

INGENT CONSULTING ENGINEERS STANDARD TERMS AND CONDITIONS

These terms and conditions govern the relationship between Ingent and the Client for all and any Services Products described in any Quotation.

1. Definitions

In these terms and conditions the following expressions will have the following meanings:

- 1.1. “Client” will be any company, partnership (including limited liability partnership, LLP), unincorporated entity or person engaging or seeking to engage Ingent to provide Services or Products.
- 1.2. “Contract” shall mean this contract, including the Quotation and, to the extent agreed in writing by both parties as forming part of this contract, any other associated or supplemental document and/or authorised variation to this contract.
- 1.3. “Estimate” shall mean an initial offer of Service or Products offered by Ingent, identified by its unique number.
- 1.4. “Ingent” shall mean Ingent Consulting Engineers Limited.
- 1.5. “Instruction to Proceed with Works” shall mean a document in writing in such form as is stipulated by Ingent from time to time by which the Client shall accept a Quotation.
- 1.6. “Intellectual Property” means patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secret]), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
- 1.7. “Products” include all goods plans, hardware, software, computer files or other items identified in the Quotation.
- 1.8. “Quotation” shall mean the offer in writing issued to the Client by Ingent, which shall be either an Estimate against an agreed scope of work (and any subsequent adjustments to the Estimate) or an understanding of a scope of work against a schedule of rates (applicable to a stated time period), as agreed in writing by both parties.
- 1.9. “Services” shall mean the services to be provided by Ingent as described in the Quotation.
- 1.10. All references to the masculine gender include the feminine and neuter unless otherwise specified and all references to the singular include the plural and vice versa, save where the context otherwise requires.
- 1.11. References to “written” or “in writing” shall include email but not fax.

2. Quotation, Services, Product and Contract

- 2.1. Ingent shall provide the Services and/or Products described in the Quotation as identified by its unique number.
- 2.2. Any samples, drawings, descriptive matter or advertising issued by Ingent and any descriptions or illustrations contained on any website or in any catalogues, brochures or other materials are issued or published for the sole purpose of giving an approximate idea of the Services or Product described in them, whether in connection with the giving of an Estimate or otherwise. They shall not form part of the Contract or have any contractual force.
- 2.3. These terms and conditions apply to the Contract to the exclusion of any other terms and conditions that the Client may seek to impose or incorporate into the Contract or any other contract between them, or which are implied by trade, custom, practice or course of dealing.
- 2.4. Ingent shall supply the Services and Products to the Client in material compliance with the Quotation and shall provide the Services to the Client using reasonable care and skill.
- 2.5. Ingent reserves the right to amend any specification within the Quotation if necessary to comply with any applicable law or regulatory requirement or if the amendment will not materially affect the nature or quality of the Services or any Product, provided that Ingent shall notify the Client of such amendment in writing as soon as practicably possible after Ingent considers the amendment to be necessary.

3. Acceptance of Quotation and Variation of Contract

- 3.1. Signature by the Client of an Instruction to Proceed with Works shall constitute legally

binding acceptance of an offer to provide Services or Products by Ingent on the terms of the Quotation. The Contract shall commence upon Ingent countersigning and dating the Instruction to Proceed with Works and sending it to the Client.

- 3.2. No terms, conditions, understandings or agreements purporting to replace, modify or vary these terms and conditions shall be valid unless Ingent and the Client have expressly agreed to the same in writing. .
- 3.3. It is on the basis of these terms and conditions that Ingent will commence work on the Services or Products being offered. These terms and conditions will be deemed to have been accepted by the Client if the Client continues to instruct Ingent on the basis of the Quotation without returning to Ingent a duly signed and completed Instruction to Proceed with Works.

4. Technical and Method Related Services

- 4.1. Health, Safety and Environment issues are considered to be Ingent's primary concern and are covered by Ingent's HSE Policy document (which can be viewed at our Brightwell office).
- 4.2. The Services provided are limited to those described in the relevant Quotation and are designed only for the Client and the area and project detailed expressly in the Quotation. Ingent will not be held liable for any other applications or interpretations of these Services. No person other than the Client may use any Services or Products or rely on any advice given by Ingent whether under the Contract or otherwise for any purpose.
- 4.3. All Services relate specifically to the time and techniques used at the time they were performed and Ingent will not be liable for any changes in interpretation caused by: the use of alternative technology; work carried out at a different time; work carried out under different physical conditions; or the use of external information.

5. Ownership of Products and Intellectual Property

- 5.1. All Products remains the property of Ingent until all sums owed by the Client to the Ingent (whether under the Contract or otherwise) have been paid in full and Ingent shall have a first and paramount lien over all Products and other goods and assets of the Client held by Ingent until payment is made in full by the Client to Ingent,
- 5.2. Any assignments or collateral warranties which the Client requests that Ingent gives to any third party will be subject of a further Estimate and Quotation which will reflect the legal complexity of the process and the increase in liability exposure required.
- 5.3. All Intellectual Property in or arising out of or in connection with the Services or the Products (other than Intellectual Property in any materials provided by the Client) shall remain in the sole ownership of Ingent save where it is

expressly stated as transferring to the Client in the Quotation.

- 5.4. Ingent grants to the Client a fully paid-up, worldwide, non-exclusive, royalty-free licence during the term of the Contract to copy the Products (excluding materials provided by the Client) for the purpose of receiving and using the Services and the Products in the Client's business.
- 5.5. The Client grants to Ingent a fully paid-up, worldwide, non-exclusive, royalty-free licence during the term of the Contract to copy any materials provided by the Client the purpose of providing the Services and the Products.

6. Contract Price

- 6.1. The price payable under the Contract is the sum stated in the Quotation.
- 6.2. Ingent reserves the right to submit interim invoices on a monthly basis in arrears throughout the Contract and a final invoice on completion of the Services and Products required to be delivered under the Contract or at such time as Ingent reasonably believes that the Contract will no longer be capable of completion for any reason.
- 6.3. Ingent shall be entitled to charge the Client for all and any expenses reasonably incurred by it and its employees, agents and subcontractors in connection with the provision of the Services and delivery of any Products including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of goods or services provided by third parties which are required by Ingent for the performance of the Services and for the cost of any materials.

7. Payment

- 7.1. Payment shall become made strictly within one calendar month of the invoice date and shall be paid without set-off, counterclaim, deduction or any other withholding in the manner stated in the invoice.
- 7.2. The Quotation does not include any retention or main contractor's discount.
- 7.3. Time for payment shall be of the essence of the Contract and interest on unpaid invoices shall be paid at a rate of 2% above the base rate of HSBC Bank plc (compounded daily) from (and including) the date of invoice until (and including) the date of payment in full, whether before or after judgement.
- 7.4. All amounts payable by the Client under the Contract are exclusive of value added tax ("VAT"). Where any taxable supply for VAT purposes is made under the Contract by Ingent to the Client, the Client shall, on receipt of a valid VAT invoice from Ingent, pay to Ingent, such additional amount in respect of VAT as is chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.

8. Imitation of Liability

- 8.1. Nothing in the Contract shall limit or exclude

- Ingent's liability for death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors; for fraud or fraudulent misrepresentation; or which arises from any breach of the terms implied by section 2 of the Supply of Product and Services Act 1982 (title and quiet possession); or for any other liability which cannot be limited or excluded by applicable law.
- 8.2. Subject to clause 8.1, Ingent shall not be liable to the Client, whether in contract, tort (including negligence) or breach of statutory or fiduciary duty for any loss of profits; loss of sales, business or opportunity; loss of agreements or contracts; loss of anticipated savings; loss of use or corruption of software, data or information; loss of damage to goodwill; and/or any other indirect or consequential loss of any kind. The terms implied by sections 3 to 5 of the Supply of Product and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 8.3. Subject to clause 8.1, Ingent's total liability to the Client howsoever arising, including without limitation as contemplated by clause 8.2 above, shall be limited to the total sum (exclusive of VAT) paid by the Client under the Contract.
9. **Termination and Expiry**
- 9.1. Without affecting any other right or remedy available to it, either party may terminate the Contract (and Ingent suspend or cease to provide any further Services or Products) with immediate effect if:
- 9.1.1. it gives the other party one month's written notice.
- 9.1.2. the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing to do so.
- 9.1.3. the other party takes (or threatens to take) any step or action (or allows the same to be taken) in connection with it: entering into administration or provisional liquidation; seeking to make any composition or arrangement with its creditors or any of them; being wound up (whether voluntarily or by order of the court), having a receiver or manager appointed over any of its assets; ceasing to carry on any material part of its business.
- 9.1.4. the other party is unable to pay its debts as they fall due or its financial position otherwise deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 9.1.5. Without affecting any other right or remedy available to it, Ingent may terminate the Contract with immediate effect by giving written notice to the Client if the Client fails to pay any amount due under the Contract on the due date for payment as specified clause 7.1.
- 9.2. On termination of the Contract:
- 9.2.1. the Client shall immediately pay to Ingent all of the Ingent's outstanding unpaid invoices and interest and, in respect of Services and Products supplied but for which no invoice has been submitted, Ingent shall submit an invoice which shall be payable by the Client immediately on receipt.
- 9.2.2. the Client shall return all of Ingent's materials of any kind which have not been fully paid for. If the Client fails to do so, then Ingent may enter the Client's premises at any time and take possession of them. Until all materials have been returned, the Client shall retain them on trust for Ingent and shall be solely responsible for their safe keeping as bailee and will not use them for any purpose.
- 9.3. Termination of the Contract (or expiry if it is for a fixed term) shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 9.4. 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, in particular but without limitation clause 8, shall remain in full force and effect.
10. **General Provisions**
- 10.1. **Force majeure.** Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control.
- 10.2. **Confidentiality.** Each party undertakes that it shall not at any time during the Contract, and for a period of three years after termination expiry of the Contract, disclose to any person any confidential information concerning the Contract or the business or affairs of the other party, except as permitted by clause 10.3.
- 10.3. Each party may disclose the other party's confidential information when required to do so by law, a court of competent jurisdiction or any governmental or regulatory authority; and to its senior employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that all such persons to whom it discloses the other party's confidential information comply with this clause 10.

- 10.4. **Entire agreement.** The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or misstatement based on any statement in the Contract.
- 10.5. **Waiver.** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 10.6. **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- 10.7. **Notices.** Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office or sent by email to the email address as specified in the Instruction to Proceed with Works, or to such other address or email address as one party has notified to the other party in writing.
- 10.8. Any notice or other communication shall be deemed to have been received if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; if sent by pre-paid first class post or other next working day delivery service or by email, at 9.00 am on the second working day after posting or at the time recorded by the delivery service or the time that the email system shows that the email was transmitted..
- 10.9. **Third party rights and assignment.** No person, not being a party to the Contract, shall have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract against either party. Neither party shall sub-license, assign or otherwise seek to transfer the Contract or any of their rights under the Contract to any other person.
- 10.10. **Governing law and 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 English law. Each party irrevocably agrees that the courts of England 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 or its subject matter or formation.

May 2017