

## Standard Terms and Conditions of Business

### General

1. These Terms and Conditions and the associated proposal and any associated schedules shall form the entire contract between Burgh House Limited and the client. Burgh House Limited shall not be bound by any terms and conditions which may be inconsistent with these Terms and Conditions, no variation of, or addition to which shall be effective unless in writing and signed by Burgh House Limited.
2. Any time period given by Burgh House Limited for completion of the contract shall be an estimate only and shall not be of the essence.
3. This document constitutes the entire agreement between the parties as to the subject matter hereof and supersedes all previous agreements with respect thereto.

### Charges and Payment

4. Burgh House Limited's charges are subject to review semi-annually on 1 January and 1 July. Burgh House Limited undertakes not to vary its charges in respect of any ongoing contract or outstanding quotation without giving prior notice.
5. Burgh House Limited's charges are as shown in the accompanying proposal.
6. All proposals are estimates only and invoices are based on actual time spent, calculated in accordance with the charges set out herein, as varied from time to time.
7. Travel, accommodation, subsistence and other expenses will be charged at cost. Travelling time will be charged at 50% of the standard rate.
8. Work carried out at weekends or on bank holidays, or in excess of forty hours in any one week, will be charged at one and a half times the standard rate. No such work will be undertaken without the client's prior agreement.
9. Burgh House Limited's fees (comprising any charges incurred pursuant to Clauses 5 - 8 inclusive), which are quoted exclusive of all taxes, charges, levies or duties whatsoever whether imposed by statute or otherwise, are invoiced in arrears, and are payable in either St. Helena pounds or pounds sterling within 14 days of presentation.
10. Burgh House Limited reserves the right to charge interest at the Bank of St. Helena Unauthorised Overdraft Rate to accrue daily on all sums overdue for payment as described in Clause 9, until receipt by Burgh House Limited.
11. Where payment made is less than the total amount due, the payment received will be applied against the oldest debt(s) first.

### Personnel

12. Burgh House Limited expects to be able to maintain continuity of personnel over the course of the contract. However where necessary, and subject to Clause 0 hereof, Burgh House Limited shall, as soon as reasonably practicable, use its reasonable endeavours to substitute persons with equal qualifications. Burgh House Limited will notify the client when taking any such action.

### Confidentiality

13. Both parties hereto undertake to treat as confidential any information regarding the other's business activities obtained during the course of the contract, provided that such information is not publicly known other than by breach of this Clause during such period.
14. Both parties hereto undertake that for the term of the contract and for a period of one year thereafter neither party shall on its own account or for any other person, firm or company, employ, directly or indirectly solicit, interfere with or endeavour to entice away from the other party any person who is at any time during the term of the contract an employee of or sub-contractor to such other party.

### Liability

15. Burgh House Limited shall accept liability for any loss or damage sustained by the client as a direct result of any material breach, or negligence in the performance of, the contract by Burgh House Limited provided that such liability:
  - Shall not extend to any economic, special or consequential loss;
  - Shall not extend to any loss or damage sustained by any third party in connection with the contract;
  - Shall be limited to payment of damages not exceeding the invoiced value of services provided under the contract in question.

### Intellectual Property Rights

16. The client shall not acquire any intellectual property rights, of whatsoever nature and including, without limitation, any copyright in descriptions, drawings, designs, descriptions or information supplied by Burgh House Limited.



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17. The client warrants that any design or instructions furnished or given by the client to Burgh House Limited for the purpose of the contract shall not cause Burgh House Limited to infringe any intellectual or industrial property rights, including any copyright, patent, or registered design in the performance of the contract.
18. The client shall, and shall procure that its employees shall, keep confidential and not, without Burgh House Limited's prior written consent, disclose to any third party any descriptions, drawings, designs, descriptions or information, of whatever nature, obtained from Burgh House Limited or howsoever acquired in connection with the contract, and shall use the same only for the purposes defined in the contract.
19. The client will not, without the prior written consent of Burgh House Limited, copy or enable others to copy any documents or any part thereof, supplied by Burgh House Limited in accordance with the contract, other than as specified in the contract.

### **Indemnity**

20. The client shall indemnify and keep Burgh House Limited indemnified against all claims, actions, costs, expenses, (including court costs and fees) or other liabilities arising out of or incidental to the due performance of the contract by Burgh House Limited, including but not limited to breach or infringement of any third party intellectual property rights where the client has held itself out to be owner or licensee of such rights.

### **Duration**

21. Unless terminated by virtue of any other condition hereof the contract shall commence on the date thereof and continue until terminated by the client giving to Burgh House Limited not less than ninety (90) days prior written notice.

### **Prior Termination**

22. Burgh House Limited shall have the right by giving notice in writing to the client to terminate the contract forthwith and at any time after the happening of any of the following events:
  - If the client commits a breach of the contract; or
  - If any sum payable under the contract or any other sum(s) due from the client are in arrears and unpaid for a period of thirty (30) days after it shall become due.

### **Force Majeure**

23. Burgh House Limited shall not be liable to the client or deemed to be in breach of the contract by reason of any delay in performing, or any failure to perform any of its obligations under the contract if the delay or failure was due to any cause beyond Burgh House Limited's or its sub-contractors reasonable control, including any act or omission of the client, whether such cause existed on the date when the contract was made or not.

### **Financial Services Ordinance 2008**

24. Burgh House Limited is only permitted to provide services to organisations and individuals that qualify under the Financial Services Ordinance 2008. In accepting services from Burgh House Limited you confirm that you are so qualified and indemnify Burgh House Limited against any action in this respect.

### **Governing Law and Jurisdiction**

25. The construction, validity and performance of the contract shall be governed in all respects by the laws of St. Helena, to the non-exclusive jurisdiction of whose courts the parties hereby submit.

Last revised Monday, 05 July 2010. All previous versions are hereby superseded.

