

Standard Terms & Conditions of Business Martyn Weeks Consultancy Ltd trading as FRS

1	Definitions & Interpretation
1.1	In the Contract the following definitions together with those in the Contract Details shall apply
Business Day	Our standard working day is 0830-1700 with half an hour for lunch, unless otherwise agreed with the customer
Charges	The charges payable by the Customer for the supply of the Services by FRS, as set out in the Contract Details or quoted by FRS in writing or by telephone
Conditions	These standard terms and conditions of business
Consumer Prices Index	The Consumer Prices Index as published by the Office for National Statistics from time to time, or failing such publication, such other index as the parties may agree most closely resembles such index.
Contract	The contract between the Customer and FRS for the supply of the Services in accordance with these Conditions and any Contract Details provided to the Customer.
Deliverables	All documents and reports developed by FRS as part of or in relation to the Services in any form.
Services	The services, including any Deliverables, to be provided by FRS pursuant to the Contract or quoted by FRS in writing or by telephone.
Services Start Date	The date specified in the Contract Details but if none is specified, the date on which provision of the Services commenced.
1.2	A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time. A reference to a statute or statutory provision includes any subordinate legislation made from time to time under that statute or statutory provision.
1.3	Any words following the terms including , include , 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.
1.4	A reference to writing or written includes email
2	Commencement & Term
2.1	Where the Services are to be provided on an ongoing basis, this Contract shall commence on the Services Start Date and shall continue, unless terminated earlier in accordance with clause 9 (Termination).
2.2	Where the Services are to be provided on an ad-hoc basis, this Contract shall commence on the Services Start Date and shall terminate automatically upon completion of the Services being provided (subject to clauses 9.3 and 9.4).
3	Supply of Service
3.1	FRS shall supply the Services to the Customer on and/or from the Services Start Date in accordance with the Contract
3.2	In supplying the Services, FRS shall:
a	Perform the Services with the highest level of care, skill and diligence in accordance with best practice in FRS's industry, profession or trade;
b	Co-operate with the Customer in all matters relating to the Services and comply with all instructions of the Customer;

c	Only use personnel who are suitably skilled and experienced to perform the tasks assigned to them and in sufficient number to ensure that FRS's obligations are fulfilled
d	Ensure that it obtains and maintains all consents, licenses and permissions (statutory, regulatory, contractual or otherwise) it may require, and which are necessary to enable it to comply with its obligations in the Contract
e	Provide all equipment, tools, vehicles and other items required to provide the Services.
f	Comply with all applicable laws, statutes and regulations from time to time in force
g	Observe all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Customer's premises from time to time and are notified to FRS.
4	Customer Obligations
4.1	The Customer shall:
a	Provide such access to the Customer's premises, data, personnel and such office accommodation and other facilities as may reasonably be requested by FRS and agreed with the Customer in advance, for the purposes of providing the Services;
b	Provide such necessary information for the provision of the Services as FRS may reasonably request.
4.2	If FRS's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees FRS shall:
a	Not be liable for any costs, charges, or losses sustained or incurred by the Customer that arise directly or indirectly from such prevention or delay;
b	Be entitled to payment of the Charges despite any such prevention or delay; and
c	Be entitled to recover any additional costs, charges or losses FRS sustains or incurs that arise directly or indirectly from such prevention or delay.
5	Title to Deliveries
5.1	Title to any Deliverables (but not, for the avoidance of doubt, any intellectual property rights) shall pass to the Customer on the later of their delivery to the Customer or payment of the Charges for them. FRS transfers the Deliverables and all such goods and materials to the Customer free from all liens, charges and encumbrances.
6	Charges & Payment
6.1	In consideration for the provision of the Services, the Customer shall pay FRS the Charges in accordance with this clause 6. Our chosen method of payment is through our supplier Go Cardless whereby the Customer has to authorise a 'virtual direct debit' set up by FRS.
6.2	All amounts payable by the Customer exclude amounts in respect of value added tax (VAT) which the Customer shall additionally be liable to pay to FRS at the prevailing rate (if applicable) subject to receipt of a valid VAT invoice. FRS shall submit invoices for the Charges plus VAT if applicable to the Customer in accordance with the Contract Details or immediately following
6.3	completion of the provision of the Services (unless otherwise agreed in writing). Each invoice shall include all supporting information reasonably required by the Customer (though the Customer may not delay payment of any invoice where it has failed to provide FRS with any purchase order number or similar reference).
6.4	The annual Charges for the Services become due and payable on the Services Start Date and on each anniversary of that date unless terminated in accordance with clause 9.1 and can be

	paid by direct debit in twelve equal monthly instalments. If the Customer seeks to terminate the Contract or cancels any such direct debit arrangements for payment of the Charges by instalment during the annual term, then the remaining monthly instalments shall be and become immediately due and payable
6.5	Where FRS provides its Services on an ongoing or recurring basis, FRS may increase the Charges annually with effect from each anniversary of the Services Start Date by giving the Customer 15 days' written notice expiring on the anniversary of the Services Start Date. Any increase will normally be in line with the percentage increase in the Consumer Prices Index as at the anniversary of the Services Start Date and may consider any additional Services requested by the Customer and/or any change in FRS' costs to provide the Services
6.6	The Customer shall pay each invoice which is properly due and submitted to it by FRS, within 15 days of receipt, to a bank account nominated in writing by FRS.
6.7	If the Customer fails to make any payment due to FRS under the Contract by the due date for payment, then, without limiting FRS's remedies under clause 9 (Termination):
a	the Customer 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 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%; and
b	FRS may suspend all Services until payment has been made in full
c	FRS will be entitled to charge an administration fee of £25 per correspondence for the late payment of any invoice
d	All amounts due under the Contract from the Customer to FRS 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).
7	Limitation of Liability
7.1	Nothing in the Contract shall limit or exclude FRS's or the Customer's liability for:
a	death or personal injury caused by its negligence, or the negligence of its personnel, agents or subcontractors
b	fraud or fraudulent misrepresentation
c	breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); or
d	any other liability which cannot be limited or excluded by applicable law.
7.2	Subject to clause 7.1 of these Conditions
a	neither party to the Contract shall have any liability to the other party, whether in contract, tort (including negligence), breach of statutory duty or otherwise, for any indirect or consequential loss arising under or in connection with the Contract; and
b	FRS's total liability to the Customer, whether in contract, tort (including negligence), breach of statutory duty or otherwise, arising under or in connection with the Contract shall be limited to the amount of the Charges paid by the Customer to FRS in respect of the Services to which any claim may relate.
c	With regard to online card payments made for the Services, no responsibility is accepted for enquiries/payments that are lost, corrupted or delayed or as a result of any network, computer hardware or software failure of any kind. Proof of submission will not be accepted as proof of receipt.
7.3	The rights of the Customer under the Contract are in addition to, and not exclusive of, any rights or remedies provided by common law.

7.4	The legal responsibility for health & safety rests primarily with the customer. It is the customer's responsibility to ensure the organisation has the necessary management framework to protect the health & safety of staff and to provide a safe working environment. By doing this, the customer will achieve compliance with health & safety at work legislation. FRS, its employees or associates are acting in a consultancy capacity only and do not provide any warranty of compliance with health & safety law
8	Insurance
8.1	During the term of the Contract, FRS shall maintain in force with a reputable insurance company, professional indemnity insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract and shall produce to the Customer on request both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.
9	Termination
9.1	Where the Services are to be provided on an ongoing basis, either party may terminate the Contract by giving two months' written notice to the other to expire on the next anniversary of the Services Start Date, otherwise the Contract will continue for a further period of 12 months commencing on the Services Start Date
9.2	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:
a	the other party commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so:
b	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; or
c	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.
9.3	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.
9.4	Termination of the Contract shall not affect any of the rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
10	General
10.1	<u>Force majeure</u> . 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.
10.2	Confidentially
a	Each party undertakes that it shall not at any time the Contract, and for a period of five years after termination of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 10(2)(b).
b	Each party may disclose the other party's confidential information

c	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
d	employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 10.2; and
e	as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority
f	Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.
10.3	<u>Entire agreement.</u> 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
10.4	<u>Variation.</u> No variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
10.5	<u>Waiver.</u> 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 breach or default. 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.
10.6	<u>Severance.</u> 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
10.7	<u>Notices.</u>
a	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.
b	A notice or other communication shall be deemed to have been received: if delivered by hand on signature of a delivery receipt; if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or, if sent by email, on the next Business Day after transmission
c	This clause shall not apply to the service of any proceedings or other documents in any legal action
10.8	<u>Third party rights.</u> 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.
10.9	<u>Governing law.</u> 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 England and Wales.
10.10	<u>Jurisdiction.</u> Each party irrevocably agrees that the courts of England and Wales 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.