

## Terms and Conditions of Business

### For the Introduction of Permanent Staff

#### 1. DEFINITIONS

1.1. In these Terms the following definitions apply:

“**Agency**” means KDC Resource Limited (registered company no. 07494362) of Building 307, Aviation Park West, Bournemouth Airport, Dorset, BH23 6NW (“**the Agency**”).

“**Candidate**” means the person Introduced by the Agency to the Client for an Engagement including any officer, employee or other representative of the Candidate if the Candidate is a corporate body, and members of the Agency’s own staff;

“**Client**” means the person, firm or corporate body together with any subsidiary or associated person, firm or corporate body (as the case may be) to which the Candidate is Introduced;

“**Engagement**” means the engagement, employment or use of the Candidate by the Client or by any third party to whom the Candidate has been introduced by the Client, 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; or through a limited company of which the Candidate is an officer, employee or other representative; and “Engage”, “Engages” and “Engaged” shall be construed accordingly;

“**Introduction**” means (i) the passing to the Client of a curriculum vitae or information which identifies the Candidate or (ii) the Client’s interview of a Candidate (in person, by telephone or by any other means), following the Client’s instruction to the Agency to search for a Candidate; and, in either case, which leads to an Engagement of the Candidate; and “Introduces” and “Introduced” shall be construed accordingly;

“**Introduction Fee**” means the fee payable by the Client to the Agency for an Introduction resulting in an Engagement;

“**Remuneration**” includes gross base salary or fees, guaranteed and/or anticipated bonus and commission earnings, allowances, inducement payments, the benefit of a company car and all other payments and taxable (and, where applicable, non-taxable) emoluments payable to or receivable by the Candidate for services rendered to or on behalf of the Client or any third party;

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

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

#### 2. THE CONTRACT

2.1. These terms of business and the attached Schedule(s) (“**the Terms**”) constitute the contract between the Agency and the Client for the supply of permanent or contract staff (to be engaged directly by the Client) and are deemed to be accepted by the Client by virtue of an Introduction or the Engagement of a Candidate, or the passing by the Client of any information about a Candidate to any third party following an Introduction.

2.2. These Terms contain the entire agreement between the parties and unless otherwise agreed in writing by a director of the Agency, these Terms prevail over any other terms of business or purchase conditions (or similar) put forward by the Client.

2.3. No variation or alteration to these Terms 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.

2.4. The Agency acts as an employment agency (as defined in Section 13(2) of the Employment Agencies Act 1973) when introducing Candidates to the Client for direct Engagement by that Client.

#### 3. NOTIFICATION AND FEES

3.1. The Client agrees to:

3.1.1. notify the Agency immediately of the terms of any offer of an Engagement which it makes to the Candidate;

3.1.2. notify the Agency immediately that its offer of an Engagement to the Candidate has been accepted and to provide details to the Agency of the Remuneration agreed with the Candidate together with any documentary evidence as requested by the Agency; and

3.1.3. pay the Introduction Fee, to be calculated in accordance with the provisions of this clause 3, by the due date for payment in clause 3.7.

3.2. The Introduction Fee calculated in accordance with clause 3.3 below is payable if the Client Engages the Candidate within the period of six calendar months from the date of (a) the Introduction, (b) the Client’s withdrawal of an offer of Engagement or (c) the Candidate’s rejection of an offer of an Engagement, (whichever is the later).

3.3. The Introduction Fee is calculated in accordance with the Fee Structure detailed below based on the Remuneration applicable during the first 12 months of the Engagement.

Annual Remuneration	% Charge
£0 - £19,999	15
£20,000 - £24,999	20
£25,000 - £39,999	25
£40,000+	30

3.4. Where the actual Remuneration is not known, the Agency will charge an Introduction Fee calculated in accordance with clause 3.3 based on its determination of the Remuneration taking into account the market rate level of remuneration applicable for the position in which the Candidate has been Engaged and with regard to any information supplied to the Agency by the Client and/or comparable positions in the market generally.

3.5. Where prior to the commencement of the Engagement the Agency and the Client agree that the Engagement will be on the basis of a fixed term of less than 12 months, the Introduction Fee will apply pro-rata. If the Client (a) extends the Engagement beyond the initial fixed term or (b) re-Engages the Candidate within six calendar months from the date of termination of the agreed period of the fixed term Engagement, then the Client shall be liable to pay a further Introduction Fee based on the additional Remuneration applicable for (a) the extended period of Engagement or (b) the period of the second and any subsequent

Engagement, subject to the Client not being liable to pay a greater sum in Introduction Fees than the Client would have been liable for under clause 3.3 had the Candidate first been Engaged for 12 months or more.

3.6. The Client's obligations under this clause 3 shall be performed without any right of the Client to invoke set-off, deductions, withholdings or other similar rights.

3.7. The Introduction Fee shall be payable within 30 days of the date of the Agency's invoice which shall be rendered once the Candidate commences the Engagement.

3.8. VAT is charged at the standard rate on all fees.

3.9. The Agency reserves the right to charge interest under the Late Payment of Commercial Debts (Interest) Act 1998 on invoiced amounts unpaid by the due date at the rate of 8% per annum above the base rate from time to time of the Bank of England from the due date until the date of payment.

3.10. In the event that any Agency staff with whom the Client has had personal dealings accepts an Engagement with the Client while employed by the Agency [or within 3 months of leaving the Agency], the Client shall be liable to pay an Introduction Fee to the Agency calculated in accordance with clause 3.3.

#### 4. REFUNDS

4.1. If, after an offer has been made and accepted, the Engagement (a) does not commence because the Candidate withdraws their acceptance; or (b) once it has commenced, is terminated by either the Candidate or the Client (except in circumstances where the Candidate is made redundant) before the expiry of 8 weeks from the date of commencement of the Engagement; then subject to the terms of clause 4.2 the Agency will refund the Introduction Fee in accordance with the Scale of Refunds set out below.

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

4.2. In order to qualify for the refund set out in clause 4.1, the Client must comply with the provisions of clause 3.1 and must notify the Agency in writing of the termination of the Engagement or the non-commencement of the Engagement within 7 days of its termination or non-commencement.

4.3. For the purposes of this clause 4 the date of termination of the Engagement shall be the date on which the Candidate ceases working or would have ceased working for the Client, but for any period of garden leave or payment in lieu of notice, whichever is the later.

4.4. In circumstances where clause 3.5 applies, the full Introduction Fee is payable and there shall be no entitlement to a refund.

4.5. If subsequent to the Client receiving a refund the Candidate is re-Engaged within a period of six calendar months from the date of termination then the refund shall be repaid to the Agency. The Client shall not be entitled to any further refunds in relation to the re-Engagement of this Candidate.

#### 5. INTRODUCTIONS TO THIRD PARTIES

Introductions of Candidates are confidential. If a Client discloses a Candidate's details to a third party, that will be deemed to be a "Third Party Introduction". If that Third Party Introduction results in an Engagement of the Candidate by the third party within six months of the Agency's Introduction of the Candidate to the Client, then the Client will be liable to the Agency for payment of an Introduction Fee in accordance with clause 3. Neither the Client nor the third party shall be entitled to a refund of the Introduction Fee under clause 4 in any circumstances.

#### 6. SUITABILITY CHECKS

6.1. The Agency endeavours to ensure the suitability of Candidates Introduced to the Client to work in the position which the Client seeks to fill by taking reasonably practicable steps to

6.1.1. ensure that it would not be detrimental to the interests of either the Client or the Candidate;

6.1.2. ensure that both the Client and Candidate are aware of any requirements imposed by law or by any professional body; and

6.1.3. confirm that the Candidate is willing to work in the position

6.2. Notwithstanding clause 6.1 the Client shall be obliged to satisfy itself as to the suitability of the Candidate for the position they are seeking to fill. The Client is responsible for:

6.2.1. taking up any references provided by the Candidate before Engaging the Candidate;

6.2.2. checking the Candidate's right to work and obtaining permission to work as may be required by the law of the country in which the Candidate is Engaged to work;

6.2.3. the arrangement of medical examinations and/or investigations into the medical history of any Candidate; and

6.2.4. satisfying any medical and other requirements, qualifications or permission required for the Candidate to work in the Engagement.

6.3. To enable the Agency to comply with its obligations under 6.1 above the Client undertakes to provide to the Agency details of the position which the Client seeks to fill, including the following:

6.3.1. the type of work that the Candidate would be required to do;

6.3.2. the location and hours of work;

6.3.3. the experience, training, qualifications and any authorisation which the Client considers necessary or which are required by law or any professional body for the Candidate to possess in order to work in the position;

6.3.4. any risks to health or safety known to the Client and what steps the Client has taken to prevent or control such risks;

6.3.5. the date the Client requires the Candidate to commence the Engagement;

6.3.6. the duration or likely duration of the Engagement;

6.3.7. the minimum rate of Remuneration, expenses and any other benefits that would be offered;

6.3.8. the intervals of payment of Remuneration; and

6.3.9. the length of notice that the Candidate would be entitled to give and receive to terminate their employment with the Client.

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**7. INFORMATION TO BE PROVIDED**

7.1. When the Agency Introduces a Candidate to the Client the Agency shall inform the Client that they have obtained confirmation of the matters set out in clause 6.1. 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 Candidate is being Introduced for an Engagement which is the same as one in which the Candidate has worked within the previous 5 business days and such information has already been given to the Client.

**8. CONFIDENTIALITY AND DATA PROTECTION**

All information relating to a Candidate is confidential and subject to the Data Protection Act 1998 ("DPA") and is provided solely for the purpose of providing work-finding services to the Client. Such information must not be used for any other purpose nor divulged to any third party and the Client undertakes to abide by the provisions of the DPA in receiving and processing the data at all times. In addition information relating to the Agency's business which is capable of being confidential must be kept confidential and not divulged to any third party, except information which is in the public domain.

**9. LIABILITY**

The Agency shall not be liable under any circumstances for any loss, expense, damage, delay, costs or compensation (whether direct, indirect or consequential) which may be suffered or incurred by the Client arising from or in any way connected with the Agency seeking a Candidate for the Client or from the Introduction to or Engagement of any Candidate by the Client or from the failure of the Agency to introduce any Candidate. For the avoidance of doubt, the Agency does not exclude liability for death or personal injury arising from its own negligence or for any other loss which it is not permitted to exclude under law.

**10. NOTICES**

All notices which are required to be given in accordance with this Agreement shall be in writing and may be delivered personally or by first class prepaid post to the registered office of the party upon whom the notice is to be served or any other address that the party has notified the other party in writing, by email or facsimile transmission. Any such notice shall be deemed to have been served: if by hand when delivered, if by first class post 48 hours following posting and if by email or facsimile transmission, when that email or facsimile is sent.

**11. SEVERABILITY**

If any of the provisions of these Terms shall be determined by any competent authority to be unenforceable to any extent, such provision shall, to that extent, be severed from the remaining terms, which shall continue to be valid to the fullest extent permitted by applicable laws.

**12. GOVERNING LAW AND JURISDICTION**

These Terms are governed by the law of England & Wales and are subject to the exclusive jurisdiction of the Courts of England & Wales.

## Terms and Conditions of Business

### For The Supply of a Self-Employed Consultancy Who Have Opted Out Of The Conduct Regulations (Outside IR35)

#### THE PARTIES

- (1) KDC Resource Limited (registered company no. 07494362) of 5a Poole Road, Bournemouth, Dorset, BH2 5QJ (“**the Employment Business**”).
- (2) “Client” means the person, firm or corporate body together with any subsidiary or associated person, firm or corporate body (as the case may be) to which the Candidate is Introduced  
For the avoidance of doubt the Client shall also include any subsidiary or associated person, firm or corporate body (as the case may be) to whom the Consultancy is Introduced.

#### RECITALS

- (A) The Employment Business carries on the business of sourcing and supplying consultancies to provide services to Clients of the Employment Business. The Client has instructed the Employment Business to supply a Consultancy to provide certain services, as specified in the attached schedules (“**the Schedules**”) (“**the Consultancy Services**”).
- (B) The Employment Business will Introduce a Consultancy to the Client to provide the Consultancy Services to the Client on the terms and subject to the conditions of this Agreement.

IT IS AGREED as follows:

#### 1. DEFINITIONS AND INTERPRETATION

1.1. In this Agreement the following definitions apply:

“ <b>Agency Workers Regulations</b> ”	means the Agency Workers Regulations 2010 and/ or the Agency Workers (Northern Ireland) Regulations 2011;
“ <b>Assignment</b> ”	means the Consultancy Services to be performed by the Consultancy Staff for the Client for a period of time during which the Consultancy is supplied by the Employment Business to provide the Consultancy Services to the Client;
“ <b>Charges</b> ”	means the charges as notified to the Client at the commencement of the Assignment and which may be varied by the Employment Business from time to time during the Assignment. The charges are comprised of the Consultancy Fees, the Employment Business' commission, and any travel, hotel or other disbursements as may have been agreed with the Client or, if there is no such agreement, such expenses as are reasonable;
“ <b>Conduct Regulations</b> ”	means the Conduct of Employment Agencies and Employment Businesses Regulations 2003 and/ or the Conduct of Employment Agencies and Employment Businesses Regulations (Northern Ireland) 2005;
“ <b>Consultancy</b> ”	means the person, firm or corporate body Introduced to the Client by the Employment Business to carry out an Assignment (and, save where otherwise indicated, includes Consultancy Staff and any third party to whom the provision of the Consultancy Services is assigned or sub-contracted with the prior approval of the Client and any officer, employee, worker or representative of any such third party);
“ <b>Consultancy Fees</b> ”	means the fees payable to the Consultancy for the provision of the Consultancy Services;
“ <b>Consultancy Staff</b> ”	means any officer, employee, worker or representative of the Consultancy supplied to provide the Consultancy Services (and, save where otherwise indicated, includes any officer, employee, worker or representative of any third party to whom the provision of the Consultancy Services is assigned or sub-contracted with the prior approval of the Client);
“ <b>Data Protection Laws</b> ”	means the Data Protection Act 1998, any applicable statutory or regulatory provisions and all European Directives and regulations in force from time to time relating to the protection and transfer of personal data;

<b>“Engagement”</b>	means the engagement, employment or use of the Consultancy’s services or the services of any Consultancy Staff, by the Client or by any third party to whom the Consultancy and/or any Consultancy Staff have been introduced by the Client, directly or indirectly, on a permanent or temporary basis, whether under a contract of service or for services, an agency, licence, franchise or partnership arrangement, or any other engagement or through another employment business; and “Engage”, “Engages” and “Engaged” shall be construed accordingly;
<b>“Introduction”</b>	means (i) the passing to the Client of a curriculum vitæ or information which identifies the Consultancy or Consultancy Staff or (ii) the Client’s interview of a Consultancy or Consultancy Staff (in person, by telephone or by any other means), following the Client’s instruction to the Employment Business to supply a consultancy; or (iii) the supply of a Consultancy; and, in any case, which leads to an Engagement of that Consultancy or Consultancy Staff; and “Introduces” shall be construed accordingly;
<b>“Introduction Fee”</b>	means the fee payable by the Client in accordance with clause 7;
<b>“Losses”</b>	means all losses, liabilities, damages, costs, expenses whether direct, indirect, special or consequential (including, without limitation, any economic loss or other loss of profits, business or goodwill, management time and reasonable legal fees) and charges, including such items arising out of or resulting from actions, proceedings, claims and demands;
<b>“Remuneration”</b>	includes gross base salary or fees, guaranteed and/or anticipated bonus and commission earnings, allowances, inducement payments, the benefit of a company car and all other payments taxable, (and, where applicable, non-taxable) payable to or receivable by the Consultancy or the Consultancy Staff for services rendered to or on behalf of the Client. Where a company car is provided, a notional amount of £4,000 will be added to the sums paid to the Consultancy in order to calculate the Employment Business’ fee.

- 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 this Agreement are for convenience only and do not affect their interpretation.
- 1.4. Any reference, express or implied, to an enactment includes a reference to that enactment as from time to time amended, modified, extended, re-enacted, replaced or applied by or under any other enactment (whether before or after the date of this Agreement) and all subordinate legislation made (before or after this Agreement) under it from time to time.

**2. THE CONTRACT**

- 2.1. This Agreement together with the Schedules (**“Agreement”**) constitutes the contract between the Employment Business and the Client for the supply of the Consultancy Services by the Employment Business to the Client, and is deemed to be accepted by the Client by virtue of its request for, interview with, or Engagement of a Consultancy or the passing of any information about the Consultancy to any third party following an Introduction.
- 2.2. This Agreement contains the entire agreement between the Parties and unless otherwise agreed in writing by a director of the Employment Business shall prevail over any terms of business or purchase conditions (or similar) put forward by the Client.
- 2.3. Subject to clause 5.2 no variation or alteration to this Agreement shall be valid unless the details of such variation are agreed between a director of the Employment Business 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.
- 2.4. The Client acknowledges that the Consultancy and the Consultancy Staff carrying out the Assignment have opted out of the Conduct Regulations and further that any person to whom the performance of the Consultancy Services has been assigned or sub-contracted has opted out of the Conduct Regulations and that none of the Conduct Regulations apply to any Assignments governed by this Agreement.
- 2.5. The Client acknowledges that the Consultancy may supply any of the Consultancy Staff to perform the Consultancy Services and where the Consultancy is unable to provide any part of the Consultancy Services for whatever reason the Consultancy shall be entitled to assign or sub-contract the performance of the Consultancy Services provided that the Employment Business and the Client are reasonably satisfied that the assignee or sub-contractor has the required skills, qualifications, resources and personnel to provide the Consultancy Services to the required standard and that the terms of any such assignment or sub-contract contain the same acknowledgements under and obligations imposed by the agreement between the

Consultancy and the Employment Business. The Client shall not unreasonably withhold or delay any approval sought for the assignment or sub-contracting of the Consultancy Services.

- 2.6. The Client acknowledges that the Consultancy shall be permitted to determine how it will provide the Consultancy Services and will have the flexibility to determine the number of hours required and the times worked, to complete the Consultancy Services, subject to the Consultancy complying with any reasonable operational requirements of the Client. The Consultancy will be at liberty to determine the location at which it will provide the Consultancy Services, but where the Consultancy Services are undertaken at the Client's site, the Consultancy will comply with any reasonable requirements relating to working hours, and any other operational requirements in relation to the Client's site.

### **3. INFORMATION TO BE PROVIDED**

Prior to the commencement of the Assignment, or if this is not practical, upon commencement of the Assignment, the Employment Business will send to the Client the information set out in Schedule 1.

### **4. VERIFICATION OF EXECUTION OF THE CONSULTANCY SERVICES**

- 4.1. At the end of each week of the Assignment (or at the end of the Assignment where the Assignment is for a period of less than 1 week or is completed or finished before the end of a week/month) the Client shall verify the execution of the Consultancy Services by signature of a form provided to the Client for this purpose.
- 4.2. Verification by the Client of the execution of the Consultancy Services constitutes acceptance by the Client that the Consultancy Services have been provided satisfactorily and in accordance with this Agreement. Failure to verify execution in writing does not affect the Client's obligation to pay the Charges in respect of the work done. In the event that the Client is dissatisfied with the work performed by the Contractor the provisions of clause 8 below shall apply.

### **5. CHARGES**

- 5.1. The Client agrees to pay the Charges. VAT is payable at the applicable rate on the entirety of the Charges.
- 5.2. The Employment Business reserves the right to vary the Charges agreed with the Client, by giving written notice to the Client, in order to comply with any additional liability imposed by statute or other legal requirement or entitlement.
- 5.3. The Charges are invoiced to the Client on a weekly basis and are payable within 30 days.
- 5.4. The Employment Business reserves the right to charge interest under the Late Payment of Commercial Debts (Interest) Act 1998 on invoiced amounts unpaid by the due date at the rate of 8% per annum above the base rate from time to time of the Bank of England from the due date until the date of payment.
- 5.5. The Client's obligations under this clause 5 shall be performed without any right of the Client to invoke set-off, deductions, withholdings or other similar rights.

### **6. PAYING THE CONSULTANCY**

The Employment Business is responsible for paying the Consultancy Fees.

### **7. INTRODUCTION FEES**

- 7.1. The Client shall be liable to pay the Employment Business an Introduction Fee where the Employment Business Introduces the Consultancy to the Client and:
- 7.1.1. the Client Engages the Consultancy or any Consultancy Staff other than through the Employment Business within a period of 6 months from the termination of the Assignment in respect of which the Consultancy or Consultancy Staff was supplied, or if there was no supply, within 6 months of the Introduction of the Consultancy by the Employment Business to the Client; or
- 7.1.2. where the Client introduces the Consultancy to a third party and such introduction results in an Engagement of the Consultancy or any Consultancy Staff by the third party other than through the Employment Business within 6 months from the date of the introduction by the Client to the third party.
- 7.2. The Introduction Fee will be calculated at 20% of the annual fee payable to the Consultancy. Where the amount of the annual fee payable to the Consultancy is not known, the Introduction Fee will be calculated by multiplying the Charges by 300.
- 7.3. No refund of the Introduction Fee will be paid in the event that the Engagement subsequently terminates.
- 7.4. VAT is payable in addition to any Introduction Fee due.

### **8. TERMINATION OF THE ASSIGNMENT**

- 8.1. The Assignment will terminate on the end date set out in Schedule 1. Either party may terminate the Assignment earlier by giving to the other party in writing the period of notice specified in Schedule 1.

- 8.2. Notwithstanding the provisions of clause 8.1 the Client may terminate the Assignment forthwith by notice in writing to the Employment Business where:
- 8.2.1. the Consultancy has acted in breach of any statutory or other reasonable rules and regulations applicable to them while providing the Consultancy Services; or
  - 8.2.2. the Client reasonably believes that the Consultancy has not observed any condition of confidentiality applicable to the Consultancy from time to time; or
  - 8.2.3. the Client reasonably considers that the Consultancy's provision of the Consultancy Services is unsatisfactory.
- 8.3. The Employment Business may terminate an Assignment forthwith by notice in writing if:
- 8.3.1. the Client is in wilful or persistent breach of its obligations under this Agreement and where the breach is capable of being remedied, fails to remedy the breach within 7 days of receiving written notice from the Employment Business to do so; or
  - 8.3.2. the Client fails to pay any amount which is due to the Employment Business in full and on the date that the payment falls due; or
  - 8.3.3. the Client is dissolved, ceases to conduct all (or substantially all) of its business, is or becomes unable to pay its debts as they fall due, is or becomes insolvent or is declared insolvent, or convenes a meeting or makes or proposes to make any arrangement or composition with its creditors; or
  - 8.3.4. an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the Client; or
  - 8.3.5. an order is made for the winding up of the Client, or where the Client passes a resolution for its winding up (other than for the purpose of a solvent company reorganisation or amalgamation where the resulting entity will assume all the obligations of the other party under this Agreement); or
  - 8.3.6. (where the Client is an individual) the Client dies, or as a result of illness or incapacity becomes incapable of managing his or her own affairs, or is the subject of a bankruptcy petition or order.

## **9. CONFIDENTIALITY AND DATA PROTECTION**

All information relating to a Consultancy is confidential and where that information relates to an individual is also subject to the Data Protection Laws and is provided solely for the purpose of providing Consultancy Services to the Client. Such information must not be used for any other purpose nor divulged to any third party and the Client undertakes to abide by the provisions of the Data Protection Laws in receiving and processing the data at all times. In addition information relating to the Employment Business' business which is capable of being confidential must be kept confidential and not divulged to any third party, except information which is in the public domain.

## **10. INTELLECTUAL PROPERTY RIGHTS**

All copyright, trademarks, patents and other intellectual property rights deriving from the provision of the Consultancy Services by the Consultancy or any third party to whom the Consultancy Services are assigned or sub-contracted for the Client during the Assignment shall belong to the Client, save such rights as may be expressly owned or retained by the Consultancy and set out in Schedule 1 to this Agreement. Accordingly the Employment Business shall use its reasonable endeavours to ensure that the Consultancy shall (and any relevant member of the Consultancy Staff shall) execute all such documents and do all such acts in order to give effect to the Client's rights pursuant to this clause.

## **11. LIABILITY**

- 11.1. Whilst reasonable efforts are made by the Employment Business to give satisfaction to the Client by ensuring reasonable standards of skills, integrity and reliability from the Consultancy and to provide the same in accordance with the Assignment details as provided by the Client, no liability is accepted by the Employment Business for any Losses arising from the failure to provide a Consultancy for completion of the Assignment or from the negligence, dishonesty, misconduct or lack of skill of the Consultancy or if the Consultancy terminates the Assignment for any reason. For the avoidance of doubt, the Employment Business does not exclude liability for death or personal injury arising from its own negligence or for any other loss which it is not permitted to exclude under law.
- 11.2. For the avoidance of doubt, neither the Consultancy nor the Consultancy Staff are under the supervision, direction or control of the Employment Business or the Client, the Client does not have the right to supervise, direct and control the Consultancy or the Consultancy Staff and no member of the Consultancy Staff is an agency worker as defined under the Agency Workers Regulations.
- 11.3. The Client shall advise the Employment Business of any special health and safety matters about which the Employment Business is required to inform the Consultancy and about any requirements imposed by law or by any professional body, which must be satisfied if the Consultancy is to fill the Assignment. The Client will comply in all respects with all relevant statutes, by-laws, codes of practice and legal requirements including the provision of adequate public liability insurance in respect of the Consultancy.

- 11.4. The Client shall indemnify and keep indemnified the Employment Business against any Losses incurred by the Employment Business arising out of any Assignment or arising out of any non-compliance with and/or as a result of any breach of this Agreement by the Client.

**12. NOTICES**

All notices which are required to be given in accordance with this Agreement shall be in writing and may be delivered personally or by first class prepaid post to the registered office of the party upon whom the notice is to be served or any other address that the party has notified the other party in writing, by email or facsimile transmission. Any such notice shall be deemed to have been served: if by hand when delivered, if by first class post 48 hours following posting and if by email or facsimile transmission, when that email or facsimile is sent.

**13. SEVERABILITY**

If any of the provisions of this Agreement shall be determined by any competent authority to be unenforceable to any extent, such provision shall, to that extent, be severed from the remaining provisions, which shall continue to be valid to the fullest extent permitted by applicable laws.

**14. RIGHTS OF THIRD PARTIES**

None of the provisions of this Agreement are intended to be for the benefit of or enforceable by third parties and the operation of the Contracts (Rights of Third Parties) Act 1999 is excluded.

**15. GOVERNING LAW AND JURISDICTION**

This Agreement is governed by the law of England & Wales and is subject to the exclusive jurisdiction of the Courts of England & Wales.