



GENERAL TERMS AND CONDITIONS

The following are the Conditions (the "Conditions") on which we will provide certain services (the "Services") to you as set out within the attached Letter of Engagement. The Letter of Engagement and the Conditions are together referred to as the "Contract" or "the Engagement".

1. CONFIDENTIALITY

1.1 Neither you nor we will disclose to any third party without the prior written consent of the other any confidential information which is received from the other party for the purposes of providing or receiving the Services which, if disclosed in tangible form, is marked confidential or if disclosed otherwise is confirmed in writing as being confidential or, if disclosed in tangible form or otherwise, is manifestly confidential. Each of us agrees that any confidential information received from the other party shall only be used for the purposes of providing or receiving Services under this or any other contract between us. These restrictions will not apply to any information which:

- (a) is or becomes generally available to the public other than as a result of a breach of an obligation under this Clause 1;
- (b) is acquired from a third party who owes no obligation of confidence in respect of the information; or
- (c) is or has been independently developed by the recipient or was known to it prior to receipt.

1.2 Notwithstanding Clause 1.1 above each party will be entitled to disclose confidential information of the other:

- (a) to their respective insurers or legal or financial advisers,
- (b) to their respective employees, officers or agents; and
- (c) to a third party to the extent that this is required by any court of competent jurisdiction or by a governmental or regulatory authority or where there is a legal right, duty or requirement to disclose.

1.3 Unless otherwise set out in the Letter of Engagement, we shall be entitled to disclose, advertise and publicise our Engagement although we shall use our reasonable endeavours to inform you of any publicity or advertisement in advance of its release.

2. REPORTS AND ADVICE

2.1 **Reliance on drafts:** You shall not place reliance on draft reports, conclusions or advice, whether oral or written, issued by us as the same may be subject to further work, revision and other factors which may mean that such drafts are substantially different from any final report or advice issued. All advice given orally shall be deemed to be in draft form and you must request a written report if you wish to rely on it.

2.2 **Use and purpose of advice and reports:** Any advice given or report issued by us is provided solely for your use and benefit unless expressly permitted in the Letter of Engagement and then only in connection with the purpose in respect of which the Services are provided. You may only rely on any advice given by us if it is in writing. Unless required by law, you shall not provide such report or advice to any third party or refer to us or the Services without our prior written consent, which we may at our discretion grant, withhold or grant subject to conditions. In no event, regardless of whether consent has been provided, shall we assume any liability or responsibility to any third party to whom any advice or report is disclosed or otherwise made available.

2.3 **Your responsibility for information provided:** You warrant, represent and undertake to us (except as otherwise specifically notified to us by you in writing) that:

- (a) all information provided by and on your behalf in respect of the Services is complete and accurate and is not misleading (either on its face or by inference or omission); and
- (b) that there are no other material facts known to you that may be relevant to us in carrying out the Services and further that we may rely on such information.

We shall be entitled to rely upon information provided by you or on your behalf without further investigation by us. Any reports issued or conclusions reached by us may be based upon information provided by you or on your behalf. Accordingly, we assume no responsibility and make no representations in respect of any advice based upon information provided by you or on your behalf which is incomplete, incorrect or misleading.

2.4 **Electronic communications:** During the Engagement we may wish to communicate electronically with each other. However, the electronic transmission of information cannot be guaranteed to be secure or error free and such information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete or otherwise be adversely affected or unsafe to use. We each agree to use commercially reasonable procedures to check for the most commonly known viruses before sending information electronically, but we recognise that such procedures cannot be a guarantee that transmissions will be virus free. Accordingly, we shall each be responsible for protecting our own interests in relation to electronic communications and for ensuring that an electronic communication is not misaddressed.

2.5 **Monitoring:** Under the provisions of The Telecommunication (Lawful Business Practice) (Interception of Communications) Regulations 2000, we reserve the right to monitor electronic communications.

2.6 **Data protection:** We will only hold and use personal data about you, your employees and representatives, for the purposes of providing the Services or to keep you, your employees and representatives informed of our activities.

3. INTELLECTUAL PROPERTY

3.1 All intellectual property rights (including copyright, database rights, design rights (whether registered or unregistered)), trade marks rights (or patent rights) in any materials created or produced by us in relation to the Services (including any reports, forecasts, drawings, spreadsheets, plans or other material) shall remain our property absolutely unless otherwise expressly stated in the Letter of Engagement, provided always that we hereby grant to you a revocable licence to use and copy such materials for your own internal use.

4. FEES

4.1 **Our fees:** Our fees will be charged on the basis set out in the Letter of Engagement or as otherwise notified to you in writing. Additional services required to ensure performance of the services and if not agreed yet or previously agreed as in accordance with (5) by default, we will charge you at our current hourly rates from time to time (details of which are available on request) for all work carried out.

4.2 **Payment of our fees:** Time for payment of our fees and expenses shall be of the essence. If we do not receive payment of any invoice within 30 days of the invoice date we shall be entitled, without prejudice to any other rights that we may have, to charge you interest accruing on the sum due to us at the rate of 3% above the base rate of the Lloyds Banking Group from time to time calculated on a daily basis from the date of relevant invoice until the date of payment in full.

- 4.3 **Payment of tax:** All sums charged in connection with the Services, including expenses and disbursements, will be stated exclusive of any taxes. You will be responsible for paying any taxes arising from the Contract for which you are legally liable as well as Value Added Tax at the rate in force at the date the liability arises.
- 4.4 **Your responsibility for other parties:** You shall be solely responsible for the work and fees (which shall be paid directly by you) of any other party (including consultants and contractors) engaged by you, or by us on your behalf, to participate in the Engagement regardless of whether such party was introduced to you by us. Except as provided in the Letter of Engagement, we shall not be responsible for providing or reviewing specialist advice or services including surveying, legal, due diligence or any other investigative services.
- 4.5 You must pay on demand and on a reasonable basis all costs and expenses (including legal costs) which we may from time to time incur, and whether incurred before or after the issue of proceedings, in connection with:
- recovering any sum due to us under the Contract; and/or
 - successfully defending a claim brought by you relating to the Contract.
5. **CHANGES TO SERVICES**
- Either you or we may request changes to the Services. We shall work with you to consider and, if appropriate, to vary any aspect of the Engagement, subject to payment of reasonable additional fees and a reasonable additional period to provide any additional Services. Additional services by default, we will charge (unless formally agreed otherwise) you at our current hourly rates from time to time (details of which are available on request) for all additional services completed over and above the original terms of engagement and scope of services.
6. **SUSPENSION OF CONTRACT**
- 6.1 **Suspension by either party:** At any time during the term of the Contract, any party may give immediate notice to the other suspending the performance of its duties and obligations under the Contract in the event that:
- circumstances exist or arise which, in the reasonable opinion of that party, materially and adversely affect the performance of, or the ability to perform, that party's duties and obligations under the Contract;
 - any party becomes aware that another party has failed (whether before or after the date of the Letter of Engagement) to disclose to it information which in the reasonable opinion of that party is material to the performance of its duties and obligations under the Contract.
- 6.2 **Suspension by us:** We shall be entitled to suspend the Services and performance of our duties and obligations under the Contract in the event that any sum is not paid to us when it falls due and, except as provided by Clause 8.1(b), we shall not be liable for any delays, losses, costs, damages or expenses resulting from such suspension.
- 6.3 **Variation Following Suspension:** If we suspend the performance of the Contract pursuant to Clauses 6.1 or 6.2, we shall be entitled reasonably to vary our fees for the resumed performance of the Contract and the time for performance of the Services shall be extended by the period of the suspension.
7. **TERMINATION**
- 7.1 **The Contract may be terminated:** The Contract may be terminated: (i) by any party on written notice with immediate effect if another party commits a material breach of any term of this Contract which is irremediable or, if remediable, is not remedied within 30 days of a written request to remedy the same; (ii) by any party upon written notice if the period of suspension of the Contract referred to in Clause 6.1 continues for 30 days or more; (iii) by any party upon notice if the other party shall have a receiver or administrative receiver appointed over it or any part of its undertakings or assets or shall pass a resolution for winding up (otherwise than for the purposes of a bona fide reconstruction) or if a court of competent jurisdiction shall make an order to that effect or if the other shall enter into any voluntary arrangement with its creditors or shall be subject to an administration order or shall cease to carry on business.
- 7.2 **Actions Following Termination:** Upon termination of the Contract:
- each party shall upon written request from the other return to the other all property and documentation of the other that is in its possession or control except that we shall be entitled to retain a reasonable number of copies of such documents that we require to maintain a record of our involvement in the Engagement;
 - we shall be entitled to retain all fees, expenses and disbursements previously paid by you to us and you shall pay forthwith all fees, disbursements and expenses due in respect of the Services provided up to the date of termination together with our reasonable costs and expenses incurred in connection with the termination of the Contract; and
 - the terms of the Contract which expressly or by implication are intended to survive its termination or expiry will survive and continue to bind all parties.
8. **LIABILITY**
- 8.1 **Limitation of our liability:**
- We will use reasonable skill and care in the provision of the Services.
 - We will accept liability without limit for (i) death or personal injury caused by our negligence or the negligence of our employees acting in the course of their employment; (ii) any fraudulent pre-contractual misrepresentations made by us on which you can be shown to have relied; and (iii) any other liability which by law we cannot exclude. This does not in any way confer greater rights that you would otherwise have by law.
 - Our liability to pay damages for all losses, including consequential damages, economic loss or failure to realise anticipated profits, savings or other benefits, incurred by you as a direct result of breach of contract or negligence or any other tort by us in connection with or arising out of the Engagement or any addition or variation thereto shall be limited to that proportion only of your actual loss which was directly caused by us and in any event our liability shall in no circumstances exceed in the aggregate the amount specified in the Letter of Engagement.
 - Where there is more than one Addressee, the limit of liability specified in clause 8.1(c) above will have to be allocated between Addressees. It is agreed that such allocation will be entirely a matter for the Addressees, who will be under no obligation to inform us of it; if (for whatever reason) no such allocation is agreed, no Addressee will dispute the validity, enforceability or operation of the limit of liability on the grounds that no such allocation was agreed.
- 8.2 **Liability Limitation and the Provision of Information:** Notwithstanding paragraph 8.1(b) and 8.1(c), but subject always to clause 8.1(a), in no circumstances shall we be liable to pay any damages to you for losses arising out of or in any way connected with:
- the provision of information to us by you; or
 - your failure to provide information to us either punctually or at all; or
 - any fraudulent act, misrepresentation or willful default on your part.
 - If you suffer loss as a result of our breach of contract or negligence, our liability shall be limited to a just and equitable proportion of your loss having regard to the extent of responsibility of any other party. Our liability shall not increase by reason of a shortfall in recovery from any other party, whether that shortfall arises from an agreement between you and them, your difficulty in enforcement, or any other cause.'
- 8.3 **Legal Proceedings:** Notwithstanding our liability for the acts and omissions of our directors and employees acting in the course of their employment, you accept and acknowledge that no legal proceedings, arising from or in connection with the Engagement (or any variation or addition thereto) will be commenced against any of our directors or employees personally.

9. INDEMNITY AGAINST THIRD PARTY LIABILITY

Except to the extent caused by any fraud or dishonesty by us, you agree to indemnify us to the fullest extent permitted by law against all liabilities, losses, claims, demands and reasonable expenses, including, but not limited to legal fees and expenses and internal time costs, brought against us by any party or person, other than you in connection with or arising out of the Engagement.

10. PERSONNEL

10.1 No party shall directly solicit the services of any employee, agent or representative of the other who is involved in the Engagement without the prior written consent of the relevant party during the term of the Contract or for the period of six months after the termination of the Contract. If during the term of the Contract or for the period of six months after the termination of the Contract any employee of any party accepts an offer of employment made by another party as a result of an introduction in the course of the Engagement, the party shall pay to the other a sum equivalent to six months gross salary of the employee concerned including any monetary bonuses payable to that employee during the term of the Contract or for the period of six months after termination of the Contract.

11. MISCELLANEOUS PROVISIONS

11.1 **Actions Required by Law:** Nothing in the Contract shall prevent us from taking all such action as may be required by law or statute or to comply with the regulations of any relevant professional or regulatory body (including the rules and regulations of the Royal Institution of Chartered Surveyors (RICS)).

11.2 **Conflict:** In the event of any conflict between the Conditions and the Letter of Engagement or any other document which forms part of the Contract, the Conditions shall prevail except where amended by specific reference to the relevant paragraph of the Conditions. In the event and only to the extent of any conflict between the Letter of Engagement and any referenced or attached document other than the Conditions the Letter of Engagement will take precedent.

11.3 **Force Majeure:** Neither party shall be liable for any failure or delay in performing any of its obligations hereunder if such failure or delay is caused by the occurrence of an event outside of that party's reasonable control. If either party becomes aware of any circumstances of force majeure which give rise to, or are likely to give rise to, any failure or delay on its part it shall forthwith notify the other in writing and shall inform the other of the period which it estimates the circumstances will continue. If the event of force majeure in question prevails for a continuous period in excess of 3 (three) months, the parties shall enter bona fide discussions with a view to alleviating its effects, or to agreeing upon such alternative arrangements as may be fair and reasonable.

11.4 **Waiver of Remedies:** No forbearance, delay or indulgence by either party in exercising or enforcing the provisions of this Contract shall prejudice or restrict the rights (whether provided by this Contract or by law) of that party nor shall any waiver of its rights operate as a waiver of any subsequent breach and no right, power or remedy herein conferred upon or reserved for either party or available by law is exclusive of any other right, power or remedy available to that party (whether under this Contract or at law) and each such right, power or remedy shall be cumulative.

11.5 **Entire Agreement:** This Contract represents the entire understanding and constitutes the entire agreement between the parties in relation to its subject matter and supersedes any previous agreement between the parties as to such subject matter. Each of the parties acknowledges and agrees that in entering into this Contract it has not relied on any representation or warranty or undertaking other than those expressly set out in this Contract and, except in relation to any liability for fraudulent misrepresentation, neither party shall be under any liability or shall have any remedy in respect of misrepresentation or untrue statement unless and to the extent that a claim lies under this Contract.

11.6 **Further Assurance:** Each party shall, at its own cost, do and execute or procure to be done and executed all necessary acts, deeds, documents and things reasonably within its power to give effect to this Contract as may be reasonably requested by the other party.

11.7 **Notices:** All notices which are required to be given under this Contract shall be in writing and shall be sent to the address of the recipient set out in this Contract or such other address as the recipient may designate by notice given in accordance with the provisions of this Clause and shall be clearly marked for the attention of the engaging partner, appearing in the Letter of Engagement in the case of notices to us. Any such notice may be delivered personally or by first class pre-paid letter (or by air-mail if overseas) or by facsimile transmission, and shall be deemed to have been served, if by hand, when delivered; if by first class post, 48 hours after posting; (if by air-mail, 5 days from the date of posting) and if by facsimile transmission, when successfully despatched in full.

11.8 **Severability:** If any provision in this Contract is, in whole or in part, held by a court or administrative body of competent jurisdiction to be illegal, invalid or unenforceable under any enactment or rule of law then that provision or part thereof shall to that extent be deemed not to form part of this Contract and the enforceability and validity of the remainder of this Contract shall not be affected. Provided always that if any such deletion substantially affects or alters the commercial basis of these Conditions the parties shall negotiate in good faith to amend and modify them as may be necessary or desirable in the circumstances.

11.9 **Rights of Third Parties:** For the purposes of the Contracts (Rights of Third Parties) Act 1999, and notwithstanding any other provision of this Contract, this Contract is not intended to, and does not, give any person who is not a party to it any right to enforce any of its provisions.

11.10 **Assignment:** Neither party shall without the prior written consent of the other party assign, transfer or charge any of its rights under this Contract, nor subcontract any or all of its obligations under this Contract, nor purport to do any of the aforementioned.

11.11 **Interpretation:** References to Clauses are references to the relevant Clause in this Contract. The Clause headings in this Contract are for ease of reference only and shall not affect the construction or interpretation of the Clause to which they refer or this Contract. Words denoting the singular include the plural and vice versa and words of any one gender include both genders. Words denoting natural persons include corporations, companies, firms, associations and organisations. References to "including" and "include" shall be deemed to mean respectively "including without limitation" and "include without limitation". Unless otherwise stated herein, "we", "our" and "us" refers to Jonathan Cornes Associates & MAW Consulting Ltd, a Limited Company situated at 9 Brindley Court, Lymedale Business Park, Dalewood Road, Newcastle-under-Lyme ST5 9QA and references to "you" and "your" refers to the Addressee(s) to whom the Letter of Engagement was addressed. "Addressee" means you, the original addressee(s) of the Letter of Engagement together with any other persons whom Jonathan Cornes Associates & MAW Consulting Ltd have agreed in writing may have the benefit of the Services or to whom Jonathan Cornes Associates & MAW Consulting Ltd have assumed a duty of care in respect of the Services under written arrangement with them.

11.12 **Governing Law:** This Contract (including any dispute or claim of whatever nature arising under or in connection with this Contract) shall be governed by and interpreted in accordance with the laws of England and Wales. Each party hereby irrevocably agrees to submit to the exclusive jurisdiction of the courts of England and Wales in respect of any claim, dispute or difference of whatever nature concerning the Contract and any matter arising from it.

11.13 **Disputes:** The parties will attempt to resolve any dispute that may arise under or in connection with this contract by negotiation. If after a reasonable time any dispute has not been resolved by negotiation then, subject to both parties' consent in writing, the parties may refer the dispute to arbitration or mediation.