

# BISON STANDARD PROJECT TERMS OF BUSINESS FOR THE SUPPLY OF CONSULTANCY SERVICES (CLIENT)

## 1. GENERAL

- (a) 'BISON' shall mean BISON Limited.
- (b) BISON will be acting in the capacity as an Employment Business, as defined in the Employment Agencies Act 1973, for the purpose of these Terms of Business.
- (c) 'The Client' means the person, firm or corporate body together with any subsidiary or associated company as defined by the Companies Act 1985 (as may be amended from time to time) to whom BISON provides Consultancy services.
- (d) 'Consultancy' means the Limited Company introduced to the Client by BISON and engaged by the Client to carry out an assignment (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 sub let with the prior approval of BISON and the Client)
- (e) BISON sub-contracts work to Consultancies. Clients are required to enter into a Contract with BISON of which these Terms of Business form part.
- (f) 'Assignment' means the services which the Consultancy is engaged by BISON to render to the Client.
- (g) 'Authorised Representative' means the person authorised by The Client to act on behalf of the Client in all matters relating to the Contract.
- (h) "AWR" means the Agency Workers Regulations 2010 (as amended);
- (i) "Qualifying Period" means as defined within regulation 7 of the AWR;
- (j) The 'Time Record' is a record of time spent working on a project that is authorised by the Authorised Representative of the Client. In accordance with the requirements of the Project, the Time Record may be authorised online or by multi-part paper copies.
- (k) the Client is deemed to have accepted these Terms of Business upon receipt by BISON of any one of the following:
  - i) signed Terms of Business, or
  - ii) faxed copy of signed Terms of Business, or
  - iii) eMail confirmation of agreement to Terms of Business, or
  - iv) authorised Time Record presented for payment to BISON by the Consultancy
- (l) 'Introduction' means the Client's interview of an officer, employee or representative of the Consultancy in person or by telephone or the passing to the Client of information which identifies a Consultancy which leads to the engagement by the Client of the Consultancy.
- (m) The person conducting interviews on behalf of the Client warrants that he/she is duly authorised to agree these Terms of Business on behalf of the Client.
- (n) If a Consultancy introduced by BISON is interviewed by the Client and the Client subsequently engages or makes use of the Consultancy including any introduction by the Client to any other subsidiary or third party within a six month period of the date of the interview then the Client shall engage the services of the Consultancy through BISON or be liable for an introductory fee. If details of the engaged Consultancy's remuneration and full terms of engagement are not received by BISON within seven days of notification or discovery by BISON, BISON will estimate the candidate's remuneration based on current market rates and this estimate shall be binding.
- (o) "Third Party" means any person other than
  - a. the parties to this Agreement, or
  - b. any company within the group of companies of the Client ("the Group")

## 2. INFORMATION

Whilst BISON has taken reasonable steps to ascertain that the information provided by BISON to the Client in respect of the Consultancy is accurate BISON accepts no responsibility in respect of matters outside its knowledge and the Client must satisfy itself as to the suitability of the Consultancy.

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### 3. CONFIRMATION OF ASSIGNMENT

Prior to the commencement of the Assignment by the Consultancy or if this is not practical upon commencement of the Assignment, BISON will send to the Client written confirmation of the Assignment in the form of the BISON Contract for Services specifying the Assignment, the identity of the Consultancy, project rates/price charged by BISON together with such expenses as may have been agreed, the intervals at which invoices shall be rendered to the Client by BISON and any other relevant information.

### 4. TIME RECORDING

- (a) The Consultancy shall maintain a record of time spent working on Assignments. BISON and the Client will agree on a payment system appropriate to the Contract and at the end of each period the Consultancy will complete a Time Record of time spent working on a project to the Authorised Representative of the Client for authorisation.
- (b) Authorisation of Time Records by or on behalf of the Client shall constitute acceptance that the Consultancy's services have been provided for the time indicated and that such services have been satisfactory and in accordance with these Terms of Business. This does not affect the Client's rights to immediate termination under clause 11(b).

### 5. INVOICES AND PAYMENTS

- (a) BISON will render invoices prepared by reference to the Time record on a weekly basis or as per any schedule for staged payments or for the fixed price of the assignment. Value Added Tax or other taxes payable in respect of the provision of the Consultancy's services shall be added to the invoices and shall be payable by the Client.
- (b) The Client shall pay all invoices in full within fourteen days from the date thereof.
- (c) The failure by the Client to settle invoices within fourteen days shall entitle BISON at its discretion to charge interest on overdue amounts at the rate of 8% per annum above the Bank of England base rate calculated from the date of delivery of the invoice.
- (d) BISON shall be entitled to charge for all expenses authorised by the nominated Client representative incurred by the Consultancy in providing the services of the Consultancy.
- (e) If any officer, employee or agent of the Consultancy accepts any offer of permanent employment from the Client, associated company or subsidiary thereof, whilst sub-contracted by BISON to the Client or within twelve months of the termination of such a Contract (including the reintroduction by or use through another employment agency or Consultancy) BISON will invoice the Client for a recruitment service fee amounting to 25% of the first years gross salary (excluding benefits, bonuses & overtime).
- (f) If any employee of BISON accepts any offer of permanent employment from the Client, associated company or subsidiary thereof within six months of the termination of this agreement (including the reintroduction by or use through another employment agency or Consultancy) BISON will invoice the Client for a recruitment service fee amounting to 40% of the first years gross salary (excluding benefits, bonuses & overtime).

### 6. ATTENDANCE

The Consultancy's officers, employees or agents will attend the Client's premises on such days as are mutually agreed between the Client and the Consultancy with particular reference to project timetables.

### 7. CLIENT OBLIGATIONS (AWR)

- a) Where the AWR applies to the Assignment, the Client warrants that it shall, from the start of the Assignment, provide the Consultancy Representative with:
  - i. information about relevant vacant posts with the Client; and
  - ii. save where objectively justifiable, access to any and all collective facilities and amenities,

in the same manner as if the Consultancy Representative were a direct worker or employee of the Client.

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- b) Upon request from BISON, the Client undertakes to provide (without delay) to BISON accurate information about the working and employment conditions that are applicable to the Client, whether by contract or by collective agreement or otherwise and shall include subsequent variations thereto, the Client's employees and direct workers including (without limitation) –
- i. the Client's standard terms and conditions that apply to their employees and those that apply to their workers;
  - ii. details relating to the application and calculation of, pay scales, bonuses, commission, overtime, shift allowance, unsocial hours allowance, hazardous duties, holiday pay, other related emoluments;
  - iii. entitlements relating to annual leave, night work, rest periods, rest breaks;
  - iv. benefits of monetary value including, without limitation, vouchers and stamps; and
  - v. any other information as may be required by BISON to comply with the AWR.
- c) Where the AWR applies to the Assignment, the Client agrees that it shall, upon request from BISON and without delay, provide accurate details relating to the working and employment conditions (as defined within regulation 5(2) and regulation 6 of the AWR) of the Client's workers and/or employees who undertake the same or broadly similar work as that of the Consultancy Representative during the Assignment.
- d) Where the AWR applies to the Assignment and where applicable pursuant to information obtained under clause 7(c) above, the Client shall, and where applicable shall ensure that the Client shall, apply to the Consultancy Representative the same or similar process as applied to assess Pay that is directly attributable to the amount or quality of the work done. For the purposes of this clause “**Pay**” means as defined in regulation 6(2) of the AWR.
- e) Where the AWR applies to the Assignment and the Consultancy Representative is pregnant, the Client acknowledges and agrees that, following the Qualifying Period, the Client shall, and where applicable shall procure that the Client shall, permit the Consultancy Representative time off to attend ante-natal medical appointments and ante-natal classes.
- f) Where the AWR applies to the Assignment, the Client acknowledges and agrees that, following the Qualifying Period and whereupon the Consultancy Representative is unable to continue to provide some or all of the Services on maternity grounds due to reasons of health and safety, the Client shall, and where applicable shall procure that the Client shall, undertake to make such reasonable adjustments as are necessary to allow the Consultancy Representative to continue providing services for the duration of the Assignment. For the avoidance of doubt, such reasonable adjustments shall include provision of alternative work on terms no less favourable than those applicable to the Assignment.
- g) The Client undertakes and agrees to immediately notify BISON where a Consultancy Representative has worked for the Client in the same or similar role as the Assignment where, prior to the planned commencement of the Assignment, such role is within the Qualifying Period.
- h) The Client warrants and undertakes that it shall not, and where applicable shall procure that the Client shall not, seek to deny the Consultancy Representative's entitlement to rights under the AWR by virtue of the structure of assignments and shall at all times comply with regulation 9 of the AWR.
- i) The Client warrants and undertakes that all information it provides to BISON under these Terms shall be true and accurate.

### **8. RIGHT OF SUBSTITUTION**

The Consultancy may provide a suitable substitute to the Client with the Consultancy's guarantee that the substitute has the equivalent technical expertise as the original officer, employee or representative. Any such substitute must be agreed and approved by both BISON and the Client.

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### 9. CONFIDENTIAL INFORMATION

- (a) Any information and documents made available or disclosed to the Consultancy or BISON by the Client shall unless otherwise agreed, be and remain the property of the Client and shall be used only for such purposes as may be authorised by the Client. Neither the Consultancy nor BISON shall disclose such information nor document any part thereof to any other person, company or other organisation without the prior consent of the Client.
- (b) All plans, designs, specifications, programs, keys, lists, technical literature, records and any other documents or articles or copies thereof belonging to the Client shall be returned to the Client on request and in any event at the end of the Contract.
- (c) All information contained within these Terms of Business and the BISON standard Contract shall remain confidential and the Client shall not divulge such information to any third party save for its own employees and officers and professional advisers and as may be required by law.

### 10. PERFORMANCE

- (a) If the Client displays to the reasonable satisfaction of BISON that the performance of the Consultancy is unsatisfactory for reasons of conduct or technical incompetence then the Contract will thereupon be terminated and BISON will use its reasonable endeavours to provide a replacement Consultancy of suitable experience and competence.
- (b) Upon termination pursuant to condition 11(a) the Client shall pay to BISON all sums due in respect of time worked by the Consultancy on the Assignment up to termination.

### 11. TERMINATION

- (a) Unless otherwise stated in the Project Schedule or in clauses 11(b) or 11(c) below, there is no provision for early termination of this Contract by either party.
- (b) The Client may terminate the Assignment immediately by notice in writing to BISON where the Consultancy is in wilful or persistent breach of its obligation or the Client can prove to BISON that the Consultancy is technically incompetent.
- (c) BISON or the Client may terminate an Assignment forthwith by notice in writing if:
  - (i) Either party is in wilful or persistent breach of its material obligations under these Terms of Business, or
  - (ii) Either party becomes bankrupt or has a receiving order or administrative order made against it or is put into liquidation (save for the purposes of reconstruction or amalgamation), no Time/Project Records should be authorised by the Client or on behalf of the Client following this.
- (d) If the Client gives such notice to terminate the Contract and subsequently does not require the services of the Consultancy for the duration of the notice period, BISON shall be entitled to be paid as if the notice period specified in the Contract had been carried out by the Consultancy. BISON's invoice for the notice period shall be payable in full within 30 days of the date thereof.

### 12. LIABILITY

- (a) The Client hereby acknowledges and agrees that the Consultancy and not BISON shall be solely responsible for any losses resulting from any negligent act or omission or any breach of statutory duty arising from the performance of or the provision of services by the Consultancy or its officers employees or agents in connection with the Assignment.
- (b) BISON shall maintain Employers Liability to a limit of £10,000,000 and Public Liability insurance to a limit of £5,000,000. The Client will comply in all respects with all-relevant statutes, bylaws and legal requirements including provision of adequate insurance. The Client shall indemnify BISON against any costs, claims, damages and expenses incurred by BISON arising out of the engagement or use of the Consultancy by the Client.

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- (c) Whilst every effort is made by BISON 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 provided by the Client, no liability is accepted by BISON for any loss, expense, damage, costs or delay arising from the failure to provide a Consultancy for all or part of the period 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.
- (d) BISON shall not be liable for failure to perform its obligations under the Contract if such failure results by reason of war, riot, explosion, fire, flood, strike, lockout, go slow, Acts or Regulations of Government, acts of terrorism or any other cause beyond the control of BISON.
- (e) BISON shall not be liable for nor shall BISON effect or maintain any Policy of Insurance in respect of the erasure of information contained or otherwise stored on any storage media of the Client or of any third party.
- (f) BISON shall not except in the case of injury or the death of any person be liable for any loss or damage sustained directly or indirectly by the Client or by any third party howsoever caused nor shall BISON be liable to indemnify the Client against or contribute to claims made by any third party against the Client for any loss, injury or damage howsoever caused or arising.
- (g) Neither BISON nor the Client shall be responsible to pay any sick or holiday pay in respect of any Consultancy.

### **13. FIDELITY**

During the term of The Contract and for a period of twelve months following the termination of The Contract for any reason whatsoever, neither the Client nor any associated company nor subsidiary company of the Client shall contract or otherwise engage the Consultancy or any third party introduced by the Consultancy by any means other than directly through BISON. Any such engagement shall render the Client liable to pay BISON a fee equal to 13 times the weekly rate at which the Consultancy was last supplied to the Client by BISON. No refund or rebate of this fee is available where the ability or suitability of the Consultancy is already proven.

### **14. VARIATION**

No variation or alteration of these Terms of Business shall be valid unless approved in writing by a Director of BISON.

### **15. ENGLISH LAW**

The Contract shall be deemed to have been made in England and shall be governed and construed according to English Law.

### **16. DATA PROTECTION**

BISON complies with the provisions of the Data Protection Act 1998 and expects the Client who receives any document or communication to do so in respect of the contents. BISON will not accept responsibility for the failure by the Client to do so in respect of any document or communication sent to them by BISON.

### **17. CONDUCT OF EMPLOYMENT AGENCIES AND EMPLOYMENT BUSINESSES, 2003**

The Client confirms that the regulations of the Conduct of Employment Agencies and Employment Businesses, 2003 will not apply to the supply of Services under this agreement.

### **18. THIRD PARTY**

- (a) Save as provided in (b) below, a Third Party shall have no rights under the Contracts (Right of Third Parties) Act 1999 to enforce any terms of this Agreement.
- (b) This clause shall not affect any right or cause of action which exists apart from the said Act.
- (c) It is hereby agreed that this Agreement is for the benefit of all companies within the Group



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### 19. SEVERABILITY

If any limitation or provision contained in this Agreement shall be determined invalid, unlawful or unenforceable it shall be severed from the remainder of the Agreement which shall continue to be valid to the extent permitted by law.

### 20. HEALTH & SAFETY and IT SECURITY

- (a) The Client shall provide BISON with details of any specific health and safety risks in relation to the Services, together with details of any steps taken to prevent or control such risks.
- (b) BISON will take all reasonable endeavours to ensure that the Consultancy will agree to abide by any rules or obligations in force that are applicable to the Consultancy at the Client's premises either directly or indirectly, including but not limited to Health & Safety, IT security, systems and data protection policies.
- (c) The Client shall ensure that the Consultancy Representative works in a safe environment in accordance with a safe system of work. The Client shall indemnify and keep indemnified BISON from and against all loss or liability suffered or incurred by BISON as a result of any claim by the Consultancy and/or the Consultancy Representative arising out of any injury or damage to his/her property suffered in the course of performing the Services.

### DECLARATION

I have read, understood and agree to these BISON Terms of Business.

Signed by:

Date

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For and on behalf of THE CLIENT