

**MANCHESTER INVESTMENT AND DEVELOPMENT AGENCY SERVICE
(MIDAS)**

TERMS AND CONDITIONS

1. OBLIGATIONS

- 1.1 The Contractor identified overleaf will supply the Services overleaf for the operative period specified and payment by MIDAS will not exceed the maximum sum shown. Unless otherwise written within this Contract MIDAS shall make payments to the Contractor 30 days from receipt of a valid invoice in MIDAS accounts department, for work completed to the reasonable satisfaction of MIDAS. MIDAS has the right to vary payments where it reasonably judges that the Contractor has not met its obligations.
- 1.2 Should the scope of the work performed in delivering the Services change or the delivery of the Services be delayed for reasons caused by or agreed to by MIDAS, the Contractor has the right to review the Contract Price and where additional work is required seek additional reasonable costs.

2. CONTRACTOR'S STATUS

- 2.1 In carrying out this Contract the Contractor will be acting as principal and not as an agent of MIDAS. Accordingly,
- 2.2 The Contractor shall not say or do anything that might lead any other person to believe that the Contractor is acting as the agent of MIDAS; and
- 2.3 Nothing in this Contract shall render MIDAS liable to indemnify the Contractor in respect of any liability of any kind incurred by the Contractor to any other person; but this shall not be taken to exclude or limit any liability of MIDAS to the Contractor that may arise by virtue of either a breach of this contract or any negligence on the part of MIDAS, its staff or agents.

3. INSURANCE

- 3.1 The Contractor shall ensure that it has adequate insurance against any actions, claims or demands which may be brought by any person injured or suffering damages or loss in connection with its activities in carrying out this Contract.

4. QUALITY AND DESCRIPTION

- 4.1 Without prejudice to any other rights MIDAS may have, the Contractor warrants to MIDAS that the Services will be performed by appropriately trained and qualified personnel with reasonable care and skill, to the reasonable satisfaction of MIDAS.
- 4.2 MIDAS will provide the Contractor with full and timely access to MIDAS data and information as it may reasonably require in order to provide the Services. MIDAS agrees to keep the Contractor properly informed of any material developments or proposals in relation to the business or operations of MIDAS and its affiliates where these may have an effect upon this Contract. In addition, MIDAS represents that all information provided by or on behalf of MIDAS and its affiliates to the Contractor is or will be true, accurate and complete in all material respects, contains no material omissions and is updated on a prompt and continuous basis. MIDAS agrees that the Contractor shall be entitled to rely on all information provided, and decisions and approvals given, by or on behalf of MIDAS and its affiliates in connection with this Contract.

5. OBSERVANCE OF LEGAL REQUIREMENTS

- 5.1 The Contractor shall carry out the obligations of this Contract in a manner that conforms with the requirements of all relevant legislation.

- 5.2 Without prejudice to clause 5.1 above, in carrying out this Contract, the Contractor:
- 5.2.1 Shall not commit an act of discrimination rendered unlawful by the Sex Discrimination Act 1975, or the Race Relations Act 1976, or the Disability Discrimination Act 1996, or any enactments modifying or replacing them.
 - 5.2.2 Shall comply with relevant requirements contained in or having effect under current legislation relating to health, safety and welfare at work.
- 5.3 Where any of the Contractor's obligations under this Contract are carried out by sub-contractors, the Contractor shall ensure that in carrying out those obligations the sub-contractors comply with the provisions of this clause and the Contractor will remain primarily liable for such obligations.

6 INTELLECTUAL PROPERTY AND USE OF DELIVERABLES

- 6.1 All papers and documents the Contractor produces in performing the Services will remain the Contractor's property. However, MIDAS retains the copyright and all intellectual property rights in the Deliverables and will not need to seek permission from the Contractor for its use.
- 6.2 In using the Deliverables MIDAS will seek to define the original purpose of the work and the limitation of reliance that can be placed on the information. An example of the wording is included below for illustration.
- 6.2.1 Example

This [report/publication/extract etc.] contains general information only and is not intended to be comprehensive nor to provide specific accounting, business, financial, investment, legal, tax or other professional advice or services. This publication is not a substitute for such professional advice or services, and it should not be acted on or relied upon or used as a basis for any decision or action that may affect you or your business. Before making any decision or taking any action that may affect you or your business, you should consult a qualified professional advisor.

Whilst every effort has been made to ensure the accuracy of the information contained in this publication, this cannot be guaranteed and neither the Contractor nor any related entity shall have any liability to any person or entity who relies on the information contained in this publication. Any such reliance is solely at the user's risk.

7 EVALUATION

- 7.1 The Contractor shall systematically evaluate its delivery of products and services and feed evaluation results back into its own and MIDAS's review processes. The Contractor shall operate a system for collecting end-user feedback on the products and services it delivers and the processes through which it delivers them. This feedback will lead to appropriate action to deal with suggestions or criticisms.
- 7.2 If, at any time, MIDAS believes the Contractor's service to it could be improved, or if MIDAS is dissatisfied with any aspect of the Contractor's service, MIDAS should raise the matter with the partner responsible for providing the Services to it.
- 7.3 The Contractor will investigate all complaints. MIDAS has the right to take any complaint up with them.

8 RECOVERY OF SUMS DUE

- 8.1 Wherever under this Contract or any other agreement, contract or loan arrangement with MIDAS any sum of money is recoverable from or payable by the Contractor, that sum may be

deducted from any sum then due, or which at any later time may become due, to the Contractor under this Contract, or under any other agreement, contract or loan arrangement with MIDAS.

9 INSOLVENCY

- 9.1 The Contractor shall notify MIDAS in writing immediately upon the occurrence of any of the following events:
- 9.2 Where the Contractor is an individual
- 9.2.1 In England and Wales, if a petition is presented for the Contractor's bankruptcy or a criminal bankruptcy order is made against the Contractor or he or she makes any composition or arrangement with or for the benefit of creditors, or makes any conveyance or assignment for the benefit of creditors; or
- 9.2.2 In Scotland, if the Contractor becomes apparently insolvent within the meaning of Section 7 of the Bankruptcy (Scotland) Act 1985; or
- 9.3 Where the Contractor is a firm or a number of persons acting together in any capacity, if in any event in 9.1 above of this sub-clause in respect of any partner in the firm or any of those persons; or a petition is presented for the Contractor to be wound up as an unregistered company; or
- 9.6 On the occurrence of any of the events described in the preceding sub-clause 9.1, MIDAS shall be entitled to terminate this Contract with immediate effect by notice in writing.

10 CORRUPT GIFTS OR PAYMENTS

- 10.1 The Contractor shall not offer or give, or agree to give, to any member, employee or representative of MIDAS any gift or consideration of any kind as an inducement or reward for doing or refraining from doing, or having done any act in relation to the obtaining or execution of this or any other Contract with MIDAS or any associated company of MIDAS, or for showing or refraining from showing favour or disfavour to any person in relation to this Contract or any such contract.

11 CONFIDENTIALITY

- 11.1 Unless MIDAS notifies the Contractor otherwise, all documents and information received by the Contractor during or in connection with the performance of the Contract from MIDAS, or any person employed by MIDAS shall be held in confidence. Such documents and information shall not be disclosed by the Contractor, its staff or agents to any other person without the permission of MIDAS unless a duty to disclose to that person is imposed under statute by court order, or is required by a government or regulatory authority, or to protect the Contractor's legitimate interests. The Contractor shall ensure that its staff and any sub-contractors are aware of this obligation of confidence and abide by it.

12 ASSIGNMENT

- 12.1 The Contractor shall not, without the consent in writing of MIDAS, assign, sub-let, or transfer this Contract or any part, share, or interest in it. The Contractor shall be entitled to use any of its affiliates or other member firms of the Contractor or a subcontractor to perform the Services, but such sub-contracting will not relieve the Contractor from its obligations under this Contract.

13 TERMINATION

- 13.1 Should a situation arise due to any action taken by the Parties that creates a professional conflict of interest, either Party may terminate this Contract forthwith. The Contractor will inform MIDAS as soon as reasonably practicable of any situation that occurs that the Contractor becomes aware of that may create a professional conflict that could result in termination in accordance with clause 13.

- 13.2 Unless otherwise stated this Contract may be terminated by either party giving to the other at least one month's notice in writing, without the need to give any reason.
- 13.3 Either party may terminate this Contract with immediate effect in the event of any material breach of any of its terms by the other party which has not been remedied within 14 days of receipt of a notification in writing requesting remedy of the same. Such termination shall not affect any rights which the party so terminating the Contract may have against the other party in consequence of the breach.
- 13.4 On termination of this Contract for any reason, the Contractor shall;
- 13.4.1 Not recruit to any training programme forming part of the Services from the date notice is served.
- 13.4.2 Assist MIDAS, including delivery up as directed by MIDAS, of all documents and data in its possession, custody or control relating to the performance of its obligations under this Contract which the Contractor holds as agent of MIDAS or which were provided to the Contractor by MIDAS; and
- 13.4.3 Return to MIDAS any assets or property in its possession, custody or control issued to it or otherwise furnished in connection with this Contract by or on behalf of MIDAS.

14 AMENDMENT OR VARIATION

- 14.1 The terms of this Contract may only be varied by a written variation order between persons duly authorised by the Parties.

15 ACCOUNTS AND INSPECTION

- 15.1 The Contractor shall permit MIDAS staff and its authorised contractors to inspect its premises and records relevant to this contract at any time on reasonable notice.
- 15.2 The Contractor shall provide all reasonable assistance to representatives stated in 15.1
- 15.3 Should MIDAS become liable to repay any amount as a result of any such inspection stated in 15.1 or as a result of the Contractor not complying with the terms and conditions contained within this contract, the Contractor shall become liable to repay the relevant amount to MIDAS forthwith on receipt of an invoice or claim from MIDAS.

16 PROHIBITED ACTIVITIES

- 16.1 The Contractor shall not use any funds made available to it by MIDAS for the purpose of supporting directly or indirectly any organisation or activity that is likely to bring MIDAS into disrepute.

17 ACCEPTANCE OF DELIVERABLES

- 17.1 The Contractor shall at its own expense make good any services which are judged by MIDAS to be below the standard required by MIDAS, pursuant to the terms of this Contract.

18 EVALUATION BY MIDAS

- 18.1 MIDAS reserves the right to seek all necessary information to evaluate the Contractor's performance relative to this Contract from any source whatsoever. Action recommended as a result may be used for future reference.

19 FORCE MAJEURE

- 19.1 Neither party shall be deemed in default of its obligations under this Contract or shall be liable to the other to the extent that it is unable to perform all or any of its obligations under this Contract by reason of any fire, earthquake, flood, epidemic, accident, explosion, casualty, riot, civil disturbance, act of public enemy, natural catastrophe, embargo, war or act of God or any ordinance or law or any other occurrence beyond its reasonable control.

20 SEVERABILITY

- 20.1 If any provision of this Contract shall be prohibited or adjudged by a court to be unlawful, void or unenforceable, such provision shall, to the extent required, be severed from this Contract and rendered ineffective as far as possible without modifying the remaining provisions of this Contract and shall not in any way effect the validity or enforceability of the remaining provisions of this Contract.

21 NOTICE

- 21.1 Any notice or other communication requiring to be served under or in connection with this Contract shall be in writing and shall be delivered by hand or sent by recorded first class post and shall be deemed to have been given or received if delivered by hand, when left at the proper address for service; if given or made by pre-paid first class post, 48 hours after being posted (excluding Saturdays, Sundays and Public Holidays).

22 JOINT AND SEVERAL

- 22.1 If a party hereto is more than one person all covenants, agreements, undertakings representations and warranties on the part of such party contained herein shall be joint and several.

23 GOVERNING LAW AND JURISDICTION

- 23.1 This Contract shall be governed by and construed in accordance with English law and the parties submit to the exclusive jurisdiction of the English courts.

24 LIABILITY

- 24.1 The Contractor will perform the Services with reasonable care and skill and acknowledges that it will be liable to you for losses, damages, costs or expenses ("Losses") caused by its negligence or wilful default, subject to the following provisions:
- 24.1.1 the Contractor will not be liable if such Losses are due to the provision of false, misleading or incomplete information or documentation or due to any acts or omissions of any person other than the Contractor;
 - 24.1.2 the Contractor shall have no other liability of any nature, whether in contract, tort or otherwise, for any losses, whatsoever and howsoever caused, arising from or in any way connected with this Contract;
 - 24.1.3 the aggregate liability, whether to MIDAS or any third party, of whatever nature, whether in contract, tort or otherwise, of the Contractor for any Losses whatsoever and howsoever caused arising from or in any way connected with this Contract shall not exceed £500,000.
- 24.2 Nothing in this clause shall impose on the Contractor any liability additional (in amount or nature) to that which the Contractor would have if this clause were not present. Furthermore, the presence of this clause will not preclude any defence that the Contractor would have if this clause were not present.
- 24.3 Nothing in this Contract shall exclude, restrict (or prevent suit in respect of) any liability arising from fraud or dishonesty or other liabilities that cannot lawfully be limited or excluded.

- 24.4 None of the member firms of the Contractor, other than the UK firm of the Contractor shall have any liability to MIDAS, its affiliates, or any other person, in connection with this Contract. MIDAS will not, and will procure that its affiliates do not, bring any action against any of the member firms of the Contractor, other than the UK firm of the Contractor, in connection with this Contract. Other member firms of the Contractor may (individually or collectively) in their own right enforce the provisions of this Contract that refer to the members firms of the Contractor.
- 24.5 Except as expressly provided in this Contract, no person other than either of the Parties to this Contract may enforce it by virtue of the Contracts (Rights of Third Parties) Act 1999 (the "Act"). Notwithstanding any benefits or rights conferred by this Contract on any third party by virtue of the Act, the Parties to this Contract may agree to vary or rescind this Contract without any third party's consent.
- 24.6 MIDAS and the Contractor agree they have fully considered the provisions of this clause and all the other provisions of this Contract and that they are reasonable in the light of all the factors relating to this Contract. If any terms or provisions of this Contract (or parts thereof) are or become invalid, illegal or unenforceable, the remainder shall survive unaffected to the fullest extent permitted by law.

25 USE AND DISCLOSURE OF THE DELIVERABLES

- 25.1 The Deliverables are prepared for the confidential use of MIDAS. Save that a copy of our Deliverables may be copied in whole or in part to any other party as required.
- 25.2 Notwithstanding that a copy of the Deliverables may be provided to other parties, the Deliverables may not be relied upon by any other party other than those specified above for any purpose whatsoever. MIDAS, its partners and staff neither owe nor accept any duty to any other without limitation and shall not be liable for any loss, damage or expense of whatsoever nature that is caused by the reliance on representations in the Deliverables by other parties.