



Terms and Conditions

Version 01 of 2025

1. Definitions

1.1. In these terms and conditions, the following terms shall have the following meanings:

Applicable Law	means the laws of England and Wales and any other law that applies;
Commencement Date	means the date on which the Works are to commence as set out in the Quote or Scope of Works;
Contract	means an agreement for the supply of the Works in accordance with these terms and conditions, a Quote and any relevant documents referenced in these terms including a Scope of Works or Product Specification;
Customer	means the person who has issued a Purchase Order accepting the Quote and shall be deemed to include any agents (including the Customer's architect or surveyor nominated in writing) acting on the Customer's behalf;
Employment Regulations	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246);
Fees	means the total sum payable to The Splash under this Contract;
Goods	means the goods, materials, and equipment to be supplied and included within the Quote;
Initial Term	means the period set out in the Quote or Scope of Work;
Intellectual Property Rights and/or IPR	means patents, rights to inventions, copyright and neighbouring 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 passing off 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;
Product Description	means a Product Description that is referenced in the Quote;
Programme of Work	means any programme that is attached to or referenced in the Quote
Purchase Order	means the Customer's order referencing the Quote;
Quote	means The Splash's Quote that has been accepted by the Customer together with any Scope of Works, Product Description/s, drawings and/or documents (such as bills of quantities, Programmes of Work, visualisations and service levels) issued by The Splash as may be attached;
Scope of Works	means the Scope of Works attached to the Quote;
Service/s	means the services to be supplied as described in the Quote;
The Splash	means Splash Pads Enterprises Limited whose registered address is 5 Doolittle Yard, Flitwick, Bedford, England, MK45 2NW or any of its subsidiaries or related companies as may be set out in the Quote;
Works	means the combination of Goods and Services as described in the Quote and Scope of Works;
Works IPR	means the Intellectual Property Rights supplied by The Splash in connection with performance of the Works and the Contract;

2. Basis of Contract

- 2.1. The Purchase Order constitutes an offer by the Customer to purchase the Works in accordance with the Quote and Product Description and these terms and conditions and any other document referencing the Quote agreed between the parties.
- 2.2. The Purchase Order shall only be deemed to be accepted when The Splash issues written acceptance of the Purchase Order at which point, and on which date the Contract shall come into existence.
- 2.3. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance, or warranty made or given by The Splash which is not included in the Contract. Any descriptive matter or advertising contained in The Splash's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the goods and services provided by The Splash. They shall not form part of the Contract or have any contractual force. Quotes will remain valid for a period of 45 days from the date of issue.
- 2.4. Where Goods have to be imported from abroad the Quote is based upon the exchange rate current at the time the Quote is issued. The Fees may be subject to change up or down to reflect changes in that exchange rate during the period up to commencement on site.
- 2.5. These terms and conditions apply to the exclusion of all other terms and conditions that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 5.1.2. ensure that damage is not caused to plant used by The Splash, whether owned, borrowed or hired by The Splash, as a consequence of the negligence or fault of the Customer, its employees, other contractors or representatives.
- 5.1.3. ensure that use by The Splash of any drawings, documents or other intellectual property supplied to The Splash by or on behalf of the Customer shall not infringe the rights of any third parties; and
- 5.1.4. take all reasonable precautions including compliance with all statutory and regulatory requirements to ensure the health and safety of all persons on site.
- 5.2. The Customer shall indemnify and hold The Splash harmless against all liabilities, costs (including legal costs), expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs) arising out of or in connection with any breach or non-performance of the obligations within this Clause 5.

6. Variations

- 6.1. Variations (including changes and additions) shall be made by agreement in writing.
- 6.2. Where the cost is increased or decreased because of any variation, the amount of such increase or decrease will be added to or deducted from the Fees.
- 6.3. Where the time in carrying out the Works is increased or decreased because of any variation, change or addition, The Splash shall notify the Customer of the impact to the Programme of Works and such increase or decrease will be added to or deducted from the Programme of Works. Any costs arising because of any revision to the Programme of Works will be added to or deducted from the Fees and shall be charged at the rate set out in the Quote unless otherwise agreed in writing.

7. Drawings

- 7.1 The Quote may provide details of drawings that are required by The Splash for execution of the Works.
- 7.2 The cost of special or additional drawings supplied by The Splash at the request of the Customer or required because of any variation, change or addition will be added to the Fees.

8. Assignment

- 8.1 Neither the Customer nor The Splash shall, without the prior written consent of the other, assign the whole or part of any benefit or obligation under the Contract to any other person except in the case of a solvent amalgamation.

9. Payment

- 9.1 Subject to Subclause 9.2. all invoices shall be paid by the Customer within 14 days from the date of invoice by bank transfer to the account specified in the invoice. All payments shall be made in full without deduction in respect of any set-off or counterclaim. If an amount in the invoice is disputed, the Customer shall notify The Splash of the dispute and the reasons for the dispute in writing within 10 days of the date of the invoice. All undisputed amounts shall be paid in full as shall any disputed amounts that have not been notified in accordance with this Clause.
- 9.2 The Customer shall pay in full for all Goods shipped from outside the UK prior to dispatch.
- 9.3 If payment of any invoice is not made in accordance with Clauses 9.1 and 9.2. above, then The Splash shall be entitled to:
- 9.3.1 Cancel the Contract or suspend any further provision of the Works to the Customer (such cancellation or suspension shall not be deemed a failure on the part of The Splash to proceed with the Works in accordance with the provisions of the Contract); and/or
- 9.3.2 Charge the Customer interest (both before and after any judgment) on the amount unpaid at the rate of five per cent per annum over the base rate for the time being of Lloyds Bank plc (such interest being deemed to accrue from day to day and being compounded on the last day of each calendar month).
- 9.4 Where the Fees exceed £10,000, or at the discretion of The Splash, an initial mobilisation payment amounting to 30% of the Fees shall be payable.
- 9.5 In the case of a maintenance service, where the Quote provides for a multi-year contract, only the prices set out in the Quote for labour rates shall apply for the entire period. All other prices shall be valid for the period of validity defined in the Quote in accordance with Clause 2.5 above.
- 9.6 Value Added Tax shall be chargeable in accordance with Applicable Law.
- 9.7 Timely payment shall be of the essence.

10. Title and Risk

- 10.1 Risk in the Works (including any Goods) supplied by The Splash under the Contract shall pass to the Customer immediately on delivery to the Customer's premises or into custody on the Customer's behalf.
- 10.2 Title in the Works (including any Goods) or any part thereof shall not pass to the Customer until payment in full has been made and the Customer shall permit The Splash to enter onto the Customer's premises and to repossess the Works (including any Goods) if payment is not made by the Customer in accordance with the provisions of the Contract.
- 10.3 Until such time as title has passed the Customer shall, if so required by The Splash, segregate or identify the Works (including any Goods) in such a way to demonstrate that it is the clear property of The Splash. The failure to do so will not prejudice the rights of The Splash under this Clause 10 or any other rights or remedies available to The Splash.

11. Availability of Goods

- 11.1 Completion of the Works is dependent upon Goods being available. If the Goods are not available, The Splash reserves the right consistent to substitute other Goods of similar specification and quality.

12. Intellectual Property Rights

3. Performance of the Works and Additional Costs and Charges

- 3.1. The Splash shall use reasonable endeavours to meet any performance dates, but any such dates shall be estimates only and time for performance of the Works shall not be of the essence.
- 3.2. Unless otherwise stated in writing, the Works shall be carried out during normal working hours for the season on Monday to Friday. If overtime is worked at the request of the Customer, it shall be paid for as an extra to the Fees.
- 3.3. All overtime for labour carried out at the request of the Customer shall be charged at 50% above the contract rates and prices.
- 3.4. If all or part of the Works are delayed by curtailed working hours imposed or caused by the Customer, then charges for unproductive time will be added to the Fees.

4. Unforeseen Circumstances

- 4.1. Unless otherwise agreed in writing, the Works shall be carried out under conditions that are reasonably apparent from the drawings and specification. Should conditions be experienced that are not reasonably apparent from the drawings and specification then charges for additional loss and expense incurred because of the conditions actually experienced will be added to the Fees.
- 4.2. Pipes, cables and services in the area of the Works must be made safe by the Customer at the commencement of the Works and the locations of such services made known to The Splash in writing at the time of tender. If The Splash has to make arrangements to expose, protect or move services or adjust the Works because of the presence of such pipes, cables or services, unknown to it at the time of tender, then charges for loss and expense will be added to the Fees.
- 4.3. Unless agreed in writing, the Works do not include excavations in existing foundations of brickwork, concrete, reinforced or otherwise, chalk, rock, running sand, organic or contaminated soils and a charge for loss and expense for dealing with these will be added to the Fees.
- 4.4. In the event of the discovery of unexploded ordnance or archaeological remains, a charge for loss and expense will be made for attending to and accommodating the personnel, involved in the making safe and the removal of the devices or remains
- 4.5. Unless otherwise stated in writing the Works shall be carried out in one continuous visit. If additional visits are required through no fault of The Splash, a charge for loss and expense will be added to the Fees.
- 4.6. Access shall be provided by the Customer as reasonably required by The Splash and any persons employed by or acting on behalf of The Splash. Failure to provide adequate access will result in a charge for loss and expense being added to the Fees.
- 4.7. Any failure to give possession of the site or part thereof to The Splash will result in an additional charge which shall be added to the Fees.
- 4.8. Any standing time or delays incurred by The Splash through no fault of its own will be paid by the Customer as an additional charge to the Fees. This will include, but not be limited to, delayed approval, design changes, changes to the scope of work, sporting or social events, archaeological finds and any enforced halt to the Works. If all or part of the Works are delayed by curtailed working hours imposed or caused by the Customer, then charges for unproductive time will be added to the Fees.
- 4.9. The Customer shall always co-operate with The Splash in relation to the carrying out of the Works. Failure to do so shall entitle The Splash to recover loss and expense which will be added to the Fees.
- 4.10. Unless otherwise agreed in writing, The Splash reserves the right to carry out any finishing works within the season and conditions best suited to their application. If instructed to carry out finishing works at alternative times, The Splash shall be entitled to recover loss and expense from the Customer which will be added to the Fees.
- 4.11. If after the date of the Contract the cost of performance of any part of the Works is increased by reason of the coming into force of any law, statute, by-law, regulation, or other measure having the force of law the amount of such increase will be added to the Fees.
- 4.12. All additions to the Fees pursuant to the terms of this Clause 4, shall be calculated by applying the rates and prices set out in the Quote. Where the rates and prices in the Quote cannot be applied, Fees shall be charged on a quantum meruit basis.

5. Customer Undertakings

- 5.1. The Customer shall:
- 5.1.1. obtain and maintain all necessary licences, permissions and consents which may be required for the carrying out of the Works.



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- 12.1 The Splash hereby licenses the Customer to use the Works IPR (including drawings, instructions, and contract documentations) for the sole purposes of using and benefiting from the Works.
- 12.2 The Splash warrants that it either owns all the Works IPR or is authorised to provide the license referred to in Clause 12.1.
- 12.3 In the event of a claim by any third party that the Works IPR infringes upon that third party's rights (IPR Claim), The Splash shall indemnify the Customer in full provided that:
- 12.3.1 The Splash is given notice of the IPR Claim as soon as the Customer becomes aware of it.
- 12.3.2 The Customer provides The Splash with all reasonable assistance requested in connection with the defence of the IPR Claim.
- 12.3.3 The Customer gives The Splash full carriage of the case relating to the IPR Claim; and/or
- 12.3.4 The Customer does not negotiate with the third party or settle the IPR Claim.
- 12.4 If an IPR Claim prevents the Customer from benefiting from or using the Works, The Splash shall, at its option, either:
- 12.4.1 acquire the rights required for use of the relevant part of the Works; or
- 12.4.2 replace the relevant part of the Works with non-infringing elements.
- 13 Warranty**
- 13.1 The Splash does not provide a warranty for Goods acquired from third parties and/or other equipment manufacturers. The Customer may rely on the warranty provided by the relevant third party or equipment manufacturer.
- 13.2 Subject to Subclause 13.1, The Splash warrants that:
- 13.2.1 there will be no material defects in workmanship and/or Goods for a period of one year from date of delivery; and
- 13.2.2 there will be no defects in design for a period of five years from date of delivery.
- 13.3 In respect of any defects found, in accordance with Subclause 13.2, The Splash, at its option, shall replace or repair any materials, components, or workmanship found to be defective or remedy the defect in design provided that costs incurred by The Splash in inspecting the fault or defect shall be borne by the Customer.
- 14 Warranty Exclusions**
- 14.1 The warranties referred to in Clause 13 shall be subject to the following:
- 14.1.1 The Works have been correctly operated and maintained by the Customer and evidenced in the maintenance schedule provided.
- 14.1.2 No repairs or alterations have been made without the prior written approval of The Splash.
- 14.1.3 Notice of any defect has been given to The Splash promptly and in writing within the requisite warranty period.
- 14.2 Defects in Goods acquired from third parties and other equipment manufacturers remedied under the terms of any such third party or manufacturer's warranty may require the payment of charges. Such charges shall be paid by the Customer.
- 14.3 The Warranties in Clause 13 expressly exclude:
- 14.3.1 damage or defects resulting from extreme weather (including lightning), vandalism, improper maintenance, operator error, Acts of God, failure to comply with regulations and codes of the jurisdiction having authority, or other conditions beyond the control of The Splash.
- 14.3.2 labour, freight charges, or incidental materials required to implement repairs.
- 14.3.3 liability for any costs associated with the removal or replacement of equipment in difficult-to-access locations.
- 14.3.4 liability for damage to metals resulting from chemical control devices that use electrolysis as a means for generating chlorine or other chemicals used to treat water; and/or
- 14.3.5 damage to wet pour safety surface resulting from excessive levels of chlorine or sustained use of chlorine above 2.5ppm and lack of proper maintenance.
- 14.4 The warranties set out in Clause 12 are the full extent of The Splash's liability for any defects in relation to the Works and any and all other warranties, conditions and obligations, statutory, expressed or implied, are expressly excluded to the maximum extent permissible by law.
- 15 Term and Termination**
- 15.1 This Contract shall, unless otherwise terminated as provided in this Clause 15 commence on the Commencement Date and shall:
- 15.1.1 in the case of maintenance services continue for the Initial Term unless terminated by either party in writing with at least 3 months' notice in which case this Contract shall terminate upon the expiry of such notice period; and
- 15.1.2 In the case of other Contracts, on completion of the Works.
- 15.2 Without affecting any other right or remedy available to it, either party may terminate this Contract with immediate effect by giving written notice to the other party if:
- 15.2.1 the other party commits a material breach of any other term of this Contract and (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so.
- 15.2.2 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (IA 1986) as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the IA 1986;
- 15.2.3 the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party.
- 15.2.4 the other party applies to court for, or obtains, a moratorium under Part A1 of the Insolvency Act 1986.
- 15.2.5 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party.
- 15.2.6 an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party (being a company, partnership or limited liability partnership).
- 15.2.7 the holder of a qualifying floating charge over the assets of that other party (being a company or limited liability partnership) has become entitled to appoint or has appointed an administrative receiver.
- 15.2.8 a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party; and/or
- 15.2.9 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days.
- 15.3 On termination of this Contract for any reason 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 agreement which existed at or before the date of termination shall not be affected or prejudiced.
- 16 Employment Regulations**
- 16.1 The Customer and the Supplier believe that, at the Commencement Date, there will be no relevant transfer of employees pursuant to the Employment Regulations.
- 16.2 Notwithstanding the foregoing, if there is a relevant transfer of Employees at the Commencement Date for the purposes of the Employment Regulations, each party shall indemnify the other against all losses which the other party may suffer, sustain, incur, pay or be put to arising from or in connection with:
- 16.2.1 the employment of the relevant employees or the termination of their employment by the indemnifying party on or before the Commencement Date.
- 16.2.2 any failure by the indemnifying party on or before the Commencement Date to comply with its legal obligations in respect of any of the relevant employees.
- 16.2.3 any act or omission before the Commencement Date which, by virtue of the Employment Regulations, is deemed to be an act or omission of the indemnified party; and
- 16.2.4 the indemnifying party's failure to comply with its obligations under the Employment Regulations.
- 17 Liability**
- 17.1 To the extent permitted by law:
- 17.1.1 The Splash shall not be liable to the Customer for indirect or consequential losses, loss of income, loss of profit, loss of opportunity, or loss of reputation of the Customer arising out of, or in connection with the Contract including the carrying out of the Works.
- 17.1.2 The total liability of The Splash for any loss of the Customer not referred to in Clause 17.1.1 above shall not exceed the Fees.
- 17.2 Nothing in the Contract shall limit the liability of The Splash, its Agents or Sub-Contractors for death or personal injury resulting from negligence.
- 18 Force Majeure**
- 18.1 The Splash shall not be liable for failure to perform any of its obligations under the Contract if such failure is due to any event, circumstance or cause whatsoever beyond its reasonable control.
- 18.2 In such circumstances the time for performance by The Splash shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed.
- 19 Governing Law and Jurisdiction**
- 19.1 The laws of England and Wales shall apply to this Contract.
- 19.2 The courts of England and Wales 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.
- 20 General**
- 20.1 If any provision or part-provision of the Contract becomes invalid, illegal, or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- 20.2 Any notice required or permitted to be given by either party to the other under this Contract shall be in writing addressed to the other party at the email address set out in the Quote.
- 20.3 Notwithstanding anything to the contrary, Clause 9 (Payment), Clause 17 (Liability), Clause 19 (Governing Law and Jurisdiction) and Clause 20 (General) shall survive the termination of this Contract.