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THE FOOD CONSULTANCY

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BY



TERMS & CONDITIONS

The Food Consultancy is registered in the United Kingdom under Company Registration Number 06607868.

Our standard terms and conditions of business are detailed below. Variations on these terms can usually be offered in order to meet specific Client requirements. In particular, fixed fees and/or daily consultancy rates for projects can be negotiated prior to commencement of work.

1. **Contract Establishment**

These Terms and Conditions of Business shall form part of the contract between “the Client” and The Food Consultancy “the Company” for the supply of professional services set out in our proposals, unless otherwise agreed in writing by La Napoule Limited.

2. **Fees**

a) Fees will be charged on the basis set out in the fee proposal. Payment terms are normally 30 days from date of invoice, although we may require immediate payment of first invoice as a demonstration of good faith.

b) Fees are normally charged at a mutually agreed day rate (or part thereof). Fees are charged for all time spent on the Client’s affairs, whether attending the Client’s premises or elsewhere. Alternatively, where stated in the proposal and agreed in writing with the Client, a project can be undertaken on a fixed fee basis with the Company providing a set number of hours or days of consultancy time per calendar month.

c) Where the allocated time for the proposal is exceeded, additional hours or days will be charged at mutually agreed daily or hourly rates as defined in the proposal or agreed in writing with the Client prior to commencement of the project.

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d) The Company reviews fees periodically. The fee rates used in the proposal are The Food Consultancy's current rates. Our fee basis is always mutually agreed with the Client prior to commencement. Any future rate adjustments will be notified to the Client at least one month in advance before any new rates are applied.

3. **Expenses**

a) We ask the Client to reimburse the Company for all reasonable out of pocket expenses that may be incurred at the Client's request in connection with the Project, including (where appropriate) travel and overnight subsistence and the cost of providing any specialist equipment, goods or materials. Wherever possible, such expenses will be agreed upfront with the Client.

b) If during the course of the project a need for ancillary specialist services not specified in the proposal is identified, the Company will obtain agreement from the Client for their use before any expenditure is incurred.

4. **Invoicing and Payment**

a) Invoices for fees prepared in accordance with Paragraph 2.a) above and for expenses are payable within 30 days of the date of the invoice. Any queries concerning an invoice should be raised with the Company within 30 days of the invoice date. Wherever possible, payment should be made by BACS transfer – with bank details being detailed on every invoice.

b) In the event that invoices are not settled in full in accordance with these Terms and Conditions, the Company reserves the statutory right to charge interest under the Late Payment of Commercial Debts (Interest) Act 1998 and the guidelines published by The Better Payment Practice Group.

5. **Information Disclosure**

a) We request that the Client disclose to the Company all information which is necessary for the satisfactory running and completion of the project or which, in the reasonable opinion of the Company, is relevant to the Contract.

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b) The Client represents that, to the best of their ability and in good faith, all information disclosed to the Company is accurate and that any written materials supplied may be used as part of the project without breach of any third party copyright or registered trademarks.

6. **Confidentiality**

Confidential information concerning the Client and the Client's business will not be disclosed by the Company to any third party without the Client's written consent.

7. **Ownership**

The Client shall own the deliverables of the project, which shall not include any proprietary products or methods which the Company may use in the course of the Project.

8. **Liability**

a) The Company undertakes to exercise due care in the performance of the project in accordance with applicable professional standards. The Company's objective is to provide a high quality, professional service that fully meets the Client's expectations and requirements.

b) The Company shall not be liable to the Client in contract, tort (including without limitation negligence) and/or breach of statutory duty for any loss or damage which the client may suffer by reason of any act, omission, neglect or default (including negligence) in the performance of this Contract by the Company, its' servants or agents, in a sum which is greater than the total price of the associated fees.

c) The Company shall not be liable to the Client in contract, tort (including without limitation negligence) and/or breach of statutory duty for any loss of profits and/or loss of production or any indirect or consequential (including economic) loss of any kind which the Client may suffer by reason of any act, omission, neglect or default (including negligence) in the performance of this Contract by the Company, its servants or agents.

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d) The Company shall not be liable to the Client in contract, tort (including without limitation negligence) and/or breach of statutory duty for any loss of profits and/or loss of production or any indirect or consequential (including economic) loss of any kind which the Client may suffer by reasons outside the direct control of the Company, its servants or agents.

e) The Company shall not be liable to the Client in contract, tort (including without limitation negligence) and/or breach of statutory duty for any loss of damage which the Company may suffer by reason of any act, omission, neglect or default (including negligence) in the performance of this Contract by the Client, its servants or agents, in a sum which is greater than the total price of the fee.

f) The Client shall not be liable to the Company in contract, tort (including without limitation negligence) and/or breach of statutory duty for any loss of profits and/or loss of production or any indirect or consequential (including economic) loss of any kind which the Company may suffer by reason of any act, omission, neglect or default (including negligence) in the performance of this Contract by the Client, its servants or agents.

g) Nothing in this Contract shall operate so as to exclude:

- i) Either party's non-excludable liability in respect of death or personal injury caused by its negligence or the negligence of its servants or agent;
- ii) The application of Section 12 of the Sale of Goods Act 1979; or
- iii) Liability for fraudulent misrepresentation.
- iv) The Company holds a current Certificate of Professional Liability Insurance to cover any civil liabilities arising from its' professional activities.

9. **Force Majeure**

a) If either party is affected by Force Majeure it shall forthwith inform the other party in writing of the matters constituting the Force Majeure and shall keep the party fully informed of the continuance and of any change of circumstances whilst such Force Majeure continues.

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b) If the Force Majeure continues for longer than 3 months either party may at any time whilst such Force Majeure continues by notice in writing to the other to terminate this Contract.

c) Save as provided for in this Clause Force Majeure shall not entitle either party to terminate this Contract and neither party shall be in breach of this Contract, nor otherwise liable to the other party, by reason of any delay in performance or non-performance of any of its obligations due to Force Majeure.

10. **Suspension and Termination**

a) The Client may, at any time, terminate the project by giving the Company written notice of at least one full calendar month of the intention to do so – subject to the conditions detailed in clause 10.d)

b) The Company may suspend the project if, in the reasonable opinion of the Company, material circumstances adversely affect the performance of the Company's obligations under the Contract, or where the Company reasonably determines that there has been a material non-disclosure of information by the Client or material changes in circumstances which significantly alter the scope and/or nature of the project.

c) The Company may, by giving notice in writing to the Client, terminate the project forthwith if:

- i) The period of suspension as described in clause 9.b) exceeds fourteen days; or
- ii) The Client commits a breach of the Contract and fails to remedy such a breach within seven days of being notified in writing by the Company; or
- iii) The Client compounds with or negotiates for any composition or compromise with its creditors or is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986.

d) If the contract is terminated:

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- i) Each party to the Contract shall on demand return to the other party, all property belonging to the other party in its possession at the time of termination; and
- ii) The Client shall pay forthwith, on demand by the Company, all fees and expenses in respect of all professional services performed by the Company under the Contract up to the date of termination (the date of termination shall include the notice period defined in clause 10.a) together with all reasonable costs and expenses incurred by the Company in connection with and in consequence of the termination of the Contract.

11) English Law

Every contract to which these conditions apply shall be construed and operate as an English contract and in accordance with English Law and all disputes shall be submitted to the jurisdiction of the English Courts.

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