

# **General Terms & Conditions “Luxury Hospitality Management BV”**

September 2016, rev. 5

Luxury Hospitality Management BV (hereinafter called LHM), with following business details,

LHM BV  
Rivierdijk 400  
3372 BT Hardinxveld-Giessendam  
The Netherlands

Chamber of Commerce No: 66428041

is a limited company specializing in the supply of specialised life cycle management services to the party to whom or which LHM has agreed to provide the Services, hereinafter referred to as the 'Client'.

In these terms and conditions:

“Agreement” means the agreement for LHM to provide services to the Client as set out in the Quotation and the Conditions;

“Quotation” means the quotation issued by LHM to the Client or in the absence of a written quotation the written correspondence between LHM and the Client in respect of the Services;

“Conditions” shall mean these terms and conditions;

“Services” means such of the following: all Services or part(s) thereof referred to in LHM published material, as LHM has agreed to supply to the Client in the Quotation;

“Client’s Materials” means the documents and/or other materials referred to in clause 1.3.

## **1. SUPPLY OF SERVICES**

- 1.1 All Services supplied by LHM to the Client shall be supplied subject to these Conditions. Any changes or additions to the Services or the Conditions must be agreed in writing between an authorized officer of LHM and the Client.
- 1.2 LHM shall supply the Services in accordance with the Quotation and its current brochure or other published literature, subject to these Conditions. In the event of any conflict between the Quotation and these Conditions, the terms of the Quotation shall apply.
- 1.3 Where the Services require the production and delivery of documents or other materials by the Client, they will be delivered promptly prior to the date specified by LHM (acting reasonably) and the Client shall retain duplicate copies.
- 1.4 If an insufficient number of bookings are received for any course, LHM reserves the right to cancel that course and either offer an alternative date, or to refund any pre-paid fees in full.

## **2. PAYMENT AND CHARGES**

- 2.1 The Client shall pay any amounts payable to LHM in accordance with this Agreement promptly without any deduction, withholding or set-off.
- 2.2 Where the Services relate to courses all fees must be paid in advance at time of booking. Where the Services relate to sourcing 50 % of all fees must be paid upon acceptance of candidate(s) and final 50 % of all fees must be paid at the end of the candidate(s)'s probation time with a maximum of two (2) months from date of acceptance.
- 2.3 All other payments shall be made within 30 working days after the date of the invoice. For late payment compound interest will be charged at a monthly rate of 1%.
- 2.4 In the event that the Client cancels the agreement at any time, the LHM cancellation policy from time to time shall apply, see clause 9 below.
- 2.5 LHM shall have the right to charge daily compound interest at the monthly rate of 1% above the base rate from time to time upon any sums due but unpaid both before as well as after judgment.
- 2.6 Prices and fees quoted in this Agreement are exclusive of VAT, any other local sales taxes and/or withholding taxes, travel and lodging expenses.

Payment to be received at the following banking details which will be stated on the invoice:

Account Name : Luxury Hospitality Management BV  
Account address : Rivierdijk 400, 3372 BT Hardinxveld-Giessendam, the Netherlands  
VAT No : NL856548716B01  
Bank : KNAB Bank  
Bank address : Capellalaan 25, 2132 JK Hoofddorp, the Netherlands  
IBAN : NL48KNAB0255 410 808  
Swift/BIC Code : KNABNL2H

### **3. WARRANTY**

- 3.1 LHM warrants to the Client that the Services will be provided using reasonable skill and care and as far as reasonably possible within the times referred to in the Quotation or other relevant brochure.
- 3.2 Where LHM supplies any goods in connection with the Services, LHM does not give any warranty as to their quality or fitness, but will, where it is able, assign to the Client the benefit of any warranty given by the supplier

### **4 SAFETY, HEALTH AND ENVIRONMENT (SHE)**

- 4.1 Client shall inform LHM of all identified and potential SHE hazards and/or conditions which may adversely affect the Work and the LHM employees.
- 4.2 Client shall inform LHM of all safety measures required for the safe preparation and performance of the Work and the protection of the health of LHM employees.
- 4.3 Whenever LHM undertakes services on site, Client shall take all appropriate actions and precautions to ensure a safe working environment in accordance with all applicable legislation, amongst others to ensure that the risks that cannot be eliminated are reduced to a reasonable level.
- 4.4 Any LHM employee has the right to refuse to carry out an activity or terminate an activity, when in his/her professional judgment the involved risks cannot be reduced to a reasonable level.
- 4.5 Any Client requirements specifying participation in screening programs shall be communicated in a timely manner to the LHM employee prior to commencement of work.

### **5. LIABILITY AND INDEMNITIES**

#### Definitions

- 5.1 For the purposes of this Clause "Client Group" shall mean: Client and their contractors and sub-contractors, and Employees of any of the foregoing. For the purposes of this Clause "LHM shall mean: LHM, any LHM Group company, and their contractors, sub-contractors, co-venturers and Clients (having a contractual relationship with Client, always with respect to the job or project on which LHM is employed), and Employees of any of the foregoing.
- 5.2 Client shall indemnify, defend and hold LHM harmless from all losses, costs and expenses incurred by LHM as a consequence of a failure of Client to fulfill its obligations.

#### Knock for Knock

- 5.3 Client. – Notwithstanding anything else contained in this Agreement (except and save for the provisions hereof giving Client a right of indemnity against LHM), LHM shall not be responsible for loss of, damage to, or any liability arising out of the property of any member of the Client Group, whether owned, chartered, hired, leased or otherwise or for personal injury or death of any member of the Client Group arising out of or in any way connected with the performance of this Agreement, even if such loss, damage, injury or death is caused wholly or partially by the act, neglect, or default of the LHM Group or any member(s) thereof. Client shall indemnify, protect, defend and hold harmless LHM from and against any and all claims, costs, expenses, actions, proceedings, suits, demands and liabilities whatsoever arising out of or in connection with such loss, damage, personal injury or death.
- 5.4 LHM. – Notwithstanding anything else contained in this Agreement (except and save for the provisions hereof giving LHM a right of indemnity against Client), Client shall not be responsible for loss of, damage to, or any liability arising out of the property of any member of the LHM Group, whether owned, chartered, hired, leased or otherwise or for personal injury or death of any member of LHM

(unless the said personal injury or death was caused by a breach by Client of their obligations under clause 4, "Safety, Health and Environment", above, liability for such breach being unaffected and unexpected by this clause), arising out of or in any way connected with the performance of this Agreement, even if such loss, damage, liability, injury or death is caused wholly or partially by the act, neglect or default of the Client Group or any member(s) thereof. LHM shall indemnify, protect, defend and hold harmless Client from and against any and all claims, costs, expenses, actions, proceedings, suits, demands and liabilities whatsoever arising out of or in connection with such loss, damage, liability, personal injury or death (unless the said personal injury or death was caused by a breach by Client of their obligations under clause 4 above).

#### Himalaya Clause

- 5.5 All exceptions, exemptions, defences, immunities, limitations of liability, indemnities, privileges and conditions granted or provided by this Agreement or by any applicable statute, rule or regulation for the benefit of LHM shall also apply to and be for the benefit of all bodies corporate parent of, subsidiary to, affiliated with, under the same management as or otherwise related to LHM, as well as all directors, officers, servants, agents, contractors, sub-contractors, co-venturers and Clients (having a contractual relationship with LHM, always with respect to the job or project on which LHM is employed) of the same and / or of LHM, their respective Employees and their respective underwriters; and to be for the benefit of all parties performing services within the scope of this Agreement for or on behalf of LHM as servants, agents, contractors or sub-contractors of the same.
- 5.6 All exceptions, exemptions, defences, immunities, limitations of liability, indemnities, privileges and conditions granted or provided by this Agreement or by any applicable statute, rule or regulation for the benefit of Client shall also apply to and be for the benefit of all bodies corporate parent of, subsidiary to, affiliated with, under the same management as or otherwise related to Client as well as all directors, officers, servants, agents contractors, sub-contractors of the same and / or Client, their respective Employees and their respective underwriters; and to be for the benefit of all parties performing services within the scope of this Agreement for or on behalf of Client as servants, agents, contractors or sub-contractors of the same.
- 5.7 The protection afforded to the persons and bodies corporate by the provisions in the clauses above shall be enforceable by each and all of the same in their own right for the purposes of the Contracts (Rights of Third Parties) Act 1999. If and to the extent that such protection is not so enforceable, Client or LHM shall be deemed to be acting as agent or trustee of and for the benefit of all such persons and parties set forth above, but only for the limited purpose of contracting for the extension of such benefits to such persons and parties.
- 5.8 All exclusions and indemnities given under this clause 5 shall apply irrespective of cause and notwithstanding the negligence or breach of duty (whether statutory or otherwise) of the party, or of any member(s) of the Group of the party, seeking to rely on the exclusion and/or claim the indemnity or any other entity or party and shall apply irrespective of whether the claim(s) in respect of which the exclusion is relied upon and/or the indemnity is sought arise in tort, under contract or otherwise in law.
- 5.9 Consequential Loss for the purposes of this clause the expression "Consequential Loss" shall mean indirect losses and/or loss of production, loss of product, loss of use, loss of revenue, profit or anticipated profit, whether or not the same would amount to consequential loss as a matter of English law, and whether or not the same was foreseeable as at the date hereof. Notwithstanding any provisions to the contrary elsewhere in the Agreement and except to the extent of any agreed liquidated damages or any termination fees provided for in the Agreement, Client shall save, indemnify, defend and hold harmless LHM from Client's own Consequential Loss and LHM shall save, indemnify, defend and hold harmless Client from LHM's own Consequential Loss.
- 5.10 Pollution: Notwithstanding anything else contained in this Agreement, LHM shall in no circumstances whatsoever be liable in any way whatsoever (whether in damages or by way of indemnity or in other way whatsoever) or otherwise responsible for, and Client shall indemnify and hold LHM harmless against, any loss, damage, claims, actions, proceedings, suits, demands, liabilities and fines whatsoever arising out of actual or threatened pollution, damage caused thereby, and / or the cleaning up, containment, dispersal and / or control of pollution connected in any way whatsoever

with this Agreement and/or with the act, omission, fault or neglect of LHM or any other member of the LHM Group as defined above in the provision or non-provision of the services provided for in this Agreement. For the avoidance of doubt, without prejudice to the generality of the application of clause 5, LHM's entitlement to rely on this provision shall be unaffected by and this provision shall apply irrespective of cause and notwithstanding any negligence or breach of duty (whether statutory or otherwise) by LHM and / or any other member of the LHM Group as defined above in connection with the services provided hereunder.

- 5.11 LHM's maximum cumulative liability arising out of or related to this Agreement over the whole period of this Agreement as specified in clause 8.1 below and any extension thereof, shall be limited to an amount equal to the remuneration paid to LHM under this Agreement by Client. For the avoidance of doubt, without prejudice to the generality of the application of clause 11, LHM's entitlement to rely on this provision shall be unaffected by and this provision shall apply irrespective of cause and notwithstanding any negligence or breach of duty (whether statutory or otherwise) by LHM and / or any other member of the LHM Group as defined above in connection with the services provided hereunder. Further, neither this provision nor anything else in this Agreement shall be construed or held to deprive LHM of any right to claim limitation of liability provided by any applicable law, statute or convention.
- 5.12 If either Party becomes aware of any incidents likely to give rise to a claim under the above indemnities, that Party shall in writing notify the other Party immediately. Where this Agreement provides for one Party to seek an indemnity from the other Party in respect of a claim brought by a third party, the Party seeking the indemnity shall seek to avoid, limit or otherwise minimise their liability against that third party to the extent that the same is reasonably possible.

## **6. PROGRESS OF SERVICES**

- 6.1 LHM shall provide Client with a suggested time schedule and assessment plan, including dates and locations for the execution of the services. When accepted by Client, such time schedule and assessment plan shall form an integrated part of this Agreement.
- 6.2 Client may postpone execution of the service as agreed in the time schedule and assessment plan, upon prior written notice to LHM (Notice of Postponement). Subject only to clause 12 of this Agreement (Force Majeure and War), LHM shall if the Notice of Postponement is received later than 14 working days prior to the agreed date of Service be entitled to 25% of the agreed fee payable in respect of the particular service postponed and if the Notice of Postponement is received later than 7 working days prior to the agreed date of Service be entitled to 75% of the agreed fee payable in respect of the particular service postponed, as compensation for the postponement. The Parties hereby agree that this is a genuine pre-estimate of damages.

## **7. INTELLECTUAL PROPERTY**

- 7.1 Any intellectual property rights including copyright arising from or in connection with the Services shall, unless otherwise agreed in writing with the Client, belong to LHM

## **8. TERMINATION**

- 8.1 Both LHM and the Client shall have the right to terminate this Agreement in the event the other party is in material breach of its obligations hereunder and fails to rectify same within the 21 working days of being notified in writing of the material breach by the non-defaulting party, and/or the other party is insolvent or unable for whatever reason to pay its debts as they become due, or enters or is made the subject of any procedure based upon its insolvency or an allegation that it is insolvent. In the event that the right to terminate arises hereunder, that right shall expire on the 61<sup>st</sup> day after it first arose and shall be incapable of exercise thereafter.
- 8.2 In the event of termination by Client according to clause 8.1 above, Client shall pay LHM all amounts due (whether as fees or otherwise) to LHM for the service performed up to the date of termination and all costs and expenses reasonably incurred by LHM as a consequence of such termination.
- 8.3 Notwithstanding termination of this Agreement the provisions of clauses 2, 5.3 and 7 shall continue to apply.

## **9. CANCELLATION POLICY**

(Note: The rights of an individual Client to cancel a confirmed booking without penalty within 7 days of it being made, in accordance with the Distance Selling Regulations, is unaffected by the terms of

this clause.)

- 9.1 A request by the Client to cancel a confirmed booking with LHM must be made in writing in accordance with Clause 11.
- 9.2 If the Client cancels a confirmed booking with LHM more than 31 days before the commencement of the course, and the Client has already paid for the course, a full refund of course fees will be given.
- 9.3 If the Client cancels a confirmed booking with LHM 31 days or less before the commencement of the course or fails to attend a booked course, payment of the full course fees is required and the Client will be invoiced accordingly. If the Client has already paid for the course, no refund of course fees will be given. If, at the time of cancellation, the Client can reschedule the course booking for an alternative date not more than 12 months from the start date of the original course, at no further cost.
- 9.4 Subject to set-off by LHM of any amounts owing to LHM accordance with this Agreement, in the event of cancellation, refunds will be given in accordance with the above cancellation policy.
- 9.5 Any cancellation charges for research and consultancy services will be levied in accordance with the terms of the Quotation issued by LHM.
- 9.6 Any cancellation charges for accommodation booked with any accommodation suppliers by the Client will be levied in accordance the accommodations own Terms and Conditions

#### **10. CONFIDENTIALITY**

- 10.1 Neither LHM or the Client shall divulge or allow to be divulged to any person any confidential information which is identified as such to the other in writing by LHM or the Client and which is not in the public domain at the time of disclosure.

#### **11. GOVERNING LAW**

- 11.1 This agreement shall be governed by Dutch law and any proceedings arising from it may be brought in the Dutch courts. The submission by the parties to such jurisdiction shall not limit the right of LHM to commence any proceedings arising out of in connection with the provision of the Services in any other jurisdiction it may consider appropriate.

#### **12. Severability**

- 12.1 If by reason of any enactment or judgment any provision of this Agreement shall be deemed or held to be illegal, void or unenforceable in whole or in part, all other provisions of this Agreement shall be unaffected thereby and shall remain in full force and effect.

#### **13. Notices**

All notices hereunder shall be in writing and:

- 13.1 If given or made by letter sent by first class pre-paid post, and if applicable, by airmail, shall be deemed to have been given 24 hours (in the case of domestic post) and 72 hours (in the case of airmail) after being posted and in proving such service it shall only be necessary to prove that the notice was properly addressed stamped and posted.
- 13.2 If given or made by facsimile or e-mail transmission shall be deemed to have been given or made when sent unless the notice was sent after 5.00 pm (GMT) on a business day or on a day other than a business day in which it shall be deemed to have been given or made at 9.00 am (GMT) on the next business day of the addressee after it was sent.
- 13.3 Shall be given at the respective address of the other party or at such other address as the other party may have notified in writing as its address from time to time.

#### **14. General**

- 14.1 Any indulgence granted by LHM to the Client and any failure by LHM to insist upon strict performance of these Terms and Conditions shall not be deemed a waiver of any of LHM rights or remedies nor be deemed a waiver of any subsequent default by the Client.
- 14.2 The invalidity in whole or in part of any clause in these Conditions shall not affect the validity of the remainder of the Clauses or these Conditions.

#### **15. Force Majeure and War**

- 15.1 Delay in or failure of performance of either Party hereto shall not constitute a default hereunder or give rise to any claim for damage if and to the extent such delay or failure is caused by any event beyond the control of the Party affected which the Party had no reasonable way of preventing or

grounds to anticipate, including but not limited to an act of war or terrorism, natural disaster, fire, explosion, labor dispute (other than involving either Party's own employees). The affected Party shall immediately notify the other Party in writing of the causes and expected duration of any such occurrence. This clause shall not apply to any and all of Client's obligations hereunder to make payment to LHM.

- 15.2 For the purpose of this clause, "War Risks" shall mean any war (whether actual or threatened), act of war, civil war, hostilities, revolution, civil commotion, warlike operations, the laying of mines (whether actual or report), acts of piracy, acts of terrorists, acts of hostility or malicious damage, blockades (whether imposed against all vessels or imposed selectively against vessels of certain flags or ownership, or against certain cargoes or crews or otherwise howsoever), by any person, body, terrorist or political group, or the Government of any state whatsoever.
- 15.3 LHM shall under no circumstances whatsoever have any obligations of any kind hereunder in relation to any situation which has arisen in any way whatsoever (directly or indirectly) from War Risks.
- 15.4 LHM shall be excused and released from performance of any and all of their obligations hereunder if and to the extent that, in LHM's reasonable judgment, the performance of their obligations hereunder would expose LHM and/or their employees, agents, contractors, sub-contractors, co-venturers and/or Clients to dangers of any kind whatsoever connected with or arising (directly or indirectly) out of War Risks.