

conditions of contract

THESE CONDITIONS OF CONTRACT ARE INCORPORATED INTO ANY CONTRACT FOR A SPECIFIC PROJECT MADE BETWEEN CREACTIVE DESIGN LIMITED, CREACTIVE DESIGN (ENGINEERING) LIMITED OR URBAN SF LIMITED ("THE COMPANY", WHICH EXPRESSION SHALL INCLUDE ITS PRINCIPALS AND EMPLOYEES AND THE CLIENT. BY COMMISSIONING ANY WORK FROM THE COMPANY, THE CLIENT IS DEEMED TO HAVE ACCEPTED THESE CONDITIONS. A PURCHASE ORDER, CONTRACT OR OTHER WRITTEN INSTRUCTION TO PROCEED IS REQUIRED BEFORE THE COMPANY SHALL COMMENCE ANY WORK.

1 CONFIDENTIAL INFORMATION

Neither the Company nor the client shall at any time divulge confidential information inclusive of commercial intentions, production methods or business organisation, of each other. Both parties shall take all reasonable steps to ensure that all members of its staff are bound to obligations of confidence.

The Company will not release for publication any information about work it is executing or has completed for its client, either to the press or otherwise unless the client has given its prior written express consent. No confidential information in respect of the work commissioned shall be used for any other purpose than carrying out the work commissioned. For the avoidance of doubt confidential information can be shared with Japan Transport Engineering Company (J-TREC).

2 INTELLECTUAL PROPERTY

Save for any pre-contractual or "pitch" work provided to the client to demonstrate the capabilities of the Company, in which the Company reserves and retains exclusively all Intellectual Property Rights, all Intellectual Property Rights in any design or other work prepared by the Company for the purpose for which it was commissioned, will pass to the client upon payment by the client of all sums then due to the Company. Such Intellectual Property Rights shall also be assigned by the Company to the client upon termination of the relevant contract provided that the client has performed all of its obligations under such contract. Upon assignment of any copyright, the Company agrees to waive any moral rights to which it may be entitled under Part I, Chapter IV of the Copyright, Designs and Patents Act 1988.

For the purposes of this Clause 2 "Intellectual Property Rights" means all copyright, extended or revived copyright, design right, registered design right, patent, utility model, database right, trade mark or any similar right exercisable in any part of the world, including any application for registration of any patent, trade mark, registered design or similar registerable rights in any part of the world.

The Company shall at the expense of the client execute any reasonable document or do any such thing as the client shall reasonably require to enable the client to become the proprietor of any registerable Intellectual Property Rights which are assigned to then client by the Company in pursuance of this Clause 2.

The client will be responsible for, and bear the cost of registration of any registerable Intellectual Property Right in material which is the subject of any contract if the client considers it desirable to obtain any protection afforded by such registration. The Company makes no representation or warranty, whether expressly or by implication that any Intellectual Property Rights are registerable in any part of the world, or whether registration should be sought.

The Company will take all reasonable steps to ensure that any design proposals are original and do not infringe any Intellectual Property Rights of any third party..

The Company hereby agrees that if it shall at any time become aware that an infringement of a third party's Intellectual Property Rights (including without limitation a patent, trademark, or registered design) is likely to occur in respect of any design or other material which the client may decide to put into production or offer for sale based upon work prepared by the Company for the purpose for which it was commissioned, it will promptly inform the client of such circumstances. Furthermore, if in the opinion of the client or the Company there is at any time a significant risk of any such infringement, the client may thereupon request the Company to cease any activity pursuant to its commission or the Company may in its own discretion decide to cease work, whereupon the client shall be charged such amount as the Company would be entitled to charge by reason of the provisions of Clause 9 hereof.

3 STANDARD OF CARE

The Company must carry out the work for which it has been commissioned with the degree of professional skill, care and diligence that may reasonably be expected of a skilled, professional person, suitably qualified and experienced, in the performance of services similar to the work commissioned.

4 PUBLICITY

The client may not use the Company's name in connection with any publicity arising out of any project unless specific written approval is given by the Company.

5 WORK IN PROGRESS, COMPLETION & DESIGN TESTING

All instructions and matters of substance communicated in meeting or by telephone shall be confirmed by the client in writing and the written record shall be issued by the client to the Company and agreed by the Company within 7 working days following the meeting or conversation in question.

The client may request the Company to cancel or amend any work provided that such cancellation or the details of any such amendment are confirmed in writing. The client shall pay any reasonable additional charges or expenses incurred by the Company as a result of such cancellation or amendment.

The Company will use its reasonable endeavours to adhere strictly to the completion dates quoted, but time for completion shall not be of the essence of any contract under these conditions.

Where it is agreed in a purchase order, contract or any written instructions that the Company will be required to conduct adequate life and type testing for design faults then any such work will be required to pass such tests to the satisfaction of the Company before it is signed off as completed by the Company and put to use or marketed by the client. For the avoidance of doubt such work will not be used or marketed by the client until the commissioned work has passed the life and type testing to the satisfaction of the Company.

6 FORCE MAJEURE

Should the Company be prevented from completing or delivering any work, or the client be prevented from accepting delivery, by reason of any circumstance beyond that party's control (including without limitation any strike, lockout or other industrial action) the time for completion/delivery shall be extended until the causes preventing that act have ceased, and the Company shall not thereby be liable for any loss or damage occasioned to the client or any third party arising therefrom. If the event of force majeure lasts longer than 6 months, either party may on written notice to the other party, cancel the relevant contract in which event any unpaid fees calculated on a quantum meruit basis will be charged to the client by the Company.

7 QUOTATIONS

Fees quoted remain valid for 30 days. The quotation is not an offer, and any order given in respect of a quotation shall not be binding on the Company until accepted by the client in writing.

8 TERMS OF PAYMENT

Prices quoted are exclusive of Value Added Tax and charges or disbursements payable to third parties.

Accounts will be submitted on a monthly basis and will be due for payment within **30 days** of the date of invoice, unless otherwise specifically agreed in writing.

Payment by overseas clients shall be made in Sterling by telegraphic transfer to the nominated bank account of the Company.

For clients within the European Union, goods or services invoiced will be treated as zero rated **only** if a valid VAT registration number is supplied.

The Company may on certain projects require an advance payment of such amounts as the Company and the client may agree.

The Company may charge interest on any sums outstanding beyond their due date for payment at the rate of 2% per annum above the base lending rate for the time being of HSBC Bank.

9 CANCELLATION OF PROJECT

Where any specific project is cancelled by the client and the contract in respect of such project is terminated, a fee will be charged on a quantum meruit basis for the amount of work carried out on the project before its cancellation and in addition such amount as may be attributable to any forward financial commitment by the Company on the project. Any work product prepared by the Company to the point of termination shall be provided to the Client.

10 STATUTORY COMPLIANCE

The Company will ensure that any products it may design shall comply with all relevant statutory requirements and applicable standard codes of practice.

11 LIMITATION

The Company shall not be liable for any consequential loss or damage or other claims for loss of profit arising from or in connection with the design of products or their use or resale by the client, whether by reason of any implied or expressed warranty or condition hereof or any common law or statutory obligation, or by reason of any representation (whether written or oral) given by the Company in connection with the subject of this matter, whether given before or upon the execution hereof.

Nothing herein shall seek to exclude liability for death or personal injury arising from the negligence or other default of the Company.

12 COMPANY'S EMPLOYEES

Neither party shall for a period commencing on the date of this contract and expiring 12 months after the date of completion of any contract between the Company and client, solicit or employ any person then in the employment of the other party or who shall have been so employed at any time within a period of 12 months prior to the commencement hereof.

13 GENERAL

The parties acknowledge and agree that Mitsui & Co., Ltd. is the formal contracting party as the client for the purposes of these conditions of contract and this agreement generally however the work commissioned (and services to be provided hereunder) are also to be provided for the benefit of JTREC. Accordingly, to the extent any rights or benefits (including the provision of any relevant materials or work deliverables) in respect of the work commissioned from the Company are granted to or received by Mitsui as the Client pursuant to these terms and conditions and the agreement generally, such rights and benefits shall also be provided for the benefit of J-TREC as though it were the client jointly with Mitsui & Co., Ltd..

These conditions shall be deemed to form part of any order or contract accepted by the Company. Any Conditions on the client's order form will not form part of any contract with the Company unless the Company has specifically agreed thereto in writing.

With the exception of J-TREC (as referred to in this clause 13), a person who is not a party to any contract between the Company and the client has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of these conditions or other contractual terms.

The Company acts in all of its contracts as a principal in law. Nothing in these conditions creates or implies any relationship or agency, partnership or joint venture between the parties.

14 GOVERNING LAW & DISPUTE RESOLUTION

These conditions shall be governed by, and construed in accordance with the laws of England and Wales and the parties irrevocably agree to submit to the exclusive jurisdiction of the courts of England and Wales over any claim or matter arising under or in connection with these conditions, save that nothing shall prevent the parties from agreeing to submit themselves to the form of alternative dispute resolution set out below or any other reasonable and appropriate form of informal dispute resolution in the event that any dispute arises between them.

Any dispute arising may be settled by negotiation but if no resolution is achieved by negotiation within 14 working days after the commencement of such negotiation, the parties shall before resorting to court proceedings, attempt to resolve the dispute by mediation in accordance with the Centre for Effective Dispute Resolution (CEDR) model mediation procedure. Both parties will meet the mediator's fee in equal shares.

15 INSURANCE

The Company must ensure that it maintains appropriate insurance adequate to cover its liability under this agreement (including without limitation product public and employer liability insurance and professional indemnity insurance).

16 ANTI-BRIBERY

With respect to or in connection with the services or work commissioned as contemplated under this Agreement, the Company represents and warrants to the client and any other members of the client's group that none of the Company, or any of its directors, employees, agents, suppliers, advisors, consultants or sub-contractors employed by the Company and those of its subsidiaries (collectively, the "Representatives") in connection with this agreement has ever made or authorised or promised to make or authorise, and the Company covenants to the client and any other members of the client's group that none of the Company or its Representatives will make or authorise or promise to make or authorise any offer, payment or gift of money or anything of value, directly or indirectly, (i) to any government, public agency or public enterprise of any country or public international organisation or any Foreign Public Officials (as defined under the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions signed on 17th December 1998), or (ii) to any other person to whom such offer, payment or gift of money or anything of value is prohibited by the applicable laws and regulations of any relevant country, including, but not limited to, the laws of England and in particular the Bribery Act 2010, as may be amended or supplemented from time to time in order to obtain or retain business or any other business advantage, whether accruing directly or indirectly, for the client or any other member of the client's group. Any such request or demand in connection with the performance of the services or work commissioned under this agreement shall be promptly reported to the client.