



# Supply & Apply Terms & Conditions

## Interpretation

In these Conditions:

"Agreement" - means the order or contract of which these Terms and Conditions form part;"Charges" - means the charges levied by the Company for the Service in accordance with any quotation, Specification Sheet or Output Material or Input Material given by the Company to the Customer;"Commencement Date" - means the date upon which the provision of Services by the Company at the Premises commences;"Company" - means Richco Limited whose registered office is at Richco House, Unit 1-2 Newlands End, Laindon North, Basildon, Essex SS15 6DU (Registration No: 4154655);"Customer" - means the Customer at whose Premises the Service is to be provided and performed;"Goods" - means the goods which the Company is to supply and install in accordance with these Terms;"Input Material" - means any documents in writing, including any floor or office plans, corporate literature, map, record, data or other information provided by the Customer relating to the Service;"Output Material" - means any documents in writing, including any floor or office plans, corporate literature, map, record, data or other information provided by the Company relating to the Service;"Premises" - means the premises of the Customer or as specified by the Customer at which the Service is to be provided by the Company;"Services" - means the supply and installation of services by the Company at the Premises in accordance with these Terms;"Specification Sheet" - means the specifications for the Goods and the Services; and"Terms" - means these Terms and includes any special terms and conditions detailed in the Specification Sheet or Output Material agreed between the Company and the Customer.

1.2) The headings in this Agreement are for convenience only and shall not affect their interpretation in this Agreement.

1.3) References to any statute, enactment, order, regulation or other similar instrument shall be construed as references to the statute, enactment, order, regulation or instrument as amended by any subsequent statute, enactment, order, regulation or instrument or as contained in any subsequent re-enactment, modification or statutory extension of any of the above.

1.4) Except where the context requires otherwise, the singular includes the plural and vice versa; a reference to one gender includes all genders; words denoting persons include firms and corporations and vice versa.

1.5) Any reference to a clause shall be a reference to such clause in this Agreement.

## 2) Supply of Service

2.1) The Company shall provide the Services to the Customer subject to these Terms at the Premises.

2.2) No employee, sub-contractor or agent of the Company has any authority to add to or vary these Terms or to make any representation or warranty unless such addition or variation or representation or warranty is in writing and signed by a director or the secretary of the Company or any named person authorised on behalf of the Company.

2.3) Any changes or additions to the Service or the Terms must be agreed in writing by the Company and the Customer.

2.4) The Customer shall at its own expense supply the Company with all necessary documents or other materials, and all necessary data or other information relating to the Service, within sufficient time to enable the Company to provide the Service in accordance with the Agreement. The Customer shall ensure the accuracy of all Input Material.

2.5) The Company shall have no liability for any loss or damage or accidental loss or damage resulting in the loss of the Input Material. All Output Material shall be at the sole risk of the Customer from the time of delivery to or to the order of the Customer.

2.6) The Service shall be provided in accordance with the Specification Sheet and otherwise in accordance with the Company's quotation or other published literature relating to the Service from time to time, subject to these Terms.

2.7) Further details about the Service, and advice or recommendations about it or its utilisation, which are not given in the Specification Sheet, may be made available on written request to the Company.

2.8) Any typographical, clerical or other errors or omissions in any sales or promotional literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Company to the Customer shall be subject to correction without any liability on the part of the Company.

2.9) The Company may at any time without notifying the Customer make any changes to the Service which are necessary to comply with any applicable safety or other statutory provisions and requirements affecting the work to be carried out or the conduct of the Company's employees, sub-contractors or agents while on or in the vicinity of the Premises, or which do not materially affect the nature or quality of the Service.

2.10) The Specification Sheet or Output Material may contain recommendations, advice or representations to the Customer. The Specification Sheet or Output Material will state minimum recommendations which must be adhered to by the Customer. If they are not adhered to the Company's total liability will be to the manufacturer's warranty only.

## 3) Charges

3.1) Subject to any special terms agreed, the Customer shall pay the Charges and any additional sums which are agreed between the Company and the Customer for the provision of the Service or which in the Company's sole discretion, are required as a result of the Customer's instructions or lack of instructions, or any other cause attributable to the Customer.

3.2) All quotations are valid for 30 days from the date of issue only or until earlier acceptance by the Customer, after which time they may be altered by the Company without giving notice to the Customer.

3.3) All Charges and any additional charges are exclusive of any Value Added Tax for which the Customer shall be additionally liable to pay to the Company at the applicable rate from time to time.

3.4) Without prejudice to the provisions of clause 4.4, in the event of the Company suffering an increase in the costs borne by it in the provision of the Service for reasons outside the Company's control (including the introduction or implementation of any law, statute, decision, regulation or directive which has the effect of increasing the Company's costs), the Company shall be entitled to increase its Charges by an equivalent amount.

## 4) Payment

4.1) The Company will invoice the Customer following the completion of the Service provided, or at other times agreed with the Customer.

4.2) The Company's Charges and any additional sums payable shall be paid by the Customer (together with any applicable Value Added Tax and without any set off or other deduction) within 30 days of the date of the Company's invoice.

4.3) Time for payment shall be of the essence of the Agreement.

4.4) If payment is not made on the due date, the Company shall be entitled with reference to the Late Payments (Interest) Act 1998, without limiting any other rights it may have to charge interest on the outstanding amount (both before and after any judgment) at the rate of 8% above the prevailing base rate of HSBC Plc.

## 5) Rights in Input Material and Output Material

5.1) The property and any copyright or other intellectual property rights in:

5.1.1) any Input Material shall belong to the Customer.

5.1.2) any Output Material shall, unless otherwise agreed in writing between the Customer and the Company, belong to the Company.

5.2) Any Input Material or other information provided by the Customer which is so designated by the Customer and any Output Material shall be kept confidential by the Company, and all Output Material or other information provided by the Company which is so designated by the Company shall be kept confidential by the Customer; but the foregoing shall not apply to any documents or other materials, data or other information which are public knowledge at the time when they are so provided by either party, and shall cease to apply if at any future time they become public knowledge through no fault of the other party.

5.3) The Customer warrants that any Input Material and its use by the Company for the purpose of providing the Services will not infringe the copyright or other rights of any third party, and the Customer shall indemnify the Company against any loss, damages, costs, expenses or other claims arising from any such infringement.

## 6) Covenants of the Customer

6.1) The Customer will:

6.1.1) permit the Company and its employees, agents and sub-contractors to have free and unlimited parking (within its boundaries, if such a facility exists) and access to the Premises at all reasonable times for the purpose of enabling the Company to exercise its rights and carry out the Service and its obligations under this Agreement;

6.1.2) give reasonable prior notice to the Company of any intended building works at the Premises which may affect the Service;

6.1.3) provide the Company, without limitation, with all consents, permissions, and information as the Company may reasonably require in relation to the provision of the Service;

6.1.4) make available at the Premises such facilities free of charge as the Company shall reasonably require in order to discharge its obligations hereunder including (without limitation) adequate works space, storage and safekeeping of equipment and furniture and;

6.1.5) take all reasonable precautions to protect the health and safety of the Company's employees, agents and sub-contractors while on the Premises.

6.2) Without prejudice to the responsibilities and liabilities of the Customer as occupier of the Premises, the Customer will at all times provide a safe working environment at the Premises for the Company, its employees, agents and sub-contractors without risk of injury or damage to health.

6.3) The Customer will ensure that all systems of work conducted at the Premises are conducted with due care and that the Premises and all facilities therein and systems of work conducted therein comply with all statutory requirements and any and all by laws, regulations, directions, conditions and codes of practice imposed by any governmental or regulatory authority.



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## 7) Warranties and Liability

7.1) Subject to the following provisions the Company warrants that the Goods will correspond with their specification at the time of delivery and will be free from defects in workmanship for a period of 3 months from the date of their initial use or 3 months from delivery, whichever is the first to expire, except that so far as it is permitted to do so, the Company is prepared to pass on to the Customer such benefit of any warranty, guarantee or term as the Goods in relation to quality, fitness for purpose or otherwise as is normally given with the Goods by the supplying company. However the Company can accept no liability whatsoever that such warranty, guarantee or term will be passed to the Customer by the supplying company.

7.2) The Company warrants to the Customer that the Service will be provided using reasonable care and skill and, as far as reasonably possible, in accordance with the Specification Sheet. Where the Company supplies in connection with the provision of the Service any goods (including Output Material) supplied by a third party, the Company does not give any warranty, guarantee or other term as to their quality, fitness for purpose or otherwise, except that so far as it is permitted to do so the Company is prepared to pass on to the Customer such benefit of any warranty or guarantee as is normally given with the software by the supplying company. However, the Company can accept no liability whatsoever that such warranty, guarantee or term will be passed to the Customer by the supplying company.

7.3) The above warranties are given by the Company subject to the following conditions:-

7.3.1) The Company shall be under no liability in respect of any defect in the Goods arising from any drawing, design and specification supplied by the Customer.

7.3.2) The Company shall be under no liability in respect of any Goods where the materials are not manufactured by the Company.

7.3.3) The Company shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Company's instructions (whether oral or in writing), mis-use, alteration or repair of the Goods without the Company's approval.

7.3.4) The Company shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the Goods has not been paid by the due date of payment.

7.3.5) The Company shall have no liability to the Customer for any loss, damage, costs, expenses or other claims for compensation arising from any Input material or instructions supplied by the Customer which are incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form, or arising from their late arrival or non-arrival, or any fault of the Customer.

7.4) Subject as expressly provided in these Terms, all the warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

7.5) A claim by the Customer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specifications shall (whether or not delivery is refused by the Customer) be notified to the Company within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. A reasonable time is deemed to be within 7 days of discovery of any defect or failure, at which time no alterations to the Goods must have taken place by employees, agents or sub-contractors on behalf of the Customer.

7.6) If delivery is not refused, and the Customer does not notify the Company accordingly, the Customer shall not be entitled to reject the Goods and the Company shall have no liability for such defect or failure, and the Customer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.

7.7) Notification of any valid claim in respect of any defective Goods or discrepancies in orders must be given to the Company in writing within 7 days of the date of delivery. If a valid claim is not received by the Company within this period, the Customer will have accepted the Goods supplied unconditionally.

7.8) Where a valid claim in respect of any of the Goods which is based on a defect in the quality or condition of the Goods or their failure to meet Specification Sheet is notified to the Company in accordance with these Terms the Company may replace the Goods (or the part in question) free of charge or, at the Company's sole discretion, or refund to the Customer the price of the Goods (or a proportionate part at a price) in which case the Company shall have no further liability to the Customer.

7.9) Except in respect of death or personal injury caused by the Company's negligence, or liability for defective products under the Consumer Protection Act 1987, the Company shall not be liable to the Customer by reason of any representation (unless fraudulent) or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract for loss of profit or for any indirect, special or consequential loss or damage, costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of the Company, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods (including any delay in supplying or any failure to supply the Goods in accordance with the Contract or at all) or their use or resale by the Customer, and the entire liability of the Company under or in connection with the Contract shall not exceed the price of the Goods, except as expressly provided in these Terms.

7.10) The Company shall not be liable to the Customer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to

perform, any of the Company's obligations in relation to the Goods, by reason of any supervening event beyond its control (including but not limited to war, national emergency, flood, earthquake, strike or lock out, power failure or breakdown in machinery).

## 8) Force Majeure

The Company shall not be liable to the Customer or deemed to be in breach of the Agreement by reason of any delay in performing, or any failure to perform, any of the Company's obligations in relation to the Service, if the delay or failure was due to any cause beyond the Company's reasonable control of the Company, including (without limitation) any strike, lockout or other labour dispute, adverse weather conditions, travel delays and mechanical breakdowns, failure of power supplies, war, act of hostile forces, civil disturbance or extensive disruption of public services and any state of the Premises or presence of any substances thereat rendering them dangerous in the Company's opinion to any employee or agent or sub-contractor of the Company; and the duty of the Company to provide the Service shall be suspended and shall only recommence when the circumstances giving rise to such suspension shall have ceased. If such circumstances shall continue for more than 30 days then either party shall be entitled to terminate this Agreement forthwith by notice in writing to the other and neither party shall have any liability to the other in respect of the termination of this Agreement as a result of such circumstances.

## 9) Termination

9.1) The Customer may terminate the Agreement at any time by giving not less than three months' written notice to the Company.

9.2) Without prejudice to any other rights and remedies which the Company may possess, the Company shall be entitled by notice to the Customer to terminate this Agreement and all the Company's outstanding obligations hereunder if

9.2.1) the Customer is in arrears with any payment due hereunder for a period of 30 days or more; or

9.2.2) the Customer provides materially inaccurate or misleading facts or information in connection with the Agreement; or

9.2.3) a Bankruptcy or Insolvency Petition is presented in respect of the Customer or the Customer becomes Bankrupt or Insolvent or the Customer makes or intends to make a proposal for any arrangement or composition with the Customer's creditors; or

9.2.4) a Petition for an Administration Order or Winding Up Order is presented in respect of the Customer or the Customer goes into liquidation whether compulsory or voluntary; or

9.2.5) any execution or distress or seizure is levied on or sued out against any of the real or personal property of the Customer; or

9.2.6) the Customer shall have a Receiver or Administrative Receiver or Manager appointed in respect of the whole or any part of the Customer's undertaking or property; or

9.2.7) the Customer is unable to pay the Customer's debts.

## 10) Liability of Customer on Termination

Upon termination of this Agreement under clause 9.2 the Customer shall pay to the Company, on demand, all arrears of payments, interest and other sums payable under this Agreement up to the date of termination and all costs and expenses (including legal costs) on a full indemnity basis incurred or sustained by the Company in enforcing any of the terms of this Agreement.

## 11) Rights of Company on Termination

Upon termination of this Agreement under clause 11 the Company shall have no further obligation to provide all or any of the Service and shall be entitled to cease to provide the Services hereunder without further notice to the Customer and shall not be under any liability whatsoever to the Customer in consequence of the Company ceasing to provide all or any of the Service. Termination of this Agreement shall not affect any rights which have accrued prior to termination.

## 12) Assignment and Sub-Contracting

The Company may perform its obligations hereunder through agents or sub-contractors. This Agreement may be assigned by the Company but shall not be assigned by the Customer without the Company's prior written consent. References herein to the Company include references to any assignee of the Company's rights or obligations under this Agreement.

## 13) General

13.1) A notice required or permitted to be given by either party to the other under these Terms shall be in writing addressed to the 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.

13.2) No waiver by the Company of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.

13.3) If any provision of the Contract is held by a court or other competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of the Contract and the remainder of the provision in question shall not be affected.

13.4) The Contract shall be governed by the laws of England, and the Customer agrees to submit to the non-exclusive jurisdiction of the English Courts.