



TERMS & CONDITIONS OF TRADING

For the Provision of Services

1. DEFINITIONS

In this document the following words shall have the following meanings:

- 1.1 "Agreement" means these Terms and Conditions together with the amendments as agreed, outlined in writing (by email or otherwise);
- 1.2 "Customer" means the organisation or person who purchases services from the supplier;
- 1.3 "Intellectual Property Rights" means all patents, registered and unregistered designs, copyright, trade marks, know-how and all other forms of intellectual property wherever in the world enforceable;
- 1.4 "Supplier" means TMG Corporate Services / The Mediator Group - United Kingdom, Republic of Ireland and Singapore;

2. GENERAL

- 2.1 These Terms and Conditions shall apply to all contracts for the supply of services by the supplier, to the customer.
- 2.2 All applicable fee structures shall be subject to these Terms and Conditions of Trading.
- 2.3 Before the commencement of the services the supplier shall, for services where a fee (non-commission based services applies):
 - 2.3.1 Submit to the customer the Standard Rate Card for Services; or
 - 2.3.2 Agree in writing by email or whatever other form the fees payable for the services, if they differ from the Standard Rate Card for Services; or
 - 2.3.1 Submit to the customer (where applicable) an Agreement to Discharge Professional Services Fees outlining the fees payable for the services. The customer shall notify the supplier immediately if the customer does not agree with the contents of this document.
- 2.4 In the case of a commission based service the supplier shall submit to the customer an Agreement to Discharge Collection Fees outlining the commission payable. The customer shall notify the supplier immediately if the customer does not agree with the contents of this document. All commission fee percentages are subject to VAT at the prevailing rate.
- 2.5 The supplier shall use all reasonable endeavours to complete the services within the estimated time frames but time shall not be of the essence in the performance of any services.

3. FEES, COMMISSIONS AND PAYMENT

- 3.1 The fees for the performance of the services are as set out in the Standard Rate Card for Services, Agreement to Discharge Professional Services Fees and Agreement to Discharge Collection Fees or any amendments that apply – confirmed in writing.
- 3.2 Where time and materials apply the fees are based on a seven hour working day or an hourly rate of €85.50 per hour or part thereof, excluding VAT / Sales Tax at the prevailing rate.
- 3.3 In the event that work in any given day exceeds seven hours then each subsequent hour or part thereof will be billed at a flat hourly rate of €125.00 per hour or part thereof excluding VAT / Sales Tax at the prevailing rate.
- 3.4 There will be no distinction between normal working hours (9am to 5pm), evening hours, night hours, weekend hours or Bank or Public Holidays.
- 3.4 The supplier shall invoice the customer for the services monthly in arrears or deduct fees due for services from any retainer paid on account or from monies received / collected on the behalf of the customer, whatever case is applicable.
- 3.5 Invoiced amounts shall be due and payable on receipt of invoice. The supplier shall be entitled to charge interest on overdue invoices from the date when payment becomes due from day to day until the date of payment at a rate of 0.3% per day.
- 3.6 In the event that the customer's procedures require that an invoice be submitted against a purchase order for payment, the customer shall be responsible for issuing such purchase order before the services are rendered.
- 3.7 The ownership of all goods and intellectual property shall remain with supplier until payment has been received in full.

4. CUSTOMERS OBLIGATIONS

- 4.1 To enable the supplier to perform its obligations under this Agreement the customer shall:

- 4.1.1 Co-operate with the supplier;
- 4.1.2 Provide the supplier with any information reasonably required by the supplier;
- 4.1.3 Obtain all necessary permissions and consents which may be required before the commencement of the services; and
- 4.1.4 Comply with such other requirements as may be set out in the service specification or otherwise agreed between the parties.
- 4.2 The customer shall be liable to compensate the supplier for any expenses incurred by the supplier as a result of the customer's failure to comply with Clause 4.1.
- 4.3 Without prejudice to any other rights to which the supplier may be entitled, in the event that the customer unlawfully terminates or cancels the services agreed to, the customer shall be required to pay to the supplier as agreed damages and not as a penalty the full amount of any third party costs to which the supplier has committed. In respect of cancellations of less than five working days the full amount of the services contracted for as set out in the service specification shall apply. For the avoidance of doubt, the customer's failure to comply with any obligations under Clause 4.1 shall be deemed to be a cancellation of the services.
- 4.4 In the event that the customer or any third party, not being a sub-contractor of the supplier, shall omit or commit anything which prevents or delays the supplier from undertaking or complying with any of its obligations under this Agreement, then the supplier shall notify the customer as soon as possible and:
 - 4.4.1 The supplier shall have no liability in respect of any delay to the completion of any project;
 - 4.4.2 If applicable, the timetable for the project will be modified accordingly;
 - 4.4.3 The supplier shall notify the customer at the same time if it intends to make any claim for additional costs.

5. WARRANTY

- 5.1 The supplier warrants that the services performed under this Agreement shall be performed using reasonable skill and care, and of a quality conforming to generally accepted industry standards and practices.
- 5.2 Without prejudice to Clause 5.1, and except as expressly stated in this Agreement, all warranties whether express or implied, by operation of law or otherwise, are hereby excluded in relation to the services to be provided by the supplier.

6. INDEMNIFICATION

- 6.1 The customer shall indemnify the supplier against all claims, costs and expenses which the supplier may incur and which arise, directly or indirectly from the supply of services.
- 6.2 The customer shall indemnify the supplier against all claims, costs and expenses which the supplier may incur and which arise, as a result of the customer's breach of any of its obligations under this Agreement, including any claims brought against the supplier alleging that any services provided by the supplier infringes any prior third party agreement or other similar right of a third party.

7. LIMITATION OF LIABILITY

- 7.1 Except in the respect of death or personal injury due to negligence for which no limit applies, the entire liability of the supplier to the customer in respect of any claim whatsoever or breach of this Agreement, whether or not arising out of negligence, shall be limited to the fees paid by the customer to which the claim relates.
- 7.2 In no event shall the supplier be liable to the customer for any loss of business, loss of opportunity or loss of profits or for any other indirect or consequential loss or damage whatsoever. This shall apply even where such a loss was reasonably foreseeable or the supplier had been made aware of the possibility of the customer incurring such a loss.

8. TERMINATION

Either party may terminate this Agreement forthwith by notice in writing to the other if:

- 8.1 The other party commits a material breach of this Agreement and, in the case of a breach capable of being remedied, fails to remedy it within 30 calendar days of being given written notice from the other party to do so;
- 8.2 The other party commits a material breach of this Agreement which cannot be remedied under any circumstances;

8.3 The other party passes a resolution for winding up (other than for the purpose of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect;

8.4 The other party ceases to carry on its business or substantially the whole of its business; or

8.5 The other party is declared insolvent, or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or a liquidator, receiver, administrative receiver, manager, trustee or similar officer is appointed over any of its assets.

9. INTELLECTUAL PROPERTY RIGHTS

All Intellectual Property Rights produced from or arising as a result of the performance of this Agreement shall, so far as not already vested, become the absolute property of the supplier, and the customer shall do all that is reasonably necessary to ensure that such rights vest in the supplier by the execution of appropriate instruments or the making of agreements with third parties.

10. FORCE MAJEURE

Neither part shall be liable for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to acts of God, strikes, lock outs, accidents, war, fire, the act or omission of government, road authorities or any telecommunications carrier, operator or administration or other competent authority, or the delay or failure in manufacture, production, or supply by third parties of equipment or services, and the party shall be entitled to a reasonable extension of its obligations after notifying the other party of the nature and extent of such events.

11. INDEPENDENT CONTRACTORS

The supplier and the customer are contractors independent of each other, and neither has the authority to bind the other to any third party or act in any way as the representative of the other, unless otherwise expressly agreed to in writing by both parties. The supplier may, in addition to its own employees, engage sub-contractors to provide all or part of the services being provided to the customer and such engagement shall not relieve the supplier of its obligations under this Agreement.

12. ASSIGNMENT

The customer shall not be entitled to assign its rights or obligations or delegate its duties under this Agreement without the prior written consent of the supplier.

13. SEVERABILITY

If any provision of this Agreement is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction such provision shall be severed and the remainder of the provisions herein shall continue in full force and effect as if this Agreement had been agreed with the invalid illegal or unenforceable provision eliminated.

14. WAIVER

The failure by either party to enforce at any time or for any period any one or more of the Terms and Conditions herein shall not be a waiver of them or of the right at any time subsequently to enforce all Terms and Conditions of this Agreement.

15. NOTICES

Any notice to be given by either party to the other may be served by email, fax, personal service or by post to the address of the other party as part of the Agreement or such other address such party may from time to time have communicated to the other in writing, and if sent by email shall, unless the contrary is proved, be deemed to be served on receipt of an error free transmission report, if given by letter shall be deemed to have been served at the time at which the letter was delivered in the ordinary course of post.



16. ENTIRE AGREEMENT

This agreement contains the entire agreement between the parties relating to the subject matter and supersedes any previous agreements, arrangements, undertakings or proposals, oral or written. Unless expressly provided elsewhere in this Agreement, this Agreement may be varied only by a document signed by both parties.

17. NO THIRD PARTIES

Nothing in this Agreement is intended to, nor shall it confer any rights on a third party.

18. GOVERNING LAW AND JURISDICTION

This agreement shall be governed by and construed in accordance with the law of Ireland and the parties hereby submit to the exclusive jurisdiction of the Irish courts.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first below written.

Signed for and on behalf of Company

Signature

Print name

Title

Date

Signed for and on behalf of TMG Corporate Services / The Mediator Group

Signature

Print name

Title

Date