



# Timberlake Consultants Limited

## Terms of Business

### 1. Conditions

In these conditions:

‘Company’	means Timberlake Consultants Limited a company registered in England No 03225632 whose registered office is situated at Unit B3, Broomsleigh Business Park, Worsley Bridge Road, London SE26 5BN
‘Conditions’	means the standard terms and conditions of the Company set out in this document and any other terms and conditions agreed in writing by You and the Company.
‘Contract’	means the contract for the sale and purchase of the Goods and/or Services with You.
‘Goods’	means the goods which the Company is to supply in accordance with these Conditions.
‘Services’	means the provision of training and/or consultancy services by the Company with these Conditions.
‘You’	means the customer who places an order with the Company and whose order is accepted by the Company.

Except as otherwise agreed in writing no other terms and conditions shall apply to any quotation, order or Contract between us. Any variation to these Conditions must be in writing and signed by a person duly authorised by the parties.

The Company’s agents are not authorised to make any representations concerning the Goods and/or Services unless confirmed by the Company in writing. In entering into the Contract You acknowledge that You do not rely upon any such representations which are not so confirmed.

### 2. Orders

Each order for Goods and/or Services by You shall be treated as an offer to buy subject to the Conditions.

No order placed by You shall be binding on the Company until acceptance is confirmed in writing by us. The Company is under no obligation to accept any particular order or any orders at all.

### 3. Goods and Services

You shall be responsible for ensuring the accuracy of any order submitted to the Company.

The description and specification of the Goods and/or Services shall be by reference to the description and specification in the Company’s current literature.

Minor variations to the specification of the Goods and/or the Services which, in the Company’s reasonable opinion, do not adversely affect the quality of the Goods and/or the provision of the Services for the purpose for which they are supplied, will not constitute a breach of contract by the Company or impose any liability on the Company.

### 4. Price

The price of the Goods and/or Services (“Price”) shall be set out in the Contract, or where no Price is stated in, the Company’s list price at the date of acceptance of your order shall apply.

All prices are exclusive of delivery charges and VAT (except where expressly stated), any other duty, tax tariff or charge arising in the UK or elsewhere, as shown in the section of the Company’s catalogue or website about delivery.

### 5. Payment

Payment is required at the time your order is accepted by the Company for the Goods and/or Services in pounds sterling or other currency where agreed in writing in advance. If payment is made by debit or credit card, the Company will send You a receipted invoice on delivery of the Goods. If your debit or credit card fails for any reason, you must make immediate payment by an alternative method acceptable to the Company before the Goods are dispatched or the Services delivered.

Where agreed in writing in advance payment can be made within 30 days of the Company’s invoice (‘the Due Date’). In these circumstances the time of payment of the Price shall be of the essence of the Contract. The Company shall invoice You for the Price of the Goods and/or Services on or at any time after your order has been accepted for the Goods and/or Services.

If You fail to make payment on or before the Due Date, then without prejudice to any other right or remedy available to the Company, the Company shall be entitled to:



- 5.1 cancel any other contract the Company may have made with You;
- 5.2 suspend any further deliveries to You; and
- 5.3 apply interest to the outstanding amount from time to time at a rate of 4% per annum above the base rate as varied of Lloyds TSB Bank Plc accruing daily from the date payment fell due down to the date of actual payment (both dates inclusive). All costs and expenses incurred by the Company to recover any unpaid sums will also be due from You.

**6. Delivery of Goods**

The Goods You order will be delivered to the address you give when you place your order. Delivery shall take place and risk of damage or loss to the Goods shall pass to You at the time of delivery or if You wrongfully fail to take delivery of the Goods at the time when the Company tenders delivery of the Goods. The Company has no responsibility for insuring the Goods after delivery.

Every effort will be made to deliver the Goods as soon as possible after Your order has been accepted and in any event within 30 days of Your order. However, the Company will not be liable for any loss, costs, damages, charges or expenses caused directly or indirectly by any reasonable or unavoidable delay in the delivery of the Goods.

If You fail to take delivery of the Goods, without prejudice to any other right or remedy the Company has, the Company may store the Goods and charge You all reasonable costs incurred in so doing including the full cost of related insurance.

Any delivery which does not contain the correct quantity of Goods ordered, which is misdelivered or damaged in transit must be notified to the Company in writing within five (5) working days of the date of delivery. The Company will endeavour to rectify the order as soon as possible.

**7. Cancellation of Goods**

7.1 **This clause shall only apply if You are an individual buying Goods as a consumer in the United Kingdom.** This clause shall not apply if You are buying the Goods as part of a business or trade.

7.1.1 You have 7 days from the date of delivery of the Goods (excluding the date of delivery, Saturdays, Sundays and public holidays) ("the Cancellation Period") to cancel the Contract for any reason. You must tell the Company of your decision to cancel in writing on or before the expiry of the Cancellation Period giving details of the Goods ordered and (where appropriate) their delivery. If You do decide to cancel within the Cancellation Period and notify the Company, the Company will return to You any payment made by You in respect of the Goods within 30 days from the date of your notice of cancellation.

7.1.2 If You cancel the Contract pursuant to clause 7.1.1 You must return all Goods received by You ("the Cancelled Goods") to the Company at your cost.

7.1.3 If You do not return the Cancelled Goods to the Company within 14 days of your cancellation notice or where You return the Cancelled Goods at the expense of the Company, the Company may charge You for the direct costs of recovering or return of the Cancelled Goods.

7.2 You warrant that You will retain possession of the Goods and take reasonable care of them from receipt of the Goods until the return of the Cancelled Goods to the Company otherwise the Company may claim any loss in the value of the Goods from you or any other losses the Company incurs. You will be responsible for the risk of the Cancelled Goods in transit.

7.3 You cannot return the Goods and cancel the Contract if You have used and/or damaged the Goods, for example where the Goods are computer software which have been unsealed by you.

**8. Cancellation of Services**

8.1 This clause will apply if You are an individual buying Goods as a consumer or as part of a business or trade.

8.2 If You cancel the Services a cancellation charge may be payable.

8.3 Cancellation charges will be calculated as a percentage of the Price as follows:

<b>Date of Cancellation</b>	<b>Percentage Payable</b>
From the date of the Contract to 28 calendar days prior to the date of provision of the Services	0%
27-15 calendar days prior to the date of the provision of the Services	50%
14 calendar days to the date of the provision of the Services	100%



## **9. Warranty**

- 9.1 The Company warrants that (subject to other provisions of these Conditions): -
- 9.1.1 the Services will be provided using reasonable care and skill and in accordance with any description of the Services on the dates and times set out in the Company's current literature;
- 9.1.2 the Goods will correspond with any specification at the time of delivery and will for a period of 90 days from the date of delivery be of satisfactory quality and free from defects in material and workmanship.
- 9.2 The Company shall not be liable for a breach of warranty in relation to the Goods unless You notify the Company in writing of any defect within five (5) days of:
- 9.2.1 the date of delivery in respect of any defect which would be apparent to You on reasonable inspection; or
- 9.2.2 the date when You knew or ought reasonably to have known of the defect, where the defect would not be apparent to You on reasonable inspection.
- 9.3 Goods claimed to be defective must be notified to the Company in writing, by telephone, by facsimile or by other electronic means of communication and at the Company's option made available for inspection by or returned at your cost with details of the alleged defect to the Company immediately. The Company shall refund any delivery costs paid by You for the return of the Goods if in the Company's sole opinion the Goods prove to be defective.
- 9.4 The Company shall not be liable for a breach of the warranty if:
- 9.4.1 any defect arises from improper maintenance, installation or modification, fair wear and tear, wilful damage, negligence, misuse, alteration or repair of the Goods or failure to follow the Company's instructions;
- 9.4.2 the Price has not been paid by the Due Date for payment pursuant to clause 5; or
- 9.4.3 the Goods are not made available for inspection or returned to the Company at the Company's request.
- 9.5 The Company's liability shall be limited to:
- 9.5.1 the replacement of the Goods; or
- 9.5.2 at the Company's option, refund of the Price.
- 9.6 The Company shall have no further liability to You. If the Company complies with this Condition it shall have no further liability to You for breach of the warranty in respect of the quality of the Goods.
- 9.7 Nothing in this clause shall affect Your statutory rights if You are an individual buying the Goods as a consumer and not as part of a business or trade.

## **10. Liability**

- 10.1 Except in the case of death or personal injury caused by the Company's negligence, the Company's liability under or in connection with this Agreement, whether arising in contract, tort, negligence, breach of statutory duty or otherwise, shall not exceed the sum of £1,000,000.
- 10.2 The Company shall not be liable to You in contract, tort, negligence, breach of statutory duty or otherwise for any loss, damage, costs or expenses of any nature whatsoever incurred or suffered by You of an indirect or consequential nature including without limitation any economic loss or other loss of turnover, profits, business or goodwill.

## **11. Ownership of Goods**

- 11.1 Whether or not risk in the Goods has passed to You, ownership of the Goods shall not pass to You until the Company has received in cash or cleared funds payment in full of the Price and the price of all other Goods the Company has sold to You for which payment is due.
- 11.2 Until such time as the property in the Goods passes to You, You shall hold the Goods as the Company's fiduciary agent and bailee, and shall keep the Goods separate from your property and that property belonging to third parties and properly stored, protected and insured and identified as the Company's property, but You shall be entitled to resell or use the Goods in the ordinary course of your business.
- 11.3 Until such time as the property in the Goods passes to You (and provided the Goods are still in existence and have not been resold), the Company shall be entitled at any time to require You to return the Goods to the Company and, if You fail to do so forthwith, to enter upon any of your premises or any of a third party where the Goods are stored and repossess the Goods.

## **12. Insolvency of buyer**

- 12.1 This clause applies if:
- 12.1.1 You make any voluntary arrangement with your creditors or (being an individual or firm) become bankrupt or (being a company) become subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or



- 12.1.2 an encumbrancer takes possession, or a receiver, administrative receiver or receiver manager is appointed, of any of the property or assets of yours; or
- 12.1.3 You cease, or threaten to cease, to carry on business; or
- 12.1.4 the Company reasonably apprehends that any of the events mentioned above is about to occur in relation to You and notifies You accordingly.
- 12.2 If this clause applies then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to You, and if the Goods have been delivered but not paid for the Price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

### **13. Data Protection Notice**

The Company will use your information for fulfilling your order and/or processing your order and administration. By providing the Company with your email address, telephone or fax number You consent to being contacted by these means for these purposes. The Company may disclose your information to its agents and service providers for these purposes.

### **14. General**

The Company shall not be liable to You by reason of any delay or hindrance caused by circumstances outside of the Company's control including but not limited to industrial dispute, fire, weather, shortages of materials and failure on the part of the Company's suppliers.

Any typographical, clerical or other error or omission shown on the Company's website or in any sales literature, price list, acceptance of offer, advice or other document or information issued by the Company to you shall be subject to correction without any liability on the part of the Company. References to any statute shall be taken to mean that statute or any re-enactment, modification or amendment of the same in force from time to time.

Notwithstanding any other provision of this Agreement nothing in this Agreement shall confer nor is it intended to confer a benefit on any third party for the purposes of the Contract (Rights of Third Parties) Act 1999 or for any other purpose.

These Conditions 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.