

WareWorks Ltd

Terms of Business

03/04/2009

1 Terms Of Business

- 1.1 A summary of the fixed and estimated charges and related expenses of WareWorks Ltd (of Unit 54 Cariocca Business Park, 2 Sawley Road, Manchester, M40 8BB, UK - hereinafter referred to as WWL) for this Assignment is provided in the Proposal and will remain valid for 30 days from the date of submission. Unless specifically stated in the Proposal, it is not to be construed as an offer to perform the Assignment within a fixed time or at a fixed price. WWL reserves the exclusive right to sub-contract any part of the Assignment at its discretion.
- 1.2 The charges covers all consultant time spent on the Assignment. No charge is made for travelling time unless it exceeds by a material amount the staff members normal travelling between home and office. Expenses directly associated with the Assignment, including travelling and subsistence for WWL staff, materials and equipment costs, etc. will be charged. Should the need arise during WWL's work for ancillary services not specified in the Proposal, their provision will be subject to agreement before expenditure is incurred. All fees and charges referred to herein or in the Proposal shall be exclusive of VAT and other government taxes and levies that are properly due.
- 1.3 Unless an alternative payment schedule has been agreed, WWL will invoice the Client monthly. Payment of invoices will fall due within 30 days of invoice. If payment is not made by the due date, WWL shall be entitled (without prejudice to any other right or remedy available to it) to charge interest on the outstanding amount at a rate of 8% above the Bank of England Base Rate occurring daily. WWL's services may be terminated by either party with one months written notice, in which case the Client shall make payment in full for the actual work done up to the date of termination.
- 1.4 All surveys, estimates, forecasts and recommendations in the Proposal and any subsequent reports or letters are made in good faith and on the basis of the information available to WWL at the time. WWL does not warrant that its work will be outside the scope of any patent or registered design or any other intellectual property right but in the event of it becoming aware that such work is an infringement it will inform the Client immediately. All warranties, conditions or other terms implied by statute or Common Law are excluded to the fullest extent permitted by law.
- 1.5 Except in respect of death or personal injury caused by WWL negligence, WWL shall not be liable to the Client by reason of any representation, or any implied warranty condition or other term, or any duty at Common Law, or under the express terms of these conditions for any consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claimed for consequential compensation whatsoever (and whether caused by negligence of WWL, its employees or agents or otherwise) which arise out of or in connection with the Assignment, use or resale of its results by the Client or the use or resale of products supplied by WWL.

- 1.6 The Client agrees to indemnify and hold WWL harmless from and against all claims and demands resulting from injury, damage or loss occasioned by the use or operation of the products, methods or other results of the Assignment, and from costs and expenses arising therefrom, including legal costs, and furthermore to assume all product liability.
- 1.7 The Client shall indemnify WWL in respect of all financial liability (including professional costs) arising out of any claim made against WWL alleging misuse of a third party's confidential information or copyright material or any other intellectual property rights in the event that the information or material concerned was received by WWL from the Client or the Client's agent.
- 1.8 WWL and the Client will keep confidential for three years from the date of its supply all information supplied by the other party which is marked as confidential at the time of disclosure, but this duty of confidence shall not extend to any information already known to the recipient prior to its disclosure by the discloser, or lawfully received by the recipient from a third party, nor to information published at the date of such disclosure or subsequently through no fault of the recipient. This clause shall not supersede any non-disclosure agreements that are already in place with specific respect to the Proposal. The Client will understand that all general experience accumulated during the Assignment becomes part of the technical expertise of WWL.
- 1.9 The risk in any goods supplied by WWL during the Assignment will pass to the Client at the time of despatch by WWL. Notwithstanding delivery, the property in the goods shall not pass to the Client until all sums due or owing on any account whatsoever by the Client has been received by WWL in cash or cleared funds.
- 1.10 Any copyright or other intellectual property rights in any products, goods or devices developed or any documentation prepared for the Client by WWL in the course of performing the Assignment shall be and remain the absolute property of WWL unless otherwise agreed in writing and transferred to the Client by written agreement.
- 1.11 With the exception of licences covered by separate agreements issued by WWL or any subsidiary for the time being of WWL or the holding company of WWL or any subsidiary of such holding company (as such terms are defined by section 736, Companies Act, 1995) and subject to payment in full of all sums owing, WWL hereby grants the Client an irrevocable non-exclusive licence to exploit the results of the Assignment without further fee or royalty.
- 1.12 These terms and conditions apply in preference to and supersede any terms and conditions referred to, offered or relied on by the Client whether in negotiation or at any stage in dealings between WWL and the Client with reference to the Proposal. Without prejudice to the generality of the foregoing, WWL will not be bound by standard or printed terms furnished by the Client in any of its documents unless the Client specifically states in writing, separately from such terms, that it intends such terms to apply, and WWL acknowledges such notification and confirms in writing that it agrees to be bound by such terms.
- 1.13 Neither the Client nor WWL shall be bound by any variation, waiver of, or addition to these conditions unless made in writing and signed by a duly authorised representative of both the Client and WWL.
- 1.14 The Terms of Business, and the Proposal to which they relate shall be deemed to have been made in England and shall be construed in accordance with English law and the Client and WWL hereby submit to the jurisdiction of the English courts. English law shall be the proper law of the contract.