

Limited company terms and conditions

THESE TERMS AND CONDITIONS apply in relation to medical services provided by Key Medical Services Ltd (UK company no. 10028640) a company incorporated in England and Wales whose registered office is at Suite B, Second Floor, 400 Capability Green, Luton, Bedfordshire, LU1 3LU ("**KMS LTD**").

KMS LTD, part of the Celsus Group of companies, delivers and manages patient care for its clients via a team of clinicians that are vetted, and continuously monitored, to ensure that they continue to deliver the medical service at a client's premises to a KMS LTD standard.

These Terms and Conditions apply to a company providing medical services to a primary healthcare provider such as a GP practice on behalf of KMS LTD ("**Contractor**"). These Terms and Conditions are incorporated into the Contract (as defined) the Contractor has agreed with KMS LTD.

By providing the Services (as defined), you agree that you have read, understood and agreed to these Terms.

IT IS AGREED THAT

1 DEFINITIONS:

"Assignment":	The Contractor may be offered opportunities to provide services to assist KMS LTD in fulfilling its obligations under one or more contract(s) with a Client. Each such instance shall constitute an Assignment.
"Assignment Agreement":	The agreement between KMS LTD and the Contractor which incorporates these Terms and sets out the agreed scope of the Assignment and Services the Contractor is providing on behalf of KMS LTD, duration and agreed fee. Each Assignment shall be described in a separate Assignment Agreement.
"Celsus Group":	Celsus Group Limited (UK Company no. 09266684) a company incorporated in England and Wales whose registered office is at Suite B, Second Floor, 400 Capability Green, Luton, Bedfordshire, LU1 3LU". Celsus Group Limited is the parent company of KMS LTD.
"Celsus Group Companies":	Celsus Group, its subsidiaries or subsidiary undertakings, any holding company of Celsus Group from time to time, and any subsidiary or subsidiary undertaking from time to time of a holding company of Celsus Group. Celsus Group Companies shall include companies previously or currently owned by Celsus Group (whether active or inactive).

"Client":	Primary healthcare provider receiving the Services from KMS LTD as may be specified in the Contract.
"Client Personal Data":	All data which is defined as ' <i>personal data</i> ' under Data Protection Laws which is accessed, stored or otherwise processed on behalf of the Client in connection with the Services and in respect of which Client may be a controller under Data Protection Laws.
"Contract"	<p>Shall have the following meanings:</p> <ul style="list-style-type: none"> (i) If the Contractor has entered into one or more Assignment Agreements, the term shall mean the relevant Assignment Agreement; (ii) If the Contractor has not entered into an Assignment Agreement but has agreed to provide the Services, the term shall mean these Terms and any other terms and conditions agreed in writing by the Parties (including the agreed scope of the Assignment and Services the Contractor is providing on behalf of KMS LTD, duration and agreed fee). <p>A Contract under (ii) must be approved in writing by a director of KMS LTD.</p>
"Contractor":	The company providing medical services to KMS LTD as specified in the Contract.
"data controller", "data subject",	Shall have the meanings ascribed to them in the Data Protection Laws.
"processor",	
"supervisory authority":	
"Data Protection Laws":	All data protection and privacy laws applicable to any personal data processed under or in connection with these Terms, including , without limitation, the General Data Protection Regulation 2016/679 (the "GDPR") and all national legislation implementing, supplementing or replacing the foregoing, including in the UK the Data Protection Act 2018, and all associated codes of practice and other guidance issued by any applicable supervisory authority, all as amended, re-enacted and/or replaced and in force from time to time.

"Data Subject Request": A request from or on behalf of a data subject relating to access to, or rectification, erasure or data portability in respect of that person's personal data or an objection from or on behalf of a data subject to the processing of his personal data.

"Clinician"

An individual that holds, and maintains:

1. a current professional registration with the General Medical Council [GMC] and is registered with the National Performers List [NPL]; or
2. a current professional registration with the Nursing & Midwifery Council [NMC]; or
3. a current professional registration with the Health & Care Professions Council [HCPC]; or
4. a current professional registration with the GPhC Professional Standards Authority

"KMS LTD Contact": The KMS LTD representative responsible for liaising with the Contractor regarding the obligations and performance of the Services as identified in the Contract.

"Services": KMS LTD has agreed to provide services involving the management and treatment of the Client's patients. The Contractor's role in the delivery of those Services on behalf of KMS LTD is covered by the Contract.

"Terms": These terms and conditions as amended from time to time.

Other defined terms shall have the meaning given to them as they appear in the Clauses.

2 PROVISION OF THE SERVICES

- 2.1 The Contractor is responsible for delivering the Services in accordance with the Contract.
- 2.2 No terms or conditions submitted by the Contractor or contained in any of the Contractor's invoices or other documentation will apply unless KMS LTD expressly agrees to any such terms in writing. No modification, amendment, variation or substitution of a Contract shall be effective or binding on the Contractor or KMS LTD unless it is in writing and signed by the Parties.
- 2.3 During the Assignment the Contractor shall (and shall procure that all clinicians):
- 2.3.1 perform the Services promptly, accurately and without interruption and in accordance with the Contract;
 - 2.3.2 ensure that the Services are performed by appropriately qualified, experienced and trained personnel in a professional and courteous manner, with a high standard of skill, care and diligence;

- 2.3.3 comply with all legislation and statutory requirements applicable to the Services and provide the Services in accordance with accepted medical practice in the United Kingdom, including the General Medical Council's; the Nursing and Midwifery Council's and The Health And Care Professional Council's (HCPC) GPhC | Professional Standards Authority, Good Medical Practice, Ethical Guidance and codes of conduct; and in accordance with the requirements of the KMS LTD Clinician Handbook;
 - 2.3.4 provide the Services in a manner which is not likely to be injurious to health or cause damage to property;
 - 2.3.5 observe all health and safety rules and regulations and other security requirements that apply at any premises where the Services may be provided from;
 - 2.3.6 act towards KMS LTD and Clients in good faith and not allow its interests to conflict with the Services it provides to KMS LTD under the Contract and the general law;
 - 2.3.7 promptly give to KMS LTD (or such employees, consultants or contractors as KMS LTD shall direct from time to time) all such information, documentation and reports as it may reasonably require in connection with matters relating to the provision of the Services or the day to day operations of and services provided by KMS LTD;
 - 2.3.8 ensure that the clinicians familiarise themselves with local Client policies including those set out by the Contract and deliver Services in line with these policies;
 - 2.3.9 immediately report any complaints received to KMS LTD from either Clients or patients regarding the Services provided by the Contractor;
 - 2.3.10 immediately notify KMS LTD of any problems, concerns or complaints the Contractor has in relation to the Client or Services (including any health and safety hazards or issues);
 - 2.3.11 ensure that the clinicians provide their own equipment appropriate for delivering the Services (e.g. stethoscope, doctor's bag) or other such equipment specified in the Contract;
 - 2.3.12 ensure that the clinicians identify themselves to patients as delivering the Services on behalf of KMS LTD and;
 - 2.3.13 at all times have a valid medical indemnity insurance (or other such insurance as the Contract is required to have by law) that covers the whole scope of the service provided. The Contractor shall maintain employer's liability insurance, public liability insurance and professional indemnity insurance. Such insurance cover shall be with reputable insurers acceptable to KMS LTD and that the level of cover and other terms of insurance are acceptable to and agreed by KMS LTD. Such insurance policies are referred to in these Terms as "**Insurance Policies**".
- 2.4 The Contractor hereby warrants and represents that all clinicians:
- 2.4.1 are entitled to work in the United Kingdom without any additional approvals and the Contractor warrants that they will notify KMS LTD immediately if this entitlement ceases;
 - 2.4.2 at all times hold valid medical qualification, valid registration with the NMC, HCPC or GPhC including membership of the GMC GP register for General Practitioners, enhanced criminal records bureau certificate issued within the last 12 months, confirmation of inclusion on the relevant Primary Care Trust Medical Performance List (GPs only), confirmation of Care Quality Commission (or similar regulator in the United Kingdom outside England, if relevant) and required immunisations and confirmation that the Contractor has undergone where applicable the relevant annual appraisal within an NHS approved appraisal systems and, undertaken relevant mandatory training. The Contractor must notify KMS LTD immediately if a clinician ceases to hold any of the foregoing qualifications, documentation, registrations or memberships;
 - 2.4.3 have not been disbarred, convicted of a criminal offence or subject to any investigations of the GMC or other professional body. The Contractor must notify KMS LTD immediately in the event any of the aforementioned events occurring during the term of the Contract; and

- 2.4.4 has satisfactorily completed and maintained any Disclosure and Barring Service (DBS) checks or other such mandatory checks as may be required to provide the Services;
- 2.4.5 carry or are covered by appropriate insurance from a reputable insurer and at an appropriate level of cover to cover their whole provision of the Services.
- 2.5 Whilst the method and nature of providing the Services is for the clinician to determine using their professional clinical judgment, whilst providing the Services the Contractor shall ensure that the clinician should observe any necessary operational directions given by KMS LTD from time to time so as to ensure the smooth running of KMS LTD Services. KMS LTD may conduct professional standards reviews and compliance documentation updates on the Contractor and/or the clinician from time to time to ensure that KMS LTD requirements and protocols are being complied with.
- 2.6 KMS LTD is under no obligation to offer the Contractor an Assignment at all. The Contractor may be offered one or more Assignments. The Contractor is not obliged to accept any Assignment that they are offered unless it has signed or is deemed to have agreed to a Contract.
- 2.7 Unless the Contractor has been specifically authorised to do so by KMS LTD in writing:
 - 2.7.1 the Contractor shall have no authority to incur any expenditure in the name of or for the account of KMS LTD or to act in a way which will incur any liabilities on behalf of KMS LTD; and
 - 2.7.2 the Contractor shall not hold himself / herself out as having authority to bind KMS LTD.

3 LEAVE OF ABSENCES, CANCELLATIONS AND RIGHT TO PROVIDE A REPLACEMENT CONTRACTOR

- 3.1 If the Contractor is unable to provide the Services on a pre-agreed day or day(s) or if the Contractor wishes to terminate the Assignment before the agreed end date the Contractor shall advise KMS LTD of that fact as soon as possible. If absences of the relevant clinician are unplanned due to sickness or bereavement or other unforeseen circumstances, the Contractor should notify KMS LTD of their absence as soon as possible. In such circumstances KMS LTD can procure substitute services from an alternative contractor.
- 3.2 Without limitation of any other right or remedy, if a clinician repeatedly cancels or fails to attend an Assignment as agreed in a Contract, and in doing so puts patient care at risk, KMS LTD may raise a complaint regarding the relevant clinician with the GMC or other relevant regulator.
- 3.3 The Contractor has the right to provide a suitable replacement clinician, provided they meet KMS LTD standards and are appropriately qualified to deliver the Services. The Contractor must notify KMS LTD in writing if they wish to provide a replacement clinician. KMS LTD shall have the right to reject any replacement clinician who does not meet KMS LTD standards. If KMS LTD agrees to the replacement General Practitioner, the Contractor (in the event that the Contractor cannot perform the Services) shall procure that any replacement clinician shall agree to comply with these Terms and any Contract, and that the replacement clinician shall confirm their agreement in writing to the Contractor and to KMS LTD. The Contractor is responsible for paying the replacement contractor directly.

4 FEES

- 4.1 In consideration of the provisions of the Services KMS LTD shall pay to the Contractor fees at the rates agreed in the Contract. Rates of pay may differ from one Assignment to the other.
- 4.2 Whilst providing the Services the Contractor shall ensure that the clinician records their hours of work on a weekly basis, excluding rest hours, breaks or any other times when they are not delivering the Services. The Contractor shall be responsible for covering the clinician's expenses, unless stated otherwise in the writing in the Contract.
- 4.3 KMS LTD shall make payment weekly in arrears directly into the Contractor's bank account on receipt of a suitably completed timesheet. The Contractor is not entitled to pay in respect of any period where the Contractor is not providing Services pursuant to a Contract.

- 4.4 For the avoidance of doubt, if the Contractor is unable or unavailable to provide the Services for any reason (including but not limited to holiday, sickness or other work commitments) for which the Contractor cannot provide a suitable replacement clinician, the Contractor will not be entitled to receive any fees for the period of such inability or unavailability.
- 4.5 Any change to the Contractor's bank account details must be made in writing by email or by letter and sent by recorded delivery to KMS LTD. KMS LTD accepts no liability in relation to payments sent to the Contractor's previous bank account if this clause is not complied with.
- 4.6 The Contractor agrees that KMS LTD may deduct from the fees any sums due from the Contractor to KMS LTD including without limitation any overpayments, loans or advances made to the Contractor by KMS LTD.

5 OTHER ACTIVITIES

- 5.1 KMS LTD acknowledges and agrees that the Contractor may provide services to other clients, patients, companies and organisations and nothing in these Terms prevents the Contractor from being engaged, concerned or having any financial interest in any capacity in any other business, trade, profession or occupation during the Assignment provided that such activity does not cause or, in the opinion of KMS LTD, is likely to cause a breach of any of the Contractor's obligations under the Contract.

6 CONFIDENTIAL INFORMATION AND KMS LTD PROPERTY

- 6.1 The Contractor acknowledges that KMS will disclose to it (and the clinicians) confidential information including, without limitation, the business, affairs, customers, clients (and/or their patients), or suppliers of KMS LTD and the Celsus Group Companies ("**Confidential Information**"). The Contractor has therefore agreed to accept the restrictions in this clause 6 and shall ensure the clinicians are made aware of, and are bound by, the same obligations.
- 6.2 The Contractor shall not (except in the proper course of providing the Services), either during the Assignment or at any time after the termination date specified in a Contract, use or disclose to any third party (and shall use its best endeavours to prevent the publication and disclosure of) any Confidential Information. This restriction does not apply to any information which:
 - 6.2.1 the use or disclosure of is authorised by KMS LTD;
 - 6.2.2 is required to be disclosed by law or by court of competent jurisdiction or by the Information Commissioner, provided that:
 - (i) to the extent it is legally permitted to do so, the Contractor gives KMS LTD as much notice of such disclosure as possible; and
 - (ii) where the information is required to be disclosed by the Contractor (and notice of disclosure is not prohibited), the Contractor disclose only the minimum amount of confidential information required to be disclosed, asks the court or other public body to treat the information as confidential and takes all reasonable measures to ensure, as far as it is possible to do so, the continued confidential treatment of any Confidential Information; or
 - (iii) any information which is already in, or comes into, the public domain otherwise than through the Contractor's or a third party's unauthorised disclosure.
- 6.3 At any stage during or after an Assignment at the request of KMS LTD (and in any event upon termination of the Assignment without request), the Contractor will promptly return to KMS LTD all and any KMS LTD property in its or a clinician's possession (including any Confidential Information). KMS LTD at its sole discretion may request the Contractor to destroy any Confidential Information in the control or possession of the Contractor or any clinician.
- 6.4 At any stage before, during, or after an assignment at the request of KMS LTD the contractor agrees to provide such information that may be required by the client in respect of CQC inspection criteria in relation to the Clinician.

7 DATA PROTECTION

- 7.1 Each Party shall comply with its obligations under the Data Protection Laws at all times.
- 7.2 The Contractor acknowledges that KMS LTD will collect and process personal data relating to the Contractor for legal, administrative and management purposes and may process personal data and special category data (as defined under Data Protection Laws) in accordance with the Celsus Group Privacy Policy <https://www.keymedicalsolutions.co.uk/privacy/>.
- 7.3 The Contractor consents to KMS LTD sharing data with a) other Celsus Group Companies and b) with Clients in connection with any Assignment or Assignment opportunities.
- 7.4 The Contractor acknowledges and agrees that in respect of the Parties rights and obligations under this clause 7 regarding Client Personal Data, the Contractor is a Processor.
- 7.5 With respect to Client Personal Data Contractor shall:
- 7.5.1 process the Client Personal Data only in accordance with (i) these Terms (ii) KMS LTD's written instructions or (iii) the Client's written instructions;
 - 7.5.2 In the unlikely event that applicable law requires the Contractor to process Client Personal Data other than instructed, the Contractor will notify KMS LTD (unless prohibited from so doing by applicable law);
 - 7.5.3 as soon as reasonably practicable upon becoming aware, inform KMS LTD if, any instructions provided under clause 7.5.1 infringe the Data Protection Laws;
 - 7.5.4 taking into account the technology, scope and context of processing, implement appropriate technical and organizational measures to ensure a level of security appropriate to the risks that are presented by the processing of Client Personal Data, in particular protection against accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Client Personal Data;
 - 7.5.5 ensure that only authorised personnel have access to such Client Personal Data and that any persons authorised to have access to the Client Personal Data are under obligations of confidentiality;
 - 7.5.6 without undue delay upon becoming aware, notify KMS LTD of any actual, alleged or suspected failure to comply with clause 7.5.4 above, including any incident of unauthorised or accidental disclosure of or access to any Client Personal Data by any of its personnel, sub-processors, or any other identified or unidentified third party (a "**Security Breach**");
 - 7.5.7 promptly provide KMS LTD with cooperation and assistance in respect of a Security Breach and all information in the Contractor's possession concerning the Security Breach insofar as it affects Client Personal Data;
 - 7.5.8 promptly notify KMS LTD if it receives a Data Subject Request. Contractor shall not respond to a Data Subject Request without KMS LTD's prior written consent. To the extent KMS LTD does not have the ability to address a Data Subject Request, KMS LTD shall upon KMS LTD's request provide reasonable assistance to facilitate a Data Subject Request to the extent the Contractor is able to consistent with applicable law;
 - 7.5.9 other than to the extent required to comply with applicable law, as soon as reasonably practicable following, termination or expiry of the Assignment or completion of the Services, Contractor will at KMS LTD's request delete or return all Client Personal Data (including copies thereof) processed by the Contractor pursuant to this Agreement.
 - 7.5.10 provide such assistance as KMS LTD reasonably requests (taking into account the nature of processing and the information available to the Contractor) in relation to KMS LTD or Client's obligations under Data Protection Laws with respect to:
 - (i) data protection impact assessments (as such term is defined in the GDPR);

- (ii) notifications to the supervisory authority under Data Protection Laws and/or communications to data subjects in response to any Security Breach; and
 - (iii) compliance with obligations under Data Protection Laws with respect to the security of processing;
- 7.5.11 The Contractor may not appoint any outsourced support providers as sub-processors to support the performance of the Services without prior written consent of KMS LTD.
- 7.5.12 The Contractor shall, in accordance with Data Protection Laws, make available to the KMS LTD such information in the Contractor's possession or control, and provide all assistance in connection with audits conducted by the KMS LTD, the Client or an auditor mandated by the Client as KMS LTD may reasonably request with a view to demonstrating Contractor's compliance with the obligations of processors under Data Protection Law in relation to its processing of Client Personal Data.
- 7.5.13 The Contractor is not permitted to transfer Client Personal Data outside the European Economic Area without prior written consent of KMS LTD.

8 LIABILITY

- 8.1 Nothing in these Terms (or any Contract) will operate to exclude or restrict one Party's liability (if any) to the other for any matter for which it is not permitted by law to exclude or limit, or to attempt to exclude or limit, its liability.
- 8.2 The Contractor shall have liability for, and shall indemnify and keep indemnified KMS LTD and the Celsus Group of Companies for, any claims, proceedings, losses (including without limitation any direct, indirect and consequential losses, loss of profit, loss of reputation, interest and penalties), liability, costs (including reasonable legal costs), damages or expenses arising from or in connection with:
 - 8.2.1 any claim made against KMS LTD or any Celsus Group Company by a third party arising out of, or in connection with the provision of the Services, to the extent that such claim arises as a result of the negligence, reckless act or omission, delay or default in the performance of the Contract by the Contractor, its employees, agents or subcontractors (including any clinician);
 - 8.2.2 failure to conduct the Services in accordance with the applicable law;
 - 8.2.3 breach of any warranties in the Contract; or
 - 8.2.4 breach or negligent performance or non-performance of the Contract,
- 8.3 KMS LTD shall have no liability for (i) indirect or consequential losses, loss of profit or loss of opportunity; (ii) the negligence or acts or omissions of the Client or its employees or agents; (iii) any losses or damage arising from condition or operation of the Client's premises, or from the Contractor's adherence to the Client's policies and procedures; and/or (iv) any circumstances attributable to the Client.
- 8.4 Subject to clauses 8.1 and 8.2, KMS LTD's total liability shall not exceed £100,000.

9 INSURANCE

- 9.1 The Contractor shall on request supply to KMS LTD copies of any Insurance Policies, certificates and evidence that the relevant premiums have been paid.
- 9.2 The Contractor shall (and shall ensure any relevant clinician shall) notify its insurers of KMS LTD's interest and shall cause such interest to be noted on the relevant Insurance Policies together with a provision to the effect that, if any claim is brought or made by KMS LTD against the Contractor (or any clinician) in respect of which the Contractor (or a clinician) would be entitled to receive indemnity under any of the Insurance Policies, the relevant insurer will indemnify KMS LTD directly against such claim and any charges, costs and expenses in respect of such claim. If the relevant insurer does not so indemnify KMS LTD, the Contractor shall use all insurance monies received by it to indemnify KMS LTD in respect of any claim and shall make good any deficiency from its own resources.

- 9.3 The Contractor shall (and shall ensure that the relevant clinicians shall) comply with all terms and conditions of the Insurance Policies at all times. If cover under the Insurance Policies shall lapse or not be renewed or be changed in any material way or if the Contractor is aware of any reason why the cover under the Insurance Policies may lapse or not be renewed or be changed in any material way, the Contractor shall notify KMS LTD without delay.

10 OTHER REQUIREMENTS

- 10.1 The Contractor shall ensure that that each clinician engaged in the provision of the Services shall:
- 10.1.1 Maintains their GMC, NMC, HCPC, GpH, MDU and / or MPS registration (as appropriate), or in the case of MDU or MDS, other company offering equivalent professional indemnity cover;
 - 10.1.2 undertake ongoing professional training' to ensure that that they have the skills, knowledge and experience to deliver effective care and treatment including any mandatory training specified by KMS LTD. KMS LTD would expect to see proof of basic life support, moving and handling, safeguarding adults level 3, safeguarding children level 3, infection control, fire safety, Mental Capacity Act and Deprivation of Liberty Safeguards or other such training as required by the Core Skills or Skills for Health Frameworks;
 - 10.1.3 have all necessary vaccinations as may be required by their professional body, the Client or specified by KMS LTD; and
 - 10.1.4 organise and undergo their annual professional body appraisals and (for GPs) validating every 5 years to maintain their license to practice;
 - 10.1.5 Organise and undergo an annual appraisal and (for Nurses, Midwives and AHPs) revalidating every 3 years to maintain their licence to practice;
 - 10.1.6 provide a copy of such documentation to KMS LTD as it may require from time to time as evidence of appropriate compliance with this clause 10.1.
 - 10.1.7 obtain up to date DBS and such other checks which may be requested by KMS LTD from time to time.

11 TERMINATION

- 11.1 Termination of an Assignment does not amount to termination of the Contract.
- 11.2 Either Party may terminate a Contract at any time by providing the other Party with no less than 30 days' written notice of its intention to terminate.
- 11.3 KMS LTD may terminate any Assignment with immediate effect without notice and without any liability to make any payment to the Contractor if:
- 11.3.1 at any time, the Contractor (or any Clinician):
 - (i) commits, in the opinion of KMS LTD, any act or acts of gross misconduct or negligence affecting the business of KMS LTD or its patients/clients; or
 - (ii) commits, in the opinion of KMS LTD, any serious or repeated breach or non-observance of any of the provisions of this Agreement or refuses or neglects to comply with any reasonable and lawful directions of KMS LTD; or
 - (iii) is convicted of any criminal offence (other than an offence under any road traffic legislation in the United Kingdom or elsewhere for which a fine or non-custodial penalty is imposed); or
 - (iv) is, in the opinion of KMS LTD guilty of any conduct (whether inside or outside working hours) which may bring either KMS LTD or the Contractor into disrepute;

- (v) is no longer properly registered or authorised to provide the Services or (as the case may be) practice as a clinician in the UK for whatever reason; or
- 11.3.2 a Client cancels or terminates its assignment for whatever reason with KMS LTD before the Contractor has provided any Services.
- 11.4 Following notice of termination of the Contract for any reason, the Contractor shall continue to provide the Services in accordance with this Contract until the expiry of the relevant termination period, unless this Contract is terminated with immediate effect.

12 OBLIGATIONS UPON TERMINATION

- 12.1 On the termination date the Contractor shall:
 - 12.1.1 cease to promote, market, advertise or sell KMS LTD's products and services, cease to describe himself as consultant to or otherwise acting for or assisting KMS LTD and cease to use all trade marks or trade or brand names of KMS LTD (including without limitation on stationery);
 - 12.1.2 immediately and at its own expense deliver to KMS LTD all KMS LTD Property which is in its possession or under its control including without limitation all of KMS LTD's products, equipment, and any advertising, promotional or sales material relating to KMS LTD's products and services or otherwise dispose of the same as KMS LTD may instruct;
 - 12.1.3 return or destroy (as may be requested by KMS LTD) all confidential information of KMS LTD or its Clients;
 - 12.1.4 irretrievably delete any information relating to the business of KMS LTD stored on any magnetic or optical disk or memory and all matter derived from such sources which is in its possession or under or its control outside the premises of KMS LTD; and
 - 12.1.5 provide a signed statement that he has complied fully with its obligations under this clause 12 and those set out in the Schedule to this Agreement.
- 12.2 The Contractor agrees to observe and be bound by the post-termination obligations. Any provision in the Contract that expressly or by implication is intended to continue in force on or after the termination or expiry of the Contract shall remain in full force and effect, including without limitation clauses: 6 (confidentiality), 9 (insurance and liability), 11.4 (termination notice), 12 (obligations upon termination), 14 (notices), 15 (entire agreement), 16 (variation), 18 (third party rights) and 19 (governing law and jurisdiction).

13 STATUS

- 13.1 The Contract constitutes a contract for the provision of services and not a contract of employment. The relationship of the Contractor to KMS LTD is that of Contractor and nothing in the Contract shall render the Contractor, or any individual engaged or provided by the Contractor to deliver the Services, an employee, worker, agent or partner of KMS LTD and the Contractor shall not, and shall procure that any such individual shall not hold itself or themselves out as such.
- 13.2 The Contractor shall be fully responsible for and shall indemnify (and keep fully and effectively indemnified at all times) KMS LTD for and in respect of:
 - 13.2.1 any income tax, VAT, national insurance and social security contributions and any other liability, deduction, contribution (to the extent permitted by law), assessment or claim arising from or made in connection with either the provision of the Services or any Assignment or any payment or benefit received by the Contractor or any individual engaged or provided by the Contractor in respect of the Assignment or Services, where such recovery is not prohibited by law;
 - 13.2.2 all reasonable costs, expenses and any penalty, fine or interest incurred or payable by KMS LTD in connection with or in consequence of any such liability, deduction, contribution, assessment or claim;

- 13.2.3 any liability arising from any claim asserting or in connection with worker or employment status brought by the Contractor or any individual engaged or provided by the Contractor to provide the Services or any Assignment against KMS LTD arising out of or in connection with the provision of the Services, the Assignment or its termination (such liabilities including, without limitation, reasonable costs and expenses of professional advisers, any awards, penalties or other financial liabilities imposed or ordered by a court or Employment Tribunal and any interest thereon or any settlement sum/s which KMS LTD agrees to pay in respect of such a claim or claims).
- 13.2.4 Notwithstanding the foregoing, in the event that KMS LTD is, or becomes, or has reasonably determined that it is or has become, under any applicable law, required to withhold from, or account to any taxation authority (including HM Revenue & Customs) in respect of, any income tax, National Insurance and/or social security contributions (to the extent permitted by law) or other employment taxes ("Employment Taxes") arising on, any payment made to the Contractor under this Agreement or in respect of any individual provided or engaged by the Contractor in respect of the Assignment or the Services, the parties agree that an amount equal to such Employment Taxes may be deducted from such payment.
- 13.2.5 The Contractor shall, and shall procure that any individual engaged or provided by the Contractor to provide the Services or any Assignment shall, promptly give to KMS all such information and documentation as KMS may request or reasonably require from time to time in order for KMS to determine whether and the extent to which it is required to withhold from, or account to any taxation authority (including HM Revenue & Customs) in respect of, any Employment Taxes whether in respect of an Assignment or otherwise. In addition, the Contractor shall, and shall procure that any individual engaged or provided by the Contractor to provide the Services or any Assignment shall, promptly inform KMS of any material change to any information or documentation previously provided in compliance with this clause and shall also promptly provide any other information or documentation that it considers (or ought reasonably consider) to be materially relevant to determining whether such obligation to withhold or account exists.
- 13.2.6 Without prejudice to the preceding provisions of this clause 13, to the extent that any person is required to make a determination as to whether Chapter 10 of Part 2 of the Income Tax (Earnings and Pensions) Act 2003 applies in respect of any Assignment, the Contractor shall, and shall procure that any individual engaged or provided by the Contractor in respect of the Assignment shall, comply with any requests for information to assist with such determination, whether such request is made by KMS or by any client in any Assignment.

14 NOTICES

- 14.1 Any notice to be given pursuant to the terms of the Contract shall be in writing and shall be delivered by hand or sent by post to the address of the addressee as set out in the Contract or such other address (being in Great Britain) as the addressee may from time to time have notified for the purpose of this clause, or sent by email to the addressee's email address as from time to time notified.

15 ENTIRE AGREEMENT AND PREVIOUS CONTRACTS

- 15.1 The Parties acknowledge and agree that the Contract together with any documents referred to in it constitutes the entire agreement and understanding between the Contractor and KMS LTD and supersedes any previous agreement between them relating to the Assignment (which shall be deemed to have been terminated by mutual consent); and in entering into the Contract neither Party has relied on, nor shall it rely on in future, any pre-contractual statement.

16 VARIATION

- 16.1 No variation of these Terms, any Contract or of any of the documents referred to in it shall be valid unless it is in writing and signed by or on behalf of each of the parties.

17 COUNTERPARTS

- 17.1 The Contract may be executed in any number of counterparts, each of which, when executed and delivered, shall be an original, and all the counterparts together shall constitute one and the same instrument.

18 THIRD PARTY RIGHTS

- 18.1 A person who is not a party to the Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract but this does not affect any right or remedy of a third party which exists, or is available, apart from that Act.
- 18.2 The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under the Contract is not subject to the consent of any person that is not a party to the Contract.

19 GOVERNING LAW AND JURISDICTION

- 19.1 These Terms, any Contract and any dispute or claim arising out of or in connection with them or their subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law.
- 19.2 The Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with these Terms and any Contract or its subject matter or formation (including non-contractual disputes or claims).