

Time and Materials Terms and Conditions

Delivery of your request for Time and Materials consulting services will be under the following terms and conditions:

Consultancy company:

Poppelgaard, Groenhoejvej 13, 8382 Hinnerup, Denmark, Company number DK-21050873

Acceptance

This request is subject to acceptance by Poppelgaard.com . The Fee for this Poppelgaard.com Contract is payable upon invoice.

1 DEFINITIONS

Consultant means the person delivering the Professional Services on behalf of Poppelgaard.com .

Contract means this set of terms and conditions including the Order Form.

Delivery Date means the date we deliver the Services or Product to the Site.

Documentation means any materials or information we provide to you in relation to the Product.

Hourly Rate means the US dollar, GBP, EUR or DKK amount we will charge per hour for a Poppelgaard.com Consultant to undertake the Professional Services.

Order Form means the internet page at Poppelgaard.com where you requested the Services to which these terms and conditions apply.

Product means any Poppelgaard.com Software and its associated Documentation.

Professional Services means the services described in the Order Form you submitted via the web.

Fee means the fee we charge for Professional Services.

Site/s means the location/s where the Services are to be delivered as agreed with Poppelgaard.com .

Software means the Poppelgaard.com software including any Upgrades, and unless stated to the contrary, includes Poppelgaard.com supplied Third Party Software.

Third Party Software means software comprised in the Product which is provided by us and is licensed by a third party.

Upgrades means enhancements and new versions of the Software released by us. Upgrades do not include modules or software which provide new or additional functionality unless they are enhancements to existing modules or are replacement modules designed to operate with new technology. Upgrades also do not include third party software.

User means any employees (temporary or permanent), contractors and other persons at your organisation who will access the Product.

2 TERM

2.1 This Contract will commence on the date it is accepted by Poppelgaard.com and will expire when terminated in accordance with its terms.

2.2 We may from time to time advise you of a projected availability date for us to deliver the Services, however, we shall not be held liable for delay or failure to comply with projected availability dates regardless of cause.

3 CONSULTATION AND TRAINING

3.1 We provide you with Professional Services in accordance with the scope identified on

the Order Form, and any subsequent written directions received from you.

- 3.2 The scope of Professional Services you require will vary depending on your business requirements. If we agree to provide the Professional Services, you agree to pay us the Professional Services Fee.

4 CALCULATION OF PROFESSIONAL SERVICES FEES

- 4.1 The Professional Services Fee will be calculated by multiplying the elapsed hours spent on delivering the Professional Services by the applicable hourly rate (including travel time), then adding the direct costs of any travel and out of pocket expenses.
- 4.2 The minimum Fee will be 1 hour for remotely delivered work, billed in 1 hour increments. For services that require on site presence by the Consultant the minimum Fee will be 1 day (8 hours).

5 PAYMENT

- 5.1 You must pay us the applicable Professional Services Fee. This will be charged to the credit card account identified by you on your Order Form. If the payment is rejected for any reason, interest will accrue at the rate of 1.5% per month without prejudice to our rights under this agreement.

Or pay the invoice within 7 days to

Bank: Finansbanken,
Vestergade 8-16,
Denmark Account name:
Poppelgaard.com
Account Number: 6610
0004456961 IBAN:
DK8266100004456961
SWIFT: JYBADKKK

- 5.2 If VAT/GST is imposed on any supply under this Contract, you must pay, in addition to any consideration payable or to be provided by you, an additional amount calculated by multiplying the prevailing VAT/GST rate by the consideration payable or to be provided.
- 5.3 You must pay us the applicable Professional Services Fee and any other amounts owing to us without set-off or deduction or withholding for or on account of any counterclaim or any present or future taxes, levies, duties, charges or Fees.
- 5.4 Any Fees or other amounts you pay us under this Contract are non-refundable, except as otherwise provided herein, even if your circumstances change.
- 5.5 We are entitled to withhold supply and performance of services, and to retake possession of hardware, software or goods supplied by us if you are in material breach of this clause 5.

6 CANCELLATION

- 6.1 All work will be scheduled as close to your requested dates as possible for performance by a suitably qualified Consultant. You will be notified by email of the dates when your work can be carried out. Please reply to the email within 48 hours if the dates you receive are not suitable.
- 6.2 Cancellation or change of scheduled Time and Materials work by you on less than ten (10) working days' notice will incur a 100% Fee if Poppelgaard.com cannot re-assign the assigned Consultant.

7 PERSONNEL

- 7.1 We will appoint a Consultant to deliver the Professional Services.
- 7.2 You will appoint a primary contact person identified on the Order Form, who will assist with project planning, coordinate your resources and be our primary point of contact. You must also appoint and notify us of an alternative in the event that the primary contact person is unavailable.
- 7.3 To enable effective delivery of the Professional Services, you will identify a reasonable number of suitably trained and qualified staff, who will work with us to receive and utilize any Professional Services we provide. You will procure your staff to complete any tasks assigned to them within the agreed timeframes, and ensure that adequate resources are available to assume additional project responsibilities if any of your staff members to whom tasks have been allocated are absent for any period of time.

8 YOUR OBLIGATIONS

- 8.1 In summary, and without limitation, you will:
- (a) pay us the applicable Professional Services Fees in the amounts and on the terms set out in this Contract;
 - (b) You must provide us with remote access to your system to allow us to carry out the Professional Services, via any reasonable means we require. You will be responsible for all charges and costs you incur associated with providing remote access to us for this purpose.
 - (c) A suitable workstation and supervised network access within your offices, set up prior to the Consultant's visit if required.
 - (d) Access to a staff member who possesses knowledge of the scope of work to be addressed and has documented the requirements and collected all samples in preparation of this order, and who has the authority to sign-off on the timesheet.
 - (e) Before Poppelgaard.com Staff commence any work on your system, you must ensure that your Technical Staff have performed a complete backup of all software, data, documentation and other valuable information. You must also ensure that the backup and restore processes have been tested to ensure that the system can be completely and quickly restored in the event of a hardware failure or other disaster conditions, regardless of the cause. Poppelgaard.com takes no responsibility for being able to restore the client's systems to their original operating state as it existed prior to the commencement of work or the costs associated with doing so.
 - (f) You must make suitable arrangements with us for access to the Site and/or your premises outside of normal business hours if required by us in order to perform our obligations under this Contract.

9 WARRANTIES

9.1 We warrant that:

- (a) to the best of our knowledge we are the sole owner of the Software (excluding Third Party Software) and the Software (excluding Third Party Software) does not infringe the intellectual property rights of any person in EU; and
- (b) the Professional Services will be performed with reasonable care and skill.

9.2 You must give us notice as soon as reasonably practicable upon becoming aware of a breach of any warranty under this Contract. Our sole liability and obligations in relation to a breach of warranty set out in this Contract, or a warranty implied by law, shall be to re-supply the Professional Services or engage a third party to re-supply the Professional Services (or the failing parts thereof), within a reasonable period.

9.3 Except as set out in this Contract, we hereby exclude fully permissible in law all other conditions, warranties, representations, undertakings, terms and stipulations, express or implied, statutory, customary or otherwise which, but for such exclusion, would or might subsist in your favour.

9.4 In particular, but without limitation, we do not warrant or represent:

- (a) that the operation of the Product and any software script report or procedure produced by performing the Professional Services will be uninterrupted or error free; or
- (b) that any software script report or procedure produced by performing the Professional Services will operate on your existing computer hardware; or
- (c) that any software script report or procedure produced by performing the Professional Services is compatible with other computer programs (unless otherwise stated in this Contract); or
- (d) that any software script report or procedure produced by performing the Professional Services will be or remain compatible with other computer programs or future upgrades to existing Product; or
- (e) that operation of other software or processes running on your hardware, interacting or interfaced with any software script report or procedure produced by performing the Professional Services (including Third Party Software) will not adversely affect the functioning of the Product or other software or process; or
- (f) that the Product and any software script report or procedure produced by performing the Professional Services will have the same functionality or perform as any existing

product or other product used or contemplated for use by you.

Any warranties given in this clause shall not apply to:

- (g) defects or failures which arise in whole or in part from accident, neglect or misuse of the Product;
- (h) defects caused by products, equipment or computer programs not provided by us;
- (i) failure of electrical power or circuitry or network outside the Product;
- (j) unusual stress or storage, transportation, handling or repairing by you;
- (k) operation of the Product by your employees who are not properly trained,

and will not apply in the event:

- (l) you make an alteration to, or permit any alteration to be made to, the Product software script report or procedure produced by performing the Professional Services;
- (m) you fail to give us written notice within the warranty period;
- (n) you do not take reasonable care in relation to the Product (such as keeping full back up copies of your data, software or database configuration in accordance with good computing practice, or failing to use firewalls and virus protection programs).

10 TERMINATION

10.1 We may terminate this Contract in whole or in part, upon 30 days written notice to you, in the event that we cease providing the Professional Services. If we terminate this Contract under this clause, we will provide you with a refund of any applicable prepaid Professional Services Fee on a pro rata basis, taking into account the period of work the Fee covers and the period of work yet to be performed.

10.2 Otherwise, this Contract may be terminated by notice in writing with immediate effect:

- (a) by us if you fail to pay any part of the Professional Services Fee within 30 days of the due date;
- (b) by either party if the other commits a material breach of the Contract which (in the case of a breach capable of being remedied) has not been remedied within 30 days of a written request to remedy the breach;
- (c) by either party if the other goes into liquidation, or if a receiver, manager or administrator is appointed in respect of the whole or any part of its assets or any similar or analogous insolvency event occurs in relation to the other party in this or any other jurisdiction or if the other party ceases or threatens to cease trading.

10.3 Any termination of the Contract under this clause is without prejudice to any other rights or remedies a party may be entitled to under the Contract or at law. It does not affect any accrued rights or liabilities of either party nor any provision which is expressly or by implication intended to come into force on, or continue in force after, termination.

11 POST TERMINATION

11.1 Upon termination of this Contract for any reason:

- (a) any licence granted under this Contract shall terminate

12 LIABILITY

12.1 The Professional Service Fee is determined on the basis of the limitation and exclusions of liability in this Contract. You agree that the limitations and exclusions are reasonable. Nothing in this Contract is intended to exclude or limit either party's liability to the other for liabilities which cannot be limited or excluded by law.

12.2 Our total liability for damages under this Contract whether in contract, tort (including negligence), breach of statutory duty or under any other legal claim shall be limited at our option to any one or more of the following, as may be appropriate:

- (a) rectification or replacement of the Product;
- (b) supply of Professional Services to provide rectification of the issue;
- (c) refund of all money paid by you to us under this Contract within the 12 months preceding notification of the claim.

12.3 Any claim for damages under this Contract must be notified to us within 12 months of the cause of action arising.

- 12.4 Subject to clause 12.1, neither party shall in any event be liable to the other for any indirect or consequential loss, loss of profits (without prejudice to your liability to pay the Professional Service Fee), contracts, business, revenue, goodwill or anticipated savings (whether in each case direct or indirect), or any other indirect, consequential or special losses or damages howsoever caused. We will not be liable for any loss or corruption of data, software or database configuration held by you (whether before or after termination of this Contract), or any problems of any nature arising from the use of the Product for purposes for which it was not designed (the purposes for which it was designed being apparent from the Specification and any user instructions supplied with the Third Party Software). We will not be liable for any loss or corruption of data, software or database configuration held by you (whether before or after termination of this Contract), or any problems of any nature arising from the use of the Software for purposes for which it was not designed (the purposes for which it was designed being apparent from the Documentation supplied) even if we have been advised of the possibility of such damages or loss, and whether such claim is made in contract, tort (including negligence), breach of statutory duty or under any other legal claim.
- 12.5 We will not be liable to you under this clause 12 to the extent that the event giving rise to such liability is caused or contributed to by any act or omission of you.
- 12.6 This clause 12 has continuing effect after termination of this Contract.

13 CONFIDENTIALITY

- 13.1 We and you will keep confidential all confidential information communicated by, acquired from or disclosed by one to the other, whether before or during the period of this Contract, and shall not without the prior written consent of the other:
- (a) disclose the same to any third party save to those of its officers, employees or sub-contractors who need to know for the purposes of this Contract and provided that such persons comply with the provisions of this clause; or
 - (b) use the other party's confidential information for any purpose other than to perform its obligations under this Contract.
- 13.2 You acknowledge that any Documentation and computer code provided by us to you in relation to the Product are our confidential information.
- 13.3 The obligations set out in clause 13.1 do not apply to any information which:
- (a) is generally known to the public in EU other than as a result of a breach of this clause;
 - (b) is lawfully obtained by a party free of any duty of confidentiality otherwise than directly or indirectly from the other party to this Contract;
 - (c) is disclosed to the professional advisers, lawyers, auditors and bankers of each party under terms of confidentiality and those professional advisers, lawyers, auditors and bankers are bound by a duty of confidence;
 - (d) a party is required to disclose by order of a court of competent jurisdiction or pursuant to a statutory or regulatory obligation.
- 13.4 The provisions of this clause 13 survive termination of this Contract.

14 INTELLECTUAL PROPERTY

- 14.1 In this clause, "intellectual property rights" means rights conferred under statute, common law and equity in relation to inventions, innovations, patents, designs, trade marks, trade names, logos and get-up, circuit layouts, confidential information and copyright, existing anywhere in the world, and for the duration of those rights.
- 14.2 All right, title, and interest (including all copyrights and other intellectual property rights) in the Product and Documentation (in both print and machine-readable forms) belong to us or our third party suppliers. You acquire no ownership of copyright or other intellectual property rights or proprietary interest in the Product, Software or Documentation, or copies thereof.
- 14.3 Any intellectual property rights in any software or application owned or created by you shall remain with you. You grant us a royalty free, worldwide license to use such software or application in connection with the performance of our obligations under this Contract.

- 14.4 Any new features, functionality or performance of the Product suggested by you that we subsequently incorporate into any Upgrade or the Product (including the intellectual property rights therein) shall be the sole and exclusive property of us.
- 14.5 In the event that the normal use or possession of the Software (excluding Third Party Software) by you in accordance with this Contract infringes the intellectual property of any third party in EU, we shall indemnify you against any damages finally awarded against you in respect of such claim, and any reasonable cost and expenses incurred by you provided that:
- (a) you promptly notify us of any such claims;
 - (b) we are exclusively entitled to contest, defend or settle any such claims;
 - (c) you provide us with all reasonable assistance and make no admissions prejudicial to the defense of any such claims;
 - (d) we are entitled to retain all costs, expenses, damages or other compensation awarded in connection with the resolution or settlement of any such claims;
 - (e) the indemnity shall not apply to the extent that such claims are attributable to the breach by you of any of your obligations or warranties under this Contract;
 - (f) the indemnity is subject to your duty to mitigate all damages, liabilities, costs and expenses arising out of any such claims.
- 14.6 In the event that a claim as contemplated by this clause 14 is made or in our opinion is likely to be made, we may at our option and cost:
- (a) procure the right for you to continue to use the Software affected;
 - (b) change or replace all or any part of the Software;
 - (c) only where we have used reasonable endeavors to achieve clauses 14.6(a) and (b) and failed to do so on reasonably commercial terms, may we terminate the Contract immediately on written notice.

15 NO POACHING

During the term of this Contract, and for a period of 12 months after its termination or expiry, you must not, directly or indirectly, take any action to hire or solicit for employment or engagement any person who is an officer, employee or contractor of Poppelgaard.com or its related entities, without our prior written consent.

16 FORCE MAJEURE

- 16.1 Neither party will be liable under this Contract for any breach of its obligations resulting from an event outside of its reasonable control.
- 16.2 Where such an event continues for 3 months or longer, the party not affected may terminate this Contract on written notice to the other. Neither party shall have any further liability to the other in respect of termination as a result, but without prejudice to the accrued rights of the parties at the date of termination.

17 DISPUTES

- 17.1 Where either party disputes any matter with the other which cannot be agreed, before any legal action is taken, the parties must comply with this clause.
- 17.2 The dispute will first be referred to our Professional Services Manager and your primary contact person, who must meet in person or by telephone within 7 days of a request being issued by either party. If these parties are unable to reach agreement within 7 days of the meeting, the matter will be referred to each party's Director Practice Management / Managing Partner, with a meeting to be held within 14 days of the referral. If the Director Practice Management / Managing Partner do not resolve the dispute within 7 days of their meeting, either party may take such legal action as is open to them.

18 AMENDING THIS CONTRACT

- 18.1 We may amend the terms of this Contract at any time upon 30 days written notice to you, provided such change does not have a material adverse impact on you.

19 MISCELLANEOUS

- 19.1 If any provisions of this Contract or any document made in connection with this Contract is determined by any court to be wholly or partly unenforceable, that unenforceability shall not affect the rest of the Contract.
- 19.2 The failure or delay by either party to exercise or enforce any of its rights or to enforce any obligation which the other party is in breach of under this Contract is not a waiver of that right.
- 19.3 You may not assign, sublicense, novate, transfer, mortgage, charge or otherwise dispose of or encumber this Contract, or any of your rights or obligations under it, without our prior written consent.
- 19.4 This Contract contains all the terms which the parties have agreed in relation to the subject matter of the Contract, and supersedes any prior written or oral agreements, representations or understandings between the parties whether express or implied.
- 19.5 You acknowledge that this Contract has not been entered into wholly or partly in reliance of any warranty, statement, promise or representation made by or on our behalf other than as expressly set out in the Contract.
- 19.6 The terms of this Contract shall include any addendum to this Contract signed by both parties. Terms defined in this Contract shall have the same meaning in any addendum to this Contract.
- 19.7 This Contract is governed by the laws in force in Aarhus, and the parties submit to the non-exclusive jurisdiction of the courts of Aarhus for determining any dispute concerning this Contract.