

**TERMS AND CONDITIONS OF BUSINESS**

# HOUSING ASSET MANAGEMENT CONSULTANCY LIMITED

## TERMS & CONDITIONS OF BUSINESS

### 1. Definitions

In these conditions:

- (a) "The Company" means Housing Asset Management Consultancy Limited.
- (b) "The Client" means the person to whom the Company is providing the Service under the Contract.
- (c) "The Contract" means the Agreement between the Company and the Client for the provision of the Services including these Conditions of Contract.
- (d) "The Services" means the Services to be provided by the Company under the Contract.

### 2. General

Unless expressly agreed in writing and signed by one of the Company's Directors, all proposals, offers or orders for Services are made and accepted only upon the terms of these conditions. The Client's order or acceptance of the Company's proposal or offer shall not become a binding contract until the same has been confirmed by the Company's acknowledgement thereof.

All assignments are led by a Director or Manager who is directly responsible to The Client.

### 3. Proposals, Offers and Acceptance

Unless previously withdrawn our proposal or other document is open for acceptance within the period stated therein or if no period is stated within thirty days only after its date. The acceptance of the Company's proposal or offer must be accompanied by sufficient information to enable the Company to proceed forthwith with the provision of the Services upon the Company confirming acceptance by its acknowledgement of the assignment. All proposals and offers are subject to confirmation at the time of the acknowledgement of the assignment to the Client. Acceptance will be deemed to have occurred by commencing / progressing any work on the project (e.g. arranging meetings, sending data, emails etc.).

### 4. Variation

The Contract only includes for such Services as are described therein. Any variation or extension of the Service not included in the Contract will be the subject of a separate proposal or offer on the terms of these conditions and shall not be included within the Contract until accepted by the Client and confirmed by the Company by its acknowledgement of the varied or extended assignment.

### 5. Basis of Charges

The Company's fee charges are based on the amount of consultant time incurred, or planned to be incurred on an assignment. In addition, expenses and VAT are charged.

Consultants' time is charged on an hourly or daily rate, or a fixed price contract may be agreed. Daily rates are based on a seven-hour day. If the consultants' actual working day exceeds seven hours, the relevant additional proportion of the daily rate will be charged.

For the avoidance of doubt fees agreed are payable for the services provided and are not based on the outcome of the process.



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In calculating the fee, account will be made for the provision of documents and/or knowledge which forms The Company's intellectual property. This is particularly (but not exclusive) to fixed fee assignments.

A minimum fee charge is half a chargeable day at the agreed rate.

Charges are usually reviewed at 1st June each year.

Assignments involving reports or document drafting will ordinarily be provided in draft and final draft to enable any client feedback to be considered. Any further drafts are subject to additional charge, calculated on a day rate basis and subject to the minimum charge (as noted above). Should no response be made or received to any draft within six weeks from the date of issuing the draft to the client, no amendments shall be deemed required and thus the project considered fully completed and fully chargeable.

### 6. Calculation of Consultants' Time

Where an hourly or daily rate is charged, the calculation of consultants' time normally includes:

- preparation prior to visiting a client;
- travelling to and from the office at which the consultant is normally based and the client's premises, or other places visited in connection with the assignment;
- time spent with the client, at their premises or elsewhere in connection with the assignment;
- research, drafting, writing, review, etc., including internal planning, checking and review by the consultant(s) directly working on the assignment and their project manager or a director (if different);
- presentation of the results of the assignment.

In delivering a project, if work (meetings and the like) is instructed by the Client and subsequently cancelled, deferred or otherwise not progressed, The Company will endeavour to mitigate the loss by undertaking work for other clients. If this is not possible, with particular regards to the length of notice given by the Client, The Company will charge the Client for the abortive event. Entire cancellation of a project is subject to the terms noted in section 14 (below).

### 7. Fixed Price Contracts

Where a client requires a fixed price contract this can usually be agreed based on the consultant's time charge, though some types of assignment (eg. involving negotiations) cannot be charged for on anything other than an actual time basis.

In some cases a provision for expenses will be incorporated in a fixed fee quotation, but unless this is expressly stated expenses will be charged on the basis outlined below.

### 8. Expenses Recharged to Clients

The following expenses will be recharged to clients:

- public transport and other travel expenses at cost;
- car mileage at 60p per mile;
- economy class air fares where travelling outside England or Wales - other air travel, if required, would be specifically agreed with the client;
- where an overnight stay occurs, actual hotel charges for single room with bath;
- all subsistence costs incurred during the relevant period (including during travelling time)

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- postage, couriers and other carriage;
- photocopying, printing and binding:
  - where purchased - actual cost
  - where undertaken at the Company's premises
  - photocopying - 11p per sheet
  - binding - 70p per binder
- telephone calls and faxes sent in connection with the client's business other than from the Company's office;
- advertising and artwork costs in connection with the client's business;
- other incidental expenses.

**Due to the high volume of receipts generated by The Company, receipts shall not be retained and forwarded unless you instruct otherwise immediately upon appointment. Failure of the Client to advise that you require receipts at this time does not invalidate a legitimate reclaim of costs charged, as outlined above.**

In the Clients interest, The Company will endeavour (but not guarantee) to reduce travel cost by booking travel in advance. In the event that the need for the relevant journey(s) is cancelled after purchasing travel arrangements, the full cost will be invoiced by The Company to the Client.

### 9. Invoicing & Overdue Accounts

Invoices will normally be rendered monthly unless otherwise agreed with the client. Invoices are payable within 28 days of issue. On fixed price contracts, monthly invoices will be rendered reflecting work completed to date or milestones.

Payments not received by the due date will be subject to the provisions of the Late Payments of Commercial Debts (Interest) Act from the date upon which the payment became due to the date in which cleared funds are received by The Company. The Company reserves the right to suspend performance on any contract due to late / no payment of fees invoiced. Any charges incurred by The Company in recovering sums due via a third party, shall be added to the overdue sum.

### 10. Confidentiality

- (a) The Company undertakes to keep confidential and not to disclose without the Client's prior consent, any information concerning the Client's business or affairs or similar confidential information supplied by the Client for the purposes of the Contract, except in so far as may be strictly necessary for the proper performance by the Company of its Services under the Contract.

**Important:**

- (b) **Reports, advice and documents submitted to the Client as part of the Services are provided for the exclusive use of the Client and the Client undertakes that it will not without the Company's previous written consent divulge the same or any part thereof to any third party. The Client will use its best endeavours to ensure that its employees are aware and comply with the provisions of this clause.**

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- (c) No fees or commissions are accepted from a third party in connection with an assignment without the express consent of the client.
- (d) The obligations of the parties contained in this clause shall survive the completion or termination of the Contract.
- (e) Reports will ordinarily be issued in a secured PDF or Word format, in order to comply with Insurance requirements and to help protect the intellectual property rights.

### 11. Intellectual Property

The copyright and any other intellectual property rights in all reports, plans, documents and other matters produced for the purposes of, or as part of, or as a result of the Services shall in all cases belong to The Company.

### 12. Liability

The Company undertakes to carry out the Services with reasonable skill and care and to the best of its ability. Any representations made by the Company whether orally or in writing or in any reports to the client in the performance of the Services as to the results which may be obtainable or in surveys and forecasts or in recommendations and advice given by the Company are made in good faith on the basis of information obtained from the Client or otherwise available to the Company but the Company does not warrant that such results can be obtained nor the efficacy and accuracy of such surveys, forecasts and recommendations since such matters depend on factors which are wholly or partially outside the Company's reasonable control.

Under no circumstances shall the Company be liable to the Client for any loss of profits, loss of contracts, increased cost of working or loss of opportunity or for any indirect or consequential loss or damage whatsoever that may be suffered by the Client and whether arising by reason of breach of Contract or statutory duty or in tort (including but not limited to negligence).

### 13. Recruitment of Staff

The Company and the Client mutually agree not to recruit knowingly the other's staff engaged in connection with the contract or the provision of the Services without the previous written consent of the other.

### 14. Cancellation

The Client may at any time upon giving one month's previous notice in writing require the Company to terminate the Contract and upon the expiry of such period of notice the Company shall cease all further work thereunder. Upon any such cancellation the Company will invoice the customer for all work done down to the expiry of the said notice at the rates set out in the Contract or as appropriate a proportionate part of the fees stated in the Contract and for all out of pocket travelling and subsistence expenses. Payment thereof shall be made by the Client in accordance with Clause 9 (invoicing).

Should the project / commission not proceed as originally envisaged and reasonably anticipated (e.g. be put on hold etc) The Company reserves the right to charge either on a proportionate basis and/or on a day rate.

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### 15. Force Majeure

If the Company is prevented from performing the Contract or providing Services thereunder, by reason of industrial dispute or other circumstances beyond its reasonable control, the Company shall be entitled to suspend performance of its obligations for so long as such circumstances continue. In the event that such circumstances shall prevent performance for a continuous period of more than one hundred and eighty days, the Client shall be entitled by notice of writing to the Company to terminate the Contract and in such event the Company will provide the Client with a report of all work done down to the date performance was suspended and the Client shall pay for such work an appropriate proportionate part of the fees and reimburse all out of pocket and travelling and subsistence expenses, payment to be made in accordance with Clause 9 (invoicing).

### 16. Termination

The Company may without prejudice to any other remedy by notice in writing to the Client terminate the contract forthwith if:

- (a) the Client shall commit any breach of the Contract and in the case of a breach capable of remedy shall have failed to remedy such breach within seven days after written notice from the Company requiring the same to be remedied, or
- (b) being a corporate body, the Client shall enter into liquidation (otherwise than for the purposes of reconstruction or amalgamation) or shall have a receiver appointed over all or any of its assets or shall be the subject of an administration order or shall compound with or make any composition with its creditors, or
- (c) being an individual upon the death of the Client or upon the Client having a receiving order made against him or committing any act of bankruptcy.
- (d) Frustrate or otherwise prevent the conclusion of the project.

### 17. Off Payroll designation

The Company employs directly individuals in order to undertake assignments and deliver The Services. The Company alone directs employees as to how assignments are undertaken. The Company, having utilised the assessment process provided by the HMRC, has satisfied itself that no employee could be considered or classified as an 'Off Payroll' employee / employment.

Should the Client deem that Off Payroll does apply, it shall notify The Company in writing forthwith. In making this designation, The Client acknowledges and accepts that an additional 30% premium shall be added to the agreed rate due to this designation.

### 18. Financial Services Act, 1986

Nothing in these Conditions shall require the company to include within the services to be provided to the client the giving of investment advice or the arranging of deals in investments within the meaning of the Financial Services Act, 1986.

### 19. Complaints Procedure

The Company has a Complaints Procedure, copies of which are available on request.

### 20. Equal Opportunities

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The Company operates an Equal Opportunities Policy, copies of which are available on request.

### **21. Law & Jurisdiction**

All and any advice given and agreement entered into shall be governed by and construed in accordance with the Laws of England and the Parties irrevocably submit to the exclusive jurisdiction of the English courts.

### **22. Inadequacy of Damages**

The Client acknowledges and agrees that damages alone may not be an adequate remedy for breach of this Agreement by the Client. Accordingly, the Company shall be entitled, without having to prove special damages, to equitable relief (including (without limitation) injunction and specific performance) for any breach or threatened breach of this Agreement by the Client.

### **23. The Contracts (Rights of Third Parties) Act 1999**

The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement and accordingly the Parties to this Consultancy Agreement do not intend that any third party should have any rights in respect of this Consultancy Agreement by virtue of that Act.