

TERMS AND CONDITIONS OF BUSINESS FOR THE INTRODUCTION OF PERMANENT STAFF

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1. DEFINITIONS

- 1.1 In these Terms of Business the following definitions apply:
"Agency" means Alderwood Education Limited of 1450 Parkway, Solent Business Park, Whiteley, Fareham, Hampshire PO15 7AF;
"Applicant" means the person introduced by the Agency to the Client for an Engagement including any members of the Agency's own staff;
"Client" means the person, firm or corporate body together with any subsidiary company (as defined by the Companies Act 2006) or associated company (as defined in the Income and Corporation Taxes Act 1988) to whom the Applicant is introduced;
"Engagement" means the engagement, employment or use of the Applicant by the Client or any third party on a permanent or temporary basis, whether under a contract of service or for services; under an agency, licence, franchise or partnership agreement; or any other engagement;
"Introduction" means (i) the Client's interview of an Applicant in person or by telephone, following the Client's instruction to the Agency to search for an Applicant; or (ii) the passing to the Client of a curriculum vitae or other information which identifies the Applicant;
"Remuneration" includes base salary or fees, guaranteed and/or anticipated bonus and commission earnings, allowances, inducement payments, and all other payments and taxable (and, where applicable, non-taxable) emoluments payable to or receivable by the Applicant for services rendered to or on behalf of the Client.
- 1.2 Unless the context requires otherwise, references to the singular include the plural and references to the masculine include the feminine and vice versa.
- 1.3 The headings contained in these Terms of Business are for convenience only and do not affect their interpretation.
- 1.4 For the avoidance of doubt, when providing services pursuant to these terms and conditions the Agency is acting as an employment agency pursuant to the Employment Agencies Act 1973.
- 1.5 The Agency shall act as an intermediary between the Applicant and the Client and does not have any authority to bind the Applicant.
- 1.6 Unless otherwise specified, a reference to a statutory provision is a reference to that provision as amended, consolidated, extended or re-enacted from time to time (whether before or after the date of this Agreement) and to any subordinate legislation made under it.

2. THE CONTRACT

- 2.1 These Terms of Business are deemed to be accepted by the Client by virtue of instructing the Agency, an Introduction to, or the Engagement of, an Applicant or the passing of information about the Applicant to any third party following an Introduction.
- 2.2 These terms contain the entire agreement between the parties (the Contract) and unless otherwise agreed in writing by a director of the Agency, these Terms of Business shall prevail over any other terms of business or purchase conditions put forward by the Client. Where any clause or provision of these Terms of Business conflicts with any clause or provision of any subsequent contract or agreement between the Agency and the Client, these Terms of Business shall prevail, unless the subsequent contract or agreement is in writing, is signed by both parties, and it expressly provides that its terms shall prevail over these Terms of Business.
- 2.3 No variation or alteration of these Terms of Business shall be valid unless the details of such variation are agreed between a director of the Agency and the Client and are set out in writing, and a copy of the varied terms is given to the Client stating the date on or after which such varied terms shall apply, except that duly authorised Agency personnel may notify the Client in writing of agreed changes to the Agency's standard fees.
- 2.4 When requesting the Agency to provide details of potential applicants, the Client shall provide details of; the identity of the Client, the commencement date and likely duration of any fixed term employment (if applicable), the work to be provided (including the location and the hours to be worked, the potential health and safety risks together with the steps taken to prevent or control such risks), the training, qualifications or authorisations considered necessary, any expenses payable, the rate of remuneration and/or pay (and any other benefits offered by the Client together with the intervals) at which the Applicant would be paid, and the length of notice which the Applicant would be required to give and which the Applicant would be entitled to receive to end the employment.
- 2.5 The Client agrees to the Agency advertising each vacancy which the Client issues to the Agency unless the Client specifies otherwise in writing.
- 2.6 The Client agrees that upon the Agency providing details of a potential applicant, the Agency will be given priority over any duplicated applications by or on behalf of the same potential applicant. Should the Client receive a duplicated application, the Client shall not engage that potential applicant outside this Contract without the written permission of the Agency.

3. NOTIFICATION AND FEES

- 3.1 The Client agrees:
- to notify the Agency immediately of any offer of an Engagement which it makes to the Applicant;
 - to notify the Agency immediately that its offer of an Engagement to the Applicant has been accepted and to provide details of the Remuneration to the Agency; and
 - to pay the Agency's fee within 30 days of the date of invoice.
- 3.2 No fee shall be incurred by the Client until the Applicant commences the Engagement, when the Agency will render an invoice to the Client for its fees.
- 3.3 The Agency reserves the right:
- to charge interest on invoiced amounts unpaid, for more than 30 days from the date of invoice, at the rate of 4% per annum above the base rate from time to time of Barclays Bank from the due date until the date of payment, and the Client will accept this charge for payment upon receipt of invoice.
 - where the Client has failed to make payment of an invoice on time, to claim immediate payment of all invoices rendered including those within the 30 day period.
- 3.4 The fee payable to the Agency by the Client for an Introduction resulting in an Engagement is calculated in accordance with the fee structure, detailed below, on the Remuneration applicable during the first 12 months of the Engagement. VAT will be charged on the fee if applicable.

Annual Remuneration	% Charge
£0 - £14,999	12.5
£15,000 - £19,999	15
£20,000 - £29,999	17.5
£30,000+	20

- 3.5 If the Engagement is for a fixed term of less than 12 months, the fee in clause 3.4 will apply pro-rata. If the Engagement is extended beyond the initial fixed term or if the Client re-engages the Applicant within 6 months of the termination of the first Engagement the Client shall be liable to pay a further fee based on the additional Remuneration applicable for the period of Engagement following the initial fixed term up to the termination of the second Engagement or the first anniversary of its commencement, whichever is the sooner. Any further extensions of Engagements following the second Engagement shall require the Client to pay a further fee based on the additional Remuneration applicable for that further fixed term period.

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4. REFUNDS

4.1 If the Engagement terminates before the expiry of 8 weeks from the commencement of the Engagement (except where the Applicant is made redundant) the fee will be refunded in accordance with the scale of refund, detailed below.

4.2 The following scale of refund only applies in the event that the Client complies with the provisions of clause 3.1 of these Terms of Business.

4.3 Where the Applicant leaves during the first 8 weeks of the Engagement, a partial refund of the introduction fee shall be paid to the Client in accordance with the scale set out below, subject to the conditions in clauses 4.1 and 4.2.

Week in which the Applicant leaves	% of introduction fee refunded
1 - 4	100%
5 - 6	30%
7 - 8	10%

4.4 There will be no refund where the Applicant leaves during or after the 9th week of the Engagement.

4.5 Should the Client or any subsidiary or associated company of the Client subsequently engage or re-engage the Applicant within the period of 6 calendar months from the date of termination of the Engagement or withdrawal of the offer, a full fee calculated in accordance with clause 3.4 above becomes payable, with no entitlement to the refund.

5. INTRODUCTIONS

5.1 Introductions of Applicants are confidential. The disclosure by the Client to a third party of any details regarding an Applicant introduced by the Agency which results in an Engagement with that third party within 6 months of the Introduction renders the Client liable to payment of the Agency's fee as set out in clause 3.4 with no entitlement to any refund.

5.2 An introduction fee calculated in accordance with clause 3.4 will be charged in relation to any Applicant engaged as a consequence of, or resulting from, an Introduction by or through the Agency, whether direct or indirect, within 6 months from the date of the Agency's Introduction.

5.3 Where the amount of the actual Remuneration is not known the Agency will charge a fee calculated in accordance with clause 3.4 on the minimum level of remuneration applicable for the position in which the Applicant has been engaged with regard to any information supplied to the Agency by the Client and/or comparable remuneration in the market generally for such positions.

6.0 SUITABILITY AND REFERENCES

6.1 The Agency endeavours to ensure the suitability of any Applicant introduced to the Client, in particular the Agency shall;

6.1.1 Obtain confirmation of the Applicant's identity, that the Applicant has the experience, training, qualifications and any authorisations which the Client has notified to the Agency, pursuant to clause 2.4 above, that it considers necessary and that the Applicant is willing to work in the position which the Client is seeking to fill;

6.1.2 Inform the Client of such of the matters as outlined in clause 6.1.1 as the Agency shall have obtained confirmation of;

6.1.3 Take all steps as are reasonably practicable to ensure that the Client and the Applicant are aware of any requirements imposed by law or any professional body to enable the Applicant to work in the position which the Client seeks to fill;

6.1.4 Take all steps as are reasonably practicable to ensure that it would not be detrimental to the interests of either the Client or the Applicant for the Applicant to work in the position which the Client seeks to fill.

6.2 Notwithstanding clause 6.1 above, the Client shall satisfy itself as to the suitability of the Applicant and the Client shall take up any references provided by the Applicant to it or the Agency before engaging such Applicant. The Client shall be responsible for obtaining work and other permits if required, for the arrangement of medical examinations and/or investigations into the medical history of any Applicant, and satisfying any medical and other requirements or qualifications required by law of the country in which the Applicant is engaged to work.

7. LIABILITY

7.1 The Agency shall not be liable under any circumstances for any loss, expense, damage, delay, costs or compensation (whether direct, indirect or consequential) (together "the Liability") which may be suffered or incurred by the Client arising from or in any way connected with the Agency seeking an Applicant for the Client or from the Introduction to or Engagement of any Applicant by the Client or from the failure of the Agency to introduce any Applicant where the value of the Liability is in excess of 50% of the fees (excluding VAT and disbursement costs) paid by the Client to the Agency under the contract in relation to which the Liability arises. For the avoidance of doubt, the Agency does not limit or exclude liability for death or personal injury arising from its own negligence.

7.2 The Client shall indemnify and keep indemnified the Agency against any costs, claims or liabilities incurred by the Agency arising out of any Introduction or arising out of any non-compliance and/or as a result of any breach of these Terms of Business by the Client.

8. DATA PROTECTION

8.1 If the Agency discloses to the Client personal data relating to an Applicant, the Client confirms that it will, until such time (if any) as the Applicant becomes the subject of an Engagement by the Client, process such data on behalf of the Agency strictly in accordance with the provisions of the Data Protection Act 1998 ("personal data" and "process" having the meanings given in that Act). The Client shall process such personal data solely for the purposes of considering the Applicant's suitability for an Engagement (including, if thought fit, selection and interview purposes) and for no other purpose. The Client shall not disclose any personal data of an Applicant to any third party. The Client confirms that it operates sufficient and appropriate technical and organisational measures to protect against unauthorised or unlawful processing of such personal data and against loss, falsification or destruction of, or damage to such personal data and shall, upon the Agency's request, provide evidence to the Agency of the measures the Client has taken to comply with its obligations under this clause 8.1.

8.2 If the Introduction of an Applicant in relation to whom the Agency has provided personal data does not result in an Engagement, the Client shall destroy or return to the Agency all copies of such personal data, save that the Client may retain a single copy of such personal data as strictly necessary, acting on the basis of legal opinion, to satisfy any legal or regulatory requirements to which the Client may be subject, for a period not exceeding six months from the date on which the personal data was first provided by the Agency.

9. LAW

9.1 These Terms are governed by the law of England and are subject to the exclusive jurisdiction of the courts of England.

9.2 If any provision or term of these Terms of Business shall become or be declared illegal, invalid or unenforceable for any reason whatsoever including, but without limitation, by reason of the provisions of any legislation or other provisions having the force of law or by reason of any decision of any Court or other body or authority having jurisdiction, such terms or provisions shall be divisible from these Terms of Business and shall be deemed to be deleted from these Terms of Business and the remainder of the provisions shall continue in full force and effect provided always that if any such deletion substantially affects or alters the commercial basis of these Terms of Business, the parties shall negotiate in good faith to amend and/or modify the provisions of these Terms of Business as necessary or desirable in the circumstances.

- 9.3 Except in relation to rights expressly granted to third parties by these Terms of Business, a person who is not a party to the Contract incorporating these Terms of Business does not have a right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement in addition to any right or remedy which exists or is available apart from that Act.

1. DEFINITIONS

1.1 In these Terms of Business the following definitions apply:

“Assignment” means the services required by the Client which are to be rendered by the Contractor, Consultancy or Supplier;

“Client” means the person, firm or corporate body together with any subsidiary company (as defined by the Companies Act 1985) or associated company (as defined in the Income and Corporation Taxes Act 1988) to whom the Contractor, Consultancy or Supplier is supplied;

“Conduct Regulations” means the Conduct of Employment Agencies and Employment Businesses Regulations 2003;

“Consultancy” means the limited company introduced to the Client by the Employment Business to carry out an Assignment for the provision of Consultancy Services (and save where otherwise indicated, includes any officer, employee or representative thereof and any third party to whom the provision of Consultancy Services is assigned or subcontracted with the prior approval of the Client);

“Consultancy Agreement” means an agreement between the Employment Business and a Consultancy for the supply of Consultancy Services;

“Consultancy Services” means the consultancy services provided to the Client by the Consultancy pursuant to an Engagement;

“Contractor” means the individual whose services are supplied by the Employment Business to the Client;

“Employment Business” means Alderwood Education Limited of 1450 Parkway, Solent Business Park, Whiteley, Fareham, Hampshire PO15 7AF;

“Engagement” means any employment or use of the Contractor, Consultancy or Supplier on a permanent or temporary basis, whether under a contract of service or for services; an agency, license, franchise or partnership arrangement; or any other engagement;

“Introduction” means (i) the Client’s interview of a Contractor, Consultancy or Supplier in person or by telephone, following the Client’s instruction to the Employment Business to search for a Contractor, Consultancy or Supplier; or (ii) the passing to the Client of a curriculum vitae or other information which identifies the Contractor, Consultancy or Supplier;

“Introduction Fee” means the fee payable in accordance with clauses 6 and 6A below and Regulation 10 of the Employment Agencies and Employment Businesses Regulations 2003;

“Staff” means the person or persons employed or engaged by the Consultancy to perform the Consultancy Services, or, in the case of a Supplier, the person or persons employed or engaged by the Supplier to perform work pursuant to an Assignment;

“Supplier” means a limited company or limited liability partnership introduced to the Client by the Employment Business to carry out an Assignment where such Assignment relates to work that does not consist of Consultancy Services;

“Supplier Agreement” means an agreement between the Employment Business and a Supplier for the performance of work in relation to an Assignment.

1.2 Unless the context otherwise requires, references to the singular include the plural and references to the masculine include the feminine and vice versa.

1.3 The headings contained in these Terms of Business are for convenience only and do not affect their interpretation.

1.4 For the avoidance of doubt, when providing services pursuant to these Terms of Business the Employment Business is acting as an employment business pursuant to the Employment Agencies Act 1973.

1.5 These Terms shall apply to the supply of PAYE contractors, Consultancies and Suppliers, save that in the case of Consultancies or Suppliers who have contracted-out of the Conduct Regulations, clause 6 shall be substituted by clause 6A.

1.6 Unless otherwise specified, a reference to a statutory provision is a reference to that provision as amended, consolidated, extended or re-enacted from time to time (whether before or after the date of this Agreement) and to any subordinate legislation made under it.

2. THE CONTRACT

2.1 These Terms from the Employment Business constitute the contract between the Employment Business and the Client for the supply of the Contractor’s, Consultancy’s or Supplier’s services by the Employment Business to the Client (the Contract) and are deemed to be accepted by the Client by virtue of its instruction to the Employment Business, an Introduction to, or Engagement of the Contractor, Consultancy or Supplier or the Client passing information about the Contractor, Consultancy or Supplier to any third party following an Introduction.

2.2 **No variation or alteration of these Terms of Business shall be valid unless the details of such variation are agreed between a director of the Agency and the Client and are set out in writing, and a copy of the varied terms is given to the Client stating the date on or after which such varied terms shall apply,** except that duly authorised personnel of the Employment Business may notify the Client in writing of agreed changes to the Employment Business’ standard charges or the duration of an Extended Period (as referred to in clause 6.5).

2.3 These Terms of Business contain the entire agreement between the parties and unless otherwise agreed in writing by a director of the Employment Business, these Terms prevail over any terms of business or purchase conditions proffered by the Client. Where any clause or provision of these Terms of Business conflicts with any clause or provision of any subsequent contract or agreement between the Employment Business and the Client, these Terms of Business shall prevail, unless the subsequent contract or agreement is in writing, is signed by both parties, and it expressly provides that its terms shall prevail over these Terms of Business.

2.4 Where applicable, when requesting the Employment Business to provide details of Contractors, Consultancies or Suppliers for an Assignment, the Client shall provide details of; the identity of the Client, dates and likely duration of the Assignment, the services to be provided (including the location and the hours to be worked, the potential health and safety risks together with the steps taken to prevent or control such risks and whether the Consultancy, Contractor or Supplier will be working with persons under the age of 18 or is in need of care or attention by reason of age, infirmity or some other reason), the training, qualifications and professional or legal requirements or authorisations considered necessary, any expenses payable, the rate payable and the length of notice required. The Client shall be responsible for obtaining Criminal Records Bureau checks on the Consultancy, Contractor, Supplier or Staff if required for the assignment.

2.5 The Client shall comply fully with its health and safety obligations to the Contractor or to the Consultancy’s or the Supplier’s Staff, and shall supply to the Employment Business copies of any relevant documentation as required by law or otherwise upon request, including, without limitation, copies of any risk assessments carried out, copies of documentation relating to health and safety training carried out, records of health and safety incidents including accidents and copies of the Client’s health and safety policies. The Client shall be responsible for recording any health and safety incident or accident relating to the Assignment, and where required by law, the Client shall be responsible for reporting such incident or accident to the Health and Safety Executive (HSE). The Client shall, as soon as practicable after becoming aware of the issue, inform the Employment Business of any adverse changes to potential health and safety risks relating to the Assignment or the health and safety situation (including, without limit, any HSE investigation, notice or prosecution relevant to the Assignment).

2.6 The Client agrees to the Employment Business advertising each vacancy which the Client issues to the Employment Business unless the Client specifies otherwise in writing.

2.7 The Client agrees that upon the Employment Business providing details of a potential applicant, the Employment Business will be given priority over any duplicated applications by or on behalf of the same potential applicant. Should the Client receive a duplicated application, the Client shall not engage that potential applicant outside this Contract without the written permission of the Employment Business. The Employment Business shall endeavour to provide suitable Contractors, Consultancies or Suppliers and, if available, shall endeavour to provide the Client with references for those Contractors, Consultancies or Suppliers.

- 2.8 When putting forward a suitable Contractor, Consultancy or Supplier, the Employment Business shall inform the Client of the identity of the Contractor, Consultancy or Supplier and, in the case of a Consultancy or Supplier, the Staff to be supplied to do the work. The Employment Business shall confirm that the person to be supplied is willing to work in the position that the Client seeks to fill and has the necessary or required experience, training, qualifications and any authorisations required by law or a professional body to carry out the Engagement. Where such information is not given in paper form or by electronic means it shall be confirmed by such means by the end of the third business day (excluding Saturday, Sunday and any public or bank holiday) following, save where the person is being proposed for an Assignment in the same position as one in which he/she has previously been supplied within the previous five business days and such information has already been given to the Client.
- 2.9 The Client is not obliged to accept any Contractor, Consultancy, Supplier or member of Staff put forward by the Employment Business and it is the sole responsibility of the Client to ascertain the suitability of any Contractor, Consultancy, Supplier or member of Staff put forward (including by interviewing the Contractor, Consultancy, Supplier or Staff if necessary).
- 2.10 The Client agrees that the Consultancy Services or work pursuant to an Assignment may be performed by one or more members of the Consultancy's or the Supplier's Staff, as the Consultancy or Supplier may consider appropriate, subject to the Employment Business and the Client being reasonably satisfied that each such member of Staff has the required skills, qualifications and resources to provide the Consultancy Services or work to the required standard.
- 2.11 The Client agrees that the Consultancy or Supplier may, if the Consultancy or Supplier determines that to do so would result in the most efficient performance of the Consultancy Services or work, enlist additional Staff in the performance of the Consultancy Services or work or may provide substitute Staff (including a substitute project manager) or sub-contract all or part of the Consultancy Services or work, subject to the Employment Business and the Client being reasonably satisfied that such additional or substitute Staff or any such sub-contractors have the required skills, qualifications, resources and personnel to provide the Consultancy Services or work to the required standard.
- 2.12 Where the Consultancy or Supplier provides substitute Staff or sub-contracts all or part of the Consultancy Services or work pursuant to clause 2.11 above, the Employment Business shall include in its Consultancy Agreement or its Supplier Agreement:
- 2.12.1 an obligation on the Consultancy or Supplier to ensure that any agreement between the Consultancy or Supplier and any such substitute or sub-contractor shall contain obligations which correspond to the obligations of the Consultancy or Supplier under the terms of the Consultancy Agreement or Supplier Agreement; and
- 2.12.2 an obligation on the Consultancy or Supplier to remain responsible for the acts or omissions of any such substitute or sub-contractor.
- 2.13 The Employment Business shall require the Consultancy or Supplier to take all reasonable steps to avoid changes of Staff assigned to the performance of the Consultancy Services or work. If the Contractor, Consultancy or Supplier is unable for any reason to perform the Engagement, the Contractor, Consultancy or Supplier shall be required to inform the Employment Business by no later than 10.00am on the first day of unavailability (and the Employment Business shall inform the Client promptly of the Contractor's, Consultancy's or Supplier's unavailability) and in such case the Employment Business shall require the Consultancy or Supplier to provide a substitute subject to the provisions of clause 2.11 above.
- 2.14 Where substitute or additional Staff are provided or where the performance of all or part of the Consultancy Services or work is sub-contracted, the Employment Business shall require the Consultancy or Supplier to provide wherever possible (it being accepted by the parties that it would not be possible in circumstances provided for pursuant to clause 2.13 above), an overlap of up to 10 working days for such substitute or additional Staff or any such sub-contractor. The Client has the right to reject any substitute or additional Staff or any such sub-contractor should they prove to be unacceptable in the reasonable opinion of the Client and in such circumstances the Employment Business shall require the Consultancy or Supplier to provide a further replacement.
- 2.15 Save as otherwise stated in these Terms of Business, the Consultancy or Supplier shall be entitled to seek and perform contracts to supply its services to any third party throughout the duration of any Engagement provided that this in no way compromises or is to the detriment of the performance of the Consultancy Services or work for the Client pursuant to the Assignment.
- 2.16 The Client shall not require the Contractor, the Consultancy or the Supplier to provide any advice and assistance in addition to the Assignment and any requests to provide such additional advice and assistance shall be subject to the prior approval of the Employment Business and the Contractor, the Consultancy or the Supplier and agreement between the Employment Business and the Client as to the level of fees payable for such additional advice and assistance. In the event that such additional advice and assistance is agreed, the Client must notify the Employment Business of the terms upon which such services will be provided including details of any new fee arrangements in order that the fee arrangement between the Contractor, the Consultancy or the Supplier and the Employment Business may be adjusted accordingly.
- 2.17 The Client acknowledges and accepts that where, under these Terms of Business or otherwise, the Employment Business is obliged to require a Consultancy or Supplier to do something, such obligation will be discharged by inserting an appropriate provision in the Consultancy Agreement or the Supplier Agreement.
- 2.18 Except as otherwise agreed with the Client, the Consultancy or the Supplier shall provide, at its own cost, all such necessary equipment as is reasonable for the satisfactory performance by the Staff of the Consultancy Services or the work for the Client pursuant to the Assignment.
- 3. CHARGES**
- 3.1 The Client agrees to pay the charges of the Employment Business as notified by the Employment Business at the commencement of the Assignment and as may be varied from time to time during the Assignment by notice from the Employment Business.
- 3.1.1 For Contractors the charges are calculated according to a daily rate (which may include an overtime charge for work which is carried out in excess of an agreed number of hours per day) or alternatively the charges may be set at a fixed amount, which is payable in instalments upon the achievement of agreed milestones during the Assignment. The charges are comprised mainly of the Contractor's remuneration but also include the Employment Business' commission, Employer's National Insurance Contributions and any travel, hotel or other expenses as may have been agreed with the Client or, if there is no such agreement, such expenses as are reasonable. VAT is payable on the entirety of these charges. The charges are invoiced to the Client on a weekly basis (unless otherwise agreed) and are payable in accordance with the pay date on the invoice.
- 3.1.2 For Consultancies or Suppliers, on completion of the Consultancy Services or work pursuant to the Assignment or some other interval as may be agreed (e.g. upon the completion of agreed milestones) and specified before the commencement of the Consultancy Services or work, the Employment Business shall deliver to the Client its invoice for the amount due from the Client to the Employment business in respect of the work performed by the Consultancy or Supplier. Subject to the receipt of the invoice of the Employment Business, the Employment Business will receive payment from the Client for the Consultancy Services or work in accordance with the fee specified in the confirmation note issued by the Employment Business, plus any travel, hotel or other expenses as may have been agreed with the Client or, if there is no such agreement, such expenses as are reasonable, and plus VAT on the entirety of such fees and costs.
- 3.2 The charges, fees and costs are to be paid by the Client to the Employment Business without deductions (other than deductions which the Client is required by law to make). The Employment Business reserves the right:
- 3.2.1 to charge interest on any overdue amounts at the rate of 4% per annum above the base rate from time to time of Barclays Bank from the due date until the date of payment, and the Client will accept this charge for payment upon receipt of invoice;

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- 3.2.2 where the Client has failed to make payment of an invoice on time, to claim immediate payment of all invoices rendered including those within the agreed payment terms.
- 3.3 Notwithstanding any other provision of these Terms of Business, the Consultancy or Supplier will be able to suspend the performance of the Assignment for each Contractor or member of Staff to allow for such amount of paid holiday as the Contractor or member of Staff is entitled to, in law, in any year (or pro rata where the Assignment is for less than one year), subject to giving the Client four weeks' notice of such days.
- 4. TIMESHEETS**
- 4.1 Where applicable, at the end of each week of an Assignment (or at the end of the Assignment where it is for a period of one week or less or is completed before the end of a week) the Client shall sign the Employment Business' time sheet verifying the number of hours worked by the Contractor during that week or, in the case of a Consultancy or Supplier, shall verify the execution of the Consultancy Services by the Consultancy or the work by the Supplier, by signing a form provided to the Consultancy or Supplier for this purpose (Verification Form). The Client shall not be entitled to decline to sign a timesheet or Verification Form on the basis that it is dissatisfied with the work performed by the Contractor, Consultancy or Supplier. However, if the Client is unable to sign a timesheet produced for authentication by the Contractor or a Verification Form provided by the Consultancy or Supplier, because the Client disputes the hours claimed, the Client shall inform the Employment Business as soon as is reasonably practicable and shall cooperate fully and in a timely fashion with the Employment Business to enable the Employment Business to establish what hours, if any, were worked by the Contractor, the Consultancy or the Supplier. Where the charges are to be paid based upon the achievement of milestones, the Client shall provide such information as the Employment Business may request in order to determine whether or not any milestone has been achieved by a Consultancy or Supplier and, if the relevant milestone has not been achieved, the Client shall cooperate fully with the Employment Business and shall provide details of the shortfall in performance or any alleged deficiency.
- 4.2 Failure to sign the Employment Business timesheet or verify the execution of the Consultancy Services or work in accordance with clause 4.1 does not absolve the Client from its obligations to pay the charges or fees of the Employment Business in accordance with clause 3.
- 5. REMUNERATION**
- 5.1 The Employment Business assumes responsibility for payment of the Contractor's remuneration and where appropriate, for the deduction and payment of National Insurance Contributions and PAYE Income Tax applicable to the Contractor.
- 5.2 Where payment is due in respect of Consultancy Services, or work performed by the Supplier, the Client and the Employment Business accept and acknowledge that the Consultancy or Supplier shall be responsible for any PAYE Income Tax and National Insurance Contributions and any other taxes and deductions payable in respect of its Staff in relation to the performance of the Consultancy Services or work.
- 5.3 The parties acknowledge (and the Employment Business shall ensure that the Consultancy acknowledges) that the responsibility of complying with all statutory and legal requirements relating to the Staff of the Consultancy or Supplier (including but not limited to the payment of taxation, national insurance, parental payments and statutory sick pay) shall fall upon and be discharged wholly and exclusively by the Consultancy or Supplier.
- 6. INTRODUCTION FEES**
- 6.1 The direct Engagement by a Client of a Contractor, Consultancy or Supplier (or a member of Staff) introduced by the Employment Business, or the introduction by the Client of a Contractor, Consultancy or Supplier (or a member of the Staff) to any third party resulting in an Engagement (or, where applicable, if the Contractor has become incorporated under a limited company, the Engagement of that limited company) renders the Client subject to the payment of an introduction fee calculated in accordance with the accompanying scale of fees for permanent introductions ("**the Introduction Fee**") provided that the Engagement takes place within the Relevant Period. No refunds will be made payable for such placements as the ability of the worker is deemed proven.
- 6.2 For the purposes of this clause 6 the Relevant Period shall mean if there was no Assignment, within 6 months of the Introduction of the Contractor, Consultancy or Supplier by the Employment Business or if there was an Assignment the Relevant Period shall be the later of;
- 6.2.1 8 weeks commencing on the day that the Contractor, Consultancy or Supplier last performed services for the Client pursuant to the Assignment; and
- 6.2.2 14 weeks commencing on the first day that the Contractor, Consultancy or Supplier first provided services to the Client pursuant to an Assignment with the Client (provided that if there is a period of more than 42 days between Assignments this period shall commence on the first day of the assignment following such period between Assignments).
- 6.3 In the case of the direct Engagement by the Client the Client can, instead of paying the Introduction Fee, elect to extend the period of hire by the Extended Period after which time the Contractor, Consultancy or Supplier shall be able to be engaged directly by the Client, or through another agency, without payment of the Introduction Fee.
- 6.4 Where the Client elects to extend the period of hire in accordance with clause 6.3 above, the Client must give the Employment Business 7 days' prior written notice. Where the Client fails to give such notice and directly engages the Contractor, Consultancy or Supplier, the Introduction Fee will automatically become payable in accordance with clause 6.1.
- 6.5 For the purposes of this clause 6 the Extended Period shall mean 26 weeks or such other period as is specified in writing as referred to in clause 2.2.
- 6.6 Where the Client fails to inform the Employment Business of the annual remuneration of the Contractor, Consultancy or Supplier, the Introduction Fee will be calculated by multiplying the hourly charge of the Employment Business for the Contractor's, Consultancy's or Supplier's services by 300. No refund of the Introduction Fee will be paid in the event that the Engagement subsequently terminates. VAT is payable in addition to any fee due.
- 6A (FOR SUPPLIERS AND CONSULTANCIES WHO HAVE CONTRACTED OUT OF THE CONDUCT REGULATIONS ONLY)**
- 6A.1 The direct Engagement by a Client of a Supplier or Consultancy (or a member of Staff) introduced by the Employment Business, or the introduction by the Client of a Supplier or Consultancy (or a member of Staff) to any third party resulting in an Engagement renders the Client subject to the payment of an introduction fee calculated in accordance with the accompanying scale of fees for permanent introductions ("**the Introduction Fee**") provided that the Engagement takes place within a period of 12 months from the termination of the Assignment under which the Supplier or Consultancy was last supplied or if there was no Assignment within 12 months of the introduction of the Supplier or Consultancy by the Employment Business. No refunds will be made payable for such placements as the ability of the worker is deemed proven.
- 6A.2 Where the Client fails to inform the Employment Business of the annual remuneration of the Supplier or Consultancy, the Introduction Fee will be calculated by multiplying the hourly charge of the Employment Business for the Supplier's or Consultancy's services by 300. No refund of the Introduction Fee will be paid in the event that the Engagement subsequently terminates. VAT is payable in addition to any fee due.
- 7. LIABILITY**
- 7.1 Whilst every effort is made by the Employment Business to give satisfaction to the Client by ensuring reasonable standards of skills, integrity and reliability from Contractors, Consultancies and Suppliers and further to provide them in accordance with the Client's booking details, the Employment Business is not liable for any loss, expense, damage or delay arising from any failure to provide any Contractor, Consultancy or Supplier for all or part of the period of booking or from the negligence, dishonesty, misconduct, lack of skill or early termination of the performance of the Assignment by the Contractor, Consultancy or Supplier. For the avoidance of doubt, the Employment Business does not exclude liability for death or personal injury arising from its own negligence.

- 7.2. Contractors are engaged by the Employment Business under contracts for services. They are not the employees of the Employment Business but are deemed to be under the supervision, direction and control of the Client from the time they report to take up duties and for the duration of the Assignment. The Client agrees to be responsible for all acts, errors or omissions of the Contractor, whether wilful, negligent or otherwise as though he was on the payroll of the Client. The Client will also comply in all respects with all statutes including, for the avoidance of doubt, the Working Time Regulations, Health and Safety At Work Act etc, by-laws, codes of practice and legal requirements to which the Client is ordinarily subject in respect of the Client's own staff (excluding the matters specifically mentioned in Clause 5 above), including in particular the provision of adequate employer's and public liability insurance cover for the Contractor during all Assignments.
- 7.3. For the avoidance of doubt, no Consultancy or Supplier or its Staff shall be under the supervision or control of the Employment Business and the Client will therefore comply in all respects with all relevant statutes, by-laws and legal requirements including provision of adequate public liability insurance in respect of the Consultancy or Supplier.
- 7.4. The Client accepts and acknowledges that the Consultancy or Supplier shall have reasonable autonomy in relation to determining the method of performance of the Consultancy Services or work pursuant to an Assignment but the Employment Business shall require the Consultancy or Supplier to provide the Consultancy Services or perform the work in a manner necessary for the proper performance of those Consultancy Services or that work provided that in doing so the Consultancy or Supplier shall co-operate with the Client and comply with all reasonable and lawful instructions of the Client.
- 7.5. The Client accepts that the Consultancy may provide the Consultancy Services, or the Supplier may perform the work pursuant to an Assignment, at such times and on such days as the Consultancy or Supplier shall decide, subject to the Consultancy providing the Consultancy Services or the Supplier performing the work on such days and at such times as are necessary for the proper performance of the Consultancy Services or the work.
- 7.6. Nothing in these Terms of Business shall render any member of the Staff an employee of either the Employment Business or the Client. The Employment Business shall require the Consultancy or Supplier to ensure that none of its Staff holds himself out as an employee of either the Employment Business or the Client.
- 7.7. Where the proper performance of the Consultancy Services, or work pursuant to an Assignment, is dependent on the completion of tasks or services by third parties (including employees of the Client), the Consultancy, Supplier or the Employment Business shall have no liability to the Client for any delay, non or partial performance of the Consultancy Services or such work arising from the delay or non or partial performance of such tasks by third parties.
- 7.8. The Client will assist the Employment Business in complying with the Employment Business' duties under the Working Time Regulations by supplying any relevant information about the Assignment requested by the Employment Business and the Client will not do anything to cause the Employment Business to be in breach of its obligations under these Regulations. Where the Client requires or may require the services of a Contractor for more than 48 hours in any week, the Client must notify the Employment Business of this requirement before the commencement of that week.
- 7.9. The Client shall indemnify and keep indemnified the Employment Business against any costs, claims or liabilities incurred by the Employment Business arising out of any Assignment or arising out of any non-compliance with clause 7.2 and 7.8 and/or as a result of any breach of these Terms of Business by the Client.
- 7.10. The Client warrants that it shall not request the Employment Business to supply any Contractor, Consultancy or Supplier to perform duties normally undertaken by staff who are participating in an official strike or other industrial action or duties normally undertaken by someone who has been transferred by the Client to perform the duties of the person participating in an official strike or other industrial action.
- 7.11. The Client warrants that it knows of no reason why it would be detrimental to the interests of the Contractor, Consultancy, Supplier or Client for any Contractor, Consultancy or Supplier to undertake any Assignment and that it will notify the Employment Business immediately if it becomes aware of any such reason.
- 7.12. The Employment Business shall not be liable under any circumstances for any loss, expense, damage, delay, costs or compensation (whether direct, indirect or consequential) (together "the Liability") which may be suffered or incurred by the Client arising from or in any way connected with the Employment Business seeking a Contractor, Consultancy or Supplier for the Client or from the Introduction to or Engagement of any Contractor, Consultancy or Supplier by the Client or from the failure of the Employment Business to introduce any Contractor, Consultancy or Supplier where the value of the Liability is in excess of 50% of the fees and charges (excluding VAT and disbursement costs) paid by the Client to the Employment Business under the contract to which the Liability relates. For the avoidance of doubt, the Employment Business does not exclude liability for death or personal injury arising from its own negligence.
- 7.13. Where a Contractor or any member of the Consultancy's or Supplier's Staff is seconded outside the United Kingdom without the prior express written agreement of the Employment Business, the Client will become liable for all or any form of taxation (to include without limitation costs, interest and penalties) directly or indirectly referable to the secondment, imposed by any body or person, statutory or local governmental authority, in which the secondment is treated as having taken place.
- 7.13. Neither the Client nor the Employment Business shall be liable for any delay in the performance of its obligations or any breaches of its obligations under these Terms of Business resulting from causes beyond its reasonable control including but not limited to Acts of God, enemy, fire, flood, explosion or other catastrophe.
- 7.14. The Client accepts that the Consultancy or Supplier shall not be liable for any breaches of its obligations to the Client under its Consultancy Agreement, or as appropriate, its Supplier Agreement, with the Employment Business resulting from causes beyond its reasonable control including but not limited to Acts of God, enemy, fire, flood, explosion or other catastrophe.
- 8. TERMINATION**
- 8.1. Termination of a contract for the performance of an Assignment shall be on completion of the Assignment, on a previously agreed termination date or otherwise in accordance with these Terms of Business.
- 8.2. The Client undertakes to supervise the Contractor or the Consultancy's or Supplier's Staff sufficiently to ensure the Client's satisfaction with the Contractor's or Staff's standards of workmanship. If the Client reasonably considers that the services of the Contractor or Staff are unsatisfactory, the Client may terminate the Assignment either by instructing the Contractor or Staff to leave the Assignment immediately or by directing the Employment Business to remove the Contractor or Staff (in each case, either immediately or, where a notice period has been agreed, by giving notice to the Contractor or Staff). The Employment Business may in such circumstances reduce or cancel the charges for the time worked by that Contractor or the Staff, provided that the Assignment terminates within four hours of the Contractor or Staff commencing the Assignment and also provided that notification of the unsuitability of the Contractor or Staff is confirmed in writing to the Employment Business within 48 hours of the termination of the Assignment.
- 8.3. The Client, the Employment Business or the Contractor, Consultancy or Supplier may terminate an Assignment at any time without prior notice and without liability, subject to any notice period which may be agreed in respect of the specific Assignment. The Employment Business may, without prior notice and without liability, suspend the performance of any Assignment if the Client fails to pay the charges properly due to the Employment Business in respect of that Assignment or otherwise.
- 8.4. The Client shall notify the Employment Business immediately and without delay and in any event within 24 hours if the Contractor or any member of the Consultancy's or Supplier's Staff fails to attend work or notify the Client that he is unable to attend work for any reason.

- 8.5 The Employment Business shall notify the Client if it receives or otherwise obtains information which gives it reasonable grounds to believe that a Contractor or a member of Staff supplied to the Client is or are unsuitable for the Assignment and shall be entitled to terminate the Assignment without prior notice and without liability.
- 8.6 The provisions of this clause 8 shall equally apply to any substitute Staff or sub-contractor performing the Consultancy's or the Supplier's obligations as provided for in clause 2.11.
- 8.7 There are no circumstances under which the Employment Business will be required to pay the Client any refunds or rebates in respect of Consultancy Services or work performed pursuant to an Assignment.

9. AGENCY WORKERS REGULATIONS 2010

The provisions of this clause shall apply only to those Contractors, Suppliers and any Staff deemed to be in scope under the Agency Workers Regulations 2010.

- 9.1 For the purposes of this clause the following terms shall have the following meanings;

<p>"AWR"</p> <p>"AWR Claim"</p> <p>"Comparable Employee"</p> <p>"First Assignment"</p>	<p>Agency Workers Regulations 2010;</p> <p>means any complaint or claim to a tribunal or court made by or on behalf of any Contractor, Supplier or any member of Staff against the Client and/or Employment Business for any breach of the AWR;</p> <p>has the meaning given under Regulation 5(4) of the AWR;</p> <p>means:</p> <p>(a) the relevant Assignment</p> <p>(b) if, prior to the relevant Assignment:</p> <p style="padding-left: 40px;">i. the Contractor, Supplier or Staff has worked in any assignment in the same role with the Client as the role in which the Temporary Worker works in the relevant Assignment;</p> <p style="padding-left: 40px;">and</p> <p style="padding-left: 40px;">ii the relevant Qualifying Period commenced in any such assignment, that assignment (an assignment being (for the purpose of this defined term) a period of time during which the Contractor, Supplier or Staff are supplied by one or more Temporary Work Agencies to the relevant Client to work temporarily for and under the supervision and direction of the relevant Client);</p>
<p>"Qualifying Period"</p> <p>"Relevant Terms and Conditions"</p> <p>"Temporary Work Agency"</p>	<p>has the meaning given under Regulation 7 of the AWR;</p> <p>has the meaning given under Regulation 6 of the AWR; and</p> <p>has the meaning given under Regulation 4 of the AWR</p>

- 9.2 The Client shall comply with its obligations under Regulation 12 (rights of the agency workers in relation to collective facilities and amenities) and 13 (rights of agency workers in relation to access to employment) of the AWR.
- 9.3 To enable the Employment Business to comply with its obligations under the AWR, the Client undertakes as soon as possible prior to the commencement of each Assignment, during each Assignment (as appropriate) and at any time at the Employment Business' request:
- 9.3.1 to inform the Employment Business of any calendar weeks since 1 October 2011 in which the relevant Contractor, Supplier or member of Staff has worked in the same or similar role with the Client via any third party prior to the date of commencement of the relevant Assignment which counts or may count towards the Qualifying Period;
- 9.3.2 if, since 1 October 2011, the Contractor, Supplier or any member of Staff has worked in the same or a similar role with the Client via any third party prior to the date of commencement of the relevant Assignment and or works in the same or a similar role with the Client via any third party during the relevant Assignment, to provide the Employment Business with all details of such work, including (without limitation) details of where, when and the period(s) during which such work was undertaken and any other details requested by the Employment Business;
- 9.3.3 to inform the Employment Business if, since 1 October 2011, the Contractor, Supplier or any member of Staff has prior to the date of commencement of the relevant Assignment and or during the relevant Assignment:
- 9.3.3.1 completed two or more assignments with the Client;
- 9.3.3.2 completed at least one assignment with the Client and one or more earlier assignments with any member of the Client's group; and/or
- 9.3.3.3 worked in more than two roles during an assignment with the Client and on at least two occasions worked in a role that was not the same role as the previous role;
- 9.3.4 save where the Contractor, Supplier or any member of Staff will not complete the Qualifying Period during the term of the Assignment, to:
- 9.3.4.1 provide the Employment Business with written details of the basic working and employment conditions the Contractor, Supplier or Staff would be entitled to for doing the same job if the Contractor, Supplier or Staff had been directly recruited by the Client as an employee or worker at the time the Qualifying Period commenced or with those of a Comparable Employee, such basic working and employment conditions being the Relevant Terms and Conditions;
- 9.3.4.2 inform the Employment Business in writing whether the Relevant Terms and Conditions provided are those of a hypothetical directly recruited employee or worker, or those of a Comparable Employee;
- 9.3.4.3 if the Relevant Terms and Conditions provided are those of a Comparable Employee, provide the Employment Business with a written explanation of the basis on which the Client considers that the relevant individual is a Comparable Employee; and
- 9.3.4.4 inform the Employment Business in writing of any variations in the Relevant Terms and Conditions made at any time during the relevant Assignment after the Qualifying Period commenced; and
- 9.3.5 save where the Contractor, Supplier or Staff will not complete the Qualifying Period during the term of the Assignment, provide the Employment Business with written details of its pay and benefits structures and appraisal processes and any variations of the same.
- 9.4 In addition, for the purpose of awarding any bonus to which the Contractor, Supplier or Staff may be entitled under the AWR, the Client will:
- 9.4.1 integrate the Contractor, Supplier or Staff into its relevant performance appraisal system;
- 9.4.2 assess the Contractor's, Supplier's or Staff performance;
- 9.4.3 provide the Employment Business with copies of all documentation relating to any appraisal of the Contractor, Supplier or Staff, including without limitation, written details of the outcome of any appraisal and the amount of any bonus awarded; and

- 9.4.4 provide the Employment Business with all other assistance the Employment Business may request in connection with the assessment of the Contractor's, Supplier's or Staff performance for the purpose of awarding any bonus.
- 9.5 The Client will comply with all the Employment Business' requests for information and any other requirements to enable the Employment Business to comply with the AWR.
- 9.6 The Client warrants that:
- 9.6.1 all information and documentation supplied to the Employment Business in accordance with clauses 9.3, 9.4 and 9.5 is complete, accurate and up to date; and
- 9.6.2 it will, during the term of the relevant Assignment, immediately inform the Employment Business in writing of any subsequent change in any information or documentation provided in accordance with clauses 9.3, 9.4 and 9.5;
- 9.7 Without prejudice to clauses 9.12 and 9.13, the Client shall inform the Employment Business in writing of any:
- 9.7.1 oral or written complaint the Contractor, Supplier or any member of Staff makes to the Client which is or may be a complaint connected with rights under the AWR; and
- 9.7.2 any written request for information relating to the Relevant Terms and Conditions that the Client receives from the Contractor, Supplier or Staff. This information shall be provided as soon as possible but no later than seven calendar days from the day on which any such oral or written complaint is made to, or request is received by, the Client.
- The Client will take such action and give such information and assistance as the Employment Business may request (within any timeframe requested by the Employment Business) in order for the complaint to be resolved or the information provided in a written statement to the Contractor, Supplier or Staff within 28 days of receipt of the request or complaint. The Client shall provide the Employment Business with a copy of any such written statement.
- 9.8 The Client agrees to pay any other amounts to which the Contractor, Supplier or Staff are entitled under the AWR, where applicable.
- 9.9 The Employment Business reserves the right to vary the charges agreed with the Client, by giving written notice to the Client:
- 9.9.1 in order to comply with any additional liability imposed by statute or other legal requirement or entitlement, including but not limited to the AWR; and/or
- 9.9.2 if there is any variation in the Relevant Terms and Conditions.
- 9.10 In addition to the charges, the Client will pay the Employment Business an amount equal to any bonus that the Client awards to the Contractor, Supplier or member of Staff in accordance with clause 9.4 immediately following any such award and the Employment Business will pay any such bonus to the Contractor or Supplier. For the avoidance of doubt, the Client will also pay any Employer's National Insurance Contributions (where applicable) and the Employment Business' commission on the bonus in addition to any bonus payable to the Contractor or Supplier.
- 9.11 The Employment Business undertakes to keep confidential all Relevant Terms and Conditions that the Client discloses to the Employment Business and not to use such information except for the purposes of compliance with the AWR (including, for the avoidance of doubt and without limitation, when dealing with any request for information or complaint made by any Contractor, Supplier or member of Staff or any AWR Claim).
- 9.12 The Client shall inform the Employment Business in writing of any AWR Claim which comes to the notice of the Client as soon as possible but no later than 7 calendar days from the day on which any such AWR Claim comes to the notice of the Client.
- 9.13 If the Contractor, Supplier or any Staff bring, or threatens to bring, any AWR Claim, the Client undertakes to take such action and give such information and assistance as the Employment Business may request, and within any timeframe requested by the Employment Business and at the Client's own cost, to avoid, dispute, resist, mitigate, compromise or defend any such AWR Claim and to appeal against any judgement given in respect thereof.
- 10. DATA PROTECTION**
- 10.1 If the Employment Business discloses to the Client personal data relating to a Contractor or Staff, the Client confirms that it will, until such time (if any) as the Contractor becomes the subject of an Engagement by the Client, process such data on behalf of the Employment Business strictly in accordance with the provisions of the Data Protection Act 1998 ("personal data" and "process" having the meanings given in that Act). The Client shall process such personal data solely for the purposes of considering the Contractor's or Staff's suitability for an Engagement (including, if thought fit, selection and interview purposes) and for no other purpose. The Client shall not disclose any personal data of a Contractor or any Staff to any third party. The Client confirms that it operates sufficient and appropriate technical and organisational measures to protect against unauthorised or unlawful processing of such personal data and against loss, falsification or destruction of, or damage to such personal data and shall, upon the Employment Business' request, provide evidence to the Employment Business of the measures the Client has taken to comply with its obligations under this clause 9.1.
- 10.2 If the Introduction of a Contractor or Staff in relation to whom the Employment Business has provided personal data does not result in an Engagement, the Client shall destroy or return to the Employment Business all copies of such personal data, save that the Client may retain a single copy of such personal data as strictly necessary, acting on the basis of legal opinion, to satisfy any legal or regulatory requirements to which the Client may be subject, for a period not exceeding six months from the date on which the personal data was first provided by the Employment Business.
- 11. LAW**
- 11.1 These Terms of Business are governed by the law of England and are subject to the exclusive jurisdiction of the courts of England.
- 12 .ILLEGALITY**
- 12.1 If any provision or term of these Terms of Business shall become or be declared illegal, invalid or unenforceable for any reason whatsoever including, but without limitation, by reason of the provisions of any legislation or other provisions having the force of law or by reason of any decision of any Court or other body or authority having jurisdiction, such terms or provisions shall be divisible from these Terms of Business and shall be deemed to be deleted from these Terms of Business and the remainder of the provisions shall continue in full force and effect provided always that if any such deletion substantially affects or alters the commercial basis of these Terms of Business, the parties shall negotiate in good faith to amend and/or modify the provisions of these Terms of Business as necessary or desirable in the circumstances.
- 13. RIGHTS OF THIRD PARTIES**
- 13.1 Except in relation to rights expressly granted to third parties by these Terms of Business, a person who is not a party to the Contract incorporating these Terms of Business does not have a right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement in addition to any right or remedy which exists or is available apart from that Act.
- 14. NOTICES**
- 14.1 All notices which are required to be given by the either party shall be in writing and shall be sent to the registered office from time to time of the party upon whom the notice is to be served. Any such notice may be delivered personally or by first class prepaid post or facsimile transmission and shall be deemed to have been served if by hand when delivered, if by first class post 48 hours and if by facsimile transmission when despatched.

15. FORCE MAJEURE

15.1 Neither party shall be liable for any breaches of its obligations under these Terms of Business resulting from causes beyond its reasonable control including but not limited to Acts of God, fire, flood, explosion or other catastrophe.

16. WAIVER

16.1 The failure by either party to enforce at any time any one or more of these Terms of Business shall not be a waiver of them or of the right at any time subsequently to enforce all terms in these Terms of Business.

17. EXPENSES

17.1 Except as otherwise provided in these Terms of Business, each party shall pay its own expenses incurred in performing its obligations and complying with these Terms of Business.

18. NO PARTNERSHIP

18.1 Nothing in these Terms of Business shall create or be deemed to create a partnership between the parties.

19. ASSIGNMENT

19.1 Neither party shall assign, transfer, charge or otherwise deal with its rights or obligations under these Terms of Business, or attempt to do any such things, without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed).