

Terms and Conditions

1. Definitions and Interpretation

- 1.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:
- “**Business Day**” a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business;
- “**Business Hours**” the period from 9.00 am to 5.00 pm on any Business Day.
- “**Client/you/your**” means the business, firm or corporate body purchasing the Services. Where an individual is entering into the Contract on behalf of a business, the individual confirms they have the authority to enter into the Contract on behalf of that business and the business will be our Client in the context of the Contract;
- “**Conditions**” these terms and conditions as amended from time to time;
- “**Contract**” means the contract formed between you and us as detailed in clause 2;
- “**Order**” your order for the supply of Services, as set out in a purchase order form or your written acceptance of our Quotation;
- “**Quotation**” means our written quotation to provide the Services, which remains open for acceptance for a period of 30 days unless otherwise specified and sets out our entire scope of works;
- “**Services**” means the line marking services to be carried out by us either on an ad-hoc basis or under SuperLine as detailed in the Quotation;
- “**Service Fee**” means the monthly fee that is due for SuperLine as detailed in the Quotation;
- “**SuperLine**” means the subscription based line marking service available in 2 distinct formats either SuperLine Gold or SuperLine Platinum as detailed in the Quotation; and
- “**Term**” means the term of the Contract as defined in clauses 2;
- 1.2 Unless the context otherwise requires, each reference in these Terms and Conditions to:
- 1.2.1 “writing” and “written” includes emails and similar communications;
- 1.2.2 a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;
- 1.2.3 “Terms and Conditions” refers to these Terms and Conditions as may be amended or supplemented at the relevant time;
- 1.2.4 a clause refers to a clause of these Terms and Conditions;
- 1.2.5 a “party” or the “parties” refer to the parties to these Terms & Conditions; and
- 1.2.6 the respective parties include their employees, agents and sub-contractors.
- 1.3 The headings used in these Terms and Conditions are for convenience only and will have no effect upon their interpretation.
- 1.4 Words imparting the singular number include the plural and vice versa. References to persons include corporations.

2. The Contract

- 2.1 We offer a free site visit via our website by inputting your name and email address, you'll then be able to book an appointment using our live calendar tool.
- 2.2 We will send a written Quotation based on our findings, setting out the Services to be provided and our fees. The Order shall only be deemed to be accepted when you issue written acceptance of the Order at which point and on which date the Contract shall come into existence (**Commencement Date**).
- 2.3 The contract for SuperLine will continue for a minimum period of 24 months unless terminated in accordance with Clause 8.
- 2.4 These Conditions apply to the Contract to the exclusion of any other terms that you seek to impose or incorporate, or which are implied by law, trade custom, practice, or course of dealing.
- 2.5 Any Quotation issued by us shall not constitute an offer and is only valid for a period of 20 Business Days from its date of issue.
- 2.6 Any samples, drawings or advertising issued by us and any illustrations or descriptions of the Services contained on our website or in our catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract nor have any contractual force.
- 2.7 You are responsible for the accuracy of any drawings, designs and other information submitted to us where applicable and for ensuring that the Quotation reflects your requirements. Our Quotation is based on the information provided to us at the time we prepare it. Should any errors or discrepancies become evident which affect our quoted fee, we reserve the right to adjust it.

3. The Services

- 3.1 We will provide the Services in accordance with the specification set out in the accepted Quotation.
- 3.2 We shall use all reasonable endeavours to meet any performance dates for the Services specified in the Quotation but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
- 3.3 Unless we have specifically stated otherwise, our Quotation is based on our Services being provided during normal Business Hours; Monday-Friday 9am-5pm GMT. Services required outside of these times may incur additional costs.
- 3.4 We reserve the right to amend the specification in the Quotation 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.
- 3.5 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.
- 3.6 It is your responsibility to ensure the base on which we are providing the line marking Services is suitable. We will not be liable for any issues caused as a result of the groundwork at the site including, but not limited to, issues caused by ground subsidence, sinking or movement. If we need to redo part or all of the works as a result, this will be chargeable.
- 3.7 We will use reasonable endeavours to ensure that the colour we use matches the colour chosen by you, where applicable. However, we cannot guarantee this, or consistency throughout, due to variations that may occur depending on the surface to which it is applied, as well as unavoidable variances that may arise in the manufacturing process.
- The following Clauses apply if you are opting to take our SuperLine service;
- 3.8 The Services are as detailed in the Quotation containing all inclusions and exclusions of Services.
- 3.9 We shall provide the Services in a timely manner and in accordance with prevailing best practices in the industry.
- 3.10 Where the nature of the Services dictates that such work takes place on an on-demand basis (rather than a planned or scheduled basis), we shall attend site within 90 days of receipt of notice from the Customer that the Services are required.
- 3.11 The Supplier shall be deemed to have authority to charge the cost of repairs at the Suppliers current price list which is available at <https://www.line-mark.com/superline/> and will be updated from time to time except the Services that have been specifically included in the Quotation.
- 3.12 Services will only be delivered between normal business hours; Monday-Friday 9am-5pm. All other times will incur additional cost to the Customer.
- 3.13 2 planed service visits are included with your SuperLine subscription. Any additional days/visits required, are billable at a

rate no less than £1500 per visit and the customer agrees to pay these charges.

- 3.14 The following are expressly excluded from SuperLine and the Supplier will only undertake them at its discretion and at extra cost to the Customer:

- 3.14.1 Repairs to lines which have been misused, abused or damaged deliberately or negligently by the Customer or any third party;
- 3.14.2 Repairs which are a result of war, terrorism, fire, explosion, or natural disaster;
- 3.14.3 Repairs to any works that were not installed by the Supplier;
- 3.14.4 Repairs which do not include stock paint which for reference is RAL 1023 Yellow, RAL 3020 Red, RAL 5017 Blue, RAL 9005 Black, RAL 9016 White and RAL 6024 Green

4. Access and Site Visits

You will need to ensure we have full, clear and unrestricted access to all areas of the site at which our Services are to be provided. Our price is based on being able to complete our works in one continuous visit, or where we are carrying out the works in phases each visit is to be continuous. If the site is not available or ready for our works to commence, and/or if we are prevented from continuous working through to completion and/or if we are required to complete out of sequence works, we reserve the right to recover any costs we may have incurred by way of delay or abortive visits.

5. Customer's obligations

- 5.1 You shall:

- 5.1.1 ensure that the terms of the Order and any information it provides in the Quotation are complete and accurate;
- 5.1.2 co-operate with us in all matters relating to the Services;
- 5.1.3 provide us with such information and materials as we may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
- 5.1.4 prepare the premises for the supply of the Services;
- 5.1.5 obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
- 5.1.6 comply with all applicable laws, including health and safety laws;

- 5.2 If our performance of any of our obligations under the Contract is prevented or delayed by any act or omission by you or failure by you to perform any relevant obligation (**Customer Default**):

- 5.2.1 without limiting or affecting any other right or remedy available to us, we shall have the right to suspend performance of the Services until you remedy the Customer Default, and rely on the Customer Default to relieve us from the performance of any of our obligations in each case to the extent the Customer Default prevents or delays our performance of any of our obligations;
- 5.2.2 we shall not be liable for any costs or losses sustained or incurred by you arising directly or indirectly from our failure or delay to perform any of our obligations as set out in this clause 5.2; and
- 5.2.3 you shall reimburse us on written demand for any costs or losses sustained or incurred by us arising directly or indirectly from the Customer Default.

6. Fees and Payment

For adhoc Services the following clauses apply:

- 6.1 We require full payment of the quoted fee, unless otherwise agreed in writing. We will be unable to schedule any dates for the Services until the Quotation has been paid in full.
- 6.2 All invoices are payable strictly prior to the Services commencing, in pounds sterling, without retention, set-off, withholding or deduction.

For SuperLine subscription services the following clauses apply

- 6.3 The Customer shall pay the Service Fee in advance to the Supplier as detailed in the Quotation within 7 days of the formation of the contract.
- 6.4 The Customer shall be invoiced separately for any call outs or costs that is supplied by the Contractor in accordance with clause 3.11 and any service this is expressly excluded as detailed in the Quotation .
- 6.5 All invoices will be payable within 30 days via bank transfer

For all Services the following clause apply

- 6.6 All prices quoted are expressed exclusive of VAT.
- 6.7 In addition, you may be required to reimburse us for any additional Services we may provide at your request together with all reasonable travel expenses, any incidental expenses for materials used and any third party goods and services supplied in connection with the provision of the Services and have not been agreed in the Quotation.
- 6.8 Time for payment is of the essence of the Contract. If you fail to make any payment to us by the due date then, without prejudice to any other rights which we may have, we will have the right to suspend the Services and charge you interest from the due date until payment is made in full, both before and after judgment, at the rate of 8% per annum over the Bank of England base rate from time to time in force, in accordance with the Late Payment of Commercial Debts (Interest) Act 1998. We also reserve the right to charge for any costs we may incur in attempting to recover any outstanding debt or where a project has been postponed with less than 28 day's notice from the planned start date.

7. Cancellation for adhoc Services

- 7.1 Contracts cannot be cancelled, except with our agreement in writing, and payment will remain due for the full Contract value unless we agree otherwise.
- 7.2 Either party has the right to terminate the Contract:

- 7.2.1 immediately if the other party has committed a material breach of this Contract, unless such breach is capable of remedy, in which case the right to terminate immediately will be exercisable if the other party has failed to remedy the breach within 14 days after a written notice to do so; or
- 7.2.2 immediately if the other party goes into bankruptcy or liquidation either voluntary or compulsory (save for the purposes of bona fide corporate reconstruction or amalgamation) or if a receiver is appointed in respect of the whole or any part of its assets.
- 7.3 In the event of termination, no refunds will be offered for payments made in advance and any outstanding payments where applicable owed to us will become immediately due and payable. In respect of Services provided but for which no invoice has been submitted, we will be entitled to submit an invoice, which will become due and immediately payable.
- 7.4 Any and all obligations of the parties which either expressly or by their nature continue beyond the termination, cancellation or expiration of this Contract will survive termination under this clause 7.

8. Termination for Superline Services

- 8.1 The Supplier shall be entitled to terminate the Contract if the Customer:
 - 8.1.1 fails to pay the Service Fee for a period exceeding 14 days and fails or refuses to do so following the expiry of a written notice from the Supplier requesting such payment within 7 days; or
 - 8.1.2 demands services which do not form part of the Services and which are not covered by this Contract.
- 8.2 The Customer shall be entitled to terminate the Contract if the Supplier
 - 8.2.1 Subject to clause 3, fails to render the required Services to the Client within 30 days and after a reasonable period after the Client's notice of such failure.
- 8.3 Either party has the right to terminate the Contract:
 - 8.3.1 immediately if the other party has committed a material breach of this Contract, unless such breach is capable of remedy, in which case the right to terminate immediately will be exercisable if the other party has failed to remedy the breach within 14 days after a written notice to do so; or
 - 8.3.2 immediately if the other party goes into bankruptcy or liquidation either voluntary or compulsory (save for the purposes of bona fide corporate reconstruction or amalgamation) or if a receiver is appointed in respect of the whole or any part of its assets.
- 8.4 In the event of termination for default committed by the Customer in accordance with clause 8.1, all Service Fees required under this Contract for the full contract Term shall become due and immediately payable.
- 8.5 Any and all obligations of the Parties which either expressly or by their nature continue beyond the termination, cancellation or expiration.

9. Confidentiality

- 9.1 Each party undertakes that it shall not at any time, disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party, except as permitted by clause 9.2.
- 9.2 Each party may disclose the other party's confidential information:
 - 9.2.1 to its employees, officers, representatives, contractors or subcontracts or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 9; and
 - 9.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 9.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

10. Intellectual Property

- 10.1 Subject to a written agreement to the contrary, we retain ownership in all intellectual property which may subsist in the provision of the Services. Nothing in the Contract will vest any ownership rights in you. We reserve the right to take such actions as may be appropriate to restrain or prevent infringement of such intellectual property rights.
- 10.2 You warrant that any drawing, document or instruction provided to us will not cause us to infringe the intellectual property rights of any third party and you agree to indemnify us against all loss, damages, costs and expenses awarded against or incurred by us in settlement of any claim for infringement of any intellectual property rights which results from our use of your information.

- 11. **No partnership or agency:** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.

12. Assignment and other dealings

- 12.1 We 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.
- 12.2 You 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.

13. Liability and Indemnity

- 13.1 We have obtained insurance cover in respect of our own legal liability for individual claims not exceeding £1,000,000 per claim. The limits and exclusions in this clause reflect the insurance cover we have been able to arrange and you are responsible for making its own arrangements for the insurance of any excess loss.

- 13.2 The restrictions on liability in this **Error! Bookmark not defined.**¹³ apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 13.3 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:
- 13.3.1 death or personal injury caused by negligence;
- 13.3.2 fraud or fraudulent misrepresentation; and
- 13.3.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);
- 13.4 In the event of a breach by us of our express obligations under these Terms and Conditions, your remedies will be limited to damages, which in any event, shall not exceed the fees and expenses paid by you under the Contract in the preceding 6 month period.
- 13.5 Except as provided in clause 13.3 above, we will not by reason of any representation, implied warranty, condition or other term, or any duty at common law or under the express terms contained herein, be liable for any loss of profit or any indirect, special or consequential loss, loss of sales or business, damage, costs, expenses or other claims (whether caused by our employees, agents or otherwise) in connection with the performance of our obligations under the Contract. All warranties or conditions whether express or implied by law are hereby expressly excluded to the maximum extent permitted by law.
- 13.6 This **Error! Bookmark not defined.**¹³ shall survive termination of the Contract.
- 14. Force Majeure:** Neither party shall be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control (**a Force Majeure Event**). The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for 6 months, the party not affected may terminate the Contract by giving 7 days written notice to the affected party
- 15. No Waiver**
- 15.1.1 A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- 15.1.2 A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
- 16. 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 the Contract is deemed deleted under this **Error! Bookmark not defined.**¹⁶ the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the commercial result of the original provision.
- 17. Data Protection:** Each party agrees to comply with all applicable data protection legislation including, but not limited to, the Data Protection Act 2018, the UK General Data Protection Regulation, and any subsequent amendments to them.
- 18. Third Party Rights:** Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- 19. Notices**
- 19.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be:
- 19.1.1 delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office; or
- 19.1.2 sent by email to the specified email address of the addressee:
- 19.2 Any notice shall be deemed to have been received:
- 19.2.1 if delivered by hand, at the time the notice is left at the proper address;
- 19.2.2 if sent by post 3 Business Days;
- 19.2.3 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.
- 19.3 This clause 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.
- 20. Governing Law and Jurisdiction**
- 20.1 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 law of England and Wales.
- 20.2 Each party irrevocably agrees that 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 or its subject matter or formation.