

# Terms and Conditions

## Standard Terms and Conditions for the provision of Product and Services

KBR Limited is the Distributor of the Forecast5 software in the United Kingdom and various other territories, under license from Forecast5 Limited of 485C Rosebank Road, Avondale, Auckland, New Zealand, the Developer of the Forecast5 software and owner of the Forecast5 Intellectual Property Rights.

All users of Forecast5 are bound by the End-User License Agreement which is provided within the Forecast5 product.

In addition to the End-User Licence Agreement, KBR Limited (“KBR”) and its principal, Forecast5 Limited (hereinafter, “F5” or “Navigator”) have the following Terms and Conditions for the provision of Services and sale of Product. These terms of business also replace any previous terms and conditions we may have issued.

### Query and Notification Process

Any queries and notices be advised promptly to, initially KBR, thereafter, NAVIGATOR, so that actions and resolutions can be determined as a priority.

Any support query or notice should be emailed to [support@navigatorsoftware.co.nz](mailto:support@navigatorsoftware.co.nz) or [support@forecast5.com](mailto:support@forecast5.com)

### Clause 1 - Provision of Credit

1. The Client (hereafter Client) will pay KBR the fees applicable to the service or product purchased.
2. Payment is due 14 days from date of invoice or the due date specified on the invoice.
3. All Invoices, Statements and Notices will be sent to the email address supplied by you for account purposes, and kept updated by you using the Query and Notification Process.
4. Deposits are non-refundable and due before any work commences.
5. Utilisation of KBR services or purchase of products is deemed acceptance of these terms and conditions
6. Until payment is made in full KBR as agent for NAVIGATOR retains title and ownership of any products and may repossess such items at any time while they remain unpaid.

7. All costs and legal fees incurred in collecting any debt will be charged to the Client and the Client is liable to reimburse KBR for these costs.
8. Full license keys will not be issued until payment has been fully cleared through the banking system into KBR's bank account.
9. If payment is not made in full by the due date, KBR is entitled to charge you credit fee on the unpaid overdue balance at the rate of 2% per month, compounding monthly on the first day of each month.
10. Breach of these terms shall entitle KBR or NAVIGATOR at their option, to suspend cancel or withhold any or all services and further products inclusive of maintenance and helpdesk support, and apply any payments made at its sole discretion.
11. KBR reserves the right to amend these terms and conditions at its discretion.
12. Updated Terms and Conditions are available on our web site: [www.forecast5.co.uk](http://www.forecast5.co.uk)

#### **Clause 2 - Provision of Software Services and/or Modifications**

1. NAVIGATOR and/or the Authors of the software retain copyright, title, intellectual property rights at all times of all software provided by NAVIGATOR or KBR.
2. No consent is granted to the Client to make modifications except through the authorised services of NAVIGATOR or its agents.
3. KBR will invoice on the agreed terms provided in each Proposal or Activity Report and the Client will pay in accordance with the terms in clause 1 above
4. Renewal of Software Annual License Fees, Maintenance or Help Desk will be invoiced approximately one month before your expiry date of your service to the email address you have supplied.
5. A minimum of thirty (30) days written notice prior to the expiry date is required to cancel or the annual amount becomes due and payable. Written notice to terminate the contract must be given by you to KBR or NAVIGATOR. Software Annual License fees, Maintenance and Help Desk are annual fees, non-refundable and payable in advance, if not cancelled the amounts are due, any instalment arrangement does not negate the obligation to pay the annual license fee and if the instalment arrangement is defaulted the full amount becomes due immediately.

### **Clause 3 -Termination and Breach**

1. If the Client fails to comply with any of the provisions of this agreement and does not rectify such noncompliance within 7 days of KBR giving notice either in writing or email, then KBR or NAVIGATOR may without prejudice to any other rights or remedies and without being liable to the Client for any loss or damage that may result, give notice to the Client terminating their right to use the software. Upon termination of the agreement the Client shall lose all right to use the products that are the property of NAVIGATOR and shall forthwith deliver the products to KBR or NAVIGATOR and destroy all copies made. The Client shall certify in writing that the copies have been destroyed
2. Until such breach is remedied NAVIGATOR may at its discretion refuse to supply any service or product

### **Clause 4 -Miscellaneous**

1. Save for the balance of this Clause 4, these Terms and Conditions are governed by the laws of the Isle of Man.

Where applicable, the following laws of New Zealand may apply:

2. Consumers Guarantee Act 1993 (CGA). The following clauses adhere to standard CGA business practices that ensure that CGA obligations are contracted out of, where possible (specifically when sales relate to business activities).
3. If you are purchasing or holding yourself out as purchasing the Services or Products for a business purpose then the provisions of the CGA are excluded from this supply agreement.
4. This agreement constitutes the agreement between NAVIGATOR and the Client hereby acknowledges that no reliance is placed on any representation made but not embodied in this agreement.
5. Any issues that may affect the project or on-going work does not serve as reason to not pay for services invoiced.
6. When reports and development has been completed, they are valid for the version and system you are running. Additional work may be needed if you have upgraded to make them compatible with the new version.

### **Clause 5 - Rates and Fees**

1. The standard hourly rate set by KBR may be varied from time to time
2. The rate for after hours service is 1.5 times the standard rate for a minimum of the 2 hours, and then 1.5 times the standard rate per hour or part thereof minimum units of 1 hour
3. All rates quoted in this agreement exclude VAT or local applicable taxes.
4. All disbursement's are charged to the Client and any travel time is charged at standard hourly rates
5. Emergency call out fees may apply.
6. 30 days written notice of cancellation is required otherwise a cancellation fee may be incurred.