

Terms and Conditions_v8

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1. BASIS OF CONTRACT

- 1.1 Any quotation given by Ohmega shall not constitute an offer, and is only valid for a period of 30 days from its date of issue.
- 1.2 Any acceptance by Ohmega of a purchase order shall be subject to a satisfactory visit and inspection of the location(s) at which the Services are to be delivered ("**Site**"). Upon completion of such satisfactory visit and inspection, these terms and conditions together with the terms of the quotation shall become binding upon the parties ("**Contract**").

2. THE SERVICES

- 2.1 Ohmega shall supply the services and the goods and/or materials as detailed in the quotation and any documents specifically referred to therein ("**Services**").
- 2.2 Ohmega shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services.
- 2.3 For the avoidance of doubt the quotation and/or the Services do not include, and Ohmega shall not be required to carry out any building works including but not limited to excavating, chasing, decorations, column erection, drilling holes greater than 30mm in diameter, installation of hatches, cable ducting and drawing cables, fire stopping and making good thereof.
- 2.4 The quotation and/or the Services do not include any commissioning or demonstrations. Ohmega can provide commissioning or demonstration services, and an additional quotation will be provided for such services on request.
- 2.5 Ohmega shall be entitled to charge an overtime rate of 200 per cent of its standard daily fee rate on a pro-rata basis for each part day or for any time worked by individuals whom it engages on the Services outside the following hours, which for the avoidance of doubt do not include bank holidays:
- 2.5.1 7:30 am to 6:00 pm on Monday to Thursday; and
- 2.5.2 7:30 am to 4:00 pm on Friday.

3. TITLE AND RISK

- 3.1 The risk in any goods and/or materials provided by Ohmega as part of the delivery of the Services shall pass to you on completion of delivery of those goods and/or materials to the Site.
- 3.2 Title to the goods and/or materials shall not pass to you (or the client (as appropriate)) until Ohmega receives payment in full (in cash or cleared funds) for the Services provided in accordance with clause 6.

4. WARRANTY

- 4.1 Ohmega warrants that on completion of delivery of the Services, the goods and/or materials shall:
- 4.1.1 be free from material defects in design, material and workmanship;
- 4.1.2 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and
- 4.1.3 be fit for any purpose held out by Ohmega.

Ohmega shall not be liable for the goods and/or materials' failure to comply with the warranty in clause 4.1 if:

- 4.1.4 the defect arises because you, the main contractor or the client failed to follow Ohmega's oral or written instructions as to the commissioning, use or maintenance of the goods and/or materials or (if there are none) good trade practice;
- 4.1.5 the defect arises as a result of Ohmega following any drawing or design supplied by you;
- 4.1.6 you, the main contractor or the client alter or repair such goods and/or materials without the written consent of Ohmega
- 4.1.7 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions;
- 4.1.8 the defect arises as a result of changes made to ensure they comply with applicable statutory or regulatory standards.

5. YOUR OBLIGATIONS

- 5.1 You shall ensure that, or procure that the appointed main contractor shall co-operate with Ohmega in all matters relating to the Services, and ensure that, at no cost to Ohmega, all facilities and information necessary to enable Ohmega to perform the Services with reasonable continuity are made available, including but not limited to the following:
- 5.1.1 providing suitable access to the Site at all times necessary for the proper delivery of the Services;
 - 5.1.2 removing any asbestos (and any other hazardous or dangerous materials) from the Site and, for the avoidance of doubt, Ohmega reserves the right to charge additional fees in the event that it is required to perform the Services adjacent to any asbestos (and any other hazardous or dangerous materials);
 - 5.1.3 providing all welfare facilities as required by the Construction (Design and Management) Regulations 2007 (as may be amended, extended or re-enacted from time to time);
 - 5.1.4 providing accommodation, waste and storage facilities at the Site;
 - 5.1.5 providing suitable lighting in all areas of the Site in which the Services are to be carried out;
 - 5.1.6 supplying and installing all necessary pattresses, supports for devices, and any device mounted on or within stud walls and/or suspended/non-structural ceilings;
 - 5.1.7 removing, repairing, replacing and reinstating of fixed ceilings and ceiling tiles as may be necessary to enable Ohmega to deliver the Services;
 - 5.1.8 preparing the Site for the supply of the Services, including removing all furniture and fixtures and fittings from the Site, to provide clear access;
 - 5.1.9 supplying all "as fitted" drawings, zone charts and OMD documents, and for the avoidance of doubt Ohmega accepts no responsibility in respect of any design work;
 - 5.1.10 obtaining and maintaining all necessary licences, permissions and consents which may be required before the date on which the Services are to start; and
 - 5.1.11 complying with all applicable laws and regulations in respect of the operation of the Site as may be in force from time to time.
- 5.2 If Ohmega's performance of any of its obligations under the Contract is prevented or delayed by any act, or omission by you, the main contractor or any other contractor appointed by you or the main contractor, or failure by you, the main contractor or any other

contractor appointed by you or the main contractor to perform any relevant obligation (“Default”):

- 5.2.1 Ohmega shall without limiting its other rights or remedies have the right to suspend performance of the Services until you remedy the Default, and to rely on the Default to relieve it from the performance of any of its obligations to the extent the Default prevents or delays Ohmega’s performance of any of its obligations;
- 5.2.2 Ohmega shall not be liable for any costs or losses sustained or incurred by you, the main contractor or any other contractor appointed by you or the main contractor arising directly or indirectly from Ohmega’s failure or delay to perform any of its obligations as set out in this clause 5.2; and
- 5.2.3 you shall reimburse Ohmega on written demand for any costs or losses sustained or incurred by Ohmega arising directly or indirectly from the Default.

6. CHARGES AND PAYMENT

- 6.1 The charges for the Services are set out in the quotation and are exclusive of VAT, which shall be invoiced at the relevant rate.
- 6.2 Ohmega shall invoice you on completion of the Services or monthly in arrears, each invoice shall be payable:
 - 6.2.1 within 30 days of the date of the invoice;
 - 6.2.2 in full and in cleared funds to the bank account nominated in writing by Ohmega; and
 - 6.2.3 without any set-off, counterclaim, deduction or withholding, andtime for payment shall be of the essence to the Contract.
- 6.3 If you fail to make any payment due to Ohmega under the Contract by the due date for payment, then you shall pay interest on the overdue amount at the rate of 12 per cent per annum. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. You shall pay the interest together with the overdue amount.
- 6.4 The retention (if any) shall be released to Ohmega immediately on completion of delivery of the Services.
- 6.5 For the avoidance of doubt, all maintenance or additional work carried out by Ohmega at your request, and which is not included within the Quotation will be charged at our normal hourly rates as in force from time to time, and invoiced to you separately.

7. LIMITATION OF LIABILITY: YOUR ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

- 7.1 Nothing in these terms and conditions or the Contract shall limit or exclude Ohmega’s liability for:
 - 7.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors; or
 - 7.1.2 fraud or fraudulent misrepresentation.
- 7.2 Subject to clause 7.1:
 - 7.2.1 Ohmega shall under no circumstances whatsoever be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the contract; and
 - 7.2.2 Ohmega’s total liability to you in respect of all other losses arising under or in connection with the contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed £1,000,000 (one million pounds).

7.3 The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

7.4 This clause 7 shall survive termination of the contract.

8. FORCE MAJEURE

8.1 For the purposes of this contract, "**Force Majeure Event**" means an event beyond the reasonable control of Ohmega including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of Ohmega or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

8.2 Ohmega shall not be liable to you as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.

9. SEVERANCE

9.1 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

9.2 If any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

10. VARIATION

Except as set out in these terms and conditions, no variation of the Contract, including, but not limited to, the introduction of any additional terms and conditions or alteration of the scope of the Services shall be effective unless it is agreed in writing and signed by Ohmega.