

## Terms of Business

### 2 Provision of the Services

- 2.1 The Company shall supply the Services to the Client at the Location as defined in Clause 1.2 above (or any other reasonable location agreed by the Client and the Company).
- 2.2 Any tasks to be performed under this contract for services must be agreed between the Company and the Client representative prior to the commencement of such task. The Company shall establish directly with the Client the specification and standards to be used in the provision of the Services as outlined in Clause 1.3 above. All fees charged for the Services must be recorded as being for an agreed task and the Company must make this record available to the Client if requested.
- 2.3 The Company shall procure that any officers, employees, agents or sub-contractors engaged by it to perform the Services (its **"Consultants"**) comply with the Company's obligations under this Agreement and acknowledges that any breach of any of the terms of this Agreement by its Consultants shall constitute a separate breach by the Company for which the Company shall be liable together when applicable with its Consultants.
- 2.4 The Company will use its best endeavours to comply with any timetable or targets for progress or delivery or completion of the Services as agreed between the Company and the Client. Any period during which the Services will not be able to be provided must be agreed in advance with the Client.
- 2.5 The length of the Term will be calculated with reference to the nature of the tasks to be performed by the Company. Whilst at the Client's Location, its Consultants will normally perform the Services within the Hours of Business, unless otherwise agreed with the Client.
- 2.6 The Company shall immediately notify Sanderson and the Client if for any reason it is unable to provide the Services at any time.
- 2.7 From time to time the Client may require the Company to provide the Services outside the Hours of Business. The Company will use all reasonable endeavours to comply with such requests, but an individual Consultant will also retain the right to decline such an offer.
- 2.8 It is the responsibility of the Client to provide adequate facilities, information, support and access thereto to enable the Services to be performed to the standards as specified by it in accordance with Clause 2.2 above.
- 2.9 The Client will afford the Company such access as it may reasonably require to the Client's IT equipment and systems. Where applicable and as directly agreed between the Company and the Client, the Company is responsible for supplying any equipment materials or data that may be necessary to enable the Services to be provided including, but not limited to, standard reference documentation in paper or electronic form. Such equipment should be properly insured by the Company with third party liability for business use.

### 3 Performance of the Service

- 3.1 The Company warrants that during the course of this Agreement it:
  - (a) performs the Services in accordance with the specifications and standards agreed with the Client using the skill and care to be expected of a specialised consultancy Company and in accordance with the best practice of the IT industry to ensure that the Services are performed properly;
  - (b) ensures that its other activities do not prevent it from performing its obligations under this Agreement properly;

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- (c) takes all reasonable steps to safeguard the safety of its Consultants and the safety of all other persons who may be affected by its actions whilst at the Client's Location or any other premises at which it is required to perform the Services;
  - (d) provides the Company Equipment and maintains employer's liability insurance as required by law and adequate public liability insurance and professional indemnity insurance covering the activities of it and its Consultants under this Agreement in accordance with good business practice;
  - (e) pays for all training, or other help or guidance which may from time to time be necessary to comply with the effective performance of the Services; and
  - (f) shall notify Sanderson forthwith in writing if it should become insolvent, dissolved or subject to a winding up petition.
- 3.2 The Company may perform the Services using such Consultants as it reasonably selects subject to the Consultants continuing to meet the standards required by this Agreement, being agreed by the Client as a Primary Consultant ("**Primary Consultant**") (such approval not to be unreasonably withheld) in the event of a suitably skilled and experienced consultant being proposed), notified to Sanderson, providing Sanderson's standard personal confidentiality undertaking ("**Schedule 1**") and the Company making all reasonable endeavours to provide a consistency and continuity of service to the Client, for the Term of this Agreement. All Consultants supplied by the Company under this Agreement are required to sign Sanderson's personal confidentiality undertaking in the form as set out in Schedule 1.
- 3.3 The Company undertakes to remove and replace any Consultants who fail to meet the standards required by this Agreement upon notification from Sanderson that the Client has furnished written evidence to it which in Sanderson's reasonable opinion confirms that the relevant Consultants have in fact failed to meet those standards.
- 3.4 The Company warrants and represents that:
- (a) it and its Consultants which it deploys to provide the Services are competent to provide the Services;
  - (b) the contents of any promotional material and/or curricula vitae supplied by the Company to Sanderson are true and complete;
  - (c) its Consultants hold and will continue to hold the qualifications necessary to perform the Services and will provide Sanderson with confirmation of these qualifications along with confirmation of the Consultants' experience, training and any authorisation considered necessary by the Client, or which are required by law or by any professional body, prior to the commencement of the Term, if requested by Sanderson;
  - (d) Consultants supplied under the terms of this Agreement have the right to stay and work in the United Kingdom and shall provide evidence of the same prior to the commencement of this Agreement; and
  - (e) that neither the Company nor any Consultant is prevented by any other agreement or arrangement or any restriction (including, without limitation, a restriction in favour of any employment agency, employment business, or client of either of them) from fulfilling in full their respective obligations under this Agreement.
- 3.5 The Company undertakes that it will use its best endeavours to make all of its Consultants aware of and comply with any statutory regulations and rules and regulations of the Client (as notified to the Company from time to time) applicable to any location, systems or other property of the Client with which it is involved in the course of providing the Services including but not limited to health and safety, security, IT, systems and data protection policies, and that it and any Consultants will sign any confidentiality undertaking required by the Client.
- 3.6 Subject to the restrictions on disclosure of information and to the other obligations of the Company contained in this Agreement, nothing in this Agreement shall prevent the Company from engaging in other consultancy activities or providing services under other agreements.

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- 3.7 The Company shall not have authority to act on either Sanderson's or the Client's behalf or to bind Sanderson or the Client in any way. The Company shall ensure that neither it nor any of its Consultants holds itself out as an agent, director or employee of Sanderson or the Client.
- 3.8 If the Company and/or its Consultant is deemed to be responsible for any defective Services, the Company shall correct such defective Services in its own time and at its own expense.
- 3.9 The Company warrants that it is not a Managed Service Company, within the meaning of section 61B, Income Tax (Earnings and Pensions) Act 2003.

### 4 Time Recording

The Company undertakes that it will record the time which its Consultants spend on providing the Services (and only that time) in a form approved by Sanderson and the Client and ensure they are signed by the nominated representative of the Client on a weekly basis.

### 5 Invoicing, Payment and Expenses

- 5.1 The Company shall provide originals of all completed and signed timesheets with a monthly invoice for the Service Fees in arrears at the end of each month of the Term in accordance with the provisions of Schedule 2; failure to do so may result in delayed payments. Payment of the Company's invoices (faxed copies will not be accepted) is conditional upon Sanderson receiving:
- (a) an original of this Agreement signed and dated on behalf of the Company;
  - (b) an original of Sanderson's standard personal confidentiality undertaking signed by each of its Consultants and with binding effect on or before their deployment in the form set out in Schedule 1;
  - (c) a copy of the Company's Certificate of Incorporation;
  - (d) a valid VAT invoice;
  - (e) original correctly completed timesheets covering the whole invoice period signed and dated by the Company and the Client;
  - (f) copies of certificates evidencing the insurances to be maintained pursuant to Clause 3.1(d); and
  - (g) any other documents reasonably required by Sanderson in accordance with Sanderson's compliance and vetting procedures including, but not limited to proof of right to work in the United Kingdom and proof of residency of the Primary Consultant provided by the Company.
- 5.2 Payment to the Company will be made only for the time spent by its Consultants in providing the Services to the Client and provided the Company has accepted this Agreement. In any event, should invoices not be received within four (4) weeks of the end of each month in which the Services have been performed, payment to the Company will be dependent on monies having been received by Sanderson from the Client for the Services performed.
- 5.3 It is the responsibility of the Company to invoice in a timely manner in accordance with the terms of this Agreement. If the Company submits timesheets and invoices for Service Fees and/or Expenses more than four (4) weeks after the provision of the Services and/or Expenses to which they relate, then Sanderson shall only pay the Company once the Client has paid Sanderson for any corresponding Service Fees and/or Expenses.
- 5.4 Payment will be made to the Company in arrears by BACS on a monthly basis, in accordance with the terms of this Agreement. The Company shall ensure that the relevant banking details have been advised to Sanderson prior to the date of the first scheduled payment.
- 5.5 If the Client provides details of its dissatisfaction regarding the provision of the Services carried out by the Company resulting in the Client withholding payment from Sanderson, and in Sanderson's reasonable opinion such details support the Client's claim, Sanderson reserve

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the right to deduct the amount withheld from payments owing to the Company whether now or in the future or require repayment from the Company in respect of the withheld amounts.

- 5.6 Should the Company fail to fulfil its obligations under the terms of this Agreement or provide Services throughout the period of notice as detailed in Clause 1.9 above, Sanderson reserves the right to withhold any payment to the Company until all outstanding monies have been received from the Client.
- 5.7 Expenses (if applicable) are to be agreed in advance, in writing, between the Client and the Company and invoiced in accordance with the following: -
- (a) where expenses have been incurred in a month these should be invoiced separately to ensure that in case of a query payment of the Service Fees is not delayed; Sanderson is not able to part pay invoices where one element of the invoice is incorrect or expenses have not been authorised;
  - (b) any invoice must show net expenses with VAT detailed separately (if applicable);
  - (c) original receipt(s) in support must be provided;
  - (d) failure to supply the correct and complete documentation will cause a delay in payment.
- 5.8 Reimbursement of expenses is conditional upon:
- (a) The Company having met all requirements in accordance with the terms of this Agreement;
  - (b) Sanderson having received payment from the Client for all corresponding expenses.
- 5.9 If the Client fails to pay Sanderson for any corresponding Service Fees and/or Expenses, Sanderson may immediately withdraw the Company until such time as the Client has paid any sums due and owing. Sanderson shall use their best endeavours to resolve any outstanding payment issues with the Client.

## 6 Confidential Information

- 6.1 The Company shall during and after the termination of this Agreement:
- (a) not divulge or communicate any Confidential Information (as defined below) to any person other than officers of Sanderson or the Client;
  - (b) not without the prior written consent of the Client and Sanderson use any Confidential Information for any purpose other than the performance of this Agreement; and
  - (c) procure that it and its Consultants comply with the above obligations and indemnify Sanderson and the Client for any unauthorised use or disclosure of Confidential Information by it or its Consultants.

For the purposes of this Agreement, “**Confidential Information**” includes (without limitation) all information in any form relating to the Client's or Sanderson's private business affairs, software, technical know-how, processes, inventions, commercial relationships or financial matters or any information in respect of which Sanderson or the Client is bound by an obligation of confidence to any third party.

- 6.2 This Agreement is confidential. Details to do with Service Fees, expenses, client identity or other information relating to this Agreement are not to be disclosed to any third party by the Company without the express written permission of Sanderson.
- 6.3 The above confidentiality obligations shall not apply to information which the Company can show has become public knowledge other than through a breach of this Agreement by the Company or its Consultants or which the Company can show was already in its lawful possession prior to its disclosure by Sanderson or the Client.
- 6.4 The provisions of this Clause 6 shall apply equally in relation to each of the Company's subsidiaries from time to time existing.

## 7 Intellectual Property

- 7.1 For the purposes of this Agreement “**Intellectual Property Rights**” includes (without limitation) any and all present and future copyrights, registered designs, patents, trade marks, service marks, design rights (whether registered or unregistered), semiconductor topography rights, database rights (including rights of extraction) applications for any of the above, rights to extract or re-utilise data, database rights, trade secrets, rights of confidence and all other similar rights recognised in any part of the world created or discovered by the Company or its Consultants in the course of providing the Services.
- 7.2 The Company will itself, and will procure that its Consultants shall:
- (a) disclose and deliver to the Client for the exclusive use and benefit of the Client any Intellectual Property Rights discovered or created; and
  - (b) at the Client’s request and expense will execute and do all acts, matters, documents and things necessary to enable the Client to apply for the protection of the Intellectual Property Rights in the United Kingdom or elsewhere in the world and to vest title thereto in the Client absolutely.
- 7.3 The Company hereby assigns to the Client all Intellectual Property Rights at the date of this Agreement, including (without limitation) all statutory and common law rights appertaining to them and right to sue for past infringements, to hold the same unto the Client free from encumbrances absolutely.
- 7.4 Insofar as it is permitted by law the Company hereby assigns to the Client all Intellectual Property Rights as shall vest in it or the Consultant at any time after the date of this Agreement.
- 7.5 The Consultant unconditionally and irrevocably waives all moral rights wherever in the world conferred upon him by Chapter IV of the Copyright Designs and Patents Act 1998 in respect of the Services.

## 8 Restrictions

- 8.1 The Company shall not and shall procure that the Consultants shall not, alone or jointly with another or others in any capacity and whether or not for its, his/her or their benefit and whether directly or indirectly: -
- (a) either during the Term or for a period of six (6) calendar months after the date of termination or expiry of this Agreement (the “**Restricted Period**”): -
    - (i) without Sanderson’s prior written consent enter into (or approach with a view to entering into) a similar contract of service or for services with: -
      - (a) the Client; or
      - (b) any member of the Client’s Group; or
      - (c) any other person (including, without limitation, any client or supplier of the Client’s Group for whom, or with whom, the Company and/or the relevant Consultant had material contact in the course of its, his or their supply of the Services at any time either in the six (6) months prior to such termination or expiry or during the Term if the Term is a period of less than six (6) months;
    - (ii) induce (or seek to induce) the Client to engage the services of any other person in competition with Sanderson;
    - (iii) canvass, solicit or seek to entice away the business of the Client from Sanderson;
    - (iv) deal with or accept any instructions from the Client or any member of the Client’s Group other than in connection with the performance of the Services;

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- (v) introduce or provide the services of any third party to the Client or any member of the Client's Group other than via Sanderson; or
  - (vi) without Sanderson's prior written consent, induce (or seek to induce) to leave or cease performing service(s) for any member of Sanderson's Group or leave the Client's Group or for any client or supplier of the Client's Group, any contractor or employee of any member of Sanderson's Group or the Client's Group or of any client or supplier of the Client's Group with which or whom the Company or the relevant Consultant had material contact in the course of its, his or their supply of the Services at any time either in the six months prior to such termination or expiry or during the Term if the Term is a period of less than six (6) months;
- (b) at any time use the name "Sanderson", "Sanderson Recruitment" or any other business name used at any time by any member of Sanderson's Group or of the Client's Group for the purposes of a business similar to or competing with any business carried on by any member of Sanderson's Group or of the Client's Group.
- 8.2 The Company shall refer to Sanderson any and all requests for additional resources and/or the provision of information technology and related consultancy services made by the Client to the Company and/or any Consultant during the Term and for a period of six (6) calendar months after the date of termination or expiry of this Agreement.
- 8.3 The restrictions contained in Clauses 8.1 and 8.2 are considered reasonable by the parties but in the event that any such restrictions shall be found to be void but would be valid if some part thereof were deleted or the Restricted Period reduced, such restriction shall apply with such modification as may be necessary to make it valid and effective.

## 9 Liability and Indemnity

- 9.1 The Company shall indemnify and keep Sanderson indemnified in full against any liability, losses, third party claims, costs and expenses incurred by Sanderson due to the Company's wrongful acts or omissions or any negligence or breach of this Agreement by the Company or the negligent acts or omissions of any of its Consultants.
- 9.2 The Company shall account to Sanderson for any profits received in breach of this Agreement and Sanderson shall be entitled to set off such profits and other losses against any Service Fees owed by Sanderson to the Company.
- 9.3 In no circumstances shall Sanderson be liable to the Company under this Agreement for any indirect, special or consequential loss or damages or loss of profits, business, revenue, goodwill, anticipated savings or any claim made by a third party.
- 9.4 Sanderson shall not be liable to the Company for any loss, expense, costs (including legal costs) or damage caused directly or indirectly by any negligence or misconduct of Sanderson other than that covered by the provisions of Sanderson's professional indemnity insurance policy in which case shall not exceed a maximum liability of £5 million pounds for any claim or series of claims.
- 9.5 Nothing in this Agreement shall exclude or limit either party's liability in respect of death or personal injury resulting from its proven negligence or for fraud.

## 10 Term and Termination

- 10.1 This Agreement shall continue in force throughout the Term subject to earlier termination in accordance with the terms below.
- 10.2 Sanderson may terminate this Agreement immediately and without compensation at any time by giving written notice to the Company if:

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- (a) the Company breaches any term of this Agreement and (if such breach is capable of remedy) fails to remedy such breach within seven (7) days of written notice to do so;
- (b) on being notified by the Client that the performance or non-performance of the Company or any of its Consultants under this Agreement is, in the Client's reasonable opinion, unsatisfactory;
- (c) Sanderson's contract with the Client is terminated for any reason;
- (d) if any information provided by the Company to Sanderson proves to be untrue or in any way misleading;
- (e) the Company ceases or threatens to cease trading becomes insolvent or compounds or enters into a voluntary arrangement with its creditors or passes a resolution for winding up or is subject to a bankruptcy, winding up or administration order or if a receiver, administrative receiver or liquidator is appointed in respect of any of its business or assets;
- (f) the Company or any of its Consultants gains unauthorised access to any of the Client's IT systems and/or data;
- (g) it transpires that the Company, as a limited company, is not or ceases to be a limited company registered in the United Kingdom (which for the avoidance of doubt does not include the Channel Islands or the Isle of Man); and
- (h) the Client has failed to pay an invoice presented by Sanderson in relation to Services provided, in accordance with Sanderson's payment terms.

The Company accepts that termination under sub-clauses 10.2(b), (c), (f) or (h) shall arise as a direct result of the unilateral decision / action of the Client, and it shall have no complaint or claim against Sanderson as a result.

- 10.3 If the Client gives Sanderson notice of its intention to terminate or abort the project or assignment on which the Company is providing the Services, or is due to start providing the Services; then by the same notice Sanderson may terminate this Agreement with the Company.
- 10.4 If industrial action affecting the Client prevents the Company from complying with this Agreement both Sanderson and the Client reserve the right to suspend or terminate this Agreement with immediate effect.
- 10.5 The Company may terminate this Agreement with the prior consent of Sanderson if the Company can show that it is unable to provide the Services due to a Force Majeure Event (as defined in Clause 11 below) or if the Company claims in writing that it is unable to provide the Services as a result of the Client failing to provide the Company with adequate facilities, information or support and Sanderson in its absolute discretion is satisfied that such a claim is justified.
- 10.6 Should the Client (or the Client's Client) cease or threaten to cease trading, becomes insolvent or compounds or enters into a voluntary arrangement with its creditors or passes a resolution for winding up or is subject to a bankruptcy, winding up or administration order or if a receiver, administrative receiver or liquidator is appointed in respect of any of its business or assets, then by the same notice that is given by the Client to Sanderson, and without compensation, Sanderson can give written notice to the Company.
- 10.7 Sanderson may terminate this Agreement on written notice to the Company for any reason subject to the "**Notice Period Sanderson**" specified in Clause 1.8 above.
- 10.8 The Company may terminate this Agreement on written notice to Sanderson for any reason subject to the "**Notice Period Company**" specified in Clause 1.9 above.
- 10.9 Notwithstanding anything contained herein, Sanderson shall be entitled:-
  - (a) to immediately terminate this Agreement by notice in writing to the Company in the unlikely event that Sanderson exercises its option to terminate its agreement with the

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Client for the Services of the Company, by reason of the Client's material breach of contract; or

- (b) further to an event under Clause 10.6 above occurring, withhold any monies owed to the Company until it is established precisely how much money is outstanding from the Client to Sanderson for the provision of Services.

- 10.10 Termination of this Agreement shall not affect any rights or liabilities of any party which have accrued prior to the date of termination, nor any obligation which is expressed or intended to continue after the date of termination.
- 10.11 Upon termination of this Agreement in any circumstances, the Company shall forthwith deliver to the Client all correspondence, drawings, documents, tapes, papers, books, computer disks, equipment and other property and materials (whether originals or copies) in its possession or in the possession of the Company produced in the course of providing the Services or which are the property of Client and/or Sanderson.

## 11 Force Majeure

None of the parties to this Agreement shall be liable for failure to perform its obligations under this Agreement if such failure results from circumstances beyond that party's reasonable control (a "**Force Majeure Event**"), providing that the other parties are notified in writing of these circumstances as soon as possible. A Force Majeure Event shall include but not be limited to Acts of God, fires, floods, explosions or other catastrophes, epidemics, quarantine restrictions or delays due to such cause or causes.

## 12 Relationship Between the Parties

- 12.1 Neither the Client nor Sanderson are obliged to offer work or services to the Company and neither is the Company obliged to accept any work or services that may be offered as provided for under this Agreement. Neither party wishes to create or imply any mutuality of obligation between themselves either in the course of or between any performance of Services or during any notice period. For the avoidance of doubt, Sanderson is not obliged to pay the Company at any time when there are no services available. This Agreement is not a contract of employment and neither Sanderson nor the Company intend that the provision of Services should constitute or create a relationship of employment between any of the parties. In particular the Company shall be responsible for administering and paying all employer's and employee's income tax, National Insurance and similar contributions in respect of its Consultants and any VAT payable in respect of the Service Fees.
- 12.2 Save for the work specification of the Client, the Company shall have reasonable autonomy in respect of the technical manner used to perform the Services.
- 12.3 The Company shall indemnify and keep Sanderson and the Client indemnified in full against (without limitation) any claims, actions, demands, costs (including legal costs), penalties and liabilities incurred in respect of or arising in connection with:
  - (a) any such income tax, National Insurance and similar contributions and any VAT (including any penalties and interest) which may be found due by reason of any payment made under or in connection with this Agreement; and
  - (b) any claims for unfair dismissal, statutory or contractual redundancy payments, termination payments; any claims made under the Sex Discrimination Act 1975 (as amended), the Equal Pay Act 1970, the Race Relations Act 1976 (Amendment Regulations) 2003, the Disability Discrimination Act 1995, the Immigration, Asylum and Nationality Act 2006, the Working Time Regulations 1998, The Employment Rights Act 1996, or the Employment Equality (Age) Regulations Act 2006; any obligation or duty owed to any trade union or representatives thereof or other employees' representative; any claim arising from any obligation or duty under or in connection with any contracts of employment or for the provision of Services; any claim arising

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from any other employment protection legislation or any criminal offence of any nature in force prior to, during and following termination of this Agreement.

### 13 Notices

All notices to be given under this Agreement shall be in writing and addressed to Sanderson at its registered office and to the Company at the address shown on this Agreement or otherwise subsequently notified in accordance with this clause. Notices may be delivered personally or sent by pre-paid first class post, by facsimile or by e-mail and shall be deemed to have been served when delivered (if delivered personally) on the second Business Day after the date of posting (if sent by first class post) and upon transmission (if sent by facsimile or e-mail and a satisfactory transmission report is obtained).

### 14 Assignment

Neither party shall assign or otherwise transfer its rights or obligations under this Agreement without the other party's prior written consent (such consent not to be unreasonably withheld).

### 15 Entire Agreement

- 15.1 This Agreement (including these Terms of Business and any accompanying Schedules) contains the entire agreement between the parties and no variation of this Agreement will be binding unless made in writing and signed by a Director or legal representative of Sanderson and a Director of the Company. The special terms in Clause 1 above and accompanying Schedules shall prevail in the event of any conflict with these Terms of Business. This Agreement supersedes and replaces all prior agreements and the existence of any other terms and conditions whether signed or unsigned are made void on signing this Agreement.
- 15.2 This Agreement is provided in duplicate. The Company is requested to sign both copies returning them to Sanderson within seven (7) days of receipt. The Company commencing provision of Services under the terms of this Agreement or acceptance of any payments relating to this Agreement shall be deemed as acceptance by the Company of all terms and conditions enclosed herein.

### 16 Third Party Rights

The Parties do not intend that any term of this Agreement should be enforceable by any third party as provided by the Contracts (Rights of Third Parties) Act 1999 but any third party right which exists or is available independently of that Act is preserved.

### 17 Severability

Each provision of this Agreement shall be construed separately and notwithstanding that any such provision may prove to be illegal or unenforceable the remaining provisions of this Agreement shall continue in full force and effect.

### 18 Waiver

Any waiver or amendment of any provision of this Agreement shall be effective only if in writing and signed by both parties.

## **19 Jurisdiction**

This Agreement shall be governed and construed in accordance with the laws of England and Wales and the parties submit to the jurisdiction of the Courts of England and Wales.

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