

SUPPLIER TERMS & CONDITIONS

THIS AGREEMENT is made the xxxx

BETWEEN

- (1) **XXXX** (company number xxxx) whose registered office is xxxx ("the Client") and
- (2) **Henderson Scott Limited** (company number 03690606) whose registered office is at P O BOX 1295, 20 Station Road, Gerrards Cross, Buckinghamshire, England, SL9 8EL ("the Company")

BACKGROUND

This is an agreement recording the terms on which the Company agrees to provide Services (as defined below) to the Client from time to time on a project basis. The details of the services to be provided will be agreed in Work Orders (as defined below).

TERMS

1. Definitions and Interpretation

- 1.1 In this Agreement the following expressions will have the following meanings:

"this Agreement"	means this Agreement together with the Schedule and/or Work Orders and such further letters or documents as are expressly incorporated in writing into this Agreement
"Client"	means the company defined as being party to this agreement above or any subsidiary, associate or third party who engages the Consultant as a direct result of an Introduction made by the Company
"Consultant"	means any person engaged by the Company to perform the Services required by the Client under this Agreement, as identified in a Work Order, or any individual introduced to the Client identifying them as available to be engaged.
"Introduction"	means the written submission of a Consultant's details to the Client identifying the Consultant as being available for engagement, and "introduce" and similar expressions may be interpreted accordingly.
"Project"	means a specific piece of work undertaken on the terms of this Agreement, as specified in a Work Order
"Services"	means the Services to be provided by the Consultant(s) as detailed in the Work Order
"Working Day"	means an agreed day where Services are provided by the Consultant or as otherwise defined in the Work Order

“Work Order”

means a work order in the form of the Schedule attached to this Agreement, to be completed and signed by the parties for each specific Project, detailing the specific requirements of the Project

- 1.2 The clause headings are included for convenience only, have no legal effect and shall be ignored when construing this Agreement.
- 1.3 Unless otherwise stated, references to clauses are references to the clauses of this Agreement.
- 1.4 Words importing the singular include the plural and vice versa and words importing any gender include the other genders.
- 1.5 References to persons include individuals, firms, partnerships, limited liability partnerships, companies, corporations, associations, organisations, foundations and trusts (in each case whether or not having separate legal personality).
- 1.6 Any examples given (whether or not following the words “including” or “include”) shall not limit the general applicability of any preceding words.

2. Appointment

The Client appoints the Company to provide Services to the Client, covering deliverables or expertise as specified in writing in a Work Order for each Project.

3. Term and Scope

- 3.1 This Agreement will start on the date of this Agreement and will continue until terminated by either party in accordance with the provisions of clause 9 below.
- 3.2 This Agreement records the terms on which the Company agrees to provide Services to the Client, as described in Work Orders to be concluded from time to time, in accordance with the terms of this Agreement and to the exclusion of any other terms.
- 3.3 In the event of any conflict between the terms of this Agreement and any Work Order, the Work Order shall take precedence over the terms of this Agreement only to the extent of the conflict.
- 3.4 This Agreement does not oblige either party to enter into any Work Order with the other.

4. Company Undertakings

The Company will:

- 4.1 use all reasonable endeavours to use appropriately qualified and experienced Consultant(s) to supply the Services in a timely, efficient and professional manner to the standard of competency reasonably to be expected.
- 4.2 supply the Services with reasonable care and skill
- 4.3 procure that each Consultant shall record the Services delivered on a written record provided by the Company, and have such records agreed and signed by a person authorised by the Client to confirm acceptance of the Services by the Client.

- 4.4 use all reasonable endeavours to ensure that each Consultant provides Services on all days required to complete the project at the agreement of the Client on any corresponding Work Order.
- 4.5 ensure that each Consultant takes any annual leave entitlement in order to comply with the provisions of the Working Time Regulations 1998, providing that this is agreed in advance with the Client
- 4.6 inform the Client of any days when a Consultant will be unavailable to provide his or her services.
- 4.7 Where the Company is required to procure, ensure or require the Consultant to comply with any requirements, or other obligations in respect of the Contractor Services, the Company's obligation shall be satisfied by entering into a contract with the Consultant requiring the Consultant to comply with the same and using all reasonable efforts to enforce compliance with such contractual obligations

5. **The Client's Obligations**

The Client will:

- 5.1 pay the duly invoiced fees and expenses set out in clause 6 on presentation of the Company's invoice within the prescribed timescale set out in clause 7
- 5.2 ensure that the Consultant's Service records are signed promptly at the end of each week or month where Services are deemed satisfactory by the Client (approval may not be retrospectively removed).
- 5.3 ensure that it makes available to the Consultant such office and facilities as may be necessary for the Consultant to carry out the Services
- 5.4 ensure that its employees and other Consultants co-operate fully with the Consultant in relation to the provision of the Services and expertise
- 5.5 furnish promptly the Consultant with such information and documents as they may reasonably request for the proper performance of the Services
- 5.6 not, during any Project or for six months after it ends, seek to employ or engage to provide any similar services any Consultant who has provided services in the course of that Project
- 5.7 be responsible for any physical injury loss or damage suffered by the Consultant (save arising from the Consultant's own negligence) whilst the Consultant is performing the Services.
- 5.8 ensure associated Work Orders are signed for any Consultant who is engaged following an Introduction by the Company, if such engagement occurs within 6 months of a valid Introduction. Where a Work Order cannot be signed for whatever reason, yet the Consultant remains engaged the Client agrees to pay to the Company the value of the fees that would have been payable should a Work Order have been signed, or any other fee as may be agreed directly between the Client and the Company.
- 5.9 Comply with all statutory and other legal requirements which would apply to the Engagement of the Consultant including but not limited to providing all rights and facilities under The Agency Workers Regulations 2010 and agrees to indemnify the Company against any claims as a result of the Client's failure to adhere to their obligations under these regulations.
- 5.9 ensure that reasonable care is taken prior to the commencement of the Engagement when assessing the role and Consultant's IR35 status and providing details of that assessment to the Company.

6. **Fees**

- 6.1. The fees for the provision of the Services will be set out in each Work Order for a specific Project, payable in accordance with clause 7 below
- 6.2. The fees will include the accommodation and travelling expenses of the Consultant to and from the normal place of work. All other travelling and subsistence expenses incurred by the Consultant and approved in advance by the Client will be payable to the Company in addition to the Company's fees plus VAT at the applicable rate.

7. **Payment**

- 7.1. At the end of each calendar month the Company will present an invoice for payment by the Client to cover the Services provided by each Consultant during that month inclusive of any tax that may be payable.
- 7.2. All invoices will be paid by the Client within 30 days of the date of the Company's invoice, and the Company reserves the right to withhold payment to Consultants or remove Consultants from Client site in the event of late payment of invoices.
- 7.3. If any sum payable to the Company under this Agreement is not paid by the date on which it is due, then (without prejudice to any other available remedy) the Company reserves the right in its discretion;
- 7.3.1 to charge interest on the sum overdue at the rate set by order of the Secretary of State from time to time for the purposes of the Late Payment of Commercial Debts (Interest) Act 1998;
- 7.3.2 to suspend provision of all or any part of the Services under any Project;
- 7.3.3 terminate this Agreement forthwith by written notice to the Client.
- 7.4. Where interest on any sum due accrues to the Company in accordance with this clause, any payment later received will be applied first in payment of the interest due, and secondly in reduction of the indebtedness.

8. **Intellectual Property Rights in Materials**

In consideration of the Client making full and timely payment of all sums due to the Company under this Agreement, the Company assigns to the Client the copyright and all other intellectual property rights in all original materials created in the course of the Services.

9. **Termination**

- 9.1 Any work order shall remain in force until it either expires or is terminated in accordance with its terms or the terms of this Agreement. For the avoidance of doubt, any termination of a Work Order will not terminate this Agreement unless it does so expressly and in accordance with the terms of this Agreement.
- 9.2 Either party may terminate a Work Order by notice with immediate effect if:
- 9.2.1 the other party materially breaches either the Work Order or this Agreement and (if the breach is remediable) fails to remedy it within 14 days of receiving written notice requiring rectification and warning of the intention to terminate if the breach is not so rectified; or

9.2.2 the other party is unable to pay its debts or enters into compulsory or voluntary liquidation (other than for the purpose of effecting a reconstruction or amalgamation) or compounds with or convenes a meeting of its creditors or has a receiver or administrator appointed or ceases to carry on business or anything analogous to the above happens in any other jurisdiction.

9.2.3 Either party is under a legal obligation to do so.

9.3 The Client may terminate any Work Order by giving applicable notice to the Company as detailed on any Order, at any time.

9.4 Should the Client terminate a Work Order under Clause 9.3 but fail to give such notice then, without prejudice to any other right or remedy of the Company, the Client shall be responsible for the payment of Fees that would have been payable by it (calculated by reference to the periods specified in the Work Order) as if the full minimum notice had been given. The parties agree this payment is an enforceable liquidated damages clause and is not a penalty clause.

9.4 If within 6 months of termination, the Client requires the Services of an individual Consultant the Client shall inform the Company of such requirement as soon as is reasonably possible, and the Company will use best endeavours to secure the Services of the Consultant to fulfil the Client's requirement.

10. **Substitution of Personnel**

10.1 The Client shall at any time accept the provision by the Company of a substitute for any Consultant, provided that such substitute is, to the reasonable satisfaction of the Client, suitable and at least as qualified to perform the Services as the Consultant being replaced.

10.2 The Client may, if it has reasonable grounds to do so, require the Company to replace any Consultant and will put the reasons for its request in writing to the Company. The Company will, if satisfied that the reasons given by the Client justify a substitution, make such substitution within a reasonable period of time.

10.3 If the Company for any reason is unable to supply a replacement Consultant within 30 days the Client may terminate this agreement by giving notice to the Company and no claim for damages or loss shall result by reason of such termination.

11. **Confidentiality**

11.1 Each party shall keep secret and treat as confidential all information obtained from the other which is either stated to be confidential or could reasonably be regarded as confidential and shall not disclose such information to any person other than its employees, agents or sub-contractors where such disclosure is required for the performance of the party's obligations under this Agreement. This clause shall not extend to information which was already in the lawful possession of a party prior to this Agreement or which is already public knowledge or becomes so subsequently (other than as a result of a breach of this clause) or which is trivial or obvious. The obligations of confidentiality under this clause shall survive any termination of this Agreement.

11.2 The Company shall promptly whenever requested by the Client deliver up or destroy all copies of any documents, papers and records relating to the Client which may have been prepared by the Client and / or its employees or agents or the Consultant(s) or have come into the Company's and / or its employees' or its consultants' possession, and the Company shall not be entitled to and shall not retain any copies thereof.

12. **Extent of Liability**

12.1 Nothing in this Agreement shall limit or exclude either party's liability in respect of fraud, death or personal injury arising out of any breach of this Agreement, in tort or however so arising.

12.2 Subject to Clause 12.1 above, neither party shall be liable to the other for any of the following types of loss or damage arising under or in relation to this Agreement:

12.2.1 any liability to a third party, loss of present or future profits, business, contracts, corruption of data or information, anticipated savings, goodwill, revenue or wasted expenditure; or

12.2.2 any indirect or consequential loss or damage whatsoever,

12.3 Subject to Clause 12.2 above, the Company's total liability to the Client arising under or in connection with this Agreement, and whether arising in contract, tort, negligence, breach of statutory duty or otherwise for any losses costs expenses or damages under this Agreement and/or in relation to the provision of the Services shall be limited to 20% of the Fees paid or payable by the Client to the Company in relation to the specific Work Order to which the claim relates..

12.4 The Company endeavours to ensure the suitability of any Consultant introduced to the Client. The Client shall notwithstanding satisfy himself as to the suitability of any Consultant and shall satisfy himself that the compliance documents submitted by the Company are adequate before engaging such Consultants.

13. **No Employment**

The parties contract as independent persons and nothing in this Agreement will create the relationship of employer and employee between the Client and the Company or between the Client and any Consultant.

14. **Notices**

All notices which are required to be given in relation to this Agreement will be in writing and will be sent to the address of the recipient set out in this Agreement or such other address as the recipient will designate by notice given in accordance with the provisions of this clause. Any notice may be delivered by electronic mail from a Client or Company owner domain, personally or by recorded delivery post and will be deemed to have been served if by hand when delivered and if by recorded delivery post on the date of the delivery slip or on receipt by the sender of a notice that the addressee has "gone away" or refused to take delivery or any notice having similar effect.

15. **Force Majeure**

Neither party will be liable for any delay in performing any of its obligations under this Agreement if such delay is caused by circumstances beyond the reasonable control of the party so delaying and such party will be entitled (subject to giving the other party full particulars of the circumstances in question and using its best endeavours to resume the full performance without avoidable delay) to a reasonable extension of time to perform such obligations.

16. **Disputes**

If any dispute arises out of this Agreement the parties will attempt in good faith to negotiate a settlement. If the matter is not resolved by negotiation, the parties will refer it to mediation in accordance with the Centre for Effective Dispute Resolution ("CEDR") Model Mediation Procedure. Unless otherwise agreed, the mediator shall be appointed by CEDR. If the parties fail to agree terms of settlement within 42 days of the start of the first meeting held under such procedure, the dispute may be referred to litigation by either party.

17. **Whole Agreement**

This Agreement constitutes the entire understanding between the parties concerning the subject matter of this Agreement and no waiver or amendment of any provision will be effective unless made in writing signed by both parties.

18. **Third Parties**

A person who is not a party to this Agreement may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.

19. **Governing Law**

This Agreement shall be governed by English law and the parties irrevocably submit to the non-exclusive jurisdiction of the English Courts.

THE PARTIES have signed this Agreement on the date appearing at the beginning of this Agreement

Signed:

Date:

Name:

Title:

For and on behalf of **xxxx**

Signed:

Date:

Name:

Title:

For and on behalf of **Henderson Scott**

SCHEDULE PRO FORMA WORK ORDER

Entered into in accordance with the Consultancy Services Agreement dated {ddth Month} 20XX between xxxx and **XXXX**.
("the Agreement")

This Work Order covers the specific requirements of the following project to be delivered under the terms & conditions of the Agreement.

1. **Project Name**

2. **Objectives**

The objectives of the project will be:

-

3. **Deliverables**

The deliverables of the project will be:

-

4. **Project Period**

The Project Period will be from {start date} to {anticipated completion date} unless otherwise varied and agreed between both parties.

5. **Consultant(s)**

The Consultant(s) providing the Services defined in this Work Order will be {Consultant name(s)}.

6. **Services**

The Services provided will be {Services Description}.

7. **Location**

The Services will be carried out at {Location details}.

8. **Fees**

The Fees will be as follows:

{Consultant Name} £{Fee Rate} per Working Day

The fees will be exclusive of VAT. Any expenses will be charged in accordance with clause 6.2 of the Agreement.

9. **Additional Terms (where applicable)**

Signed:

Date:

Name:

Title:

For and on behalf of xxxx

Signed:

Date: {Insert Date}

Name: {Insert Name}

Title: {Insert Job Title}

For and on behalf of XXX