

Standard Terms and Conditions for use of the Quality of Life Framework

These Terms and Conditions apply to the delivery of content by QUALITY OF LIFE FOUNDATION a company limited by guarantee and registered in England and Wales (with company number 12062786) and a charity pending registration with the Charity Commission with its registered office at c/o Drmm, 148 Tooley Street, London, England, SE1 2TU (“QOLF”) and to the use of such content by a user (the “User”).

1. Interpretation

The definitions and rules of interpretation set out below apply in these Terms and Conditions:

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Content: all text, information, data, software, executable code, images, audio or video material in whatever medium or form in the Framework.

Derivative Work: work generated or developed which is based on the Content or an underlying work in relation to this (including translations, musical arrangements, dramatisations, fictionalisations, motion picture versions, sound recordings, art reproductions, abridgements, condensations, or any other form in which a work may be recast, transformed or adapted).

Effective Date: the date on which the User first exercises the rights granted in these Terms and Conditions.

Framework: means the Quality of Life Framework developed by QOLF which addresses the changes that can be made across the development industry to ensure that homes are acquired, planned, constructed and managed actively to provide a better quality of life for everyone and covers the six overriding themes of Control, Health, Nature, Wonder, Movement and Belonging.

Intellectual Property Rights: means all vested contingent and future intellectual property rights including, without limitation, copyright, design rights, database rights, patents, rights to inventions, design patents, utility models, trade marks (and goodwill attaching to those trade marks), service marks, signs and other designations, moral rights, rights in Know-How, rights in confidential information, trade secrets and all similar rights, whether registered or otherwise and including any applications made in respect of any such rights, whether now known or in the future created and including all extensions, reversions, revivals and renewals thereof which subsist either now or at any time after the date of this Agreement by virtue of or pursuant to any of the laws in force in each and every part of the world.

Know-How: means any methods, techniques, processes, discoveries, inventions, innovations, unpatentable processes, specifications, formulae, designs, plans, documentation, drawings, data and other technical information which is secret and identified or identifiable in a tangible form.

Trade Marks: shall mean the names “Quality of Life Foundation” and “Quality of Life Framework” and the QOLF logo:



Territory: the United Kingdom.

Clause headings shall not affect the interpretation of these Terms and Conditions.

References to clauses are (unless otherwise provided) references to the clauses of these Terms and Conditions.

Unless the context otherwise requires, words in the singular shall include the plural and those in the plural include the singular.

A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.

Any words following the terms **including, include, 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.

A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns.

A reference to **writing** or **written** includes fax and e-mail.

2. **Grant of licence**

Subject to clause 2.2, QOLF grants to the User a non-exclusive licence to download, reproduce and distribute the Content in the Territory on the terms set out herein.

The licence granted under clause 2.1 permits the User to reproduce and distribute, through any media now known or hereafter developed, the Content or excerpts of the Content for the purposes of:

- (a) conducting evaluations of built environments and their sustainability,
- (b) researching sustainability strategies,
- (c) education and academic study,
- (d) promoting QOLF and the measures set out in the Framework,

provided that the User shall not use any Content for commercial purposes without the prior written consent of QOLF.

The User shall not without the prior written consent of QOLF:

- (e) display the Content on an Internet website, including social media
- (f) use the Framework or any other framework document which is based on the Framework for the purposes of sale, licensing or other commercial exploitation, including by providing consultation or impact assessment

services to third parties and enabling third parties to provide consultancy or impact assessment services to the User,

- (g) use the Framework in order to develop Derivative Works for the purpose of commercial exploitation, including standards or other criteria or benchmarking for built environments and sustainability,
- (h) use the Framework in relation to the development of any methodology which is based on the Framework for the conduct of impact assessments relating to the built environment and sustainability,
- (i) change, amend or develop the Content in any way.

The User shall acknowledge the “Quality of Life Framework” and shall include the Trade Marks and the words “Powered by the Quality of Life Framework”, or substantially similar wording thereto, in all publications made by the User which incorporate or pertain to the Framework.

The User shall in all publications which reproduce all or part of the Content include the following intellectual property notice: “*QOLF Framework © Quality of Life Foundation 20[]*”.

Where the prior written consent of QOLF is required under these Terms and Conditions QOLF may require as a condition of giving its consent that the User enter into a further written agreement with QOLF on reasonable commercial terms to be agreed.

The rights granted pursuant to clauses 2.1 and 2.2 are subject to any guidelines which may from time to time be established and published by QOLF with respect to the Content.

The User shall not without QOLF’s prior written consent grant sub-licences, in whole or in part, of any of the rights granted pursuant to clauses 2.1 and 2.2.

The User shall not undertake or allow to be undertaken (to the extent it is within the power and control of the User) any act which might damage or prejudice any of the Intellectual Property Rights in the Content and/or the goodwill and reputation of QOLF and Trade Marks. The User shall cease to use the Trade Marks and/or acknowledge QOLF immediately upon notice from QOLF where QOLF reasonably considers that such continued use of its name and/or the Trade Marks would be damaging to its goodwill and reputation.

QOLF may request, based on reasonable objections, the removal of, or editorial revisions to, any of the Content that is published by the User. The User shall take appropriate remedial action with respect to any such request received in writing within 72 hours of receipt of such request.

The User shall comply with all applicable laws and regulations in using the Content.

3. Trade Marks

The User acknowledges and agrees for all purposes that the Trade Marks constitute QOLF’s exclusive property.

Subject to clauses 3.4 and 3.5, QOLF grants to the User a non-exclusive, non-transferable, non-assignable, royalty-free licence to use the Trade Marks in conjunction with the Content for the purposes of the User’s compliance with clause 2.4.

¹ Please confirm the year of first publication by QOLF.

All use of the Trade Marks by the User, including all goodwill arising, shall enure solely for the benefit of QOLF.

The User shall not use, register or attempt to register in any jurisdiction, or otherwise appropriate or adopt, any name, mark or logo which is confusingly similar to the Trade Marks.

At no time during the Term or thereafter shall the User attack or challenge or file any application with respect to any of the Trade Marks.

4. Warranties

Each of the parties warrants to the other that it has full power and authority to enter into and perform these Terms and Conditions.

QOLF warrants to the User that the Content and QOLF's Trade Marks:

- (a) do not infringe any third party's Intellectual Property Rights, other proprietary rights or rights of privacy,
- (b) do not violate any law, statute, ordinance or regulation,
- (c) are not defamatory, trade libellous, unlawfully threatening or unlawfully harassing,
- (d) are not obscene or pornographic and do not contain child pornography,
- (e) do not violate any laws regarding unfair competition, anti-discrimination or false advertising, and
- (f) do not, to the best of QOLF's knowledge, contain any viruses or other computer programming routines which are intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or personal information.

These Terms and Conditions set out the full extent of QOLF's obligations and liabilities in respect of the supply of QOLF's Trade Marks and the Content. All conditions, warranties or other terms concerning the supply, purported supply or non-supply of the Content or QOLF's Trade Marks which might otherwise be implied into these Terms and Conditions or any collateral contract (whether by statute or otherwise) are hereby expressly excluded and the User agrees that it has not relied upon any representations other than those expressly set out in these Terms and Conditions.

5. Limitation of remedies and liability

Nothing in these Terms and Conditions shall operate to exclude or limit QOLF's liability for:

- (a) death or personal injury caused by its negligence; or
- (b) fraud; or
- (c) any other liability which cannot be excluded or limited under applicable law.

QOLF shall not be liable to the User for any damage to software, damage to or loss of data, loss of profit, anticipated profits, revenues, anticipated savings, goodwill or business opportunity, or for any indirect or consequential loss or damage.

6. Intellectual property rights

Title to and ownership of all Intellectual Property Rights embodied by or otherwise incorporated into the Content shall remain the exclusive property of QOLF. Except as expressly provided in these Terms and Conditions, nothing shall be construed to grant to the User any right, title or interest in or to the Content.

QOLF shall indemnify the User against all costs, claims, damages, losses and expenses arising as a result of any claim or action that the Content infringes any Intellectual Property Rights belonging to a third party.

The indemnity in clause 6.2 is subject to the following conditions:

- (a) the User promptly notifies QOLF in writing of the claim or action,
- (b) the User makes no admissions or settlements without QOLF's prior written consent,
- (c) the User gives QOLF all information and assistance that QOLF may reasonably require, and
- (d) the User allows QOLF complete control over any negotiations, litigation and the settlement of any claim or action.

If the User becomes aware of any actual or suspected infringement or misuse of any Content [or any security breach which could compromise the integrity of the Content²] or otherwise adversely affect QOLF, the User shall, at the User's reasonable expense, promptly notify provide full details to QOLF as soon as reasonably practicable together with any other information known to the User which QOLF might reasonably require in order to take remedial action.

7. Term and termination

These Terms and Conditions shall commence on the Effective Date and shall continue in force for as long as the User exercises the rights granted in these Terms and Conditions or until terminated by QOLF.

Without affecting any other right or remedy available to it, QOLF may terminate these Terms and Conditions with immediate effect by giving written notice to the User if:

- (a) the User commits a material breach of any term of these Terms and Conditions which breach is irreparable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so. Non-exhaustive examples of material breach are:
 - (i) repeated, continuous or persistent breaches which, cumulatively, amount to a material failure to perform,
 - (ii) an act or omission which leads to (or poses a real risk of) material and irreparable damage to the good name, brand or reputation of QOLF,
- (b) the User, not being an individual, becomes insolvent or an order is made or a resolution passed for the liquidation, winding-up or dissolution of the User (other than for the purposes of a solvent amalgamation or reconstruction).

Immediately upon expiry or termination of these Terms and Conditions:

- (c) all provisions of these Terms and Conditions shall cease to have effect, except that any provision which can reasonably be inferred as continuing, or is expressly stated to continue, shall continue in full force and effect; and
- (d) the User shall cease to exercise the rights granted in these Terms and Conditions.

² Not required if Users are not entitled to re-publish the Content on-line.

8. Force majeure

Neither party shall be liable to the other for any delay or non-performance of its obligations under these Terms and Conditions (except for any obligation to make payment) arising from any cause beyond its reasonable control including any of the following: act of God, governmental act, war, fire, flood, epidemic or pandemic, explosion, civil commotion, industrial action, failure in telecommunications services or unauthorised interference with either party's systems or services via the Internet ("**Force Majeure Event**").

The party affected by the Force Majeure Event shall use all commercially reasonable endeavours to mitigate the impact of any event of force majeure and to recommence performance of its obligations under these Terms and Conditions as soon as is reasonably practicable.

If the affected party is unable to perform its obligations under these Terms and Conditions by reason of the Force Majeure Event for more than four weeks, the non-defaulting party may terminate these Terms and Conditions immediately by serving notice on the other to that effect in which event neither party shall be liable to the other by reason of such termination.

9. Notices

Any notice or other communication given to a party under or in connection with these Terms and Conditions shall be in writing and shall be:

- (a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company),
- (b) sent by e-mail to the most recent e-mail address notified or used by the other party, or
- (c) sent by fax to its main fax number.

Any notice or communication shall be deemed to have been received:

- (d) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
- (e) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 a.m. on the second Business Day after posting or at the time recorded by the delivery service.
- (f) if sent by fax, at 9.00 a.m. on the next Business Day after transmission.

There shall be no deemed receipt of notices sent by e-mail. However, e-mails may be introduced as evidence in connection with any dispute, mediation or Court proceedings arising out of these Terms and Conditions, where they may be used to show that a notice has been received, in which case they shall be given such weight as may be appropriate after an examination of all the evidence, including acknowledgment and/or evidence of receipt.

This clause 9 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

10. Assignment

The User may not assign or transfer any of its rights or obligations under these Terms and Conditions without the prior written consent of QOLF. QOLF may assign or transfer its rights under these Terms and Conditions without consent.

11. Entire agreement

These Terms and Conditions constitute the entire agreement between the parties and supersede and extinguish all previous agreements, licences, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

Each party acknowledges that in entering into these Terms and Conditions it does 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 these Terms and Conditions.

Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in these Terms and Conditions and that its only remedy shall be for breach of contract.

12. Third party rights

No one other than a party to these Terms and Conditions, their successors and permitted assigns, shall have any right to enforce any of its terms.

13. Variation, waiver and rights and remedies

No variation of these Terms and Conditions shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

No failure or delay by a party to exercise any right or remedy provided under these Terms and Conditions or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

Except as expressly provided in these Terms and Conditions, the rights and remedies provided under these Terms and Conditions are in addition to, and not exclusive of, any rights or remedies provided by law.

14. Relationship

Nothing contained in these Terms and Conditions shall be deemed to create a partnership, joint venture or agency between the parties or be deemed to authorise any party (except as expressly provided for in these Terms and Conditions) to incur liabilities or obligations binding upon any other party.

15. Severance

If any provision or part-provision of these Terms and Conditions is or 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 these Terms and Conditions.

If any provision or part-provision of these Terms and Conditions is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

16. Governing law and jurisdiction

These Terms and Conditions and any disputes or claims arising out of or in connection with their subject matter or formation (including non-contractual disputes or claims) are governed by and construed in accordance with the laws of England and Wales.

The parties irrevocably agree that the Courts of England and Wales have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with these Terms and Conditions or their subject matter or formation (including non-contractual disputes or claims).