

# Karus System Limited

## Standard Terms and Conditions of Business



- Business consulting
- Software innovation
- Project management

## Definitions

These terms and conditions govern the provision of professional fee-based Services and/or the supply of Goods by Karus Systems Limited to the Client.

Karus Systems Limited (Karus) is a company registered in England (no 3568801) with its registered office 1 – 3 Sterling Court, Loddington, Kettering, Northants NN14 1RZ, United Kingdom.

The Client is any organisation or individual that by written or verbal means requests that Karus Systems Limited provide Services and/or Goods.

The term Contract refers to any contract between Karus and the Client for the sale and purchase of Goods and/or the provision of Services incorporating these conditions.

The term Services includes but is not limited to: business and information technology consulting, project management, Software development, and I.T. infrastructure design, deployment and support.

The term Goods includes but is not limited to: computer and networking hardware and licensed operating system and application software.

The term Software refers to bespoke Software developed for the Client by Karus.

## A. General Terms and Conditions

1. These standard terms and conditions of business shall apply to all aspects of the commercial relationship between Karus Systems Limited and the Client, unless expressly amended in writing by a duly authorised representative of Karus Systems Limited.
2. Karus reserves the right to amend these standard terms and conditions, and/or the prevailing fee rates for professional services subject to 90 days written notice.
3. Before Karus supplies any Services or Goods, the Client must provide Karus with a written acceptance of these terms and conditions on official headed stationery. No terms and conditions endorsed upon delivered on contained in the Client's confirmation of order, specification or other document will form part of the Contract simply as a result of such document being referred to in the contract
4. Each order for Goods by the Client from Karus shall be deemed to be an offer by the Client to purchase the Goods subject to these conditions.
5. Upon the explicit request of any authorised client representative, Karus may offer to quote a fixed price for any specific unit of work requested. Unless a fixed price quotation is issued by Karus and accepted by the Client all work is deemed to be undertaken on a time and materials basis in accordance with the prevailing Karus fee rates from time to time.

6. Any quotation is given on the basis that no contract will come into existence until Karus dispatches an acknowledgement of order to the Client.
7. The description of the Goods or the provision of the Services shall be as set out in the Company's quotation.
8. All drawings, descriptive matter, specifications and advertising issued by the Karus and any drawings and illustrations contained in Karus's catalogues and brochures are issued or published for the purpose of giving an approximate idea of the Goods described in them. They do not form part of this Contract.
9. Performance of the Services and/or delivery of the Goods shall take place at the location agreed between Karus and the Client from time to time and specified in the Contract.
10. Any dates specified by Karus for delivery of the Goods or performance of the Services are intended to be an estimate and time for delivery shall not be of the essence by notice. If no dates are specified then performance of the Services and/or delivery of the Goods shall be within a reasonable time.
11. The Goods are at the risk of the Client from the time of delivery.
12. Ownership of the Goods shall not pass to the Client until Karus has received in full (in cash or cleared funds) all sums due to it in respect of the Goods and all other sums which are or become due to the Karus from the Client on any account
13. Until ownership of the Goods has passed to the Client, the Client must:
  - (a) hold the Goods on a fiduciary basis as Karus's bailee;
  - (b) store the Goods (at no cost to the Karus) separately from all other goods of the Client or any third party in such a way that they remain readily identifiable as the Karus's property;
  - (c) maintain the Goods in satisfactory condition and keep them insured on the Karus's behalf for their full price against all risks to the reasonable satisfaction of the Karus On request the Client shall produce the policy of insurance to the Karus; and
  - (d) hold the proceeds of the insurance referred to in condition 12( c ) on trust for the Company and not mix them with any other money, nor pay the proceeds into an overdrawn bank account.
14. The Client's right to possession of the Goods shall terminate immediately if:
  - (a) the Client has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the

- purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or a resolution is passed or a petition presented to any court for the winding up of the Client or for the granting of an administration order in respect of the Client, or any proceedings are commenced relating to the insolvency or possible insolvency of the Client; or
- (b) the Client suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe/perform any of his/its obligations under the Contract or any other contract between the Karus and the Client, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Client ceases to trade; or
- (c) the Client encumbers or in any way charges any of the Goods.
- 15 Karus shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from Karus.
- 16 The Client grants the Karus, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Karus's right to possession has terminated, to recover them.
- 17 Subject to successful completion of the user acceptance tests (to the satisfaction of Karus) acceptance of the Software shall be deemed to have occurred where;
- (a) in the case of Software development services provided by Karus on a fixed price basis, on the date that the Client signs the completion certificate issued by Karus; and
- (b) in the case of Software development services provided on a time and materials basis, on the date that Client signs off Karus's time and materials timesheet.
18. Where Karus is providing bespoke Software development services, upon acceptance of the Software in accordance with Clause 17 and receipt of payment in full by Karus, Karus shall issue to the Client one copy of the Software on media appropriate to the Client's system for Use on the system at the location specified in the Contract together with any necessary documentation to Use the same. For the purposes of the Contract "Use" shall mean and include:

- (a) utilizing of the Software by copying, transmitting or loading the same into the temporary memory (RAM) or installing it in the permanent memory (e.g. hard disk, CD ROM or other storage device) of the system for the processing of the system instructions or statements contained in such software;
  - (b) copying the Software which is in machine-readable form for Use by the Client on the system for the purposes only of understanding the contents of such machine-readable material and for back-up provided that no more than two (2) copies will be in existence under any licence at any one time without prior written consent from Karus or as otherwise permitted by the applicable law;
  - (b) storing the whole or any part of the Software on the system or other storage unit or disk;
  - (d) utilising (but not copying) the instructional and/or operational manuals relating to the software.
- 19 For the purposes of this licence "concurrent use" shall mean simultaneous use of the Software by the number of users of the Client specified in the Contract PROVIDED however that Software for the sole purpose of distribution to other workstations or computers is not being Used for the purposes of ascertaining concurrent users. Additional concurrent users may be added by signing a separate licence agreement with Karus.
20. The Client shall also be permitted to Use the Software on a portable, lap-top or home computer where the Software is permanently installed on the hard disk or other storage device of the system (but not a file server) and the Client or its relevant employee as the case may be is the predominant user of the Software and such Use will not breach the concurrent user limit where applicable.
- 22 The Client may be subject to an additional charge upon issue to the Client of upgraded versions of the Software. Such additional charge for upgrades shall become payable within thirty (30) days of issue unless the Client has returned the upgrade unused to Karus within such period.
- 23 An additional charge is payable for each CPU of the system upon which the Client wishes to Use the Software or in respect of additional concurrent users in excess of the number specified in the Order Form. In the event that the system is inoperable or requires or is under repair, the Client shall report the same to Karus for permission to Use the Software on a back-up system at no extra charge, until the system is operational.
- 24 The Client undertakes not to perform any of the acts referred to in this sub-clause except to the extent and only to the extent permitted by the applicable law to the Client as a lawful user (*i.e.* a party with an express right to use) of the Software and only then for the specific limited purposes stated in such applicable law or hereunder. The Client undertakes:

not to copy the Software (other than for normal system operation) nor otherwise reproduce the same provided that the Client may copy the Software for back-up purposes or incidentally, in the course of converting the Software in accordance with 23(c) below;

- (ii) not to translate, adapt, vary, modify the Software;
  - (iii) not to disassemble, decompile or reverse engineer the Software provided however that in the case of decompilation of the Software, the Client may incidentally decompile the Software only if it is essential so to do in order to achieve interoperability of the Software with another Software program ("Permitted Purpose") and provided the information obtained by the Client during such decompilation is only used for the Permitted Purpose and is not disclosed or communicated to any third party whom it is not necessary to disclose or communicate such information without Karus's prior written consent and is not used to create any Software which is substantially similar to the expression of the Software nor used in any manner which would be restricted by copyright.
25. Other than as provided in Clause 7 above, the Goods and Services are provided 'as is' without any representation, term, condition, or warranty of any kind, whether express or implied (and whether expressed by law, custom, or otherwise) in respect of the Goods and Services. To the fullest extent permitted by the applicable law, the company disclaims all representations, terms and conditions and warranties including but not limited to, satisfactory quality, merchantability, fitness for purpose, title and non-infringement of intellectual property rights.
26. Without prejudice to the generality of Clause 25 if any of the Goods are found to be defective and do not conform to the description given in Karus's quotation to the Client (set out in Clause 6 above) Karus shall at its option repair or replace the Goods (or the defective part) or refund the price of such Goods at the pro rata Contract rate provided that if Karus so requests the Client shall return the Goods and or the part of such Goods which is defective to the Company within 30 days of their installation by Karus. If Karus complies with this condition 25 it shall have no further liability in respect of such Goods.
27. Subject to Clause 26, Karus shall not be liable for any direct, indirect or consequential loss or damage (all three of which terms shall include without limitation loss of profit, loss of business, depletion of goodwill, and like loss) which may arise out of or in connection with the provision of any Services or Goods or their use by the Client nor will any delay entitle the Client to rescind the Contract unless it exceeds [180] days. Nothing in our terms and conditions or business shall be deemed to exclude or restrict Karus's liability for death or personal injury resulting from negligence.
28. The legal and beneficial title to any intellectual property rights (including without limitation copyright, database rights, patents and trademark rights) to any concepts, specifications or Software code remain with Karus and the Client is granted a right to use Software in accordance with Clause 18 above

29. Any work performed or Software developed for the Client is for the sole use of the Client, and may not be sold, transferred or distributed to any third party without the express written permission of a Director of Karus Systems Limited.
30. The term of the agreement shall be as specified in the Contract. Karus shall be entitled to terminate the Contract earlier:
- (a) on giving the Client 30 (thirty) days' prior written notice;
  - (b) if the Client shall be in breach of the observance or performance of any of its obligations under the Contract and, if capable of remedy, such breach remains unremedied 30 (thirty) days after receiving written notice from the non-defaulting party requiring such breach to be remedied;
  - (c) if a resolution is passed for the winding-up of the other party or a petition for its liquidation is presented;
  - (d) if a receiver of the other party, its assets or any part thereof shall be appointed or a resolution is passed for such appointment;
  - (e) if the other party proposes or enters into any arrangement or composition with or for its creditors (including any voluntary arrangement).
- 31 In the event of the Contract being determined whether by effluxion of time, Notice, breach or otherwise the Client shall immediately pay to Karus all arrears of payments and any other sums due under the terms of this Contract.
- 32 Either party shall be entitled to exercise any one or more of the rights and remedies given to it under the terms of the Contract and the determination of the Contract shall not affect or prejudice such rights and remedies and each party shall be and remain liable to perform all outstanding liabilities under the Contract notwithstanding that the other may have exercised one or more of the rights and remedies against it.
- 33 Any right or remedy to which either party is or may become entitled under this Contract or in consequence of the other's conduct may be enforced from time to time separately or concurrently with any right or remedy given by the Contract or now or afterwards provided for and arising by operation of law so that such rights and remedies are not exclusive of the other or others but are cumulative.

## **B. Invoicing and Payment**

1. Unless otherwise agreed in writing, Karus will raise time and material invoices for Services rendered on a monthly basis. Invoices for Goods supplied or sub-contracted Services may be issued immediately upon delivery or at any time thereafter.
2. Fixed price work payment terms is 50% with order and 50% on completion.
3. Invoice payment terms are strictly 14 days net. No payment shall be deemed to have been received until Karus has received cleared funds.
4. Any invoice queries or disputes must be notified to Karus in writing within a period of 10 days from the date of invoice.
5. Any Goods supplied remain the property of Karus Systems Limited until paid for in full. Unless full payments for Goods supplied is received within 30 days of the invoice date, the Client must upon request return the Goods in their original packaging to Karus. Upon failure to surrender such Goods, Karus shall be entitled to enter the premises of the Client to repossess same.
6. Karus reserves the right to levy an interest charge on invoice amounts remaining unsettled after 30 days from date of invoice, and every 30 days thereafter until amounts owed are settled in full. Such interest charge will be at a rate of 2% above the base lending rate of the Bank of England from time to time.
7. All charges exclude and are subject to VAT at the prevailing statutory rate from time to time. Karus Systems Limited is registered for VAT in the United Kingdom, registration number: GB 695 9748 49.
8. Time for payment shall be of the essence.

## **C. Services Fee Rates**

1. Karus's fee rates for professional Services are published separately from these standard terms and conditions. Existing Clients will be notified not less than 90 days in advance of any fee rate revisions from time to time.
2. Fee rates are quoted per standard 7.5 hour day, and are charged pro-rata according to actual hours of work performed. Services specifically requested by the Client to be performed at weekends will attract a fee rate surcharge of 50%
3. Services specifically requested to be performed on English statutory holidays will attract a fee rate surcharge of 100%
4. Where actual traveling time for any one journey exceeds 1.5 hours, one half of the actual travelling time will be chargeable at the lowest fee rate applicable to staff grade concerned.



## **D. Traveling and Expenses Incurred**

1. Where project circumstances dictate that Karus staff must travel to the Client's premises or any other location requested by the Client then all travelling, accommodation, subsistence and other out-of pocket expenses will be disbursed to the Client.

### **2. Private Road Transport**

2.1 Where it is reasonable to travel by road, mileage is charged at a rate of 45p per mile as measured between the business premises of Karus and the appointed location.

### **3. Public Transport (Rail, Taxi, Bus)**

3.1 In cases where rail travel is preferable, for reasons of distance, traffic congestion or parking restrictions, the cost of a first class return rail ticket will be charged. Any taxi or public bus fares incurred will be charged at cost.

### **4. Air Travel**

4.1 Where it necessary to travel by air, flight tickets and any airport taxes will be charged to the client at cost. It is our policy that Karus directors and senior staff grades are entitled to travel in club class or equivalent, other staff may travel with a flexible economy ticket within Europe but club class on intercontinental flights.

### **5. Hotel Accommodation and Subsistence**

5.1 Where accommodation away from home is necessitated, the cost of hotel accommodation and evening meal will be recharged to the Client at cost.

## E. General

1. The Client shall not be entitled to assign the Contract or any part of it without Karus's prior written consent. Karus may assign the Contract or any part of it to any person, firm or company.
2. Karus reserves the right to defer the date of delivery of the Goods and/or Services or to cancel the Contract or reduce the volume of the Goods ordered by the Client (without liability to the Client) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Karus including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials Provided that, if the event in question continues for a continuous period in excess of [ ] days, the Client shall be entitled to give notice in writing to Karus to terminate the Contract.
3. Each right or remedy of Karus under the Contract is without prejudice to any other right or remedy of Karus whether under the Contract or not.
4. If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
5. Failure or delay by Karus in enforcing or partially enforcing any provision of the Contract will not be construed as a waiver of any of its rights under the Contract.
6. Any waiver by Karus of any breach of, or any default under, any provision of the Contract by the Client will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of the Contract.
7. The parties to this Contract do not intend that any term of this Contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
8. The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.