

# Corporate OHS LLC (COHS) – an entity registered in Abu Dhabi Trade Licence Number CN 294 7664

## TERMS AND CONDITIONS OF CONTRACT

### 1 DEFINITION AND INTERPRETATION

#### 1.1 In this Contract:

**“Charges”** means the charges for the Services as set out in the Quotation or Order Acceptance including without limitation fees, expenses and other costs

**“Client”** means the party who purchases or agrees to purchase the Services identified in the Order Acceptance from COHS

**“Commencement Date”** means as set out below.

**“Conditions”** means these standard terms and conditions as amended by COHS from time to time.

**“Confidential Information”** means in the case of either party all information (in any media) of a confidential nature disclosed by that party its employees, agents, consultants or subcontractors to the other including but not limited to all technical or commercial knowhow, specifications, inventions, processes or initiatives.

**“Contract”** means the contract between COHS and the Client for the provision of the Services comprising these Conditions, the Quotation, the Order Acceptance, any Special Conditions.

**“Documents”** means any and all drawings, specifications, technical know-how, plans, reports, models, presentation materials, brochures, guides, course notes, training materials promotional materials etc. prepared by or on behalf of COHS

**“DPA”** means the Data Protection Act 2018

**“Equipment”** means any equipment, appliance or system provided by COHS as part of the Services to be maintained and/or repaired by COHS in accordance with the Contract

**“Exchange Rate”** means the currency exchange rate of [] Bank in the [Country] for the conversion from [Currency] to UAE Dirhams as on [Date]

**“IP”** means any patents, patent applications, trade marks or trading names (in each case, whether or not registered), trade mark applications, know-how, design rights registered or unregistered (including registered design applications), confidential information, copyright, database rights and all other intellectual property rights including any rights analogous to the same subsisting anywhere in the world at any time

**“Order Acceptance”** means COHS acceptance of the Client’s Purchase Order until COHS has provided an Order Acceptance to the Client a Contract will not be deemed to have been formed.

**“Personal Data”** means personal data as defined in section 1 of the DPA

**“Premises”** means the Client’s premises at which the Services may be provided (if any)

**“Purchase Order”** means the order placed by the Client setting out its request for Services.

**“Quotation”** means the quotation for the Services provided by COHS to the Client.

**“Services”** means the services as set out in the Quotation or Order Acceptance including the provision of any Equipment and/or Systems as applicable.

**“Special Conditions”** means any special conditions provided by COHS to the Client from time to time

**“Systems”** means such on-line systems or portals as may be provided by COHS as part of the Services in accordance with the Contract

**“Term”** means the term of the Contract beginning on the Commencement Date and ending on completion of the Services by COHS or the date stated in the Quotation

**“VAT”** means any sales taxes which are payable now or in the future

**“Working Day”** means any private sector working day (except for days declared by the Ministry of Labour to be private sector public holidays, Fridays and Saturdays) in the UAE

1.2 Wherever in the Contract provision is made for a communication to be “written” or “in writing” this includes email.

1.3 References to any statutes or statutory regulations shall be deemed to include any subsequent revisions or re-enactments thereof.

1.4 The Purchase Order constitutes an offer by the Client to purchase Services from COHS in accordance with these Conditions.

1.5 The Purchase Order shall only be deemed accepted when COHS commences provision of the Services at which date the Contract shall come into existence (“Commencement Date”).

1.6 Any Quotation given by COHS shall not constitute an offer and is only valid for a period of 30 Working Days from its date of issue (unless otherwise agreed by COHS and/or stated on the Quotation) and COHS shall be entitled to vary or withdraw a Quotation at its discretion after that time.

1.7 These Conditions shall apply to and be incorporated in any Contract and shall be in substitution for any ongoing arrangement made between COHS and the Client and shall prevail over any terms or conditions contained in or referred to in the Purchase Order or other Client correspondence or elsewhere or implied by trade custom or practice or course of dealing. No addition to or variation of or exclusion or attempted exclusion of these Conditions shall be binding upon COHS unless specifically agreed to in writing and signed by a duly authorised representative of COHS.

1.8 All the provisions of the Contract between COHS and the Client are contained in or referred to in the Quotation, Order Acceptance, these Conditions and (where applicable) the Special Conditions. In no circumstances will any conditions of purchase submitted at any time by the Client be applied to the Contract and any failure by COHS to challenge any such terms and conditions does not imply acceptance of those terms and conditions.

1.9 In the event of any conflict between any terms contained in the Quotation, Special Conditions, Order Acceptance and these Conditions the following order of precedence shall apply to the extent of any inconsistency only:

1.9.1 the Special Conditions;

1.9.3 Quotation

1.9.4 these Conditions.

## **2 SERVICES**

2.1 During the Term, COHS shall supply the Services to the Client using all reasonable skill, care and diligence to the standards of a reasonably qualified and competent provider of the Services.

2.2 COHS shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services and COHS shall notify the Customer of the relevant changes and any consequent amendment to the Charges in any such event.

### **3 CHARGES AND PAYMENT**

3.1 The Charges for the Services shall be those agreed and set out in the Quotation. The Client shall pay the Charges specified in any invoice within 30 days of the date of such invoice (unless otherwise stated in the Quotation and/or Order Acceptance) in dirhams by cheque or BACS transfer into COHS's account as notified in writing by COHS from time to time. All Charges must be paid at the applicable Exchange Rate (if relevant) and are net of Value Added Tax (VAT) which the Client shall pay to COHS (at the prevailing rate) upon receipt of a valid VAT invoice.

3.2 COHS reserves the right to carry out an annual review of the Charges and will notify the Client of any resulting changes to the Charges at least 30 days prior to implementation.

3.3 Notwithstanding any other terms of this Contract COHS may withhold or suspend the provision of the Services (in addition to any other remedy available to COHS) without terminating the Contract if the Client has failed to pay COHS's invoices in accordance with the Contract.

3.4 If the Client requires COHS to carry out any additional services not specified in the Quotation or Order Acknowledgement COHS shall be entitled to make additional charges for such services.

3.5 All payments to be made by the Client under the Contract will be made in full without any set-off, restriction or condition and without any deduction for or on account of any counterclaim.

### **4 THE CLIENT'S OBLIGATIONS**

4.1 The Client will:

4.1.1 ensure prompt provision of resources, including decisions, information, documentation and access (to personnel, records and Premises) required to enable COHS and its agents and employees to provide the Services in accordance with the Contract;

4.1.2 ensure a safe working environment at the Premises for COHS, its agents and employees; and ensure in the interests of health and safety that COHS's personnel, while on the Premises for the purpose of carrying out the Services have access at all times to a member of the Client's staff familiar with the Premises and safety procedures;

4.1.3 be responsible for the accuracy and legality of all information from time to time provided to COHS, ensure that none of it infringes the IP of or defames any person and indemnify and keep COHS indemnified accordingly;

4.1.4 be solely responsible for maintaining back-up and disaster recovery procedures and all other information the Client supplies to COHS from time to time;

4.1.5 wherever possible, provide a suitable vehicle parking facility for use by COHS's personnel which is free from any legal restrictions and immediately close to the location at which the Equipment is installed and/or Services provided; and

4.1.6 perform its obligations in the Contract in a competent, prompt and diligent manner.

4.2 The Client hereby acknowledges that the provision by COHS of the Services in accordance with this Contract will not absolve the Client from any obligation, including any statutory obligation, to which it may from time to time be subject.

4.3 The Client agrees that COHS shall not be liable under any circumstances for any delay, error or problem caused by any act or omission on the part of the Client, its agents or employees. COHS may levy additional charges (at its then current standard rates) resulting from any additional work or additional costs incurred or undertaken as a consequence of any such act or omission.

4.4 The Client accepts that COHS shall be entitled to announce (either verbally or in writing) for marketing purposes only that it has undertaken the Services for the Client.

4.5 In the event that the Client fails to notify COHS of any problem or concern within 72 hours of COHS carrying out the Services then the Client will be deemed to have accepted the same.

## **5 DATA PROTECTION**

5.1 The parties agree and acknowledge to follow generally acknowledged international data security principles.

## **6 INTELLECTUAL PROPERTY**

6.1 COHS shall retain all IP relating to the Services and in any and all Documents, Equipment, Systems, any other systems, methods, material and items created by or on behalf of COHS whether specifically for the purposes of this Contract or otherwise.

6.2 If a third party owns any Systems or part thereof such third party shall (if applicable) retain all IP relating to the Systems.

6.3 The Client hereby acknowledges that COHS shall have no liability for any misuse by or on behalf of the Client or any other person of any of the Documents (which shall be determined by reference to the purposes for which the Documents were originally prepared) or any other deliverables generated during the provision of the Services.

6.4 The Client hereby grants COHS a royalty-free, non-exclusive and irrevocable licence to copy and use any material provided by the Client for all reasonable purposes related to the Services. The Client shall not use the System, Documents, Equipment or any deliverables resulting from the Services for any purpose whatsoever other than as necessary to receive the Services. If the Client creates any material copyright work, registration of this work must be sought by the Client at its own cost and expense.

6.5 The Client agrees that it shall not attempt to apply for registration of the IP in the UAE or interfere with or attempt to prohibit the use or registration of any of the IP by COHS or its licensors.

## **7 LIMITATION OF LIABILITY AND REMEDIES**

7.1 Subject to clause 7.3 and notwithstanding Clause 8.2, COHS maximum total liability under or arising out of or in connection with the Contract will not exceed the sum which is the lesser of 2,500,000aed (two million five hundred thousand dirhams).

7.2 Subject to Clause 7.3, COHS will not in any circumstances have any liability (whether direct or indirect) for (i) loss of business or business opportunity, (ii) loss of revenue, (iii) loss of profits, (iv) loss

of anticipated savings, (v) loss of or damage to data, (vi) loss of goodwill or injury to reputation (vii) any third party claims (viii) loss which could have been avoided by the Client through reasonable conduct or by the Client taking reasonable precautions or (viii) any consequential or indirect loss. The Client is strongly advised to insure against all such potential loss, damage, expense or liability.

7.3 Nothing in this Contract seeks to exclude or limit any liability of COHS for death or personal injury caused by its negligence or for its fraudulent misrepresentation.

7.4 The Client hereby acknowledges and agrees that the limitations of liability referred to in clause

7.1 and 7.2 are fair and reasonable, reflected in the level of the Charges and the insurance cover carried by COHS and are just and equitable having full regards to the extent of COHS's responsibility for any loss or damage suffered.

7.5 Save as required by law and save as may otherwise be set out in the Contract, COHS disclaims and the Client waives all other warranties, express or implied, with respect to the Services, arising by law or otherwise, including, without limitation, any implied warranty of satisfactory quality, fitness for a particular purpose and any obligation, liability, right, remedy or claim in tort.

7.6 Save as required by law, the Client's exclusive remedy for any default or defect in the performance of the Services or any other breach of the Contract by COHS shall be to correct and/or re-perform any such defective Services by COHS. If it is not economical or technically feasible for OHS to correct and/or re-perform the defect then the Client's exclusive remedy shall be a full or partial credit of sums paid for the defective Service(s) (subject always to the other provisions of this clause 8).

## **8 CONFIDENTIAL INFORMATION**

8.1 Each party shall keep in strict confidence and treat the other parties Confidential Information as confidential and to use it only for the purposes of the Contract except in so far as may be necessary for the performance of any obligations of the Contract or to the extent that such information is generally available to the public or to the extent that disclosure of information is required to be made by law.

8.2 Each party agrees that this obligation shall continue in force without limitation in point of time notwithstanding the termination or expiry of any Contract for any reason but shall cease to apply to information from the point at which it enters into the public domain and shall also cease to apply to information which is received independently from another source without the imposition of any duty of confidence.

## **9 FORCE MAJEURE**

9.1 COHS shall have no liability to the Client if it is prevented from, or delayed in performing, its obligations under the Contract or from carrying on its business by any event(s) or combination of events where such event(s) arises from, or is attributable to acts, events, omissions or accidents beyond the reasonable control of the relevant party including, but not limited to, acts the government, acts of government bodies, God, terrorism, war or flood.

## **10 SUMMARY TERMINATION**

10.1 COHS may terminate any Contract (or part thereof) by providing the Client with 30 days written notice.

10.2 The Client shall not be entitled to terminate or delay any agreed start date or timeline of any Contract (or part thereof) COHS reserves the right to charge the Client in full the outstanding contract amount if the Client terminates the Contract without cause.

10.3 COHS may terminate the Contract forthwith by notice to the Client without liability to the Client if:

10.3.1 the Client is in material breach of the Contract which breach is not capable of remedy or, if capable of remedy, is not remedied within 14 days of COHS specifying the breach and requiring its remedy; or

10.3.2 the Client threatens to or ceases to trade, is unable to pay its debts as and when they fall due; or any other analogous event occurs in any other jurisdiction;

10.3.4 the Client fails to make any payment in accordance with the terms of the Contract.

10.4 Upon termination of any Contract howsoever occurring:-

10.4.1 COHS shall be entitled to repossess any of the equipment and COHS and/or its agents and/or representatives shall be entitled at any time and without notice to enter upon any premises in which the Equipment is stored or kept or reasonably believed so to be;

10.4.2 the Client's right to access and/or use of any system shall cease immediately;

10.4.3 the Client shall return or dispose any of COHS's Confidential Information and all copies thereof in accordance with COHS's instructions; and

10.4.4 the Client shall remain liable to pay COHS any Charges outstanding and for any Services already performed prior to the date of termination.

10.5 Termination of this Contract for any reason shall be without prejudice to any rights of either party which may have accrued up to the date of termination.

10.6 The parties acknowledge and agree that a court order will not be required to give effect to any termination of this agreement.

10.7 Clauses 5, 6.2, 7, 8, 9, 11.2 and 12 shall survive termination.

## **11 MISCELLANEOUS**

11.1 This Contract contains the entire understanding between the parties in connection with the matters herein contained and supersedes any previous agreements or undertakings (whether written, oral or implied) relating to the subject matter of this Contract. The parties acknowledge that in entering into any Contract neither has relied on any oral or written representation or undertaking by the other except as expressly incorporated in any Contract.

11.2 A waiver by COHS of any right under this Contract or of any failure to perform or breach hereof by the Client shall not constitute or be deemed to be a waiver of any other or future right hereunder

or of any other failure to perform or breach hereof by the Client, whether of a similar or dissimilar nature.

11.3 No variation of the Contract shall be valid unless it is in writing and signed by or on behalf of a duly authorised representative of each of the parties.

11.4 For the purposes of this Contract, COHS shall be an independent contractor, and neither COHS nor its sub-contractors nor its directors or employees nor any one of them, shall be deemed to be an employee or agent of or a partner with the Client. The Client shall not register as a commercial agent, distributor, representative or any other legal form, or otherwise acquire the rights of a commercial agent with respect to this agreement and no translation or other version of this agreement shall have validity for that purpose or any other purpose nor shall the Client take any action that would cause its relationship with COHS to constitute a commercial agency under any applicable laws before any government or private entity without the prior written consent of COHS.

11.5 The Client shall not assign the Contract in whole or in part without the prior approval of COHS (such approval not to be unreasonably withheld or delayed).

11.6 A person who is not a party to the Contract shall not have any rights under or in connection with it.

11.7 The Client shall comply, and shall ensure that each of its subcontractors, agents and personnel comply with any relevant and applicable anti-bribery and corruption laws, regulations and/or directives related to the provision and receipt of the Services.

11.8 The Client warrants and represents to COHS that it has not and shall not, in connection with the Services contemplated by any Contract or in connection with any other business transactions involving COHS, make, promise or offer to make any payment or transfer of anything of value, directly or indirectly: (i) to any government official (as defined below) or to an intermediary for payment to any government official for the purpose of influencing any act or decision of such official or securing an improper advantage to assist COHS in obtaining or retaining business.

It is the intent of the parties that no payments or transfers of value shall be made which have the purpose or effect of public or commercial bribery, acceptance of or acquiescence in extortion, kickbacks or other unlawful or improper means of obtaining business. "Government official" is defined as any employee or officer of a government of a country, including any regional or local department, company or business owned or controlled by such government, any official of a political party, any official or employee of a public international organisation, any person acting in an official capacity for, or on behalf of, such entities, and any candidate for political office. Failure by the Client to comply with this Clause shall constitute a material breach of the Contract.

11.9 The Client agrees that it will not at any time during the Term or for 1 year thereafter it's finish, without the prior written consent of COHS, directly or indirectly solicit, induce or entice away from COHS or employ, engage or appoint in any way cause to be employed, engaged or appointed any employee, agent or sub-contractor of COHS to perform services substantially similar to the Services.

11.10 Any notice made pursuant to this agreement shall be in writing and sent by means of hand delivery, express courier or facsimile message, in the Quotation, unless otherwise agreed in writing by the parties. In proving service of a notice it shall be sufficient to prove that delivery was made or that

the facsimile message was properly addressed and despatched (with an error-free transmission report being generated for that facsimile transmission), as the case may be.

11.11 Each provision of this Contract is severable and distinct from the others and if any provision is or at any time becomes to any extent or in any circumstances invalid, illegal or unenforceable for any reason, it shall to that extent or in those circumstances be deemed not to form part of this Contract, but the validity, legality and enforceability of all other provision of this Contract shall not otherwise be affected or impaired, it being the parties intention that every provision of this Contract shall be and remain valid and enforceable to the fullest extent permitted by law.

11.12 The parties agree and acknowledge that all disputes, controversy or claims arising out of or in connection with this agreement, including any question regarding its existence, validity or termination, shall be referred to and be finally resolved by arbitration in accordance with the rules of the Abu Dhabi Global Market International Arbitration The number of arbitrators shall be one (1) appointed in compliance with the Rules, and:

11.12.1 the language of the arbitration shall be English; and

11.12.2 the arbitration shall deal with the question of the costs of the arbitration and all related matters.

11.12.3 The parties agree and acknowledge that any dispute and arbitral proceedings may take longer than six (6) months and the parties agree and acknowledge that in the event that a dispute and/or arbitral proceedings takes longer than six (6) months, such circumstance shall not form the basis of a procedural challenge to any arbitral award that is subsequently delivered.

12.12.4 Nothing in this clause 12 shall prevent either party from applying to a court of competent jurisdiction for urgent interim relief.