

TERMS & CONDITIONS

1 UNDERSTANDING THESE CONDITIONS

- 1.1 A number of words are used in these Conditions which have special meaning where this is the case the relevant words as defined begin with a capital letter. The following words and phrases shall have the following meanings unless the context requires otherwise:

"Additional Services": any services other than the Services agreed to be provided by Vigilance to the Client on agreed terms and set out as such in the Services Schedule;

"Charges": Vigilance's charges from time to time for the provision of the Services unless otherwise expressly agreed with the Client and specified in the Contract;

"Client Material": any Documents or other materials, and any data or other information provided by the Client in the context of Vigilance's provision of the Services;

"Contract": the contract for the provision of the Services into which these conditions are incorporated;

"Documents" includes, in addition to a document in writing, any map, plan, graph, drawing or photograph, any film, negative, tape or other device embodying visual images and any disc, tape or other device (electronic or otherwise) embodying other data;

"Employee": any person who at or prior to the Start Date is or has been an employee of the Client and/or any Previous Contractor.

"Force Majeure Event": any circumstances or cause beyond Vigilance's reasonable control (including but not limited to act of God, server crashes, virus attacks on equipment, fire or accident, war or threat of war, sabotage, insurrection, civil disturbance or requisition, acts, restrictions, regulations, byelaws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority, damage, bad weather, software, power or equipment failure, strikes, lockouts or other industrial actions or trade disputes (whether involving employees of Vigilance or of a third party)).

"Previous Contractor": any person who at or prior to the Start Date provides or has provided services to the Client.

"Property": any property in the possession or control of the Client to which access by Vigilance its servants or agents is required in order to provide the Services

"Services" means the services to be procured or provided by Vigilance for the Client and specifically set out in the Services Schedule (and the Services shall include the Additional Services where the context admits);

"Services Schedule": the schedule setting out the Services to be provided under the Contract;

"Term" the period from the Start Date to the end of the minimum period for the provision of the Services as set out in the Contract and continuing thereafter in full force and effect unless terminated in accordance with the provisions of these Conditions;

"Vigilance Material" any Documents or other materials, and any data or other information provided by Vigilance to the Client in connection with or relating to the Services.

- 1.2 Reference to any statute or statutory provisions shall be deemed to include any statutory modifications or re-enactments thereof or any rules or regulations made thereunder or any enactment repealing and replacing the Act referred to.
- 1.3 Unless the context otherwise requires, words importing the singular shall include the plural and vice versa; words importing the masculine gender shall include the feminine gender and vice versa; and references to persons shall include bodies of persons whether corporate or incorporate.

- 1.4 Headings are inserted for convenience only and shall not affect the construction or interpretation of these Conditions

2 SERVICES

- 2.1 The Client engages Vigilance to provide the Services to the Client and Vigilance agrees to provide the Services for the Term upon the terms and subject to the conditions of the Contract. The Services shall insofar as is reasonably practicable be provided in accordance with the specification (if any) set out in the Services Schedule but subject to these Conditions.
- 2.2 The Client shall afford to Vigilance all reasonable co-operation in all matters relating to the performance of Vigilance's obligations under the Contract. In particular but without limitation of the foregoing, the Client shall:
- 2.2.1 Grant for the Term Vigilance its servants sub-contractors and agents a licence to occupy any property in its possession or control at which the Services are to be provided;
- 2.2.2 Either provide, or ensure the provision of, essential services (namely potable mains water, electricity, lighting and heating) to the Property or shall reimburse Vigilance for the full cost (including any standing charge) of providing the same.
- 2.3 Throughout the Term, Vigilance may sub-contract the whole or any part of this Contract. For the avoidance of doubt: any such sub-contracting by Vigilance shall not affect Vigilance's obligation to provide the Services to the standard warranted in clause 6.

3 CHARGES

- 3.1 Subject to any special terms agreed in writing by the parties, the Client shall pay the Charges and any expenses together with such additional sums which are agreed between Vigilance and the Client for the provision of the Services and any Additional Services.
- 3.2 The Client shall be liable for costs incurred as a result of the Client's instructions or lack of instructions, the inaccuracy of any Client Material or any other cause attributable to the Client.
- 3.3 Vigilance shall be entitled to vary its standard Charges from time to time by giving not less than 7 days' written notice to the Client.
- 3.4 All Charges and sums quoted payable to the Client under the Contract are exclusive of any VAT, for which the Client shall be additionally liable at the applicable rate from time to time.
- 3.5 Vigilance shall submit invoices to the Client for the Services monthly and will invoice from the commencement of the period to which the invoice relates. The Charges and any additional sums payable shall be paid in full by the Client into such account as Vigilance shall reasonably instruct (together with any applicable VAT and without any set off or other deduction whether for withholding tax or otherwise) within 30 days of receipt of Vigilance's invoice.
- 3.6 If payment is not made on the due date, Vigilance shall be entitled, without limiting any other rights it may have, to charge interest on the outstanding amount (both before and after any judgment) at the rate of 8% above the base rate from time to time of the Bank of England from the due date until the outstanding amount is paid in full. The parties agree that the right to claim interest under this paragraph is a substantial remedy for late payment and is in substitution for any statutory or other right to claim interest and/or

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other remedy for late payment under the Late Payment of Commercial Debts (Interest) Act 1998.

- 3.7 Vigilance will not be obliged to provide Services unless all fees and disbursements due to it in relation to the provision of the Services are received.

4 MATERIALS

- 4.1 The property, copyright and any other intellectual property rights in any Vigilance Material shall belong to Vigilance, subject only to the right of the Client to use the Vigilance Material during the Term.

5 CONFIDENTIAL INFORMATION

- 5.1 The parties agree on the following terms not at any time during the Term to divulge or allow to be divulged to any person any confidential information relating to the business or affairs of the other party to this Contract.
- 5.2 All information disclosed by either of the parties ("the Disclosing Party") to the other party ("the Receiving Party") pursuant to the Contract shall be confidential. The Receiving Party shall maintain the confidentiality of all such information and shall not, without the prior written consent of the Disclosing Party (i) utilise the same, directly or indirectly, for its own business purposes or for any other purpose or (ii) disclose the same to any third party. This clause does not apply to any information in the public domain or which is required to be disclosed in respect of the provision of the Services by Vigilance, or pursuant to an order issued by a court of competent jurisdiction or applicable law or regulation or information which is disclosed by the Receiving Party to its employees, officers, agents, consultants, advisors or subcontractors ("Representatives") who need to know such information for the purposes of carrying out the party's obligations under the Contract provided that the disclosing party takes all reasonable steps to ensure that its Representatives comply with the confidentiality obligations contained in this paragraph as though they were a party to the Contract.
- 5.3 The Client specifically undertakes at all times to keep confidential any Vigilance confidential information (including this document and information relating to Vigilance's business or affairs) confidential and specifically not to disclose (whether or not for profit) such information to any competitor of Vigilance or any other person, firm or company engaged in similar activity during the Term and at any time following the date of expiry or termination of the Contract.

6 WARRANTIES AND LIABILITY

- 6.1 Vigilance warrants to the Client that:
- 6.1.1 The Services will be provided using reasonable care and skill and shall follow the Client's reasonable instructions as closely as possible;
- 6.1.2 Vigilance shall comply with all applicable statutory and regulatory requirements including any applicable codes of practice having the force of law or otherwise;
- 6.1.3 Vigilance shall use its best endeavours to ensure that all of its staff and/or subcontractors perform this Contract without causing any damage to the Client's business, public image, reputation and goodwill and without invalidating any policy of insurance applicable to the Client.
- 6.2 The Client warrants to Vigilance that:
- 6.2.1 The Property is adequately insured;

- 6.2.2 The occupation of the Property by Vigilance its servants agents or subcontractors will not invalidate the terms of any policy of insurance that has been effected in respect of the Property;

- 6.2.3 The Client will prior to or as soon as reasonably possible after the occupation of the Property by Vigilance its servants agents or subcontractors notify its insurer of such occupation if required to do so by the terms of any such policy;

- 6.2.4 The Property is suitable and safe for occupation and is generally fit for human habitation and occupation;

- 6.2.5 The Client shall bear the cost of rendering, and take all such steps as may be necessary to render, the Property safe for occupation and use by Vigilance its servants agents and subcontractors (such steps including but not being limited to the costs of cleaning, repairing, disinfecting, fumigating, dealing with any electrical or gas emergency, or otherwise repairing or securing the Property);

- 6.2.6 The contents of the Property comply with the appropriate regulations relating to soft furnishings and to electrical safety.

- 6.3 Except in respect of death or personal injury caused by Vigilance's negligence, or as expressly provided in these Conditions, Vigilance shall not be liable to the Client by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any loss of anticipated savings, business revenues, or profits (whether categorised as direct or indirect) or any indirect, special or consequential loss (including losses arising from business interruption, wasted management time, loss of goodwill, data and all other such loss whether or not arising in the normal course of business), damages, costs, expenses or other claims (whether caused by the negligence of Vigilance, its servants or agents or otherwise) which arise out of or in connection with the provision of the Services or their use by the Client.

- 6.4 The entire liability of Vigilance to the Client under or in connection with the Contract shall not in any event exceed [£1 million.]

- 6.5 Vigilance shall be under no liability whatever in respect of loss, damage or injury or any consequential or indirect loss arising from the performance of or failure by Vigilance to perform a duty extraneous to this agreement which Vigilance or its personnel may at the express wish of the Client have undertaken to perform (whether such loss, damage or injury or consequential or indirect loss be due to the negligence of Vigilance or of its servants or agents or to any other cause whatever) unless Vigilance has agreed in writing to carry out such extraneous duty and the written agreement is signed by a director or senior executive of Vigilance.

- 6.6 The Client agrees to indemnify and keep Vigilance fully indemnified from and against any loss, claim or liability whatsoever incurred or suffered by Vigilance its servants agents subcontractors or anyone lawfully introduced to the Property by them as a result of negligence or any default by the Client (or its employees, agents or representatives) of its obligations however arising in connection with the Services (including but not limited to failure to comply with statutory regulations concerning soft furnishings and electrical safety), together with expense, claim, loss or damage which Vigilance or any of its employees, agents, sub-contractors and other clients) may suffer due to the negligence or breach of the Client (or its employees, agents or subcontractors).

- 6.7 The Client undertakes to indemnify and keep Vigilance indemnified from and against all liabilities, obligations, costs, claims and demands arising from or in respect of any Employee of the Client and/or of any Previous Contractor, including but not limited to –

- 6.7.1 All claims by or in respect of any Employee deriving from any act or omission of the Client and/or any Previous Contractor;

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6.7.2 Salaries, bonuses and other emoluments, holiday pay, tax and National Insurance payments and contributions to pensions relating to any Employee up to and including the Start Date;

6.7.3 Any change in the working conditions or terms of employment of the Employees (or any of them) occurring on or after the Start Date,

6.7.4 Any change of employer occurring by virtue of the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended or replaced from time to time (the "Transfer Regulations"), or

6.7.5 The termination of the employment of any Employee after the Start Date or as a result of any act or omission of the Client and/or Previous Contractor arising after the Start Date.

6.8 Notice of all claims by the Client in respect of any loss, damage or injury or consequential or indirect loss shall be given in writing to the address for Vigilance given at the head of this agreement within 7 days of the discovery of such loss, damage or injury or consequential or indirect loss and in default of such notice within such period Vigilance shall not be held responsible for such claim.

6.9 The Client agrees and acknowledges that the allocation of risk in this clause 6 is fair and reasonable in the circumstances having been taken into account in setting the level of the Charges.

6.10 Nothing in these Conditions excludes or limits Vigilance's or the Client's liability in respect of death or personal injury caused by its negligence (including negligence of its employees, agents or contractors) or fraud or fraudulent misrepresentation.

7 FORCE MAJEURE

7.1 Vigilance shall not be liable to the Client or be deemed to be in breach of the Contract by reason of any delay in performing or any failure to perform any of Vigilance's obligations under the Contract if the delay or failure was due to a Force Majeure Event.

7.2 A Force Majeure Event prevails for a continuous period in excess of 28 days, or for periods which, when aggregated, are in excess of 28 days during the three months after the date on which the Force Majeure Event began, Vigilance shall be entitled to terminate the Contract immediately on notice to the Client.

8 TERMINATION

8.1 If the Client commits a breach of its obligations under this Contract which is not capable of remedy, or where capable of remedy does not remedy such breach within 14 days of written notice given to it by Vigilance specifying such breach and requiring its remedy, then Vigilance may terminate the Contract by giving 7 days' notice in writing to the Client save that Vigilance may terminate the Contract immediately where Vigilance reasonably determines that its continued provision of services to the Client imperils the safety of its servants agents or contractors.

8.2 Either party may terminate this Agreement immediately by notice in writing to the other if any of the following conditions are met:

8.2.1 The other party proposes or enters any composition or other arrangement for the benefit of its creditors or a class of creditors or becomes insolvent or ceases trading;

8.2.2 Anyone takes any step towards winding up or dissolving the other party or towards appointing a trustee, supervisor, receiver, liquidator, administrator or

similar officer or other encumbrance of the other party or any of its assets;

8.2.3 Anyone takes any step towards the other party obtaining a moratorium or other protection from its creditors or to take possession of or levy a distress or execution against any of the other party's assets; or

8.2.4 An event occurs which would result in a floating charge crystallising over any of the other party's assets

8.3 Either party may terminate the Contract at any time after the expiry of the Minimum Period by giving not less than 5 working days' notice to the other party.

8.4 Any termination of the Contract pursuant to this clause shall be without prejudice to any other rights or remedies a party may be entitled to under the Contract or at law and shall not affect any accrued rights or liabilities of either party nor the coming into or continuance in force of any provision which is expressly or by implication intended to come into or continue in force on or after such termination.

9 ACKNOWLEDGEMENTS

The Client agrees and irrevocably declares and acknowledges as follows:

9.1 Vigilance shall be entitled at its discretion to immediately terminate this Agreement and the provision of Services (or take all or any actions as are authorised under the Conditions) in the event that the Client becomes a prohibited person (under relevant law including without limitation, by reason of capacity, solvency, qualification, undischarged bankruptcy, criminal or civil prosecution, residency or international embargo or restriction) or engage in any unlawful business (under relevant law, including without limitation any illegal activity, Vigilance prohibited activities or activities not previously notified to or approved in writing by Vigilance).

9.2 Under no circumstances shall Vigilance and the Vigilance officers be required to take any action which they consider unlawful or improper or which in their opinion may cause any of them to incur any personal liability and such refusal shall be without liability or breach of contract.

10 NOTICES

10.1 Any notice or other communications to be given under the Contract shall be in writing and may be delivered by hand or sent by first class prepaid recorded delivery post (or if the recipient is in another country by prepaid airmail) to the relevant address(es) stated in the Contract (or to such other address as the addressee may from time to time have notified for that purpose).

10.2 Communications shall be deemed to have been received, if delivered by hand at the time of delivery, if posted three working days (or 10 working days if prepaid airmail) after posting.

11 EMPLOYEES

11.1 The Transfer Regulations may apply upon termination of this Agreement in circumstances where the Client or any other supplier (the "Transferee") takes over provision of similar services (the "Transfer").

11.2 The Client shall be liable for and shall indemnify Vigilance in respect of any Employment Liabilities (as defined in paragraph 11.3 below) which may be incurred by Vigilance by virtue of the Transfer Regulations and as a result of the employment or termination of employment of each of the transferring employees prior to (and including) the date of Transfer and which arises as a result of any act or omission of Vigilance prior to the date of Transfer.

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- 11.3 For the purposes of paragraph 11.2 above Employment Liabilities means any costs, claims, demands, fines, or expenses (including reasonable legal and other professional expenses), payments, wages, actions, proceedings, compensation, awards, interest, loss, damages or penalties incurred or arising in each case out of the employment of any person and any liabilities for income tax to be collected through the Pay As You Earn Scheme and any primary and secondary National Insurance Contributions.
- 11.4 In the event that the Client engages as an employee of the Client any employee or self-employed contractor of Vigilance at any time during the Term or within 6 months of termination of the Contract, the Client shall pay to Vigilance an introduction fee of 20 per cent of the annual salary of the employee or self-employed contractor so engaged within 14 days of demand notified in writing by Vigilance to the Client.

12 GENERAL

- 12.1 These Conditions (together with the terms (if any) set out in the Contract and Services Schedule) constitute the entire agreement between the parties, superseding any previous agreement or understanding and may not be varied except in writing between the parties. All other warranties terms and conditions, express or implied by statute or otherwise, are excluded to the fullest extent permitted by law.
- 12.2 In the event of any conflict between the provisions of these Conditions and the Services Schedule, these Conditions shall prevail. In the event of any conflict between the Contract provisions and these Conditions, the parties shall adopt the meaning which best gives commercial efficacy to the Contract having regard to Vigilance's original intention.
- 12.3 Vigilance may at its absolute discretion engage sub-contractors in order to carry out any part of the Services and shall be entitled at all times in its absolute discretion to decide the number of and which of its employees agents or sub-contractors shall provide the Services on behalf of Vigilance.
- 12.4 No failure or delay by either party in exercising any of its rights under the Contract shall be deemed to be a waiver of that right, and no waiver by either party of any breach of the Contract by the other shall be considered as a waiver of any subsequent breach of the same or any other provision. Any waiver of a breach of, or default under, any of the terms of the Contract shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
- 12.5 The parties acknowledge and agree that the Contract shall not establish or constitute any relationship of partnership, joint venture, franchise or agency between the parties except as otherwise expressly provided or agreed and neither party shall have the power to bind the other without the other's prior written consent.
- 12.6 The Client shall not assign all or any of its rights or obligations under this Agreement without the written consent of Vigilance. Each party warrants its power to enter into the Contract and has obtained all necessary approvals to do so.
- 12.7 Except as expressly provided (including in respect of indemnity), the parties do not intend any term of this Contract to create any rights or benefits to any other party other than the parties to the Contract or to be enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 but this does not affect any right or remedy of any third party which exists or is available apart from the Act.
- 12.8 If any provision of the Contract or these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of the Contract or these Conditions and the remainder of the provision in question shall not be affected.

- 12.9 English law shall apply to the Contract and these Conditions, and the parties submit to the jurisdiction of the English courts.
- 12.10 The Client for the exclusive benefit of Vigilance submits to the exclusive jurisdiction of the High Court of Justice in England and waives all rights to object to forum.
- 12.11 Nothing in this Agreement shall limit the right of Vigilance to take proceedings in any other court of competent jurisdiction or in more than one jurisdiction, whether concurrently or not.
- 12.12 The Client by this provision irrevocably appoints and authorises the person, firm or entity (if any) in the United Kingdom set out in the Contract to accept service on its behalf of all legal process and service on the entity shall be deemed good service on the Client.
- 12.13 Nothing in this agreement creates or is to be construed as creating any tenancy or legal interest in the Property.