

# Insurance and Risk Management Consultancy Services

## Standard Terms & Conditions

Version: 31/01/2019

These Standard Terms and Conditions ("STACs") together with the respective business proposal ("Proposal") and any addendums and/or appendices are referred together herein as the "Agreement" and set out the nature and scope of the services **Marsh Emirates Consultancy LLC** (referred to herein as "Us," "We", "Our" or "Marsh") will be providing to You as Our client, and other information required by law.

### 1. PURPOSE

These STACs together with the Proposal and any amendments thereto, as evidenced by a written Addendum to the Proposal duly agreed and accepted by both parties, will supersede and replace any previous agreements containing the same or similar subject matter and may only be varied by written agreement between You and Us (unless superseded by future amended STACs issued by Marsh and accepted by You). These STACs may not be assigned by You or Us without the express written consent of the other party.

By instructing Us to act, You will be deemed to have accepted the terms of these STACs and to have requested to deal with Us in English unless We specifically agree with You otherwise.

### 2. DEFINITIONS

**Proposal** - means the document or email that details Your instructions (the "Project Objectives") and the Deliverables that You have requested Us to supply to You through Our performance of the Consultancy Services within a proposed timescale at a quoted price (the "Fee").

**Deliverables** - are defined in Our Proposal and any documents, solutions, manuals, processes, and similar items provided by Us during the course of the Consultancy or presented by Us at its close.

**Confidential Information** - includes but is not limited to business methods, financial details, marketing development plans, manpower development plans, customer lists or details, trade secrets, technology or Your confidential knowledge or information relating to Your business, affairs, products, services or solutions which you specifically inform Us in writing is confidential and which is marked "confidential". It shall not include that which:

- is or becomes public knowledge

- is or becomes known from other sources that are not subject to any restriction on disclosure of that information
- We are obliged by law to disclose
- becomes necessary to disclose to protect Our legitimate interests; or is not clearly identifiable as confidential by its nature

**Intellectual Property** - includes letters patent, trademarks whether registered or unregistered, designs, utility models, copyright or applications, business names whether registerable or not, moral rights or any of the foregoing and rights in discoveries, creations, inventions or improvements upon or additions to an invention, and any similar rights in any country and knowledge, skills and techniques imparted.

### 3. OUR RESPONSIBILITIES TO YOU

We shall:

- use suitably qualified individuals, which may include sub-contractors, and shall exercise the standard of care of a competent and professional risk consultant in providing the Consultancy Services to You;
- make every effort to provide You with the Deliverables within the agreed timescales and costs as detailed in Our Proposal;
- endeavour to notify You in advance of any changes to the proposed timescale contained in Our Proposal and otherwise to agree with You on an ongoing basis any changes to the Deliverables;
- keep secure any documentation, including Confidential Information, that You supply to Us and only permit access to such Confidential Information to those of Our personnel who are identified in the Proposal and any others who are assisting them. We shall not disclose such Confidential Information to third parties, except those involved with Us as part of the Agreement or otherwise as is deemed necessary by Us for the provision of the Consultancy Services, and to accord with any obligations we may have under the UAE law without Your prior

written consent. These confidentiality obligations and restrictions will remain in force for a period of two years following the termination of this Agreement;

- give You prior notice of any increase to the Fees;
- when advertising Our involvement in this Agreement after its completion for Our own marketing purposes, make available to You upon Your request, a copy of the advertisement. For the avoidance of doubt We assume the right to reference Our involvement in this Agreement after its completion, in proposals or other presentations to existing or prospective clients;
- for the avoidance of doubt, not provide tax, legal, accounting, financial or other advice or services which are intrinsically outside the scope of Our professional skills.

#### **4. YOUR RESPONSIBILITIES TO US**

You shall:

- a) ensure that We have reasonable access to all Your records, documents (including Confidential Information), other relevant information, premises and personnel that We deem necessary to enable Us to perform the Consultancy Services and You shall keep Us fully informed of any developments or information which may have a bearing on the provision of the Consultancy Services. Only information made available to Us through the project manager identified in Our Proposal is to be considered disclosed to Us. Where Your action or inaction results in Our being unable to meet any agreed deadline or timetable We shall have the option to revise the deadline, timetable or scope of the Consultancy Services;
- b) be responsible for the acts, omissions and default of Your directors and employees and any third parties (excepting Ourselves) that You appoint in connection with this Agreement, that are fraudulent, negligent, misrepresentative or that result in providing to Us false, misleading, inaccurate or incomplete information or documentation;
- c) notify Us in writing of any claim against Us for loss or damage as provided for herein within 30 days of You becoming aware of the occurrence;
- d) pay, within 30 days of invoice date, invoices submitted by Us. If any invoice is not paid on the due date, We shall have the option to

suspend the Consultancy Services and retain the Deliverables until payment of any invoice is received;

- e) not solicit or otherwise induce into Your employment any of Our employees working in connection with this Agreement either during provision of the Consultancy Services or for a 12 month period following the presentation of Our Deliverables
- f) only use Our Deliverables for the purpose they were commissioned
- g) take responsibility for compliance with any statute, regulation or other standard in implementing any recommendations forming part of the Deliverables
- h) warrant that in relation to the personal data You supply to Us it has been obtained from the data subject or, if from a third party, with the knowledge and consent of the data subject and that the data subject was aware of the purposes for which it was required and of the subsequent disclosure to Us and others.

#### **5. RELATIONS WITH EMPLOYEES**

It is a condition of the Agreement that neither party will solicit services from or offer any kind of employment, acting either directly or indirectly through an associated person or company, to any employee of the other or an affiliate with whom the other deals during the course of this Agreement, except with the express written consent of the other party. For the avoidance of doubt this clause shall not impact the employment or engagement of any personnel who respond to a bona fide publicly advertised position of employment or engagement.

#### **6. RELIANCE ON DELIVERABLES**

The Deliverables are provided to You on the basis that they are confidential. The Deliverables and their contents shall not without Our prior written consent (which may be withheld in our absolute discretion) be sold, disclosed, shared or made available in any manner whatsoever with, or to, any third party (other than Your employees, officers, directors, accountants and legal advisors who have a legitimate need to receive the same in connection with the Purpose and have agreed to be bound by these terms save that the effect of the section entitled "Limitation of Liability" shall be that the aggregate liability referred to in the second paragraph of that section shall be Our maximum aggregate liability for any claim or claims from each recipient and/or all recipients

and You relating to the Agreement) without Our express permission in writing. Except where We have agreed expressly in writing to the contrary, We shall not accept any liability or responsibility to any third party to whom the Deliverables are disclosed, made available or otherwise disseminated or into whose possession it may come and will only accept any such liability or responsibility to any third party where:

- the third party agrees in writing to enter into any contractual relationship with Us in terms acceptable to Us, which may include the payment of a fee by the third party; and
- the third party accepts in writing that the Deliverables were addressed to You and were prepared on Your instructions and will not address or reflect the interests or circumstances of any third party and the third party accepts it has responsibility for determining the adequacy of the scope of Our work for its purposes and for making additional enquiries which a prudent third party might reasonably be expected to make.

In the event that any third party institutes any claim, suit or action against us for any loss, damage, liability or penalty as a result of any dissemination or disclosure by you of the Deliverables in a manner and on terms other than those provided for above, then You hereby indemnify and hold Us harmless in respect of all liabilities, costs or expenses (including legal costs) which We may become liable to such Third Party for or which We incur in defending the third party's claim, suit or action.

Where you make any alteration or modification to any of the Deliverables, all references to Us shall be removed.

Any oral or draft Deliverables which We might provide will not constitute our final opinions and conclusions. These will be contained in Our final Deliverable, which shall be expressed as such.

## **7. LIMITATION OF LIABILITY**

The maximum aggregate liability of Marsh and its affiliates relating to or arising out of the services provided under this Agreement and any other agreement relating to the provision of services by Marsh and its affiliates to You or Your affiliates shall be limited to the amount of USD 1,500,000. This limitation applies to all causes of action including, without limitation, breach of contract, breach of warranty, negligence, strict liability, misrepresentation and other torts.

In no event will Marsh or its affiliates be liable for any special, indirect, incidental or consequential or punitive damages or for any lost profits or

other economic loss relating to, arising out of or in connection with this Agreement or the services provided under it.

You accept that Marsh has an interest in limiting the exposure of its directors, employees, consultants and affiliates to litigation, and agree that you will not bring, or assist in bringing, any claim against any of Marsh's affiliates, or personally against any of Marsh's individual directors, employees or consultants, in connection with the performance of the Consultancy Services under this Agreement. The provisions of this clause are intended to be for the benefit of such directors, employees, consultants and affiliates who shall have the right to rely on and enforce these terms.

This clause will not apply to any liability which cannot lawfully be excluded or limited.

## **8. FORCE MAJEURE**

Neither You nor We will be liable to the other for any failure or delay in performing an obligation during this Agreement due to causes beyond either Your or Our reasonable control.

If either You or We are unable to perform its duties and obligations during this Agreement as a direct result of a cause beyond its reasonable control, the party concerned shall give written notice to the other of its inability setting out full details as to why. The operation of this Agreement shall be suspended during the period (and only during the period) in which the reason continues. Forthwith upon the reason ceasing to exist, the party relying upon it shall give written advice to the other of this fact. If the reason continues for a period of more than 90 days and substantially affects the commercial intention of this Agreement, the party not claiming relief under this clause shall have the right to terminate this Agreement upon giving 30 days writing notice of such termination to the other party.

## **9. TERMINATION**

This Agreement shall terminate upon the submission of the Deliverables to You, the completion of any clarification of their contents that may be reasonably required and the receipt of the Fee by Us. Either party may terminate this Agreement prior to this on 30 days' written notice, in which event You shall pay Us the Fees, on a proportional basis based on that portion of the Fees associated with the completed work plus any expenses and disbursements reasonably incurred up to the date of termination to include additional costs necessarily incurred as a result

of such early termination such as costs relating to sub-contracts or relocation costs.

## 10. CONFLICTS

Occasions can arise where We or one of Our other clients may have some form of interest in the business We are transacting for You. We aim at all times to treat Our clients fairly. If we become aware that Our interests or those of one of Our other clients (potentially) conflict with Your interests, We will inform You, agree with You the best way to protect Your interests and obtain Your consent before We carry out Your instructions.

## 11. COMPLAINTS

We aim to provide the Consultancy Services with due skill and care. However, if We fail to reach the standards you expect of Us You should contact the Project Director in the first instance who will deal promptly with Your concerns. If We continue to fail to reach the standards You expect of Us, You should contact the Marsh Country Head or Region Head.

## 12. RIGHTS IN DELIVERABLES

The Intellectual Property rights in the Deliverables, together with any rights in all other documents conceived, originated, developed or produced by Us in relation to this Agreement are and remain Our property. On completion of the Consultancy Services and on payment in full of our invoices We will grant You a world-wide, royalty-free, irrevocable, non-transferable, non-exclusive licence to use and copy such Deliverables for the purpose as detailed in the Proposal (the "**Purpose**"). For the avoidance of doubt, We shall not acquire any rights of ownership in Intellectual Property rights subsisting in any material You provide to Us in connection with this Agreement.

## 13. NOTICES

All notices required to be given under this Agreement shall be in writing and sent to a party's registered office unless an alternative address for notices has been provided.

Notices shall be deemed to have been received:

- if delivered by hand, at the time of delivery;
- if sent by facsimile, at the time of transmission, provided that this is within normal business hours, failing which on the next business day;

- if sent by post, 48 hours from the date of posting.

For the avoidance of doubt, notices given under this agreement shall not be validly served if sent by e-mail.

## 14. VARIATION

No variation, amendment or alteration to this Agreement shall be valid unless it is in writing and signed by or on behalf of all parties.

## 15. ENTIRE AGREEMENT

This Agreement sets out the entire understanding between You and Us in relation to the Consultancy Services and it supersedes all previous agreements and understandings between You and Us in relation to the Consultancy Services.

## 16. RIGHTS OF THIRD PARTIES

Nothing in this Agreement shall be construed as granting any rights to third parties, notwithstanding they are mentioned herein.

## 17. GOVERNING LAW

This Agreement is governed by and shall be construed in accordance with the laws and regulations of the Emirate of Dubai and federal laws of the United Arab Emirates applicable in the Emirate of Dubai.

Any disputes under this Agreement shall be subject to the exclusive jurisdiction of the courts of the Emirate of Dubai.

This document or any portion of the information it contains may not be copied or reproduced in any form without the permission of Marsh Emirates Consultancy LLC.

## 18. COMPLIANCE

Marsh and its affiliates are required to act in accordance with the laws, regulations and requests of regulatory authorities operating in various jurisdictions which relate amongst other things, to the prevention of money laundering, terrorist financing and the provision of financial services to any persons or entities that might be subject to sanctions. Marsh may take actions at the request of regulatory authorities and other companies and its affiliates, and these actions may include delaying or rejecting Your requests.

To prevent or detect theft and fraud and to assist in verifying identity, We may exchange information with our affiliates globally and make searches of records held at fraud prevention agencies who will supply this information. We may also pass information to financial and other organisations involved in fraud prevention.

Marsh is unable to provide insurance and risk management consulting or other services or provide any benefit to the extent that the provision of such services or benefit would violate applicable law or expose Marsh or its affiliates to any sanction, prohibition or restriction under UN Security Council Resolutions or under other trade or economic sanctions, laws or regulations.