

POPE WOODHEAD AND ASSOCIATES
LIMITED TERMS AND CONDITIONS OF BUSINESS

Introduction

- 1.1 All contracts entered into between Pope Woodhead Associates Limited (we or us) are subject to these Terms and Conditions and no others unless expressly agreed in writing. Each of these Terms and Conditions is entirely separate, so that if any of them is held to be invalid for any reason, this shall not affect the remaining provisions which shall continue in full force and effect. Any change to these Terms and Conditions sought by you will only be effective if agreed in writing by us.
- 1.2 Section A will apply to those contracts where we have been requested to provide consultancy advice or other services. Section B will apply in the event that we have been requested to provide Goods, Section C and the provisions of this Clause 1 (Introduction), will apply to all contracts entered into between us.
- 1.3 Unless expressly stated otherwise, the following definitions shall apply to these Terms and Conditions:
 - Confidential Information means all information or know-how (in any form whatsoever) including projects, lists and details of customers and former customers, pricing and discount policies, accounts, finance, contractual arrangements, future business planning and marketing strategies, intellectual property (whether owned or licensed) or methodologies;
 - Quote means the document detailing the Goods and/or Services to be supplied by us to you (including any update thereof as agreed between us in writing) to which these Terms and Conditions are attached;
 - Fees means the fees and expenses incurred, or to be incurred, by us as set out in the Quote (including any update thereof or increase);
 - Goods means any tangible item or items (including, without limitation, drawings, marketing materials and reports) whatsoever produced or provided to you by us, as set out in the Quote (including any update thereof);
 - Services means the consultancy and/or other services provided, or to be provided, to you by us, as detailed in the Quote (including any update thereof);
- 1.4 A binding contract between you and us will be only created upon the acceptance in writing (which shall include email) or verbally by you of our Quote, at which point you will be deemed to have accepted these Terms and Conditions.
- 1.5 These Terms and Conditions together with the Quote shall prevail in the event of a conflict between these Terms and Conditions and others. In instances where these Terms and Conditions conflict with the Quote, the terms of the Quote shall prevail.
- 1.6 These Terms and Conditions and the Quote shall in all respects be construed in accordance with English Law, and you hereby submit to the non-exclusive jurisdiction of the English Courts.
- 1.7 The Contracts (Rights of Third Parties) Act 1999 shall not apply to these Terms and Conditions.

Section A - Terms Relating to the Provision of Services

- A1. In providing the Services, we will exercise reasonable skill and care.
- A2. Unless expressly agreed in writing, the scope of the Services to be undertaken by us shall be limited to that set out in the Quote.
- A3. We shall use our reasonable endeavours to complete the provision of the Services in accordance with the Quote. However, we shall not be liable to you or any third party in the event we are not able to provide the Services at the times stated in the Quote. Accordingly, time shall not be of the essence.
- A4. In the event that our staff (including contractors engaged by us) are required to undertake any of the Services at your premises or those of a third party, you shall be responsible at all such times for the provision of a safe and suitable working environment and for providing the necessary facilities. We reserve the right to increase the Fees to cover any additional time or expense incurred by us due to your failure (or failure by a third party) to adhere to the provisions of this clause or other default on your part.
- A5. We reserve the right to increase our Fees in the event that we are not able to provide the Services for any reason outside of our reasonable control. Such instances shall include (without limitation) instances where the premises are not suitably prepared or data not provided in a timely manner.

Section B - Terms Relating to the Provision of Goods

- B1. Goods shall be delivered to you in accordance with the Quote, and we will inform you as soon as the Goods are ready for collection or delivery. Time shall not be of the essence. Delivery dates (if any) outlined in the Quote or agreed between us are an estimate only and we shall not be liable for any loss (direct or indirect) to you or any third party for any delay.
- B2. You shall inspect the Goods immediately upon receipt. If the Goods are not in accordance with the Quote, you shall, as soon as possible, but in any event within 7 days of delivery, give written notice to us with full details of any alleged discrepancy.
- B3. If the Goods are found upon receipt to have been damaged you shall: a) immediately record the damage on a delivery note (if any); and b) within 7 days of delivery, provide full details to us in writing of the damage to the Goods; and c) store the Goods on your premises in an identifiable manner. We shall (or our agent or representative shall) have the right to enter your premises, or the premises of any third party where the Goods are stored, for the purpose of inspecting the Goods.
- B4. We shall not accept any liability for defective Goods in the event that written notice is not given to us by you in accordance with these Terms and Conditions.
- B5. Without limiting any other remedy, if it is established that any Goods have not been supplied in accordance with the Quote, then you shall be entitled: a) to require us to supply replacement Goods in accordance with the Quote within a reasonable period; or b) to treat the Quote as cancelled and require a refund in respect of the faulty or incorrect Goods (only to the extent the Fees in respect thereof have been received by us).
- B6. You warrant that any material supplied to us at any time in any format will not contravene any Act of Parliament or other legislation anywhere in the world, nor will it in any other way give rise to any illegality or defamatory statement or any infringement of the intellectual property rights or other rights of any third party. You shall fully and effectively indemnify us in respect of any claim arising out of any breach of this warranty.
- B7. You hereby confirm that you will use the Goods for the purpose notified to us.
- B8. We hereby grant to you, from the date upon which payment is received in full by us pursuant to the terms of the applicable Quote, a perpetual, non-exclusive, non transferable licence to use the intellectual property rights relating to the Goods.
- B9. We will insure the Goods until delivery at the location agreed by us. If we arrange for an independent carrier to deliver the Goods, we shall ensure that suitable Goods in Transit insurance is in place. The costs of such insurance and any other freight charges will be charged to you as set out in the Quote (or as agreed between us). Following delivery of the Goods to the location agreed between us, we shall not be liable for the safety of the Goods and accordingly you shall at your own discretion insure the Goods against any or all insurable risks as may be commercially prudent.
- B10. Ownership of the Goods shall not pass to you until we have received, in full, in cleared funds, all sums due to us in respect of: a) the Goods; and b) all other sums that are due to us from you on any account. In the event that payment is overdue in whole or in part, we may, without prejudice to any other rights we may have, recover and/or resell the Goods or any of them and may enter your premises for that purpose. If the Goods have been incorporated in or used as material for other goods before payment in full has been received by us, the ownership in the whole of such Goods shall be and remain with the Company until such payment has been made or the Goods sold as aforesaid and our rights hereunder shall extend to those other goods. You agree to pay all of our costs of repossession.

Section C - Terms Applicable to All Contracts

- C1. Payment for the Goods and/or Services (as applicable) shall be paid in accordance with the Quote. Should we be required to provide additional Goods or Services outside of the scope of the Quote, the fees for such Goods or Services will be agreed with you in writing in advance, and the Quote shall be modified accordingly; if appropriate, we will supply you with an Addendum Quote.
- C2. You will be fully responsible for all disbursements incurred by us in providing the Goods and/or Services including, without limitation, the costs of travel and accommodation, which shall be reimbursed when invoiced.
- C3. Invoices are payable by you within 30 days of the date of issue. The time of payment shall be of the essence. We reserve the right to invoice you on an interim basis.
- C4. All fees, expenses and disbursements are quoted exclusive of VAT. All invoices will be subject to VAT (if any) at the rate in force from time to time.
- C5. We shall not, without your consent, incur any expenses in excess of £500 other than as set out in the Quote.
- C6. Subject to paragraph C7 below, all Quotes are valid for the period of three months.
- C7. In the event that we are requested by you (either verbally or in writing) to provide different or additional Goods and/or Services including (without limitation) to supply Goods and/or Services on weekends or UK bank holidays, there will be an increase in our Fees to be agreed between us in advance.
- C8. We reserve the right to charge for costs and expenses incurred in recovering late payments, and to charge interest on overdue amounts at the rate in force pursuant to the Late Payment of Commercial Debts (Interest) Act 1998 as at the due date.
- C9. You shall not withhold or reduce any sum payable to us for any reason. If any part of an invoice is disputed, you shall nevertheless be obliged to pay to us the remainder of that invoice on the due day.
- C10. In the event of you being in default of payment of any Fees, we reserve the right to suspend the provision of any or all the Goods and/or Services.
- C11. Once the provision of the Goods and/or Services has occurred or commenced, you will be entitled to suspend or cancel such provision only with our prior written agreement. In the event that we elect to suspend or terminate the provision of the Goods and/or Services, you shall be liable for all Fees and disbursements incurred by us up to and including the date of such suspension or termination.
- C12. We reserve the right to suspend or terminate the provision of the Goods and/or Services in the event that: a) you are in material breach of the terms hereof and fail to remedy such breach within 14 days of being notified by us or; b) you present a petition or have a petition presented for your winding up, or shall have a liquidator, receiver or administrative receiver or administrator appointed for the whole or any part of your assets or business or an order or resolution is made for your dissolution or liquidation (or the dissolution or liquidation of any of your affiliates), other than for the purpose of solvent amalgamation or reconstruction.
- C13. Until the expiry of one year from the completion of the provision of Goods and/or Services to you, you shall not solicit the employment or services of any personnel working for us who has at any time been engaged in connection with the provision of such Goods and/or Services to you.
- C14. All Confidential Information belonging to us and made use of by us to provide the Goods and/or Services remain our sole property or that of our licensors. Similarly, any such items provided by you for use by us for the purpose of the providing the Goods and/or Services shall remain your sole property or your licensors'.
- C15. You shall keep all Confidential Information obtained about us and any of our group companies (if applicable), our employees, our agents and/or advisers and the contents of any Quote confidential at all times. This paragraph shall not apply to information which: a) must be disclosed as a matter of law; b) comes into the public domain through no fault of yours; or c) we authorise in writing the disclosure thereof.
- C16. You acknowledge that we will rely upon the accuracy, sufficiency and consistency of the information supplied by you to us, and we will not be obliged to check or verify the same.
- C17. Except for death or personal injury due to our negligence or that of our personnel, we shall under no circumstances be liable for any damage or loss resulting from the provision of any Goods and/or Services to you. Furthermore, we shall not be liable for any damage, loss or expense resulting from the failure by us to give advice or information or provide the Goods and/or Services (whether or not due to our negligence or that of our personnel). In no event shall any breach of contract or tort (including negligence) or failure of any kind on our part (or that of our personnel) give rise to any liability for loss of revenue or any consequential loss or damage arising from any cause whatsoever.
- C18. Subject to C17 above, if we are held liable for any reason to you or to any other person in connection with the provision of the Goods and/or Services, our total liability from any one claim or a series of claims shall be limited to £2 million
- C19. You agree to indemnify us fully in the event of any claim by any third party in respect of the provision of Goods and/or Services by us.
- C20. You shall notify us immediately in writing of any change in circumstances and, in particular, any changes which renders the Quote inaccurate or inappropriate in any way and (if appropriate), agree a revised Quote with us.
- C21. You shall not be permitted to assign, sub-license, or otherwise transfer any of your rights under these Terms and Conditions.
- C22. We shall not be liable for non-performance in whole or in part of any of our obligations if such non-performance is due to acts of God, war, insurrection, government regulations, embargoes, strikes, labour disputes, illness, fire, flood, tempest or any other cause beyond our control. During the continuance of any such contingency, you agree to accept delivery and/or performance where possible. In the event that the fulfilment of our obligations is interrupted for more than 3 months, you shall be entitled to terminate your agreement with us. Upon such termination, all Fees then outstanding shall become immediately payable.
- C23. Any personal data provided by you to us will be held securely and in accordance with the Data Protection Act 1998. We will use personal data only for the purposes for which it has been provided. We will hold such information only for as long as is necessary.
- C24. All notices pursuant to these Terms and Conditions shall be in writing and shall be sent to your registered office or such other address as you may designate by notice given in accordance with the provisions of this paragraph. Any such notice may be delivered by hand or by first class pre paid letter, and shall be deemed to have been served if by hand when delivered and if by first class post 48 hours after posting.
- C25. No forbearance, delay or indulgence by us in enforcing the provisions of these Terms and Conditions shall prejudice or restrict our rights, nor shall any waiver of rights operate as a waiver of any subsequent breach.

If you have any queries in relation to these Terms and Conditions, please email Richard Wright at rich.wright@popewoodhead.com