
MAPMAN LIMITED

TERMS AND CONDITIONS OF BUSINESS

These are the terms and conditions of business of Mapman Limited (company number 10345138) whose registered office is at Sportsman Farm, St Michaels, Tenterden, Kent TN30 6SY trading from Garden House, Pett Lane, Charing, Kent TN27 0DL (“Mapman”, “we” or “us”) for supplying its various services to clients (“you”).

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1. INTERPRETATION

- 1.1 The following definitions and rules of interpretation in this clause apply in these conditions.

Contract: your order and our acceptance of it in accordance with condition 3.3.

Client: you, being the person, firm or company who purchases Services from us.

Services: the services agreed in the Contract to be purchased by you from us, being –

- **Subscription Services:** online applications and services subscribed to on an annual basis or
- **Contract Consultancy:** contracted-for consultancy services or
- **Individual Work:** individual pieces of work carried out on an ad hoc basis

Software: any operating system or application installed or provided to supply the Services or any of them

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

- 1.2 Condition headings do not affect the interpretation of these conditions.
- 1.3 A reference to a law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

2. APPLICATION OF CONDITIONS

- 2.1 These conditions shall:
- (a) apply to and be incorporated in the Contract; and
 - (b) prevail over any inconsistent terms or conditions contained in or referred to in your purchase order, confirmation of order, or specification, or implied by law, trade custom, practice or course of dealing.
- 2.2 No addition to, variation of, exclusion or attempted exclusion of any term of the Contract shall be binding on us unless in writing and signed by a director of Mapman.
- 2.3 These conditions incorporate the terms and conditions of our partners who are involved in providing elements of the Services, and their licensing terms, so that those partners' conditions and licence terms bind you in the same way that these conditions do. Details of our partners' conditions and licence terms are available on our website at www.mapman.ltd/legal and we will, on request, identify which of those partners is involved in providing elements of our Services used by you.
- 2.4 If any of our partners requires you specifically to accept their terms of business or provide additional information in order to fulfil their own requirements, you must do so promptly.

3. BASIS OF SALE

- 3.1 Any quotation is valid for a period of 30 days only, and we may withdraw it at any time by notice to you.
- 3.2 Each order or acceptance of a quotation for Services by you shall be deemed to be an offer by you subject to these conditions. You must ensure that each order is complete and accurate.

- 3.3 A binding contract shall not come into existence between us and you unless and until we issue a written order acknowledgement to you, or we provide the Services for you (whichever occurs first).
- 3.4 We may provide the Services by such means as we think appropriate.
- 3.5 No order which has been acknowledged by us may be cancelled by you, except with our agreement in writing only on the basis that you indemnify us in full against all costs incurred by us in preparing to provide the Services – normally subscription fees payable to our partners for their services.

4. PRICES

- 4.1 All prices shall be as stated in our acknowledgement of order. All prices are exclusive of delivery, packaging, packing, shipping, carriage, insurance, VAT and other charges and duties.
- 4.2 The price for the Services is based on the rate prevailing at the date of our acknowledgement of the order and we may increase the price to cover any increases due to market conditions (including, but not limited to, increases in subscriptions charged by our partners for their services) which affect us during the course of the Contract.

5. PAYMENT

- 5.1 Subject to any special terms agreed in writing between you and us, you must pay for the Services as follows –
- (a) *For Subscription Services:* an annual subscription per user (and login details must not be shared), payable in advance with no refunds applicable, and subject to review each year - if additional users are added during a year, we will charge for them pro rata to the end of that year, and for a full year at annual renewal;
 - (b) *For Contract Consultancy:* a monthly bill, payable within 15 days of being rendered; and
 - (c) *For Individual Work:* an invoice on completion of the work, payable immediately, but we can require you to pay in advance for any payments we have to make to partners and other third parties.
- 5.2 If you fail to pay any sum in full on the due date, we may charge interest on the amount outstanding from the due date to the date of receipt by us (whether before or after judgment) at the interest rate applicable from time to time under the Late Payment of Commercial Debts (Interest) Act 1998.
- 5.3 All sums payable to us under the Contract shall become due immediately on its termination, despite any other provision of the Contract. This condition is without prejudice to any right to claim for interest under the law, or any right under the Contract.
- 5.4 If we issue court proceedings to recover any sums due to us from you, then we shall be entitled to claim from you on an indemnity basis the full costs incurred by us in and in connection with those court proceedings, whether or not they are a “Small Claim” under the rules of the court.

6. PERFORMANCE OF SERVICES AND ACCEPTANCE

- 6.1 We will use our reasonable endeavours to perform the Services as agreed between you and us, but time is not of the essence and we are not liable for any delay in delivery or performance, outside our direct control.
- 6.2 Use of the Services by you amounts to acceptance that they have been provided, subject to the support services we provide.
- 6.3 We will provide telephone and email support on normal business days between 9am and 5pm. While we will resolve any support issues as quickly as we can, because we are likely to need to involve our partners in this, resolution of issues may take up to a week.
- 6.4 You must nominate one individual (with an alternate, if required) to liaise with us on all matters relating to the Services, and that individual (and their alternate) must have authority to make binding decisions for you.

7. SOFTWARE LICENCE

- 7.1 If we refer to any software licence(s) in the acknowledgment of order or quotation, the price of the Services includes the licence fee for your use of that the Software.
- 7.2 If you are provided with any operating system software licence in respect of the Software, you must sign and return it to us within seven days of installation of the software, unless the licence has been supplied on a "shrink-wrap" or "click-wrap" basis.
- 7.3 If no software licence has been provided to you, you hereby accept a non-exclusive, non-transferable licence to use the Software on the following conditions:
- (a) You must not copy (except to the extent permissible under applicable law or for normal operation of the Equipment), reproduce, translate, adapt, vary or modify the software, nor communicate it to any third party, without Supplier's prior written consent;
 - (b) You must not use the Software on any equipment other than as intended, nor remove, adapt or otherwise tamper with any copyright notice, legend or logo which appears in or on the Software or the medium on which it resides;
 - (c) Such licence shall be terminable by either party giving the other 28 days' written notice, provided that we will terminate only if the continued use or possession of the Software by you infringes a third party's rights, or we are compelled to do so by law, or if you have failed to comply with any term of the Contract;
 - (d) On or before the expiry of this licence, you must return to us all copies of the Software in your possession.

8. LIMITATION OF LIABILITY

- 8.1 The following provisions set out our entire financial liability (including any liability for the acts or omissions of its partners, employees, agents and sub-contractors) to you in respect of:
- (a) any breach of the Contract; and
 - (b) any representation, statement or tortious act or omission (including negligence) arising out of or in connection with the Contract
- but they do not affect your rights as a consumer (if any).

- 8.2 All warranties, conditions and other terms implied by statute or common law are excluded from the Contract to the fullest extent permitted by law.
- 8.3 Nothing in these conditions excludes or limits our liability for:
- (a) death or personal injury caused by our negligence; or
 - (b) fraud or fraudulent misrepresentation.
- 8.4 Subject to conditions 8.2 and 8.3:
- (a) we shall not be liable, whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation or otherwise for:
 - (i) loss of profits; or
 - (ii) loss of business; or
 - (iii) depletion of goodwill 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 or corruption of data or information; or
 - (ix) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.
 - (b) our 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 cash value of the relevant purchase order, less the amounts of any payments to partners or other third parties and expenses.

9. INTELLECTUAL PROPERTY RIGHTS

- 9.1 If we modify the Services or the Software, in accordance with a specification submitted or prepared by you or any other information provided by you, you must indemnify us against all losses, damages, costs, claims, demands, liabilities and expenses (including without limitation consequential losses, loss of profit and loss of reputation, and all interest, penalties and legal and other professional costs and expenses) awarded against or incurred by us in connection with, or paid or agreed to be paid by us in settlement of, any claim for infringement of any third party intellectual property rights which results from our use of your specification or such other information. The indemnity shall apply whether or not you have been negligent or at fault and does not limit any further compensation rights of ours.
- 9.2 You acknowledge that all intellectual property rights used by or subsisting in the Services and the Software are and shall remain the sole property of us or (as the case may be) third party rights owners, in particular our partners.
- 9.3 We retain the property and copyright in all documents supplied to you in connection with the Contract 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 our prior written consent.
- 9.4 Our intellectual property rights in and relating to the Services shall remain our exclusive property, and you must not at any time make any unauthorised use of such Intellectual Property Rights, nor authorise or permit any of its agents or contractors or any other person to do so.

9.5 In relation to the Software:

- (a) You acknowledge that you are buying only the media on which the software is recorded and the accompanying user manuals;
- (b) nothing contained in these conditions shall be construed as an assignment of any Intellectual Property Rights in the Software or user manuals; and
- (c) you will be subject to the rights and restrictions imposed by the owner of the Intellectual Property Rights in the Software and user manuals, and shall comply with all licence agreements, terms of use and registration requirements relating to them.

10. CONFIDENTIALITY AND OUR PROPERTY

- 10.1 You must 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 by us or our agents, and any other confidential information concerning our business or products which you may obtain. You must restrict disclosure of such confidential material to such of your employees, agents or sub-contractors as need to know the same for the purpose of using the Services and discharging your obligations to us, and must ensure that such employees, agents or sub-contractors are subject to obligations of confidentiality corresponding to those which bind you.
- 10.2 All materials, equipment and tools, drawings, specifications and data supplied by us to you shall at all times be and remain our exclusive property, but held by you in safe custody at your own risk and maintained and kept in good condition by you until returned to us, and shall not be disposed of or used other than in accordance with our written instructions or authorisation.
- 10.3 Our [Data Protection Policy](#) applies to all data held by us about you.
- 10.4 This condition 10 shall survive termination of the Contract, however arising.

11. TERMINATION

- 11.1 Without prejudice to any other right or remedy available to us, we may terminate the Contract or suspend any further services under the Contract without liability to you and the balance of the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary if:
- (a) an order is made or a resolution is passed for your winding up, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order in relation to you; or
 - (b) an order is made for the appointment of an administrator to manage your affairs, business and property, or documents are filed with a court of competent jurisdiction for the appointment of an administrator, or notice of intention to appoint an administrator is given; or
 - (c) a receiver is appointed of any of your assets or undertaking, or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of your business, or if any other person takes possession of or sells your assets; or

- (d) you make any arrangement or composition with your creditors, or make an application to a court of competent jurisdiction for protection from your creditors in any way, or become insolvent; or
- (e) you cease, or threaten to cease, to trade; or
- (f) you take or suffer any similar or analogous action in any jurisdiction in consequence of debt.

11.2 Termination of the Contract, however arising, shall not affect or prejudice the accrued rights of the parties as at termination or the continuation of any provision expressly stated to survive or implicitly surviving termination.

12. FORCE MAJEURE

We reserve the right to defer the date of delivery of the Services, or to cancel the Contract, if prevented from or delayed in carrying on our business by acts, events, omissions or accidents beyond our reasonable control, including without limitation strikes, lock-outs or other industrial disputes (whether involving our workforce or that of 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 sub-contractors (Force Majeure Event).

13. WAIVER

- 13.1 A waiver of any right under the Contract is only effective if it is in writing and signed by or on behalf of the waiving party, and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given.
- 13.2 Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

14. SEVERANCE

If any provision of this agreement (or part of a provision) is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

15. STATUS OF PRE-CONTRACTUAL STATEMENTS

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 this agreement or not) relating to the subject matter of this agreement other than as expressly set out in the Contract.

16. ASSIGNMENT

- 16.1 You must not, without our prior written consent, assign, transfer, charge, sub-contract or deal in any other manner with all or any of your rights or obligations under the Contract.
- 16.2 We may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of our rights or obligations under the Contract.

17. THIRD PARTY RIGHTS

The Contract is made for the benefit of the parties to it and (where applicable) their successors and permitted assigns, and is not intended to benefit, or be enforceable by, anyone else.

18. NOTICES

Any notice required to be given pursuant to this agreement shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the address of the party as set out in these conditions, or such other address as may be notified by one party to the other. A notice delivered by hand is deemed to have been received when delivered (or, if delivery is not in business hours, 9.00 am on the first business day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post.

19. GOVERNING LAW AND JURISDICTION

- 19.1 The Contract and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by and construed in accordance with the law of England.
- 19.2 The parties irrevocably agree that the courts of England 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).