

**GWF USA INC**

**TERMS AND CONDITIONS FOR THE SUPPLY OF SERVICES**

**THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF *CLAUSE 8* (LIMITATION OF LIABILITY).**

**1. Interpretation**

The following definitions and rules of interpretation apply in these Conditions.

**1.1 Definitions:**

**Business Day:** a day other than a Saturday, Sunday or a federally recognized holiday in the USA, or any day on which banking institutions are authorized or required by law or other governmental action to close.

**Business Hours:** the period from 8:30 am to 4:30 pm EST on any Business Day.

**Charges:** the charges payable by the Customer for the supply of the Services in accordance with clause 5.

**Commencement Date:** has the meaning given in clause 2.2.

**Conditions:** these terms and conditions as amended from time to time in accordance with clause 11.5.

**Contract:** the contract between the Supplier and the Customer for the supply of Services in accordance with these Conditions.

**Control:** has the meaning provided in 2 CFR § 910.368, and the expression **change of control** shall be construed accordingly.

**Customer:** the person or firm who purchases Services from the Supplier.

**Customer Default:** has the meaning set out in clause 4.2.

**Deliverables:** the deliverables set out in the Order produced by the Supplier for the Customer.

**Force Majeure Event:** has the meaning given to it in clause 11.1.

**Intellectual Property Rights:** patents, utility models, rights to inventions, copyright and any and all and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for unauthorized use or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or

extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**Order:** the Customer's written acceptance of the Supplier's quotation.

**Services:** the services, including the Deliverables, supplied by the Supplier to the Customer as set out in the Specification.

**Service Specification:** the description or specification for the Services provided set out in the Supplier's quotation by the Supplier to the Customer.

**Supplier:** **GWF USA INC**, which is registered in Delaware and Florida whose address is P.O.Box 772817, Ocala, Florida 34477.

**Supplier Materials:** has the meaning set out in clause 4.1(g).

## 1.2 Interpretation:

- (a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party included its personal representatives, successors and permitted assigns.
- (c) Unless expressly provided otherwise in this Contract, a reference to legislation or a legislative provision:
  - (i) is a reference to it as amended, extended or re-enacted from time to time; and
  - (ii) shall include all subordinate legislation made from time to time under that legislation or legislative provision.
- (d) Any words following the terms **in particular**, **for example** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

## 2. Basis of contract

- 2.1 The Order constitutes an offer by the Customer to purchase Services in accordance with these Conditions.
- 2.2 The Order shall only be deemed to be accepted when the Supplier issues written acceptance of the Order, at which point, and on which date, the Contract shall come into existence (**Commencement Date**).
- 2.3 Any samples, drawings, descriptive matter or advertising issued by the Supplier, and any descriptions or illustrations contained in the Supplier's marketing materials, are issued and/or published for the sole purpose of giving an approximate idea of the Services described in them.

They shall not be considered to be a part of the Contract or have any force or meaning under the contract.

- 2.4 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.5 The Parties hereby agree, that by execution hereof, the terms and conditions contained herein shall control, notwithstanding anything to the contrary in the Contract between the Parties. Further, in the event that a quote was provided to Customer, such quote shall be considered non-binding and only the terms of this document, the Contract, and any amendments thereto, made in writing and executed by all parties, shall be binding upon the Parties.
- 2.6 The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with, or contained in, any documents of the Customer that are inconsistent with these Conditions.

### **3. Supply of Services**

- 3.1 The Supplier shall supply the Services to the Customer in accordance with the Specifications in all material respects.
- 3.2 The Supplier shall use all reasonable efforts to meet any performance dates specified in the Order, but any such dates shall only be considered estimates, and time shall not be of the essence for performance of the Services.
- 3.3 The Supplier reserves the right to amend the Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.
- 3.4 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.

### **4. Customer's obligations**

- 4.1 The Customer shall:
  - (a) ensure that the terms of the Order and any information it provides in the Specification are complete and accurate;
  - (b) co-operate with the Supplier in all matters relating to the Services;
  - (c) provide the Supplier, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Supplier;

- (d) provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
- (e) prepare the Customer's premises, or the site or location as applicable, for the supply of the Services;
- (f) obtain and maintain all necessary licenses, permissions and consents which may be required for the Services before the date on which the Services are to start;
- (g) keep all materials, equipment, documents, and other property of the Supplier (**Supplier Materials**) at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and to not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorization; and
- (h) comply with any additional obligations as set out in the Specification.

4.2 If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer, or failure by the Customer to perform any relevant obligation (**Customer Default**), then:

- (a) without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
- (b) the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 4.2; and
- (c) the Customer shall immediately reimburse the Supplier upon written demand by Supplier for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

## 5. Charges and payment

5.1 The Charges for the Services shall be calculated on a time and materials basis:

- (a) the Charges shall be calculated in accordance with the Supplier's daily fee rates, as set out in the Supplier's quotation or otherwise confirmed in writing by the Supplier;
- (b) the Supplier's daily fee rates for each individual are calculated on the basis of an eight-hour day from 8:30 am to 4:30 pm worked on Business Days;

- (c) the Supplier reserves the right to charge an overtime rate of the daily fee rate on a pro-rata basis for each part day or for any time worked by individuals whom it engages on the Services outside the hours referred to in clause 5.1(b); and
  - (d) the Supplier shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services including travelling expenses, hotel costs, meals and any associated expenses, and for the cost of services provided by third parties and required by the Supplier for the performance of the Services, and for the cost of any materials.
- 5.2 The Supplier shall invoice the Customer on completion of the Services or in accordance with the payment terms set out on the quotation.
- 5.3 The Customer shall pay each invoice submitted by the Supplier:
  - (a) within 30 days of the date of the invoice or in accordance with any credit terms agreed by the Supplier and confirmed in writing to the Customer; and
  - (b) in full and in cleared funds to a bank account nominated in writing by the Supplier, and
  - (c) time for payment shall be of the essence of the Contract.
- 5.4 All amounts payable by the Customer to the Supplier are exclusive of taxes unless specifically stated otherwise. Customer shall be responsible for any and all sales taxes due, as well as any other tax directly applicable to the performance of the terms and conditions of this Contract, whether such taxes be local, state, or federal taxes.
- 5.5 If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies under clause 9, the Customer shall 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 5.5 shall accrue each day at a rate equal to the Prime Rate as issued by the Wall Street Journal, plus 4%, per annum, but shall be at 4% a year for any period when that base rate is at or below 0%. For clarification, if the Prime Rate published by the Wall Street Journal is 2%, then interest shall accrue at the rate of 6% per annum, with such amount being compounded daily. Under this example, interest would accrue at the rate of 0.01667% per day (6% / 360 days). In the event that the interest rate exceeds the maximum interest rate permitted by law, then the applicable interest rate for such period of time shall instead be equal to the maximum interest rate allowed to be applied under the law as it is then in effect.
- 5.6 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax, or other deduction or withholding as required by law).

## 6. Intellectual property rights

- 6.1 All Intellectual Property Rights in, or arising out of, or in connection with, the Services (other than Intellectual Property Rights in any materials provided by the Customer) shall continue to be owned by the Supplier and Customer explicitly voluntarily and knowingly agrees that it shall have no right or claim to the Intellectual Property Rights of the Supplier.
- 6.2 The Supplier grants to the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free, perpetual and irrevocable license to copy the Deliverables (excluding materials provided by the Customer) for the purpose of receiving and using the Services and the Deliverables in its business.
- 6.3 The Customer shall not sub-license, assign or otherwise transfer the rights granted in clause 6.2.
- 6.4 The Customer grants the Supplier a fully paid-up, non-exclusive, royalty-free, non-transferable license to copy and modify any materials provided by the Customer to the Supplier for the term of the Contract for the purpose of providing the Services to the Customer.

## 7. Data protection

- 7.1 The following definitions apply in this clause 7:
  - (a) **Data Protection Legislation:** all applicable data protection and privacy legislation in force from time to time in the United States of America, including the Federal Trade Commissions Act (15 U.S. Code Section 41 et seq.), and regulations made thereunder, and the Electronics Communications Act of 1986, and all other applicable laws.
  - (b) **Domestic Law:** This Contract shall be governed by the laws of the state of Florida.
- 7.2 Both parties will comply with all applicable data protection laws.
- 7.3 The parties acknowledge that when providing the Services to the Customer, the Supplier must gain access to and or acquire the ability to transfer, store, or process personal data of the employees of the Customer.
- 7.4 Notwithstanding the terms of clause 7.2, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Supplier for the duration and purposes of the Contract.
- 7.5 The Customer consents to the Supplier appointing third-party processors of Personal Data under the Contract.

**8. Limitation of liability: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.**

- 8.1 The limits and exclusions in this clause reflect the insurance coverage that the Supplier has been able to secure and the Customer is responsible for making its own arrangements for any insurance it desires in excess of such limits.
- 8.2 References to liability in this clause 8 include every kind of liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 8.3 Neither party may benefit from the limitations and exclusions set out in this clause in respect of any liability arising from its willful or deliberate default.
- 8.4 Nothing in this clause 8 shall limit the Customer's payment obligations under the Contract.
- 8.5 Nothing in the Contract shall not be considered to limit any liability which cannot legally be limited.
- 8.6 Subject to clause 8.3 (No limitation in respect of deliberate default), and clause 8.5 (Liabilities which cannot legally be limited), the Supplier's total liability to the Customer:
- (a) for all loss or damage, arising under or in connection with the Contract shall not exceed the sum equal to the total charges payable by the Customer to the Supplier for the Services under the Contract.
- 8.7 The cap on the Supplier's liabilities set out in clause 8.6 shall be reduced by:
- (a) payment of an uncapped liability; and
  - (b) amounts awarded by a court or arbitrator, using their procedural or statutory powers in respect of costs of proceedings or interest for late payment.
- 8.8 Subject clause 8.3 (No limitation in respect of deliberate default), clause 8.4 (No limitation of customer's payment obligations) and clause 8.5 (Liabilities which cannot legally be limited), this clause 8.8 sets out the types of loss that are wholly excluded:
- (a) loss of profits.
  - (b) loss of sales or business.
  - (c) loss of agreements or contracts.
  - (d) loss of anticipated savings.
  - (e) loss of use or corruption of software, data or information.
  - (f) loss of or damage to goodwill; and

(g) indirect or consequential loss.

8.9 The Supplier has given commitments as to compliance of the Services with relevant specifications in clause 3.

8.10 Unless the Customer notifies the Supplier that it intends to make a claim in respect to an event within the notice period, the Supplier shall have no liability for such event. The notice period for an event shall start on the day on which the Customer became, or ought reasonably to have become, aware of its having grounds to make a claim in respect of the event and shall expire 3 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

8.11 This clause 8 shall survive termination of the Contract.

## **9. Termination**

9.1 Without affecting any other right or remedy available to it, the Supplier may terminate the Contract by giving the other party thirty (30) days' prior written notice.

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

- (a) the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within seven days of that party being notified in writing to do so;
- (b) the Customer files for, or is forced into bankruptcy, or commences action to dissolve its corporate entity;
- (c) the Customer party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- (d) the Customer'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.

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

- (a) the Customer fails to pay any amount due under the Contract on the due date for such payment; and/or
- (b) there is a change of control of the Customer entity.

9.4 Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services under the Contract or any other contract between the Customer and the Supplier if:



- (a) the Customer fails to pay any amount due under the Contract on the due date for such payment;
- (b) the Customer becomes subject to any of the events listed in clause 9.2(c) or clause 9.2(d), or the Supplier reasonably believes that the Customer is about to become subject to any of them; and
- (c) the Supplier reasonably believes that the Customer is about to become subject to any of the events listed in clause 9.2(b).

## **10. Consequences of termination**

### **10.1 On termination of the Contract:**

- (a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest. Further, in respect of Services supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt; and
- (b) the Customer shall return all of the Supplier Materials and any and all Deliverables which have not been fully paid for. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them without prior notice, and Customer explicitly and knowingly agrees that Supplier shall have the right to enter upon Customer's premises to take such property back. Until such unpaid property has been returned, the Customer shall be solely responsible for such property's safe keeping and will not use such property for any purpose.

10.2 Termination of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

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

## **11. General**

**11.1 Force majeure.** Seller shall not 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. Such "force majeure" events shall include pandemics and epidemics, including the COVID-19 pandemic, especially in the event it leads to further government mandated shutdowns, labor strikes, weather events (including, but not limited to hurricanes, earthquakes, floods, fires, tsunamis, etc.), supply shortages, civil unrest, war, armed conflict, changes in applicable law, and any other even or circumstance beyond the control of the Supplier that causes it to be unable to meet its obligations due to such circumstance(s).

### **11.2 Assignment and other dealings.**

- (a) The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.
- (b) The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Supplier.

### **11.3 Confidentiality.**

- (a) Customer undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the Supplier's, except as permitted by this clause 11.3(b).
- (b) Customer may only disclose the Supplier's confidential information:
  - (i) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of carrying out the Customer's obligations under the Contract. Customer shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the Supplier's confidential information comply with this clause 11.3; and
  - (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- (c) Customer shall not use the Supplier's confidential information for any purpose other than to perform its obligations under the Contract.

### **11.4 Entire agreement.**

- (a) The Contract constitutes 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.
- (b) Each party acknowledges that in entering into the Contract it has not and will 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.
- (c) Nothing in this clause shall limit or exclude any liability for fraud.

### **11.5 Modification.** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorized representatives).

- 11.6 Waiver.** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 11.7 Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision or part-provision of this Contract deleted under this clause 11.7 the parties shall negotiate in good faith to agree on a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 11.8 Notices.**
- (a) Any notice given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or sent by email to the address routinely used by the Supplier or the Customer during the course of the Contract.
  - (b) Any notice shall be deemed to have been received:
    - (i) if delivered directly by hand to the Managing Director, at the time the notice is left at the proper address;
    - (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after delivery; or
    - (iii) if sent by email at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 11.8(b)(iii), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
  - (c) This clause 11.8 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.
- 11.9 Third party rights.**
- (a) Unless it expressly states otherwise in the Contract, there shall be no third party beneficiaries under this Contract and no party that is not a direct party to the Contract shall have any right to make a claim pursuant to the Contract.
  - (b) The rights of the parties to rescind or modify the Contract are not subject to the consent of any other person.

- 11.10 Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the laws of the state of Florida.
- 11.11 Jurisdiction.** Each party irrevocably agrees that the courts of Pinellas County, Florida shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.