

## Campden BRI - Standard Terms and Conditions of Supply of Goods/Services

### 1 Interpretation

- 1.1 In this document the following words shall have the following meanings:
- 1.2 **“Conditions”** means the terms and conditions of supply as set out in this document and any special terms and conditions agreed in writing with the Supplier;
- 1.3 **“Consumer”** shall have the meaning ascribed in section 12 of the Unfair Contract Terms Act 1977;
- 1.4 **“Contract”** means the contract between the Customer and the Supplier for the supply of Goods and/or Services (as the case may be) in accordance with these Conditions;
- 1.5 **“Customer”** means the person, firm or company who purchases Goods or Services from the Supplier;
- 1.6 **“Document”** includes, without limitation, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disc or other device or record embodying information in any form;
- 1.7 **“Goods”** means any goods (in any kind and in any form) agreed in the Contract to be supplied by the Supplier to the Customer (including any part or parts of them);
- 1.8 **“Order”** means any order from the Customer to the Supplier for the supply of Goods and/or Services (as the case may be) including without limitation a purchase order (in electronic or hard copy form), the Supplier’s quotation signed by the Customer, an e-mail or facsimile or any other written request from the Customer to the Supplier for the supply of Goods and/or Services.
- 1.9 **“Services”** means the services (of any kind and in any form) agreed in the Contract to be supplied by the Supplier to the Customer, together with any other services which the Supplier provides, or agrees to provide to the Customer;
- 1.10 **“Supplier”** means the respective contracting company within the Campden BRI group of companies which comprises, Campden BRI, Campden BRI (Chipping Campden) Limited, and Campden BRI (Nutfield) all with registered office at Station Road, Chipping Campden, Gloucestershire, GL55 6LD and e-mail address of [support@campdenbri.co.uk](mailto:support@campdenbri.co.uk); and
- 1.11 **“VAT”** means value added tax chargeable under English law for the time being and any similar additional tax.
- 1.12 Headings in these Conditions shall not affect their interpretation.
- 1.13 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.14 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.15 Words in the singular include the plural and in the plural include the singular.
- 1.16 A reference to one gender includes a reference to the other gender.

### 2 Application of Conditions

- 2.1 These Conditions shall apply to and be incorporated into the Contract and shall prevail over any inconsistent terms or conditions contained, or referred to in the Customer’s purchase order, confirmation of order, acceptance of a quotation, or specification or other Document supplied by the Customer, or implied by law, trade custom, practice or course of dealing. Any variation to these Conditions and any representations about the Goods or Services to be delivered under the Contract shall have no effect unless expressly agreed in writing and signed by a duly authorised representative of the Supplier.
- 2.2 The Customer’s order constitutes an offer by the Customer to purchase the Goods and/or Services (as the case may be) on these Conditions. No offer placed by the Customer shall be accepted by the Supplier other than:
- 2.2.1 By a written acknowledgement issued and executed by the Supplier; or
- 2.2.2 (If earlier) by the Supplier starting to provide the Services or deliver the Goods to the Customer, when the Contract for the provision of the Goods or Services (as the case may be) shall be established. The Customer’s standard terms and conditions (if any) attached to, enclosed with or referred to in any Order shall not govern the Contract.
- 2.3 Quotations are given by the Supplier on the basis that no Contract shall come into existence except in accordance with Condition 2.2. Any quotation is valid for a period of twenty-eight (28) days from its date, provided that the Supplier has not previously withdrawn it.
- 2.4 The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Supplier which is not set out in the Contract. Nothing in this Condition shall exclude or limit the Supplier’s liability for fraudulent misrepresentation.
- 2.5 Nothing in these Conditions shall prejudice any condition or warranty, express or implied, or any legal remedy to which the Supplier may be entitled in relation to the Goods or Services (as the case may be), by virtue of any statute law or regulation.
- 2.6 Nothing in these Conditions shall affect the Customer’s statutory rights as a Consumer.
- 2.7 Where the Customer is a member of the Supplier, as at the date on which the Contract is entered into, but subsequently their membership lapses for any reason whatsoever during the duration of the Contract, the Supplier reserves the right to charge for the provision of the Goods and/or Services (as the case may be) at the rate charged to non-members.

### 3 Price and Payment

- 3.1 The price for the Goods and/or Services (as the case may be) shall be as set out in the Contract and is subject to any applicable charges and only where stated in the Contract is inclusive of VAT.
- 3.2 The Customer shall make all payments under the Contract without withholding or deduction of, or in respect of, any tax, levy, impost, duty, charge or fee unless required by law. If any such withholding or deduction is required, the Customer shall, when making the payment to which the withholding or deduction relates, pay to the Supplier such additional amount as will ensure that the Supplier receives the same total amount that it would have received if no such withholding or deduction had been required.
- 3.3 In respect of any Services, the Supplier shall endeavour to work within the Contract price but reserves the right to make charges based on the actual cost of the Services. If the Services cannot be completed within the authorised financial limit the Supplier shall notify the Customer as soon as possible and limit expenditure to the authorised amount pending further instructions from the Customer.
- 3.4 The Supplier may at its absolute discretion request advance payment of the Contract price on acceptance of the Contract and prior to Services being commenced, which if so requested must be paid in accordance with the Supplier’s normal payment terms and conditions as set out in this Condition. The balance of the Contract price will be invoiced on completion of the Contract or completion of report (as the case may be) and payment is due thirty (30) days following the date of the invoice, unless stage payments or alternative arrangements have been agreed with the Customer, in writing, in advance. Interest may be charged, at the Supplier’s discretion, at four (4) percent above the Bank of England’s base rate, from time to time, on any part of the invoice unpaid after this time, or the time as agreed in writing with the Customer.
- 3.5 Without prejudice to any other rights of the Supplier, if the Customer shall fail to make payment in full in accordance with this Condition the Supplier shall be entitled to suspend this or any other Contract with the Customer and in such event the Customer shall not in any respect be released from its obligations to the Supplier under this or any other Contract. Alternatively the Supplier shall be entitled to terminate this Contract or any other Contract with the Customer in accordance with these Conditions and to claim damages from the Customer for this breach.

### 4 Supplier’s Obligations and Liabilities

- 4.1 The Supplier shall use all reasonable endeavours to meet any performance dates specified in the Contract, but where given, time limits, projected results and performance specifications quoted shall be best estimates only and time shall not be of the essence of the Contract. The Supplier shall use reasonable endeavours to provide the Services to the Customer in all material respects in accordance with the Contract. The Supplier reserves the right, in its reasonable opinion, to appoint a suitable third party, to perform, in whole or in part, any of its obligations, rights or duties in connection with the performance of the Services under these Conditions. The Supplier reserves the right to use any samples and/or data generated from or as a result of the Supplier’s performance of the Services under these Conditions for the purposes of instrument calibration, quality control and/or research. In the event that the Supplier uses any such samples and/or data the Supplier shall use all reasonable endeavours to ensure that such samples and/or data are used in a way so as to maintain the Customer’s anonymity. The Customer acknowledges that advice, information and results given by the Supplier to the Customer are given on the understanding that they are subject to normal experimental error and that the advice given or conclusions drawn are based on the evidence and methods and techniques known at the time.

- 4.2 Information or advice emanating from the Supplier is given after the exercise of all reasonable care in its compilation, preparation and issue, but is provided without liability in its application and use. Except in respect of death or personal injury caused by the Supplier's negligence or as expressly provided in these Conditions, the Customer acknowledges that the Supplier shall not be liable to the Customer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by the negligence of the Supplier, its servants or agents or otherwise) which arise out of or in connection with the provision of the Goods or Services (as the case may be) under this Contract or their use by the Customer, and the total liability of the Supplier under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty or otherwise, shall not exceed the amount of the Supplier's charges for the provision of the Goods and/or Services (as the case may be), except as expressly provided for in these Conditions. The Supplier shall have no liability to the Customer for any loss, damage, costs, expenses or other claims for compensation arising from any material or instructions supplied by the Customer which are incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form, or arising from their late arrival or non arrival, or any other fault of the Customer. The Supplier shall use reasonable endeavours to observe all health and safety rules and regulations and any other reasonable security requirements that apply at the Customer's premises and that have been communicated to it under Condition 5.2.4, provided that it shall not be liable under the Contract if, as a result of such observation, it is in breach of any of its obligations under the Contract or legislation.
- 4.3 The Supplier shall reserve the right to use electronic means or the like as the primary mechanism for communication and delivery of Information, Goods and Services (including but not limited to publications, reports and certificates) unless otherwise agreed in writing with the Customer and in this regard the Supplier shall have no liability to the Customer for any losses, damages, claims or costs.

### 5 Customer's Obligations and Liabilities

- 5.1 The Customer shall ensure that the terms of its order for the provision of the Goods and/or Services (as the case may be) are complete and accurate.
- 5.2 To enable the Supplier to perform its obligations the Customer shall:
- 5.2.1 Co-operate with the Supplier in all matters relating to the provision of the Goods and/or Services (as the case may be);
- 5.2.2 Obtain and maintain all necessary permissions, licences and consents and comply with all relevant legislation in relation to the Services, which may be required before commencement of the Services;
- 5.2.3 Ensure that working conditions and any machinery, equipment or material provided by the Customer is so designed, constructed and maintained so as to comply with the requirements of the Health and Safety at Work Act 1974 and other relevant legislation and if, in the opinion of the Supplier the equipment does not comply with the Supplier's safety standards or the requirements of the Health and Safety at Work Act 1974 and other relevant legislation, the Customer shall be responsible for making the necessary modifications before the Services commence;
- 5.2.4 Have in place appropriate health and safety arrangements to safeguard employees of the Supplier working at the Customer's premises and inform the Supplier of all health and safety rules and regulations and any other reasonable security requirements that apply at the Customer's premises; and
- 5.2.5 Comply with such other requirements as may be set out in the Contract or as otherwise agreed between the parties in writing.
- 5.3 The Customer shall be liable to pay to the Supplier, on demand, all reasonable costs, charges or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer's fraud, negligence, failure to perform or delay in the performance of any of its obligations under the Contract, subject to the Supplier confirming such costs, charges and losses to the Customer in writing.
- 5.4 The Customer shall not, without the prior written consent of the Supplier, at any time from the date of the Contract to the expiry of twelve (12) months after the completion or earlier termination of the Contract, solicit or entice away from the Supplier or employ (or attempt to employ) any person who is, or has been, engaged as an employee of the Supplier in the provision of the Services.
- 5.5 Where the Services involve the Supplier consuming any products, as supplied by the Customer to the Supplier, the Customer undertakes and warrants that any such products are safe, fit for human consumption and are not in any way injurious to health. The Customer shall not misrepresent in any way either the nature or the substance of the products being supplied. The Customer further undertakes and warrants that the products to be supplied comply, insofar as they are applicable, with the requirements and regulations of food law recognised in the United Kingdom and the European Union.

### 6 Delays, Suspensions and Interruptions

- 6.1 The Supplier shall use all reasonable endeavours to comply with any date or dates for despatch or delivery of the Goods or completion of the Services as stated in the Contract. Failure to despatch or deliver the Goods or complete the Services by such date or dates for any reason shall not constitute a breach of Contract and time shall not be of the essence of the Contract.
- 6.2 Should the Services be suspended in any way at the request of the Customer or delayed through any act or omission of the Customer, for a period of thirty (30) days or more, the Supplier shall be entitled to payment in respect of all costs incurred, including but not limited to, payment in respect of all work carried out in relation to the Services and any expenditure incurred.

### 7 Property

- 7.1 All computer software supplied by the Supplier to the Customer pursuant to or in connection with the Contract shall be treated by the Customer as confidential and in any event shall be subject to a separate licensing agreement.
- 7.2 The final product of any work developed or arising in the course of carrying out the Services under this Contract or Goods supplied shall not pass to the Customer until the Supplier has been paid in full for all Goods and/or Services (as the case may be) provided. Further, if the Customer shall incorporate the Goods into any other goods then the title in these goods shall also belong to the Supplier until the Supplier has received payment in full of all outstanding sums.
- 7.3 All materials, equipment and tools, drawings, specifications and data supplied by the Supplier to the Customer shall, at all times, remain the exclusive property of the Supplier, but shall be held by the Customer in safe custody at its own risk and maintained and kept in good condition by the Customer until returned to the Supplier and shall not be disposed of or used other than in accordance with the Supplier's written instruction or authorisation.
- 7.4 All equipment, materials and apparatus supplied by the Customer on its instructions are to be delivered to and collected from the Supplier's premises by the Customer or its agent free of all charge to the Supplier. In the event that equipment, materials, or apparatus remain uncollected six (6) months after notification of availability for collection the Supplier reserves the right to dispose of the equipment, materials or apparatus as is thought fit without recompense to the Customer.
- 7.5 Any dangerous goods supplied to the Supplier by the Customer in connection with the provision of the Services shall remain the property of the Customer. Unless otherwise agreed in writing, the Supplier shall return the dangerous goods to the Customer following completion of the Services and shall charge the Customer the costs of carriage of the dangerous goods. The Customer shall be responsible for all costs associated with the carriage and safe disposal of the dangerous goods.
- 7.6 The Supplier accepts no liability for any damage or consequential loss arising from any damage however caused, to equipment, materials and apparatus supplied by the Customer. The Customer should ensure that all such items are adequately insured.

### 8 Intellectual Property

- 8.1 Copyright in all original drawings, designs, proposals, reports and other written matter whether made pursuant to the Contract or otherwise remains vested in the Supplier, but the Supplier shall grant to the Customer a non-exclusive licence to use these documents without further charge on completion of a fully paid up Contract save as is otherwise provided in this Condition.
- 8.2 The allocation of any patent rights or any feature believed to be patentable and proposed by the Supplier's staff during the provision of the Services shall be negotiated between the Supplier and the Customer.
- 8.3 Both the Supplier and the Customer hereby undertake not to disclose the existence of patent applications, trademarks or registered designs until such time as the specification is published.
- 8.4 The Supplier shall not be responsible for any loss arising from the failure of the Customer to apply for patent protection required for any novel aspects of any equipment existing before the Services begin.
- 8.5 The Customer hereby indemnifies the Supplier against any claims, damages or costs resulting from use by the Customer of information, equipment or products supplied by the Supplier under this Contract or otherwise.

### 9 Reports and Statements

- 9.1 Unless a report includes an explicit statement of compliance/non-compliance with a requirement and/or specification, no such statement should be inferred.
- 9.2 Unless a report includes an explicit statement to the contrary, results reported relate only to the items tested.
- 9.3 Any opinions and interpretations provided by the Supplier are not provided under the auspices of any third-party certification of accreditation.
- 9.4 When providing a statement of conformity to a specification or a standard, Campden BRI shall document the decision rule employed taking into consideration the level of risk. The decision applied for reporting of results such as pass/fail, in tolerance or out of tolerance shall be communicated and agreed upon with the Customer.

### 10 Publication

- 10.1 The Customer shall not at any time make use of any report or statement issued by the Supplier nor any extract there from, nor refer to the fact that any product or process has been the subject of a Contract with the Supplier in any publication or publicity material without the express written permission of the Supplier. Subject to this permission being obtained:
- 10.1.1 The report may be published by the Customer in a form approved by the Supplier; and

- 10.1.2 The Customer may quote extracts from the report provided the written approval of the Supplier has been obtained to use the extracts and the context in which they are to be used.
- 10.2 Neither the Customer nor anyone on its behalf or authority shall issue an advertisement showing in statement or implication that a method or process has been approved or recommended by the Supplier.
- 10.3 Any information disclosed by a report of the Supplier (however published) other than that referred to in Condition 10.1, shall not be published whether by way of comparison or otherwise without the express prior written approval of the Supplier.
- 10.4 The draft of any publication relating to the Contract must be submitted to the Supplier for approval before publication.
- 11 Confidentiality**
- 11.1 Both parties shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed by one party to the other party, or to that party's employees, agents, consultants or subcontractors and any other confidential information concerning that party's business or products which the other party may obtain during the provision of the Services or Goods (as the case may be) (the "**Confidential Information**").
- 11.2 Both parties shall ensure that their employees, officers, representatives, advisers, agents or subcontractors to whom it discloses such Confidential Information comply with this Condition.
- 11.3 No party shall make use of or divulge to any third party any Confidential Information it may gain as a result of any visit to the premises of the other party.
- 11.4 A party shall use any such Confidential Information disclosed to it solely for the purpose of performing its obligations under the Contract.
- 11.5 Where the Customer intends to use the results from any Services provided by the Supplier as evidence in any litigation proceedings written details of the litigation proceedings must be provided to the Supplier in advance of the Contract being executed and shall not be used or revealed to the extent that they fall within the definition of Confidential Information and are not otherwise required to be disclosed in accordance with Condition 11.7.2 below.
- 11.6 The parties acknowledge that the requirements in this Condition shall not apply to any part of the Confidential Information which:
- 11.6.1 Is or becomes public knowledge through no fault of the receiving party;
- 11.6.2 Is acquired by the receiving party from a third party with legal title to it;
- 11.6.3 The receiving party can prove was lawfully in its possession at the date it was disclosed by the disclosing party; or
- 11.6.4 Is independently developed by the receiving party.
- 11.7 Either party may disclose any such Confidential Information:
- 11.7.1 To its employees, officers, representatives, advisers, agents or subcontractors who need to know such information in connection with the provision of the Goods or Services (as the case may be); or
- 11.7.2 To the extent required by law, by any governmental or other regulatory authority, by a court or other authority of competent jurisdiction, or as is required to be disclosed by an accreditation or certification body only for the purposes of that party's own internal audit.
- 12 Termination**
- 12.1 Termination by the Customer can be effected only with the written consent of the Supplier and on terms which indemnify the Supplier against all loss.
- 12.2 The Supplier shall be at liberty (without prejudice to any other rights it may have) to terminate the Contract forthwith on giving notice in writing for any of the following reasons:
- 12.2.1 Non-payment by the Customer of any one or more invoices submitted by the Supplier;
- 12.2.2 A material breach of the Customer's express or implied obligations under the Contract and where such breach is remediable the Customer fails to remedy that breach within thirty (30) days of being notified by the Supplier in writing of the breach;
- 12.2.3 If a petition is made for the Customer's bankruptcy or a criminal bankrupt order is made against the Customer or if the Customer makes any composition or arrangement with or for the benefit of creditors or makes any conveyance or assignment for the benefit of creditors;
- 12.2.4 Where the Customer is a company, if any action is taken for or with a view to its winding up, or a petition is presented for an administration or winding up order against it or such an order is made, or it becomes insolvent or unable to pay its debts as they fall due, or an administrative receiver or receiver or manager of its undertaking is duly appointed by a creditor or by the court, or possession is taken of any of its property by an encumbrancer and in that event such termination shall not affect any rights which the Supplier may have against the Customer in consequence of the breach by the Customer; or
- 12.2.5 If the Supplier is of the belief that the Customer is using the Goods or Services (as the case may be) with fraudulent or criminal intent.
- 12.3 On termination of the Contract the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest (if applicable) and in respect of any Goods or Services (as the case may be) supplied, but for which no invoice has been submitted, the Supplier may submit an invoice, which shall be payable immediately on receipt.
- 12.4 The accrued rights and liabilities of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination shall not be affected.
- 13 Force Majeure**
- 13.1 Neither party shall be liable for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to acts of God, strikes, lock outs, accidents, war or fire and the party shall be entitled to a reasonable extension of its obligations. In such an event the Supplier reserves the right to all sums owing for any Services of Goods supplied to the Customer up the date of such event.
- 14 Severance**
- 14.1 If any term or provision of these Conditions is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction such provision shall be severed and the remainder of the provision hereof shall continue in full force and effect as if these Conditions had been agreed with the invalid, illegal or unenforceable provision eliminated.
- 15 No Partnership or Agency**
- 15.1 Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent for the other party for any purpose. No party shall have authority to act as agent for, and to bind, the other party in anyway.
- 16 Assignment**
- 16.1 The Customer shall not be entitled to assign its rights or obligations under any Contract with the Supplier without the prior written consent of the Supplier.
- 17 Waiver**
- 17.1 Any waiver by the Supplier of any breach of, or any default under, any provision of the Contract by the Customer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
- 18 Notices**
- 18.1 Where a notice is required to be given to any party hereto it may be served by leaving it at the registered office or last known address of that party. Otherwise it may be delivered personally, or be sent by first class post, recorded delivery or by commercial courier to the other party and for the attention of that party's nominated contact in accordance with Condition 18.2.
- 18.2 Any notice shall be deemed to have been duly received if delivered personally when left at the address or, if sent by pre-paid first class post or recorded delivery on the second business day after posting, or if delivered by commercial courier on the date and at the time that the courier's delivery receipt is signed.
- 19 Contracts (Rights of Third) Parties Act 1999**
- 19.1 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999.
- 20 Governing Law and Jurisdiction**
- 20.1 The Contract to which these Conditions apply and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), unless otherwise stated, shall be governed by and construed in accordance with the laws of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).