

TERMS AND CONDITIONS

1. INTERPRETATION

- 1.1. In these Conditions
 - 1.1.1. "the Consultant" means COPE Occupational Health and Ergonomic Services Ltd.
 - 1.1.2. "the Customer" means the person or organisation whom accepts a Proposal for the supply of Goods and/or the Services or whose order for Goods and/or the Services is accepted by the Consultant.
 - 1.1.3. "these conditions" means the standard terms and conditions as set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Consultant and the Customer.
 - 1.1.4. "in writing" means telex, cable, facsimile transmission post and e-mail.
 - 1.1.5. "the Contract" means the contract for the supply of Goods and/or the Services.
 - 1.1.6. "Service" means the deliverables, as described in the relevant Contract to Work
 - 1.1.7. "Goods" means tangible products, as described in the Proposal
 - 1.1.8. "Proposal" means the document describing the proposed provision of Service or the proposed Goods to be supplied.
- 1.2. In these definitions, any reference to the plural shall be construed as reference to the singular as well, and vice versa
- 1.3. Any reference in these conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.
- 1.4. The headings in the conditions are for convenience only and shall not affect their interpretation.

2. BASIS OF THE SALE

- 2.1. The Consultant shall supply and the Customer will purchase Goods and/or Services in accordance with any written Proposal of the Consultant which is accepted by the Customer, or any written order of the Customer which is accepted by the Consultant, subject in either case to these conditions, which are the only conditions upon which the Consultant is prepared to deal with the Customer and which shall govern the contract to the exclusion of any other conditions subject to which any such Proposal is accepted or purported to be accepted, or any such order is made or purported to be made, by the Customer.
- 2.2. The Customer shall promptly obtain, maintain and make available all necessary assets, equipment, premises, vehicles, personnel, capital and other facilities required for the provision of Services.
- 2.3. The Customer shall allow the Consultant and its personnel access at all reasonable times to the Premises for the purpose of providing the Services.
- 2.4. The Customer shall provide the Consultant with such technical advice in connection with the performance of the Services as the Consultant may from time to time reasonably require and provide the Consultant with all necessary literature, books and other material which the Customer requires to be observed.
- 2.5. The Customer and the Consultant shall each use reasonable endeavours to keep each other informed of any special requirements (including statutes and codes of good practice) applicable to the carrying out of the Services. To the extent necessary and appropriate the Customer and the Consultant shall promptly take steps to comply with such special requirements. If these steps shall give rise to either an increase or decrease in the fees payable pursuant to Clause 4 below, then the fees pursuant to Clause 4 below shall be increased or decreased accordingly.
- 2.6. These conditions may only be modified by a variation in writing signed on behalf of the Consultant by a Director and no other action on the part of the Consultant (whether delivery of Goods or performance of Services or otherwise) shall be construed as an acceptance of any other conditions.
- 2.7. These conditions (as modified in accordance with clause 2.6 and together with the matters referred to on the face of the Consultant's Contract) embody the entire understanding of the parties and supersede any prior promises, representations, undertakings or implications. The Consultant's employees or agents are not authorised to make any representations concerning the Goods and/or the Service unless confirmed on behalf of the Consultant by a Director in

writing. In entering into the Contract the Customer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.

- 2.8. Any advice or recommendations given by the Consultant or employees or agents to the Customer or its employees or agents as to the storage, application or use of the Goods supplied which is not confirmed in writing by the Consultant is followed or acted upon entirely at the Customer's own risk, and accordingly, the Consultant shall not be liable for any such advice or recommendation which is not so confirmed.
- 2.9. Any typographical, clerical or other error or omission in any sales literature, Proposal, acceptance of offer, invoice or other document or information issued by the Consultant shall be subject to correction without any liability on the part of the Consultant.
- 2.10. Any Proposal given by the Consultant constitutes an offer to supply the Goods and/or the Services described therein upon these Conditions. It shall remain open for acceptance for a period of 21 days from its date.

3. PROPOSALS, ORDERS AND SPECIFICATIONS

- 3.1. No Proposal submitted by the Customer shall be deemed to be accepted by the Consultant unless and until confirmed in writing by the Director which acceptance will be subject to clause 2.1 above.
- 3.2. The Customer shall be responsible to the Consultant for ensuring the accuracy of the terms of the Service (including any applicable specification) submitted by the Customer, and for giving the Consultant any equipment, personnel, information and instructions within a sufficient time to enable the Consultant to perform the Proposal in accordance with these terms.
- 3.3. The Consultant reserves the right to make any changes in the Proposals which are required to conform with any applicable safety or other statutory requirements.
- 3.4. No Proposal which has been accepted by the Customer may be cancelled by the Customer except with the agreement in writing of the Consultant and on terms that the Customer shall indemnify the Consultant in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Consultant as a result of cancellation.

4. PRICE

- 4.1. The price of the Goods and/or the Services shall be the Consultant's quoted price or, where no price has been quoted (or a quoted price is no longer valid) the price shall be determined by the Consultant in accordance with the Consultant's then current charges for materials and charging rates for labour and/or current costs for manufacture. All prices quoted are valid for 21 days only, or until earlier acceptance by the Customer, after which time they may be altered by the Consultant by giving written notice to the Customer.
- 4.2. The Consultant reserves the right, by giving notice to the Customer, at any time before delivery or performance, to increase the price of Goods or the Services to reflect any increase in the cost to the Consultant which is due to any factor beyond the control of the Consultant (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the cost of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods or the Services which is requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give the Consultant adequate information or instructions.
- 4.3. Except as otherwise stated under the terms of any Proposal of the Consultant, and unless otherwise agreed in writing between the Customer and the Consultant, all prices are given by the Consultant on an ex works basis for Goods and on Customer's premises basis for the Services, the Customer shall be liable to pay the Consultant's charges for additional packaging, transport, insurance and travelling expenses.
 - 4.3.1.1. The price is exclusive of all or any applicable value added tax (or other applicable sales tax) which the Customer shall be additionally liable to pay to the Consultant.

5. CANCELLATION

- 5.1. If the Customer cancels a contract or order, they will reimburse the Consultant for all costs and expenses incurred up to and including the day of cancellation.

- 5.2.** The Consultant reserves the right to charge fees, costs and expenses for courses and projects cancelled at short notice. The Consultant may:
- 5.2.1. charge the Customer 50% of the total course or project fee if that course or project is cancelled 10 or less working days before the agreed start date
 - 5.2.2. charge the Customer 75% of the total course or project fee if that course or project is cancelled 5 or less working days before the agreed start date
 - 5.2.3. charge the Customer 100% of the total course or project fee if that course or project is cancelled on the day of commencement of the course or project, in addition to the out of pocket expenses of the Consultant.
- 5.3.** The following conditions will apply for cancellations of training courses or consultancy days:
- 5.3.1. The Consultant will run any course where 2 or more people attend - this will be the same course so no change in fees will apply.
 - 5.3.2. If less than 2 people attend the course then the session will be cancelled and the day may be charged at the rates noted in Clause 5.2.3.
 - 5.3.3. If the Customer cancels projects or courses covering more than 1 day then each day will be considered separately for cancellation fees appropriate to the notice period for cancellation of that day.
 - 5.3.4. If the Customer can re-book the cancelled course or project for a date no more than 2 calendar months from the original date of commencement, then a reduction in charges may be considered, to an amount that will be no less than professional fees or wages for staff engaged on the project or course for the duration of the project or course and all expenses and travel costs already incurred, at the rate agreed. An additional fee of 5% of the amended total will be added to cover organisational expenses. If the re-booked course is subsequently cancelled the balance of the original course or project fees will be charged, regardless of the notice period given for this cancellation.
 - 5.3.5. If the Consultant cannot provide a suitably experienced trainer for a course or, through unplanned and unexpected circumstances, the trainer is unable to complete a course or Ergonomic project day, then the Customer will not be charged for any expenses incurred by that consultant and COPE will make all arrangements for re-scheduling the course or visit at the earliest opportunity. Only in circumstances where the professional conduct of the consultant trainer is called into question following the cancellation of a course or Ergonomic project day will COPE enter negotiations to cover out of pocket expenses incurred by the Customer on that day or days.

6. PAYMENT

- 6.1.** Subject to any special terms agreed in writing between the Customer and the Consultant, the Consultant shall be entitled to invoice the Customer for the price of the Goods or the Services on or at any time after delivery of the Goods or performance of the Services.
- 6.2.** Unless otherwise agreed in writing the Customer shall pay the price of the Goods or the Services within 30 days of the date of the Consultant's invoice notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Customer. The time of payment of the price shall be of the essence of the Contract. Payments are to be made without deduction or set-off. Receipts for payment will be issued upon request.
- 6.3.** If the Customer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Consultant, the Consultant shall be entitled to:
- 6.3.1. cancel the Contract or suspend any further deliveries to the Customer;
 - 6.3.2. appropriate any payment made by the Customer to such of the Goods (or the Goods and/or the Service supplied under any other contract between the Customer and the Consultant) as the Consultant may think fit notwithstanding any purported appropriation by the Customer; and

- 6.3.3. charge interest on any outstanding balances at the rate of stated interest prescribed by the Late Payments of Commercial Debts (Interest) Act 1998 (as may be amended or replaced from time to time).
- 6.3.4. unless instructed in writing otherwise, all payments shall be made to Alex Lawrie Factors Limited PO Box 100, Banbury, Oxfordshire, OX16 7SG.
- 6.3.5. neither party shall assign or transfer the benefit and/or burden of this Contract without prior written consent of the other.
- 6.3.6. this contract shall be binding upon the successors and assigns of the parties hereto and the name of a party appearing herein shall be deemed to include the names of its successors and assigns provided always that nothing shall permit any assignment by either party.

7. DELIVERY

- 7.1. The Consultant will not be liable to the Customer for any loss or damage (whether direct, indirect or consequential) sustained by the Customer as a result of any delay in delivery or despatch of the Goods or performance of the Services where such delay is caused by lack of instructions from the Customer, strikes, lock-outs, other industrial action, failure of the Consultant's Consultants to fulfil their obligations, or any cause beyond the Consultant's reasonable control.
- 7.2. If the Consultant fails to deliver the Goods or perform the Services for any reason other than any cause beyond the Consultant's reasonable control or the Customer's fault, and the Consultant is accordingly liable to the Customer, the Consultant's liability shall be limited to the excess (if any) of the cost to the Customer (in the cheapest available market) of similar Goods or Services to replace those not delivered or not performed over the price of the Goods or the Services.
- 7.3. If the Customer fails to take delivery of the Goods or fails to give the Consultant adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Customer's reasonable control or by reason of the Consultant's fault) then, without prejudice to any other right of remedy available to the Consultant, the Consultant may:
 - 7.3.1. store the Goods until actual delivery and charge the Customer for the reasonable cost (including insurance) of storage; or
 - 7.3.2. sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Customer for the excess over the price under the Proposal or charge the Customer for any shortfall below the price under the Proposal.
- 7.4. Should work be suspended at the request or delayed through any default of the Customer for a period of 30 days then without prejudice to any other remedy the Consultant shall be entitled to payment for work already carried out, materials specially ordered and other additional costs including storage.

8. LIMITATION OF LIABILITY

- 8.1. Except in respect of death or personal injury caused by the Consultant's negligence, or as expressly provided in this Contract, the Consultant will not be liable to the Customer for any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty of common law, or under the express terms of the Contract, for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by the negligence of the Consultant, its servants or agents or otherwise) which arise out of or in connection with the provision of the Services, and the entire liability of the Consultant under or in connection with the Contract shall not exceed the Consultant's fees for the provision of the Services.
- 8.2. The Consultant will not be liable to the Customer or be deemed to be in breach of the Contract by reason of delay in performing or any failure to perform, any of the Consultant's obligations in relation to the Service, if the delay or failure was due to any cause beyond the Consultant's reasonable control.
- 8.3. The Liability hereunder will be limited to the amount of insurance cover held by the Consultant.

9. INSOLVENCY OF CUSTOMER

9.1. This Clause applies if:

- 9.1.1. the Customer makes any voluntary arrangement with its creditors, or has a petition presented for the appointment of an administrator or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction of a solvent company); or
- 9.1.2. an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Customer; or
- 9.1.3. the Customer ceases, or threatens to cease, to carry on business; or
- 9.1.4. the Consultant reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly

- 9.2.** If this Clause 9 applies then, without prejudice to any other right or remedy available to the Consultant, the Consultant shall be entitled to cancel the Proposal or suspend any further the Services under the performance of the Proposal without any liability to the Customer, and if the Goods have already been supplied or the Services performed, but not paid for, the price payable under this or any other Proposal between the parties shall become immediately due and notwithstanding any previous agreement or arrangement to the contrary and further the Consultant shall in respect of all sums due from the Customer have a lien on all property of the Customer in its possession (whether worked on or not) and shall be entitled upon the expiration of 28 days notice in writing to the Customer to dispose of such property in such manner and at such price as it reasonably determines and to apply the proceeds towards such debts.

10. GENERAL

- 10.1.** Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may, at the relevant time, have been notified pursuant to this provision to the party giving the notice.
- 10.2.** No waiver by the Consultant of any breach of the Proposal by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 10.3.** If any provision of any clause or sub-clause of these conditions is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of these conditions and the remainder of the provision in question shall not be affected thereby.
- 10.4.** This Contract shall be governed by and construed in accordance with the laws of England