

## JARVIS COSTS CONSULTANCY SERVICES AGREEMENT

THIS AGREEMENT is made BETWEEN:

- (1) **Jarvis Costs Consultancy** whose office is at 122a High Street, Coleshill, Birmingham B46 3BJ ("Jarvis")
- AND
- (2) The **Customer** as detailed in Schedule 1 ("the Customer")

### RECITAL

Jarvis agrees to supply and the Customer shall purchase the Consultancy Services as specified in the Schedule in accordance with the terms of this Agreement.

IT IS NOW AGREED as follows:

#### 1. Definitions and Interpretation

In this Agreement, unless the context otherwise requires, the following expressions shall have the following meanings:

"**Agreement**" this Agreement and the attached Schedule(s)

"**Charges**" the various fees set out in Schedule 1

"**Commencement Date**" shall be the date specified as such in Schedule 1

"**Confidential Information**" all information which:

- (a) relates to the operations, plans, know-how, trade secrets, business affairs, personnel, customers or suppliers of any party; or
- (b) the receiving party knows is regarded by the disclosing party as the confidential information of the disclosing party; or
- (c) is identified as confidential by the disclosing party including, without limitation, this Agreement

"**Consultancy Services**" the consultancy services specified in the Schedule(s) to this Agreement

"**Consultant**" the consultant performing the Consultancy Services

"**Data Protection Legislation**" the Data Protection Act 1998, any subordinate legislation and codes of practice made thereunder and any other data protection legislation applicable to the parties or the Consultancy Services

"**Disbursements**" shall mean all reasonably incurred and recoverable expenses which are necessary for the progression and conclusion of any matter on which the Solicitor is instructed and for which the paying party is responsible, whomsoever they shall be.

"**Force Majeure**" shall have the same meaning as in paragraph 8

"**Part 8 Hearing Costs**" shall mean those additional profit costs incurred by the instructed Solicitor, after the main action is settled, while endeavouring to see the costs element of the action concluded or progressed to Detailed Assessment. Time in this instance includes but is not limited to; (i) time spent in negotiation; and (ii) consideration and drafting of documents or substantive court papers.

"**Profit Costs**" shall mean those base costs, including all recoverable telephone calls, letters written and time spent in drafting or consideration, incurred by the instructed Solicitor and as itemised on any document prepared by Jarvis, (to include, Bill, Statements or Schedule of Costs, and Part 8 costs of assessment), and including (unless specifically stated) any up lift or success fee as may be applicable in any given matter.

"**Schedule**" any document which describes the service description, pricing and service specification, amendments to the standard Agreement together with any other document attached to this Agreement, whether now or at a future date, which is intended by the parties to form part of this Agreement.

"**Working Days**" Monday to Friday, excluding Public Holidays

The index and headings in this Agreement are for convenience only and shall not affect the interpretation or construction of this Agreement. The singular number shall include the plural and vice versa.

#### 2. Jarvis's Responsibilities

Jarvis shall provide such Consultancy Services as are described in the Schedule(s).

#### 3. The Customer's Responsibilities

- 3.1 The Customer shall pay the Charges in accordance with paragraph 4 at the rates set out in the Schedules shall, without charge to Jarvis provide access to such information documents and data may reasonably require for the purpose of this Agreement;

#### 4. Charges

- 4.1 Jarvis shall invoice the Customer from time to time and the Customer shall pay the Charges as invoiced (whether for Value Added Tax or otherwise).
- 4.2 All invoices must be paid within fourteen (14) days of the date of the invoice ("the due date"). This fourteen (14) day credit period is subject to the Customer maintaining a credit status satisfactory to Jarvis.
- 4.3 If the Customer fails to comply with paragraph 4.2 above, interest shall accrue on any outstanding sum calculated at the rate of 0.8% per annum from the due date until the date of actual payment, both before and after judgement.
- 4.4 The Customer shall inform Jarvis of any objections it has to any invoice within ten Working Days of the date of the invoice.
- 4.5 Interest shall not run in respect of any payment in dispute, until such time as the dispute is resolved, provided that the Customer shall pay to Jarvis any undisputed amount.
- 4.6 All Charges are exclusive of Value Added Tax and duties of any kind, which shall be payable by the Customer. In relation to Value Added Tax ("VAT") the Customer shall upon the sending by Jarvis of a relevant VAT invoice pay such VAT in addition to the sum which would otherwise be due.

4.7 Notwithstanding paragraph 4.1 of the Agreement, Jarvis may review and increase Charges for Consultancy Services provided that such increase shall not take effect within a period of nine (9) months from the earlier of either the Commencement Date or the date of receipt by Jarvis of the first matter from the Customer (“First Charges Review”). After the First Charges Review Jarvis may review and increase Charges for the Consultancy Services upon providing one calendar months notice in writing to the Customer provided that such further increase shall not take effect within a period of nine (9) months of the last such increase.

## **5. Warranties and Representations**

5.1 **The Customer** warrants and represents that:

5.1.1 it has full authority (including all necessary licences and permissions) to enter into and perform this Agreement; this Agreement is executed by a duly authorised representative of the Customer;

5.2 **Jarvis** represents and warrants that:

5.2.1 it has full authority (including all necessary licences and permissions) to enter into and perform this Agreement;

5.2.2 this Agreement is executed by a duly authorised representative of Jarvis;

5.2.3 it shall use reasonable skill and care in providing the Consultancy Services.

5.2.4 Save as set out in paragraph 5.2 or otherwise expressly set out in this Agreement, all other warranties, terms and conditions, statutory or otherwise, are hereby excluded to the extent permitted at law.

## **6. Limitation of Liability**

6.1 Jarvis does not exclude or limit its liability hereunder for death or personal injury caused by its negligence or for fraudulent misrepresentation or any other liability which cannot be excluded by law.

6.2 The Customer must bring any claim against Jarvis for breach of this Agreement within six months from the date on which the Customer first became aware of the alleged breach, after which time any claims shall lapse.

6.3 Jarvis shall not be liable for any delay in or failure to perform the Consultancy Services or any obligation under this Agreement in the event of Force Majeure.

6.4 Jarvis’s aggregate liability to the Customer in connection with the Consultancy Services or otherwise arising out of or in connection with this Agreement whether based in contract, tort (including without limitation, negligence), arising from statute, indemnity or otherwise, shall not in any one calendar year (or part thereof) during the term of this Agreement exceed 120% of the invoice value (net of VAT) of the Consultancy Services paid or payable relating to the file from which the liability arises.

6.5 Except for liability under paragraph 6.1, Jarvis shall not be liable to the Customer for loss of profits or contracts or other indirect or consequential loss whether arising in contract, tort (including without limitation, negligence), arising from indemnity, statute or otherwise.

6.6 Each limitation provision in this paragraph 6 is to be construed as a separate limitation applying and surviving even if for any reason one or other of the said provisions is held inapplicable or unreasonable in any circumstances and shall remain in force notwithstanding any termination of the Agreement.

## **7. Insurance**

Jarvis shall, subject to paragraph 6.4, take out and maintain during the term of this Agreement with reputable insurers a policy covering the liability of Jarvis to the Customer from whatsoever cause whenever arising out of or in connection with or in any way incidental to this Agreement including any liability of Jarvis in respect of any conditions or warranties express or implied, statutory or otherwise and any other liabilities whatsoever of Jarvis whether in contract, tort or otherwise howsoever including, without limitation any negligent or unlawful act or omission of Jarvis, its employees or agents and whether resulting in material or financial loss or damage to persons or any other loss or damage whatsoever, such insurance being limited to the sum of up to £250,000 (two hundred and fifty thousand pounds) in respect of any claim or series of connected claims.

## **8. Force Majeure**

8.1 For the purposes of this Agreement, the expression “Force Majeure” shall mean any cause affecting the performance by Jarvis of its obligations arising from acts, events, omissions, occurrences or non-occurrences beyond its reasonable control including (but without limitation to) governmental regulations, fire, flood or any disaster or other insurable risk, act of God, act of war, breakdown of machinery, malfunction or damage to any computer or electronic systems or an industrial dispute affecting a third party for which a substitute third party is not reasonably available.

8.2 Jarvis shall have no liability to the Customer for any loss of any kind whatsoever, whether directly or indirectly caused to or incurred by reason of any failure or delay in the performance of its obligations under this Agreement which is due to Force Majeure.

8.3 If Jarvis becomes aware of circumstances of Force Majeure which give rise to or which are likely to give rise to any such failure or delay on its part it shall notify the Customer by the most expeditious method available and shall inform the Customer of the period during which it is estimated that such failure or delay shall continue.

## **9. Confidentiality**

9.1 Each party undertakes that:

it shall only use Confidential Information disclosed by it to the other for the purpose of this Agreement;

it shall not disclose to any third party any Confidential Information disclosed to it by the other party without its prior written consent; and

it shall provide reasonable precautions to ensure that all Confidential Information disclosed to it by the other party is treated as confidential and not disclosed (save as aforesaid) by its employees, agents, consultants or sub-contractors and users.

9.2 The provisions of paragraph 9.1 shall not apply to any information which:

is or becomes public knowledge other than by breach of this paragraph 9; or

is in the possession of the receiving party without restriction in relation to disclosure prior to the date of receipt from the disclosing party; or

is received from a third party not under a duty of confidence; or

is required to be disclosed by law or the rules and regulations of any stock exchange or any other regulatory or government body.

9.3 Neither party may produce press releases or other forms of publicity that relate to this Agreement without the prior written consent of the other party. Notwithstanding the foregoing, Jarvis may disclose information relating to the Customer’s name and a brief description of the service, without prior consent.

## **10. Term and Termination**

10.1 This Agreement shall commence on the date specified in the attached Schedule 1 (or any subsequent amendments) and shall continue until terminated by one party giving the other party no less than one (1) calendar months notice in writing of termination unless otherwise specified in the Schedules.

10.2 Either Jarvis or the Customer may, by notice in writing having immediate effect terminate this Agreement if:

the other party is wound up (otherwise than for the purpose of a bona fide merger, acquisition, reconstruction or amalgamation where the resulting entity is bound by and assumes the obligations under this Agreement); or

a receiver, manager, or administrator on behalf of a creditor is appointed in respect of the business or any part thereof of the other party;

circumstances arise which entitle a court or a creditor to appoint a receiver, manager or administrator or which entitle a court (otherwise than for the purpose of a bona fide merger, acquisition, reconstruction or amalgamation, where the resulting entity is bound by and assumes the obligations under this Agreement) to make a winding-up order;  
the other party is unable to pay its debts as they fall due;  
the other party is in material breach of any obligations under this Agreement and has failed to remedy the breach within 14 days of receipt of written notice from the party requiring remedy of such breach.

- 10.3 For the purpose of paragraph 10.2 material breach shall include any failure to pay the Charges or other sums due in accordance with this Agreement.
- 10.4 Termination of this Agreement shall not prejudice or effect any right of action or remedy which shall have accrued or shall thereafter accrue to the other party.
- 10.5 Without affecting or removing Jarvis's right pursuant to paragraph 10.4, in any case where Jarvis has the right to terminate the Agreement Jarvis shall also have the right to suspend or withhold the Consultancy Services provided to the Customer until such time as the breach in question shall be rectified.
- 10.6 All provisions of this Agreement which either expressly or by implication are intended to survive termination, shall survive any termination of this Agreement.

#### **11. Entire Agreement and Variation**

- 11.1 The terms and conditions contained in this Agreement shall apply to all data received by Jarvis from the Customer and to all Consultancy Services provided by Jarvis during the term of this Agreement.
- 11.2 The terms of this Agreement shall not be waived or amended except by written agreement between Jarvis and the Customer in accordance with the provisions of Change Control.
- 11.3 This Agreement together with any Schedules contains the entire agreement and understanding of the parties with respect to its subject matter and supersedes all prior agreements and undertakings whether written or oral in connection with this Agreement and the Customer hereby acknowledges that it has not been induced to enter into this Agreement by reason of any representation made by or on behalf of Jarvis.
- 11.4 In the event of any conflict between a Schedule and these terms and conditions, the Schedule shall prevail.
- 11.5 Any Consultancy Services other than the Consultancy Services which Jarvis supplies (whether at the date of this Agreement or in the future) shall be subject to separate contract(s) and/or agreement(s).

#### **12. Waiver**

The failure of either party to insist upon strict performance of any provision of this Agreement, or to exercise any right or remedy to which it is entitled under or in connection with this Agreement shall not constitute a waiver thereof and no waiver of any breach of this Agreement shall operate as a waiver of any subsequent or continuing breach.

#### **13. Severability**

In the event that any one or more of the paragraphs or sub-paragraphs in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other paragraphs or sub-paragraphs of this Agreement.

#### **14. Assignment and Subcontracting**

- 14.1 Subject to paragraphs 14.2 and 14.3, except as expressly provided for in this Agreement none of the parties shall assign, transfer, subcontract or otherwise dispose of any rights or obligations under this Agreement without the prior written consent of the other party, such consent not to be unreasonably withheld.
- 14.2 Jarvis shall have the right to assign, transfer or subcontract its rights and obligations (or any part thereof) to any subcontractor it may choose at its sole discretion provided that such subcontractor agrees to comply with all of the obligations as detailed herein.
- 14.3 Jarvis shall have the right to assign or transfer its rights and obligations under this Agreement to any holding or subsidiary company of Jarvis or any subsidiary of Jarvis's holding company (as such terms are defined by section 736 of the Companies Act 1985).

#### **15. Notices**

- 15.1 Any notice to be given under this Agreement must be in writing (including in electronic format) and may be:  
delivered personally; or  
made by first class post in a pre-paid envelope; or  
made by facsimile transmission and confirmed by first class post in a pre-paid envelope; or  
transmitted by e-mail or electronic transmission and confirmed by first class post in a pre-paid envelope; and in each case addressed to the other party at the address or electronic address specified in writing and duly notified to the other party. Notices in respect of paragraph 10, must be addressed to the nominated representative and confirmed by first-class post in a pre paid envelope.
- 15.2 Delivery of any notice or invoice under this Agreement will be deemed to have occurred:  
in the case of personal delivery, when delivered;  
in the case of delivery by first class post, two working days after posting;  
in the case of delivery by facsimile, on receipt of the transmission slip by the sender confirming delivery between 9.00 a.m. and 5.00 p.m. on any Working Day. A facsimile sent outside these hours will be deemed to have been delivered (subject to receipt of the transmission slip by the sender) at 9.00 a.m. on the following Working Day;  
in the case of e-mail or electronic transmission upon receipt by the party, provided that such notice is confirmed by first class post in accordance with paragraph 15.1 above.

#### **16. Non-Solicitation**

- 16.1 During the continuance of the provision of any Consultancy Services and for a period of 6 months following termination of such Consultancy Services, the Customer hereby undertakes not to directly or indirectly or attempt to use the Consultancy Services of or employ (whether as an employee, consultant or otherwise) any employee, consultant or contractor to Jarvis who was directly involved in the provision of the Consultancy Services. The restrictions contained in this paragraph 16.1 shall not apply to the extent that the parties agree otherwise in writing. Both parties acknowledge that this clause is fair and reasonable and it is the intention of each party to be bound by its terms.

#### **17. Counterparts**

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all the counterparts together shall constitute one and the same agreement.

#### **18. Dispute Resolution Procedure**

- 18.1 Jarvis and the Customer shall use their reasonable endeavours to resolve promptly by negotiation any complaints or problems arising out of this Agreement. Any unresolved problems shall first be referred to the appropriate nominated representatives of Jarvis and of the Customer, who shall meet as often as they deem necessary and shall attempt to resolve the issue promptly.

18.2 Save where expressly agreed otherwise (either in the Schedules to this Agreement or elsewhere), in the event that the matter remains unresolved after a further 10 Working Days, the parties shall attempt to settle the dispute by mediation through Alternative Dispute Resolution (“ADR”). To initiate a mediation a party must give notice in writing (the “ADR Notice”) to the other party to the dispute addressed to Jarvis’s authorised representative and for the Customer, as nominated in writing requesting a mediation in accordance with this paragraph. Once the other party has confirmed in writing its agreement to the mediation, a copy of the ADR Notice will be forwarded to the Centre for Dispute Resolution. The mediation will start no later than 60 days after the date of the ADR Notice has been forwarded to the Centre for Dispute Resolution.

**19. Data Protection Legislation**

19.1 Each party shall comply at all times during the term of this Agreement with the Data Protection Legislation including, without limitation, the data protection principles set out therein in the performance of its obligations under this Agreement, shall ensure that their respective employees, agents and sub-contractors do likewise and shall obtain and maintain the necessary notifications required by the Data Protection Legislation.

19.2 Jarvis will at all times during the term of this Agreement when personal data (as defined in the Data Protection Legislation) is provided to it by Customer:

take appropriate technical and organisational measures to prevent unauthorised or unlawful processing of any personal data supplied, directly or indirectly, to Jarvis by Customer or its Affiliates and accidental loss or destruction of, or damage to the personal data;

take reasonable steps to ensure the reliability of its employees, contractors and agents (if any) having access to the personal data; and act only on instructions from Customer in relation to the personal data.

19.3 Subject to paragraph 19.1, the Customer shall:

ensure that all necessary notification applications are made in accordance with the terms of the Data Protection Legislation.

19.4 Jarvis may request a copy of each such notification application and any amendments and alterations made thereto;

ensure that any personal data provided to Jarvis is up to date; and

notify Jarvis in writing of the names of its staff who are authorised to permit any disclosure of such data.

19.5 The Customer acknowledges that:

Jarvis may be required to disclose any personal data or other related information by law or any competent government body; and such disclosure shall not be a breach of the terms of this Agreement.

**20. Third Party Rights**

20.1 A person who is not a party to this Agreement shall not derive the right to enforce any of the terms of this Agreement by virtue of the Contracts (Rights of Third Parties) Act 1999 (the “Third Party Rights Act”).

20.2 Any right or remedy of a third party which existed or is available apart from the Third Party Rights Act is not affected.

**21. Governing Law and Jurisdiction**

This Agreement shall be governed by English law and the parties submit to the non-exclusive jurisdiction of the English courts.

Signed for and on behalf of the **Customer**

Signature \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_  
(Authorised Signatory)  
Date \_\_\_\_\_

Signed for and on behalf of **Jarvis Costs Consultancy**

Signature \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_  
(Authorised Signatory)  
Date \_\_\_\_\_  
Agreement No. \_\_\_\_\_

**JARVIS CONSULTANCY SERVICES AGREEMENT Reference**

**SCHEDULE 1  
Pricing and Services Specification**

Customer Name:	
Customer Address:	
Company Registration No. (Where applicable)	
Contact Name:	
Contact Tel:	
Contact Email:	

**1. Services Specification**

1.1 Jarvis shall charge the Customer the hourly rate as detailed below (“Charges”) for all works done for and on behalf of the Customer.

**Rate Table**

<b>Service</b>	<b>Charge Rate</b>
Preparing Bill and Schedule of Costs	£90.00 per £1,000 of Profit Costs or time spent
Preparing Points of Dispute	£90.00 per hour
Preparing Replies to Points of Dispute	£90.00 per hour
File Consultation including Letter of Advice and recoverable costs estimate	£90.00 per £2,000 of Profit Costs or time spent
File Negotiation	£90.00 per hour
Part 8 Hearing Costs (Short Form Bill)	£90.00 per hour plus Travelling and Waiting Time
Costs Seminar	Fee by agreement
Attendance at Detailed Assessment Hearing	£90.00 per hour
Travelling and Waiting Time	£45.00 per hour

**1.2 Provision of the Services**

- (i) The Customer shall be responsible for providing Jarvis with all relevant documents relating to a given file including but not limited to papers, invoices and disbursement vouchers as are required by Jarvis to formulate a Bill of Costs.
- (ii) The Customer shall advise Jarvis of any specific deadlines in relation to any given file as soon as reasonably practicable. Should the Customer fail to advise Jarvis of a specific deadline at the time of initially forwarding the file to Jarvis, Jarvis reserves the right to reject the file and return it to the Customer without liability and/or to apply a higher charge in order to expedite the status of the file. Where there are additional charges to be applied in order to expedite a file Jarvis shall notify the Customer of these additional charges and the Customer shall be required to confirm in writing that he accepts these additional charges before Jarvis commences the provision of any Consultancy Services.
- (iii) Jarvis shall include within the Charges as detailed herein, the reasonable cost of any stationary that is used in the provision of Consultancy Services.

**2 Considering a File**

- 2.1 Jarvis shall use its reasonable endeavours to consider a file within 14 days of the date received (“Consideration Period”). This Consideration Period shall only be a target and Jarvis shall not be in breach of this Agreement should the Consideration Period be exceeded on any given file.
- 2.2 The Consideration Period shall not be applicable where files received are in excess of five files (“Bulk Files”); in such cases Jarvis shall consider files as soon as possible.
- 2.3 Where Jarvis is unable to consider a file within the Consideration Period it shall use all reasonable endeavours where possible to notify the Customer.

**3 Schedules, Statements, Bill of Costs, Drafting Work and Advocacy**

- 3.1 For the drawing of Schedules, Statements and Bills of Costs the Charges applicable shall be as detailed above.
- 3.2 Should the Customer in any instance require Jarvis to provide negotiation services only, the hourly rate as detailed in the Rate Table will be applicable (“Negotiation Services”).
- 3.3 Where a negotiation service only is required the Charges shall apply to all time spent on negotiation to include but not limited to time spent on the conclusion and settlement of a claim for Profit Costs. The Charges applied by Jarvis shall be applicable in all cases including where a particular matter has not been settled. Jarvis shall where possible deal with any issues relating to any Additional Liability (“Additional

Liability Negotiations”) at the time of negotiating Profit Costs and the Customer accepts that failure to conduct any such Additional Liability Negotiations shall not constitute a breach of this Agreement.

- 3.4 Any additional issues of liability will be dealt with separately and shall be agreed between the parties in writing beforehand.
- 3.5 Where in the sole reasonable discretion of Jarvis a file is deemed to be particularly burdensome all charges shall be reviewed and agreed between the parties (“Charges Uplift”). In the absence of any agreement being reached the charges as detailed in the Rate Table above shall continue to apply until such agreement is reached on the level of Charges Uplift.
- 3.6 Where a third party has already commenced negotiation any additional services provided by Jarvis shall be subject to the Charges as detailed in the Rate Table above.

**4 Defendant Matters**

- 4.1 Where a matter is a Defendant Matter the following additional terms and conditions shall apply:
- 4.1.1 In addition to its obligations as detailed above in clause 1.2 the Customer shall be required to notify Jarvis of any other matters that will have an affect on the conduct of any matter including but not limited to Points of Dispute, Dates of any Detailed Assessment Hearing dates; and
- 4.1.2 Jarvis shall invoice the Customer at any time and from time to time (unless otherwise agreed) for the Charges as specified in the Schedule. Invoices (whether for Value Added Tax or otherwise) shall be capable of being held or submitted in electronic form. Any invoices raised for Defendant Matters shall payable within seven (7) days and in the case of any conflict between this Schedule and the Consultancy Services Agreement this Schedule shall prevail. The Customer must notify Jarvis of any objections within 3 days of the date of any invoice.

**5. Whole Agreement**

This Schedule 1 forms part of the Jarvis Costs Consultancy Services Agreement and its terms are hereby incorporated by reference and both parties agree to be bound by its terms and conditions.

Signed for and on behalf of the **Customer**

Signature \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_  
(Authorised Signatory) \_\_\_\_\_  
Date \_\_\_\_\_

Signed for and on behalf of **Jarvis Costs Consultancy**

Signature \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_  
(Authorised Signatory) \_\_\_\_\_  
Date \_\_\_\_\_  
Agreement No. \_\_\_\_\_