

Installations Terms & Conditions

1. INTERPRETATION

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

Contract: this Agreement the Customer's purchase order and TAG's acceptance of it, or the Customer's acceptance of a quotation for Services by TAG under condition 2.2.

Customer: the person, firm or company who purchases Services from TAG.

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

Goods: goods supplied and sold to the Customer by TAG in the process of delivering the Services.

In-put Material: the in-put materials specified in the Quotation.

Services: the services to be provided by TAG under the Contract together with any other services which TAG provides, or agrees to provide, to the Customer.

TAG: includes TAG and its subcontractors.

TAG's Equipment: any equipment, including tools, systems, cabling or facilities, provided by TAG or its subcontractors and used directly or indirectly in the supply of the Services which are not the subject of a separate agreement between the parties under which title passes to the Customer.

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

1.2 Headings in these conditions shall not affect their interpretation.

1.3 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.4 The Schedules form part of the Contract.

1.5 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

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, without limitation, 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 the Customer's purchase order, confirmation of order, acceptance of a quotation, or specification or other Document supplied by the Customer, or implied by law, trade custom, practice or course of dealing.

2.2 The Customer's purchase order, or the Customer's acceptance of a quotation for Services by TAG, constitutes an offer by the Customer to purchase the Services on these Conditions. No offer placed by the Customer shall be accepted by TAG other than:

- (a) by a written acknowledgement issued and executed by TAG; or
- (b) (if earlier) by TAG starting to provide the Services, when a contract for the supply and purchase of the Services on these Conditions will be established. The Customer's 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 TAG 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 90 days from its date, provided that TAG has not previously withdrawn it.

3. COMMENCEMENT AND DURATION

3.1 The Services supplied under the Contract shall be provided by TAG to the Customer during the period specified or such other period as is agreed between in writing between TAG and the Customer.

4. SUPPLIER'S OBLIGATIONS

4.1 TAG shall use reasonable endeavours to manage and or provide the Services, including where applicable the supply of Goods which shall be of good merchantable quality and fit for purpose, to the Customer, in accordance in all material respects.

4.2 TAG shall use reasonable endeavours to meet any performance dates as specified, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.

4.3 TAG shall use reasonable endeavours to observe all health and safety rules and regulations, and any other reasonable security requirements that apply at any of the Customer's premises and that have been communicated to it under condition 5.1(e), provided that it shall not be liable under the Contract if, as a result of such observation, it is in breach of any of its obligations under the Contract.

5. CUSTOMER'S OBLIGATIONS

5.1 The Customer shall:

- (a) co-operate with TAG in all matters relating to the Services;
 - (b) provide TAG, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, with access to the Customer's premises, office accommodation, data and other facilities as reasonably required by TAG;
 - (c) provide to TAG, in a timely manner, such In-put Material and other information as TAG may reasonably require and ensure that it is accurate in all material respects; be responsible (at its own cost) for preparing and maintaining the relevant premises for the supply of the Services, including identifying, monitoring, removing and disposing of any hazardous materials from any of its premises in accordance with all applicable laws, before and during the supply of the Services at those premises, and informing TAG of all of the Customer's obligations and actions under this condition 5.1(d);
 - (e) inform TAG of all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Customer's premises;
- 7.3 The Customer shall ensure that its employees, officers, representatives, advisers, agents or subcontractors to whom it discloses such information comply with this condition 7.

(f) ensure that all Customer's Equipment is in good working order and suitable for the purposes for which it is used in relation to the Services and conforms to all relevant United Kingdom standards or requirements

(g) obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the Services, the installation of the Customer's Equipment, the use of In-put Material and the use of the Customer's Equipment in relation to TAG's Equipment insofar as such licences, consents and legislation relate to the Customer's business, premises, staff and equipment, in all cases before the date on which the Services are to start;

5.2 If TAG's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees, TAG shall not be liable for any costs, charges or losses sustained or incurred by the Customer arising directly or indirectly from such prevention or delay.

5.3 The Customer shall be liable to pay to TAG, on demand, all reasonable costs, charges or losses sustained or incurred by TAG (including, without limitation, 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 the Customer's fraud, negligence, failure to perform or delay in the performance of any of its obligations under the Contract, subject to TAG confirming such costs, charges and losses to the Customer in writing.

5.4 The Customer shall not, without the prior written consent of TAG, at any time from the date of the Contract to the expiry of 12 months after the last date of supply of the Services, solicit or entice away from TAG or employ (or attempt to employ) any person who is, or has been, engaged as an employee, consultant or subcontractor of TAG in the provision of the Services.

6. CHARGES AND PAYMENT

6.1 In consideration of the provision of the Services by TAG, the Customer shall pay the charges as set out in the Quotation, which shall specify whether they shall be on a time and materials basis, a fixed price basis or a combination of both. condition 6.2 shall apply if TAG provides Services on a time and materials basis. condition 6.3 shall apply if TAG provides Services for a fixed price. The remainder of this condition 6 shall apply in either case.

6.2 Where Services are provided on a time and materials basis:

(a) the charges payable for the Services shall be calculated in accordance with TAG's standard daily fee rates, as set out in the Quotation and as amended from time to time by TAG giving not less than 1 months' written notice to the Customer;

(b) TAG's standard daily fee rates for each individual person are calculated on the basis of an eight-hour day, worked between 8.00 am and 5.00 pm on weekdays (excluding public holidays);

(c) TAG shall be entitled to charge an overtime rate of 150% of the standard daily fee rate on a pro-rata basis for each part day or for any time worked by individuals whom it engages on the Services outside the hours referred to in condition 6.2(b);

(d) all charges quoted to the Customer shall be exclusive of VAT, which TAG shall add to its invoices at the appropriate rate;

(e) TAG shall ensure that every individual whom it engages on the Services completes time sheets recording time spent on the Services, and TAG shall use such time sheets to calculate the charges covered by each monthly invoice referred to in condition 6.2(f); and TAG shall invoice the Customer 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 6.2. 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.

6.3 Where Services are provided for a fixed price, the total price for the Services shall be the amount set out in the Quotation the total price shall be paid to TAG (without deduction or set-off) in instalments, as set out in the Quotation. At the end of a period specified TAG shall invoice the Customer for the charges that are then payable, together with expenses, the costs of materials and VAT, where appropriate, calculated as provided in condition 6.4.

6.4 Any fixed price and daily rate excludes:

(a) the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the individuals whom TAG engages 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 TAG for the supply of the Services. Such expenses, materials and third party services shall be invoiced by TAG at cost; and

(b) VAT, which TAG shall add to its invoices at the appropriate rate.

6.5 The Customer shall pay by cheque, credit card (except for American Express), debit card, BACS or cash each invoice submitted to it by TAG, in full and in cleared funds, within 30 days of receipt to a bank account nominated in writing by TAG.

6.6 Without prejudice to any other right or remedy that it may have, if the Customer fails to pay TAG on the due date, TAG may:

(a) charge interest on such sum from the due date for payment at the annual rate of 4 % 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 the Customer shall pay the interest immediately on demand. TAG 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.

6.7 Time for payment shall be of the essence of the Contract.

6.8 All sums payable to TAG under the Contract shall become due immediately on its termination, despite any other provision. This condition 6.8 is without prejudice to any right to claim for interest under the law, or any such right under the Contract.

6.9 TAG may, without prejudice to any other rights it may have, set off any liability of the Customer to TAG against any liability of TAG to the Customer.

7. CONFIDENTIALITY AND TAG'S PROPERTY

7.1 The Customer 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 the Customer by TAG, its employees, agents, consultants or subcontractors and any other confidential information concerning TAG's business or its products which the Customer may obtain.

7.2 The Customer may disclose such information:

(a) to its employees, officers, representatives, advisers, agents or subcontractors who need to know such information for the purposes of carrying out the Customer's obligations under the Contract; and

(b) as may be required by law, court order or any governmental or regulatory authority.

7.4 The Customer shall not use any such information for any purpose other than to perform its obligations under the Contract.

7.5	All materials, equipment and tools, drawings, specifications and data supplied by TAG to the Customer (including TAG's Equipment) shall, at all times, be and remain as between TAG and the Customer the exclusive property of TAG, but shall be held by the Customer in safe custody at its own risk and maintained and kept in good condition by the Customer until returned to TAG, and shall not be disposed of or used other than in accordance with TAG's written instructions or authorisation.	(d) condition 10; and (e) condition 20.
8.	LIMITATION OF LIABILITY - THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CONDITION	11.
8.1	This condition 8 sets out the entire financial liability of TAG (including any liability for the acts or omissions of its employees, agents, consultants, and subcontractors) to the Customer in respect of:	FORCE MAJEURE TAG shall have no liability to the Customer 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 (without limitation) strikes, lock-outs or other industrial disputes (whether involving the workforce of TAG 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 subcontractors.
(a)	any breach of the Contract;	12.
(b)	any use made by the Customer of the Services, or any goods supplied by TAG or any part of them; and	12.1
(c)	any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.	VARIATION TAG may, from time to time change the Services, provided that such changes do not materially affect the nature or quality of the Services and, where practicable, it will give the Customer at least 1 weeks' notice of any change.
8.2	All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.	12.2
8.3	Nothing in these Conditions limits or excludes the liability of TAG:	12.2
(a)	for death or personal injury resulting from negligence; or	13.
(b)	for any damage or liability incurred by the Customer as a result of fraud or fraudulent misrepresentation by TAG; or	13.1
(c)	for any liability incurred by the Customer as a result of any breach by TAG of the condition as to title or the warranty as to quiet possession implied by section 2 of the Supply of Goods and Services Act 1982.	WAIVER A waiver of any right under the Contract is only effective if it is in writing and it applies only to the circumstances for which it is given. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that (or any other) right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that (or any other) right or remedy.
8.4	Subject to condition 8.2 and condition 8.3	13.1
(a)	TAG shall not be liable for:	13.2
(i)	loss of profits; or	14.
(ii)	loss of business; or	14.1
(iii)	depletion of goodwill and/or similar losses; or	SEVERANCE If any provision of the Contract (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the Contract, and the validity and enforceability of the other provisions of the Contract shall not be affected.
(iv)	loss of anticipated savings; or	14.1
(v)	loss of goods; or	If a provision of the Contract (or part of any provision) is found illegal, invalid or unenforceable, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.
(vi)	loss of contract; or	15.
(vii)	loss of use; or	15.1
(viii)	loss of corruption of data or information; or	ENTIRE AGREEMENT The Contract constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter.
(ix)	any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses	15.1
(b)	TAG's 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 £500,000, or the price paid for the Services whichever shall be the lower.	15.2
9.	DATA PROTECTION The Customer acknowledges and agrees that details of the Customer's name, address and payment record may be submitted to a credit reference agency in connection with the Services.	15.2
10.	TERMINATION	15.3
10.1	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 1 month's written notice or immediately on giving notice to the other if:	16.
(a)	the other party fails to pay any amount due under the Contract on the due date for payment and remains in default not less than seven days after being notified in writing to make such payment; or	16.1
(b)	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	16.2
(c)	the other party repeatedly breaches any of the terms of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Contract; or	17.
(d)	the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being a natural person) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply; or	NO PARTNERSHIP OR AGENCY Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.
(e)	the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party; or	18.
(f)	a petition is filed, a notice is given, a resolution is passed, or an order is made, for or on connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party; or	RIGHTS OF THIRD PARTIES A person who is not a party to the Contract shall not have any rights under or in connection with it.
(g)	an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party; or	19.
(h)	a floating charge holder over the assets of that other party has become entitled to appoint or has appointed an administrative receiver; or	19.1
(i)	a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party; or	19.1
(j)	a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days; or	19.2
(k)	any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in condition 10.1(d) to condition 10.1(j) (inclusive); or	19.2
(l)	the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or	19.3
(m)	there is a change of control of the other party (as defined in section 574 of the Capital Allowances Act 2001).	19.4
10.2	The parties acknowledge and agree that any breach of conditions 10.1.(d) to 10.1.(l) inclusive shall constitute a material breach for the purposes of this condition 10.	19.4
10.3	On termination of the Contract for any reason:	20.
(a)	the Customer shall immediately pay to TAG all of TAG's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, TAG may submit an invoice, which shall be payable immediately on receipt;	20.1
(b)	the Customer shall, within a reasonable time, return all of TAG's Equipment and materials. If the Customer fails to do so, then TAG may enter the Customer's premises and take possession of them. Until they have been returned or repossessed, the Customer shall be solely responsible for their safe keeping; and	20.1
(c)	the accrued rights and liabilities of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination, shall not be affected.	20.2
10.4	On termination of the Contract (however arising), the following conditions shall survive and continue in full force and effect:	GOVERNING LAW AND JURISDICTION 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. The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, the Contract or its subject matter.
(a)	condition 6;	20.2
(b)	condition 7;	20.2
(c)	condition 8;	20.2