

Terms of Business



ITUS Limited

Head Office: Albany House, 14 Shute End, Wokingham, Berkshire RG40 1BJ

London Office: 6th Floor, International House, 223 Regent Street, London. W1B 2QD

Telephone: 0207 205 2905 email: info@itus.co.uk Web: www.itus.co.uk

Registered in England No. 8302919 VAT No. 151 5394 18 Data Protection. ZA183136

Standard Terms of Business for Consultancy Services

1 WHO WILL DO THE WORK

ITUS will utilise the best qualified staff and management on this assignment, detail of who is involved can be found in the schedule. We may need to involve or employ others in the company to conduct the matter, from time to time, for example to deal with specialist points. I will discuss any proposed changes with you. I understand the importance of continuity and so would aim to keep changes to a minimum.

I shall have full discretion, subject to your prior approval, to engage subcontractors to perform the Services described. Any subcontractor is our agent working under our supervision and control. I agree that my subcontractors are subject to the terms of the confidentiality provisions of this Engagement and agree to ensure that my subcontractors are fully informed and will abide by these confidentiality provisions.

We may accept your signed copy of our engagement letter as having authority to bind you on minor matters relating to this Contract; you may change this Client Contact at any time by written notice to us.

We may from time to time propose substitute Consultants; if we do so, we acknowledge that whether you accept or reject any such proposed substitute is a matter for your sole discretion.

2 OUR FEES FOR THIS MATTER

Our intention is to be transparent on the question of fees. A published list of our daily fee rates can be found on our website www.itus.co.uk.

We will ensure that the work on this matter is done at the appropriate level of seniority and experience and therefore cost. Our time is recorded in half day units. All of you will be joint and severally liable for our fees.

Our fees are detailed in the schedule for this assignment which will be forwarded to you.

Prior to our work commencing we require 50% of our fees be paid "on account" as we are required to pay our sources and contacts immediately prior to them agreeing to commence the work. Hence we would be grateful if you could arrange payment of our initial invoice that is attached.

Our daily rates (which are exclusive of VAT, other charges, expenses and disbursements) are based on experience and seniority and should other individuals join the team providing the service to you, we will inform you of their daily rates. Daily rates are reviewed each March with changes brought into effect from 1st April.

3 OTHER CHARGES, EXPENSES AND DISBURSEMENTS

The fees we charge do not include VAT or other charges, expenses and disbursements which, unless they are unusual, will be charged to you without the need for your prior authority. However, you will be consulted before we instruct Counsel, experts or other professional people at your expense.

Expenses such as travel, subsistence, significant telephone call charges and other expenses incurred on goods and services procured for your benefit are charged at cost, except for international travel that needs prior authorisation. Where travel by car is required, a mileage charge (reflecting HMRC rates) applies.

Postal charges, minor telephone, tax cost and secretarial services are included within our general fees.

Fees of counsel, experts or other professional people and will be charged at cost.

4 PAYMENT AND RECOVERY OF COSTS

You will be primarily liable to pay our fees and other charges, expenses and disbursements. However, if court proceedings are issued, then special rules come into play. You need to be fully aware of these and I refer you to the enclosed advice note "Recovery of cost and disbursement in civil court proceedings".

You are at all times responsible for payment to us of our total fees and other charges, expenses and disbursements without waiting for recovery of any costs which any other party either agrees to pay or is ordered to pay you. You are our client in this matter.

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Commissions and other benefits

In some circumstances we may receive commissions or other benefits for introductions to other professionals or in respect of transactions which we arrange for you. Where this happens, we will notify you in writing of the amount and terms of payment and receipt of any such commissions or benefits. The same will apply where the payment is made to or the transactions are arranged by a person or business connected with ours. The fees you would otherwise pay will not be reduced by the amount of the commissions or benefits.

Fees and payment terms

Our fees may depend not only upon the time spent on your affairs but also on the level of skill and responsibility and the importance and value of the advice that we provide, as well as the level of risk.

If we provide you with an estimate of our fees for any specific work, then the estimate will not be contractually binding unless we explicitly state that that will be the case. Where requested, we may indicate a fixed fee for the provision of specific services or an indicative range of fees for a particular assignment. It is not our practice to identify fixed fees for more than a year ahead as such fee quotes need to be reviewed in the light of events. If it becomes apparent to us, due to unforeseen circumstances, that a fee quote is inadequate, we reserve the right to notify you of a revised figure or range and to seek your agreement thereto.

We will bill as agreed and our invoices will be due for payment within 14 days of issue. Our fees are exclusive of VAT which will be added where it is chargeable. Any disbursements we incur on your behalf and expenses incurred in the course of carrying out our work for you will be added to our invoices where appropriate.

Unless otherwise agreed to the contrary our fees do not include the costs of any third party, counsel or other professional fees.

We reserve the right to charge interest on late paid invoices at the rate of 8% per annum under the Late Payment of Commercial Debts (Interest) Act 1998. We also reserve the right to suspend our services or to cease to act for you on giving written notice if payment of any fees is unduly delayed. We intend to exercise these rights only where it is fair and reasonable to do so. Should an invoice remain unpaid for a period of 45 days we reserve the right to charge a £500 administration fee at that point and each 30 days thereafter.

If you do not accept that an invoiced fee is fair and reasonable you must notify us within 14 days of receipt, failing which you will be deemed to have accepted that payment is due.

5 LIMITATION OF LIABILITY

We will provide our services with reasonable care and skill. Our liability to you is limited to losses, damages, costs and expenses directly caused by our negligence or wilful default.

Exclusion of liability for loss caused by others

We will not be liable if such losses, penalties, surcharges, interest or additional tax liabilities are due to the acts or omissions of any other person or due to the provision to us of incomplete, misleading or false information or if they are due to a failure to act on our advice or a failure to provide us with relevant information.

Exclusion of liability in relation to circumstances beyond our control

We will not be liable to you for any delay or failure to perform our obligations under this engagement letter if the delay or failure is caused by circumstances outside our reasonable control.

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Exclusion of liability relating to the discovery of fraud etc

We will not be responsible or liable for any loss, damage or expense incurred or sustained if information material to the service we are providing is withheld or concealed from us or misrepresented to us. This applies equally to fraudulent acts, misrepresentation or wilful default on the part of any party to the transaction and their directors, officers, employees, agents or advisers. This exclusion shall not apply where such misrepresentation, withholding or concealment is or should (in carrying out the procedures which we have agreed to perform with reasonable care and skill) have been evident to us without further enquiry.

Except to the extent that it is not lawful to exclude such liability, we shall not be liable to you or to anyone else for any loss or damage whatever or however caused (and whether or not caused by negligence) arising directly or indirectly in connection with a Contract, in excess of £1,000,000.

Notwithstanding the generality of the above, we expressly exclude liability for consequential loss or damage of any kind, or for loss of profit, business, revenue, goodwill or anticipated savings.

If any exclusion of liability herein shall be held to be invalid for any reason and we become liable for loss or damage that is capable of being limited in law, such liability shall be limited to £1,000,000. We shall not in any event be liable for any claims made against us unless they are notified to us within twelve months of the cause of action arising.

We do not exclude or limit liability for death or personal injury to the extent that it arises directly from negligence for which we are legally responsible.

Indemnity for unauthorised disclosure

You agree to indemnify us and our agents in respect of any claim (including any claim for negligence) arising out of any unauthorised disclosure by you, or by any person for whom you are responsible, of our advice and opinions, whether in writing or otherwise. This indemnity will extend to the cost of defending any such claim, including payment at our usual rates for the time that we spend in defending it.

Limitation of Third Party rights

The advice and information we provide to you as part of our service is for your sole use and not for any third party to whom you may communicate it, unless we have expressly agreed in the engagement letter that a specified third party may rely on our work. We accept no responsibility to third parties, including any group company to whom the engagement letter is not addressed, for any advice, information or material produced as part of our work for you which you make available to them. A party to this agreement is the only person who has the right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.

6 PERIOD OF ENGAGEMENT AND TERMINATION

Unless otherwise agreed in the engagement covering letter, our work will begin when we receive your implicit or explicit acceptance of that letter or if no objection is received to that letter or these terms of business within 7 days of sending. Except as stated in that letter we will not be responsible for periods before that date.

Each of us may terminate this agreement by giving not less than 28 days notice in writing to the other party except where you fail to cooperate with us or we have reason to believe that you have provided us or HMRC with misleading information, in which case we may terminate this agreement immediately. Termination will be without prejudice to any rights that may have accrued to either of us prior to termination.

In the event of termination of this contract, we will endeavour to agree with you the arrangements for the completion of work in progress at that time, unless we are required for legal or regulatory reasons to cease work immediately. In that event, we shall not be required to carry out further work and shall not be responsible or liable for any consequences arising from termination.

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Professional rules and statutory obligations

We will observe and act in accordance with the bye-laws, regulations and ethical guidelines of our trade bodies and will accept instructions to act for you on this basis. We will not be liable for any loss, damage or cost arising from our compliance with statutory or regulatory obligations.

Reliance on advice

We will endeavour to record all advice on important matters in writing. Advice given orally is not intended to be relied upon unless confirmed in writing. Therefore, if we provide oral advice (for example during the course of a meeting or a telephone conversation) and you wish to be able to rely on that advice, you must ask for the advice to be confirmed by us in writing.

7 CONFIDENTIALITY

Communication between us is confidential and we shall take all reasonable steps to keep confidential your information except where we are required to disclose it by law, by regulatory bodies, by our insurers or as part of an external peer review. Unless we are authorised by you to disclose information on your behalf this undertaking will apply during and after this engagement. We may, on occasions, subcontract work on this assignment. The subcontractors will be bound by our client confidentiality terms.

We reserve the right, for the purpose of promotional activity, training or for other business purpose, to mention that you are a client and display your company logo on our website. We also reserve the right to show prospective clients copies of our reports including those related to this agreement, all reports will be redacted and you/our clients names and information is kept confidential.

Intellectual property rights

We will retain all copyright in any document prepared by us during the course of carrying out the engagement save where the law specifically provides otherwise.

8 CONFLICTS OF INTEREST

We will inform you if we become aware of any conflict of interest in our relationship with you or in our relationship with you and another client. Where conflicts are identified which cannot be managed in a way that protects your interests then we regret that we will be unable to provide further services.

If there is a conflict of interest that is capable of being addressed successfully by the adoption of suitable safeguards to protect your interests then we will adopt those safeguards. Where possible this will be done on the basis of your informed consent. We reserve the right to act for other clients whose interests are not the same as or are adverse to yours subject of course to the obligations of confidentiality referred to above.

Interpretation

If any provision of this engagement letter or enclosed schedules is held to be void, then that provision will be deemed not to form part of this contract. In the event of any conflict between these terms of business and the engagement letter and schedule or appendices, the relevant provision in the engagement letter or schedules will take precedence.

Internal disputes within a client

If we become aware of a dispute between the parties who own or are in some way involved in the ownership and management of the business, it should be noted that our client is the business and we would not provide information or services to one party without the express knowledge and permission of all parties. Unless otherwise agreed by all parties, we will continue to supply information to the normal place of business for the attention of the proprietors. If conflicting advice, information or instructions are received from different principals in the business, we will refer the matter back to the board of directors or the partnership and take no further action until the board or partnership has agreed the action to be taken.

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9 DISENGAGEMENT

Should we resign or be requested to resign we will normally issue a disengagement letter to ensure that our respective responsibilities are clear.

Should we have no contact with you for a period of six months or more we may issue to your last known address a disengagement letter and hence cease to act.

10 DATA PROTECTION

We confirm that we will comply with the provisions of the Data Protection Act 1998 when processing personal data about you and your employees or agents. In order to carry out the services of this engagement and for related purposes such as updating and enhancing our client records, analysis for management purposes and statutory returns, legal and regulatory compliance and crime prevention we may obtain, process, use and disclose personal data about you. Our registration at the ICO is: ZA183136.

11 APPLICABLE LAW

This engagement letter, the schedule of services and our standard terms and conditions of business are governed by, and should be construed in accordance with English law. Each party agrees that the courts of England will have exclusive jurisdiction in relation to any claim, dispute or difference concerning this engagement letter and any matter arising from it. Each party irrevocably waives any right to object to any action being brought in those Courts, to claim that the action has been brought in an inappropriate forum, or to claim that those Courts do not have jurisdiction.

A Contract is governed by the laws of England and any questions arising shall be dealt with only by the Courts of England and Wales. References to Acts of Parliament, Statutory Instruments, or other subordinate legislation shall be construed as reference to such as were in force at the time a Contract was formed.

If any of the information or materials relating to this Engagement that are still within the custody or control of me (or my subcontractors) are subpoenaed, I will give immediate notice of such subpoena in advance of my compliance to enable your firm in any effort to obtain a protective order. Should you require me to oppose such order or subpoena, your firm will either retain legal counsel to represent me or will indemnify me for all costs and expenses, including reasonable attorney's fees and disbursements, resulting from such action.

We acknowledge the purpose of this Engagement that is detailed in the schedule.

Any communication between me (or any subcontractor) and counsel is covered by the attorney-client and/or attorney work product privileges. I will maintain as confidential all information and data I receive from your firm and will not disclose such information without the prior written consent from you. Additionally, the identity of your clients shall be kept confidential and the fact that I have been engaged to provide any service for you (or any entity relating to your clients) shall not be disclosed to a third party without the prior written consent of your firm.

12 CLIENT IDENTIFICATION

As with other professional services firms, we are required to identify our clients for the purposes of the UK anti-money laundering legislation. We may request from you, and retain, such information and documentation as we require for these purposes and/or make searches of appropriate databases. Normally for each new client we require a copy of Passport and a Utility bill.

13 CLIENT MONEY

We may from time to time hold money on your behalf. Such money will be held in trust in a client bank account, which is segregated from the firm's funds.

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14 RESTRICTION

If during the time whilst a Consultant/Investigator is supplied by us to you or within 12 months thereafter you enter any arrangement or agreement which would result in either:

- the employment of the person or company by, or
- the provision of services by the person or company of the same or similar nature as the services provided under this Contract to, or
- the provision of services by a prospective person introduced by us within 12 months of the introduction, then you will inform us straightaway, and will forthwith pay us a single introductory commission (for a Consultant) calculated at 100 times the daily rate payable under the most recent Contract for the supply to you of that Consultant (or, if there has been no such Contract, of 100 times the daily rate at which that Consultant was offered to you). For the employment of the Consultant in a permanent job by the Client, then a fee equivalent to 50% of the Consultants new basic PAYE salary is immediately payable to us.

An offer of employment or an engagement by any of the following shall be deemed to be by you:

- any Associated Company of yours within the meaning of section 416 of the Income and Corporation Taxes Act 1988
- any partnership or joint venture in which you are a partner or joint venturer
- any subsidiary of yours
- any person, body, or organisation to whom the Consultant was introduced by you.

You acknowledge that:

- our main business is the introduction and provision of services of qualified and experienced Consultants or Investigators to Clients;
- in effecting such introductions we are disclosing confidential information in which we have an interest and which we are entitled to protect;
- in the absence of the restrictions contained in this clause, you might be in a position to take unfair advantage of introductions effected by us and of our confidential information, and thereby cause harm to our business;
- in all the circumstances the duration and the extent of the restrictions in this clause are no more than is reasonably necessary for the protection of our legitimate business interests.

15 NOTICES

All notices shall be in writing and shall be deemed to have been duly given when delivered by hand, posted by pre-paid first class post or sent by email to the intended recipient. Notices sent by email shall be deemed received within 1 hour of transmission, such delivery or sending, and notices which have been posted as above shall be deemed received on the second Business day following posting.

16 WAIVER

Failure or neglect by us at any time to enforce any of these Terms shall not be a waiver of our rights and shall not prejudice our rights to take action in respect of the same or any later breach.

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17 FORCE MAJEURE

If either party to a Contract is prevented or delayed in the performance of any of its obligations by force majeure, then such party shall be excused performance for so long as such cause of prevention or delay shall continue 'force majeure' shall be deemed to be any cause affecting the performance of a Contract arising from or attributable to acts, events, omissions or accidents beyond the reasonable control of such party and including without limitation the following:

- strikes, lockouts or other industrial action;
- civil commotion, riot, invasion, war threat or preparation for war;
- fire, explosion, storm, flood, earthquake, subsidence, epidemic, bad weather or other natural physical disaster;
- impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport;
- political interference with the normal operations of any party;
- illness of or accidental injury to a Consultant (whether or not caused or contributed to by his own negligence);
- mechanical breakdown.

18 COMPLAINTS

We are committed to providing you with a high quality service that is both efficient and effective. However, should there be any cause for complaint in relation to any aspect of our service, please contact the Managing Director Martyn Osment. We agree to look into any complaint carefully and promptly and do everything reasonable to put it right. If you are still not satisfied you can refer your complaint to our professional body, The International Association of Asset Recovery.

19 ELECTRONIC AND OTHER COMMUNICATION

Unless you instruct us otherwise we may, where appropriate, communicate with you and with third parties via email or by other electronic means. The recipient is responsible for virus checking emails and any attachments.

With electronic communication, there is a risk of non-receipt, delayed receipt, inadvertent misdirection or interception by third parties. We use virus-scanning software to reduce the risk of viruses and similar damaging items being transmitted through emails or electronic storage devices. However, electronic communication is not totally secure and we cannot be held responsible for damage or loss caused by viruses nor for communications which are corrupted or altered after despatch. Nor can we accept any liability for problems or accidental errors relating to this means of communication especially in relation to commercially sensitive material. These are risks you must bear in return for greater efficiency and lower costs. If you do not wish to accept these risks, please let us know and we will communicate by paper mail, other than where electronic submission is mandatory.

Any communication by us with you sent through the postal system is deemed to arrive at your postal address two working days after the day that the document was sent.

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