



TERMS AND CONDITIONS OF PROVISION OF CONSULTANCY SERVICES

In these terms and conditions, Innova Partnerships Limited is referred to as “Innova” and the party to whom the Proposal is addressed is referred to as “the Client” (collectively “the Parties” or individually the “Party”), the services and deliverables are detailed in the Proposal. The offer outlined in our Proposal is open for acceptance by the Client for a period of 30 days after which the offer shall lapse, unless otherwise notified by Innova.

THE CLIENT’S PARTICULAR ATTENTION IS DRAWN TO THE LIMITATIONS AND EXCLUSIONS SET OUT IN CLAUSES 2, 4, 5 AND 7

1. The Agreement

1.1 The agreement made by the Parties comprises:

- 1.1.1 Innova’s written proposal issued to the Client in connection with the Services (the “Proposal”);
- 1.1.2 The Schedule of Charges where one has been included in the Proposal;
- 1.1.3 These terms and conditions; and

1.2 The Agreement shall be deemed accepted by the Client upon the first of (i) the Client’s signature of the Agreement, (ii) the Client’s instruction to commence work, (iii) Innova starting work at the Client’s site or (iv) the Client’s payment of any agreed fee.

1.3 Variations or additions to the Agreement can be made. However, both Parties must agree to the variation or addition in writing.

2. Provision of Services and Deliverables

2.1 Innova undertakes that it will perform the services and supply the deliverables expressly described in the Proposal (“the Services”) with reasonable skill and care and in a good and workmanlike manner.

2.2 Innova will use team members and associates with appropriate skills and experience for the provision of the Services. Innova may only replace those consultants with consultants of suitable experience and suitability. At any given time the client has full access to the details of all parties working on the set project

2.3 Innova agrees to deliver the Services within a reasonable time. Both Parties will use all reasonable endeavours to meet any target date, project plan or time table referred to in the Agreement (“Date”).

2.4 The Client acknowledges and agrees that where Innova designs, builds, develops, delivers, customises or integrates any product or other deliverable provided as a part of the Services (including without limitation software) it does so as a consultant providing services and not as a supplier or manufacturer of goods. Any supply of goods by Innova shall be governed by Innova’s Standard Terms of Supply.



3. Client's Obligations

3.1 Innova may need access to the Client's facilities, information, tools and resources for and during the provision of the Services. If so requested by Innova, the Client, without charge to Innova, will provide access to these to the extent reasonably requested by Innova and shall co-operate with Innova to the extent reasonably required to achieve the objectives set out in the Agreement. The Client shall further make decisions and inform Innova of the results of those decisions when Innova reasonably requests it to do so for Innova's performance of the Services.

3.2 The Client acknowledges that, in giving any opinion or advice in the course of provision of the Services, Innova relies on the information about the Client or any project described in the Proposal provided to it by the Client and does not seek to establish the reliability of such information; accordingly, the Client:

3.2.1 Undertakes to provide complete and accurate information about itself and about any such project which is or may be relevant to the Services and to provide such other information as Innova may reasonably request; and

3.2.2 Warrants that any such information provided is accurate, complete and not misleading.

3.3 To the extent applicable, the Client undertakes to comply with WEEE Regulations 2006 and bear all costs of such compliance including but not limited to the treatment, recovery and disposal of all WEEE.

4. Fees and Payment

4.1 The Agreement sets out the proposed fees, costs and expenses for the Services ("the Price"). Fees based on time and materials or on an estimate do not constitute a fixed price. Innova may increase the Price (i) on each occasion that the meeting of any Date is delayed by the Client for 3 months or more; and (ii) to reflect any variation to the Proposal requested by the Client; and (iii) to reflect any increase in raw materials, supplier costs or any currency fluctuation.

4.2 All fees, costs and expenses referred to in the Agreement are exclusive of VAT, sales and similar taxes of any kind.

4.3 Subject to clause 4.4, unless otherwise set out in the Proposal the Price shall be payable upon completion of the Services.

4.4 Innova may invoice the Client for Services performed notwithstanding completion of the Services has been delayed by the Client's failure to meet any Date

4.5 Unless otherwise agreed in writing, the Client shall pay all fees, costs and expenses related to the Services upon presentation of Innova's invoice.

4.6 If any invoice is not paid in full and cleared funds within 30 days from presentation, Innova may suspend performance of the Services and/or charge interest at the rate provided by the Late Payment of Commercial Debts (Interest) Act 1998 on any overdue amount from the due date until the date of actual payment of the overdue amount, whether before or after judgment.



5. Limitations and Exclusions

5.1 Each Party accepts liability without limit for death or personal injury to any person due to its negligence or the negligence of its employees.

5.2 In respect of any liability other than those falling within clause 5.1 above and subject to clause 5.4, each Party's total liability arising out of or in connection with the Agreement shall not exceed in aggregate 100% of the total fees payable by the Client under this Agreement.

5.3 Neither Party shall in any circumstances be liable to the other whether in contract, tort (including negligence) or otherwise for any loss of profit, loss of contracts, loss of benefit, loss of production, loss of availability, loss of data, loss of anticipated savings, loss of reputation, loss of goodwill or loss of use suffered or incurred directly or indirectly by the other Party, any consequential, indirect or special loss or damage howsoever arising and of whatsoever nature or any punitive or exemplary damages

5.4 Nothing in this Clause 5 shall affect or limit the Client's obligation to pay sums properly due under the Agreement.

5.5 The express terms of this Agreement shall apply in place of all warranties, conditions, terms, representations, statements, undertakings and obligations whether expressed or implied by statute, common law, custom, usage or otherwise, all of which are excluded to the fullest extent permitted by law.

5.6 Innova shall not in any circumstances be liable to the Client for any loss or damage resulting from a modification of, adjustment or repair to the results of the Services or from any use by the Client of such results in a manner outside the reasonable contemplation of the Parties at the time the Agreement was made. Any such modification, adjustment, repair or use shall be undertaken at the Client's sole risk.

5.7 Innova shall have no liability to the Client to the extent that such liability would not have arisen but for a breach by the Client of its obligations under the Agreement and without limiting the foregoing Innova shall not be liable for any failure to meet any Date if such failure would not have occurred but for the Client's failure to meet any Date or for the Client's breach of the Agreement.

5.8 Innova shall not be liable for any defect, wastage or other loss whatsoever in, of or arising from equipment, hardware or software or other items or made available to Innova by the Client ("Client Materials") which shall be held, worked on and used at the Client's risk.

5.9 Innova shall not be responsible for any loss, damage, cost or expense arising from, or from any defect, mistake or inaccuracy in any Client Materials or information specified or supplied by the Client; any loss, damage, cost or expense arising there from shall be for the sole account of the Client.

5.10 Innova's liability for Client Materials specified or provided to Innova by the Client or otherwise held or worked on by Innova on behalf of the Client shall be limited to the lesser of the basic raw material cost of the materials or an independent external valuation of such materials.



5.11 Nothing in this Agreement shall limit a Party's liability for fraud, fraudulent misrepresentation or deceit.

6. Intellectual Property and Rights of Use

6.1 Intellectual Property ("IP") means patents, rights to inventions, registered designs, copyright and related rights, database rights, design rights, topography rights, trade secrets, rights in unpatented know-how, rights of confidence and any other intellectual property rights of any nature including all applications, all rights to apply for and renewals or extensions of such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

6.2 IP and rights to IP which the relevant Party can demonstrate is either already held by it at the date of the Agreement or at any time on or before the relevant time has been acquired or developed by it after the date of this Agreement entirely independently of the Services and of use of any Confidential Information of the other Party, and all modifications thereto and derivative versions thereof created at any time ("Background IP") shall remain the property of that Party.

6.3 The Client hereby grants to Innova a royalty-free, non-exclusive, non-transferable licence to use the Client's Background IP as required to allow Innova to perform its obligations under the Agreement.

6.4 The Client has full ownership of the results undertaken by Innova Partnerships Ltd and outlined in the proposal.

6.5 Where the Deliverables comprise or include software the IP in which is Background IP, the Client shall not unless otherwise agreed in writing:

6.5.1. copy adapt or reverse compile the whole or any part of the software other than solely for the purposes expressly permitted by and in accordance with section 50B(2) or section 296A(1) of the Copyright Designs and Patents Act 1998;

6.5.2. assign, transfer, sell, lease, rent, charge or otherwise deal in or encumber the software or use the software on behalf of any third party or make available the same to any third party;

6.5.3 remove or alter any copyright or other proprietary notice on any permitted copy of the software;

6.5.4 receive or be entitled to the source code.

7. Forecasts and Recommendations/Third Party Services

7.1 Statements made by Innova relating to the Services, and all recommendations, opinions surveys and forecasts (together "Forecasts") in the Agreement, or any report, presentation or other communication are made in good faith on the basis of information available at the time and such Forecasts are addressed only to the Client. Whilst Innova will use reasonable skill and care in the preparation of such Forecasts, neither Innova nor any consultant employed or engaged by Innova shall have any liability in relation to losses or damage incurred as a result of or in relation to the



Client's reliance on such opinions or recommendations and Client acknowledges that such liability is a business risk of the Client.

7.2 Implementation of the results of the Services and the Client's completion of any project of which the Services form part may require the involvement or supervision of or giving advice to third parties engaged by the Client. Innova strongly recommends that the Client obtain independent advice before entering into any legally binding commitment with any such third parties.

7.3 Innova may, during its performance of the Services, make statements about or recommendations of third party products, software, equipment or services. Innova gives no warranty in relation to such products, software, equipment or services, and the Client shall rely solely on the warranties and remedies provided by any such third party with whom it may contract.

7.4 Without limiting any other provision of these terms and conditions, Innova will use reasonable endeavours to assist the Client to minimise risk and additional cost or delay relating to the involvement in the Client's project of any third parties involved in manufacturing or the provision of other services or goods to the Client: in no circumstance shall Innova be liable for any failure by any such third party to supply goods or perform services within particular timescales or to particular specifications.

7.5 Where the Services include the provision of software, the Client acknowledges that all software contains errors or defects and that the presence of errors or defects in software in particular does not mean that the Services have been performed negligently or in breach of contract. Accordingly, debugging, error correction or other remedial work will be at the Client's cost.

8. Termination

8.1 Either Party may at any time and without cause terminate the Agreement on giving 30 days' written notice of termination to the other Party.

8.2 Upon termination under clause 8.1, the Client shall pay Innova all sums due in respect of the Services provided and expenses incurred prior to termination.

8.3 Either Party may terminate the Agreement forthwith by written notice if the other Party commits an act of bankruptcy or goes into liquidation or is put into liquidation (other than for a proper commercial purpose and whilst solvent) or a receiver is appointed or an administration order is made in respect of it.

8.4 Either Party may terminate the Agreement forthwith by written notice if the other Party commits a material breach of the Agreement and has failed to remedy the breach within 30 days of receipt of a written notice from the other Party identifying that the breach has occurred.

8.5 Termination shall not affect any accrued rights or liabilities arising out of the Agreement.

9. Non-Solicitation

9.1 The Client shall not, either during the provision of the Services or for a period of six months from completion, employ or offer employment to any member of Innova's project team. This shall not



prevent the Client from employing or offering employment to a member of Innova's project team who responds to an advertisement in the media.

10. Third Party Rights

10.1 No person or entity other than the Client shall have any rights to enforce any of the terms of the Agreement against Innova.

11. Assignment

11.1 Neither Party shall assign the Agreement without the other Party's prior written consent (not to be unreasonably withheld or delayed).

12. Publicity

12.1 The Client agrees that Innova may:

12.1.1 refer to the Client on its client lists and;

12.1.2 refer to the nature of the Services contracted for provided that the Client is not identified.

12.2 Neither Party shall make any statement about the Services to the press or the public without the other Party's written consent.

13. Waiver

13.1 No failure, delay or indulgence by either Party in exercising any power or right under the Agreement shall operate as a waiver of that power or right.

14. Notices

14.1 Where the Client is required to give notice in writing to Innova, the notice must be addressed to the individual who signed the Agreement at the address set out in the Agreement with a copy to the Managing Director at the then current registered office address of Innova.

14.2 Where Innova is required to give notice in writing to the Client, the notice will be addressed to the person who signed the Agreement (or that person's successor) at the address stated in the Agreement (or current place of business if Innova knows this to be different).

14.3 All notices in writing must be sent by post or delivered by hand to the addressee.

14.4 In the absence of evidence of earlier delivery:

14.4.1 a notice sent by post will be deemed to have been served two business days after posting;

14.4.2 a notice delivered by hand will be deemed received on delivery.

15. Force Majeure

15.1 Neither Innova nor the Client will be liable for any failure to perform their obligations, or delay in the performance of their obligations, if the failure or delay is due to causes outside their reasonable control.



16. Severability

16.1 If any provision or part of a provision of the Agreement is held to be invalid, illegal or unenforceable that part shall be severed and the remaining provisions shall continue to be valid and enforceable as if the Agreement had been executed with the invalid provision omitted.

17. Entire Agreement

17.1 This Agreement constitutes the entire and only agreement in relation to the Services and deliverables and supersedes all prior agreements, representations, understandings or discussions. Any terms or conditions which the Client purports to apply under any purchase order, confirmation of order, specification or other document do not form part of this Agreement. The Client acknowledges that any agreement, representation, understanding or discussion it wishes to rely upon has been recorded in the Agreement and that no reliance has been placed upon any agreement, representation, understanding or discussion that has not been embodied in this Agreement.

18. Applicable Law & Jurisdiction

18.1 The Agreement shall be governed by and construed in accordance with the laws of Scotland and any dispute arising out of or in connection with the Agreement will be subject to the exclusive jurisdiction of the Scottish Courts.