



Panda Telecom Limited T/A Weston Rail Services Standard Terms and Conditions for Minor Works

Definitions:

In these Conditions, the following expressions have the following meaning:

Affiliate: Any entity that directly or indirectly controls, is controlled by, or is under common control with another entity and for these purposes “control” means having beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the general management of the company, and “controls” and “controlled” shall be construed accordingly.

Client: The person who has engaged Panda Telecom Limited T/A Weston Rail Services for the execution of the Works.

Conditions: These standard terms and conditions.

Confidential Information: Any information relating to Panda Telecom Limited T/A Weston Rail Services’ or the Client’s (or their respective associated companies’) businesses which is not in the public domain or already prior to the commencement of the Main Contract in the possession of the Sub-Contractor.

Contract: The agreement between Panda Telecom Limited T/A Weston Rail Services and the Client, comprising these Conditions and the Order.

Intellectual Property Rights: All patents, know-how, copyrights, trade or service marks, design rights, and all other intellectual property rights of any kind.



Panda Telecom Limited T/A Weston Rail Services: Panda Telecom Limited T/A Weston Rail Services or any affiliate which has issued the Order.

Panda Telecom Limited T/A Weston Rail Services Contract Manager: The person notified from time to time by Panda Telecom Limited T/A Weston Rail Services to the Client as the Panda Telecom Limited T/A Weston Rail Services representative managing the Contract.

Panda Telecom Limited T/A Weston Rail Services Group Company: Any Affiliate of Panda Telecom Limited T/A Weston Rail Services, from time to time.

Panda Telecom Limited T/A Weston Rail Services Job Report Sheet: A document available upon request, which is to be completed following each visit.

Order: The order issued by the Client setting out the particulars of the Works required to be performed by Panda Telecom Limited T/A Weston Rail Services and all other terms specific to the Works, and includes all documents referred to in it.

Site: The actual place or places where the Works are to be performed by Panda Telecom Limited T/A Weston Rail Services.

Sub-Contract: The agreement between Panda Telecom Limited T/A Weston Rail Services and any Sub-Contractor that may or may not be used, comprising these Conditions and the Order.

Working Day: A day other than a Saturday or Sunday or public holiday in the country where the Works are performed.

Works: This works to be performed by Panda Telecom Limited T/A Weston Rail Services in accordance with the particulars set out in the Order.

Work Report Sheet: A document which details the work carried out on each day a Panda Telecom Limited T/A Weston Rail Services engineer is on Site which includes, but is not limited to, start time, completion time, Site name and address, areas of work, no. of engineers on Site, test results (where applicable), parts used, Panda Telecom Limited T/A Weston Rail Services representative signature.

1. General

1.1. The headings to these Conditions of this Contract are for convenience only and will not affect its construction or interpretation.

1.2. In these Conditions:

1.2.1. words denoting any one gender include all genders and vice versa and the singular includes the plural and vice versa;



1.2.2. references to persons include individuals, partnerships, bodies corporate and unincorporated associations;

1.2.3. a reference to a clause is a reference to a clause or sub-clause of these Conditions;

1.2.4. reference to statutes or statutory provisions shall be construed to include references to those statutes or provisions as

amended or re-enacted from time to time; and

1.2.5. the words and phrases “other”, “including” and “in particular” shall not limit the generality of any preceding words.

1.3. In the event of any conflict whatsoever between these Conditions and any part(s) of the Order and associated documentation, the terms of these Conditions shall prevail.

1.4. Following the issuing of an Order the Contract shall be formed, and a binding contract shall exist to supply the Works, on the earlier of Panda Telecom Limited T/A Weston Rail Services indicating its acceptance of the Order (e.g. by a written or oral order confirmation) or commencing performance of the Order.

2. Information

2.1. If Panda Telecom Limited T/A Weston Rail Services' performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees, Panda Telecom Limited T/A Weston Rail Services shall (i) not be liable for any costs, charges or losses sustained or incurred by the Customer that arise directly or indirectly from such prevention or delay; and (ii) be entitled to payment of the Charges despite any such prevention or delay; and (iii) be entitled to recover any additional costs, charges or losses Panda Telecom Limited T/A Weston Rail Services sustains or incurs that arise directly or indirectly from such prevention or delay.

3. Price & Payment

3.1. In consideration for the provision of the Works, the Customer shall pay Panda Telecom Limited T/A Weston Rail Services the charges, as set out in the written quote, in accordance with clause 3.3 or 3.5 as applicable. All amounts payable by the Customer exclude amounts in respect of value added tax (VAT), which the Customer shall additionally be liable to pay to Panda Telecom Limited T/A Weston Rail Services at the prevailing rate (if applicable), subject to receipt of a valid VAT invoice.

The price provided by Panda Telecom Limited T/A Weston Rail Services is fixed for 30 days. Due to current market volatility, beyond that period, Panda Telecom Limited T/A Weston Rail Services reserves the right to adjust the price in response to any price increases or shortages in goods, materials and/or subcontracted labour, which it cannot reasonably mitigate. Where the delivery of any goods, equipment or materials required for the services or works is delayed, whether as a result of shortages or unavailability of the goods,



equipment, labour, materials or otherwise, Panda Telecom Limited T/A Weston Rail Services shall not be liable for any additional costs, liquidated damages or any other damages associated with such delay and any completion dates shall be amended accordingly. Where Panda Telecom Limited T/A Weston Rail Services' written quote indicates that the Works are expected to last less than 45 days in duration and are to be paid for by the Customer in a one-off payment, Panda Telecom Limited T/A Weston Rail Services shall submit an invoice for the charges plus VAT if applicable to the Customer upon completion of the Works. The Customer shall pay the invoice within 30 days of the completion of the Works or the receipt of the invoice, whichever is the later, to a bank account nominated in writing by Panda Telecom Limited T/A Weston Rail Services. The invoice or claim for payment shall include reasonable supporting information.

3.2. Where Panda Telecom Limited T/A Weston Rail Services' written quote indicates that the Works are expected to last less than 45 days in duration and are to be paid for by the Customer in a one-off payment, Panda Telecom Limited T/A Weston Rail Services shall submit an invoice for the charges plus VAT if applicable to the Customer upon completion of the Works. The Customer shall pay the invoice within 30 days of the completion of the Works or the receipt of the invoice, whichever is the later, to a bank account nominated in writing by Panda Telecom Limited T/A Weston Rail Services. The invoice or claim for payment shall include reasonable supporting information.

3.3. If the Customer fails to make any payment due to Panda Telecom Limited T/A Weston Rail Services under the Contract by the final date for payment, then, without limiting Panda Telecom Limited T/A Weston Rail Services' remedies under clause 3.2, the Customer shall (a) pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%; and (b) the Panda Telecom Limited T/A Weston Rail Services may suspend all or part of the Works until payment has been made in full.

3.4. Where Panda Telecom Limited T/A Weston Rail Services' written quote indicates that the Works are expected to last 45 days or longer in duration, Panda Telecom Limited T/A Weston Rail Services shall submit a payment application for instalments of the charge(s) and/or any other amount due (" Panda Telecom Limited T/A Weston Rail Services' Notified Sum") monthly (or such other period stated in the written quote). The payment application shall state the sum considered to be due at the payment due date and the basis on which it is calculated. The payment due date shall be the date upon which the payment application is submitted. Within 5 days of the payment due date, the Customer must give notice specifying the amount (if any) of the payment proposed to be made (the "Customer's Notified Sum") and the basis on which the amount is calculated (the "Payment Notice"). Should the Customer consider that a sum less than the amount of the Customer's Notified Sum is due , or where the Customer fails to serve the Payment Notice, he must give notice no later than 7



days before the final date for payment specifying the amount considered to be due and the basis on which it is calculated (the "Pay Less Notice"). Subject to any Pay Less Notice, the Customer shall pay the Customer Notified Sum, or where the Customer has failed to serve a Payment Notice Panda Telecom Limited T/A Weston Rail Services' Notified Sum, no later than the final date for payment which is 30 days after the payment due date. In the event of non-payment by the final date for payment (a) Panda Telecom Limited T/A Weston Rail Services may, upon 7 days' written notice, suspend the Works or part of the Works (until payment is made) and/or (b) Panda Telecom Limited T/A Weston Rail Services may terminate this Agreement on written notice.

3.5. All amounts due under the Contract from the Customer to Panda Telecom Limited T/A Weston Rail Services shall be paid by in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

3.6. The restrictions on liability in this clause apply to every liability arising under or in connection with the Contract, including but not limited to liability in contract, tort (including negligence), breach of statutory duty, misrepresentation, restitution or otherwise. Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to liability for: death or personal injury caused by negligence; fraud or fraudulent misrepresentation; and breach of the terms implied by section 2 of the Supply of Goods and Works Act 1982 (title and quiet possession). Subject to the aforementioned, Panda Telecom Limited T/A Weston Rail Services' total liability to the Customer for loss or damage to property shall not exceed £1,000,000 (one million pounds) and £250,000 (two hundred and fifty thousand pounds) for all other losses, damage or injury. The following types of loss are wholly excluded: loss of profits, loss of sales or business, loss of agreements or contracts, loss of anticipated savings, loss of use or corruption of software, data or information; loss of or damage to goodwill; and indirect or consequential loss.

3.7. All amounts due under the Contract from the Customer to Panda Telecom Limited T/A Weston Rail Services shall be paid by in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

4. General Obligations

4.1 Panda Telecom Limited T/A Weston Rail Services shall provide the Works:

4.1.1 with reasonable skill, care and diligence;

4.1.2 in accordance with the Order and other terms of the Contract;

4.1.3 in accordance with all instructions issued by the Client; and



4.1.4 in a timely and professional manner.

4.2 Panda Telecom Limited T/A Weston Rail Services shall use reasonable skill, care and diligence to ensure compliance with: -

4.2.1 all applicable laws and regulations, consents, Site rules, safety and security procedures notified by CBRE or the Client and all health, safety, insurances and hygiene regulations required by law, or which otherwise form an industry standard (including, but not limited to, any applicable safety guidance and recommendations approved or published by any competent government authorities;

4.2.2. any manufacturer's guarantees or recommendations.

4.3. Panda Telecom Limited T/A Weston Rail Services shall ensure that it holds and that all of its employees, agents and contractors hold all relevant licences, permits and authorisations to allow the lawful performance of the Works at all times.

4.4 Without affecting any other right or remedy available to it, either party to the Contract may terminate it with immediate effect by giving written notice to the other party if:

4.4.1. the other party commits a material breach of any term of the Contract, which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 20 days after being notified in writing to do so: or

4.4.2. the other party takes or has taken against it (other than in relation to a solvent restructuring) any step or action towards its entering bankruptcy, administration, provisional liquidation or any composition or arrangement with its creditors, applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court), being struck off the register of companies, having a receiver appointed to any of its assets, or its entering a procedure in any jurisdiction with a similar effect to a procedure listed in this clause; or

4.4.3. the other party suspends, or ceases or threatens to suspend or cease to carry on all or a substantial part of its business; or

4.4.4. the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or

4.4.5. or there is a change of control of the other party within the meaning of section 1124 of the Corporation Tax Act 2010.

4.5 On termination of the Contract for whatever reason:



4.5.1. the Customer shall immediately pay to Panda Telecom Limited T/A Weston Rail Services all of Panda Telecom Limited T/A Weston Rail Services' outstanding unpaid invoices and interest and, in respect of Works performed but for which no invoice has been submitted, Panda Telecom Limited T/A Weston Rail Services may submit an invoice, which shall be payable immediately on receipt.

4.5.2. any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect; and

4.5.3. termination or expiry of the Contract shall not affect any of the rights, remedies, obligations or 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.

4.6 Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control.

4.7 The Customer shall not assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract without Panda Telecom Limited T/A Weston Rail Services' prior written consent.

4.8 The Contract and written quote constitute the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

4.9 Each party acknowledges that in entering into the Contract, it does not rely on and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

5.0 No variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).