

TERMS AND CONDITIONS

1. DEFINITIONS

1.1. In these terms and conditions (the **Terms and Conditions**) unless the context otherwise requires:

Authorised Representative means any employee, officer or representative of the Customer authorised to sign Purchase orders;

Business Day means any day on which banks are generally open for business in the City of London (other than Saturdays, Sundays or public holidays) and the expression Business Days shall be construed accordingly;

Confidential Information means (without limitation) lists or details of customers, information relating to the working of any process or invention carried on or used by the Customer, information relating to research, projects, secret formulae, processes, inventions, designs, know-how, discoveries, technical specifications and other technical information, accounts or financial dealings of the Customer and/or price sensitive information;

Contract means the contract between the Customer and Martin Sennett Limited for the provision of the Product or Service described in the Proposal supplied by Martin Sennett Limited and further defined in the Customer's Purchase Order if appropriate;

Cost means the gross cost (as shown in the Proposal and Customer Purchase Order) which shall be payable by the Customer to the Martin Sennett Limited in respect of the Product / Service defined in the Proposal;

Customer means the person, firm or corporate body identified in the Proposal;

Martin Sennett Limited means the limited company identified in The Proposal;

Operative means the individual(s) deployed by Martin Sennett Limited to provide the Product / Service;

Product / Service means the Scope of Work as defined in the Proposal; and

Proposal means the Proposal provided to the Customer defining the Scope of Work as understood by Martin Sennett Limited;

- 1.2. Unless the Terms require otherwise references to the singular include the plural and references to the masculine include the feminine and vice versa.
- 1.3. The headings contained in these Terms and Conditions are for convenience only and do not affect their interpretation.
- 1.4. Any reference in these Terms and Conditions to any statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to that statute or statutory provision as, from time to time, amended, consolidated, modified, replaced, re-enacted or extended.

Trading Office

Martin Sennett Limited
32 Ruby Road
Southampton
Hampshire
SO19 7NA
Registered in Wales No. 6659764
Tel: +44 (0) 2380 449636
Mob: +44 (0) 78 4094 5304
Email: enquiries@martin-sennett.co.uk

Registered Office

Horner Downey & Company Limited
Chartered Accountants & Registered Auditors,
10 Stadium Court
Stadium Road
Bromborough
Wirral
Merseyside
CH62 3RP.

2. THE CONTRACT

- 2.1. Subject to any variation under clause 2.2, this shall be the Contract to the exclusion of all other terms and conditions (including any terms and conditions which the Customer purports to apply under any other document) unless other terms and conditions are specified in the Customer's Purchase order and the Purchase Order is accepted by a director of Martin Sennett Limited.
- 2.2. No further variation or alteration of the Contract shall be valid unless agreed in writing and signed by a director of Martin Sennett Limited and an Authorised Representative of the Customer.
- 2.3. Martin Sennett Limited has agreed to provide the Product / Service to the Customer. For the avoidance of doubt, neither the provision of the Product / Service nor the terms of the Contract are intended to create an employment relationship between Martin Sennett Limited (or its Operative) and the Customer.
- 2.4. Details of the Cost and timescales of each Product / Service shall be detailed in the Proposal. If the Product has a life cycle requiring customer comment (eg Draft, Second Draft, Final Copy) production times for each stage will be defined in the Proposal. A separate Proposal shall be issued to the Customer for every Product / Service. Each Proposal shall constitute a separate Contractual offer.
- 2.5. Without prejudice to clause 3.1, the Contract may be transferred or sub-contracted to a third party by the Customer or Martin Sennett Limited provided that the prior written consent of the other party is obtained (such consent will not be unreasonably withheld or delayed).
- 2.6. Parts of the Contract may be sub-contracted to a sub-contractor by Martin Sennett Limited without reference to the Customer. Any sub-contractor will be subject to a Non-Disclosure Agreement if applicable.
- 2.7. The Customer has no obligation to offer future contracts to Martin Sennett Limited and if it does make any such offer, Martin Sennett Limited is not obliged to accept it.
- 2.8. Nothing in the Contract shall prohibit the Martin Sennett Limited from providing its Products / Service or those of its Operative to any other person or organisation.

3. PRODUCT / SERVICE

- 3.1. Martin Sennett Limited is not obliged to provide a named Operative to provide the Product / Service and its obligation to provide the Product / Service shall be performed by such suitably qualified Operative as Martin Sennett Limited considers appropriate.
- 3.2. It is recognised that Martin Sennett Limited is an expert in its field and shall undertake responsibility for deciding the methodology to be deployed in delivering the Products/Service without the need for any direction from the Customer. Furthermore, Martin Sennett Limited shall determine the production location or production locations required to ensure the effective delivery of the Product/Service and shall have particular regard to the Contract's demands to ensure that adequate resources are deployed to enable the Product / Services to be delivered on time and in accordance with the Contract.

4. COSTS

- 4.1. Martin Sennett Limited shall receive payment or stage payment from the Customer for the Product / Service at the cost specified in the Proposal, plus VAT where appropriate.
- 4.2. The Customer shall settle all invoices rendered by Martin Sennett Limited relating to the provision of Products by the Operative within thirty (30) days of receipt of the same by the Customer unless otherwise agreed.
- 4.3. All payments shall be made to Martin Sennett Limited and banking details will be provide on the invoices.

5. LIABILITY

- 5.1. To the extent permitted by law, Martin Sennett Limited shall be liable to the Customer for any claims for loss, damage, injury or expense by the Customer arising directly from any negligent acts or omissions of the Operatives in providing the Product / Service, or from a breach of the terms of the Contract, provided that Martin Sennett Limited liability under this Contract shall be limited to and shall not exceed Martin Sennett Limited level of insurance cover.
- 5.2. To the extent permitted by law, the Customer shall be liable to Martin Sennett Limited for any claims for loss, damage, injury or expense by Martin Sennett Limited arising directly from any negligent acts or omissions of the Customer in respect of the Product / Service, or from a breach of the terms of the Contract, provided that the Customer's liability under this Contract shall be limited to and shall not exceed the maximum amount to which it is insured in respect of professional indemnity matters and public liability matters.
- 5.3. Neither party shall be under any liability to the other party for any indirect economic loss, consequential loss or damage (whether loss of profit, loss of business, depletion of goodwill or otherwise) costs or expenses or other claims for consequential losses suffered by the other party howsoever caused by the other party including but not limited to the negligence of the other party or as a result of a breach of the Contract.
- 5.4. Martin Sennett Limited shall maintain adequate public liability and professional indemnity insurance for the duration of the Contract and shall make a copy of such policies available to the Customer upon reasonable request.

6. OBLIGATIONS OF MARTIN SENNETT LIMITED

- 6.1. Martin Sennett Limited shall:
- 6.2. take all reasonably practicable steps to ensure that its Operative and any other person affected by the Operative's actions when providing the Product / Service are not exposed to risks to their health or safety;
- 6.3. ensure, so far as is reasonably practicable, that the Operative complies with any applicable health and safety policies and procedures which apply to limited companies in force at the premises where the Product / Service is being produced. This will be the premises of the Operative, not the Customer;
- 6.4. ensure, so far as is reasonably practicable, that the Operative complies with any applicable health and safety policies and procedures which apply to limited companies in force at the premises where liaison visits are necessary. This will be the Customer's premises, or premises the Customer directs the operative to attend for the purpose of liaison, not the Operative's premises;
- 6.5. provide the Customer with any progress reports which may be requested at the Customer's cost if Martin Sennett Limited deems it necessary;
- 6.6. comply with all the requirements of VAT legislation and the Companies Act 1985; and
- 6.7. comply with the Reporting of Diseases and Dangerous Occurrences Regulations 1995.
- 6.8. Martin Sennett Limited shall be responsible for paying statutory sick pay, holiday pay, statutory maternity pay, paternity pay or adoption pay to its Operative providing the Products/Services under the Contract.
- 6.9. Martin Sennett Limited shall be responsible for any PAYE, Income Tax and National Insurance contributions and any other taxes and deductions (other than VAT) payable in respect of its Operative for the Contract.
- 6.10. The Customer shall not be responsible for providing any training to Martin Sennett Limited or its Operative.

7. OBLIGATIONS OF THE CUSTOMER

- 7.1. The Customer shall:
- 7.2. provide to Martin Sennett Limited access to the premises and such of the Customer's information, records and other materials as may be reasonably necessary to gather source information;
- 7.3. shall advise the Martin Sennett Limited of any health and safety information relevant to the provision of the Product / Service or areas the Operative might visit as soon as the information is acquired by the Customer;

8. CONFIDENTIAL INFORMATION

- 8.1. Martin Sennett Limited shall use reasonable endeavours to ensure that its Operative will not during the continuance of the Contract or afterwards (unless authorised to do so by the Customer) use for their own benefit or any other person, or disclose to any other person or through any failure to exercise all due care and diligence cause or permit any unauthorised disclosure of any Confidential Information which it has obtained by virtue of the Product / Service or in respect of which the Customer is bound by an obligation of confidence to a third party.
- 8.2. For the avoidance of doubt, clause 8.1 shall not apply in respect of any Confidential Information which is in or becomes part of the public domain, other than through a breach of the obligations of confidentiality set out in this Contract, or to the extent that Martin Sennett Limited or its Operative are required to disclose Confidential Information by any applicable law, governmental order, decree, regulation, licence and/or rule.
- 8.3. Martin Sennett Limited shall use reasonable endeavours to ensure that the Operative will destroy or deliver up to the Customer (if requested) at the end of the Contract all documents (and copies) and materials belonging to the Customer which are in its possession or control.

9. TERMINATION

- 9.1. Either party may without notice instruct the other party to terminate the Contract, but Martin Sennett Limited reserve the right to charge for all reasonable costs incurred to the date of termination:
- 9.2. if the other party is in material breach of its obligations under this Contract which cannot be remedied or commits a breach of a material obligation which can be remedied and fails to remedy it within ten (10) Business Days of receiving a written notice requiring it to be remedied; or
- 9.3. if the other party passes a resolution for its winding up or a court of competent jurisdiction makes an order for the party's winding up or dissolution, or an administrator or receiver is appointed in relation to the other party or if the other party makes an arrangement or composition with its creditors generally.
- 9.4. If the Operative is unable to provide the Product / Service for any reason, and a suitable substitute can not be found then Martin Sennett Limited should inform the Customer as soon as is reasonably practicable. In the event that Martin Sennett Limited cannot find a substitute for the Operative and notice of the same has been given to the Customer, the Customer shall be able to terminate the Contract with immediate effect.

10. NOTICES

- 10.1. Any notice or communication under the Contract shall be in writing and shall be delivered personally or sent by first (1st) class pre-paid post or by email to the party due to receive the notice or communication to its trading address or to such other address or email address as a party may have notified to the other party.
- 10.2. Any such notice will be deemed to have been effected:
- 10.2.1. if delivered personally, at the time when left at the trading address or such other address as shall be notified;
- 10.2.2. if delivered by post, two (2) Business Days after posting;
- 10.2.3. if sent by email at the time of transmission or, if the time of transmission is outside normal working hours, upon the next Business Day.

11. FORCE MAJEURE

- 11.1. For the purpose of the Contract, **Force Majeure Event** means an event beyond the reasonable control of the Affected Party including without limitation, fire, storm, tempest, war, hostilities, rebellion, insurrection, military or usurped power, civil war, labour lock-outs, strikes and other industrial disputes, riots, commotion, disorder, decree of Government, non-availability of labour or any other circumstances which adversely affects the performance of the obligations of the Contract.
- 11.2. If either party is prevented, hindered or delayed from or in performing any of its obligations under the Contract (other than a payment obligation) by a Force Majeure Event it shall promptly notify the other party of the nature and extent of the circumstances in question and the effects of the Force Majeure Event on its ability to perform its obligations under the Contract.
- 11.3. Notwithstanding any other provision of the Contract, neither party shall be deemed to be in breach of the Contract or otherwise be liable to the other parties for any delay in performance or the non-performance of any of its obligations under this Contract (other than a payment obligation) to the extent that the delay or non-performance is caused by the Force Majeure Event of which it has notified the other party, and the time for performance of that obligation shall be extended accordingly.
- 11.4. If the Force Majeure Event continues for more than one month, the parties shall enter into discussions in good faith with a view to alleviating its effects or to agreeing upon such alternative arrangements as may be fair and reasonable.

12. GENERAL

- 12.1. If any provision of the Contract is held by a court or other competent jurisdiction to be invalid or unenforceable in whole or in part, the validity of the other provisions of the Contract and the remainder of the provision in question shall not be affected.
- 12.2. Any waiver by either party of any breach or any default under any provision of the Contract does not constitute a waiver of any subsequent breach or default and will in no way affect the other terms of the Contract.

13. THIRD PARTY RIGHTS

- 13.1. Nothing in the Contract is intended to confer on any person any right to enforce any term of the Contract which that person would not have had but for the Contracts (Rights of Third Parties) Act 1999.

14. LAW AND JURISDICTION

- 14.1. The Contract shall be governed by and construed in accordance with the laws of England and Wales and all disputes, claims or proceedings between the parties relating to the validity, construction or performance of the Contract shall be subject to the exclusive jurisdiction of the Courts of England and Wales.