

## FORM A

### GENERAL TERMS AND CONDITIONS OF BUSINESS

These are the Standard Terms and Conditions of Business for Unique ICT Limited for the provision of services. In contracting with Unique ICT Limited to provide services to you, these terms and any associated enclosures, annexed to these conditions, form the terms and conditions of an Agreement to which both parties agree to be bound for the provision of the said services.

#### 1. **DEFINITIONS**

In this Agreement:-

“Charges” means those pursuant to the Quotation Form annexed to this Agreement;

“Confidential Information” means all financial, business or technical, medical or other data and all other information (whether written, oral or in electric form or other media) concerning the business affairs of a Party that the other Party obtains, receives or has access to as a result of the discussions leading up to the entering into or the performance of this Agreement;

“Remote Access” means the access of your network and/or PC by us from our offices;

“Virtual Private Network” (VPN) means a two-way flow of data from a laptop or home computer to any part of your network;

“Deposit” means the sum of 25% or such other sum as may be agreed, which shall be payable by you with and any Enclosures annexed hereto.

#### 2. **DURATION OF AGREEMENT**

This Agreement shall last until the completion of the agreed service(s) from the date hereof.

#### 3. **ENTIRE AGREEMENT**

These Terms and Conditions and the Quotation Form plus any attachments hereto constitute the entire Agreement and understanding between you and us and supersedes any previous Agreement between you and us relating to the subject matter of this Agreement.

Each Party acknowledges and agrees that in entering into the Agreement it does not rely on and shall have no remedy in respect of any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether a Party to this Agreement or not) other than as expressly set out in this Agreement as a warranty. The only remedy available to a Party for breach of warranty shall be for breach of contract under the terms of this Agreement. Nothing in this clause shall operate to limit or exclude any liability for fraud.

#### 4. **OBLIGATIONS OF UNIQUE ICT LIMITED**

We shall, upon payment of the Deposit, pursuant to Clause 6.1, and receipt of a signed copy of the Quotation Form (“QF”), undertake to perform the following: -

4.1 to provide the service or supply goods as stated in the Quotation Form;

4.2 to provide goods which are suitable and fit for purpose at the time of delivery to you;

4.3 save as to the generality of the foregoing Clause 4.2:-

4.3.1 you acknowledge and agree that, at all times, you are responsible for ensuring the accuracy of any quotation, and any discrepancies shall be notified to us pursuant to Clause 5.6 herein within 48 hours of delivery; and

4.3.2 you further agree that, should you fail to bring any discrepancies to our attention within the aforementioned period, you will hold us exempt from any liability arising therefrom;

4.4 to immediately notify you in the event of any change in circumstances (to include but not limited to operation of law) that renders the performance or completion of our obligations under this Agreement temporarily or permanently impossible pursuant to Clause 14 herein.

#### 5. **YOUR OBLIGATIONS**

You acknowledge and agree to furnish us with all necessary information, to include, but not limited to, confidential information, that we may reasonably require for the proper provision of the service and/or goods, administration and/or safety of our employees, agents or sub-contractors, such agreement shall not be unreasonably withheld.

Further you warrant that you will: -

- 5.1 pay all reasonably incurred charges in full plus VAT or any similar tax (if applicable) as and when they become payable in accordance with Clause 6;
- 5.2 acquaint yourself, fully, with all safety information provided by us to you;
- 5.3 immediately notify us in the event of any change in circumstances (to include but not limited to operation of law) that renders the performance or completion of our obligations under this Agreement temporarily or permanently impossible;
- 5.4 ensure that we have free and unrestricted access to the area where the service is to be effected or goods to be delivered and further, free and unrestricted access to and from the car park up to such area;
- 5.5 immediately notify us of all changes that may reasonably effect or impede the performance of your obligations under this Agreement and/or pose a real risk of harm or damage to our employees, agents or sub-contractors; failure to do so will operate the indemnity clause (Clause 8) and this shall have immediate effect upon such failure;
- 5.6 immediately, or as soon as reasonably practicable, check all details in the quotation supplied in the Quotation Form and to bring to our attention within 48 hours of the date of the Quotation Form any error or discrepancy. In the event that you do not notify us within the aforementioned timescale, Unique ICT Limited shall not accept responsibility for any errors and reserves the right to charge the stated amount. You hereby agree that this is reasonable to do so.

## **6. PAYMENT**

- 6.1 You agree to the payment of the deposit upon signing the Quotation Form (if due). Such sum is not refundable in any circumstances but shall be deducted from the monies due to us under Clause 6.2 below.
- 6.2 You agree to pay the total sum as stated in the Quotation Form for our services under this Agreement and you further agree to pay all reasonable extra charges, in addition to the aforementioned sum, incurred by us in fulfilling our obligations to you under this Agreement. Such sums (save any deposit already paid) shall be payable within 30 days of the date of invoice ("The Agreed Period").
- 6.3 Any additional goods or services ordered after receipt of your Quotation Form whether in writing or verbally shall incur relevant additional charges as per our normal charging structure (i.e. book rate).
- 6.4 We reserve the right to amend, upon giving reasonable notice, the price of services supplied in line with market rates for such service.
- 6.5 Should you fail to make a payment within the Agreed Period, you shall pay interest thereon at the rate of 4% above the standard base rate of Barclays Bank plc operating at that time.

## **8. LIABILITY**

- 8.1 Except as provided in this Clause 8, neither Party shall be liable to the other, whether in contract, tort or otherwise loss or damages which are: -
  - a) not the fault of the other Party;
  - b) indirect and/or not reasonably foreseeable;
  - c) loss of business, profits, savings, revenue, or goodwill whether caused to the other Party through any breach of this Agreement or any matter arising under it.
- 8.2 In respect of any liability of Unique ICT Limited, it is agreed that this is limited to the Agreed Fee to be charged pursuant to Clause 6.2, and the Parties herein agree that it is reasonable to do so.
- 8.3 Neither Party excludes liability for negligent acts or omissions causing death or personal injury to any person.

## **9. INDEMNITIES**

You agree to indemnify us in respect of all reasonable incidental costs (to include, but not limited to, any excess payable pursuant to any claim upon our insurance policy, and damage or liability to Third Parties arising from the performance or part performance of this Agreement).

## **10. CONFIDENTIALITY**

In respect of any confidential information disclosed, furnished or made accessible by either Party (in this Clause, the "Disclosing Party") to the other Party (in this Clause, the "Receiving Party") the Receiving Party undertakes to the Disclosing Party: -

- 10.1 to keep confidential all Confidential Information belonging to the Disclosing Party;
- 10.2 to keep Confidential Information belonging to the Disclosing Party in a safe and secure place using such reasonable technical and organisational procedures to prevent unauthorised access, destruction or loss and treat the Confidential Information of the Disclosing Party with the same degree of care that it uses for its own Confidential Information; Not, without prior written consent of the Disclosing Party, to disclose Confidential Information belonging to the Disclosing Party in whole or in part to any other person save those of the Receiving Party's employees, agents and sub-contractors involved in performing the obligations under this Agreement, such information to be supplied on a need to know basis;
- 10.3 the Confidential Information shall only be used for the performance of this Agreement and shall not be used for the benefit of either Party or that of a Third Party;
- 10.4 Each Party acknowledges and agrees to undertake to the other to make all relevant employees, agents or sub-contractors aware of the confidential nature of the Confidential Information belonging to the Disclosing Party and shall take all necessary steps to ensure compliance by the Receiving Party's employees, agents and sub-contractors with the provisions of this Clause and agrees to indemnify the Disclosing Party against any breach of this Clause pursuant to Clause 7 of this Agreement.

- 10.5 The provisions of this Clause shall not apply to information which: -
- 10.5.1 becomes public knowledge other than by way of breach;
  - 10.5.2 is in the possession of the Receiving Party without restriction in relation to disclosure before the date of receipt of the Disclosing Party;
  - 10.5.3 is received from a Third Party who lawfully required it and is under no restriction as to the disclosure of that information;
  - 10.5.4 is independently developed without access to any Confidential Information belonging to the Disclosing Party;
  - 10.5.5 the provisions of this Clause and Sub-clauses shall not apply to prevent the disclosure of Confidential Information by the Receiving Party where and to the extent that such disclosure is required to be made: -
    - 10.5.5(i) by any Court, Governmental or Administrative Authority competent to require the same;
    - 10.5.5(ii) by any applicable law, legislation or regulation;
    - 10.5.5(iii) without prejudice to any rights or remedies that the Disclosing Party may have, the Receiving Party acknowledges and agrees that if the Confidential Information is used or disclosed other than in accordance with the terms of this Agreement, the Disclosing Party shall, without proof of special damage, be entitled to an injunction or other equitable relief for any threatened or actual breach of the provisions of this Clause, in addition to any other remedies to which the Disclosing Party may be entitled.
- 10.6 The Receiving Party agrees to, upon the completion of its obligations under, or upon termination or expiry, of this Agreement and upon written request from the Disclosing Party, immediately return to the Disclosing Party (or destroy if so directed) all Confidential Information, whether on printed form, disk or other media which is in the Receiving Party's possession, custody or control. The Receiving Party shall give the Disclosing Party signed confirmation that the provisions of this Clause have been fully complied with.

## **11. DATA PROTECTION**

We warrant and undertake in respect of all personal data that we may acquire, obtain, or be given on behalf of the client, that at all times:-

- 11.1 We shall comply with the Data Protection Act 1998;
- 11.2 We warrant and undertake that we will ensure that our employees, agents or sub-contractors understand and observe their compliance with the Data Protection Act 1998 in the performance of their obligations under this Agreement;
- 11.3 Pursuant to Clause 9 of this Agreement, each Party shall indemnify the other and keep indemnified in respect of any claims, proceedings or actions made or brought against the other by the Data Protection Commissioner or any data subject arising out of either Party's breach (including employees, agents or sub-contractors) of each Party's warranties and undertaking in this Clause 11;
- 11.4 Pursuant to the Data Protection Act 1998, should you request to view the information we hold, you agree to pay our current administrative charge of £10;
- 11.5 If in the event of conflict arising out of the above Sub-clause, the indemnity Clause 9 in this Agreement shall take precedent;
- 11.6 Where applicable, expressions defined in the Data Protection Act 1998 and used in this Clause shall have the meanings given to them in the Data Protection Act 1998.

## **12. INSURANCE**

- 12.1 We agree to obtain and maintain in force with a reputable Insurance Company, or a Lloyds Underwriter, all necessary insurance policies in which to fulfil our obligations arising under this Agreement.
- 12.2 We shall undertake to do nothing to invalidate such insurance policies and such policies will be at all times paid and up to date during the duration of this Agreement.

## **13. INTELLECTUAL PROPERTY RIGHTS**

If applicable, the copyright and all the Intellectual Property Rights in the design of billing documentation and standard letters, websites and in the data which is protected by us as part of, as in connection with this Agreement, as well as the data produced by all such services shall belong to and remain with us. All other Intellectual Property Rights associated with this Agreement shall belong and remain with you.

- 13.1 At the request of either Party, the other shall return all documents in which the requesting Party has the Intellectual Property Rights under this Clause, which are in the other Party's possession or control.
- 13.2 Nothing in this Agreement shall be deemed or constructed as an assignment by one Party to the other of any Intellectual Property Rights which are the property of either Party under this Clause.
- 13.3 Each Party agrees to do all things and execute all documents (at its expense) as the other may require and to further assume all Intellectual Property Rights which are their property under this Clause.

## **14. INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS**

- 14.1 You agree to indemnify us and keep us indemnified from and against all costs, claims, demands, liabilities, expenses, damages or losses of whatever nature (including but not limited to legal and other professional costs, and expenses reasonably incurred) arising out of or from, or incurred by reason of any infringement or alleged infringement of any Intellectual Property Rights, or as a result (direct or indirect) of the provision, receipt, use or possession of any Intellectual Property provided by or on behalf of you.

- 14.2 If any Third Party makes a claim with demand or brings an action against, or notifies an intention to make or bring a claim, demand or action against us in respect of its Intellectual Property Rights (in this Clause, "relevant claim"), we shall:-
- 14.2.1 as soon as is reasonably practicable, give written notice of that matter to you, specifying in relevant detail the nature of the relevant claim;
- 14.2.2 not make any admission of liability, agreement or compromise in relation to relevant claim (save as to those that are required by law, legislation, court order or governmental regulations) which may be prejudicial to the defence or settlement of any claim, demand or action for infringement or alleged infringement of any Intellectual Property Rights by us or you without the prior written consent of you, such consent not to be unreasonably withheld or delayed;
- 14.2.3 and at your request afford to you for the purpose of contesting any claim or demand made or action brought against us or you for infringement or alleged infringement of any Intellectual Property Rights in connection with the Agreement and shall be repaid all costs and expenses (including but not limited to legal costs and disbursements on a solicitor and client basis) incurred in so doing.
- 14.3 You shall at your own expense conduct any litigation arising from a relevant claim and all the negotiation therewith.
- 14.4 You shall, forthwith, notify us if any Third Party makes a claim or demand, or brings an action against, or notifies an intention to make or bring a claim, demand or action against you which may reasonably be considered as likely to affect our performance of our obligations and undertakings under this Agreement.

## **15. FORCE MAJEURE**

- 15.1 For the provisions of this Agreement "Force Majeure" shall mean any event or cause happening to prevent either Party performing its obligations which arise from or is attributable to acts, events, omissions or accident beyond the control of either Party.
- 15.2 For the purpose of clarity such acts, events, omissions or accidents are, but are not limited to, acts of God, war, hostilities (whether war declared or not), invasion, act of foreign enemies, terrorism (National and International), sabotage, riot, explosion, Governmental control, restrictions or prohibitions or any other Governmental act or omission whether National or local, storm, tempest, electrical cuts, and industrial disputes of any kind.
- 15.3 If either Party is prevented or delayed in the performance of its obligations under this Agreement by Force Majeure, that Party shall immediately or as soon as reasonably practicable, serve notice in writing upon the other Party, specifying the nature and the extent of the circumstances giving rise to the Force Majeure and shall, upon giving this notice, suffer no liability in respect of its performance of its obligations under the Agreement, such that the performance of the obligations are prevented by Force Majeure, during the continuation of the Force Majeure events and for such time after they cease is as necessary for the affected Party, using reasonable endeavours to recommence the performance of its obligations.
- 15.4 Should either Party be prevented from performing its obligations under this Agreement for a period in excess of three months, the other Party may terminate this Agreement (pursuant to Clause 16 of this Agreement) with immediate effect from the service of a written notice to the other Party.
- 15.5 Any Party claiming to be prevented from the performance of any of its obligations under this Agreement by reason of Force Majeure shall take all reasonable steps as are necessary to bring the Force Majeure event to a close or find a solution by which the Agreement may be performed despite the continuance of the Force Majeure event.

## **16. TERMINATION**

Either Party shall be entitled to terminate the Agreement without liability by giving notice to the other at any time if:-

- 16.1 That Party breaches any of these Terms and Conditions, pursuant to this Agreement, provided that the breach is capable of remedy, the Agreement shall not be terminated unless and until the Party in breach shall have failed to remedy the breach within 28 days of such notice;
- 16.2 That Party makes any voluntary arrangements with its Creditors (within the meaning of the Insolvency Act 1986) or (being a Company) becomes subject to an administration order or goes into liquidation (otherwise for the purpose of amalgamation or reconstruction); or any Third Party takes possession or a receiver is appointed, over any of the property or assets of the other Party;
- 16.3 That Party ceases, or threatens to cease, to carry on business; or
- 16.4 That Party is affected by a Force Majeure event as detailed in Clause 15 of this Agreement, which continues for a period not exceeding 3 months; or
- 16.5 If that Party reasonably apprehends that any of the events mentioned above is about to occur in relation to the other Party and notifies the other Party accordingly;
- 16.6 Termination of this Agreement or any part thereof shall not affect any accrued rights or liabilities of either Party nor shall it affect the coming into force or the continuation in force of any provision of this Agreement which expressly or by implication is intended to come into or continue in force on or after such termination.

## **17. SEVERABILITY**

This Agreement is severable in that if any provision of this Agreement is determined to be illegal or unenforceable by any Court of competent jurisdiction, such provision shall be deemed to have been deleted without affecting the remaining provisions of this Agreement.

**18. WAIVER**

Any delay or failure to exercise a right or remedy arising under this Agreement or by operation of law does not constitute a waiver of the right or remedy or waiver of any other right or remedy. A waiver of a breach of terms or of default under this Agreement does not constitute a waiver of any other breach or default and shall not affect any other terms contained in this Agreement. Any such waiver of a breach or default under this Agreement shall not prevent a Party from subsequently requiring compliance with the waived obligation. The rights and remedies provided by this Agreement are cumulative and (subject as otherwise provided in this Agreement) are not exclusive of any rights or remedies arising under law.

**19. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

Both Parties hereby acknowledge and agree hereby to contract out of the Contracts (Rights of Third Parties) Act 1999, and that any rights in the Agreement arising from the said Act in respect of any Third Parties are void and shall have no application to this Agreement.

**20. NO PARTNERSHIP/AGENCY**

Nothing in this Agreement is intended or shall operate to create a Partnership or joint venture of any kind between the Parties, or authorise a Party to act as Agent for the other, and neither Party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including but not limited to the making of any warranty, representation, assumption of obligation or liability or the exercise of any right or power).

**21. VARIATION**

This Agreement shall be capable of being varied only by a written instrument signed by a duly authorised officer or representative of both Parties.

**22. INTERPRETATION**

In this Agreement (except where the context requires);

the recitals and Schedules (each as amended from time to time) shall form part of this Agreement and shall be construed and shall have the same force and effect as if they were set out in the main body of this Agreement, and any reference to this Agreement includes the Recitals and the Schedules;

references in this Agreement to any Clause shall be deemed to be a reference to the Schedules of this Agreement;

use of the singular includes the plural and vice versa;

use of gender includes other genders;

any phrase introduced by the terms “including”, “include”, “in particular” or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and

any statement qualified by a reference to a Party’s state of knowledge, belief or awareness shall be deemed to include an additional statement that it has been made after due and careful enquiry.

**23. LAW**

This Agreement shall be governed and construed in accordance with the Law of England.

Each Party irrevocably agrees to submit to the exclusive jurisdiction of the Courts of England over any claim or matter arising under or in connection with this Agreement or the legal relationships established by this Agreement.

By signing the Quotation Form, you hereby agree and acknowledge that you have read the foregoing terms and have understood their nature and effect and you hereby agree to be bound by the terms of this Agreement.