

Lynda Astell
Vice Principal (Finance, Estates & Information Services)
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17 June 2014

Dear Sirs

We are pleased to set out for your approval the arrangements under which Deloitte LLP (“**Deloitte**”) will provide Coleg Gwent (the “**Client**”) with outsourced internal audit services (the “**Services**”). These arrangements are set out in this letter together with the enclosed Terms of Business.

So that we are able to assist you effectively, please ensure that you have considered fully all of the terms and conditions set out in this letter and its enclosures and that you are satisfied that the description of our services below meets your needs.

1 Scope and Objectives

We understand that you wish to appoint us as your internal auditors (your “**Objective**”).

You have asked us to provide the Services set out in Section 2 below and to prepare the reports described in Section 2(d) for your internal use for the purposes of internal audit provision (the “**Purpose**”).

For the purposes of this contract and any Scope Document all references in this Contract to “**Client**” or “**You**” shall be construed as referring to Coleg Gwent.

2 Our Services and Responsibilities

a) Our Engagement Team

Ian Howse will be the partner with overall responsibility for the services we provide to you.

Katherine Rankin will be the Senior Manager responsible and will establish appropriate working relationships with your team involved with the services we provide to you.

Together they comprise the “**Engagement Team**”.

b) Services

We will provide the following Services:

- We will provide internal audit services in accordance with the Public Sector Internal Audit Standards (the “Standards”).
- We will work with you to develop an audit plan for consideration and approval by your Audit Committee. Your Audit Committee will satisfy itself that the plan covers the specific risks of your business, as part of their approval process.
- We will carry out the audit work included in the plan, reporting our findings, conclusions and recommendations in relation to each assignment. Prior to the commencement of each audit assignment, we will agree the scope and objectives with you, and record this in a Terms of Reference document, for circulation to your team. We will seek to circulate the Terms of Reference document at least 5 working days prior to the commencement of the assignment.
- We will attend meetings with the Audit Committee as requested and for each meeting provide a report detailing the work we have undertaken.
- We will liaise with your external auditors as directed by you, and anticipate a regular exchange of information in relation to work completed. If requested by you, we will provide them with copies of audit assignment and summary reports on a hold harmless basis.
- We will provide the Welsh Government Provider Audit and Governance Service access to our working papers and deliverables once approved by you on a hold harmless basis.

The scope of our services and any deliverables will be limited to carrying out internal audit assignments in accordance with the plan approved by the Audit Committee. We will only cover the scope of work approved by the Audit Committee and will not provide assurance over or accept responsibility for areas not included in the plan unless additional areas are specifically agreed with the Audit Committee during the year.

You may desire that we perform additional services different from, or in addition to, the internal audit services (“**Additional Services**”). We will provide you such Additional Services as you may reasonably request, upon such terms and conditions (including compensation terms) as are mutually agreed between us. Such terms and conditions must be documented in writing and signed by both parties. In no event shall we be obligated to perform any Additional Services that would cause us to be in conflict with any law, rule or regulation, or any internal Deloitte policy of which Deloitte informs you in writing.

c) Our Responsibilities

We will conduct appropriate tests of key controls within our scope. Our findings will only relate to the period of testing undertaken during our review and cannot be relied upon to be representative of the operation of control procedures prior to or after this period.

There are inherent limitations in any internal control system and thus errors or irregularities may occur and not be detected in our work. Unless specifically requested and agreed we will not perform substantive testing of underlying transactions. You acknowledge that we will not audit or otherwise test or verify the information given to us in the course of the Services.

It is our responsibility as internal auditors, when carrying out our work, to provide your management with comments and to report breakdowns, failures or weaknesses of internal control systems together with recommendations for remedial action.

We, as your internal auditors, cannot absolve management of responsibility for internal controls and must ensure that we are not involved in the operation of controls or making management decisions as such activities may compromise our objectivity.

The scope of our Services and our responsibilities will not involve us in performing the work necessary for the purpose of providing, neither shall we provide, any assurance on the reliability, proper compilation or clerical accuracy of any plan, budget, projection or forecast (“prospective financial information”) nor the reasonableness of the underlying assumptions. Since any prospective financial information relates to the future, it may be affected by unforeseen events. Actual results are likely to be different from those projected because events and circumstances frequently do not occur as expected, and those differences may be material.

The realisation of the projected results shown in any prospective financial information depends in part upon the effectiveness of management’s actions in its implementation and execution of the underlying business plans. We can give no assurance as to whether or how closely the actual results ultimately achieved will correspond to those planned, budgeted, projected or forecast. Any views we may express as to the basis for any prospective financial information or possible future outcomes will be made in good faith on the basis of the information available to us at the time but will not constitute a representation, undertaking or warranty of any kind.

In providing internal audit services we are not conducting a financial statement audit in accordance with standards and guidance issued by the Auditing Practices Board and our procedures are not designed to provide assurance over the reliability and quality of your financial statements and management information.

You acknowledge that Deloitte will not perform any record keeping functions on your behalf, including, without limitation, making original entries in your accounting system; provided, however, that the foregoing shall not prohibit Deloitte from performing bookkeeping services for you if you are not subject to SEC independence rules.

Deloitte will not perform management functions in connection with these services. We both acknowledge that in performing internal audit services, Deloitte cannot act in the role of management or as an employee of yours, or be identified as such. Deloitte personnel (i) shall not be included in your company directories as employees or in other publications as employees, (ii) shall not be referred to as your ‘manager’ or ‘director’ of internal audit services or other

management title, and (iii) shall not use your letterhead or internal correspondence forms in communications.

Whilst we will assist you in documenting and or testing your internal controls over financial reporting (including, where requested, providing examples of ways in which controls could be improved where we consider them relevant) we cannot make the controls assessments or reach conclusions on your behalf. Accordingly, you agree that you are responsible for the selection of an appropriate controls framework and for evaluating the effectiveness both of design and operation of the controls identified against the control objectives within that framework.

Please also refer to section 2 of the attached Terms of Business for a description of our responsibilities

d) Format and Use of the Deloitte Deliverables

Upon completion of our work, the deliverables we are to provide to you as part of the Services (the “**Deliverables**”) will comprise a brief report, which will include the following sections:

- Report circulation;
- Executive summary;
- Conclusions;
- Detailed findings;
- Suggest action plans; and
- Audit scope.

We will agree timescales for completion of debrief meetings, issue of draft and final reports with you.

On an annual basis, we will provide an annual report which will include a summary of our work and conclusions. We will agree performance indicators of our service with you and we will provide a self-assessment of our performance against these indicators as part of our annual report

Notwithstanding that any such Deliverable and/or information derived from you may be shown to or used by the Department for Education and Skills (“DfES”), as part of the Welsh Government, we neither owe nor accept any duty of care to the Welsh Government nor to any third party unless otherwise expressly specified in the Scope Document. You shall procure that no one other than the Client brings any claim against us in connection with this Contract or any Scope Document.

We draw your attention to Clause 5 of the enclosed Terms of Business that sets out the conditions under which the Deliverables will be provided to you.

3 Your Responsibilities and Assignment Assumptions

a) Your Responsibilities

It is your responsibility to satisfy yourself that the internal audit plan is appropriate for your purposes, covers your key risks and to approve it. It is our responsibility as internal auditors to complete the agreed work plans assigned to us.

You acknowledge that you are responsible for establishing and maintaining an effective internal control system that reduces the likelihood that errors or irregularities will occur and remain undetected; however, it does not eliminate that possibility. Nothing in our work guarantees that errors or irregularities will not occur, nor are our procedures designed to detect any such errors or irregularities should they occur in the future.

It is your responsibility to define and establish a control framework including an appropriate control environment and a system of internal controls to provide reasonable but not absolute assurance that:

- business activities are conducted in a controlled and efficient manner;
- legal and regulatory requirements and management instructions and implied intentions are complied with;
- decisions are made, by those authorised, based on adequate and sound information;
- the integrity of financial and other information is maintained;
- assets are safeguarded; and
- economy, efficiency, effectiveness and quality of all operations are promoted.

Internal audit work is primarily designed to evaluate the design of controls and to identify breakdowns in those controls which arise out of the accidental or negligent mistakes of your employees. However, our procedures are unlikely to detect fraudulent or dishonest acts, misappropriation, forgery or other acts designed to harm the organisation, its property or employees (which we shall term “fraud”) as such acts are often accompanied by acts designed to conceal their existence.

We cannot therefore assure you that our procedures will detect fraud, although in planning our work we shall have regard to the possibility of such actions. If we do detect fraud we will promptly inform the appropriate level of management. However, the prevention and detection of fraud is your responsibility and you agree to require your staff through written procedures to notify us if they have discovered or suspect fraud.

Whilst we will not normally ask for a formal letter of representation, in signing this letter you undertake to provide us with full access to all records, documentation and information necessary to fulfil our role. We are entitled to assume and take all documents provided to us as genuine.

The responsibilities set out above and those contained in clause 3 of the Terms of Business are together referred to in this Contract as “**Your Responsibilities**” and confirm your responsibility for the provision of information and decision-making in connection with the Services we are to provide.

You acknowledge and agree that our performance of the Services is dependent on the timely and effective completion of your own activities and responsibilities in connection with this engagement, as well as timely decisions and approvals by you.

b) Assumptions

The Services, Charges (as set out in Section 4 below), fee estimate and timetable are based upon the following assumptions, representations and information supplied by you, together with any

additional assumptions, representations and information set out in any Scope Document (“Assumptions”).

- You will ensure that all available documentation is made available to us prior to the commencement of the work.
- You will ensure that all relevant staff are available as agreed for each assignment.

c) Client Contacts

We understand that Lynda Astell, Vice Principal (Finance, Estates & Information Services) will be your nominated point of contact throughout the provision of the Services.

4 Our Charges

Our charges for the Services will be based upon a fee of £XXX (based on last year’s fee of £371 per day uplifted for RPI of XXX% at August 2014) [To confirm when RPI at 1 August 2014 available] per day for the internal audit for the year ended 31 July 2015. This fee excludes VAT but includes out of pocket expenses relating to travel to your college sites in South Wales.

This fee estimate is based on your fulfilling your Responsibilities and the accuracy of the stated Assumptions in this Contract.

The Standard Daily Rate comprises 7.5 hours for internal audit personnel. The Standard Rate will increase on 1 August each year by a percentage equivalent to the previous year’s annual growth in the headline Retail Prices Index.

We will invoice you at the end of each month for the work undertaken during that month, and for any associated expenses.

For the purposes of determining what constitutes man days payable by you for work delivered in the UK, it is agreed that any time involved in travelling to or from or between your locations will qualify for inclusion in the calculation of man days, except that travelling time incurred prior to 9:00am or after 5:00pm up to a maximum of two hours in any one day will not so qualify. For work delivered outside the UK, man days payable will be calculated on an agreed assignment basis.

If during the course of our work, a need for ancillary specialist services not specified in this Contract is identified, agreement to their use and related charges will be obtained before any expenditure is incurred.

Where an assignment is agreed by Deloitte and yourself to require a high level of senior Deloitte personnel, the number of days agreed in the relevant planning document to be charged for that assignment may be adjusted from the actual man days expected to be incurred to reflect this different leverage. This may be agreed from time to time by both parties.

To the extent you or your personnel do not perform your Responsibilities, we will have the option of performing those services for you, and you agree to pay us an additional amount for such service based upon a time and materials calculation at our standard hourly rates set out above plus out-of-pocket expenses and applicable value added tax.

5 Terms of Business and Liability Provisions

The enclosed Terms of Business form an integral part of the Contract between us and your attention is drawn to them.

You agree that for the purpose of clause 6 of these Terms of Business, our aggregate liability arising from or in anyway in connection with the Services shall not exceed £500,000.

Acknowledgement and Acceptance

We appreciate the opportunity to be of service to you and look forward to working with you on this assignment. You can be assured that it will receive our close attention.

If, having considered the provisions of this Contract you conclude that they are reasonable in the context of all the factors relating to our Services and our proposed appointment and you wish to engage us on these terms, please let us have your written agreement to these arrangements by signing and returning to us the enclosed copy of this letter.

Yours faithfully

Deloitte LLP

Coleg Gwent agrees to the appointment of Deloitte LLP on and subject to the terms of the Contract set out in this Engagement Letter and its enclosures.

Signed: _____

Duly authorised for and on behalf of Coleg Gwent

Printed Name: _____

Position: _____

Date: _____

Enclosures: Deloitte LLP Terms of Business, Consulting and Advisory Services

**DELOITTE LLP
TERMS OF BUSINESS**

Consulting and Advisory Services

1 THE CONTRACT BETWEEN US

1.1 The whole of the contract between you (the “Client”, or “you”) and the UK limited liability partnership of Deloitte LLP (“Deloitte” or “we”) is described in the covering engagement letter, proposal and/or statement of work and any appendices and enclosures thereto other than these Terms of Business (“Engagement Letter”), and these Terms of Business, (together the “Contract”). Nothing we discussed prior to your signature of the Engagement Letter induced, nor forms part of, the Contract (including but not limited to any confidentiality agreements which, if any, you agree are terminated hereby) unless it is specifically set out in this Contract. No-one is authorised to agree any variations in the Terms of Business or the Contract unless any variations are documented and agreed in writing between us.

1.2 If we have already started work (e.g. by gathering information, project planning or giving initial advice) then you agree that this Contract applies retrospectively from the start of our work.

1.3 The definitions set out in these Terms of Business, the Engagement Letter and any appendices or enclosures shall have the same meaning throughout this Contract. If there is a conflict between these Terms of Business and the Engagement Letter, these Terms of Business govern.

1.4 If any provision of this Contract is determined to be illegal, void or unenforceable in whole or in part, such provision or the affected part shall be deemed not to form part of this Contract but all other provisions together with the remainder of the affected provision shall remain in full force and effect.

1.5 Deloitte LLP is the United Kingdom member firm of Deloitte Touche Tohmatsu Limited (“DTTL”). For the purpose of this Contract, “Deloitte Parties” means all entities that are members of the DTTL worldwide network and each of their subsidiaries, predecessors, successors and assignees, and all partners, principals, members, owners, directors, employees and agents of all such entities. Deloitte LLP (which for these purposes includes reference to its subsidiaries) uses the word “partner” in respect of its members and certain of its senior employees in its dealings with you to describe, respectively, a member and senior employee of Deloitte LLP in their capacity as such. Deloitte LLP gives a number of its employees the title of “director”, which denotes that they are senior employees and not that they hold the office of director for the purposes of the Companies Act 2006.

Contracting parties and assignment

1.6 This Contract is between you and Deloitte. You agree that your relationship is solely with Deloitte as the entity contracting with you to provide the Services. Notwithstanding the fact that certain Services under the Contract may be carried out by personnel provided to Deloitte from other Deloitte Parties through service or other agreements, you agree that none of the Deloitte Parties (except Deloitte) will have any liability to you and that you will not bring any claim or proceedings of any nature (whether in contract, tort, breach of statutory duty or otherwise and including, but not limited to, a claim for negligence) in any way in respect of or in connection with this Contract against any of the Deloitte Parties (except Deloitte) or any subcontractors that we may use to provide the Services. The foregoing exclusion does not apply to any liability, claim or proceeding founded on an allegation of fraud or other liability that cannot be excluded under English law.

1.7 This Contract does not make either of us an agent or legal representative of the other, nor does it create a partnership or joint venture.

1.8 Neither of us may assign or otherwise transfer the benefit of this Contract without the prior express written consent of the other, save that we may assign the benefit of this Contract to any of the Deloitte Parties, including any successor to our business. Further, neither of us will directly nor indirectly agree to assign or transfer any claim against the other arising out of this Contract to any other person.

Third party rights

1.9 No person who is not a party to this Contract other than the Deloitte Parties and our subcontractors, if any, shall have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.

1.10 This Contract can be varied without any third party’s consent.

2 OUR SERVICES AND RESPONSIBILITIES TO YOU

2.1 The scope of our services and any Deliverables to be provided under this Contract together with our responsibilities for them (together the “Services”) are as described in the Engagement Letter. We will use all reasonable efforts to supply the Services in accordance with any timetable referred to in the Engagement Letter or otherwise specified by the parties. However, unless both parties specifically agree otherwise in writing, all dates given by Deloitte or specified by you for the supply of the Services are intended for planning and estimating purposes only and are not contractually binding.

Engagement Team

2.2 Whilst we will attempt to comply with your request for specific individuals, the appointment of all personnel to perform the Services and the nature and duration of their assignment shall be made as Deloitte considers appropriate. We will consider the skills and internal audit experience of specific individuals performing the assignments. We will endeavour to quickly address any staff performance issues raised by the client. We may at any time replace or reassign any personnel assigned by us to the Services; in such circumstances we will endeavour to give you reasonable notice.

2.3 You will be responsible for ensuring that your staff involved with this Contract have the appropriate skills and experience. If any of your staff fail to perform as required, you will provide additional or replacement staff as we may reasonably request.

Data Protection

2.4 In providing the Services to you or otherwise in connection with the Services, we may:

(i) need to collect, hold and use information (e.g. contact details) about identifiable individuals (“Data Subjects”). We may also use such information as part of our client account opening and general administration process (e.g. in order to carry out anti-money laundering, conflict and financial checks or debt recovery). Information about a Data Subject may be transferred to or accessible from DTTL or DTTL member firms’ offices around the world for these purposes or for the purposes identified in the following paragraph. Should your officers or employees enquire, please inform them that we may hold information relating to them for these purposes; and

(ii) occasionally contact a Data Subject with details of events/seminars we are holding, or we may send a Data Subject publications or newsletters, which we believe may be of interest to him or her. If a Data Subject does not wish to receive this information, please let us know by informing the partner responsible for the Services.

2.5 We reserve the right to monitor telephone calls and electronic communications between you and us for the purposes of ensuring compliance with our legal and regulatory obligations and internal policies.

2.6 In providing some of the Services to you we may be processing information about Data Subjects on your behalf and thus act as a “Data Processor” for the purposes of the Data Protection Act 1998. In these circumstances, we will (i) only process personal data in accordance with your lawful and reasonable instructions; and (ii) comply with security obligations equivalent to those imposed on you, as Data Controller, by the seventh principle of that Act.

3 YOUR RESPONSIBILITIES

3.1 You are responsible for determining that the scope of the Services is appropriate for your needs.

3.2 Our performance of the Services, the timetable, the level of our Charges and any fee estimates each depend on the accuracy and completeness of any assumptions set out in the Engagement Letter. Please tell us if you believe any of these assumptions are unrealistic for any reason.

3.3 You will give us all the information that is necessary for the performance of the Services. In this context, you agree we shall not be treated as being on notice of information given to us in the course of previous engagements and so all information that is relevant to the Services must be given directly to the engagement team even if the same information has been given to us previously in the course of a different contract or engagement. Please note that, other than as set out in the Engagement Letter, we will not audit or otherwise test or verify the information provided to us in the course of the Services. You agree that we shall be entitled to rely on all information provided to us and on your decisions and approvals in connection with our Services and to assume that all such information provided to us from whatever sources is true, complete and not misleading. We will not be responsible for the consequences of any information provided to us in the course of the Services not being complete, accurate or current.

3.4 Where needed to assist us in performing the Services, you will (i) take decisions and obtain management approvals promptly; (ii) give us full and prompt access to your people and premises and those of your affiliates and to your other advisors associated with the engagement, together with all necessary administrative support; (iii) obtain any approvals, licences and security clearances promptly (including any relating to third parties, our personnel and any subcontractors); and (iv) keep us promptly informed of any proposals or developments in your business relevant to the Services.

3.5 You agree that you remain solely responsible for managing all aspects of your business, for taking all decisions and operating all accounting, internal control or management information systems. This includes applying your independent business judgement to evaluate any advice or recommendations that we give you. You will be responsible for deciding whether our recommendations make sense in the context of your business, and whether you wish to rely on, implement or act on them, including the actions necessary to realise any expected benefits.

3.6 Where you are using third parties to provide information, materials or other assistance in support of the Services, or you are employing other suppliers whose work may affect our ability to deliver the Services, you will be responsible for the management of such persons and their performance, including the timeliness and quality of their input and work.

3.7 You will also be responsible for paying the Charges in accordance with this Contract.

Legal advice

3.8 Our Services may be conducted alongside your legal advisers, acting separately for you. To the extent they relate to our performance of the Services, we may need to review sections of draft agreements prepared by your legal advisers but we are not qualified to provide legal advice. Any agreement is the product of negotiation between its parties and you agree that it is your responsibility to obtain appropriate legal advice and to decide whether in all the circumstances you are prepared to accept any proposed agreement.

4 RESPONSIBILITIES TO EACH OTHER

Confidentiality

4.1 We each agree that where either of us is in possession of information about the other that is by its nature confidential, or is designated as such by the other (whether in writing or orally), including this Contract (“Confidential Information”), we each undertake to (i) keep it confidential; (ii) use it only in connection with providing and receiving the Services; and (iii) not to disclose it to any other person without the other’s prior written consent. These undertakings will not apply to any information that otherwise becomes generally

publicly available, was possessed prior to the commencement of the Services (or prior to being designated as Confidential Information), or is lawfully acquired from a third party who is under no obligation of confidence or information which is or has been independently developed by the recipient.

4.2 We each will be entitled to disclose Confidential Information to our legal advisors to protect our legitimate interests and to comply with any legal, professional or regulatory requirement. You agree to reimburse any costs we may incur in complying with any such disclosure requirement relating to any of our Services to you imposed in any proceedings or regulatory process not involving any substantive claim or proceeding against us, provided that we notify you promptly and, where reasonably or legally possible, prior to disclosure.

4.3 You agree that we may share Confidential Information with any Deloitte Party and any subcontractors we use to provide the Services (or more generally to support our office administration) on the understanding that they will treat the information as Confidential Information in accordance with the provisions of this Contract.

4.4 Unless you tell us otherwise, we may in the performance of the Services attend meetings to discuss your affairs with your other advisers and may do so openly, free from any obligation to you of confidentiality.

4.5 When offering our services to others we may disclose to them that we have acted for you unless you instruct us to the contrary.

4.6 Nothing in this Contract will prevent or restrict any Deloitte Party from providing services to other clients (including services which are the same or similar to the Services) or using or sharing for any purpose any knowledge, experience and skills used in, gained or arising from performing the Services subject to the obligations of confidentiality set out in clause 4.1 even if those other clients' interests are in competition with your own. Equally, you agree that to the extent that we possess information obtained under an obligation of confidentiality to another client or other third party, we are not obliged to disclose it to you or make use of it for your benefit, however relevant it may be to the Services.

Conflicts of interest

4.7 It is our practice, in appropriate circumstances, to check for conflicts of interest before taking on engagements. Deloitte Parties provide many different professional services to clients and we cannot be certain that we will identify promptly all situations where there may be a conflict with your interests. Please notify us promptly of any potential conflict affecting this engagement of which you are, or become, aware.

Electronic communications

4.8 We each agree that where appropriate we may communicate with each other electronically over the internet (including by way of e-mail). Our personnel will also need access to our own systems and data. You agree that you will (at your discretion) i) allow our personnel to use a Deloitte Local Area Network at your premises; ii) and/or provide our personnel with analogue dial-up connections or an Ethernet connection to allow our hardware (typically Deloitte's laptop computers used by members of the engagement team) to connect to our network via your internet communications facilities. Further, in order for our personnel to operate effectively and efficiently they may need access to your electronic data and also to your internet communications facilities for the purpose of the engagement. We will only access your internal networks, applications, data or other systems through the terminal hardware or software you make available to us for the purpose.

4.9 Access to your systems by our personnel will be subject to such conditions as you at your sole discretion consider necessary to protect the security and integrity of your data and systems. We each recognise that the internet is inherently insecure and that data can become corrupted, communications are not always delivered promptly (or at all) and that other methods of communication may be appropriate. Electronic communications are prone to contamination by viruses. Each of us will be responsible for protecting our own systems and interests and neither of us will be responsible to the other on any basis (contract, tort or otherwise) for any loss, damage or omission in anyway arising from the use of electronic data (including e-mail) as a form of communication or from our personnel's access to your networks, applications, data or other systems. Nothing in this clause shall exclude any liability arising from the negligent addressing of an email.

Staff

4.10 We each agree not to offer employment to or solicit the other's personnel who within 6 months of such action has been involved directly in the Services or otherwise connected to this Contract (except where an individual responds directly to a general recruitment campaign) nor use the services of any such personnel (either independently or via a third party) for a period of 6 months from the date that the individual concerned ceases to be permanently involved with the Services.

5 DELIVERABLES

Drafts and oral discussions

5.1 In formulating our conclusions, we may discuss ideas with you orally or show you drafts of the Deliverables (as specified in the Engagement Letter) for your comment. We do this on the basis that you will not rely on any drafts or oral comments or advice unless their content is finalised and confirmed to you in writing in the final Deliverables. Accordingly, we will not be responsible if you choose to act, or refrain from acting, on the basis of any drafts or oral comments or advice. If you want to rely or act on oral comments, or advice, please let us know in order that we may deal with them in our final Deliverables. Furthermore, for your convenience, the Deliverables may be made available to you in draft or in electronic as well as hard copy format. Multiple copies and versions of documents may therefore exist in different media. In the case of any discrepancy, the signed hard copy of the final Deliverable is definitive.

5.2 Unless the Engagement Letter specifies other arrangements, you agree that each Deliverable will be deemed accepted by you (and our Services, or the relevant part of them, completed) when it is in its final form or when you first make use of the Deliverable, whichever first occurs.

Use of Deliverables

5.3 The Deliverables and any other advice we provide to you are for your exclusive use and must be used solely for the purpose described in the Engagement Letter. They must not be used for any other purpose, recited or referred to in any document, copied or made available (in whole or in part) to any other person without our prior written express consent. You acknowledge that were you to do so (and without limitation) this could expose us to a risk that a third party who otherwise would not have access to the Deliverable (and/or Confidential Information as defined in clause 4 above), might claim to have relied upon the Deliverable (and/or Confidential Information) to its detriment and might bring or threaten to bring an action, claim or proceedings against us.

5.4 Save as expressly provided by the Engagement Letter, no person other than you may rely on the Deliverables and/or information derived from them and we accept no responsibility to any other person to whom the Deliverables are shown or into whose hands they may come.

Post date events

5.5 We have no responsibility to update any Deliverable for events occurring after completion of this Contract (which, unless provided otherwise in the Engagement Letter, will be the date on which the final Deliverable is delivered or signed), nor to monitor its continuing relevance or suitability for your purposes.

Ownership and intellectual property

5.6 On payment of all of our Charges, you will acquire ownership of the Deliverables in their tangible form and the right to use them internally in your business. We will own and retain ownership of all intellectual and other proprietary rights of any kind in the Deliverables, our working papers (if any) and in all other reports, materials, documentation, software, system interfaces, templates, methodologies and processes and ideas and concepts and techniques that we may use or develop in connection with this Contract (other than materials provided to us by you in which you retain intellectual and other proprietary rights). In circumstances where we may hold certain documents on your behalf, you agree that we may destroy them (together with any other documents related to the engagement) at any time after 6 years from conclusion of the work to which those documents relate.

5.7 You and we agree that neither of us will use the other's name, trademarks, service marks, logos, trade names and/or branding without prior written consent.

6 LIABILITY PROVISIONS

6.1 We will perform the Services with reasonable skill and reasonable care.

6.2 Without prejudice to any defence which we may have, you agree that we will not be liable to you for any loss, liability, damage, cost, charge or expense of whatever nature and howsoever caused and including interest (together "Losses") unless and then only to the extent that such Losses are finally determined to have resulted from our breach of contract or negligence, subject always to the following provisions:

6.2.1 We will not be liable for any Losses arising out of your use of our Deliverables or our advice for a purpose other than as set out in the Engagement Letter.

6.2.2 We will not be liable for Losses arising from the acts or omissions of any person other than Deloitte or any subcontractor (including any Deloitte Party) that we may use to provide the Services.

6.2.3 We will not be liable for Losses arising as a result of the provision of false, misleading or incomplete information or documentation by, or the withholding or concealment or misrepresentation of information or documentation, by any person other than the Deloitte Parties unless and then only to the extent that detection of such defect in the information or documentation or such withholding, concealment or misrepresentation should reasonably have been expected because it was evident without further enquiry from the information or documentation provided to us and expressly required to be considered by us pursuant to the provision of the Services.

6.2.4 Any liability which we may have to you under or in connection with this Contract for Losses suffered by you shall (so far as permitted by law) be limited to such an amount as is finally determined to be just and equitable, having regard to the extent of responsibility for the Losses of us, you, (including your directors, officers, employees or agents), and any person other than us who is jointly or severally liable to you for all or part of the same Losses, provided always that Deloitte's liability to you shall not under any circumstances exceed in aggregate the amount set out hereunder. Any limitation or exclusion or restriction on the liability of any such other person under any jurisdiction, whether arising under statute or contract or resulting from death, bankruptcy or insolvency, or any settlement of such liability agreed with you, shall be ignored for the purposes of determining whether that other person is liable to you and the extent of responsibility of that other person to you.

6.2.5 Our total liability of whatever nature, whether in contract, tort (including, without limitation, negligence), under statute or otherwise to you and to all other persons who we both have agreed may have the benefit of and rely on our work on the terms hereof, (you and they each a "Beneficiary"), for any and all Losses arising from or in any way in connection with this Contract shall not exceed the amount specified in the Engagement Letter or, if no amount is specified there, £500,000 (five hundred thousand pounds sterling).

6.2.6 Where there is more than one Beneficiary of the Services, the limitation in this clause 6.2 on our total liability to all Beneficiaries shall be apportioned by them amongst them. No Beneficiary shall dispute or challenge the validity, operation or enforceability of this clause on the grounds that no such apportionment has been so agreed or on the ground that the agreed share of the limitation amount so apportioned to any Beneficiary is unreasonably low.

6.2.7 In no event shall we be liable to you, whether in contract, statute, tort (including, without limitation, negligence) or otherwise for (i) loss or damage incurred as a result of third party claims; (ii) loss of profit, goodwill, business opportunity or anticipated

savings, loss of or corruption to data, loss of revenues or wasted management or staff time; or (iii) incidental, special, punitive, exemplary, indirect or consequential loss or damage; (together, "Excluded Losses") which you may suffer, howsoever caused and whether or not you or we knew, or ought to have known, that the Excluded Losses would be likely to be suffered.

6.3 Deloitte neither owes nor accepts any duty to any person other than you. No Deloitte Party shall be liable for any Losses suffered by any other person caused by that or any other person's use of or reliance on our Deliverables or our advice.

6.4 Nothing in this Contract shall exclude, restrict (or prevent a claim being brought in respect of) any liability arising from fraud or other liabilities which cannot lawfully be limited or excluded.

6.5 Unless and then only to the extent they have been finally and judicially determined (including the conclusion of any appeal) to have been caused by the fraud of any of the Deloitte Parties, you agree to indemnify and hold harmless the Deloitte Parties against all Losses which they incur in the defence and settlement (including meeting any judicially determined award of damages) of any demand, action, claim or proceeding (a "Claim") brought by any third party in any way arising in connection with this Contract whether or not such Claim is founded upon an allegation of our negligence.

6.6 Any claim or action brought by you under or connection with this Contract must be brought within 24 months of the cause of action arising.

7 CHARGES

7.1 We will render invoices in respect of the Services comprising our fees, out-of-pocket expenses and any charges of specialists, subcontractors and advisers, plus applicable taxes including VAT (together our "Charges"). These will be in accordance with any schedules set out in the Engagement Letter. Our fees are generally calculated on the basis of the time and level of staff required to conduct the Services during normal office hours. Other factors may also be taken into account, including the use of our proprietary expertise, technology and know how, the need to act rapidly or exclusively or outside normal office hours or the importance, complexity or monetary value of the matter concerned. Out-of-pocket expenses will depend on the nature of the Services and where appropriate, staff travelling and subsistence will be reimbursable in accordance with our normal personnel policies.

7.2 Any estimate of the fees involved in the Services will be based upon our assessment of the work involved, taking account of any assumptions set out in the Engagement Letter. Unless we have agreed otherwise in the Engagement Letter, our fees may be adjusted if the Services prove more complex or time consuming than expected. We will let you know when we consider any estimate is likely to be exceeded.

7.3 A fee estimate assumes that we will have full and prompt access at all reasonable times to your premises, directors, staff and any advisers relevant to the Services. It also assumes that you will provide reasonable work space for our people without charge, as well as a suitable office environment and facilities including occasional secretarial support services, photocopying and computer facilities and access to telephone, fax and modem communications.

7.4 Unless otherwise specified in the Engagement Letter, we will invoice our Charges monthly in arrears and a final invoice on completion of the Services. These invoices are due for settlement within 30 days of receipt. You agree that we are entitled to charge you interest on overdue invoices at 2% over the prevailing Royal Bank of Scotland plc base rate.

7.5 We will be entitled to receive all charges incurred up to the date of termination of this Contract for any reason.

8 TERMINATION

8.1 We each may terminate this Contract without notice in the event that the other becomes the subject of insolvency proceedings or calls any meeting of its creditors. Alternatively, either of us may terminate this Contract at any time on 30 days' written notice to the other.

8.2 Should any action taken by you create a situation which amounts to a professional conflict of interest under the rules of the professional and/or regulatory bodies regulating the activities of the Deloitte Parties, we may terminate this Contract without penalty on written notice. We will inform you as soon as reasonably practicable of any situation that occurs that we become aware of that may create a professional conflict which could result in termination in accordance with this clause 8.2.

8.3 Any provisions of the Contract which either expressly, or by their nature, extend beyond the expiry or termination of this Contract shall survive such expiration or termination.

9 GENERAL TERMS OF BUSINESS

Quality of Service

9.1 If, at any time, you believe our service to you could be improved, or if you are dissatisfied with any aspect of our services you should raise the matter with the partner responsible for providing the Services to you. If you would prefer to discuss the matter with someone other than that partner, or if you wish to make a complaint, please call or write to Richard Punt, the firm's Managing Partner, Growth & Markets.

9.2 We will investigate all complaints. You have the right to take any complaint up with the Institute of Chartered Accountants in England and Wales (the ICAEW). You may obtain an explanation of the mechanisms that operate in respect of a complaint to the ICAEW at www.icaew.co.uk/complaints or by writing to the ICAEW. To contact the ICAEW write to the Professional Standards Office, Level 1, Metropolitan House, 321 Avebury Boulevard, Milton Keynes, MK9 2FZ.

Negotiation / mediation

9.3 We each agree that we will attempt in good faith to resolve any dispute or claim arising out of or in connection with the Contract promptly through negotiations between your senior executives and our management. If the matter is not resolved through negotiation then, prior to the commencement of legal proceedings, we will each attempt in good faith to resolve the dispute or claim by participating in an Alternative Dispute Resolution (ADR) procedure which, if not otherwise agreed, will be as recommended to us by the Centre for Effective Dispute Resolution. If the matter has not been resolved by an ADR procedure within 45 days of such procedure being commenced, then the matter may be dealt with through legal proceedings.

Legal and other obligations

9.4 Nothing in this Contract precludes us from taking such steps as are necessary in order to comply with any legal or regulatory requirement or any professional or ethical rules of any relevant professional body of which we or any of our partners or employees is, at the time, a member.

Force majeure

9.5 Neither of us will be liable for any delays or failures in performance or breach of contract due to events or circumstances beyond our reasonable control.

Governing law and jurisdiction

9.6 The Contract and our relationship (including all contractual and non-contractual rights and obligations arising out of or relating thereto) are governed by English law and the Courts of England and Wales shall have exclusive jurisdiction to settle any dispute that may arise in connection with this Contract and our relationship (including all contractual and non-contractual rights and obligations arising out of or relating thereto).