

KMT FARMING & CONSULTANCY LTD - TERMS OF BUSINESS

1. Introduction

- 1.1. These terms and conditions do not affect statutory and common law rules which govern agricultural and business consultancies, but if there is a conflict between them and these terms and conditions, the terms and conditions will prevail as far as it is possible to do so.
- 1.2. When 'we' and 'us' are used in these terms and conditions they mean KMT Farming & Consultancy Ltd ("Consultant"), Company number 08512367. The registered office is The Barn, Brookbank, Newcastle Road, Stapeley, Nantwich, CW5 7EJ. Our Director is Keith Thomas, and he will oversee your instruction. He is a member of the British Institute of Agricultural Consultants and Central Association of Agricultural Valuers.
- 1.3. When 'you' and 'your' and 'the Client' are used these words mean the person or business that has signed the relevant Letter of Instruction.

2. This firm's responsibilities to you

The work we will carry out is as follows:

- 2.1. We will complete any work as outlined in the relevant signed Letter of Instruction

3. Your responsibilities to this firm

- 3.1. To provide adequate and timely instructions
- 3.2. To pay fees and disbursements on account and as they fall due
- 3.3. Keep us up to date of all relevant matters concerning the case at all times and to provide us with as much information as we reasonably request.
- 3.4. Send us copies of all relevant notices and correspondence within 5 working days of receipt.

4. Charges and expenses

- 4.1. Our fees are as follows:
 - 4.1.1. We will charge as per the fees detailed in the signed Letter of Instruction.
- 4.2. We will endeavour at all times to ensure that the appropriate person is dealing with the work, so you may get a mixture of people working on your instruction according to the technicality of the work involved to ensure that the work is done as cost effectively as possible.
- 4.3. We will add VAT to our charges. All bills are subject to VAT at the prevailing rate where applicable.
- 4.4. We may charge for any expenses we incur on your behalf (disbursements). These include courier costs, travel expenses and other costs of using the services. VAT is payable on most of these items.
- 4.5. If we need to carry out some unforeseen additional work, we will let you know about this and provide you with details of the costs of carrying it out. This can arise because of unexpected

difficulties, your requirements changing, circumstances changing during the course of the matter (such as unexpected action or inaction by another party or parties involved in the matter).

- 4.6. If the matter is not concluded we will still charge for the time we spend and any disbursements and expenses we incur on your behalf, and you will have to pay our charges and expenses.
- 4.7. We will normally ask you to pay certain sums in advance of us carrying out work and incurring expenses on your behalf. From time to time we will ask for further sums in advance during the course of the matter. We will offset such payments made in advance against the invoices we will send to you from time to time and the final invoice. However, you should be aware that the total charges and expenses are likely to exceed the advance payments you have made to us.
- 4.8. We reserve the right to clear any cheques or other forms of payment you provide to us before carrying out any work on any aspect of your case. We normally allow 7 working days for cheques to clear through the banking system.

5. Invoices

- 5.1. We will send you invoices for our charges and expenses on a regular basis during the course of this matter, normally monthly.
- 5.2. You should pay our invoices within 14 days of the date of the invoice. Time for payment is of the essence. We only accept cash up to a maximum of £500.00. If you have opted to pay by Go Cardless our fee will be deducted automatically from your bank account on the invoice due date.
- 5.3. If you have any queries about any invoice you receive please contact us immediately. We reserve the right to charge interest at a rate of 8% above the Bank of England base rate and £20 administration charge per item of correspondence that directly relates to the recovery of money if payment has not been received within 14 days.
- 5.4. Where more than one Client has entered into this Agreement, the Clients shall be jointly and severally liable for all payments of the invoice.
- 5.5. If the Client defaults in payment of any invoice when due, the Client shall indemnify the Consultant from and against all costs and disbursements incurred by the Consultant in pursuing the debt including the legal costs of a solicitor and own client basis and the Consultant's collection agency costs.
- 5.6. If any account remains overdue after thirty (30) days then an amount of £20.00 shall, at our discretion, be levied as an administration fee and shall be levied for each month that the account remains overdue, which sums shall become immediately due and payable.
- 5.7. Without prejudice to the Consultant's other remedies at law the Consultant shall be entitled to cancel all or any part of any order of the Client which remains unperformed in addition to and without prejudice to any other remedies and all amounts owing to the Consultant shall, whether or not due for payment, become immediately payable in the event that:
 - 5.7.1. any money payable to the Consultant becomes overdue, or in the Consultant's opinion the Client will be unable to meet its payments as they fall due; or
 - 5.7.2. the Client becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors;

or

- 5.7.3. a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client and any asset of the Client.

6. Electronic mail

Electronic mail enables us to communicate quickly with our clients (and also for clients to correspond with us quickly). It is estimated that most emails are transmitted securely. However, some emails are received by outdated systems where the message could be intercepted before the end-user opens the message. As our email messages often contain confidential information, we recommend that email messages sent between us are encrypted. This will require you to use a password to collect the message in PDF format. However, we will only use encrypted email if you specifically send a written request to us for this. Please let us know if you have any objection to communication by e mail. Email will be treated as written correspondence.

7. Data Protection

7.1. By your agreeing to KMT Farming & Consultancy Ltd acting for you, you are consenting, in accordance with the Data Protection Act 1998 and the General Data Protection Regulations, to KMT Farming & Consultancy Ltd holding and processing in any form, and transferring, data we collect in relation to you for the purpose of providing our services. No information concerning you or the matter with which we are dealing on your behalf will be disclosed or passed onto a third party without your specific authority (subject to the proviso set out in clause 9 below). Our Privacy Policy is displayed on our website. A copy is available on request. If you have any questions or concerns regarding our use of your data, then please address them to Keith Thomas.

7.2. The Client authorises the Consultant to:

- a) Collect, retain and use any information about the Client, for the purpose of assessing the Client's creditworthiness or marketing products and services to the Client; and
- b) To disclose information about the Client, whether collected by the Consultant for the Client directly or obtained by the Consultant from any other source, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or of listing a default by the Client on publicly accessible credit reporting databases.

7.3. The Client consents to the transfer of information outside of the European Economic Area for the purposes listed above.

7.4. The Client shall have the right to ask the Consultant for a copy of the information about the Client held by the Consultant and the right to request the Consultant to correct any incorrect information about the Client held by the Consultant.

8. Proof of Identity

8.1. We should be grateful if you would provide us with documents to verify your identity and address. Normally until we have received satisfactory evidence of identity, we will not be able to receive funds or pay any funds to you or on your behalf.

- 8.2. Please would you provide your current valid passport or Photo ID Driving Licence together with a second form of identity (such as a utility bill, bank statement) which shows your current address, and which is not dated more than 3 months prior to the date we ask for evidence of your identity. If you are unable to fulfil these requirements, please let us know and we can discuss ways for you to provide alternative means of identity.
- 8.3. If you are an organisation, these requirements will apply to each individual who deals with us on behalf of the organisation (such as directors, managers and employees).

9. Restrictions on Use, Distribution and Publication

- 9.1. Any report, advice or correspondence associated with the provision of the services will be confidential to you, and for your use, and no responsibility whatsoever shall be accepted to any third party for the whole or any part of its contents. Any such third parties who rely upon any report, advice or correspondence do so at their own risk. Neither the whole nor any part of any report, advice or correspondence, or any reference to it may be included now, or at any time in the future, in any published document, circular or statement, nor published, referred to or used in any way without our written approval of the form or context in which it may appear.
- 9.2. Where the Consultant has provided reports and assessments as part of the services, the copyright in those reports and assessments shall remain vested in the Consultant and shall only be used by the Client at the Consultant's discretion.

10. Confidentiality, money laundering and proceeds of crime

All information you give to us is confidential and will not be disclosed to any third party without your prior agreement or as required by law. When working with your other professional advisors we will require their contact details and, unless you specifically instruct us not to, we may discuss all relevant information with them.

11. Critical Dates

Once your matter is completed we cannot accept an on-going responsibility for reminding you of critical dates in respect of such matters as rent reviews, lease renewals, exercise of options, service of notices or counter-notices within time limits or any other such matters, unless we have current and specific instructions from you to deal with such matters in time prior to the critical date concerned.

12. Insurance and Liability

- 12.1. You acknowledge and agree that if you wish to make a claim relating to or in connection with the services provided by us, the claim can only be brought against KMT Farming & Consultancy Ltd and not against the individual members, officers or employees. KMT Farming & Consultancy Ltd has in place indemnity insurance with a level of cover up to £500,000.
- 12.2. 'Claim' means any claim whether arising out of this Agreement or otherwise, and whether such claim is in contract, tort, breach of trust or any other basis.
- 12.3. Subject to clause 12.4, our maximum liability for loss or damage for breach of contract, or negligence or otherwise is £500,000 any one transaction/matter or series of connected transactions/matters. In no circumstances shall KMT Farming & Consultancy Ltd be liable for any loss (whether direct or indirect) of profits, loss of production, loss or corruption of data, loss of use, loss of opportunity, loss of savings, discount or rebate, loss of goodwill, business or anticipated savings or indirect or consequential loss or damage whatsoever.

12.4. Nothing in these terms seeks to exclude liability for fraud or personal injury.

13. Completing BPS Applications, Farming Compliance Advice and Countryside Stewardship Schemes.

13.1. If you require advice on completing BPS applications, Farming Compliance Advice or Countryside Stewardship Schemes, by signing these terms of engagement you acknowledge that:

13.1.1. You have read and understood and will comply with the guidelines set out in the Department for Environment Food and Rural Affairs ('DEFRA') booklets.

13.1.2. The advice is given on the basis that all information, data and statistics supplied by you to KMT Farming & Consultancy Ltd is true, complete and accurate in all respects. The supply of accurate data is solely your responsibility and KMT Farming & Consultancy Ltd undertakes no responsibility for checking the accuracy of data supplied to him.

13.1.3. The advice is given by KMT Farming & Consultancy Ltd in their capacity as a general farm consultant and subject to his Terms and Conditions. If you are in any doubt as to the information to be included in any part of the Forms you should contact DEFRA directly, or the relevant government office.

13.1.4. For the avoidance of doubt KMT Farming & Consultancy Ltd limits its liability for providing the type of advice described in this clause 13 as follows:

The liability of KMT Farming & Consultancy Ltd shall be limited to the payment made by you for the provision of the advice.

14. Storage of papers and documents

14.1. We are entitled to keep all the papers and documents generated by us or received from you or other persons (including original documents) if some or any sums owing by you to us have not been paid at the end of our work on the matter or after termination of the retainer.

14.2. We normally keep papers for 6 years or longer if there is a legitimate interest in keeping those papers (except for those you ask us to return to you). We keep the papers on your acceptance that at the end of retention we have your express authority to destroy the papers. However, we will not destroy papers you have expressly asked us to keep in safe custody or where there is a legitimate interest in keeping those papers in accordance with the provisions of the General Data Protection Regulations. Such legitimate interests arise from contractual, professional, regulatory and compliance obligations.

14.3. We do not usually charge to retrieve papers or documents held in storage where you provide continuing or new instructions. We may charge (based on the time we spend in producing stored papers or documents) for producing them to you or to another person at your request.

15. Suspension of termination

Without prejudice to any other remedies the Consultant may have, if at any time the Client is in breach of any obligation (including those relating to payment), the Consultant may suspend or terminate the supply of services to the Client and any of its other obligation under the terms and conditions. The Consultant will not be liable to the Client for any loss or damage the Client suffers because the Consultant exercised its rights under this Clause.

16. Termination

- 16.1. You can terminate your instructions to us in writing at any time. But if you have not paid all the sums owing to us, we are entitled to keep your papers and documents until you do so.
 - 16.2. We will normally stop acting for you when we have a good reason to do so; for example:
 - 16.2.1. if you do not pay one or more of our invoices, or
 - 16.2.2. if you do not make an advance payment promptly when we require you to do so, or
 - 16.2.3. if you provide instructions which are unreasonable or would require us to breach any law or a professional rule.
- However, we may stop acting for you and terminate our engagement with you by notice but without providing a reason.
- 16.3. If we decide to stop acting for you, we will give you reasonable notice that we are to stop acting. The precise length of the notice will depend on the circumstances.
 - 16.4. If we cease acting for you, you will pay us for the time we spend based on hourly rates plus any expenses incurred up to the date of our ceasing to act for you.

17. Our service and complaints

Our aim is to provide a service with which you will be satisfied. However, on some occasions your expectations may not be met, or you may have a query, concern or complaint. If any of these occur, please raise them with Keith Thomas, Director and we will aim to resolve your concerns quickly. If the query is not resolved to your satisfaction, please put the complaint in writing and we will respond within 14 working days from receipt of your letter.

18. Dispute resolution

- 18.1. Any dispute arising between the parties out of or in connection with the Contract shall be dealt with in accordance with the provisions of this clause 18.
- 18.2. The dispute resolution process may be initiated at any time by either party serving a notice in writing on the other party that a dispute has arisen. The notice shall include reasonable information as to the nature of the dispute.
- 18.3. The parties shall use all reasonable endeavours to reach a negotiated resolution through the following procedures:
 - 18.3.1. within 14 working days of service of the notice, the managers and owners of the parties shall meet to discuss the dispute and attempt to resolve it.
- 18.4. The specific format for the resolution of the dispute under clause 18.3.1 shall be left to the reasonable discretion of the parties but may include the preparation and submission of statements of fact or of position.

18.5.If the dispute has not been resolved within 14 days of the meeting of the managers or owners, the dispute may be referred to mediation in accordance with the London Court of International Arbitration Mediation Rules.

18.6.Either party may issue formal legal proceedings or commence arbitration at any time whether or not the steps referred to in clause 18.5 (mediation) have been completed.

19. Distance Selling

19.1. Subject to clause 19.2 if you have made your order via telephone or internet you have a right to cancel that order within 14 days of making the Order. Any sums paid prior to such cancellation by You will be refunded within 14 days of cancellation. All notices of cancellation must be in writing and sent to KMT Farming & Consultancy Ltd, The Barn, Brookbank, Newcastle Road, Stapeley, Nantwich, CW5 7EJ in writing by post or by fax.

19.2. You shall not be entitled to cancel the contract pursuant to the distance selling provisions within the Consumer Contracts Regulations 2013 and the Consumer Rights Act 2015 once the performance of the services has begun within this Agreement.

20. Further instruction concerning other matters

If you provide us with further instructions concerning other matters, these general terms and conditions will apply, unless we agree otherwise.

21. General

21.1. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legally and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

21.2. The Client shall not be entitled to set off against or deduct from the price any sums owed or claimed to be owed to the Client by the Consultant.

22. Law and jurisdiction

This Agreement shall be governed by and construed in accordance with the law of England and Wales and each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.