Standard Contact Terms & Conditions of Business

COLCLOUGH & COATES - SC2 LIMITED is a private limited company with registered number 7811158 and with a registered office at 20 Brownelow Copse, Walderslade, Kent ME5 9JQ.

The services provided to you and the contract under which those services are provided is with COLCLOUGH & COATES - SC2 LIMITED. The services provided are subject to these terms (the “Terms”) and the issue of this contract by us or our commencement of the provision of services to you (whichever shall occur first) shall be deemed to be acceptance by you of these standard terms of business and the commencement of the contract between you and us (the “Contract”).

In these Terms “you” and “your” refer to our client; “we” “us” and “our” refers to COLCLOUGH & COATES - SC2 LIMITED. In the event of inconsistency or conflict, these Terms will prevail over any other document forming part of the contract between us, including any other terms that you seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

1. Payment Terms

1.1 All sums invoiced by us are due on the date of the invoice and the final date for payment is 30 days afterwards. If any sum is not paid by the final date for payment we reserve the right to charge interest from the date of the invoice until the date of payment at a rate of 5% above The Co-operative Bank base lending rate, whether before or after judgment, and compounding quarterly.

1.2 Time for payment shall be of the essence of the Contract.

1.3 Unless we specifically agree with you otherwise, you will be responsible for paying our fees and expenses even if the Services are for any reason not concluded. In these circumstances, our charges will be calculated to reflect a fair and proper rate for the Services we have carried out, whether or not a fixed rate was agreed for the successful completion of the whole project.

1.4 Any complaints or queries in relation to an invoice must be received by us not later than 30 days after the date of the invoice. After that period, the invoice must be paid in full. Where the sum due under an invoice is not paid in full by the final date for payment and no valid reasons for withholding payment have been received by us within the 30 day period, we may suspend provision of the Services until the full payment is made and any timescales for the Services will be extended to reflect the suspension and a reasonable remobilisation period.

2. Credit References

2.1 We reserve the right to undertake credit reference checks on all our clients, and/or ask clients to produce bank and other business references in appropriate circumstances.
3. Fee Estimates and Quotations

Please note the following:

3.1 An estimate is our indication of a likely fee for carrying out the work specified.

3.2 A quotation is our proposal to carry out the specified work for a stated fee. If you accept that proposal, it then becomes a contractual commitment on our part.

3.3 Any quotation or estimate, which we have given, is based on the information made available to us at the time and is based on our experience and our assessment of the Services you ask us to perform. Should we have to do more work than we anticipated (or in the case of a quotation more work than we ought reasonably to have anticipated and allowed for based on the assumptions set out in the scope of work) due to changed circumstances or the discovery of additional relevant facts we will not notify you and we reserve the right to charge additional fees for the extra work. We will also charge additional fees where you instruct us to do extra or we are otherwise required to do extra work (for example due to changes in relevant legislation and/or regulations). Additional fees will be charged at our standard rates applicable at the time for the relevant grade of staff – we will confirm these rates to you at any time on request.

4. Fees

4.1 Our charges for the Services shall be on a time and materials basis and will be calculated in accordance with the hourly rates which we charge for Directors and other staff within COLCLOUGH & COATES - SC2 LIMITED and which can be provided to you on your request, or have been provided to you with our scope of work and fee estimate or quotation, or as a fixed fee quotation. Please note that these rates are subject to periodic review, and any changes will be notified to you although will not affect any fixed quotation we have provided you with.

4.2 Hourly rates are, however, not the only factor reflected in our charges; other influences may affect the final amount, including the complexity of the task, the urgency with which the work was carried out, the importance of the work to you as a client, the value of the transaction involved, and the responsibility falling on COLCLOUGH & COATES - SC2 LIMITED.

4.3 We are aware that many clients prefer to know with some certainty what it will cost them to employ consultants to deal with their business. Where it is possible to give an estimate for the work you have asked us to carry out, this is as set out in our proposal letter. We can also provide for certain types of business a fixed quotation for the work, or quote you a “ceiling figure”. This will enable you to budget more accurately, and avoid your receiving an unwelcome surprise when the invoice arrives after the work concluded. Please let us know if you wish to adopt either of these methods of our fees.

5. Expenses

5.1 Unless you have instructed otherwise, we shall assume that we have your
authority to incur the usual disbursements and expenses encountered in the ordinary course of the Services we are instructed to provide. We shall ask for your authority before incurring any disbursements or expenses, which we consider to be substantial in the context of the Services or from what we know of your individual circumstances. Disbursements and expenses are charged to you in addition to our fees. VAT is payable as appropriate on our fees, disbursements and expenses.

6. Quality of Service
6.1 We will provide the Services under this Contract with reasonable skill and care.
6.2 You agree that we are entitled to rely upon you to respond to our requests for information or instructions, and to notify us promptly of any change in circumstances relevant to the Services we are providing you with, including but not limited to any matters which you agree directly with any other party involved in a matter relating to the Services.
6.3 We acknowledge that from time to time things can go wrong. If, as your matter progresses, you find that, despite our best endeavours, you are dissatisfied with the Services you have received, please speak as soon as possible to the person responsible for your Services.

7. Advice and Instructions
7.1 We will work for you on the basis of these standard terms. The scope of work, which we will carry out for you, is as set out in correspondence from us to you (the “Services”). As a project develops our brief may change and we will confirm this to you in writing. We will be entitled to assume that our understanding of the Services is as set out in correspondence is correct unless you immediately respond to correct it.

8. Progress
8.1 We shall try to give you a clear explanation of the issues involved in the work you have instructed us to carry out, and keep you informed about the progress of the Services (including the likely time scales for completion of the same).

9. Communications and updates
9.1 We shall communicate with you by post, telephone, facsimile and email. The use of email may not be as secure as other forms of communication; however, unless you instruct us to the contrary, we shall be entitled to assume that you have no objection to our communicating with you, and sending attachments to you, by email whether in general or for the communication of specific information.
9.2 So far as permitted by law our liability in relation to the transmission of computer viruses, worms, Trojans and other harmful code or programs is excluded. You agree that it is your responsibility to scan e-mails and
10. Exclusion and Limitations of Liability

10.1 The following provisions set out our entire financial liability (including any liability for the acts or omissions of our employees, agents and sub-contractors) to you in respect of: 10.1.1 any breach of the Contract; 10.1.2 any use made by you of the Services, or any part of them; and 10.1.3 any representation, statement or tortuous act or omission (including negligence) arising under or in connection with the Contract.

10.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

10.3 Nothing in this Contract shall exclude any liability which we may have to you in respect of any personal injury or death resulting from our negligence, any loss caused by our fraudulent misrepresentation or reckless disregard of our professional obligations or any other situation where the law prohibits us from excluding or limiting our liability to you. The provisions of this paragraph 10 shall continue to apply notwithstanding the termination of our engagement for any reason.

10.4 Subject to clauses 10.2 and 10.3: 10.4.1 We will have no liability whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation or otherwise for to you for: (a) loss of profit; or (b) loss of business opportunity; or (c) increased operating costs; or (d) loss of goodwill; or (e) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses; 10.4.2 We will have no liability to you for any loss, damage, costs, expenses or other claims for compensation arising from any data information or instructions supplied by you under the provisions of clause 12.1 which are incomplete, inaccurate, illegible or arising from their late arrival or non-arrival, or any other fault of yours;

10.5 Our total liability of whatever nature, whether in tort (including, without limitation, negligence), under statute or otherwise to you for any and all loss (which these Terms means all losses, damages, costs and liabilities whatsoever) arising from or in any way in connection with this contract shall not exceed the amount specified in our proposal letter or, if no amount is specified there, 20 (twenty) times our fee or £500,000 (five hundred thousand pounds sterling), whichever is the lesser.

10.6 Our liability to you shall be further limited to that proportion of your loss which it is just and equitable for us to pay, having regard to the extent of our responsibility for it and on the basis that all other consultants and contractors engaged in relation to the project will be deemed to owe you a duty of care and have the benefit of no exclusions or limitations of liability, nor joint nor co-insurance provisions, between you and them, and will be deemed to have paid to you such proportion of the loss as it would be just and equitable for them to pay having regard to the extent of their responsibility.

10.7 We shall not be liable to you for any failure or delay or for the consequences of any failure or delay in performance of the Services if it is due to: 10.7.1 any failures by third parties including communication service
providers, language interpreters; or 10.7.2 any event beyond our reasonable control including without limitation acts of God, war, industrial disputes, protests, fire, flood, storm, tempest, explosion, acts of terrorism and national emergencies; or 10.7.3 errors or omissions in any information that you provide us with.

10.8 You may not assign this Contract or any benefit arising from it without our prior written consent. Where we give our consent to an assignment or where by any other means any other person is entitled to rely on our work under this Contract they are to have no greater rights against us than you have.

11. Interim Invoices
11.1 It is our standard practice to invoice clients at periodic intervals as we consider appropriate before final completion of the Services (generally monthly in arrears). An interim invoice represents our charges for the Services carried out to the date of the invoice, unless we tell you otherwise at that time.

12. Termination of Instructions
12.1 We expect to continue to act for you until we have completed the provision of the Services. Either you or we may bring these instructions to an end at any time by notifying the other in writing giving 30 days notice. We reserve the right to cease the provision of the Services and terminate the Contract immediately should you fail to provide us with adequate instructions or to pay any amount due to us. If the Contract is terminated by either of us you must pay us all fees and disbursements incurred for Services provided up until the date of termination, together with any further fees and disbursements for any further work that is necessary to transfer our files to another advisor or your choice. VAT is charged on all of these amounts.

13. Your Obligations
13.1 You shall: 13.1.1 ensure that the terms of the scope of work are complete and accurate; 13.1.2 co-operate with us in all matters relating to the Services; 13.1.3 provide us, our employees, agents, consultants and subcontractors, with access to your premises, office accommodation and other facilities as reasonably required by us; 13.1.4 provide us with such information and materials as we may reasonably require in order to supply the Services, and ensure that such information is accurate in all material respects; 13.1.5 prepare your premises for the supply of the Services; 13.1.6 obtain and maintain all necessary licences, permissions and consents which may be required before the date on which the Services are to start; and 13.1.7 keep and maintain any materials we supply in relation to the Services at your premises in safe custody at your own risk, maintain such materials in good condition until returned to us, and not dispose of or use such materials other than in accordance with our written instructions or authorisation.

13.2 If our performance of any of our obligations under the Contract is
prevented or delayed by any act or omission by you or failure by you to perform any relevant obligation (a "Customer Default"): 13.2.1 we shall without limiting our other rights or remedies have the right to suspend performance of the Services until you remedy the Customer Default, and to rely on the Customer Default to relieve us from the performance of any of our obligations to the extent the Customer Default prevents or delays our performance of any of our obligations; 13.2.2 we shall not be liable for any costs or losses sustained or incurred by you arising directly or indirectly from our failure or delay to perform any of our obligations as set out in this clause 13.2; and 13.2.3 you shall reimburse us on written demand for any costs or losses we sustain or incur arising directly or indirectly from the Customer Default.

14. Confidentiality
14.1 Both parties shall keep confidential all information, which concerns the other party and its business and is of a confidential nature, and shall not disclose it unless authorised to do so by the disclosing party or as required by law. Either party may, of course, disclose it to its professional advisers and any sub-consultants it may engage in relation to the provision of the Services, provided that they are under equivalent obligations to keep all information disclosed as part of this Contract confidential.

15. Storage of Drawings, Reports and Calculations
15.1 We normally retain project documentation for at least 6 years after the Services have been completed and the file has been closed.
15.2 We currently store project documentation in a safe custody free of charge.
15.3 If, however, you ask us to provide additional storage services, which exceed the normal storage and retrieval period, we reserve the right to charge an administration fee.

16. Intellectual Property Rights
16.1 All copyright and related rights, trade marks, service marks, trade, business and domain names, rights in goodwill or to sue for passing off, rights in designs, rights in computer software, database right, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights ("Intellectual Property Rights") in or arising out of or in connection with the Services shall be owned by us.
16.2 You acknowledge that, in respect of any third party Intellectual Property Rights, your use of any such Intellectual Property Rights is conditional on our obtaining a written licence from the relevant licensor on such terms as will entitle us to license such rights to you.
16.3 All materials, equipment, documents and other property supplied by us in the provision of the Services are our exclusive property.
17. Waiver
17.1 A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
17.2 Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

18. Severance
18.1 If a court or any other competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
18.2 If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

19. Variation
19.1 Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to the Contract, shall only be binding when agreed in writing and signed by us.

20. No Partnership
20.1 Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.
20.2 A partnership may be agreed upon prior to any engagement of any contract or works. This must be agreed by us prior to any work commissioned by you and all parties involved must enter into a formal memorandum of agreement.

21. Entire Agreement
21.1 The Contract constitutes the entire agreement between the parties. You acknowledge that you have not relied on any statement, promise or representation made or given by or on behalf of us which is not set out in the Contract.

22. Law and Jurisdiction
22.1 This Contract shall be governed by and construed in accordance with English Law. You and we agree to submit to the non-exclusive jurisdiction of the English Courts.

23. Third Party Rights

23.1 No person who is not a party to this Contract is intended to have any right to enforce any part of it pursuant to the Contracts (Rights of Third Party) Acts 1999.