

TERMS & CONDITIONS – APPLICABLE TO THE PROVISION OF ALL GOODS AND SERVICES BY MDI LIMITED

1.	INTERPRETATION		
1.1	The definitions and rules of interpretation in this clause apply in these terms and conditions (Conditions). Contract: a Customer's purchase order and the Supplier's acceptance of it, or the Customer's acceptance of a Quotation under condition 2.2. Customer's Equipment: any equipment, systems, cabling or facilities provided by the Customer and used directly or indirectly in the supply of the Services. Customer's Manager: the Customer's manager for Services, appointed in accordance with condition 5.1. Deliverables: all Documents, products and materials developed by the Supplier in relation to Services in any form, including computer programs, data, reports and specifications. 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. Equipment: the goods to be supplied by the Supplier under any Contract as set out in any Quotation. In-put Material: all Documents, information and materials provided by the Customer 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. Pre-existing Materials: all Documents, information and materials provided by the Supplier relating to the Services which existed prior to the commencement of the Contract including computer programs, data, reports and specifications Quotation: the quotation under which the Services, Equipment and Deliverables are supplied. Services: the services to be provided by the Supplier under any Contract as set out in any Quotation, together with any other services which the Supplier provides or agrees to provide to the Customer. Supplier: MDI Limited VAT: value added tax chargeable under English law for the time being and any similar additional tax.	Such expenses, materials and third party services shall be invoiced by the Supplier at cost; and (b) VAT, which the Supplier shall add to its invoices at the appropriate rate.	
6.6		The Customer shall pay each invoice submitted to it by the Supplier, in full and in cleared funds, within 14 days of receipt.	
6.7		Without prejudice to any other right or remedy that it may have, if the Customer fails to pay the Supplier on the due date, the Supplier may: (a) charge interest on such sum from the due date for payment at the annual rate of 5% above the base lending rate from time to time of Barclays Bank Plc, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment and the Supplier 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.	
6.8		Time for payment shall be of the essence of the Contract.	
7.		INTELLECTUAL PROPERTY RIGHTS	
7.1		As between the Customer and the Supplier, all Intellectual Property Rights and all other rights in the Deliverables and the Pre-existing Materials shall be owned by the Supplier. Subject to condition 7.2, the Supplier licenses all such rights to the Customer free of charge and on a non-exclusive, worldwide basis to such extent as is necessary to enable the Customer to make reasonable use of the Deliverables and the Services. If the Contract is terminated, this licence will automatically terminate.	
7.2		The Customer acknowledges that, where the Supplier does not own any Pre-existing Materials, the Customer's use of rights in Pre-existing Materials is conditional on the Supplier obtaining a written licence (or sub-licence) from the relevant licensor or licensors on such terms as will entitle the Supplier to license such rights to the Customer.	
8.		LIMITATION OF LIABILITY - THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF THIS CONDITION	
8.1		The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill and so far as reasonably possible in accordance with any specification provided by the Supplier to the Customer in writing and at the intervals and within the times agreed in writing. Where the Supplier supplies in connection with the provision of the Services any Deliverables or Equipment supplied by a third party, the supplier does not give any warranty, guarantee or other term as to their quality, fitness for purpose or otherwise, but shall, where possible, assign to the Customer the benefit of any warranty, guarantee or indemnity given by the person supplying the Deliverables or Equipment to the Supplier.	
8.2		This condition 8 set out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of: (a) any breach of the Contract; (b) any use made by the Customer of the Services, the Equipment, 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.	
8.3		All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.	
8.4		Nothing in these Conditions limits or excludes the liability of the Supplier: (a) for death or personal injury resulting from negligence; or (b) for any damage or liability incurred by the Customer as a result of fraud or fraudulent misrepresentation by the Supplier; or (c) for any liability incurred by the Customer as a result of any breach by the Supplier 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.	
8.5		Subject to condition 8.3 and condition 8.4 (a) the Supplier shall not be liable for: (i) loss of profits; or (ii) loss of business; or (iii) depletion of goodwill and/or similar losses; or (iv) loss of anticipated savings; or (v) loss of goods; or (vi) loss of contract; or (vii) loss of use; or (viii) loss of corruption of data or information; or (ix) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses. (b) the Supplier'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 twice the price paid for the Services.	
9.		TERMINATION	
9.1		Without prejudice to any other rights or remedies which the parties may have, either party may terminate the Contract without liability to the other immediately on giving notice to the other if 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.	
10.		VARIATION & WAIVER	
10.1		Variation of the Contract or these Conditions shall be valid unless it is in writing and signed by or on behalf of each of the parties.	
10.2		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.	
10.3		Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.	
11.		STATUS OF PRE-CONTRACTUAL STATEMENTS	
11.1		Each of the parties acknowledges and agrees that, in entering into the Contract it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to these terms and conditions or not) relating to the subject matter of the Contract, other than as expressly set out in the Contract.	
12.		GOVERNING LAW	
12.1		The Contracts 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.	
12.2		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.	
6.		CHARGES AND PAYMENT	
6.1		Condition 6.2 shall apply if the Supplier provides the Services on a time and materials basis. Condition 6.3 shall apply if the Supplier provides the Services for a fixed price. The remainder of this condition 6 shall apply in either case.	
6.2		Where the Services are provided on a time and materials basis: (a) the charges payable for the Services shall be calculated in accordance with the relevant Quotation or with the Supplier's standard daily or hourly fee rates, as amended from time to time by the Supplier giving not less than one month's written notice to the Customer; and (b) the Supplier'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).	
6.3		Where the Services are provided for a fixed price, the total price for the Services shall be the amount set out in the Quotation.	
6.4		The total price for the Equipment shall be the amount set out in the Quotation.	
6.5		Any fixed price and daily rate contained in the Quotation excludes: (a) the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the individuals whom the Supplier 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 the Supplier for the supply of the Services.	