

**CLEAN SLATE DESIGN LTD**

**9 JULY 2020**

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**TERMS AND CONDITIONS FOR THE SUPPLY OF SERVICES**

**THE CLIENT'S ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF CLAUSE 8 (LIMITATION OF LIABILITY).**

**Interpretation**

**The following definitions and rules of interpretation apply in these Terms and Conditions.**

Definitions:

**Business Day:** a day other than a Saturday, Sunday or public holiday in Scotland, when banks in Edinburgh are open for business.

**Charges:** the charges payable by the Client for the supply of the Services in accordance with clause 5 (*Charges and payment*).

**Clean Slate:** Clean Slate Design Ltd., a company registered in Scotland under the company number SC665167.

**Clean Slate Materials:** has the meaning set out in clause 3, including that of clause 3.3.

**Client:** the person or firm who purchases Services from Clean Slate.

**Client Default:** has the meaning set out in clause 4.2.

**Commencement Date:** has the meaning given in clause 2.2.

**Conditions:** these terms and conditions as amended from time to time in accordance with clause 11.5.

**Contract:** the contract between Clean Slate and the Client for the supply of Services in accordance with these Conditions.

**Control:** has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression **change of control** shall be construed accordingly.

**Data Protection Legislation:** the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications).

**Deliverables:** the deliverables set out in the Order or any PDF document produced by Clean Slate for the Client.

**Intellectual Property Rights:** patents, rights to inventions, copyright and related rights, moral rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**Order:** the Client's order for Services as set out overleaf, in the Client's purchase order form, the Client's written acceptance of a quotation by Clean Slate, or overleaf, as the case may be.

**Services:** the services, including the Deliverables, supplied by Clean Slate to the Client as set out in the Specification.

**Specification:** any description or specification of the Services provided by Clean Slate to the Client.

**UK Data Protection Legislation:** all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

**Interpretation:**

A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

Any words following the terms **including, include, in particular, for example** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

A reference to **writing** or **written** includes email.

### **Basis of contract**

The Order constitutes an offer by the Client to purchase Services in accordance with these Conditions.

The Order shall only be deemed to be accepted when Clean Slate issues written acceptance of the Order (including by email) at which point and on which date the Contract shall come into existence (**Commencement Date**).

Any samples, drawings, descriptive matter or advertising issued by Clean Slate, and any descriptions or illustrations contained in Clean Slate's illustrations or on Clean Slate's website, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.

These Conditions apply to the Contract to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

Any quotation given by Clean Slate shall not constitute an offer, and is only valid for a period of 30 Business Days from its date of issue.

### **Supply of Services**

Clean Slate shall supply the Services to the Client in accordance with the Specification and the Clean Slate Materials in all material respects.

Clean Slate aims to provide a consultation service, together with a written summary of its advice, in respect of any individual Contract. Such a consultation service shall generally comprise [**what does the client journey look like?**]

All documents and consultations shall be made available to the Client in reasonable time following the engagement of Clean Slate and the conclusion of the Client consultation. Clean Slate Materials includes any advice and materials that are provided to the Client by Clean Slate in the course of the engagement. This includes any ad hoc advice given by email, telephone or otherwise.

Clean Slate shall use all reasonable endeavours to meet any performance dates specified, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.

Clean Slate reserves the right to amend the Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and Clean Slate shall notify the Client in any such event.

Clean Slate warrants to the Client that the Services will be provided using reasonable care and skill.

### **Client's obligations**

The Client shall:

ensure that the terms of the Order and any information it provides in the Specification are complete and accurate, to the extent possible, including such measurements as may be required for Clean Slate to provide the Deliverables;

co-operate with Clean Slate in all matters relating to the Services;

provide Clean Slate, its employees, agents, consultants and subcontractors, with access (including access by video link) to the Client's premises, office accommodation and other facilities as reasonably requested by Clean Slate;

provide Clean Slate with such information and materials as Clean Slate may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;

obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;

[[ANY OTHER RELEVANT OBLIGATIONS].

If Clean Slate's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Client or failure by the Client to perform any relevant obligation (**Client Default**):

without limiting or affecting any other right or remedy available to it, Clean Slate shall have the right to suspend performance of the Services until the Client remedies the Client Default, and to rely on the Client Default to relieve it from the performance of any of its obligations in each case to the extent the Client Default prevents or delays Clean Slate's performance of any of its obligations;

Clean Slate shall not be liable for any costs or losses sustained or incurred by the Client arising directly or indirectly from Clean Slate's failure or delay to perform any of its obligations as set out in this clause 4.2; and

the Client shall reimburse Clean Slate on written demand for any costs or losses sustained or incurred by Clean Slate arising directly or indirectly from the Client Default.

### **Charges and payment**

The Charges for the Services shall be calculated on a time and materials basis:

the Charges shall be calculated in accordance with Clean Slate's fee rates, as set out in [its current price list at the date of the Contract **OR** [INSERT WHERE FEES SET OUT]] **OR** the Order];

Clean Slate's daily fee rates for each individual are calculated on the basis of [ ] worked on Business Days;

[Clean Slate shall be entitled to charge an overtime rate of [PERCENTAGE]% of the 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 hours referred to in clause 5.1(b);] and

Clean Slate shall be entitled to charge the Client for any expenses reasonably incurred by the individuals whom Clean Slate engages in connection with the Services, and for the cost of services provided by third parties and required by Clean Slate for the performance of the Services, and for the cost of any materials.

Clean Slate shall invoice the Client on completion of the Services.

The Client shall pay each invoice submitted by Clean Slate:

within [30] days of the date of the invoice [or in accordance with any credit terms agreed by Clean Slate and confirmed in writing to the Client]; and

in full and in cleared funds to a bank account nominated in writing by Clean Slate, and

time for payment shall be of the essence of the Contract.

All amounts payable by the Client under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by Clean Slate to the Client, the Client shall, on receipt of a valid VAT invoice from Clean Slate, pay to Clean Slate such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.

If the Client fails to make a payment due to Clean Slate under the Contract by the due date, then, without limiting Clean Slate's remedies under clause 9, the Client shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 5.6 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.

All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

### **Intellectual property rights**

All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Client) shall be owned by Clean Slate.

Clean Slate grants to the Client, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to copy and modify the Deliverables (excluding materials provided by the Client) for the purpose of receiving and using the Services and the Deliverables.

The Client shall not sub-license, assign or otherwise transfer the rights granted in clause 6.2.

The Client grants Clean Slate a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify any materials provided by the Client to Clean Slate for the term of the Contract for the purpose of providing the Services to the Client.

### **Data protection**

Both parties will comply with all applicable requirements of the Data Protection Legislation.

**Limitation of liability: THE CLIENT'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.**

Clean Slate has obtained insurance cover in respect of its own legal liability for individual claims. The limits and exclusions in this clause reflect the insurance cover Clean Slate has been able to arrange and the Client is responsible for making its own arrangements for the insurance of any excess loss.

Nothing in the Contract limits any liability which cannot legally be limited, including liability for:

death or personal injury caused by negligence;

fraud or fraudulent misrepresentation; and

breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

Subject to clause 8.2, Clean Slate's total liability to the Client shall not exceed any fees paid to Clean Slate. Clean Slate's total liability includes liability in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract.

Clean Slate has given commitments as to compliance of the Services with relevant specifications in clause 3. In view of these commitments, the terms implied by sections 3 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

Unless the Client notifies Clean Slate that it intends to make a claim in respect of an event within the notice period, Clean Slate shall have no liability for that event. The notice period for an event shall start on the day on which the Client became, or ought reasonably to have become, aware of [the event having occurred **OR** its having grounds to make a claim in respect of the event] and shall expire [NUMBER] months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

This clause 8 shall survive termination of the Contract.

## **Termination**

Without affecting any other right or remedy available to it, either party may terminate the Contract by giving the other party [NUMBER] months' written notice.

Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within a reasonable timescale of that breach;

the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;

the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

Without affecting any other right or remedy available to it, Clean Slate may terminate the Contract with immediate

effect by giving written notice to the Client if the Client fails to pay any amount due under the Contract on the due date for payment.

Without affecting any other right or remedy available to it, Clean Slate may suspend the supply of Services under the Contract or any other contract between the Client and Clean Slate if the Client fails to pay any amount due under the Contract on the due date for payment, the Client becomes subject to any of the events listed in clause 9.2(b) to clause 9.2(d), or Clean Slate reasonably believes that the Client is about to become subject to any of them.

### **Consequences of termination**

On termination of the Contract:

the Client shall immediately pay to Clean Slate all of Clean Slate's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, Clean Slate shall submit an invoice, which shall be payable by the Client immediately on receipt;

the Client shall return all of Clean Slate Materials and any Deliverables which have not been fully paid for. If the Client fails to do so, then Clean Slate may enter the Client's premises and take possession of them. Until they have been returned, the Client shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.

Termination of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination [or expiry], including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.

### **General**

**Force majeure.** Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control.

### **Assignment and other dealings.**

Clean Slate may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.

The Client shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of Clean Slate.

### **Confidentiality.**

Each party undertakes that it shall not disclose to any person any confidential information concerning the business, affairs, Clients, clients or suppliers of the other party, except as permitted by clause 11.3(b).

Each party may disclose the other party's confidential information:

to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees,

officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 11.3; and

as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

**Entire agreement.**

The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract.

Nothing in this clause shall limit or exclude any liability for fraud.

**Variation.** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

**Waiver.** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

**Severance.** 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.

**Notices.**

Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or sent by email to [cleanslatedesignltd@gmail.com](mailto:cleanslatedesignltd@gmail.com).

Any notice or communication shall be deemed to have been received:

if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the Business Day after posting or at the time recorded by the delivery service; and

if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 11.8(b)(iii), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.



**Third party rights.**

Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

**Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the law of Scotland.

**Jurisdiction.** Each party agrees that the courts of Scotland shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.