

Agreement For The Engagement And Provision Of Services

This agreement is made on [[current_date]] ("Effective Date")

BETWEEN

- (1) **Blueberry Creative Consultants Limited**, a company incorporated in England and Wales under company number 04379194 and whose registered office is at 10 Redan House 27 Redan Place, London, W2 4SA ("Employment Business"); and
- (2) **[Name of Contractors Company]**, a company incorporated in England and Wales under company number [registered company number] and whose registered office is at [office address] ("Contractor").

IT IS AGREED as follows:

1. Interpretation and Definitions

- 1.1. Unless the context otherwise requires, references to the singular include the plural.
- 1.2. Headings contained in this Agreement are for reference purposes only and will not affect the intended meanings of the clauses to which they relate.
- 1.3. In this Agreement –

"**Agreement**" means the terms and conditions set out herein together with any issued Assignment Schedule to these terms;

"**Assignment**" means the period during which the Contractor provides the Services as set out in an Assignment Schedule;

"**Assignment Schedule**" means the schedule agreed between the Employment Business and the Contractor for each Assignment containing the particulars of the Assignment and the Services;

"**AWR**" means the Agency Workers Regulations 2010 (as amended);

"**Client**" means the person, firm or corporate body together with any subsidiary or associated company as defined by section 1159 of the Companies Act 2006 requiring the Services, and includes any third party to whom the Representative provides services pursuant to this Agreement on behalf of the Client;

"**Conduct Regulations**" means the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (as amended from time to time) and references to a particular Regulation are references contained therein;

"**Data Controller**" means "controller" in accordance with the General Data Protection Regulation (EU) 2016/679

"**Data Protection Legislation**" means all applicable laws and regulations, as amended or updated from time to time, in the United Kingdom relating to data protection, the processing of personal data and privacy, including without limitation, (a) the Data Protection Act 2018; (b) the General Data Protection Regulation (EU) 2016/679; (c) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (as may be amended by the proposed Regulation on Privacy and Electronic Communications); and (d) any legislation that replaces or converts into United Kingdom law the General Data Protection Regulation (EU) 2016/679, the proposed Regulation on Privacy and Electronic Communications or any other law relating to data protection, the processing of personal data and privacy resulting from the United Kingdom leaving the European Union;

"**Data Subject**" means as set out in, and will be interpreted in accordance with Data Protection Legislation;

"**Off-Payroll**" means amendments to Chapter 8; and Chapter 10 Part 2 of Income Tax (Earnings and Pensions) Act 2003;

"**Opted-Out**" means opted-out of the Conduct Regulations in accordance with Regulation 32(9);

"**Personal Data**" means as set out in, and will be interpreted in accordance with Data Protection Legislation;

"**Personal Data Breach**" means the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise Processed in connection with this Agreement;

"**Process**" means as set out in, and will be interpreted in accordance with Data Protection Legislation and "**Processed**" and "**Processing**" will be construed accordingly;

"**Qualifying Period**" means as defined within regulation 7 of the AWR;

“Representative” means the employees, officers or representatives of the Contractor, (including any substitute made in accordance with clause 2.6 below), who renders the Services on behalf of the Contractor;

“Restricted Period” means the twelve months following the end (howsoever arising) of the Assignment; and

“Services” means the services to be performed by the Representative on behalf of the Contractor for the benefit of the Client pursuant to this Agreement.

2. The Services

- 2.1. Following a request from the Client, the Employment Business has requested the Contractor and the Contractor has agreed with the Employment Business to provide the Services to the Client as detailed within an Assignment Schedule, on the terms and conditions of this Agreement.
- 2.2. The Contractor shall procure that the Services shall be undertaken by the Representative.
- 2.3. The Employment Business and the Contractor shall agree an Assignment Schedule (or confirm their agreement in an Assignment Schedule) specifying the Client, the fee payable by the Employment Business, the Representative, the Services, such expenses as may be agreed, any notice period and any other relevant information.
- 2.4. Save as otherwise stated in this Agreement, the Contractor and the Representative will be entitled to supply its/their services to any third party during the term of this Agreement provided that this in no way compromises or is not to the detriment of the supply of the Services, and provided there is no conflict of interest.
- 2.5. The Contractor shall not, and shall procure that the Representative shall not, whether directly or indirectly through any company, partnership or person, solicit nor enter into any contract with the Client or with any third party introduced to the Contractor or the Representative by the Client with whom the Representative had material contact with during the Assignment, to provide any services of the same or a similar nature as the Services during the Assignment or during the Restricted Period without the Employment Business's prior written consent, such consent may be withheld at the Employment Business's absolute discretion or granted subject to any conditions the Employment Business may wish to impose.
- 2.6. The Contractor may substitute the Representative provided that -
 - 2.6.1. the Services remain as detailed in the Assignment Schedule;
 - 2.6.2. the proposed substitute passes all relevant security checks;
 - 2.6.3. no delay or reduction in quality shall occur due to the lack of technical or Client specific knowledge held by the substitute; and
 - 2.6.4. if requested by the Employment Business, the Contractor provides, without charge, an effective handover to the proposed substitute.
- 2.7. Clause 2.5 shall not apply where the Contractor and the Representative have not Opted-Out and the Conduct Regulations apply to the Assignment.
- 2.8. Where the AWR applies to the Assignment and upon request from the Contractor, the Employment Business will request from the Client information about the working and employment conditions that are applicable to, the Client's employees and workers, and where relevant, are applicable to workers and/or employees who undertake the same or broadly similar work as that of the Representative during the Assignment. Upon receipt from the Client of such information, the Employment Business will provide this information to the Contractor.
- 2.9. The Contractor acknowledges and accepts that where the Assignment is in the scope of Off-Payroll and that where Off-Payroll applies, the Employment Business has a statutory duty to make deductions in accordance with Off-Payroll to payments made by the Employment Business to the Contractor and that the right of substitution in Clause 2.6 shall not apply.

3. The Contract

- 3.1. This Agreement constitutes the entire agreement between the Employment Business and the Contractor, and it supersedes all previous agreements between the parties in relation to the subject matter hereof and governs all Assignments undertaken by the Contractor. The Contractor warrants that, in agreeing to enter into this Agreement, it has not relied on any statement or representations made by the Employment Business or by the Client.
- 3.2. No variation or alteration to this Agreement will be valid unless the details of such variation are agreed between the Employment Business and the Contractor and set out in writing and signed by both parties save the Employment Business may vary the Off-Payroll status and accordingly vary the Contractor fee during Assignment to fulfil its statutory duty.
- 3.3. The Contractor agrees it has accepted the terms of this Agreement if it performs any Services for the Client or submits a timesheet to the Employment Business in relation to performing the Services for the Client.
- 3.4. Without prejudice to any rights accrued prior to termination, the obligations within clauses 1, 2.5, 5.7, 5.10, 5.11, 6.4, 9.2, 9.3, 10, 11, 12.3, 13, 14.1, 14.3, 14.4, 15, 16 and 17 will remain in force beyond the cessation or other termination (howsoever arising) of this Agreement.

4. Undertakings of Contractor

- 4.1. The Contractor warrants to the Employment Business that by entering into and performing its obligations under this Agreement it will not thereby be in breach of any obligation that it owes to any third party. The Contractor further warrants to the Employment Business that the Representative, by performing the Services on behalf of the Contractor, will not thereby be in breach of any obligation that it owes to any third party.
- 4.2. The Contractor warrants that it and its Representative have the necessary skills, experience, training, qualifications and any other authorisation which the Client considers are necessary, or which are required by law or by any professional body to provide the Services for the period of the Assignment. The Contractor shall, on request, provide proof of compliance with this clause.
- 4.3. The Contractor warrants and represents that all statements, whether oral or written, made by it and/or any Representative and documentation it provides, in relation to its construction, operations, the performance of the Services in the course of the Assignment and relating to the Representative's experience, training, qualifications and any relevant or necessary authorisation, are true and accurate and will be kept up to date.
- 4.4. The Contractor warrants that the Services shall be performed with a high degree of professional skill and care.
- 4.5. The Contractor shall procure that the Representative works such hours as are necessary to perform the Services and that the Representative shall not unreasonably fail to provide the Services during hours required by the Client for the convenience of the Client and for the proper performance of the Services. Where minimum hours are specified in the Assignment Schedule, the Contractor warrants that it shall ensure that the Representative shall work for such minimum hours.
- 4.6. The Contractor warrants that the Representative shall follow all applicable rules and procedures of the Client relevant to independent contractors and the delivery of the Services and shall act in a professional manner at all times when at the premises at which the Services are to be performed.
- 4.7. The Contractor warrants that it and the Representative shall, in relation to the Services, adhere to all applicable laws, statutes and regulations as enacted from time to time.
- 4.8. The Contractor warrants that pre-employment checks have been carried out in relation to each Representative and that each Representative has valid and subsisting leave to live, work and to remain lawfully in the UK for the duration of the Assignment.
- 4.9. The Contractor warrants that –
 - 4.9.1. it is not a Managed Service Company as defined in the Income Tax (Earnings and Pensions) Act 2003 (as amended);
 - 4.9.2. it is a company registered within the United Kingdom; and
 - 4.9.3. the Representative owns five percent or more of the Contractor, except where the Representative is a substitute under clause 2.6.
- 4.10. The Contractor warrants that it will ensure the relevant provisions of this Agreement are included within the contract between the Contractor and the Representative and shall ensure that the Representative is fully aware of their obligations in connection with this Agreement.
- 4.11. The Contractor warrants that it shall procure that, where the Representative is eligible in relation to the Assignment hereunder, the Representative is enrolled (or given the opportunity so to do) in a pension scheme in accordance with The Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2014 and the Contractor hereby agrees that it will indemnify and hold harmless the Employment Business and/or the Client from any demands made against them in connection with this clause.
- 4.12. Subject to clause 7.2, the Contractor shall be wholly responsible for the correct payment of any PAYE Income Tax and National Insurance Contributions and any other taxes and deductions payable in respect of the Representative and the Contractor warrants that it shall procure the correct payment of such in accordance with relevant legislation.
- 4.13. The Contractor will, on request, provide proof of compliance with this clause 4 as may be required by the Employment Business from time to time.

5. Obligations of Contractor

- 5.1. The Contractor will, and shall procure the Representative will -
 - 5.1.1. not engage in any conduct detrimental to the interests of the Employment Business or the Client which includes any conduct that may bring the Employment Business or the Client into disrepute and which may result in the loss of custom or business;
 - 5.1.2. comply with any statutory or other reasonable rules or obligations including but not limited to those relating to health and safety, site security and IT usage and security during the Assignment to the extent that they are applicable while performing the Services and to take all reasonable steps to safeguard its own safety, the safety of the Representative and the safety of any other person who may be affected by its actions during the Assignment;
 - 5.1.3. furnish the Client and/or the Employment Business with periodic progress reports;

- 5.1.4. notify the Employment Business forthwith in writing if the Contractor should become insolvent, dissolved or subject to a winding up petition or the Representative becomes bankrupt;
 - 5.1.5. where required, provide and insure at its own cost any such necessary equipment as is reasonable for the performance of the Services and ensure that any computer equipment and associated software which it provides for the purpose of providing the Services contains up-to-date anti-virus protection; and
 - 5.1.6. not at any time to make any copy, abstract, summary or précis of the whole or any part of any document or other material belonging to the Client except when required to do so in the course of its duties under the Assignment in which event any such item shall belong to the Client or the Employment Business as appropriate.
- 5.2. The Contractor will procure that the Representative shall when requested obtain the signature/electronic approval of an authorised representative of the Client on a timesheet in a format provided by the Employment Business and submit timesheets to the Employment Business, in accordance with the Employment Business's procedure, and no later than within 1 week of the period to which they relate or as otherwise directed in writing by the Employment Business.
 - 5.3. The Contractor warrants and represents that the hours the Representative records on the online timesheet are true and accurate.
 - 5.4. If the Contractor/Representative is unable or unwilling for any reason to undertake the Services during the course of an Assignment the Contractor/Representative should inform the Employment Business as soon as possible.
 - 5.5. The Contractor will have reasonable autonomy in relation to determining the method of performance of the Services but in doing so it shall co-operate with the Client's reasonable and lawful requirements in order to ensure successful delivery of the Services.
 - 5.6. The Contractor acknowledges, and shall procure that the Representative acknowledges, that failure to deliver and obtain the Client signature/electronic approval of timesheets and failure to comply with the Employment Business's procedure regarding such may delay payment.
 - 5.7. The Contractor will, and shall procure that the Representative will, at the end of the Assignment or on demand, at its own expense, return to the Employment Business or to the Client (as directed) all property of the Client including, but not limited to, all equipment, documents (including copies) and other such materials, security passes, electronic storage devices and keys.
 - 5.8. Nothing in this Agreement should be construed to render any Representative an employee or a worker of either the Employment Business or the Client. The Contractor shall ensure that the Representative does not hold himself/herself out as an employee or a worker or an agent of either the Employment Business or of the Client.
 - 5.9. Neither the Employment Business nor the Client shall be required or obliged to bear the cost of any training that the Representative may require in order to perform the Services.
 - 5.10. The Contractor agrees to promptly, upon request, provide evidence relating to the construction and operations of the Contractor's company and details of the Representative's status/engagement in order to assist the Employment Business to comply with its contractual and legal obligations.
 - 5.11. The Contractor agrees, and shall procure that the Representative agrees, to promptly provide to the Employment Business any information requested by the Employment Business that may be required to satisfy statutory legislation and reporting requirements relating thereto.
 - 5.12. Save where agreed in writing by the Employment Business, the Contractor agrees not to sub-contract or assign to any third party any of the Services which it is has agreed to perform under an Assignment in accordance with this Agreement.

6. Invoicing

- 6.1. The Contractor shall submit and confirm, electronically via an Online Timesheet system provided by the Employment Business the time spent by the Contractor in providing the Services. A self-billed invoice will be provided by the Employment Business showing the amount due from the Employment Business to the Contractor in respect of the Services at the rate set out in the Assignment Schedule. Online timesheets must be received by the Employment Business no later than 5 days following the period to which it relates (or as otherwise directed by the Employment Business). The self billed invoice will display the Contractor's name, name of the Representative and, where applicable, the VAT number and any VAT due on the invoice.
- 6.2. The Employment Business shall not pay any fees to the Contractor (a) unless an online timesheet has been properly submitted by the Contractor in accordance with clause 6.1 above and (b) unless and until the Client has authorised or signed the relevant time recording process and (c) the hours claimed are true and accurate.
- 6.3. Unless otherwise stated in the Assignment Schedule, Contractors will not be entitled to claim any expenses from the Employment Business or the Client. Where applicable, the Contractor will invoice the Employment Business for business expenses agreed in writing by the Employment Business. The Contractor will, on request, provide receipts in relation to invoiced expenses and the Employment Business may withhold payment of expenses subject to receiving such receipts. VAT on expenses must be shown separately.
- 6.4. Without prejudice to the Employment Business's rights and remedies under this Agreement or in law, whenever a sum of money is recoverable from or payable by the Contractor -

- 6.4.1. in relation to an overpayment;
 - 6.4.2. for any sum that the Contractor is liable to pay to the Employment Business in respect of any breach of this Agreement;
or
 - 6.4.3. from any indemnity given in this Agreement,
the Employment Business may deduct that sum from any sum then due or which at any later time becomes due to the Contractor under this Agreement.
- 6.5. Clause 6.2(b) will not apply if the Contractor and the Representative have not Opted-Out and the Conduct Regulations apply to the Assignment.

7. Charges/Fees

- 7.1. Subject to clause 7.3 and 7.2 and to the receipt of the Contractor's true and accurate timesheet in accordance with clause 6, the Employment Business shall pay the Contractor for the Services in accordance with the fees specified in the Assignment Schedule, plus any applicable VAT.
- 7.2. Where Off-Payroll applies to the Assignment and where required in accordance with Off-Payroll, the Contractor acknowledges and agrees that the Employment Business shall deduct sums in respect of PAYE Income Tax and National Insurance Contributions the Employment Business calculated in accordance with Off-Payroll prior to payment of the Contractor's invoice. The Employment Business shall remit such sums deducted under this clause 7.2 and Employer's NICs to HM Revenue and Customs to comply with its statutory duty. The Employment Business will provide a statement to the Contractor setting out such deductions. Save where and to the extent required by law, the Contractor is and will continue to be wholly responsible for the correct payment of all taxes and statutory deductions.
- 7.3. Payments will be made to the Contractor within 30 days of the creation of their self-billed invoice or as otherwise specified in the Assignment Schedule.
- 7.4. If the Contractor or the Representative is unable or unwilling for any reason to provide the Services in the course of the Assignment, then no fee will be payable by the Employment Business to the Contractor during any period that the Services are not provided.
- 7.5. If the Employment Business has reason to believe that the Client may not pay the Employment Business its invoices (or parts of them) in relation to the Representative, the Contractor agrees, and shall procure the Representative agrees, to provide the Employment Business with any reasonably requested information, explanations and/or written statements relating to the Assignment/Services and with any reasonable assistance necessary to help the Employment Business obtain such payment from the Client.
- 7.6. Where the Conduct Regulations apply to the Assignment, the Employment Business shall comply with Regulation 12 of Conduct Regulations in respect of work done by the Representative during the Assignment.
- 7.7. Where the AWR applies and following the Qualifying Period, the Employment Business will use reasonable endeavours to obtain agreement from the Client to increase and/or adjust, where applicable in accordance with the AWR, the fees paid by the Client to the Employment Business for the Services of the Representative. Upon such agreement and subject always to clause 7, any such adjustment to the Representatives fees will be set out and issued within a revised Assignment Schedule under this Agreement.
- 7.8. For the avoidance of doubt and subject to any agreement by the parties to the contrary, the Contractor will not be entitled to receive payment from the Employment Business or from the Client for time not spent on the Assignment whether in respect of holidays, illness or absence or for any other reason.
- 7.9. The Contractor recognises that Off Payroll status is subject to change during the term of the Assignment. The Contractor agrees and accepts that the Employment Business is entitled to vary this Agreement to comply with Off Payroll and may be required to terminate with immediate effect pursuant to Clause 8.4.

8. Term of the Agreement

- 8.1. Without prejudice to clause 3.4, this Agreement will commence on the Start of Assignment date as set out in the Assignment Schedule or the Effective Date (which ever date is earliest) and will continue until -
 - 8.1.1. the End of Assignment date as set out in the Assignment Schedule, or
 - 8.1.2. terminated in accordance with any of the clauses 8.2, 8.3, 8.4 or 8.5.
- 8.2. Without prejudice to clauses 3.4, 8.4, 8.5 and 8.3, either party may terminate this Agreement without cause by giving in writing the notice period stated within the Assignment Schedule. Where an Assignment Schedule does not provide the Contractor with a right to give notice to end the Assignment early, the Contractor may request the Employment Business to end the Assignment early, in which case the Employment Business may, at its sole discretion, use reasonable endeavours to agree early termination of the Assignment with the Client.

- 8.3. Notwithstanding clause 8.2 above and without prejudice to clause 3.4, the Employment Business may without liability end this Agreement and/or any specific Assignment and instruct the Contractor to procure that the Representative ceases work on the Assignment immediately or on short notice at any time, where -
- 8.3.1. the Contractor and/or the Representative has committed any serious or persistent breach of any of its obligations or undertakings under this Agreement;
 - 8.3.2. the Client believes the Contractor and/or the Representative is incompetent or has been negligent in the performance of the Services;
 - 8.3.3. the Client reasonably believes that the Contractor and/or the Representative has not observed any condition of confidentiality applicable to the Contractor and/or to the Representative from time to time;
 - 8.3.4. for any reason the Contractor and/or the Representative is considered unsatisfactory by the Client;
 - 8.3.5. the Employment Business receives any information regarding the unsuitability of the Contractor or the Representative to provide the Services in the course of the Assignment;
 - 8.3.6. the Contractor becomes insolvent, goes into administration, is dissolved or is subject to a winding up petition or the Contractor is suffering severe financial distress in the reasonable opinion of the Employment Business;
 - 8.3.7. any member of the Contractor's staff or any Representative is guilty of any fraud, dishonesty or serious misconduct;
 - 8.3.8. performance of the Services in the course of the Assignment is prevented by the incapacity of the Representative and the Contractor is unable to provide a replacement in accordance with clause 2.6 for the duration of such incapacity;
 - 8.3.9. the Representative informs the Employment Business that he/she no longer wishes to be supplied by the Contractor;
 - 8.3.10. the Client reasonably believes that the Contractor and/or the Representative has damaged or is damaging the reputation of the Client;
 - 8.3.11. whereupon an event of force majeure or any other incapacity of the Contractor/Representative affects the delivery of the Services; or
 - 8.3.12. the Employment Business has reason to believe the Client may not be able to pay any or all of the Employment Business's invoices.

For the avoidance of doubt, termination pursuant to this clause 8.3 will take precedence over termination pursuant to clause 8.2 above and over any notice periods set out in the applicable Assignment Schedule.

- 8.4. Notwithstanding clause 8.2 above and without prejudice to clause 3.4, the Contractor acknowledges that the continuation of the Assignment is subject to and conditioned by the continuation of the contract entered into between the Employment Business and the Client. In the event that the contract between the Employment Business and the Client is terminated for any reason then the Assignment will cease with immediate effect and without liability to the Employment Business.
- 8.5. Notwithstanding clause 8.2 above and without prejudice to clause 3.4, where the Employment Business receives notice from the Client to terminate the Assignment or not to proceed with the Assignment, the Employment Business may, with immediate effect and without liability, terminate this Agreement and any Assignment hereunder.
- 8.6. The Contractor agrees that the Employment Business may notify the Contractor and/or the Representative verbally of termination of the Assignment/Agreement where, in the reasonable opinion of the Employment Business, the situation merits such including (without limitation) where such termination is required to be with immediate effect.
- 8.7. The Contractor acknowledges and agrees that the Employment Business is not obliged to provide any reason or further explanation to the Contractor or to the Representative in connection with termination under clause 8, whether or not such a reason is provided by the Client to the Employment Business. Furthermore, in the event a reason is provided whether by the Client or by the Employment Business, the Employment Business is not liable to the Contractor or to the Representative in relation to the content of such reason.
- 8.8. Failure by the Contractor to give notice of termination as required in accordance with this Agreement will constitute a material breach of contract and the Contractor agrees to indemnify and hold harmless the Employment Business from any and all losses in connection with its breach of this clause 8.8.

9. Intellectual Property

- 9.1. The Contractor does, and shall procure that the Representative does, in consideration of the fees, hereby assign to the Client (or to the Employment Business for onward transfer to the Client where directed so to do by the Employment Business) all present and future copyright, title and interest of whatever nature (including but not limited to copyright and patent application rights), topography rights, design rights, trademarks, rights in databases, sui generis rights, trade secrets (whether registered or unregistered) and other confidential information, know-how and all other intellectual property rights of a similar nature in any part of the world and all other intellectual property rights in original work and all applications and rights to apply for the protection of any of the foregoing, produced, prepared or provided by the Representative, in whatever media, in relation to or arising from the performance of the Assignment prepared for the Client or produced by any Representative in connection with an Assignment under this Agreement, and that the aforementioned rights shall vest in and remain the property of the Client throughout the world free from any interest of the Contractor, the Representative or any third party or parties.
- 9.2. The Contractor will do anything, and shall procure that the Representative will do anything, that the Client may reasonably require in order effectively to vest such rights in the Client (or to the Employment Business for onward transfer to the Client where directed so to do by the Employment Business) or such third party as the Client specifies or to evidence the same (whether before or after the termination of this Agreement).
- 9.3. The Contractor acknowledges and agrees, and shall procure that the Representative acknowledges and agrees, that the Client retains ownership of all intellectual property rights of whatever nature and, if registrable, whether registered or not, in the documents or other material and data and other information provided to or provided by the Representative in relation to an Assignment. For the avoidance of doubt, the Client will not be deemed to have granted the Contractor or the Representative any licence to use the documents or other material and data or other information other than solely for the purposes of the relevant Assignment.
- 9.4. The Contractor will, and shall procure that the Representative will, promptly disclose to the Client and to the Employment Business any idea, method, invention, discover, design, concept or other work made or created by the Representative in relation to the Services provided during the Assignment.
- 9.5. The Contractor warrants that the Services provided are not in breach of the intellectual property rights of any third party.
- 9.6. The Contractor will indemnify and hold harmless the Client and the Employment Business from (without limitation) any and all actions, claims, proceedings, settlements, legal fees, costs, expenses, damages, demands, losses and liabilities whatsoever and however incurred resulting or arising out of any claim by any third party that the use or possession of work performed or delivered by the Contractor or by the Representative in connection with this Agreement infringes the intellectual property rights of that third party.
- 9.7. The Contractor hereby, and will procure that the Representative does, in consideration of fees, irrevocably and unconditionally waive in favour of the Client any and all moral rights conferred on it and/or the Representative by statute for any intellectual property, design or copyright work in which rights are (or should be) vested in the Client pursuant to this clause 9. The Contractor hereby warrants that it has obtained the same undertaking from the Representative.

10. Confidentiality and Data Protection

- 10.1. Without prejudice to every other duty not to disclose any and all information given to the Contractor or to the Representative or gained in confidence in connection with this Agreement (including, without limitation, information provided by or pertaining to the Employment Business) the Contractor shall not, and shall procure that the Representative shall not, at any time whether during or after the Assignment, disclose to any person or make use of any of the trade secrets, confidential or sensitive (including commercially sensitive) information of the Client, of the Client's customers and of the Employment Business, save where required by law. For the purposes of this clause, confidential or sensitive information is confidential if it is labelled confidential or labelled sensitive, if the disclosing party expressly states (whether in writing or otherwise) to the Contractor and/or to the Representative that the information is confidential or if the Contractor and/or the Representative ought to have known that the information may be confidential or sensitive.
- 10.2. The Contractor shall, and shall procure that the Representative shall, both during and after the Assignment, keep confidential from any third party and from the Client the rates paid to the Contractor by the Employment Business.
- 10.3. The Contractor agrees that if the Employment Business and/or the Client suffer disclosure of their confidential information through breach of clause 10.1, the Employment Business or the Client (as the case may be) shall be entitled, in addition to any and all other remedies, to temporary and injunctive relief.

11. Data Protection

- 11.1. The parties hereto
 - 11.1.1. acknowledge this clause is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation;

- 11.1.2. acknowledge that for the purposes of the Data Protection Legislation, the Employment Business is a Data Controller and the Contractor is a Data Controller but they are not Joint Controllers (as defined in the Data Protection Legislation) unless a specific agreement is made to that effect between the parties;
 - 11.1.3. agree that neither the Contractor nor the Representative is the Client's Data Processor (as defined within Data Protection Legislation) save where agreed otherwise within an Assignment Schedule and subject to additional terms and conditions;
 - 11.1.4. warrant to each other that any Personal Data relating to a Data Subject, whether provided by the Client, by the Employment Business, by the Contractor or by the Representative, will be used, Processed and recorded by the receiving party in accordance with Data Protection Legislation and for the purposes of fulfilling this Agreement;
 - 11.1.5. shall ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;
 - 11.1.6. will take appropriate technical and organisational measures to adequately protect all Personal Data against accidental loss, destruction or damage, alteration or disclosure;
 - 11.1.7. will provide reasonable assistance to the other in responding to any request from a Data Subject with respect to data subject access requests and other data subject rights, data security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - 11.1.8. will promptly notify the other on becoming aware of a suspected or actual Personal Data breach relevant to Personal Data transferred pursuant to this Agreement; and
 - 11.1.9. will maintain complete and accurate records and information to demonstrate their compliance with this clause 11.1.
- 11.2. The Contractor understands, and shall ensure that the Representative understands that in providing the Services, Personal Data relating to the Representative will be collected by the Employment Business and passed to the Client in the course of the administration of the agreement between the Employment Business and the Client. The Contractor shall ensure the Representative understands that in providing the Services, the Client and/or the Employment Business, or anyone processing data on behalf of the Client and/or the Employment Business, may transfer Personal Data relating to the Representative outside the European Economic Area.
- 11.3. The Contractor will, and will procure that the Representative will, when requested so to do by the Employment Business, make available to the Employment Business all information necessary to demonstrate compliance with the obligations associated with Data Protection Legislation and clause 11 and will allow for audits and inspections (upon reasonable notice) in order to demonstrate compliance.
- 11.4. Notwithstanding clauses 11.1.7 and 11.1.8, in the event of a suspected or actual Personal Data Breach, the Contractor will promptly (at its own expense) provide such information, assistance and cooperation and do such things as the Employment Business may request to -
- 11.4.1. investigate and defend any claim or regulatory investigation;
 - 11.4.2. mitigate, remedy and/or rectify such breach; and
 - 11.4.3. prevent future breaches.
- 11.5. The Contractor will not, and will procure that the Representative will not, release or publish any filing, communication, notice, press release or report concerning any Personal Data Breach without the prior written approval of the Employment Business.
- 11.6. The Contractor understands, and shall ensure that the Representative understands, that in providing the Services Personal Data may be Processed in order to comply with the Employment Business's and the Client's or associated employment intermediaries' legal obligations, including reporting the Assignment details to HMRC. The Contractor warrants that the Representative is aware of such Processing (including any such transfer) on the understanding that any Personal Data is processed fairly and lawfully in accordance with the Data Protection Legislation. The Contractor acknowledges, and shall ensure the Representative acknowledges, that information provided in relation to clauses 5.10 and 5.11 may be disclosed by the Employment Business to a third party specifically for the purposes of complying with statutory legislation.

12. Relationship between the Employment Business, the Contractor, the Representative and the Client

- 12.1. This Agreement, or any Assignment hereunder, is not intended by the Parties to constitute or give rise to a contract of service or an employment contract.
- 12.2. The Employment Business will not charge the Contractor or the Representative for work-finding services.
- 12.3. Upon the termination or expiry of this Agreement, howsoever arising, the Employment Business will not be obliged to offer, and the Contractor and the Representative will not be obliged to accept, any further assignments, contracts, engagements, projects or request for services of any type whatsoever.

- 12.4. The Contractor and the Representative have no authority to act or contract on behalf of the Employment Business or the Client and will not, and shall procure that the Representative will not, hold itself/himself/herself out as capable of doing so. The Contractor will not, and shall procure that the Representative will not, purport to bind the Employment Business or the Client in any way.
- 12.5. The Contractor acknowledges to the Employment Business that its services are supplied to the Employment Business as an independent contractor and that accordingly it will comply with all statutory and legal requirements relating to the Representative (including, without limitation, the correct payment of taxation and National Insurance Contributions) will fall upon and be discharged wholly and exclusively by the Contractor (save where and only to the extent applicable under clause 7.2). If any person should seek to establish any liability or obligation upon the Employment Business or upon the Client on the grounds that the Representative is an employee or worker (or should be treated as such for the purpose of employment rights, benefits and/or taxation) of the Employment Business or of the Client, the Contractor agrees to indemnify and hold harmless the Employment Business and/or the Client and to keep the Employment Business and/or the Client, as the case may be, indemnified in respect of any such liability or obligation and any related (without limitation) costs, expenses, legal expenses, proceedings, settlements or other losses which the Employment Business or the Client incur.
- 12.6. Save as required by law, neither the Contractor nor the Representative will be entitled to receive from the Employment Business or from the Client, sickness pay, holiday pay, long service leave or any other similar entitlement.
- 12.7. In the event of the breach of clause 12.4 above, any contract or agreement purportedly entered into by the Contractor or the Representative as an agent for either the Employment Business or the Client shall be deemed to have been made as if the Contractor or the Representative, as the case may be, acted and contracted as principal.

13. Notices

- 13.1. Save as stated within clause 8.6 any notice required to be given under this Agreement shall be delivered by hand, sent by facsimile, e-mail or prepaid first class post to the recipient at its fax number or address specified in this Agreement.
- 13.2. Notices shall be deemed to have been given and served,
 - 13.2.1. if delivered by hand, at the time of delivery if delivered before 5.00pm on a business day or in any other case at 10.00am on the next business day after the day of delivery; or
 - 13.2.2. if sent by facsimile or e-mail, at the time of despatch if despatched on a business day before 5.00 p.m. or in any other case at 10.00 a.m. on the next business day after the day of despatch, unless the transmission report indicates a faulty or incomplete transmission or, within the relevant business day, the recipient informs the sender that the facsimile or e-mail message was received in an incomplete or illegible form;
- 13.3. The Contractor agrees that notices may be sent by or provided to the Representative for or on behalf of the Contractor.

14. Liability

- 14.1. The Contractor agrees to indemnify and hold harmless the Employment Business and the Client in full from and against any and all, actions, claims, demands, proceedings, judgements, damages, losses (including indirect or consequential), liabilities, costs, charges and expenses (including legal fees), settlements, fines, interest and penalties of whatever nature and in whatever jurisdiction, which may be instituted, made or alleged against, or suffered or incurred by the Employment Business or by the Client, arising from or in connection with –
 - 14.1.1. any breach of the Contractor's or the Representative's obligations under this Agreement;
 - 14.1.2. any deliberate or negligent act or omission of the Contractor and/or of the Representative;
 - 14.1.3. any assignee or sub-contractor to whom the Contractor assigns or sub-contracts the performance of the Services (where permitted by the Employment Business in writing);
 - 14.1.4. the loss or destruction of or damage to any property of the Client which is caused by the Contractor/Representative;
 - 14.1.5. death of or personal injury to any person caused by the Contractor/Representative in connection with any Assignment (except, for the avoidance of any doubt, to the extent that this is caused by negligence of the Employment Business or the Client);
 - 14.1.6. any claim or allegation by the Representative regarding the termination or expiry of any Assignment of the Representative;
 - 14.1.7. any claim or allegation that the Representative is an employee of the Employment Business or of the Client;
 - 14.1.8. any claim or demand, howsoever arising, against the Employment Business or the Client for income tax and/or employee's and/or employer's National insurance contributions relating to any Representative where Off-Payroll is outside scope or not applied to an Assignment; or
 - 14.1.9. any claim against the Employment Business or the Client arising out of any act or omission of any Representative including (without limitation) any act of discrimination.

- 14.2. Save where Off-Payroll applies, where the Contractor or the Representative is in breach of this Agreement which results in the Client terminating the agreement between the Employment Business and the Client or terminating the Assignment, the Contractor agrees, without prejudice to any other remedy of the Employment Business, to indemnify the Employment Business for any loss of the Employment Business's fee that would have been charged to the Client relating to the remaining period of the Assignment.
- 14.3. The Contractor shall ensure and maintain the provision of adequate Employers Liability insurance (where legally required) Public Liability insurance, Professional Indemnity insurance and any other suitable policies of insurance in respect of the Contractor, the Representative, the provision of the Services and any and all indemnities relating thereto within this Agreement. Upon request, the Contractor shall make a copy of the policy available to the Employment Business. In addition to this clause 14.3, the Employment Business may specify in the Assignment Schedule the level of insurance cover and any additional insurance the Contractor shall maintain.
- 14.4. Save where Off-Payroll applies, without prejudice to any other rights and/or remedies the Employment Business has within this Agreement or at law, the Contractor is liable for any defects or deficiencies arising in relation to the Services performed by the Representative in the course of the Assignment and will, where requested, rectify at its own cost and in its own time such defects or deficiencies as may be capable of remedy within the period required by the Client or, where no such specific period is required in the event then within a reasonable period of time from such request.
- 14.5. Except where stated otherwise within this Agreement and save as required by law, neither party shall be liable to the other for any indirect or consequential losses, howsoever arising, in connection with this Agreement.
- 14.6. Save as required by law, the Employment Business will not be liable to the Contractor or the Representative for any loss, expense, damage or delay howsoever arising (whether directly or indirectly) in connection with this Agreement, save where expressly stated otherwise within this Agreement.

15. Contract Renewal

- 15.1. This Agreement and the duration of the Assignment may be extended by mutual agreement by the Parties signing a further Assignment Schedule.
- 15.2. Notwithstanding clause 15.1 above, if the Representative supplied under this Agreement continue to perform the Services or any other services for the Client at the express request of the Employment Business beyond the End of Assignment date set out within the applicable Assignment Schedule, then this Agreement shall be deemed to be extended for an additional period until such time as such further Assignment Schedule is signed or further agreement is entered into between the Parties ("the Deemed Period").
- 15.3. The terms and conditions contained herein shall be deemed to apply in respect of any Services or other services provided by the Contractor or the Representative during the Deemed Period, except as stated in clause 15.4 below.
- 15.4. In addition to the rights of the Parties in connection with clause 15.3 above, the Employment Business may terminate the Deemed Period with immediate effect and any notice period detailed in the relevant Assignment Schedule shall not apply.

16. General

- 16.1. Any failure by the Employment Business to enforce at any particular time any one or more of its rights under this Agreement shall not be deemed a waiver of such rights or of the right to enforce this Agreement subsequently.
- 16.2. If any provision, clause or part-clause of this Agreement is held to be invalid, void, illegal or otherwise unenforceable by any judicial body, the remaining provisions of this Agreement shall remain in full force and effect to the extent permitted by law.
- 16.3. Save as provided in this clause 16.3, no provision of this Agreement shall be enforceable by any person who is not a party to it pursuant to the Contract (Rights of Third Parties) Act 1999 ("the Act"). This does not, however, affect any right or remedy of a third party that exists or is available independently of the Act. The Client named on the Assignment Schedule will have the benefit of the provisions and the indemnities within this Agreement where stated within the clauses in this Agreement. Notwithstanding that any term of this Agreement may be or become enforceable by a person who is not a party to it, the terms of this Agreement may be varied, amended or modified without the consent of any such third party.
- 16.4. For the purposes of this Agreement, the Employment Business is acting as an employment business as defined within the Conduct Regulations; save where a permanent placement results, in which case the Employment Business will be acting as an employment agency as defined within the Conduct Regulations.
- 16.5. If there is a conflict between these terms and conditions and the Assignment Schedule, these terms and conditions will take precedence save where expressly provided for within these terms and conditions or where additional terms/conditions or variations are expressly stated within the Assignment Schedule.
- 16.6. The parties agree that AWR, Conduct Regulations and Off-Payroll are not inter-dependent.

- 16.7. The Contractor shall comply with all applicable laws, statutes, regulations, codes and guidance relating to anti-bribery and anti-corruption (Anti Bribery Laws) which includes (without limitation) compliance with the Bribery Act 2010. The Contractor will not, and will procure that the Representative will not, offer, give or agree to give to any employee or representative of the Employment Business or of the Client or of any third party any gift, personal financial incentive or other consideration that could act or reasonably be perceived to act as an inducement or a reward for any act or failure to act connected to the performance of this Agreement and the arrangement of the Assignment.
- 16.8. The Contractor shall comply with all applicable anti-slavery and human trafficking laws and regulations including the Modern Slavery Act 2015.

17. Governing Law and Jurisdiction

- 17.1. This Agreement shall be construed in accordance with the laws of England and Wales and all disputes, claims or proceedings between the parties relating to the validity, construction or performance of this Agreement shall be subject to the exclusive jurisdiction of the courts of England and Wales.

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Uniting Creative Minds
Company No. 04379194
VAT No. 795713290



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Assignment Schedule

This Assignment Schedule is subject to and forms part of the Agreement (Agreement For The Engagement And Provision Of Services). In the event of conflict between the terms and conditions and this Assignment Schedule, the terms and conditions will take precedence save where expressly provided for within the terms and conditions or where additional terms/conditions or variations are expressly stated below within this Assignment Schedule.

Client Information	
Client Company Name	
Client Company Registered Address	
Client Company Registration Number	
Location/s where the Services are to be delivered	TBC by Contractor and Client
Client hiring/line manager	
Contact Number for Client hiring/line manager	
Invoicing Address	
Contractor Services Information	
Name of Contractor	Name of the Contractor Company
Representative of Contractor	Name of the Individual performing the Services
Description of the Services	The Services to be undertaken
Off-Payroll applicable to Client	ie Not applicable or Applicable
Off-Payroll status of the Assignment	ie Note applicable to Client (or) Freelance/Outside IR35 (or) PAYE/Inside IR35 where PAYE and NICs deductions will be made by the Employment Business to payments made to the Contractor.
Production Name	
Start of Assignment	
End of Assignment	
Pencils / General Notes	
Mandatory qualifications experience, training, professional body authorisations	
Specific hours/days/timekeeping requirements	
Kit Requirements	Kit Required: Kit to be provided by: (Client / Talent)
Notice period for the Contractor to terminate the Assignment	1 weeks notice subject always to clauses 8.3, 8.4 and 8.5
Notice period for the Employment Business to terminate the Assignment	1 weeks notice subject always to clauses 8.3, 8.4 and 8.5 that in the event shall take precedence over clause 8.2
Contractor Opted-Out	Opted Out (or) Not Opted Out
Specific Insurance Requirement	As required to cover the warranties and obligations within this Agreement.
Charges Information	
Contractor Fee – standard hours	Basic Pay Rate: Daily rate of (Daily Rate)
Contractor Fee – overtime and non-standard hours	Basic Overtime Rate: (Overtime rate) per hour Weekends and Bank Holidays will be charged at time and a half
Additional fees / Agreed expenses	Additional agreed expenses, kit hire charges, or additional fees paid where agreed in writing (including email) by the client's employee.
Payment terms	30 days from the date stated on the self-billed invoice
General Information	
Terms and Conditions applicable	Agreement For The Engagement And Provision Of Services
Additional Terms/Conditions Applicable	None
Agreed variations to Terms and Conditions	No variations agreed If there is a conflict between the Terms and Conditions stated above and the Assignment Schedule, the Assignment Schedule will take precedence.

