultation materials in publications owned or produced by the Client will be provided at no cost to the Company.

16. a) Any staff or volunteers provided by the Client to provide assistance with any functions in relation to the Company's services, or any equipment provided by the Client, shall be provided at the Client's own risk and cost (including any related expenses).

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b) The Client agrees to ensure that all personnel that they supply (including volunteers) are competent to the tasks that they are required to perform. The Client agrees to ensure that its personnel give adequate support to allow us to complete our Commission. For the avoidance of doubt, this includes an expectation of a reasonable quality of communication (both written and verbal).

c) The Company shall not be liable for the failure of personnel (including volunteers) or equipment provided by the Client.

d) The Client will indemnify the Company against all costs, demands, claims, expenses, losses and damages including legal costs and fees incurred by the Company arising from the negligent act or omission of staff or volunteers provided by the Client and/or failure of any of its equipment.

e) The Client will maintain appropriate levels of public and employee liability cover, the latter to cover volunteers and agrees that it will ensure that such cover is in place for any other sub-contractors or third parties that the Client requires us to work with.

17. Any articles used as part of the Commission that are brought by the Client, their personnel, volunteers, partners or customers/beneficiaries are solely their own responsibility, and the Company shall not be liable for any loss or damage thereto.

### FORCE MAJEURE

18. a) The Company does not accept liability for any consequential loss, damage, delay or non-fulfilment of any agreement due to forces beyond its control. For the avoidance of doubt this includes any delays that may be caused by periods of severe prolonged inclement weather or the failure beyond our control of electronic means of data transmission and storage. This also includes inability to work in circumstances where the Company determines there would be an unacceptable risk to its staff or sub-contractors that cannot be mitigated by the Company.

b) In the event of any delay or non-fulfilment of any agreement arising from Clause 18a) above, the Company shall not be liable to pay the Client for any consequential loss or damages (save that the Company shall refund any charges paid by the Client as part of the Commission so cancelled) and the Client shall pay the Company in full any part of the Commission used by the Client and for any services or materials supplied by the Company.

### CHARGES AND PAYMENT

19. a) Fixed fee contracts will have a defined set of deliverables at the outset with a clear start and finish date and a set overall fee. Where contracts are on a fixed fee basis, an invoicing schedule will be agreed with the Client at the outset of the Commission. Payment(s) will be made by the Client in line with the agreed schedule regardless of time incurred during that period. If the Client wishes to re-profile the invoicing schedule to reflect changing requirements then we will accommodate this to meet your reasonable demands, but this must be agreed in advance prior to us issuing an invoice.



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b) Where contracts carry a fixed fee, then the full fee is payable for completion of the agreed deliverables, regardless of the time expended by us. If the Company has underestimated or overestimated the time it will take to complete the Commission as advertised, it will have no impact on the fee. If the Client wishes to amend the Commission and/or faces unexpected difficulties, which result in the workload of the Commission significantly increasing due to factors beyond the control of the Company, the Company will discuss with the Client whether to reduce other parts of the Commission to compensate or to increase our fees. When making our quotations we allow for a modest amount of general project management time, which includes general correspondence with the client. This provision is made on a 'fair use' basis – if the time dealing with queries becomes excessive we will let you know and agree with you whether to reduce other areas of our work accordingly or to increase our fees. The Client confirms that any delays or inability to deliver the full contract within a fixed fee as a result of excessive time taken dealing with administrative requests from the Client (including FOI requests) will not constitute a breach of contract.

20. a) Where contracts are not on a time-limited fixed fee basis we will specify in advance whether fees are charged under a 'retainer' style agreement, or on a 'pay as you go' basis. These are defined below.

b) For 'pay as you go' arrangements we will charge for our time on a per hour basis for all time incurred working for you. We will invoice for our time monthly in arrears unless we have agreed this with you otherwise prior to commencing the work. For 'pay as you go' agreements we bill for our time in whole hours with a minimum charge of 1 hour. For all pay as you go arrangements expenses are charged monthly in arrears in addition to fees for our time.

c) For 'retainer' arrangement we will agree in advance a set allowance of hours or days for a set period, but with potential to continue extending this. Under a retainer agreement you can call on us during normal working hours as and when required within the agreed retainer period and we will make ourselves available to deliver tasks for you within a reasonable period of receiving notification from you. Whilst there may be defined deliverables at the outset of retainer agreements, under a retainer arrangement we agree that these may be amended/vary as the work progresses to suit your needs. Unless we have agreed otherwise in advance with you, retainers are set in quarterly increments with a minimum initial period of two consecutive quarters. For retainer agreements, we will invoice for the agreed time for the period in full in advance. Fees for retainers are payable within our invoice payment terms. For all retainer agreements expenses are charged monthly in arrears in addition to fees for our time.

d) If you are going to exceed the allocated time for a 'retainer' agreement we will let you know prior to doing so. Any additional time used will be chargeable at our standard hourly rates on the 'pay as you go' basis unless you commit to a renewal of the retainer. We will only allow time to be carried forward to the next retainer period if: you are up to date in any payments due to us; you commit to the renewal of the retainer prior to exceeding the time allowance for the period you are in; the renewal commences immediately following the completion of the period you are in; and the additional hours or days that you are going to go over by do not exceed the full

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allowance of time for the next period. If we agree to rolling forward of surplus time then we will deduct the overspend of time from the next retainer period. If the client opts not to renew or prefers not to carry overspend forward into future retainer periods then the client agrees that any additional hours will be treated on the 'pay as you go' basis above.

e) Where contracts are on a 'retainer' basis, then if you fail to use all of the time allocated within a set invoicing period, then the fee for that period will still apply and we will not refund the balance. Subject to all sums owing to us being paid in full and within our invoicing terms, then we will carry forward any unused time under this type of agreement to be utilised by the Client, provided that the required tasks are broadly comparable to the services specified in the original agreement and provided that any unused time is used within 6-months of the original contract end date. It is the client's responsibility to utilize this time and if it is not utilized within 6-months then the time will be lost and we will not refund any remaining balance.

f) For the avoidance of doubt, only unused time may be carried forward in line with the above clauses – disbursements and/or expenses costs will not be offset against future retainer agreements under any circumstances.

21. a) Unless itemised/specified as included in our quotation, the Company's service fees shall be exclusive of expenses. Expenses incurred in order to complete our work are passed on to Clients at cost. We will charge expenses for the items and at the rates outlined in our expenses policy, which we are happy to provide you with if you require it. If you require us to align with your expenses policy then you must agree this with us in advance of us commencing any work for you – if you do not do this then our expenses policy will apply. For the avoidance of doubt, expenses exclude materials and services purchased on behalf of the Client, which are covered in Clause 22 below.

b) Where we are required to quote for a fixed expenses fee, the Company will charge in full for the expenses allowance. Without prejudice to Clauses 20 or 21a above; if the Company exceeds the estimated expenses costs for a fixed expenses contract then we will absorb any additional expenditure. For the avoidance of doubt, unless the Company specifies explicitly in the quotation that expenses will be charged on a fixed basis then all expenses will be charged in addition to quoted fees.

c) When charging for a fixed expenses amount, the Company will not supply individual receipts for expenses – the charge is a fixed amount based on a pre-estimate of likely costs incurred and we do this to give Client's certainty for their budgets. The amount is payable in full regardless of the expenses incurred. If we have estimated fixed expense fees incorrectly and we exceed the fixed allowance then, provided that the brief has not changed, we will absorb any overspend. If the brief is amended and/or the work changes significantly from what we were asked to quote for and we think this will increase our likely expenses costs, then we will provide you with an amended quote to include additional fixed expenses allowance for the commission. In the event that the brief has changed and/or the work differs significantly from what we quoted for and you do not agree to an additional expenses allowance then we may remove the equivalent value of additional expenses incurred from the time element of the budget and in so doing you agree that this will not constitute a breach of contract.

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22. a) Should we be required to purchase materials and/or services from third party suppliers on behalf of the Client they will be subject to a non-refundable 15% handling charge on top and will be recharged as soon as we incur the costs. For larger amounts, we may require the Client to pay us the net cost of the materials in advance before making the purchase – in such circumstances we will agree that with you prior to incurring costs. All materials remain the property of the Company until paid for in full by the Client.

b) Where we are quoting on a fixed fee basis inclusive of all costs, we will absorb any overspend as a result of price increases on materials that may occur in the meantime, provided that the specification and quantities for the materials/services we procure on the Client's behalf match those used to prepare our original quotation, and provided that any industry-wide increase in the net cost of the materials is not excessive. Any price increase as a result of a change to specification and/or an increase in quantities of materials/services after our quote has been accepted will be met in full by the Client. A change in specification includes the Client specifying after our quote has been accepted that we must use a particular supplier that is more expensive than others that are available, and also includes any surcharges that are levied by suppliers as a result of changes being made after their quotes have been accepted and they have been commissioned. In the event of a significant market-wide price increase we will agree with the Client whether to proceed and the additional cost of us doing so, or we will remove this element from our price schedules and refund the Client/reduce our fees accordingly or agree an alternative use of any budget released as a result.

c) We agree to exercise reasonable care and attention to quality and to use reputable suppliers with industry accreditation where relevant whenever purchasing materials on behalf of the Client, but you agree that you will not hold us liable for any failure or defect in materials purchased on your behalf after the items have been accepted by you. We will pay for items once you have accepted them wherever possible, but where the payment terms of suppliers require us to pay for them at point of sale/in advance and/or where the payment terms of the supplier require us to pay them before the Client can accept the materials, the Client agrees to pay us in full for them regardless of any defects/failures that are discovered. We will pass on any refund we receive for any defects/failures to the Client without deduction once any issues are resolved with the supplier. The Client agrees that they will meet any additional costs that may arise because of failure or defects found at a later date.

d) When making purchases on behalf of a client we take into account quality as well as price when determining value for money and we do not commit to using the lowest cost suppliers. We will consider requests/recommendations by the client for certain suppliers but we reserve the right to refuse to use certain suppliers if we determine their quality of product/service does not meet our standards. For the avoidance of doubt, we include a supplier's ethics when determining their quality, which will include such considerations as whether they source materials ethically, whether they maintain equal opportunities, and whether they are a responsible employer (this list is not exhaustive). We will be reasonable in such determinations and we are happy to discuss this with clients. In the event that we refuse to use a certain supplier and cannot agree on a suitable replacement, we will agree with you whether to remove this element from the contract so that the client can procure such services directly, or

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whether we will allocate the value of the contract so released for something else. In such instances, the client agrees that this will not constitute a breach of contract.

23. Where we have applied a discount to our fees, whether on a fixed fee or payment as incurred basis, the discount will apply only to the fees quoted and/or for the time period specified. Future work additional to the quoted fees will be chargeable at our standard rates unless we have agreed otherwise with you in writing in advance.

24. a) Payment(s) will be made to us on receipt of invoices and will be paid in full within the payment terms stated on the invoice. Payment terms are inclusive of the date on our invoice(s) unless we have specifically agreed this with you in writing in advance of commencing work for you. Changes to your payment terms during the period of commission will not be accepted.

b) Fees will be made payable to the Company in full without deductions for tax, national insurance contributions or similar reasons. We confirm that we make all relevant payments to HMRC and that all persons working for us are legally entitled to work in the UK.

c) Fees will be payable by BACS, cheque or card payment. We currently only have facility for card payments to be made where the card holder is present in person. Our payment details are included on all our invoices.

d) We will not accept cyber fraud as a reason for non or late payment of our invoices into our account – it is the responsibility of the client to ensure security of any electronic transactions and to take reasonable steps to protect themselves against cyber fraud. If a client receives any communication that appears to come from us stating that our payment details have changed, then clients must follow this up with a phone call to ensure that the communication is correct and to make us aware that you have received it. This must be done as soon as you receive any such communication, and prior to making payment to us using any new payment details.

e) You may not deduct any transaction fees that you incur from our fees.

25. a) We will commence work for you once we have received written confirmation of our commission from you and agreed terms. It is the Client's responsibility to determine whether a Purchase Order needs to be issued and to ensure they have provided us with the correct Purchase Order number and relevant information for invoicing, which we will display as directed on our invoices.

b) If the Client issues purchase orders (or equivalent) then we are content to proceed on the basis of a formal letter (electronic or hard copy) confirming our commission and the agreed fees from the Client prior to a Purchase Order (or equivalent) being raised, but the Client agrees that any work conducted following the issuing of the formal written confirmation by the Client will be paid for in full without delay. The Client further agrees that if this is not possible, then it will let us know prior to us commencing any work.

c) The Client agrees that any delays in the delivery of the contract that are caused by additional time taken by the Client to raise a Purchase Order or equivalent and/or to formally confirm our commission will not affect the agreed fees, nor will this constitute a breach of contract.

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d) Delays in raising Purchase Orders, incorrect details supplied to us for invoicing purposes, internal administrative errors in budget code allocations by the Client, delays in getting internal sign-off, and/or late payment to the Client by any funding bodies, or any other internal administrative issues experienced by the Client are not accepted as a reason for late payment of our invoices.

26. Failure by the Client to pay any fees by the due date, as shown on the relevant invoice(s), is deemed a breach of contract and shall entitle the Company to immediately cease work for the Client and to:

a) cancel the balance (if any) of the agreement under which the Client has failed to pay and to recover from the Client damages for any loss suffered by the Company as a result of such cancellations and/ or

b) cancel any other agreement or the balance of any other agreement which the Company may have with the Client and to recover any loss suffered by the Company as a result of such cancellations and/ or

c) charge interest at the rate for the time being applicable under the Late Payment of Commercial Debts (Interest) Act 1998 (or subsequent revisions thereof) in the case of overdue accounts.

27. VAT is charged on top of all fees at the current rate and does not form part of the fixed fee element of our quotations. Should the VAT rate fluctuate during the progress of the Commission, the Company will charge VAT at the new rate in force. It is the Client's responsibility to ensure that it can meet any additional costs as a result of a rise in VAT.

## TERMINATION AND VARIATION

28. a) Either party may immediately terminate the agreement in writing to the other in the event that either party: is in material breach of these Terms and Conditions provided that such breach has been notified as such to the other party in writing, that any notice is issued within 7 days of the notifying party becoming aware of the breach, and on that basis that both parties will allow the other no less than 30 days from the point of receipt of notification to remedy the breach; becomes insolvent; enters into liquidation (whether voluntary or compulsory); passes a resolution for its winding up; appoints a receiver or administrator for the whole or any part of its assets; makes any composition or arrangement with its creditors or takes or suffers any similar action in consequence of debt; and/or ceases or threatens to cease the continuation of its business.

b) In the event of termination of this Agreement for whatever reason the Client will be responsible for all fees and expenses due to the Company for work conducted up to and including the date of termination. For fixed fee contracts this will be subject to the maximum fees in the quote or any subsequent variation of the quote that has been agreed between the parties prior to notice of termination. For the avoidance of doubt, in the event of termination payment must be made for any expenses, materials and service costs incurred or committed to by the Company as part of the delivery of the Commission up to and including the effective date of the termination, including for any



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items ordered but not yet paid for that cannot be cancelled/refunded. We will use our best endeavours to secure refunds on any materials purchased and we will pass on any refunds received to the Client, but we do not guarantee that this is possible nor will a Client hold us liable for this.

c) Any notice of termination or of a material breach must be given in writing and will be deemed to have been served 48 hours after the date of the postmark if sent first class, or 72 hours after the date of postmark if sent second class. Cancellation or notification of a material breach via electronic mail is not accepted.

d) Variation of this contract will be by mutual written consent, which may be done by electronic means.

e) No liability is accepted by the Company for lost post; it is the responsibility of the Client to ensure that any notices issued carry the correct postage and that they have been received by the Company.

29. The following clauses shall survive the expiry and/or termination of the Contract howsoever arising, unless a specific sub-clause is stated below then the entirety of the clauses noted shall survive the expiry and/or termination of the Contract:

Clauses 1, 2, 3, 4, 7e, 8, 9, 10, 11, 12, 14f, 14g, 14h, 16d, 28, 29, 30, 31, 32, 33, and 34.

## WAIVER

30. A waiver by either party of any Terms or Conditions of this Agreement in any instance shall not be deemed or construed to be a waiver of such term or condition for the future, or of any subsequent breach of it, nor shall any failure, neglect or delay to enforce any of the provisions of these Terms and Conditions be deemed to be a waiver of the Company's rights hereunder or at law and shall not prejudice, affect or restrict our rights to take subsequent action.

## AMENDMENT

31. a) We may update these Terms and Conditions and therefore our Agreement from time to time to reflect the changing nature of our business. If this occurs during a Commission we will notify you of any changes that have been made that affect you in advance of them taking effect. In the event that a change to any item cannot be agreed, the original wording will remain in effect for the duration of the Commission. In any event, any amendment to a single term will not affect the remainder of the Agreement – all other aspects of the Agreement will remain unaffected. Regardless of whether changes made during a Commission are agreed or not, any future Commissions will be based on the Terms and Conditions in force at the time of us providing a further quote/quotes. Where the Commission is on a membership or retainer basis without a set end date, the revised Terms and Conditions will come into force at the point of membership renewal and/or the next break point in the retainer. The only exception to this clause will be amendments that the Company is required to make as a result of a



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change in law – any such changes will take effect as soon as they are made or as soon as the law change comes into effect, whichever is the sooner.

b) We base our quotations on the assumption that our terms and conditions in force at that time hold true – any changes we make to our terms and conditions between submitting a quotation and formally commencing work for you will have no bearing on our quoted fees, but the terms and conditions that will take effect upon commission will be those in place at the point we formally commence work for you, usually through the issuing of a Purchase Order and/or formal commissioning letter (or equivalent) being issued by you. Any amendment to the terms to suit your requirements that are made after we issued our quote (including any that fall between the issuing of the quote and us commencing work) may require us to revise our quotation unless the requirements were clearly specified in the original brief. Any delays as a result of time taken to agree amended terms to meet your requirements and to agree any related changes to our fees as a direct result will not constitute a breach of contract.

## ASSIGNMENT

32. The parties may not assign, sub-license, or sub-contract the Agreement or any of their rights or obligations without the prior written consent of the other party (not to be unreasonably withheld or delayed).

## SEVERANCE

33. If any provisions of these Terms and Conditions are declared by any judicial or other competent authority to be illegal, void, voidable or otherwise unenforceable, or indication of the same is received by either party from any relevant competent authority, such provision shall be deemed to be severed but the remaining terms shall remain in full force and effect.

## LAW AND JURISDICTION

34. These Terms and Conditions and the Agreement shall be governed by and construed in accordance with English and Welsh law and the Parties hereto submit to the jurisdiction of the English and Welsh courts.