

ASCENTOR LIMITED
TERMS AND CONDITIONS OF SUPPLY OF MANAGEMENT SYSTEM CONSULTANCY SERVICES

The Customer's attention is in particular drawn to the provisions of conditions 5 and 9.

1. INTERPRETATION

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

Confidential Information: all information, whether technical or commercial, where the information is identified as confidential at the time of disclosure, or ought reasonably to be considered confidential given the nature of the information or the circumstances of disclosure.

Contract: the contract between the Supplier and the Customer for the provision of services incorporating the Project Proposal/Order Form and these Conditions.

Contract Date: the date the Project Proposal/Order Form is signed or otherwise accepted in writing by the Customer.

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

Deliverables: all documents, products and materials developed by the Supplier or its agents, subcontractors, consultants and employees in relation to the Services in any form.

In-put Material: all documents, information and materials provided by the Customer relating to the Services.

Intellectual Property Rights: all intellectual property rights wherever in the world arising, whether registered or unregistered (and including any application), including copyright, know-how, confidential information, trade secrets, business names and domain names, trade marks, service marks, trade names, patents, petty patents, utility models, design rights, semi-conductor topography rights, database rights and all rights in the nature of unfair competition rights or rights to sue for passing off.

Key Person: The Customer's designated representative in relation to the management of the project.

Party: a party to the Contract.

Project Proposal/Order Form: the document setting out details of the proposed Services and payment plan, signed by the Supplier.

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

Supplier: Ascentor Limited, a company registered in England under number 05260780, whose registered office is at 30 Tower View, Kings Hill, West Malling, Kent ME19 4UY.

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

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

1.3 A reference to **writing** or **written** includes faxes and e-mail.

1.4 References to Conditions are to the conditions of the Contract as set out herein.

2. APPLICATION OF CONDITIONS

2.1 These Conditions shall:

- (a) apply to the provision of the Services detailed in the Contract; and

- (b) prevail over any inconsistent terms or conditions contained, or referred to, in any 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 is deemed to have accepted these Conditions by accepting the terms contained in the Project Proposal/Order Form.
- 2.3 If the Project Proposal/Order Form contains any terms or conditions that are inconsistent with these Conditions then in relation to such terms or conditions the Project Proposal/Order Form shall prevail.

3. COMMENCEMENT AND DURATION

- 3.1 The Services supplied under the Contract shall be provided by the Supplier as soon as is reasonably possible after the date of receipt of the Project Proposal/Order Form countersigned by the Customer
- 3.2 Subject to condition 11.5 and in accordance with condition 4.1, the Supplier's obligation to provide the Services shall be considered discharged when the Services have been delivered, or after 12 months from the Contract Date, whichever is the sooner, unless otherwise agreed in writing with the Customer.

4. SUPPLIER'S OBLIGATIONS

- 4.1 The Supplier shall use reasonable endeavours to provide the Services, and to deliver any Deliverables to the Customer, in accordance with the Project Proposal/Order Form in all material respects.
- 4.2 The Supplier 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(d), 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.
- 4.3 Subject to condition 4.4, the Supplier shall refund the cost of any charges made by a UKAS-accredited certification body for any re-visit required after the Stage 2 certification audit to verify the effectiveness of corrective action relating to system documentation and recommend certification. The Supplier shall also provide all support required to complete actions relating to the management system documentation required by the certification body to recommend certification.
- 4.4 The refund and support referred to in condition 4.3 will be only be made where the Customer has complied with the Contract and completed all work specified by the Supplier.

5. CUSTOMER'S OBLIGATIONS - THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CONDITION

- 5.1 The Customer shall:
 - (a) co-operate with the Supplier in all matters relating to the Services and promptly appoint the Key Person in relation to the Services and notify to the Supplier such person's name and contact details;
 - (b) provide the Supplier, 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 the Supplier or any of them;

- (c) provide to the Supplier, in a timely manner, such In-put Material and other information as the Supplier may reasonably require and ensure that it is accurate in all material respects;
 - (d) inform the Supplier of all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Customer's premises;
 - (e) provide the Supplier with five working days' notice in writing if they intend to cancel or re-arrange a meeting with the Supplier, its agents, subcontractors, consultants or employees. Failure to provide such notice will result in the Customer being charged as if the meeting had taken place at its original scheduled time, and for any costs, charges or losses sustained or incurred by the Supplier, its agents, subcontractors, consultants or employees.
- 5.2 If the Supplier'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, the Supplier 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 the Supplier, on demand, all reasonable costs, charges or losses sustained or incurred by the Supplier (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 the Supplier confirming such costs, charges and losses to the Customer in writing.

6. CHARGES AND PAYMENT

- 6.1 In consideration of the provision of the Services by the Supplier, the Customer shall pay the charges as set out in the Customer's payment plan in the Project Proposal/Order Form.
- 6.2 All prices set out in the Project Proposal/Order Form exclude VAT, which the Supplier shall add to its invoices at the appropriate rate.
- 6.3 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 after 30 days from the due date for payment at the annual rate of 5% above the base lending rate from time to time of the Bank of England, 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; and
 - (b) suspend all Services until payment has been made in full.
- 6.4 Time for payment shall be of the essence of the Contract.
- 6.5 All sums payable to the Supplier under the Contract shall become due immediately on its termination despite any other provision. This condition 6.5 is without prejudice to any right to claim for interest under the law, or any such right under the Contract.
- 6.6 The Supplier may, without prejudice to any other rights it may have, set off any liability of the Customer to the Supplier against any liability of the Supplier to the Customer.

7. INTELLECTUAL PROPERTY RIGHTS

- 7.1 All Intellectual Property Rights in the Deliverables arising in connection with the Contract shall be the property of the Supplier, and the Supplier hereby grants the Customer a non-exclusive licence of such Intellectual Property Rights for the purposes of maintaining certification to ISO and BS standards.

- 7.2 The Supplier shall retain the property and copyright in all documents supplied to the Customer in connection with the Contract (including without limitation template forms, process descriptions, procedures, spreadsheets and guidance notes) and it shall be a condition of such supply that the contents of such documents shall not be communicated either directly or indirectly to any other person, firm or company without the prior written consent of the Supplier.

8. CONFIDENTIALITY AND THE SUPPLIER'S PROPERTY

- 8.1 Each Party to the Contract shall protect the Confidential Information of the other Party against unauthorised disclosure by using the same degree of care as it takes to preserve and safeguard its own confidential information of a similar nature, being at least a reasonable degree of care.
- 8.2 Either Party may disclose Confidential Information:
- (a) to its employees, officers, representatives, advisers, agents or subcontractors who need to know such information for the purposes of carrying out the Party's obligations under the Contract; and
 - (b) as may be required by law, court order or any governmental or regulatory authority.
- 8.3 Each Party shall ensure that its employees, officers, representatives, advisers, agents or subcontractors to whom it discloses such information comply with this condition 8.
- 8.4 Neither Party shall use Confidential Information for any purpose other than to perform its obligations under the Contract.

9. LIMITATION OF LIABILITY - THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CONDITION

- 9.1 This condition 9 sets out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents, consultants, and subcontractors) to the Customer in respect of:
- (a) any breach of the Contract;
 - (b) any use made by the Customer of the Services, 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.
- 9.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 9.3 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.
- 9.4 Subject to condition 9.2 and condition 9.3
- (a) the Supplier shall not be liable for any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses, nor any loss of, theft of, damage to, or corruption of, the Customer's data and/or documents;
 - (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 the price paid for the Services or any amount payable under the Supplier's insurance policies from time to time in place in respect of such liability, whichever is greater;

- (c) the supplier is providing the Services at the Customer's request and the Customer is responsible for verifying that the information it provides to the Supplier is correct. The Supplier will not be liable for any services it provides which are incorrect as a result of that information.

10. DATA PROTECTION

- 10.1 The Customer acknowledges and agrees that details of the Customer's name, address and payment record may be submitted to a credit reference agency.
- 10.2 Personal data relating to the Customer's employees, clients and/or suppliers may be processed by the Supplier for the purposes of, and for the duration of, the delivery of the Services, in which case the Customer shall ensure that the data protection principles specified in the General Data Protection Regulation are complied with.
- 10.3 The Customer remains legally responsible for the processing of any personal data carried out by the Supplier in relation to the delivery of the Services, and shall not instruct the Supplier to process personal data where the Customer does not have a secure basis in law to process that data.
- 10.4 The Supplier shall at all times process personal data in relation to the delivery of the Services only on documented instructions from the Customer and in accordance with the General Data Protection Regulation, unless required to do so by law.
- 10.5 The Supplier shall have in place appropriate technical and organisational security measures that protect any personal data it is contracted to process on behalf of the Customer from unauthorised or unlawful processing, accidental loss, destruction or damage.
- 10.6 The Supplier shall assist the Customer in ensuring compliance with the obligations in relation to security of personal data, the notification of personal data breaches and data protection impact assessments.
- 10.7 The Supplier shall have in place appropriate measures, insofar as this is possible, for the fulfilment of the Customer's obligation to respond to requests for exercising the data subject's rights in relation to their personal data.
- 10.8 The Supplier shall ensure that that anybody authorised to process any personal data has committed themselves to maintain its confidentiality.
- 10.9 Subject to condition 10.10, the Supplier shall not share any personal data that is processed by the Supplier in relation to the delivery of the Services with any third party without the prior written permission of the Customer or process personal data on behalf of the Customer in any way or for any purpose that has not been instructed and authorised by the Customer.
- 10.10 The Customer shall authorise the Supplier to engage third party processors to process the Customer's personal data in order to deliver the Services. The Supplier shall inform the Customer of any intended changes to those third party processors in order to provide the Customer with the opportunity to object to the engagement. Any third party processors engaged shall have imposed on them the same data protection obligations contained in these Conditions by way of a binding contract.
- 10.11 The Supplier shall not transfer personal data processed on behalf of the Customer to any territory outside the United Kingdom.

- 10.12 The Supplier shall make available to the Customer all information necessary to demonstrate compliance with the obligations laid down in this condition 10 and allow for and contribute to audits, including inspections, conducted by the Customer (or another auditor mandated by the Customer) at the Customer's expense.
- 10.13 The Supplier shall, at the choice of the Customer, delete or return any personal data processed on behalf of the Customer to the Customer after the end of the provision of Services, and delete any existing copies.
- 10.14 The Supplier shall notify the Customer without undue delay after becoming aware of a security incident relating to any personal data processed on behalf of the Customer.
- 10.15 The Customer acknowledges and agrees that the Supplier may use the Customer's name and company logo in its marketing materials unless the Supplier is advised to the contrary in writing by the Customer at any time.

11. TERMINATION

- 11.1 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:
- (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
 - (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
 - (c) 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
 - (d) the other Party takes any action, or any third party takes any action in relation to the other Party, or its assets, which leads the Party seeking to terminate the Contract pursuant to this clause 11 reasonably to believe that the other Party may be insolvent, may become insolvent, or may be or become the subject of insolvency-related proceedings of any nature whatsoever;
 - (e) 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 11.1(c); or
 - (f) the other Party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business.
- 11.2 The parties acknowledge and agree that any breach of condition 6.1 shall constitute a material breach for the purposes of this condition 11.
- 11.3 On termination of the Contract for any reason:
- (a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier may submit an invoice, which shall be payable immediately on receipt;

- (b) 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.
- 11.4 On termination of the Contract (however arising) the following conditions shall survive and continue in full force and effect:
 - (a) condition 8;
 - (b) condition 9;
 - (c) condition 11; and
 - (d) condition 21;
- 11.5 The Supplier shall terminate the Contract 12 months after the commencement of the Services, unless otherwise agreed in writing and, in the reasonable opinion of the Supplier, the Customer has made reasonable efforts to comply with conditions 5.1(a), 5.1(b) and 5.1(c)

12. FORCE MAJEURE

The Supplier 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 the Supplier 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.

13. VARIATION

- 13.1 The Supplier may, from time to time and without notice, change the Services in order to comply with any applicable safety or statutory requirements, provided that such changes do not materially affect the nature, scope of, or the charges for the Services.
- 13.2. The Supplier may amend the Conditions at any time by reasonable notice, and such amended Conditions will be binding on the Customer.
- 13.3. Subject to conditions 13.1 and 13.2, no variation of the Project Proposal/Order Form shall be valid unless agreed in writing by both of the Parties.

14. 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.

15. SEVERANCE

- 15.1 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.

- 15.2 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.

16. ENTIRE AGREEMENT

- 16.1 The Contract constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter.
- 16.2 Each Party acknowledges that, in entering into the Contract, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than for breach of contract.
- 16.3 Nothing in this condition 16 shall limit or exclude any liability for fraud.

17. ASSIGNMENT

- 17.1 The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, mortgage, subcontract or deal in any manner with all or any of its rights or obligations under the Contract.
- 17.2 The Supplier may at any time assign, transfer, charge, mortgage, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.
- 17.3 Each Party that has rights under the Contract is acting on its own behalf and not for the benefit of another person.

18. 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 the parties, nor constitute either Party the agent of the other Party for any purpose. No Party shall have authority to act as agent for, or to bind, the other Party in any way.

19. RIGHTS OF THIRD PARTIES

A person who is not a Party shall not have any rights under or in connection with the Contract.

20. NOTICES

- 20.1 Any notice or other communication required to be given under the Contract shall be in writing and shall be delivered personally, or sent by pre-paid first-class post, recorded delivery or by commercial courier, or by e-mail, to the other Party.
- 20.2 Any notice or other communication required to be given under the Contract shall be deemed to have been duly received if delivered personally, when left at the address specified for that Party in the Project Proposal/Order Form or, if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting, or, if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or, if delivered by e-mail, on the date and time specified on the electronic delivery receipt and/or read receipt received by the sender in respect of such e-mail.
- 20.3 This condition 20 shall not apply to the service of any documents in any court proceedings or other documents in any legal action.

21. GOVERNING LAW AND JURISDICTION

- 21.1 The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the law of England and Wales.
- 21.2 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 or formation (including non-contractual disputes or claims).