



Dear Sirs

**BBC Terms of Trade**

We wish to confirm that any order for goods or services we place with you will be subject to the BBC's Terms of Trade, a copy of which is attached. Please keep the attached copy of the BBC Terms of Trade for your own reference.

If you need more information about BBC Terms of Trade you may contact us at **[procurement.enquiries@bbc.co.uk](mailto:procurement.enquiries@bbc.co.uk)** or view the BBC web site at **[www.bbc.co.uk/guidelines](http://www.bbc.co.uk/guidelines)**.

Yours faithfully

British Broadcasting Corporation

**BBC TERMS OF TRADE FOR THE PROVISION  
BY "RECRUITMENT AGENCIES" OF TEMPORARY STAFF TO THE BBC**

**1. Definitions**

In these terms of trade the following terms shall have the following meaning:

**"Agency"** means the person responsible for providing the Contractor under the Contract and shall where relevant be deemed to include all of its officers, employees, subcontractors and/or agents engaged in any way in the performance of the Contract;

**"Assignment"** means the service required to be carried out by the Contractor under the Contract, as specified in the Purchase Documentation.

**"BBC"** means British Broadcasting Corporation of Broadcasting House, Portland Place, London W1A 1AA;

**"Contract"** means these terms of trade, and the Purchase Documentation;

**"Contractor"** means the contractor provided by the Agency under these terms of trade.

**"Contract Period"** means, subject to Clause 18, the period specified in the Purchase Documentation;

**"Fees"** means the price payable by the BBC to the Agency as specified in the Purchase Documentation;

**"IPR"** means copyright, patent, trade mark, design right, topography right, database right, rights of confidence, broadcast rights and all other similar rights anywhere in the world whether or not registered and including applications for registration of any of them;

**"Purchase Documentation"** means the BBC purchase order or any other written specification detailing the Contractor, the Fees, the Contract Period and any Special Conditions;

**"Safety Requirements"** means health, safety, fire and environmental requirements (whether legislative or otherwise), codes of practice, guidance and policy;

**"Special Conditions"** means any amendments or additional conditions specified in the Purchase Documentation which shall take precedence over these terms of trade;

**2. Existence of Contract**

2.1. The Contract shall prevail at all times over all other terms and conditions which the Agency may purport to apply and to the extent any obligations hereunder have already been performed by either party, then such obligations shall for all purposes be deemed to have been performed in accordance with and subject to the provisions of the Contract. The provision of the Contractor shall be deemed conclusive evidence of the Agency's acceptance of the Contract provided the Agency has been given notice of the terms herein.

2.2. The Agency undertakes to provide the Contractor in accordance with the Contract. Timely provision is of the essence of the Contract and the Agency shall notify the BBC immediately it becomes aware of any likely delay in such provision.

**3. Good Faith/Outside Activities/Publicity**

The Agency and the Contractor shall act in good faith at all times and shall not bring the BBC into disrepute and neither the Agency nor the Contractor shall, without the prior written consent of the BBC, advertise or publicly announce that it is undertaking work for the BBC, nor make any public statement in respect of the BBC.

**4. Fees**

4.1. In consideration of the services provided by the Agency and the Contractor hereunder the BBC shall pay to the Agency the Fees together with any VAT at the applicable rate for the actual time spent by the Contractor working on the Assignment payable in accordance with the provisions of Clause 6.

4.2. The Agency is responsible for accounting and ensuring that the Contractor accounts to the Inland

Revenue and all other authorities for taxes, insurance contributions and other liabilities, charges and dues which arise in connection with this Contract, and shall indemnify the BBC against any costs, claims or charges served upon the BBC in this regard by reason of the failure of the Agency or the Contractor to so comply.

## **5. Expenses**

- 5.1. The BBC shall reimburse the Agency for such agreed additional travelling, subsistence and other expenses as are properly incurred by the Contractor in the performance of their duties under this Contract where such expenses have been agreed in advance by the BBC and the Agency for work done away from the location specified in the Purchase Documentation. The Expenses shall be reimbursed with no uplift and payable in accordance with Clause 6.
- 5.2. The cost of any training courses required by the Contractor in order to be able to undertake the Assignment or to improve their performance in respect of the Assignment, or for the advancement of the Contractor, will be borne by the Contractor.

## **6. Payment**

- 6.1. Subject to the BBC being satisfied as to the quality and manner of performance of the services provided hereunder the BBC shall pay to the Agency the Fees.
- 6.2. The Agency shall invoice for work done supported by a report showing in summary days worked and work undertaken. Fees are payable monthly in arrears by the end of the month following that in which the invoice is dated. Reimbursement of expenses shall be made by the end of the month in which the Agency's note of the Contractor's expenses accompanied by supporting vouchers and/or receipts and where applicable VAT receipts has been received by the BBC. Invoices and notes of expenses should be submitted to the person(s) specified in the Purchase Documentation.
- 6.3. Subject to Clause 6.2, in the event that the BBC fails to make payment in accordance with Clause 6.2 the Agency shall be entitled to charge the BBC interest from the date specified for payment of the principal in Clause 6.2 upon the unpaid amount of the principal at the rate of 4% per annum above the Bank of England base rate in force from time to time until payment of the principal is made in full PROVIDED THAT written notice shall be given within 21 days of the due date, by the Agency that the amount has not been paid and specifying the total amount of interest owed at the date of the notice, and, if the principal has not been paid, the daily rate at which the interest will continue to accrue; the invoice or invoices to which the interest relates; the addressee to whom and address to which payment should be made.

## **7. Security/Access/Inspection**

- 7.1. The Contractor shall obtain from the BBC identity cards or entry permits and shall display these whilst on BBC premises. The Contractor shall return these cards/permits to the BBC upon termination or expiry of the Assignment.
- 7.2. The BBC may request and shall be supplied with identification of the Contractor and may conduct random security checks including checking the Contractor's possessions and vehicle(s) whilst on BBC premises.

## **8. Health/Safety/Fire and Environmental Requirements**

- 8.1. The Contractor shall comply with all current relevant Safety Requirements including but not limited to those issued by the Health & Safety Commission and Executive, the Home Office and those BBC Safety Requirements notified in writing to the Contractor.
- 8.2. The BBC shall notify the Contractor of risks to health and safety which are reasonably foreseeable to the BBC and which may affect the Contractor or the BBC arising out of or in any way connected with the activities of the BBC in connection with the Contract, and the Contractor shall have due regard to these.

## **9. Engagement and Warranties**

- 9.1. The Agency warrants that the Contractor has the know-how, qualifications and necessary ability to

undertake the services required to be carried out in the Assignment specified in the Purchase Documentation and that the details, representations and statements contained in any "curriculum vitae" forwarded to the BBC by the Agency in regard to the Contractor have been verified, and that references have been taken up and found satisfactory.

- 9.2. The Agency further warrants that the Contractor is not disqualified in any way from working on the Assignment, and it is not aware of any reason why the BBC would not wish to accept the Contractor render its services.
- 9.3. The Agency warrants that the Contractor has professional indemnity insurance to the value of £2 million pounds sterling.
- 9.4. The Agency shall hold and where appropriate shall ensure that the Contractor shall hold any licence permit and/or certificate required by law to carry out the Assignment under this Contract and the Agency shall hold the BBC harmless in respect of any third party claims for infringement thereof.
- 9.5. The Agency warrants that the Contractor is not an employee of the BBC and acknowledges that the BBC shall have no liability to the Contractor as employer or otherwise in respect of any health or medical insurance or expenses nor in respect of any loss of income or other loss or expense arising due to illness, injury or damage sustained in the course of performing the Assignment unless caused by the negligence or default of the BBC.

## **10. Term**

- 10.1. The Contract Period shall be as specified in the Purchase Documentation and shall be subject to extension only with the agreement of both parties to be evidenced in writing.
- 10.2. The Agency shall procure that the Contractor shall commence the Assignment on the start date specified in the Purchase Documentation and shall continue thereafter until the end of the Contract Period.

## **11. Duties of the Agency and the Contractor**

- 11.1. The Agency shall ensure, while this Contract is in force or until the satisfactory completion of the Assignment, that the Contractor shall devote such of its time, attention and abilities to the Assignment as may be necessary for the satisfactory completion thereof and that the Agency will promptly pay the Contractor according to the agreement between the Agency and Contractor.
- 11.2. The Contractor shall attend at the location(s) as specified in the Purchase Documentation or such other place(s) (whether in the United Kingdom or overseas) and at such times as is necessary for the performance of the Assignment.
- 11.3. Without prejudice to the Agency's and/or the Contractor's obligations and undertakings in the Contract including in respect of conflict of interest, confidentiality and specifically agreed hours, times and location of a Contractor's work (jointly the "Undertakings"), the BBC acknowledges to the Agency that unless expressly agreed to the contrary in the Purchase Documentation the Contractor's services may not necessarily be provided exclusively to the BBC during the Contract Period and consequently the Contractor may provide its services to third parties subject always to the Undertakings.
- 11.4. The Agency shall ensure that the Contractor shall advise and assist the BBC as required in accordance with Clause 11.1 with respect to all aspects of the Assignment and in the performance of such duties, the Agency shall ensure that the Contractor complies with all reasonable requests and directions of the BBC including but not limited to:
  - 11.4.1. completing daily timesheets, accurately recording work durations, and activities duly authorised by the appropriate BBC representative; and
  - 11.4.2. complying with all local or internal policies and regulations operated by or affecting the BBC as the case may be.
- 11.5. Services performed under the Contract shall be executed in an efficient and workmanlike manner to the reasonable satisfaction of the BBC. If the Contractor fails properly to carry out the any of the services under the Contract the Agency shall be responsible for ensuring that any defects or omissions be

remedied within a reasonable period at no additional charge. Where the Agency fails to remedy any defects or omissions within such reasonable period, the BBC shall have the right to remedy any defects or omissions and the Agency shall indemnify the BBC for all reasonable costs and expenses incurred by the BBC in remedying such defects or omissions for a period of 12 months from the date of termination of this Contract, which shall not exceed £2 million sterling in respect of any one incident.

- 11.6. The Agency shall procure that the Contractor does all such things in order to ensure that the Agency complies with all of its obligations under the Contract.

## **12. Copyright**

- 12.1. Except as otherwise agreed, the Agency and or the Contractor on behalf of the Agency shall obtain for the BBC all necessary consents, permissions and/or clearances in third party rights (including IPRs) with respect to the Contractor's services or the products thereof.
- 12.2. In consideration of the payment of the Fees, the Agency hereby assigns to the BBC absolutely and with full title guarantee, and warrants that the Contractor has assigned to the Agency absolutely and with full title guarantee, all IPRs (both existing at the date hereof and in the future) in the products of any services in all languages throughout the Universe for the full period of such rights (including all rights to renewals and extensions thereof).
- 12.3. The Agency hereby, to the extent permissible by law, waives irrevocably, and warrants that the Contractor, has to the extent permissible by law waived irrevocably the benefits of any provision of law known as "moral rights" (including without limitation any right under sections 77 to 85 inclusive of the Copyright, Designs and Patents Act 1988) or any similar laws of any jurisdiction in which waiver is permissible.
- 12.4. The Agency hereby grants the BBC a non-exclusive, royalty-free, irrevocable licence to use and sub-licence any IPRs in the product of any services or other deliverables under the Contract, the IPRs in which it has not assigned under this Clause 12.
- 12.5. The Agency shall indemnify and keep indemnified the BBC against all losses, costs, claims, demands, expenses and liabilities of whatsoever nature arising out of or in connection with any claim that the possession or use by the BBC of the services or the products of the services provided pursuant to a Contract or any part thereof infringes any IPR's of whatsoever nature of any third party.
- 12.6. If requested by the BBC to do so the Agency shall cooperate with the BBC in doing all such things and executing all such documents as are reasonably required in connection with procuring that the Contractor signs an assignment of copyright in favour of the BBC in similar form.

## **13. Confidentiality**

- 13.1. Except to the extent required for the purposes of performing its obligations under the Contract, neither the Agency nor the Contractor will use or make available at any time during or after the Contract, to any third party, any information relating to the business or affairs of the BBC which is disclosed or otherwise is in its possession under or in respect of the Contract, including this Contract and its subject matter except in relation to information which:
- 13.1.1. is or later comes into the public domain otherwise than through an act or omission of the Agency or Contractor; or
- 13.1.2. was already known to the Agency or Contractor at the time of disclosure otherwise by an unauthorised disclosure by a third party; or
- 13.1.3. disclosure is required by law, order of court, the requirements of any regulatory authority or the rules of any stock exchange; or
- 13.1.4. the Agency or the Contractor has the prior written consent of the BBC to do so.
- 13.2. Notwithstanding Clause 13.1, the Agency can disclose information to its employees, professional advisors, agents and sub-contractors including the Contractor solely on a need-to-know basis provided that the Agency procures that the person to whom such disclosure is made complies with the obligations under this Clause 13 as if it were a party to the Contract.

- 13.3. At the request of the BBC the Agency shall procure that the Contractor enters into the Confidentiality Agreement with the BBC in the form attached hereto as Schedule 1.

#### **14. Liability and Insurance**

- 14.1. The Contractor is engaged for its ability and expertise in the subject-matter of the Assignment upon which the BBC will rely. In the event that the BBC suffers any loss or damage arising from the negligence, breach of duty or incompetence of the Contractor, the Agency shall be liable.
- 14.2. The Agency agrees to take out and maintain adequate insurance cover with a reputable insurance Agency approved by the BBC, against such liability. The Agency shall exhibit to the BBC forthwith upon demand, the policy of such insurance, the premium receipt and the insurance certificate. The liability of the Agency under this Contract, whether arising from negligence, breach of contract, indemnity or otherwise, shall be limited to two million pounds sterling.
- 14.3. In addition, where any private vehicle is used by the Contractor for travelling, the Agency shall ensure that such vehicle has third party liability insurance cover extended to include business use.
- 14.4. The BBC shall indemnify and keep indemnified the Agency against any loss, damage, claim or expense arising out of physical injury of or death of the Contractor occurring during the course of the performance by the Contractor of the Assignment and arising by reason of the provision of defective equipment, the failure of the BBC to provide a safe system of work or otherwise by reason of any negligent act or culpable default on the part of the BBC, its servants or agents or other person on the BBC's premises.
- 14.5. The Agency indemnifies the BBC for any liability actual or implied for any claims made by the Contractor or any of the Agency's employees against the BBC in respect to any claims relative to employee status.

#### **15. Personnel**

- 15.1. The BBC agrees that it shall not during the continuance of this Contract offer to the Contractor any contract either of service or for services where the Contractor is to provide whether by itself or by any person, firm or company in which it is interested or through any person, firm or company providing a service similar to that of the Agency to the BBC, services of the type supplied under the Contract save with the consent of the Agency.
- 15.2. The BBC agrees that it shall not for a period of 3 months after termination of the Contract from whatever cause without observing the compensation procedures agreed in favour of the Agency set out in Clause 15.3:
- 15.2.1. Employ whether directly or indirectly, retain the services of, or seek or attempt to employ or retain the services of, the Contractor in relation to the supply of services similar to or capable of substitution for the services supplied to the BBC pursuant to the Contract; or
- 15.2.2. Enter into any agreement with any person, firm or agency which provides a service similar to or capable of substitution for the service provided by the Agency pursuant to this Contract under which agreement the BBC would be supplied with the services of the Contractor (or any individual supplied by the Agency or Contractor pursuant to this Contract) supplied pursuant to this Contract.
- 15.3. If at any time within 3 months after the expiry of this Contract the BBC enters into an agreement as defined in Clauses 15.1 and 15.2 then the BBC shall pay to the Agency liquidated damages calculated on a percentage of the amount of first year's Fees paid by the BBC in regard to the services of the Contractor, and depending upon the length of time the Contractor has been previously contracted to the BBC; as follows:-

less than 6 months	25%
6 - 12 months	20%
12 - 18 months	15%
18 - 24 months	10%
24 - 30 months	5%
more than 30 months	0%

- 15.4. The Agency can substitute the Contractor with one month's prior notice and the prior written agreement of the BBC which shall not be unreasonably withheld. Without limitation to the generality of the foregoing it shall be reasonable for the BBC to withhold approval if it is not satisfied that the proposed replacement has at least the, equivalent technical, communicative and consultative skills in order to fulfill the Agency's contractual obligations with regard to the Assignment and/or to accept the replacement would prejudice the Assignment. Any cost associated with such requested replacement, including time spent assessing the replacement candidate and or dead time training them will be born by the Agency.

## **16. Force Majeure**

Neither the Agency nor the BBC shall be liable for any expenses, loss or damage resulting from delay or prevention of performance carried by fires, floods, acts of God, strikes, riots, thefts, accidents or any other cause whatsoever beyond their reasonable control which may delay or prevent performance of their respective duties hereunder.

## **17. Conflict of Interest**

- 17.1. If at the time of signing this Contract, or at any time during the existence of the Contract, any actual or possible conflict of interest between the services undertaken under this Contract and any other activities of the Agency and/or the Contractor exists or may exist the Agency shall inform the BBC without delay. If it is the opinion of the BBC that there is a conflict of interest which may prejudice the BBC and which cannot be resolved or has not been resolved despite reasonable requests by the BBC then the BBC may forthwith serve notice in writing that the engagement is terminated without further notice nor payment in lieu.

- 17.2. In the event that it is a named Contractor who the BBC considers cannot continue to be engaged by the BBC then the Agency shall offer an alternative Contractor who shall, if approved by the BBC, be engaged by the BBC on these Trading Terms to carry out the Assignment.

## **18. Termination**

- 18.1. The BBC may terminate the Contract at any time on one month's prior written notice to Agency.

- 18.2. The BBC may terminate the Contract forthwith at any time by giving written notice to the Agency with no obligations to make any further payment to the Agency (other than in respect of services provided prior to receipt of the notice to terminate) if the Contractor:

18.2.1. does not attend for work on any day, unless the BBC has agreed to the absence or the Contractor is unable to attend because of illness, accident or any other cause beyond the Contractor's control;

18.2.2. fails or is unable to perform the Assignment to the reasonable satisfaction of the BBC;

18.2.3. is absent for more than fourteen consecutive days because of illness, accident or any other cause beyond the Contractor's control;

18.2.4. is guilty of any serious misconduct or criminal act;

18.2.5. neglects or fails or refuses to carry out the duties assigned to the Contractor under the Contract or shall be in material breach or non-observance of any of the conditions of the Contract or the Contractor fails to or is unable to remedy such breach forthwith (or within a reasonable time having due regard to the breach and the circumstances) upon receiving written notice from the BBC that they are required so to do.

- 18.3. The BBC agrees to inform the Agency in writing of any poor performance or non-attendance of the Contractor and to give the Agency a reasonable opportunity to remedy the Contractor's failure before giving notice of termination.

- 18.4. The BBC may terminate these Trading Terms at any time on one month's prior written notice to Agency.

- 18.5. The BBC may terminate these Trading Terms forthwith at any time by giving written notice to the

Agency with no obligations to make any further payment to the Agency (other than in respect of services provided prior to receipt of the notice to terminate) if the Agency:

- 18.5.1. is guilty of any serious misconduct or criminal act;
  - 18.5.2. shall neglect or fail or refuse to carry out the duties assigned to the Agency under these Trading Terms or shall be in material breach or non-observance of any of the conditions of these Trading Terms or the Agency fails to or is unable to remedy such breach forthwith (or within a reasonable time having due regard to the breach and the circumstances) upon receiving written notice from the BBC that they are required so to do.
  - 18.5.3. (or, where a partnership, any person being a partner of the Agency) enters into an arrangement or compounds with its creditors, commits an act of bankruptcy, has a receiving order made against it or, being a company, passes a resolution for winding up, has a receiver or manager appointed to all or any part of its assets or undertaking or has a petition for winding up issued against it.
- 18.6. The Agency may terminate the Contract immediately by giving written notice to the BBC if:
- 18.6.1. the Contractor refuses or is unable to perform the services because of accident, illness or any other cause beyond the Agency's control;
  - 18.6.2. the BBC fails to comply with all relevant health and safety legislation or requires the Contractor to work in conditions which are or with equipment which is unsafe or in any way hazardous to the Contractor or if the BBC otherwise delays, prevents or hinders proper performance of the services;
  - 18.6.3. the BBC fails to pay when due any sum payable to the Agency or payable to the Contractor;
  - 18.6.4. the BBC (or, where a partnership, any person being a partner of the BBC) enters into an arrangement or compounds with its creditors, commits an act of bankruptcy, has a receiving order made against it or, being a company, passes a resolution for winding up, has a receiver or manager appointed to all or any part of its assets or undertaking or has a petition for winding up issued against it;
  - 18.6.5. the BBC ceases for any reason to trade;
  - 18.6.6. the Contractor terminates their agreement with the Agency in breach of the terms of that agreement.
- 18.7. Upon the termination of this Contract or the Contractor's engagement whichever shall be the earlier, the Contractor and/or the Agency or their personal representative, as the case may be, shall immediately deliver up to the BBC all correspondence, reports, documents, specifications, papers, information (on whatever media) or property supplied by the BBC for the Contractor's use. The Contractor and/or the Agency shall each ensure that all information or reports relating to the Assignment stored on any computer, tape recorder or other device is expunged or destroyed and shall if requested by the BBC provide evidence that the Contractor has complied with this clause.
- 18.8. In the event that the Contract is determined by either party before the expiry of the Contract Period as set out in the Purchase Documentation the Agency shall be entitled only to payment by the BBC of duly authorised invoices rendered in respect of work already undertaken by the Contractor payable in accordance with Clause 6.
- 18.9. If the Agency or Contractor may terminate by giving written notice as provided in the Purchase Documentation either the Agency or the Contractor may terminate this Contract by giving written notice to the BBC. In this event the Agency will be entitled to receive payment of all fees due for services performed up to the date of expiry of the written notice.
- 18.10. If this Contract is terminated under paragraph 18.4 or under any of paragraphs 8.6.1 to 18.6.6, the Agency will (without prejudice to any other rights which it may have) be entitled to receive payment for any services performed up to the date of termination.

- 18.11. If this Contract is terminated under any of paragraphs 18.6.2 to 18.6.5, the Agency will (without prejudice to any other rights which it may have) also be entitled to payment of a sum equivalent to the fees which would otherwise have been payable by the BBC during the minimum period of notice specified in the Purchase Documentation or (where termination on notice is not provided for) during the period until the Expiry Date specified in the Purchase Documentation.

## 19. General

- 19.1. Unless and until specified in writing pursuant to the Contract by an authorised official of either party, any notice required to be given pursuant to the Contract shall be in writing and sent either by hand, by prepaid recorded delivery or registered post or by prepaid first class post, or by fax confirmed by first class post, or by e-mail which has been received, as evidenced by receipt by the sender of a read receipt, to the BBC department placing the order or the Agency at the address as specified in the Purchase Documentation, and any such notice shall be deemed to have been received by the addressee at the time of delivery or in the case of prepaid first class post, two days after posting.
- 19.2. Neither the Agency nor the Contractor shall assign or sub-contract any of its rights or obligations under the Contract to any third party.
- 19.3. The failure of either party to exercise or enforce any right conferred upon it by the Contract shall not be deemed to be a waiver of any such right or operate so as to bar the exercise or enforcement thereof at any time(s) thereafter, as a waiver of another or constitute a continuing waiver.
- 19.4. Nothing in the Contract shall be deemed to constitute either party as the agent of the other or create a partnership or joint venture between the parties and neither the Agency nor the Contractor shall have no power to bind the BBC or to contract in the name of or create a liability against the BBC in any matter whatsoever.
- 19.5. Any amendment or variation to the Contract shall only be made by prior written agreement between the parties.
- 19.6. The unenforceability of any single provision of the Contract shall not affect any other provision thereof. Where such a provision is held to be unenforceable, the parties shall use their best endeavours to negotiate and agree upon an enforceable provision which achieves to the greatest extent possible the economic, legal and commercial objectives of the unenforceable provision.
- 19.7. The headings to the clauses and sections of these terms of trade are for ease of reference only and shall not affect the interpretation or construction of the Contract.
- 19.8. Without prejudice to the rights of either party in respect of actions relating to fraudulent misrepresentation, the Contract and any appendices and any documents referred to therein constitutes the entire understanding between the parties with respect to the subject matter thereof and supersedes all prior agreements, negotiations and discussions between the parties relating thereto.
- 19.9. This Contract does not create or infer any rights under the Contracts (Rights of Third Parties) Act 1999 which are enforceable by any person who is not a party to the Contract.
- 19.10. This Contract shall be governed in accordance with English Law. It is irrevocably agreed for the exclusive benefit of the BBC that the courts of England are to have jurisdiction to settle any disputes which may arise out of or in connection with this Contract and that accordingly any suit, action or proceeding arising out of or in connection with this Contract (in this clause referred to as "Proceedings") may be brought in such courts. Nothing in this clause shall limit the right of the BBC to take Proceedings against the Agency in any other court of competent jurisdiction, nor shall the taking of Proceedings in one or more jurisdictions preclude the taking by the BBC of Proceedings in any other jurisdiction, whether concurrently or not.

## SCHEDULE 1

### CONFIDENTIALITY AGREEMENT

THIS AGREEMENT is made the \_\_\_\_\_ of \_\_\_\_\_ 200

BETWEEN

1. British Broadcasting Corporation, situated at Broadcasting House, Portland Place, London, W1A 1AA (the "BBC"); and
2. \_\_\_\_\_  
(the "Contractor")

WHEREAS

- (A) The BBC and the [ \_\_\_\_\_ ] (the "Agency") have entered into a Contract dated the \_\_\_\_\_ day of \_\_\_\_\_ 200[ ] (the "Contract") under which the Agency provides to the BBC the services of the Contractor.
- (B) The Contractor recognise that information (whether oral, written or otherwise recorded) relating to the business and affairs (including programmes) of the BBC may have been and/or may be disclosed or accessible to the Contractor under or in the course of the Contract. The BBC wishes to protect such information in the manner hereinafter set out.

NOW IT IS HEREBY AGREED AS FOLLOWS:

- 20.** In consideration of the BBC permitting access to the Contractor to BBC premises the Contractor undertakes to the BBC that it shall keep secret and confidential and shall not at any time unless required by law:-
  - 20.1. disclose to any person or persons without the prior written consent of the BBC; or
  - 20.2. use for its own or any other purpose copy, adapt or alter; or
  - 20.3. through any failure to exercise all due care and diligence cause
  - 20.4. any unauthorised disclosure ofany information or data whether oral, written or otherwise recorded, of a confidential nature relating to the business, affairs, programmes, plans or operations of the BBC which is disclosed to the Contractor or otherwise comes into its possession or to its attention.
- 21.** The undertakings set out in Clause 20 shall not apply to any information which:-
  - 21.1. it is in the public domain otherwise than through an act or omission of the Contractor; or
  - 21.2. it was already known to the Contractor at the time of disclosure otherwise than by an unauthorised disclosure by a third party; or
  - 21.3. disclosure is required by law, order of court, the requirements of any regulatory authority or taxation authority or the rules of any stock exchange, provided that in such cases the Contractor shall give the BBC reasonable notice prior to such disclosure and shall comply with any applicable protective order or equivalent; or
  - 21.4. the Contractor has the prior written consent of the BBC to do so.
- 22.** The undertakings set out herein shall remain in full force and effect throughout the duration of the Contract and shall continue for a period of 5 years thereafter unless and until terminated by mutual consent of the parties hereto.
- 23.** The Contractor undertakes to indemnify and keep the BBC at all times fully indemnified from and against any

loss or disclosure of information referred to in this Agreement and from all actions proceedings claims demands costs (including without prejudice to the generality of this provision the legal costs of the BBC on a solicitor and own client basis) awards and damages however arising directly or indirectly as a result of any breach or non-performance by the Contractor of any of the Contractor's undertakings or obligations under this Agreement.

24. Failure by the BBC to enforce any of its rights under this Agreement shall not be taken as or deemed to be a waiver of such.
25. No waiver or amendment of any provisions of this Agreement shall be valid or binding against any party unless the waiver or amendment is made in writing and signed by the party or its duly appointed representative.
26. This Agreement shall be governed by and construed and interpreted in accordance with English Law and the parties hereby submit to the non-exclusive jurisdiction of the English courts.

IN WITNESS whereof this Agreement has been duly entered into the day and year first above written.

SIGNED BY

.....  
on behalf of  
THE BRITISH BROADCASTING CORPORATION

.....  
SIGNED BY THE CONTRACTOR