



# ORGANICS GROUP OF COMPANIES

## STANDARD TERMS AND CONDITIONS

### for the supply of Services

#### 1 PREAMBLE

These General Conditions shall apply, save as varied by express agreement accepted in writing by both parties.

#### 2. FORMATION OF AGREEMENT

This Consulting Agreement (“Agreement”) is between **Organics Asia Co Ltd**, (“CONSULTANT”),  
Email: jakarta@organics.co.uk  
and **The Client**, (“CLIENT”).

This Agreement will govern the relationship between CONSULTANT and CLIENT and apply to the services and/or deliverables set forth in any related Statement of Work or Proposal (SoW), letter agreement or other work order document. Related work order documents must: (a) incorporate this Agreement; (b) describe the services and/or deliverables that CONSULTANT will provide to the CLIENT (“Consulting Services”); and (c) be executed by both CLIENT and CONSULTANT. This Agreement, together with the terms of any SoW: (1) constitute the entire understanding between CLIENT and CONSULTANT relating to their relationship and the Consulting Services; (2) supersede all prior oral and written communications and proposals; and (3) may only be amended or modified in writing, which document is signed by both parties. Unless a SoW expressly states that it was intended to alter a provision in this Agreement, the terms of this Agreement will take precedence over any inconsistent terms in that SoW, and those inconsistent terms will have no effect. The headings included in this Agreement are for convenience and are not to be used to interpret the agreement between the parties.

#### 3. FEES

- (a) CLIENT agrees to pay CONSULTANT the professional fees detailed on the SoW. CLIENT also agrees to reimburse CONSULTANT for all reasonable and actual expenses incurred by CONSULTANT on behalf of CLIENT that are reasonably

necessary and appropriate in connection with the performance of any SoW. Expenses will be payable at invoice cost plus 20%, unless clearly stated as being included in a lump sum payment for a specific SoW.

- (b) Payment is due within thirty (30) days of CLIENT’s receipt of the invoice. If CLIENT fails to pay any amounts set forth on the invoice when they are due, CLIENT agrees to pay a late charge of 1.5 percent per month on the past due balance but will never pay more than the maximum interest allowed by law.
- (c) In the case of a lump sum contract the payment due under the terms of payment will be as provided in the SoW.

#### 4. TAXES

CLIENT agrees to pay all taxes of whatever nature related to any SoW, excluding:

- (a) any taxes based upon CONSULTANT’s net income; and
- (b) any taxes based upon CONSULTANT’s employment of personnel performing Consulting Services.

#### 5. CONFIDENTIALITY

The parties will execute a separate and binding Confidentiality Agreement (CA).

#### 6. ASSIGNMENT

This Agreement and/or any SoW may not be assigned or transferred in any other manner without the prior written consent of the other party. Any assignment or transfer in violation of this provision will be void and have no effect.

#### 7. OWNERSHIP RIGHTS

- (a) Upon full payment to CONSULTANT of the amounts set forth on the SoW, CONSULTANT assigns to CLIENT all rights, title, and interest in the deliverables set forth in that SoW, including all related

copyright, patent and intellectual property rights, except to the extent set forth below. This assignment does not include the transfer of ownership of any such intellectual property, nor the release of any proprietary software.

- (b) Each party shall retain the perpetual unrestricted right to use and authorise others to use, any ideas, skills, concepts, or techniques developed by that party during performance under a SoW, so long as that party is able to do so without violating Section 3 of this Agreement with regard to the other party's Confidential Information.
- (c) The ideas, concepts, utilities, methodologies, processes, inventions, knowledge, data, specifications, documentation, materials and tools (including computer software where applicable) that CONSULTANT supplies or uses in providing Consulting Services are collectively defined as the "Consulting Methodology". All rights, title, and interest in and to the Consulting Methodology remain the property of CONSULTANT (or its licensor). No rights, title or interest in the Consulting Methodology shall pass to CLIENT, whether by implication or otherwise.

#### **7. PROJECT CHANGE REQUESTS**

- (a) Either party may request changes in a SoW through a written Project Change Request ("PCR").
- (b) PCR's will set forth the requested changes or adjustments to the SoW in detail. If a PCR will alter the costs or time required to complete the SoW, then the PCR shall set forth the appropriate adjustment. Both parties shall execute a PCR, upon agreement with its provisions.
- (c) If CLIENT asks CONSULTANT in writing to make a change to Consulting Services, then CONSULTANT may choose to take reasonable action and expend reasonable amounts of money based on that request. CLIENT agrees to pay and reimburse CONSULTANT for that action and expenditure in accord with Section 1 of this Agreement.
- (d) Except as set forth in (c) above, neither party will have any obligation respecting any requested change to Consulting Services

until a PCR detailing that change has been executed by both parties.

#### **8. NON-SOLICITATION**

Except to the extent specifically prohibited by applicable law, neither party will: solicit for employment; employ (whether as an employee or independent contractor); or accept work or services provided by, any employee or independent contractor of the other party who performed any work in connection with Consulting Services. This prohibition will apply during the term of the relevant SoW and for a period of twelve (12) months afterward, unless the other party agrees otherwise in writing and in advance.

#### **9. WARRANTY**

- (a) For a period of thirty (30) days measured from the date CONSULTANT delivers Consulting Services to CLIENT, CONSULTANT warrants that those Consulting Services were performed by qualified personnel in a professional manner.

Within that thirty (30) days, CLIENT must notify CONSULTANT in writing of any claim that CONSULTANT violated (a) above and include details about the particulars of its claim in the writing.

CONSULTANT will then analyse CLIENT's detailed claim to determine if the Consulting Services identified by CLIENT fail to comply with (a) above in a material way. If so, CONSULTANT will exert reasonable efforts to correct that failure at CONSULTANT's expense.

If CONSULTANT is unable to correct the Consulting Services to eliminate the material failure through these efforts, then CLIENT may seek direct damages (subject to Section 10 below) from CONSULTANT based upon that failure.

The remedies contained in this Section 9 are the exclusive remedies available to CLIENT for any claim CLIENT may wish to bring which is related to CONSULTANT's delivery of the Consulting Services, CLIENT's use of them, or any problems with or defects in the Consulting Services themselves.

Except as expressly stated in this Section 9,

(or in a SoW with regard to the consulting services described there), CONSULTANT makes no other warranties of any kind, either express or implied, with respect to the consulting services performed under these terms including, without limitation, the implied warranties of fitness for a particular purpose, of merchant-ability, any warranty arising from course of dealing or usage of trade, or any warranty that consulting services will be free from errors or will correct or eliminate performance, service level or functionality problems or defects.

## 10. LIMITATION OF LIABILITY

In no event will either party be liable for any special, indirect, consequential or punitive damages including, without any limitation, damages which reflect lost business, lost profits, or the costs of reconstructing data, whether damages of this nature were foreseeable or not, and even if that party had been advised that damages of this nature were possible.

Each party's total liability for damages arising under this Agreement will be limited to the total of the fees (excluding expenses) which were paid to CONSULTANT under the SoW related to the damage claim. This limitation shall not apply to claims for:

- (a) personal injury;
- (b) death;
- (c) damage to real property;
- (d) damage to tangible personal property (excluding software or data); or
- (e) violation of Section 3 "Confidentiality", to the extent the damages under any of these claims (a)-(e) were caused by the fault or negligence of the liable party.

CONSULTANT shall not be liable for any claim, loss or liability arising in any way from system failures or from any other errors or problems in performance.

Other than CLIENT's obligation to pay for Consulting Services already performed, neither party will be responsible for delay in fulfilment of its obligations under any SoW, which is caused by extreme circumstances beyond that party's control.

## 11. TERMINATION

Either parties may cancel this Agreement or

a SoW forty-five (45) days after that party notifies the other in writing of its intention to do so.

Either party may cancel this Agreement or a SoW thirty (30) days after that party notifies the other in a detailed writing which describes the other's material violation of this Agreement or a SoW, unless the other party cures that detailed violation within the thirty (30) day period.

If a SoW is terminated, this Agreement shall continue to apply to any remaining SoW's which have not been terminated.

Whenever this Agreement or a SoW is terminated:

- (a) CLIENT will pay CONSULTANT in full for any Consulting Services provided and expenses incurred through the effective date of the termination; and
- (b) CLIENT may acquire any incomplete deliverables described in a SoW which are then in progress, by paying CONSULTANT an equitable sum for them based upon CONSULTANT's then standard hourly rates or the agreed fixed lump sum.

## 11. GENERAL

This Agreement and any SoW shall be governed by and interpreted in accordance with the laws of England, without regard to any conflict of laws provisions.

### Disputes

- (a) If a dispute arises from or relates to this Agreement, the parties will try to settle the dispute in good faith within thirty (30) days of a written request by either party to do so. Senior managers from each party will participate in direct discussions during this time period to attempt to reach agreement. If the parties are unable to settle the dispute through these direct discussions, then the parties will attempt to settle the dispute through a mediation administered by the Institute of Civil Engineers (ICE) under its Commercial Mediation Rules.
- (b) If any controversies or claims are not resolved through the mediation process described above, then they shall be resolved by arbitration administered by the ICE under its Commercial Arbitration Rules. If the

parties agree, the mediator involved in the parties' mediation may be asked to serve as the arbitrator in the subsequent arbitration proceeding, otherwise the arbitrator will be appointed in accord with the ICE Arbitration Procedure 1997. The arbitrator will issue an award which shall be final and binding and which may be entered as a judgment by any court which has the jurisdiction to do so.

- (c) The arbitrator shall apply the substantive law of England, and the terms and conditions of this Agreement, in making rulings and in rendering the final arbitration award. The arbitrator shall only award remedies or relief allowed by this Agreement and capable of being granted by a competent court within England. The arbitration award shall be in writing, and shall specify the factual and legal bases for the award.
- (d) Each party shall bear the expense of its own attorneys' fees, experts, witnesses, and preparation and presentation of proof related to any dispute arising from or related to this Agreement.
- (e) Either party may apply to a court for interim relief that may be necessary to protect the rights or property of that party, pending the establishment of the arbitration.
- (f) Any notices required or permitted to be given pursuant to this Agreement or a SoW will be in a writing sent by: (i) facsimile transmission, confirmed by written transmittal report; (ii) overnight delivery service, confirmed by a signed receipt; (iii) certified U.S. mail, return receipt requested; or (iv) personal delivery, and will be addressed as set forth above or as otherwise shown in the applicable SoW. Each party may change the address for notices by sending a notice to that effect to the other party. All notices are deemed to have been given when they have been received.
- (g) No provision of this Agreement or a SoW can be waived by a party, and no violation or this Agreement or SoW can be excused by a party, unless an authorized representative of that party signs a writing that expressly and specifically grants the waiver or consent. If any provision of this Agreement or a SoW is found to be illegal or unenforceable, then that provision will be treated as if it did not appear in this Agreement or the SoW, and

all remaining language shall be given full force and effect.

- (h) Neither party is the: agent; legal representative; partner; or joint-venturer of the other party for any purpose whatsoever, and nothing in this Agreement, any SoW, or any marketing materials or proposals shall be construed otherwise. Neither this Agreement nor any SoW shall create a partnership, joint venture of relationship of associates or principal and agent between the parties. Both parties are independent contractors and principals for their own accounts, and neither party will hold itself out to others in a manner inconsistent with this Section.
- (i) All provisions that by their nature would be expected to survive, shall survive termination of this Agreement or any SoW, including, without limitation, provisions relating to payment, confidentiality, warranty, ownership rights, limitations on liability and the legal status of the parties.

**THIS AGREEMENT IS MADE AND SHALL BE EFFECTIVE AS OF THE DATE OF RECEIPT OF THE FIRST PAYMENT UNDER THE AGREEMENT.**

Unless this Agreement is terminated under Section 11 above, it will end at the later of the following:

- (a) completion, expiration or termination of all SoW's; or
- (b) five (5) years from its effective date which is shown in this paragraph.

**ORGANICS GROUP PLC, Sovereign Court II, University of Warwick Science Park, Coventry CV4 7EZ.  
Tel: +44(0)2476 692141 Fax: +44(0)2476 692238  
Email: comms@organics.com**

*Organics Group PLC, Organics Asia Co Ltd, PT Organics Bali, Organics USA Inc, Organics Hesperos sl, Process Ltd and Organics Ltd are all members of the Organics Group of companies.*