



ApSTeCon General Terms & Conditions Document for Services/Goods Supply

This document contains the terms and conditions upon which Apstecon Tech. Consultants Pvt. Ltd. will provide services to you. Please read all the conditions carefully. Client's e-mail confirmation/order to proceed with the services will indicate that the terms and conditions have been read and understood

1. DEFINITIONS AND INTERPRETATIONS

- 1.1) "Company" means Apstecon Technology Consultants Private Limited
- 1.2) "Client" means the person, organization or entity placing an Order with the Company
- 1.3) "Order" means the written instruction by the Client to the Company for supply of certain Goods/Services
- 1.4) "Goods" mean the articles to be supplied by the Company to the Client as per the Order
- 1.5) "Service/s" means any and every activity to be carried out by the Company for the Client as described in any Quotation/Proposal and any subsequent variation of activities agreed in writing
- 1.6) "Agreement" means the mutual arrangement as constituted by these terms and conditions and the Proposal and/or Quotation provided by the Company and/or the acceptance of Client's Order
- 1.7) "Commencement Date" means the date on which the Agreement commences. It is the date on which the Company accepts Client's Order (after Proposal is agreed upon & signed by both parties) or the Company delivers or part delivers any Service/Goods to the Client; whichever occurs earlier
- 1.8) "Delivery" means upload of the completed CAD & other types of files (includes all file formats that the company deals with) on its PMS or on a suitable FTP service or as e-mail attachments by the Company for the Client to download. In case of Goods, it means the arrival of finished Goods at Client's site
- 1.9) "Delivery Confirmation" means the written confirmation of the delivery of Services/Goods by the Client to the Company
- 1.10) "Term of Agreement" means the period between Commencement Date of Agreement & final payment by the Client to the Company or the final delivery of Services/Goods by the Company to the Client as per the Order accepted by the Company; whichever occurs later
- 1.11) "Proposal" means the document setting out the particulars of the Project and any clauses for Agreement in addition to these terms & conditions. The proposal is issued by the Company and agreed upon and signed by Authorised Representatives of both the Company and the Client
- 1.12) "Project" means the specific tasks to be performed by the Company for the Client in order to realize the design of a product or the product itself. These tasks are described in detail in the Proposal document
- 1.13) "Authorised Representative" means an employee of the company who has been given authority to modify clauses of terms & conditions or add to them for the Proposal & sign upon them on behalf of the Company
- 1.14) "Quotation" means the statement of Price of Services/Goods provided by the Company to the Client which the Client must accept prior to the commencement of the provision of Services/Goods
- 1.15) "Price" means the rates for the provision of the Services/Goods as specified in the Quotation provided by the Company
- 1.16) "Confidential Information" means any information supplied either by Client which is meant only for the use of the Company or by Company only for use of the Client; whether supplied in writing, orally or otherwise during the term of the Agreement and is marked and/or described as "Confidential"
- 1.17) "CAD" means Computer Aided Design, "CAE" means Computer Aided Engineering, "FEA" means Finite Element Analysis, "BOM" means Bill of Materials, "BOQ" means Bill of Quantity, "BIM" means Building Information Modelling, "PMS" means Project Management System & "FTP" means File Transfer Protocol

2. CONDITIONS OF SERVICES

- 2.1) The Company shall provide the Services/Goods as quantified and detailed in the Proposal and/or Quotation on the terms and conditions provided in this document. Each Order or acceptance of a Quotation by the Client shall be deemed to be subject to these conditions
- 2.2) The Client shall ensure that its Order is complete and accurate
- 2.3) The Client accepts and acknowledges that the Company may use third party service providers and may subcontract any of its obligations under the Agreement for the provision of the Services

- 2.4) Only an Authorised Representative of the Company, has the authority to accept Orders on any further terms and conditions, or to vary these terms and conditions prior to written approval of a director of the Company. These variations shall be set out in the Proposal and only variations approved and signed by a director of the Company will be considered valid
- 2.5) This document sets out the basis on which the Company will provide Services/Goods to the exclusion of all other terms and conditions (contained in or referred to in the Client's purchase order, confirmation of any order by e-mail, any specification, or implied by law, trade custom, practice or course of dealing etc.). If any extra agreed terms contained in a Proposal/Quotation or agreed verbally, lead to any sort of ambiguity then the terms and conditions specified in this document shall prevail
- 2.6) No Order shall be binding on the Company unless accepted in writing by the Company. The Company reserves the right to accept or decline any Order
- 2.7) All Service Data must be checked and approved by the Client prior to being released to Works. All data will be checked and approved by the Company at its end before being released for the Client. However, the Company shall hold no responsibility whatsoever for any issues encountered in manufacturing or assembly of the products. The Company shall however work with the Client in eradication of any such issues
- 2.8) All Goods supplied by the Company (whether manufactured or sourced) must be checked by the Client before being released to Works
- 2.9) All Services/Goods must be covered by the Clients own respective insurance Policies. No claims, for any reason whatsoever, shall be made against the Company from the Client or any other third party

3. COMMENCEMENT OF AGREEMENT

- 3.1) Agreement will commence after signing of the Proposal by both parties and after acceptance of Client's order by the Company in written
- 3.2) Commencement means that the Agreement has come into force and will continue to be in force unless the Project is finished by the Company and paid for in full by the Client or the Agreement is terminated in accordance with conditions listed in this document
- 3.3) Agreement will end after the 'Term of Agreement' expires (See Clauses 1.7 & 1.10)

4. PRICES, QUOTATIONS, INVOICING AND PAYMENTS

- 4.1) All Estimates/Quotations are valid for 30 days only. The Company reserves the right to withdraw any Estimate/Quotation at any time, without notice to the Client
- 4.2) Prices, Estimates and Quotations whether verbal or in writing constitute offers and are subject to the Client's approval of the final Quotation provided
- 4.3) The Prices of the Services shall generally be the Company's quoted Prices. Where no Price has been quoted or a quoted price is no longer valid, the Company's general Prices for the particular type of Service shall be applicable
- 4.4) Prices are exclusive of VAT and all other taxes and duties. All taxes will have to be accounted for by the Client
- 4.5) Estimates/Quotations may or may not display the tax rates. In cases where tax is added to Price, it will be explicitly mentioned on the Estimate/Quotation
- 4.6) Service Prices are inclusive of online delivery only. Any out of pocket expense (OPE) and administrative expense like printing, postage, packaging, packing, shipping, carriage, insurance etc. will incur additional costs to the Client. These additional costs will only be incurred by the Company where the Client has agreed in writing to pay these costs in full
- 4.7) The Company reserves the right to increase the Prices of the Services at any time before completion. The Company will notify the Client before presenting any invoices with revised Prices. This will only be done to cover cost to the Company in instances where the factors leading to this are beyond the control of the Company (Some example instances include any foreign currency regulation; change in legislation; significant increase in the costs of labour, materials or other costs of the works; any change in delivery dates, quantities or specifications for the Services requested by the Client; any delay caused by any instructions of the Client or failure of the Client to give the Company adequate information, drawings or instructions etc. Examples listed here only include the most likely factors and this is not an exhaustive list)
- 4.8) The Company reserves the right to request payment of a deposit prior to the provision of any Services/Goods (Deposit as percentage of Total Quoted Price for the requested Service may vary depending on the type of Service requested as the starting costs may vary for the Company but will generally be in the 15-30% range)
- 4.9) Invoices will be generated in the currency as specified in the Proposal and on the agreed Quotation
- 4.10) All invoices will specify a due date and will generally be payable within 30 days from the invoice date. In case that no due date is specified on the invoice then payment of any such invoices are due in 7 days from the date of invoice

- 4.11) Credit period duration other than 30 days for payment of invoices has to be agreed and signed upon in the Proposal. Once agreed, the due dates on invoices will be specified accordingly
- 4.12) Payments made after due date will be classed as late unless a prior written agreement has been made regarding revised due date of an overdue invoice with either a Director or an Authorised Representative of the Company
- 4.13) The Company shall, at its discretion, send an invoice either at end of each week, fortnight, month or on completion of a portion of the Service if no particular schedule to raise invoices for Services has been agreed upon with the Client in the Proposal or in written communication by an Authorised Representative. Generally, a schedule for raising invoices will be agreed upon which will be based on percentage completion of the Project
- 4.14) All invoices raised during the course of a Project shall be paid in full separately by the respective due dates in accordance with the provisions of this document & Proposal. No cancellation or termination by either party at any stage shall entitle the Client to repudiate or cancel any other finished stage of the works
- 4.15) Invoices for Goods (both manufactured and sourced) shall be raised right after Order placement and acceptance. Goods will not be released to the Client until payment has been made in full
- 4.16) Company's preferred mode of accepting payments is by 'Electronic Bank Transfer'. Bank Details will be provided with invoices. If Client prefers to make payments through any other mode; this shall be agreed upon in the Proposal
- 4.17) A consensus regarding revised due dates of any overdue invoice/s and the revision of the schedule of invoices, as provided in Proposal (only in cases where revision of schedule is deemed necessary) should be reached between the Client and an Authorised Representative of the Company within a 7 day period, starting from the day after the Due Date of an Invoice
- 4.18) In case payments become late and no Agreement between Client and Company for new payment date of an overdue invoice/s is made, then:
- (a) further Services/Goods will not be released to the Client until all overdue invoices are paid in full to the Company
 - (b) the Company reserves the right to take appropriate legal action
 - (c) the Company reserves the right to either suspend any production/sourcing of Goods &/or further work on Services (whether ordered under the same Project or not), or even terminate the Agreement; whatever is deemed appropriate
 - (d) the Company reserves the right to claim interest for the whole period by which payment is delayed
 - (e) the Company reserves the right to charge for the costs of collecting overdue sums (including storage charge for any Goods or unfinished Services etc.)
- 4.19) Notwithstanding any other clause in this terms & conditions document and Proposal, the parties agree that all intellectual property rights created as a result of the Services provided shall be retained by the Company until such time that the relevant invoice is paid in full
- 4.20) In case of late payments where invoices remain unpaid even after 30 days past their due date, the Company shall provide a written notice to the Client and be entitled, on the expiry of written notice in 7 days thereafter, to dispose of any data created through the Services that have not been paid for and/or any intellectual or other property in such a manner and at such Price as it thinks fit and to apply the proceeds towards the amount outstanding
- 4.21) If any party decides to terminate the Agreement (Check 'Agreement Termination' Section to find scenarios in which Agreement may be terminated) then all sums payable to the Company by the Client under the Agreement shall become due immediately on the termination of Agreement despite any other provision of the Agreement
- 4.22) Any errors/omissions in any cost Estimate/Quotation, Price, acceptance of offer, invoice or other document or information issued by the Company in relation to the Agreement, shall be subject to correction without any liability on the part of the Company

5. DUTIES OF THE COMPANY

- 5.1) The Company will provide Services of high professional standard matching Client's specifications, requirements and compliant to relevant Standards
- 5.2) The Company will provide Goods of high Quality matching Client's specifications, requirements and compliant to relevant Standards
- 5.3) The Company will devote its personnel's time, attention and abilities to the Project as may be necessary for its satisfactory and timely completion
- 5.4) The Company will make all efforts to deliver the deliverables to the Customer in accordance with the time plan set out in the Proposal
- 5.5) The Company will inspect all the Services/Goods to ensure that they comply with all the specifications provided by the Client and relevant standards

6. DUTIES OF THE CLIENT

- 6.1) The Client should provide all the necessary information, documents etc. (like sketches, specification sheets, supplier drawings, standards etc.) required to carry out the Project; whenever needed during the Project
- 6.2) Apart from the usual information and documents provided by the Client, if some additional particular documents/standards which are not readily available are required to complete any Project related tasks then the Company expects the Client to either make that information available or help the Company gather that information. Any additional charges towards this will have to be paid by Client
- 6.3) The Client is expected to follow all the instructions provided for handling the Services Data/Goods and to inspect all Services Data/Goods immediately after delivery, before anything is released to Works. Any issues identified (like damaged goods, data discrepancies, incorrect parts etc.) shall be reported to the Company within 7 days of delivery
- 6.4) In case any payment delay is anticipated then the Client is expected to inform the Company promptly. The Client is also expected to work with an Authorised Representative of the Company to change the due date of the overdue invoice/s. Only in cases, where it is imperative for the Client, the Company will get the schedule of raising of invoices revised
- 6.5) The Client is expected to deal only with Authorised Representatives of the Company or the employees who have been assigned to manage Client's Projects and not with other employees directly. The Client cannot make any job offers to any of the Company employees working on Client's Project from the start of the Project to at least 1 year after its finish
- 6.6) The Client is expected to promptly approach an Authorised Representative of the Company in case an employee of the Company who is neither an Authorised Representative nor managing any Projects for Client, tries to approach the Client in any manner for any reason

7. SUBCONTRACTING

- 7.1) The Company may subcontract any part or all of the Services requested by the Client to a third party service provider without the Client's prior written consent
- 7.2) Sourcing and/or manufacturing Goods as per Client's specifications will be carried out through third party providers

8. SOFTWARE AND SOFTWARE USAGE

- 8.1) The prices of the Services do not include any licence fee for any of the software that the Company or any of its subcontractors use to provide Services to the Client or manufacture Goods for them and the Client will not get any rights to use the Company's or its subcontractors' software
- 8.2) The Client shall not remove, adapt or otherwise tamper with any copyright notice which appears in or on the Software or on the medium on which it resides if any software has been provided to the Client by the Company

9. WORK, INSPECTION AND ACCEPTANCE

- 9.1) The Company shall use its reasonable endeavours to carry out all the work required to provide Services as per the date or dates specified in the Order or Proposal, but unless expressly agreed by the Company in writing, any such date will be regarded as approximate only. If no dates are specified, work shall be done within a reasonable time of acceptance of the Order
- 9.2) The Company is not liable for any delays or works inaccuracies whatsoever, however caused
- 9.3) All work; required to provide Services to the Client, whatever it may be (designing, manufacturing, liaising for sourcing etc.); shall be done during normal business hours on working days. The Company may levy additional charges for any work done or deliveries made outside such hours at the Client's request
- 9.4) In continuation to Clauses 6.1 & 6.2; if the Company is prevented from delivering the Service Data or Goods on the specified date/s because any required information or access to it have not been provided by the Client, the Company may levy additional charges to recover losses arising from such an event
- 9.5) The Company reserves the right to inspect Services/Goods through whichever process it deems correct and in whatever detail it wants to in order to ensure that they comply with the requirements of the Client
- 9.6) The Company shall not be liable for any loss in Service Data during transit. However, provided that the Client notifies the Company about any such issue within 7 days of Delivery of the Services and that the Services have been handled in accordance with the Company's instructions, the company will try to sort any issues at its end and will notify the Client about the same. Redelivery of data will be done at no additional cost, however, any repair or rework after ownership transfer will be charged for

9.7) As stated in Clause 6.3; the Client shall be deemed to have accepted the Services/Goods, when the Client has had 7 days to check them after Delivery and has not exercised in writing its right of rejection or asking for modifications

9.8) Risk of loss or damage to the downloadable data shall pass to the Client at the time when the data is downloaded by the Client. In cases where data loss is encountered, the Company will check and sort any issue encountered at the Company's end and ensure that high quality data is delivered

9.9) The Client is expected to follow all the instructions provided for handling the Services Data/Goods and to inspect all Services Data/Goods immediately after delivery, before anything is released to works. Any issues identified (like damaged goods, data discrepancies, incorrect parts etc.) shall be reported to the Company within 7 days of Delivery. Once the 7 day period has expired, the Company is not liable for any replacements of Goods or any redelivery of Service Data

9.10) In case of Goods, only the damaged or incorrect ones will be replaced. No refunds will be provided once the Goods have been delivered

9.11) The Company will only provide instructions to Client again in cases where defects/issues with Service Data/Goods are identified by Client and reported within 7 days but on investigation; the Company finds that the issues arose as the Client either failed to follow the oral or written instructions provided by the Company regarding the storage, installation, commissioning, use or maintenance of the Services Data/Goods or did not follow a good trade practice or altered the Services Data/Goods in any way without the written consent of the Company. Services Data may be redelivered but no redelivery of Goods will be done in such cases

9.12) The Company shall have the option of inspecting the Services Data/Goods at their current location in the event of any claim by the Client of any issues in Services Data/Goods within 7 days of Delivery. If the Client's claim is subsequently found by the Company to be outside the scope of the Project or any agreed terms of this document and Proposal then the costs of the investigation and repair/rework shall be borne by the Client

10. COMPANY EMPLOYEES

10.1) If the Company 'Outsources' personnel to the Client (either onsite or offsite i.e. at Client's site or at Company's site), to perform Services exclusively for the Client, the personnel/employee(s) provided shall remain the employees of the Company and the agreed rates of pay must be paid by the Client to the Company on a weekly basis or as specified in the Proposal. Failure to pay would result in a recall of such personnel and the Agreement will be suspended until payment is made

10.2) As stated in Clauses 6.5 & 6.6; the Client cannot employ any employee of the Company working on Client's Project from the start of the Project to at least 1 year after the Project's finish. However, If the Client would like to employ a Company employee on a 'Permanent Basis' within this period; this could only occur if a Director of the Company agrees to this in writing and the agreed fee is paid by the Client to the Company within 15 days of the Agreement

10.3) The Company reserves the right to take legal action in case a Company employee is taken up on roll by the Client without any notice to the Company within the period specified in Clause 10.2

11. INTELLECTUAL PROPERTY AND OTHER RIGHTS

11.1) Each involved party (Company, Client and any third party) shall retain all of the Intellectual Property Rights in material, which existed prior to the commencement of the Agreement. Also, the Company's intellectual property rights in providing and relating to all the Services shall remain the exclusive property of the Company. No party shall at any time make any unauthorised use of any other party's intellectual property rights, nor authorize/permit any of its agents or contractors or any other person to do so

11.2) The Company grants whilst providing the Services to the Client a revocable, non-exclusive, royalty free license to use the Company's intellectual developments or improvements

11.3) Both Company and Client shall agree to notify the other if one becomes aware of any suspected infringement of the other's intellectual property rights

11.4) The Company shall retain the property and copyright in all documents shared with the Client in connection with the Agreement and it shall be a condition of such sharing that the contents of such documents shall not be communicated either directly or indirectly to any third party without the prior written consent of the Company

11.5) No clause of this terms & conditions document shall be construed by the Client as an assignment of any intellectual property rights to any third party products and documents etc.; such as software and its manuals. The Client shall be subject to the rights and restrictions imposed by the owner of the intellectual property rights and shall comply with all licence agreements, terms of use and registration requirements relating to them

11.6) If the Company provides any Services in accordance with a specification submitted or prepared by the Client or any other information provided by the Client, the Client shall indemnify and keep indemnified the Company against all losses, damages, costs, claims, demands, liabilities and expenses (including without limitation consequential losses, loss of profit and loss of reputation, and all interest, penalties and legal and other professional costs and expenses) awarded against or incurred by the Company in connection with, or paid or agreed to be paid by the Company in settlement of, any claim for infringement of any third party intellectual property rights which results from the Company's use of the Client's specification or such other information. The indemnity shall apply whether or not the Company has been negligent or at fault and does not limit any further compensation rights of the Company

11.7) The Agreement is made for the benefit of the parties to it i.e. the Company (first party) and the Client (second party) and (where applicable) their successors and permitted assigns, and is not intended to benefit, or be enforceable by, any other party i.e. any third party. The Agreement and the rights of the parties to terminate, rescind, or agree any amendment, waiver, variation or settlement under or relating to the Agreement are not subject to the consent of any third party

11.8) Except for the Services Data/Goods ordered by the Client or any purchased hardware or software; all materials, documents, data, software, hardware etc. given by the Company to the Client shall at all times be and remain the exclusive property of the Company, but may be held by the Client in safe custody at their own risk and maintained and kept in good condition by the Client until returned to the Company. These shall not be disposed of or used in whole or in part or reproduced other than in accordance with the Company's written instructions or authorisation. The Company reserves the right to withdraw the license if any licensed software is altered or tampered with

12. CONFIDENTIAL INFORMATION AND PRIVACY POLICY

12.1) The Company and Client agree that they will not, except as provided for in this Agreement or by law, disclose to any person any Confidential Information of the other party or of its personnel which has been either provided to them by the other party or its personnel or they have come into possession of the same by other means

12.2) The Client shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Client by the Company or its agents, and any other confidential information concerning the Company's business or its products which the Client may obtain. The Client shall restrict disclosure of such confidential material only to its employees, agents or subcontractors who need to know the same for the purpose of discharging the Client's obligations to the Company and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Client

12.3) The Company or Client is not obliged by this clause to keep information confidential if that information:

- a) is trivial or obvious
- b) was already in the receiving party's possession at the time of receipt from the other party
- c) has become public knowledge by any means other than through a breach of an obligation of confidence imposed under this Agreement (e.g. by getting published)

12.4) The Client warrants that it has complied with any relevant obligation imposed by the Privacy Laws (including obtaining and providing all notices) for collection, handling and storing of any personal Information submitted to the Company

12.5) Any Personal Information collected by the Company through its website or otherwise is only for Company's use

12.6) The shareable information provided by the Client in order for the Company to provide Services/Goods to them is strictly shared by the Company with its personnel and subcontractors only on a need to know basis

13. COPYRIGHT AND TRADEMARK OWNERSHIP

13.1) The Website, 'www.apstecon.com' is owned and operated by Apstecon Pvt. Ltd. Any and all material which appears on this site, including text, logos, graphics, images, photographs, design and other material (collectively the "Content") as well as the selection, assembly and arrangement thereof is the property of Apstecon and is subject to applicable Copyright Laws

13.2) The Client agrees to only using this site and agrees not to replicate or copy this site or any of the information contained within it

13.3) The Apstecon Pvt. Ltd. logo as shown on the website is the sole property of Apstecon and only the Company has the right to use it

13.4) Apstecon will provide separate instructions to Clients when they shall be given access to Apstecon's PMS. Clients are expected to read and follow all instructions provided. Making an account and logging in to access Project Data will mean that the Client has read and understood all provided instructions and agrees to terms & conditions of using the PMS

13.5) Apstecon's cloud based PMS is for benefit of our Clients and they only have usage rights similar to a licensed software. Any malicious activity will lead to instant termination of PMS account. The Company reserves the right to take legal action in this regard to claim damages

14. TITLE TO GOODS AND SERVICES

14.1) In continuation to Clause 4.15, the sums paid against Goods shall not be treated as being paid until any cheque, bill of exchange or other instrument of payment given by the Client has been honoured in accordance with its terms

14.2) Property in Goods will pass to Client after payment realization. Till the time property in the Goods passes from the Company to the Client:

a) the Company may at any time, without any notice to the Client; retake, sell, or deal with the Goods in any other way which the Company deems appropriate; the property in which remains with the Company

b) the Client shall not deal with, pledge or dispose of the Goods

14.3) Ownership of the data generated during Services shall pass to the Client when the Company has received payment in full in cleared funds. This includes all sums due to it in respect of the Services as well as any other sums which are or which become due to the Company from the Client

14.4) The Client's right to possession of the Services Data before ownership has passed to it shall terminate immediately if any of the circumstances set out in 'Exceptional Circumstances' section arise

14.5) In case of Agreement termination, the ownership rights of any Services Data finished up to that point will remain with the Company until the time, the data is paid for in full

15. GOVERNING LAW, JURISDICTION AND LEGAL INTERPRETATION

15.1) The Company and Client irrevocably agree that any disputes or claims arising out of the Agreement or in connection with its subject matter shall be construed, governed and settled in accordance with the laws of India and that the courts of India have exclusive jurisdiction to hear and settle any such matter

15.2) If any clause of this terms and conditions document (or part of a clause) or any added clause (or part of a clause) of the Proposal is found by any court or administrative body of competent jurisdiction and authority to be invalid, unenforceable, unlawful or illegal; the other provisions shall still remain in force

15.3) A reference to a law is a reference to it, as it is in force for the time being; taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it

16. LIABILITY, INDEMNITY, RISKS AND LIMITATIONS/EXCLUSIONS OF LIABILITY

16.1) The Client agrees that it completely indemnifies the Company and will hold the Company harmless for any loss or damage however caused. In case of any issues, the sole liability of the Company shall be replacement/redelivery of any damaged or incorrect Goods/Service Data to the Client, at the Company's discretion, within a reasonable time (required to identify the cause of issues and eliminate those causes). No refunds will be provided to the Client in any case, whatsoever. However, the Company will remain committed to working with the Client to sort any & every issue out with any Services or Goods

16.2) The Company shall not under any circumstances (to the extent permitted by law), be liable for any indirect, special, consequential or economic loss, costs, damages, charges or expenses including but not limited to delays; inaccuracies; loss of trade or contracts or business or opportunities, revenue, goodwill, profits; loss of production; loss of anticipated earnings; loss of the use or value of or corruption of any data, database or software or other benefits whether arising from breach of Agreement, negligence or otherwise howsoever. The Company shall not be liable to the Client for any loss occasioned by the failure of the Client to comply with any written or oral instructions given by the Company or loss caused as a result of the misuse of the Goods by the Client

16.3) The Company, if ever is proven to be liable then entire such liability (whether arising out of breach of Agreement, tort including negligence or breach of statutory duty, misrepresentation, restitution or in connection with the performance or contemplated performance or otherwise arising howsoever) of the Company (including any liability for the acts, errors or omissions of its employees, agents and subcontractors) shall always be limited to the amount paid by the Client to the Company for the Services/Goods. This amount will be the amount specified in the relevant Invoice or Quotation

16.4) The Company clearly states that it uses third party service providers to get Goods manufactured for the Client and does

not carry any insurance cover for such goods. So, it will not take any design/manufacturing defect responsibility as design comes from Client and manufactured Goods from third party. The Company will control manufacturing for the Client and inspect the Goods before release to ensure high quality. It is the Client's responsibility to inspect them again before release and Company will not be held liable for any failures/problems encountered in operation. As stated in Clause 16.1, the sole liability of Company is replacement of defective & damaged parts

16.5) As stated in Clause 11.4; the Client shall be fully responsible for any information/materials provided by it and shall indemnify the Company against any and all claims and actions and liabilities falling upon the Company from the use of such information/material in any way

16.6) Any advice or recommendations given by the Company or the Company's employees, subcontractors or agents to the Client or Client's employees, contractors or agents about the Services which is not confirmed in writing by an Authorised Representative of the Company shall be followed or acted up on; at the Client's own risk

16.7) As stated above in few other clauses; the Client must check all Service Data before releasing/issuing it to works for further use and cover it with Client's own insurance policies. The Company and its employees shall in no way be liable for any errors, omissions or inaccuracies (even if caused by Company's negligence); delays and defects arising in products due to data inaccuracies or other resulting claims whatsoever

16.8) If the Company's performance of its obligations under the Agreement is prevented or delayed by any act or omission of the Client (other than by reason of a Force Majeure Event), the Client shall be liable to pay to the Company all reasonable costs, charges or losses sustained by the Company as a result; subject to the Company notifying the Client in writing of any such claim

16.9) No Clause in this Document or the Agreement in general will:

- a) limit or exclude the liability of a party for death or personal injury resulting from negligence
- b) limit or exclude the liability of a party for fraud or fraudulent misrepresentation by that party
- c) limit or exclude any liability of a party under the Sale of Goods Act 1930
- d) limit or exclude any liability of a party in any way that is not permitted under applicable law

17. WAIVER

17.1) Waiver of any right under this Agreement is valid to come into effect only if it is in writing and signed by a Director of the waiving party on its behalf. Such waivers shall only apply specifically to the party/person to whom the waiver is addressed and the circumstances for which it is given

17.2) No breach of any Agreement provision will be waived except with the express written consent of the party not in breach

18. EXCEPTIONAL CIRCUMSTANCES

18.1) The Company reserves the right to defer the date of estimated completion or to cancel the Order or reduce the Order size/quantity of the Services/Goods but shall be under no liability whatsoever for any delay or failure in the performance of any of its obligations if it is prevented from or delayed in carrying on its business by acts, events, omissions, accidents or causes beyond its reasonable control. This includes both non delivery or long delays in delivery of any Goods/Services due to but not limiting to circumstances resulting from war, strikes, lockouts, fire, other industrial disputes (whether involving the workforce of the Company or any subcontracted third party), floods, explosions, riots, change in government policies to obtain materials or labour, default of Company's subcontractors, breakdown of plant or machinery, failure of a utility service or transport network or any other act of God ('Force Majeure Event')

19. AGREEMENT TERMINATION

19.1) Either Company or Client may terminate the Agreement at any time by giving a 30 day written notice to the other party. The notice has to be stamped and signed by a Director. All amounts payable for any work that has been done up to that point will become immediately payable on the day the notice is generated and have to be paid within 30 days from Notice generation date i.e. by the date on which the Agreement terminates to avoid any legal action

19.2) Either Company or Client may terminate the Agreement immediately by giving written notice to the other party if:

- a) the other party commits any material breach of any term of the Agreement
- b) the other party is dissolved
- c) the other party ceases to conduct all or substantially all or is about to cease conduction of its business
- d) the other party is unable or about to become unable to pay its debts (i.e. make outstanding payments) as they fall due

- e) the other party is declared insolvent or is about to become insolvent
 - f) the other party convenes a meeting or makes or proposes to make any arrangement or composition with its creditors or becomes bankrupt
 - g) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed or is about to be appointed over any of the assets of the other party
 - h) any other person or entity takes possession of or sells the Client's assets
 - i) an order is made for the winding up of the other party, or the other party passes a resolution for its winding up (other than for the purpose of a solvent company reorganisation where the resulting entity will assume all the obligations of the other party under the Agreement)
 - j) where that other party is an individual; that other party dies or as a result of illness or incapacity becomes incapable of managing his or her own affairs, or is the subject of a bankruptcy petition or order
- 19.3) In case of termination of Agreement, the Client indemnifies the Company 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 Company as a result of the cancellation
- 19.4) Client should e-mail the termination notice to Company as soon as it is generated and a copy shall also be posted by recorded delivery post to the registered address of the Company or such other address as may be notified by the Company to the Client
- 19.5) Termination of the Agreement will not affect either party's accrued liabilities or rights (including accrued rights to be paid for work which includes partial work/hired asset liability) as at the date of termination
- 19.6) Pending any dispute or termination, all the Services/Goods produced, shall remain sole property of the Company, until paid for in full by the Client. The Client or any third party must not utilise in whole or in part, any of the works produced by the Company. In case they do, the Company will start legal proceedings against the Client to impose a fine over and above the dues. This Agreement shall remain enforceable by law, until all the costs are paid and realized into the Company's bank account

20. NOTICES

20.1) Any notices regarding the Agreement required to be given to the Company; shall be e-mailed to the Company and shall also be posted by recorded delivery post to the registered address of the Company or such other address as maybe notified by the Company to the Client. A correctly addressed notice sent by recorded delivery post; shall be deemed to have been received in due course. Notices said to be given verbally or by hand, will not be accepted and will be considered void

21 OTHER GENERAL INFORMATION

- 21.1) Face to face consultation can be provided through Skype if required
- 21.2) Information provided in this document may change from time to time. The Company will refer to the latest version of terms and conditions document in use at the time of Agreement Commencement Date. The Client is requested to check the latest terms and conditions document which will be on the Company's website. In case of any issue with the website or where Client has issues viewing the document, a copy of the document may be provided
- 21.3) Nothing in the Agreement will constitute a partnership or employment or agency relationship between the parties
- 21.4) Any pictorial examples of Services/Goods, descriptive matter, specifications and illustrations contained in the Company's website or brochures or any other works created by the Company are issued or published for illustrative purposes only and they do not form part of the Agreement. The Agreement is constituted by this document and Proposal document only. Any new conditions agreed upon during the Project shall be added to Proposal document and a new revision must be released. All conditions outside of these two documents shall be treated as void
- 21.5) Neither Company nor Client may without the prior written consent of the other party; assign, transfer, charge, license or otherwise dispose of or deal in the Agreement or any rights or obligations under the Agreement
- 21.6) The Client warrants that it will not knowingly upload any malicious files, viruses, Trojans, worms, logic bombs or other material which is malicious or may compromise security of or harm Company website or PMS and if it accidentally does so, that it shall notify the Company immediately. Company reserves the right to cancel the Order and/or take immediate legal action in such cases. PMS account from which malicious activity is detected will be immediately terminated
- 21.7) Each party acknowledges and agrees that in entering into the Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person or entity (whether party to this agreement or not) relating to the subject matter of this Agreement other than as expressly set out in this document and the Proposal