



# GENERAL TERMS AND CONDITIONS

## 1) SCOPE

- a) Unless otherwise agreed between the Parties in writing, the provisions of these General Terms and Conditions shall apply to all contractors/Vendors/Suppliers entered into by the Buildmyinfra Pvt. Ltd. (BMI).

## 2) CONFIDENTIALITY, NAME, INTELLECTUAL PROPERTY NON DISCLOSURE OF THE BMI

### B.1. Confidentiality

1. All drawings, photographs, plans, manuscripts, files, reports, recommendations, notes, documents and other data or information, in whatever form, received from the BMI by the Contractor/Vendor/Supplier or prepared or discussed jointly by the BMI and the Contractor/Vendor/Supplier, members of its staff or outside contractors/vendors/suppliers in connection with this contract which are not in the public domain at the time that this contract is concluded ("Confidential Information") shall be treated with the utmost confidentiality by the Contractor/Vendor/Supplier, who undertakes not to reveal either their existence or their content to third parties throughout the term of this contract and for an unlimited period of time thereafter, unless it be with the prior written authorization of the BMI.
2. The Contractor/Vendor/Supplier undertakes to communicate the Confidential Information only to the members of its staff and outside contractors/vendors/suppliers directly involved in the management of this contract and only insofar as absolutely necessary to ensure that this contract is properly performed. The names of the Contractor's/Vendor's/Supplier's employees and outside contractors/vendors/suppliers with access to the Confidential Information shall, at the request of the BMI, be communicated to the letter in writing.
3. The Contractor/Vendor/Supplier undertakes to return, at the end of this contract or in the event of its being terminated, all the documents that constitute Confidential Information. The Contractor/Vendor/Supplier shall confirm, in writing, that it has not retained any copies of the said documents.
4. The Contractor/Vendor/Supplier shall take the measures necessary to ensure that the members of its staff and outside contractors/vendors/suppliers fulfill the Contractor's/Vendor's/Supplier's confidentiality obligations as if they were parties to this contract, even after they cease to be employed by the Contractor/Vendor/Supplier. In particular, the Contractor/Vendor/Supplier undertakes to have the confidentiality clause annexed to this contract signed by all those involved, directly or indirectly, in the performance of this contract.

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5. The Contractor/Vendor/Supplier undertakes to have the confidentiality clause respected or to seek compensation for any breach of that clause by any legal means at its disposal, whether or not the BMI so requests. If its confidentiality obligations are breached by a member of its staff or by an outside contractor/vendor/supplier, the Contractor/Vendor/Supplier shall immediately inform the BMI thereof.
6. Subject to the provisions of this article, the Contractor/Vendor/Supplier may retain documents it has produced under this contract which do not form part of the Confidential Information.
7. The obligations for which this article provides shall not lapse when, for whatever reason, this contract expires.

#### **B.2. Use of the name, logo or official seal of the BMI**

1. The Contractor, members of its staff and its outside contractors may not use for advertising purposes, or otherwise make public, the fact that they are performing or have performed services for, or supplied products to, the BMI, except with the letter's prior agreement in writing; moreover, they may not use the name, logo or official seal of the BMI or the acronym "BMI" to make it known to third parties that they are performing or have performed services for, or supplied products to, the BMI. The Contractor shall take all appropriate measures to ensure that its staff members and outside contractors abide by this provision.

#### **B.3. Intellectual property rights**

1. Unless otherwise arranged between the parties in writing, the BMI shall have the benefit of all intellectual property rights applicable with respect to any product or service developed within the framework of this contract. The intellectual property rights exercised by the Contractor at the time of entering into this contract shall not be affected by the present provision.

### **C. LIABILITY AND INSURANCE**

#### **C.1. Liability of the Contractor/Supplier**

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1. Any act or omission on the part of the Supplier/Contractor, members of its staff or its subcontractors that (i) constitutes a breach, intentional or through negligence, of this contract or (ii) causes injury of any kind to the BMI outside the application of this contract shall render the Contractor liable to the BMI.
  
2. Within this context, the Contractor undertakes, more particularly:
  - a. To fulfill its obligations under this contract competently, diligently and efficiently, and in conformity with the norms applicable and generally accepted professional, administrative and financial practice;
  
  - b. to act at all times in such a way as to protect, and not thwart, the interests of the BMI;
  
  - c. not to make use of subcontractors or independent providers in connection with this contract without the prior authorization, in writing, of the BMI;
  
  - d. in performing this contract, to comply with the law and all regulatory measures applicable to its branch of activity and to take all appropriate steps to ensure that its employees and subcontractors do likewise. In particular, the Supplier/Contractor shall be responsible for obtaining the documents, authorizations and permits needed in order for its personnel to reside or enter and work in the territory within which this contract is to be performed. The Supplier/Contractor undertakes to pay, when due, the wages (less any withholding tax) of its employees, together with any related social security or occupational insurance contributions (employee's share/employer's share);
  
  - e. To follow the orders, directives and instructions of the BMI. In particular, it shall be for the BMI to judge and determine, in each set of circumstances, how and for how long personnel assigned by the Supplier/Contractor to the performance of this contract shall be deployed on BMI premises.

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3. The Supplier/Contractor shall also be liable for the additional costs incurred by the BMI as a result of any failure or delay, imputable to the Supplier/Contractor, in the fulfillment of its obligations under this contract, including any failure or delay resulting from an interruption in supplies to the Supplier/Contractor or from industrial action by the employees of the Supplier/Contractor or its subcontractors. In this respect, at the request of the BMI, the Supplier/Contractor shall draw up and, if necessary, regularly update, in cooperation with the BMI, an emergency plan that enables the Supplier/Contractor to continue to perform this contract in full, without interruption or with the minimum of disruption, in the event of industrial action by its personnel or any other contingency that might affect the availability of the personnel normally assigned by the Supplier/Contractor to the performance of this contract.

#### **C.2. Exemption of the Supplier/Contractor from liability**

1. The Supplier/Contractor shall not be rendered liable if the act or omission that could render it liable within the meaning of the previous provision is due to:
  - a. Causes exclusively imputable to the BMI;
  - b. a cause beyond the control of the Supplier/Contractor, its governing bodies or members of its staff and involving no fault or negligence on their part;
  - c. a case of unforeseeable and irresistible events that constitute a state of force majeure, unless the purpose of this contract/conditions is to prevent, reduce the effect of, or respond to the consequences of such cases of force majeure.

#### **C.3. Indemnification of the BMI**

1. The Supplier/Contractor undertakes to indemnify the BMI for any expense, damage or loss (including the fees of any lawyers hired as a consequence thereof) that the latter might suffer by reason of an act or omission under provision C.1.

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#### **C.4. Insurance**

1. The Supplier/Contractor shall take out the necessary insurance policies and provide for their renewal. The Supplier/Contractor shall, in particular, take out general liability insurance for a total amount corresponding to the coverage usually applicable by event in the professional field of work of the Supplier/Contractor, in the same professional sector and for the same type of contract in the country (ies) where this contract is implemented and covering death and injury and damage to persons and property, when such liability is the result of acts or omissions imputable to the Supplier/Contractor, to members of its staff or to its outside Suppliers/contractors in relation to this contract.

2. At the request of the BMI, the Supplier/Contractor shall supply a copy of the insurance policies. The Supplier/Contractor shall give the BMI the right to contact the Supplier's/Contractor's insurers at any time for the purpose of verifying that insurance premiums are regularly paid. In the event of delay in the payment of insurance premiums, the BMI may substitute itself for the Supplier/Contractor. The overdue premiums thus paid by the BMI shall then be deducted from the remuneration owed by the BMI to the Supplier/Contractor.

3. It shall be for the Supplier/Contractor to take out any life, health, accident or travel insurance or any other insurance that may be necessary or desirable for members of its staff or subcontractors providing goods or services under this contract. The BMI refuses to accept any responsibility in this regard.

4. If so required by a change in circumstances, the Parties agree to consider any other form of cover on a mutually acceptable basis.

#### **D. SPECIFIC GROUNDS FOR SUSPENSION OR TERMINATION D.1. Bankruptcy of the Supplier/Contractor**

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1. If the Supplier/Contractor is declared bankrupt, becomes insolvent, or forms the subject of a stay of bankruptcy, a winding-up procedure or any other similar proceedings, if the Supplier's/Contractor's management changes as a result of its insolvency, or if the Supplier/Contractor is taken over by or merges with another enterprise, the BMI may, without prejudice to any other right or remedy, terminate this contract/agreement with immediate effect by notifying the Supplier/Contractor of its decision to terminate the contract/agreement in writing. Failing that, this contract/agreement shall be binding on any successor to the Supplier/Contractor that assumes its rights.

## **D.2. Force majeure and other situations beyond the control of the Parties**

1. In the event of force majeure or other situations that lie beyond the control of the Parties, are irresistible, do not result from their own negligence and prevent the normal performance of this contract, the Parties may agree to modify or temporarily suspend the supplies or services for which this contract provides.

## **E. FINAL PROVISIONS**

### **E.1. Languages to be used in communications**

1. The Contractor undertakes to use only Hindi or English in all its written communications addressed to the BMI in connection with the fulfillment of its obligations under this contract, for all documents that it delivers or prepares within the context of its obligations, as well as in any oral communication with the BMI.

### **E.2. Amendment of this contract/agreement**

1. This contract/agreement may be amended by the Parties at any time by mutual agreement.
2. The validity and enforceability of any amendment to this contract shall be conditional upon the prior approval of the Parties, in writing, drawn up in the form of an addendum to this contract duly signed by the Parties.
3. Any amendment to this contract shall be valid only for the future, unless otherwise agreed by the Parties.

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### **E.3. Termination**

1. Either party may terminate this contract/agreement for any reason whatsoever, without having to indemnify the other party and by giving the other party, in writing, a notice proportional to the duration of this contract/agreement as defined in the letter. The contractual clauses applicable to the liquidation of this contract/agreement as well to the liquidation of rights and settlement of disputes shall remain in force for as long as necessary.

2. The previous paragraph notwithstanding, in the event of a serious failure by the Supplier/Contractor to fulfill the obligations defined in this contract/agreement, the BMI may terminate this contract/agreement without notice or with a notice that it will deem appropriate under the circumstances.

3. In the event of termination based on a serious failure by the Supplier/Contractor, the BMI shall have the right to demand compensation from the Supplier/Contractor for the consequential damage.

4. In the event of this contract/agreement being terminated, for any reason whatsoever:

(a) The BMI shall make any payments that may be owed to the Supplier/Contractor up to the effective date of termination in relation to deliveries of goods or services under this contract/agreement;

(b) the Supplier/Contractor shall complete any services, deliveries or installations in progress and, in any event, take all appropriate measures to prevent the loss or deterioration of goods or any other damage to the BMI;

(c) the Supplier/Contractor shall collaborate fully with the BMI with a view to enabling this contract/agreement to be taken over, if necessary, by another provider of goods or services under good conditions.

### **E.4. Interpretation and arbitration**

1. The terms of this contract/agreement shall be interpreted on the basis of their ordinary meaning, irrespective of any reference to a domestic legal system, having regard to the mutual discussion. Reference shall be made to the law of the place of performance of the contract only if and strictly to the extent that the terms of this contract are ambiguous or unintelligible or the sole arbitrator establishes the existence of a gap or omission in this contract/agreement.

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2. Any dispute, difference of opinion or complaint relating to this contract/agreement, its performance or the termination or invalidity thereof shall be settled by arbitration in accordance with the Arbitration Rules of India, in force as of the date of this contract/agreement. The arbitral tribunal shall be composed of a sole arbitrator. The sole arbitrator shall be appointed by the Secretary-General of the Permanent Court of Arbitration unless the Parties agree on the name of an arbitrator within one month of resorting to arbitration. The arbitration shall take place in Delhi/Haryana (India) and the language of the procedure shall be English. The arbitral award shall be final and may not be appealed before national courts for any reason whatsoever.

#### **E.5. Privileges and immunities**

1. None of the provisions of this contract or of the annexed or mentioned documents shall imply or be construed to imply a waiver by the BMI, even temporary, partial or implicit, of its privileges and immunities.

2. In applying this contract, the Supplier/Contractor, the members of its staff and its outside contractors/suppliers may in no circumstances invoke an employment relationship with the BMI or the status of BMI official. In the performance of this contract/agreement, the Supplier/Contractor, the members of its staff and its outside Supplier/Contractors shall not enjoy any of the privileges or immunities of the BMI.

#### **E.6. Annexes**

1. The annexes to this contract shall form an integral part thereof. In case of conflict between a provision of this contract and a provision of an annexed document, the provision of this contract shall prevail.

#### **E.7. Audits and investigations**

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1. The terms and conditions of this contract and their implementation may form the subject of audit procedures or investigations carried out by the competent authorities of the BMI or by external authorities. At the request of the BMI, the Supplier/Contractor shall cooperate fully with these procedures.

#### F. PAYMENT TERMS

1. BMI's normal terms of payment is through Cheque/Direct Bank Transfer as per the NET Terms agreed upon by both parties. Days upon receipt of invoices against goods/work order. Invoices are to be sent to the address indicated in the purchase/work order.

2. As part of the BMI contribution to the international fight against money laundering, the invoice shall not be paid to anyone except the Supplier/Contractor/Vendor. The Supplier/Contractor/Vendor may also be required to provide evidence that the bank account to which the transfer will be made is actually the Supplier/Contractor/Vendor bank account.

#### G. LIQUIDATED DAMAGES

By "Liquidated damages" we mean damages whose amount the parties to a contract/agreement quantify and designate during the negotiation of a contract for the non-breaching party to receive as compensation upon a specific breach (e.g., non-performance, late performance or inadequate performance).

"The Supplier/Contractor shall not have allowed to damage any property either it related to BMI or BMI client in any circumstances like as Bad Behavior of site team, Payment issues, Billing Finalization or any relevant conditions, otherwise Supplier/Contractor will be penalized with three times value of the damaged property/assets/material also BMI will not be liable to pay anything for this type of situation also BMI or BMI Client is authorized to take any legal action against Supplier/Contractor/Sub Contractor."

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