



FRP Transition
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THIS AGREEMENT dated _____ is made BETWEEN:

- (1) **FRP Transition**, a trading division of **FRP Advisory LLP** of 10 Furnival Street, London, EC4A 1YH ("**Transition**") and
- (2) [_____] **Limited** of [•] (the "**Company**").

1. Definitions

In this Agreement, the following words and phrases have the following meanings:

"Agreement" means this written agreement including Schedule 1;

"Assignment" means the supply by Transition of the Services to the Client;

"Associated Company" of either party, means the holding and subsidiary companies of that party and any subsidiary companies of that party's holding companies, such terms having the meanings ascribed by section 1159 of the Companies Act 2006;

"Client" means the company to whom Transition is providing the Services;

"Client Invoice" means the invoice and/or charges by Transition to the Client in respect of Services including disbursements (where applicable) and VAT;

"Confidential Information" means all information whether recorded or not (and, if recorded, in whatever form, in whatever media and by whomever recorded) which is a trade secret or confidential or private or information that is not generally known or easily accessible to the public (either as an individual item of information or as part of a body of knowledge) including the information set out or referred to in clause 7.3;

"Daily Rate" means the daily rate payable by Transition to the Company for the provision of Services as set out in Schedule 1 or as agreed in writing by the parties from time to time;

"Liabilities" means all losses costs claims demands damages awards liabilities and expenses and including where incurred all legal and other professional costs and charges;

"Materials" means any work or material developed, written or prepared by the Company or the Representative in relation to the Services (whether individually, collectively or jointly with Transition and/or the Client and on whatever media) including (without limitation) any documents, reports, studies, data, diagrams, spread sheets, accounts memoranda, charts, specifications or computer programs and related copies and working papers whether developed, written or prepared before or after the signing of this Agreement.

"Representative" means the individual named in Schedule 1 to this Agreement;

"Services" means the independent management services to be provided by the Company to the Client pursuant to this Agreement;

"Substitute" means a substitute for the Representative appointed under clause 2.5.2.

2. Services

- 2.1 Transition engages the Company to provide the Services and the Company shall make available to Transition and/or the Client (as directed by Transition) the Representative in accordance with the terms of this Agreement.
- 2.2 The Company shall provide the Services from the date notified in writing to the Company by Transition until the Assignment is terminated in accordance with the provisions of this Agreement. The estimated duration of the Assignment is set out in Schedule 1.
- 2.3 The Company shall procure that the Representative shall:
- 2.3.1 provide the Services with all reasonable care and skill, efficiently and in a lawful, proper and timely manner;
 - 2.3.2 unless the Representative is prevented by ill health or accident, devote such time to the services as may be necessary for their proper performance; and
 - 2.3.3 promptly give to Transition all such information and reports as it may require in connection with matters relating to the provision of the Services.
- 2.4 For the purpose of providing the Services, the Company shall procure that the Representative makes himself available to Transition and/or the Client at the reasonable request of Transition and upon reasonable notice, for the purposes of consultation and giving advice, attend such meetings with representatives of the Client and third parties as Transition may reasonably request from time to time and make such visits as Transition may reasonably request from time to time.
- 2.5 The Company shall:
- 2.5.1 keep such records of the Services as Transition may reasonably require;
 - 2.5.2 ensure that the Services are provided by the Representative or, if the Representative is unavailable, a Substitute as agreed in advance by the parties in writing;
 - 2.5.3 provide to Transition within two days of each fortnightly billing period an Invoice together with details of the days and hours which the Representative has worked in that preceding fortnight ("**Time Records**"), such Time Records to have been submitted to the Client for approval prior to submitting them to Transition and so approved (or deemed approved where no objection has been raised within two working days of the Company having so submitted them).
- 2.6 The Company confirms that the Representative has been made aware of the terms of this Agreement and the requirements of the Client with respect to the skills, experience, qualifications and membership of any relevant professional body of the Representative and confirms that the Representative has such knowledge and is able to fulfill those requirements.
- 2.7 The Company undertakes to procure the observance and performance by the Representative of all obligations and actions that are required in respect of the Assignment and pursuant to this Agreement.

3. Timing and Location

- 3.1 The Services shall be provided at whatever location Transition reasonably requires.
- 3.2 The Company shall ensure that, if providing the Services at Transition's or the Client's premises, the Representative will comply with all applicable policies, procedures and rules of Transition or the Client in relation to the premises or the Services.
- 3.3 The Company shall provide, and ensure that the Representative provides, the Services on such working days as Transition or the Client may reasonably require.
- 3.4 Transition will not generally make any facilities available to the Company. In the event that Transition makes any facilities available to the Company, Transition may charge the Company for the use of those facilities at the applicable charge rate of Transition or such other rate agreed in writing by the parties.

4. Fees

- 4.1 In consideration for the provision of Services by the Company pursuant to this Agreement Transition shall (subject to the terms of this Agreement) pay to the Company a fee ("**Fee**") for each complete day for which Services are provided pursuant to this Agreement at the Daily Rate.
- 4.2 For the purposes of determining any Fee due:
- 4.2.1 the Daily Rate shall only be payable in respect of a day if the Representative has provided the Services for at least 8 hours on such day;
- 4.2.2 if the Representative has provided the Services for more than 2 hours but fewer than 8 hours on any day the Daily Rate will be pro-rated by reference to the time for which Services have been provided;
- 4.2.3 if the Representative has provided the Services for more than 8 hours on any day, no more than the Daily Rate shall be paid for such day, unless Transition and the Company agree otherwise in writing; and
- 4.2.4 if the Representative provides the Services for fewer than 2 hours on any day, no Daily Rate or Fee shall be payable, unless Transition and the Company agree otherwise in writing.
- 4.3 All Fees stated are exclusive of Value Added Tax which will be charged by the Company to Transition at the rate prevailing from time to time and will be paid subject to receipt by Transition of an appropriate VAT invoice from the Company to Transition ("**Invoice**").
- 4.4 All Fees shall be invoiced fortnightly by the Company to Transition in arrears. Each Invoice must be accompanied by a description of the Services provided, Time Records and such other information as Transition may reasonably require from time to time.
- 4.5 Transition agrees to pay any Fees due and invoiced by the Company (by electronic bank transfer to the bank account of the Company) 35 calendar days after date of the Invoice subject to:
- 4.5.1 receipt of the Invoice in respect of the Services and the Fees in question being approved by Transition and complying with the requirements of this Agreement;
- 4.5.2 receipt by Transition of Time Records in accordance with Clause 2.5.3; and
- 4.5.3 receipt by Transition (in cleared funds) of payment from the Client of the Client Invoice in respect of the Services which are the subject of the Invoice.

5. Expenses and other matters

- 5.1 The Company will be responsible for all and any expenses incurred by the Representative relating to the Services. To the extent that the Company seeks any reimbursement for such expenses, the Company is required to agree arrangements in respect of these expenses directly with the Client.
- 5.2 If the Representative is required to travel abroad during the course of the Assignment, the Company shall be responsible for any related insurances, inoculations and immigration requirements.

6. Services not provided in accordance with this Agreement

- 6.1 If the Company fails to provide the Services (or any part of them) in accordance with this Agreement, Transition may (at its sole discretion and without prejudice to any other remedies it may have):
- 6.1.1 decline and/or refuse to pay any Fees in respect of such Services; or
- 6.1.2 require the Company to remedy matters (including breaches of obligation or defects in the Services) ("**Matters**") at its own expense.
- 6.2 If Transition requires the Company to remedy Matters, then (without prejudice to any other rights or remedies it may have):

- 6.2.1 no Fees shall be payable by Transition in respect of the Services in question until the Matters have been remedied; and
- 6.2.2 any Fees due shall not exceed the Fee that would have been payable had the Services in question been provided initially in accordance with the requirements of the Assignment and this Agreement.

7. Confidentiality

- 7.1 During the Assignment and after its termination, the Company shall not and shall procure that the Representative shall not unless required to do so by law or by any Court or tribunal of competent jurisdiction:
 - 7.1.1 use any of Transition's or any Associated Company's or the Client's Confidential Information for any purposes other than properly in relation to the business of Transition or any Associated Company or the Client as the case may be; or
 - 7.1.2 disclose any of Transition's or any Associated Company's or the Client's Confidential Information to any other person.
- 7.2 The Company shall ensure that it and the Representative keeps all Confidential Information which the Company and/or the Representative obtains or otherwise receives in connection with the Services (whether the property of Transition, any Associated Company or the Client) safely and effectively protected against improper disclosure or use. The Company shall also use its best endeavours to prevent improper disclosure or use of such Confidential Information by third parties.
- 7.3 The Confidential Information of Transition and its Associated Companies and the Client shall include in respect of Transition any Associated Company and the Client:
 - 7.3.1 lists of actual or potential customers or clients and details of relationships or arrangements with or knowledge of the requirements of the actual or potential customers or clients;
 - 7.3.2 details of business methods, finances, fees or charging strategy, marketing or development plans or strategies;
 - 7.3.3 details of any tenders, pitches or presentations proposed or made;
 - 7.3.4 personal information about directors or employees;
 - 7.3.5 information divulged by a third party in confidence; and
 - 7.3.6 any information reasonably considered to be confidential.
- 7.4 The Company shall not and shall procure that the Representative shall not in any circumstances deal with any shares or securities of the Client (or any Group Undertaking or any Associated Company of the Client) without the prior written permission of the Client.
- 7.5 The Company shall not and shall procure that the Representative shall not advise or otherwise influence any other party or parties to deal in the shares and/or securities of the Client (or any Associated Company of the Client) or any customer of the Client or any Associated Company for that customer if the Representative has gained information (whether deliberately or accidentally) which could be described as "insider information" (or similar).
- 7.6 The Company shall if required by Transition procure that the Representative enters into a direct confidentiality agreement with Transition and/or the Client in the terms set out in this Clause 7 or as reasonably required by the Client.
- 7.7 For the avoidance of doubt, the provisions and obligations set out in this clause shall survive and remain in force upon and following the termination of the Assignment.

8. Liability and Insurance

- 8.1 The Company shall indemnify Transition and keep it indemnified against any Liabilities, (including without limitation those arising from a claim by the Client) which Transition incurs as a result of, or related to (a) breaches of the Company's obligations under this Agreement (b) any negligence or default of the Company and/or Representative and/or Substitute or (c) any act or omission of the Company and/or Representative and/or Substitute in relation to the Assignment.
- 8.2 The Company shall maintain professional indemnity insurance approved in writing by Transition to cover the Services provided by the Company and/or Representative under this Agreement.
- 8.3 The Company warrants that it has notified its insurers of:
- 8.3.1 its obligations under this Agreement; and
 - 8.3.2 of Transition's interest before entering into this Agreement (and that it will repeat these notifications every time it reviews its insurance); and
 - 8.3.3 of any possible claim on such policy.
- 8.4 As and when it is required to do so by Transition, the Company shall produce evidence to show that its insurance obligations under this Agreement have been met.

9. Data Protection

- 9.1 The Company accepts that Transition and/or the Client may need to process personal data about the Representative and the Company shall ensure that the Representative consents to Transition and/or the Client processing such data for any reasonable purpose in connection with this Agreement. If the Company (or the Representative) requires further information about the processing carried out by Transition he/she should contact Transition's HR department. If the Company (or the Representative) requires further information about the processing carried out by the Client he/she should contact the Client's HR department.
- 9.2 As a result of this Agreement, the Company and/or the Representative may have access to personal data about employees, and directors of Transition or its customers or clients. The Company shall and shall procure that the Representative will keep all such data secure and protected against improper disclosure or use. If asked to obtain, use or otherwise process any such data, the Company shall:
- 9.2.1 act only on instructions from an authorised officer of Transition or as set out in this Agreement; and
 - 9.2.2 take all appropriate technical and organisational measures against unauthorised or unlawful processing of such data and against accidental loss or destruction of, or damage to, such data.

10. Intellectual property and proprietary rights

- 10.1 The Company shall upon request by Transition enter into a direct agreement with the Client in respect of the ownership of intellectual property and proprietary rights pursuant to the terms of this Agreement.
- 10.2 The Company shall upon request by Transition procure that the Representative enters into a direct agreement with Transition and/or the Client in respect of the ownership of intellectual property and proprietary rights pursuant to the terms of this Agreement.

11. Discrimination and dignity at work

The Company shall procure that the Representative will treat all employees, agents, contractors and customers (and their respective employees) of the Client with respect and irrespective of their age, sex, marital status, sexuality, religion, religious belief, colour, race, ethnic or national origin or any disability which they may have and must not bully, harass or otherwise unlawfully discriminate against any such persons.

12. Conflicting activities

12.1 During the period of this Agreement the Company shall not, and shall procure that the Representative shall not, undertake any activities which in the reasonable opinion of Transition conflict with the Services and the Company shall immediately disclose any conflict of interest to Transition arising from the provision of the Services.

13. Termination

13.1 Transition may terminate the Assignment at any time by giving to the Company not less than 1 week's notice in the first month and 4 weeks thereafter in writing.

13.2 The Company may terminate the Assignment at any time by giving to Transition not less than 1 weeks notice in the first month and 4 weeks thereafter notice in writing.

13.3 The Assignment shall automatically terminate immediately in the event that:

13.3.1 any of Transition, the Client or the Company, passes a resolution or has an order made for its winding-up other than for the purpose of reconstruction or amalgamation; or

13.3.2 a receiver or administrative receiver is appointed over all or any of the property or assets of any of Transition, the Client or the Company; or

13.3.3 an application is made for the appointment of an administrator (as defined in the Insolvency Act 1986) of any of Transition, the Client or the Company; or

13.3.4 any of Transition, the Client, the Company or the Representative becomes unable to pay its debts within the meaning of Section 123(2) of the Insolvency Act 1986.

13.4 Transition may terminate the Assignment immediately by giving written notice to the Company having immediate effect if:

13.4.1 the Company is in material or repeated breach of this Agreement; or

13.4.2 the Company is unable or fails to provide the Services for a continuous period of 10 working days or for an aggregate period of 20 working days month in any 6 month period;

13.4.3 the Client fails to satisfy any of its obligations to Transition (including without limitation, timely payment of fees owed to Transition) and Transition terminates its agreement in respect of the provision of Services with the Client.

13.5 Upon termination of the Assignment the Company shall and shall procure that the Representative shall:

13.5.1 provide such cooperation and information as Transition may reasonably request in connection with the termination and any consequences, including cooperating in a smooth handover of any work;

13.5.2 return immediately to Transition all items of Transition's information and property which the Company or the Representative has in its/his/her possession or under its/his/her control in connection with the Assignment including any confidential information in such format and on such medium as Transition may reasonably require (and including without limitation any security pass, disks, tapes, documents or copies of documents);

- 13.5.3 return immediately to the Client all items of the Client's property which the Company or the Representative has in its/his/her possession or under its/his/her control in connection with the Assignment including any confidential information in such format and on such medium as the Client may reasonably require (and including without limitation any security pass, disks, tapes, documents or copies of documents); and
 - 13.5.4 delete any documents or information belonging to Transition or the Client from any personal computer that the Representative or Company may have (unless returning that personal computer to Transition or the Client) without retaining copies in any format.
- 13.6 For the avoidance of doubt, the termination of the Assignment (however arising) will not affect:
- 13.6.1 any rights or obligations which have accrued up to the date of termination; or
 - 13.6.2 any rights or obligations which expressly or impliedly survive the termination of the Assignment.

14. Status

- 14.1 Neither the Company nor the Representative (or any Substitute) are agency workers (as defined under clause 3(1) of the Agency Worker Regulations 2010), agents, employees, workers or partners of Transition and (unless otherwise agreed in writing) and have no right to make contracts or enter into any engagements on Transition's behalf.
- 14.2 The Company and Transition agree that the Agency Worker Regulations 2010 do not apply to the Representative or any Substitute.
- 14.3 This Agreement constitutes a contract for the provision of services and not a contract of employment and accordingly the Company shall be fully responsible for and shall indemnify Transition, and keep Transition indemnified, for and in respect of:
 - 14.2.1 any income tax, national insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with either the performance of the Services or any payment or benefit received by the Representative or Company in respect of the Services, where such recovery is not prohibited by law. The Company shall further indemnify Transition against all reasonable costs, expenses and any penalty, fine or interest incurred or payable by Transition in connection with or in consequence of any such liability, deduction, contribution, assessment or claim; and
 - 14.2.2 any liability arising from any employment-related claim or any claim based on worker status (including reasonable costs and expenses) brought by the Representative or any Substitute against Transition arising out of or in connection with the provision of the Services; and
 - 14.2.3 any liability (including reasonable costs and expenses) arising from any claim brought by the Representative or any Substitute against Transition under the Agency Workers Regulations 2010 arising out of or in connection with the provision of the Services.
- 14.4 Transition may at its option satisfy such indemnity (in whole or in part) by way of deduction from payments due to the Company.
- 14.5 The Company warrants that it is not nor will it prior to the cessation of this Agreement, become a Managed Service Company, within the meaning of section 61B, Income Tax (Earnings and Pensions) Act 2003.

15. Conduct of Employment Agencies and Employment Businesses Regulations 2003

- 15.1 The Company has advised Transition that the Representative has opted out of the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (the "**Regulations**") and agrees that the Regulations will have no effect on the terms of this Agreement or on the provision of the Services.

15.2 The Company shall procure that the Representative completes and signs the opt-out agreement in the form set out at Schedule 2 to this Agreement and shall provide a copy of the same to Transition upon execution of this Agreement.

16. Contracts (Rights of Third Parties) Act 1999

A person who is not a party to this Agreement has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of this Agreement.

17. Miscellaneous

17.1 Nothing in this Agreement shall constitute or create or be deemed to constitute or create a partnership or the relationship or principal and agent or of employer and employee between Transition, the Company and/or the Representative.

17.2 The failure of either party to enforce or to exercise at any time or for any period of time any term of, or any right pursuant to, this Agreement does not constitute and shall not be construed as a waiver of such term or right and shall in no way affect that party's right later to enforce or exercise it.

17.3 The Company confirms that it is not entering into this Agreement in reliance upon any oral or written representations made to the Company by or on behalf of Transition.

17.4 The Company may not assign or otherwise transfer in whole or in part any of its rights, nor sub-contract any of the Agreement or obligations under the Agreement without the prior written consent of Transition.

17.5 The Company and Transition acknowledge and accept that this Agreement shall be construed and interpreted in accordance with the laws of England and Wales and the parties hereby submit to the non-exclusive jurisdiction of the English and Welsh courts.

17.6 This Agreement including the attached Schedule 1, the terms of which supersede any conflicting terms in the body of this Agreement, contains the whole Agreement between the parties relating to the engagement of the Company and supersedes all previous agreements between the parties relating to the engagement. Any amendment to or variation of the terms and conditions of this Agreement will not be effective unless confirmed in writing and signed by both parties.

SIGNED on behalf of **FRP Transition**, a trading division of **FRP Advisory LLP**

By

Dated:

SIGNED on behalf of the **Company**

By

Dated:

SCHEDULE 1

- CLIENT NAME:
- CLIENT ADDRESS:
- REPRESENTATIVE:
- DESCRIPTION OF SERVICES:
- ESTIMATED DURATION OF ASSIGNMENT:
- LOCATION: At discretion of Transition
- DAILY RATE: [•] per working day (plus VAT) and expenses

[Insert any exclusions or additions to contract]

SCHEDULE 2

**Opt out of the
Conduct of Employment Agencies and Employment Business Regulations 2003**

To
FRP Transition, a trading division of FRP Advisory LLP,

[] **Limited** of [●] (the "**Company**") (1) and

[**Insert name of Representative**] of [**Address of Representative**]

Agree as follows:

1. The Company and the Representative agree, in accordance with regulation 32(9) of the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (the "Regulations"), that the provisions of the Regulations shall not apply to them.

2. The Company and the Representative hereby give notice of the existence of this Agreement to FRP Transition, a trading division of FRP Advisory LLP.

SIGNED on behalf of **the Company**

By []

Director

Dated:

SIGNED on behalf of the **Representative**

By

Dated: