

NFU MUTUAL RISK MANAGEMENT SERVICES LIMITED ('NFU Mutual RMS') Standard Terms and Conditions of Sale ('Terms') (Version March 2021)

1. INTERPRETATION

1.1 Definitions. In these Terms, the following definitions apply:

Business Day a day other than a Saturday, Sunday or public holiday in England;

Charges the charges payable by the Customer to NFU Mutual RMS for the supply of the Services as set out in the Engagement Letter;

Commencement Date has the meaning set out in clause 2.1;

Confidential Information all data or information belonging to the Disclosing Party (of whatever nature and whether written, oral or in electronic form) that the Receiving Party obtains, accesses or receives as a result of the discussions leading up to or the entering into, or in connection with the performance of the Contract, and includes: (a) information concerning the commercial affairs, business, finances, infrastructure, products, services, developments, inventions, trade secrets, know-how, strategy, assets, operations, affairs, personnel, clients, customers, members, partners, or contracts of the Disclosing Party; (b) information that is designated as "confidential information" by the Disclosing Party at the time of disclosure; (c) information that is clearly confidential from its nature and/or the circumstances in which it was imparted, or that would be regarded as being confidential by a reasonable business person; and (d) in the case of the NFU Mutual RMS, the In-Put Materials;

Contract means the contract relating to the Supply, constituted by the Contract Documents;

"Contract Documents" means the Terms and the Letter of Engagement;

Controller, Data Subject, Personal Data, Personal Data breach and Processing are as defined in the Data Protection Legislation;

Customer the person, firm or entity who purchases Services from NFU Mutual RMS;

Data Protection Legislation all laws that relate to data protection, privacy, the use of information relating to individuals, and/or the information rights of individuals and all laws implementing them, in each case as may be replaced, extended or amended from time to time, including, without limitation, the General Data Protection Regulation (EU) 2016/679 (or, after the implementation period within the meaning of the European Union (Withdrawal Agreement) Act 2020, all legislation enacted in the UK in respect of the protection of Personal Data relating to Processing of Personal Data and privacy), the Data Protection Act 2018 and the Privacy and Electronic Communications (EC Directive) Regulations 2003 as well as all applicable formal guidance, rules, requirements, directions, guidelines, recommendations, advice, codes of practice, policies, measures or publications of the ICO, other relevant regulator, and/or relevant industry body, in each case in any relevant jurisdiction(s);

Deliverables all documents, products and materials developed by NFU Mutual RMS, its employees, agents and contractors as part of or in relation to the Services in any form or media, including without limitation drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts);

Disclosing Party the party disclosing Confidential Information;

Engagement Letter the letter issued by NFU Mutual RMS to the Customer setting out the Specification, the Charges and any additional contract-specific details;

Group in relation to a company, that company, any subsidiary or holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company;

ICO the UK Information Commissioner's Office or replacement national data protection supervisory authority for the UK from time to time;

In-Put Material all data, documents, information and materials provided by NFU Mutual RMS and used directly or indirectly in the supply of the Services;

Information Security Incident any incident which affects or could affect the security of the Services and/or NFU Mutual RMS Input Materials;

Intellectual Property Rights any intellectual or industrial property rights of whatever nature (whether registered or unregistered) including (without limitation) copyright, database rights, designs, patents and trademarks, any pending applications for such rights and the right to apply for such rights, rights in goodwill and know-how and any rights of similar or equivalent effect to the foregoing anywhere in the world;

NFU Mutual RMS The National Farmers Union Mutual Insurance Society Risk Management Services Limited registered in England and Wales with company number 3350057 whose registered office is at Tiddington Road, Stratford upon Avon CV37 7BJ;

Order a written or verbal offer by the Customer to purchase Services from NFU Mutual RMS;

Receiving Party the Party receiving Confidential Information;

Regulatory Authority any regulatory body of any territory or jurisdiction in which the NFU Mutual RMS carries on business and which applies to the business of the NFU Mutual RMS, or from, or in respect of which, the NFU Mutual RMS requires any form of license, consent, permission, authorisation or other authority in order to carry out that business, including the relevant financial services regulator and the ICO;

Services the services and/or works (or any part of them) as set out in the Specification;

Specification the description or specification of the Services set out in the Engagement Letter;

Supply means the supply of Deliverables and/or Services described in the Contract; and

Terms these terms and conditions as amended from time to time in accordance with clause 13.8 (Variation).

1.2 Construction. In these Terms the following rules apply:

1.2.1 a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);

1.2.2 a reference to a party includes its successors and permitted assigns;

1.2.3 a reference to a statute or statutory provision is a reference to it as amended or re-enacted;

1.2.4 any words following the terms including, include, in particular, for example 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; and

1.2.5 a reference to writing or written includes fax and email.

2. BASIS OF CONTRACT

2.1 The Order constitutes an offer by the Customer to purchase Services from NFU Mutual RMS in accordance with these Terms. The Order shall only be deemed to be accepted when NFU Mutual RMS issues written acceptance of the Order by way of a Letter of Engagement at which point and on which date the Contract shall come into existence (the '**Commencement Date**').

2.2 Any samples, drawings, descriptive matter or advertising issued by NFU Mutual RMS are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or any other contract between NFU Mutual RMS and the Customer for the supply of the Services.

2.3 These Terms apply to the Contract to the exclusion of any other terms that the Customer may seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.4 Any quotation given by NFU Mutual RMS shall not constitute an offer and is only valid for a period of 30 Business Days from its date of issue.

2.5 In the event of any conflict or ambiguity between these Terms and the Letter of Engagement, these Terms shall take precedence.

2.6 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of NFU Mutual RMS which is not set out in the Contract.

3. SUPPLY OF SERVICES

3.1 NFU Mutual RMS shall:

3.1.1 supply the Services to the Customer in accordance with the Specification in all material respects;

3.1.2 perform the Services using reasonable skill and care;

3.1.3 use all reasonable endeavours to meet any performance dates for the Services specified in an Engagement Letter but such dates shall be estimates only and time shall not be of the essence for the performance of the Services; and

3.1.4 reserve the right to amend the Specification as necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services and shall notify the Customer in any such event.

4. CUSTOMER'S OBLIGATIONS

4.1 The Customer shall:

4.1.1 ensure that the terms of the Order and any information in the Specification are complete and accurate;

4.1.2 co-operate with NFU Mutual RMS in all matters relating to the Services;

4.1.3 provide NFU Mutual RMS, its personnel, agents,

- consultants and subcontractors with access to the Customer's premises, office accommodation and other facilities as reasonably required by NFU Mutual RMS to perform the Services;
- 4.1.4 provide NFU Mutual RMS in a timely manner with such information and materials as NFU Mutual RMS may reasonably require in order to supply the Services and/or Deliverables and ensure that information is accurate in all material respects;
- 4.1.5 obtain and maintain all necessary licenses, permissions and consents which may be required prior to the date on which the Services are to start;
- 4.1.6 prepare the Customer's premises for the supply of the Services;
- 4.1.7 keep all In-Put Materials at the Customer's premises in safe custody at its own risk, maintain the In-Put Materials in good condition until returned to NFU Mutual RMS, and not dispose of or use the In-Put Materials other than in accordance with NFU Mutual RMS's written instructions or authorisation; and
- 4.1.8 comply with any additional obligations as set out in the Specification.
- 4.2 If NFU Mutual RMS's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer, its agents, subcontractors, consultants or staff, or failure by the Customer to perform any relevant obligation ('Customer Default'):
- 4.2.1 without limiting or affecting any other right or remedy available to it, NFU Mutual RMS shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays NFU Mutual RMS's performance of any of its obligations;
- 4.2.2 NFU Mutual RMS shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from NFU Mutual RMS's failure or delay to perform any of its obligations as set out in this clause 4.2; and
- 4.2.3 the Customer shall reimburse NFU Mutual RMS on written demand for any costs or losses sustained or incurred by NFU Mutual RMS arising directly or indirectly from the Customer Default.
- 5. CHARGES AND TERMS OF PAYMENT**
- 5.1 In consideration of provision of the Services and/or Deliverables by NFU Mutual RMS the Customer shall pay the Charges as set out in the Engagement Letter.
- 5.2 The Customer shall pay each invoice submitted by NFU Mutual RMS:
- 5.2.1 within 21 days of the date of the invoice; and
- 5.2.2 in full and in cleared funds to a bank account nominated in writing by NFU Mutual RMS
- time for payment shall be of the essence of the Contract.
- 5.3 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (VAT). Where any taxable supply for VAT purposes is made under the Contract by NFU Mutual RMS to the Customer, the Customer shall pay to NFU Mutual RMS such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.
- 5.4 If the Customer fails to make any payment due to NFU Mutual RMS under the Contract by the due date, then, without limiting NFU Mutual RMS's remedies under clause 10 (Termination), the Customer shall pay interest on the overdue sum from the due date until actual payment of the overdue sum, whether before or after judgment. Interest will accrue each day at 2% a year above the base rate of Barclays Bank plc from time to time in force but at 2% a year for any period when that base rate is below 0%.
- 5.5 All amounts due under the Contract shall be paid by the Customer in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by applicable law).
- 6. INTELLECTUAL PROPERTY RIGHTS**
- 6.1 All Intellectual Property Rights in or arising out of, or in connection with the Services and the Deliverables (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by NFU Mutual RMS.
- 6.2 NFU Mutual RMS grants to the Customer, or shall procure the direct grant to the Customer, of a fully paid up, worldwide, non-exclusive, royalty free license to use, copy or modify the Deliverables (excluding materials provided by the Customer) for the sole purpose of receiving and using the Services and the Deliverables in its business.
- 6.3 The Customer shall not sub-license, assign or otherwise transfer the rights granted by clause 6.2 without the prior written consent of NFU Mutual RMS.
- 6.4 The Customer grants NFU Mutual RMS a fully paid-up, non-exclusive, royalty free non-transferable license to use, copy and modify any materials provided by the Customer to NFU Mutual for the term of the Contract for the purpose of providing the Services to the Customer.
- 6.5 The Customer acknowledges that, in respect of any third party Intellectual Property Rights, the Customer's use of any such Intellectual Property Rights is conditional on NFU Mutual RMS obtaining a written license from the relevant licensor on such terms as will entitle NFU Mutual RMS to license such rights to the Customer.
- 6.6 All In-Put Materials are the exclusive property of NFU Mutual RMS.
- 7. CONFIDENTIALITY**
- 7.1 Each party shall keep confidential (and ensure that its professional and other advisers keep confidential) the other Party's Confidential Information disclosed to it by or on behalf of the Disclosing Party or otherwise obtained, developed or created by the Receiving Party. Each party shall restrict disclosure of such Confidential Information to such of its personnel as strictly need to know it for the purpose of discharging that Party's obligations under this Agreement.
- 7.2 The Receiving Party will use the Confidential Information solely in connection with the performance of its obligations or exercise of its rights under these Terms and take all action reasonably necessary to secure the Disclosing Party's Confidential Information against theft, loss or unauthorised disclosure.
- 7.3 Clauses 7.1 and 2 shall not apply to the extent that:
- 7.3.1 such information was in the possession of a party, without obligation of confidentiality, prior to its disclosure;
- 7.3.2 such information was obtained from a third party without obligation of confidentiality;
- 7.3.3 such information was already in the public domain at the time of disclosure other than through a breach of the Terms;
- 7.3.4 such information was independently developed without access to the Disclosing Party's Confidential Information; or
- 7.3.5 such information was required to be disclosed by law, regulation, the order of a Regulatory Authority or a court of competent jurisdiction.
- 7.4 All In-Put Materials and all other materials, equipment and tools, drawings, specifications and data supplied by NFU Mutual RMS to the Customer shall, at all times, be and remain as between NFU Mutual RMS and the Customer the exclusive property of NFU Mutual RMS, 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 NFU Mutual RMS. The In-Put Materials shall not be disposed of or used other than in accordance with NFU Mutual RMS's written instructions or authorisation.
- 7.5 This clause 7 shall survive termination or expiry of the Contract.
- 8. DATA PROTECTION**
- 8.1 For the purposes of this Agreement, the parties acknowledge that NFU Mutual RMS and the Customer shall each be categorised as a Data Controller and shall independently determine the purposes and means of the Processing of Personal Data in connection with this Contract.
- 8.2 NFU Mutual RMS's Privacy Policy can be found at <https://www.nfumutual.co.uk/legal-information/privacy-policy/>.
- 8.3 Each party agrees that it shall:
- 8.3.1 comply with its respective obligations imposed on it under the Data Protection Legislation; and
- 8.3.2 generally co-operate in good faith to resolve any issue or dispute arising from in respect of the Personal Data so as to protect the rights of Data Subjects in accordance with the Data Protection Legislation.
- 8.4 In addition the Parties shall:
- 8.4.1 have in place appropriate security measures to ensure

- that Personal Data is protected against loss, theft, modification, disclosure, destruction, unauthorised transmission or damage or other misuse or unlawful Processing; and
- 8.4.2 notify the other of any breach of Data Protection Legislation under this Agreement, and where there is any potential to impact NFU Mutual RMS Personal Data, the Customer shall advise NFU Mutual RMS not later than 24 hours of becoming aware of the breach to Data_Protection_DISC@nfumutual.co.uk.
- 8.5 Each party will co-operate and provide reasonable assistance to the other in connection with any correspondence from the ICO or any other regulatory authority in connection with the processing of Personal Data under this Contract.
- 8.6 Each party shall ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the other for the duration and purposes of the Contract.
- 8.7 The Customer acknowledges and consents that NFU Mutual RMS may submit the Customer's Personal Data to credit reference agencies for credit scoring in connection with any engagement.
- 8.8 This clause 8 shall survive termination or expiry of the Contract.
- 9. LIMITATION OF LIABILITY - THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE**
- 9.1 Nothing in the Contract shall be construed as attempting to limit or exclude the liability of any party in respect of injury to, or the death of, any person caused by any willful or negligent act or omission of any party, its officers, employees, agents or subcontractors, or for fraud or fraudulent misrepresentation.
- 9.2 Subject to clause 9.1 the fullest extent permitted by law, NFU Mutual RMS's total liability to the Customer in respect of the Contract (whether in contract, tort (including without limitation negligence) or otherwise) shall not exceed the total Charges payable by the Customer in respect of the Supply under that Contract.
- 9.3 Subject to clause 9.1 NFU Mutual RMS shall not be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or for any indirect, special or consequential loss arising under or in connection with the Contract and the parties agree that the following heads of loss are wholly excluded:
- 9.3.1. loss of profits;
- 9.3.2. loss of sales and business;
- 9.3.3. loss of agreements and contracts;
- 9.3.4. loss of use or corruption of software, data or information;
- 9.3.5. loss of anticipated savings; and
- 9.3.6. loss of or damage to goodwill.
- 9.4. Except as set out in the Terms, all warranties, conditions and other terms implied by statute or common law are to the fullest extent permitted by law, excluded from the Contract.
- 9.5. This clause 9 shall survive termination or expiry of the Contract.
- 10. TERMINATION**
- 10.1 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:
- 10.1.1 the other party is in breach of any material obligation under the Contract and, if the breach is capable of remedy, that party has failed to remedy such breach within 30 days of receipt of notice to do so;
- 10.1.2 the other party is unable to pay its debts or makes any voluntary arrangement with its creditors, or (being a company) becomes subject to an administration order or goes into liquidation (other than for the purposes of a solvent amalgamation or reconstruction), or takes any step or a third party takes any step to appoint an administrator or other insolvency practitioner, or an encumbrancer takes possession, or a receiver is appointed over any of its property or assets, or the other party suffers any other action in consequence of debt or anything analogous to any of the foregoing occurs under the law of any jurisdiction;
- 10.1.3 the other party suspends, ceases or threatens to cease carrying on business in the United Kingdom; or
- 10.1.4 those circumstances referred to in clause 12 (Force Majeure).
- 10.2 Without affecting any other right or remedy available to it, NFU Mutual RMS may suspend or terminate the Contract for cause with immediate effect by giving written notice to the
- Customer:
- 10.2.1 if the Customer repeatedly breaches any of these Terms in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the Terms;
- 10.2.2 if the Customer has provided false misleading or inaccurate information to NFU Mutual RMS as part of the engagement process;
- 10.2.3 if there is any event or circumstance as a result of which any person or group of persons acquire, or cease to have, control of the Customer;
- 10.2.4 in the event of an Information Security Incident;
- 10.2.5 if a Regulatory Authority so orders;
- 10.2.6 the Customer fails to pay any amount due under this Contract on the due date for payment.
- 10.3 Without limiting its other rights or remedies available to it, NFU Mutual RMS may without cause at any time terminate the Contract in respect of all or part only of the Supply by giving notice to the Customer at any time.
- 11. CONSEQUENCES OF TERMINATION**
- 11.1 On termination of the Contract for any reason:
- 11.1.1. the Customer shall immediately pay to NFU Mutual RMS all of NFU Mutual RMS's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, NFU Mutual RMS shall submit an invoice, which shall be payable by the Customer immediately on receipt; and
- 11.1.2. the Customer shall return all of NFU Mutual RMS In-Put Materials and any Deliverables which have not been fully paid for. If the Customer fails to do so, then NFU Mutual RMS may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.
- 11.2 Termination or expiry of the Contract shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 11.3 Any provision of the Contract that expressly or by implication is intended to have effect after termination shall continue in full force and effect.
- 12 FORCE MAJEURE**
- 12.1 Each party shall be relieved of its contractual obligations to the extent that their performance is prevented by, or their non-performance results wholly or partly, directly or indirectly from, any cause beyond the party's reasonable control.
- 12.2 In the event that either party is prevented from performing its obligations under this Contract by any cause beyond that party's reasonable control, such party shall:
- 12.2.1 give notice in writing of such prevention to the other party as soon as reasonably practicable, stating the (i) commencement date; (ii) extent of the prevention; (iii) the cause thereof; (iv) estimated duration; and (v) details of the actions being taken by the affected party;
- 12.2.2 use all reasonable endeavours to mitigate the effects of prevention on the performance of its obligations under this Contract; and
- 12.2.3 resume performance of its obligations as soon as reasonably possible after the removal of the cause of the prevention.
- 13 GENERAL**
- 13.1 **Assignment and sub-contracting**
NFU Mutual RMS may at any time assign, mortgage, contract, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract. The Customer may not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the contract without the prior written consent of NFU Mutual RMS.
- 13.2 **Waiver**
A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law

shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

13.3 **Severance**

If any provision or part provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to 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 13.4 shall not affect the validity and enforceability of the rest of the Contract.

13.4 **Notices**

13.4.1 Any notice or other communication required to be given to a party under or in connection with this Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax to the other party's main fax number.

13.4.2 Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at the address referred to above or, if sent by prepaid first-class post or recorded delivery, at 9.00 am 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, or if sent by fax, on the next Business Day after transmission.

13.5 **No partnership or agency**

Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute any party the agent of another Party, nor authorise any party to make or enter into any commitments for or on behalf of any other party.

13.6 **Third party rights**

Unless it is expressly stated otherwise, the Contract does not give rise to any rights under the Contract (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

13.7 **Variation**

Except as set out in these Terms, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).

13.8 **Non-solicitation**

The parties agree that neither of them will either on their own account or in partnership or association with any person, firm,

company or organisation, or otherwise and whether directly or indirectly during, or for a period of six months from the termination or expiry of the Contract, solicit or entice away or attempt to entice away or authorise the taking of such action by any other person, any key executive of the other party who has worked on or in connection with the supply of the Services under the Contract. For the avoidance of doubt, this provision shall not apply in respect of any key executive or other party who applies for a position in response to a public advertisement placed by or on behalf of a party.

13.9 **Entire Agreement**

Unless and to the extent agreed otherwise in writing between the parties from time to time, the Contract Documents and any documents referred to therein shall, in respect of each Supply, constitute the entire agreement between the parties and supersede all prior agreements or arrangements between the NFU Mutual RMS and the Customer in relation to the Supply and the subject matter therein.

13.10 **Dispute Resolution**

Without prejudice to the express rights of termination set out in these Terms both parties will attempt in good faith to resolve any disputes arising out of or relating to the Contract (the "Dispute") promptly by negotiations between those representatives of the parties who have authority to settle the Dispute. Such representatives shall meet within 10 Business Days of a request from either of them to negotiate the Dispute. If any dispute is not resolved within the 10 Business Day period, whether or not a meeting has been held, the parties may (without obligation to do so) agree that this dispute be referred for mediation in accordance with the Centre for Dispute Resolution Model Mediation Procedure. This clause 13.11 is without prejudice to either party's right to seek interim relief against the other party (such as an injunction) through the English courts to protect its rights and interests, or to enforce the obligations of the other party.

13.11 **Law and Jurisdiction**

The Contract shall be governed by the laws of England and the parties agree to submit to the exclusive jurisdiction of the English courts.

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