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| Doc No : CTS001B-2016 | | PROCEDURE DOCUMENT | |
| Rev : 001 1-Apr-16 | | Certified Training Solutions (Pty) Ltd Terms and Conditions |  Certified Training Solutions |
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STANDARD TERMS & CONDITIONS

Certain provisions in this agreement have been printed in BOLD text so as to specifically draw the attention of the CLIENT thereto. These clauses are of specific importance because they affect the CLIENT'S rights & obligations & the CLIENT acknowledges that he has acquainted himself with these provisions in particular.

1 RECORDAL

The parties record that:

- 1.1- The Client requires the Company, from time to time, to provide Training Services &/or Other Services to it, subject to the provisions of this Agreement.
- 1.2- This agreement replaces all negotiations between the parties & the terms and conditions of service of the Client, if any, & constitutes the only terms & conditions applicable to all Training Services &/or Other Services provided by the Company to the Client, including any renewals or extensions of the Training Services &/or Other Services provided to the Client.
- 1.3- The relationship between the Client & the Company shall in no way be deemed to be that of principal & agent or constitute any form of joint venture, partnership or the like between them & neither party shall have any authority to bind any third party to this agreement.


2 DEFINITIONS USED IN THIS AGREEMENT

- 2.1- "Agreement" refers to the terms & conditions contained herein. It includes any Application by the Client to open an account with the Company, all written Application Forms, Quotations, Order Confirmation Forms, completed Log Sheets &/or Attendance Registers, which all form part of one indivisible transaction & are considered as a whole, notwithstanding the fact they are contained in more than one document.
- 2.2- "Apprenticeship" refers to the integration of workplace & institutional learning & culminates in a national qualification.
- 2.3- "ATR" means Annual Training Report which sets out the training that was carried out in terms of a Workplace Skills Plan.
- 2.4- "AET" refers to Adult Education & Training
- 2.5- "Client" refers to the person(s), association &/or legal entity to which the Company provides Training Services &/or Other Services.
- 2.6- "Company" refers to Certified Training Solutions (Pty) Ltd.
- 2.7- "Confidential Information" is any technical, commercial or scientific information, know-how, trade secrets, client lists, terms & conditions of agreement, charge rates, prices, price lists, processes, machinery, designs, drawings, technical specification, training material, course content, service models & data, in whatever form, communicated to or acquired by the receiving party from the disclosing party during the course of the Client & Company's association with one another.
- 2.8- "Day" means a calendar day, excluding Saturdays, Sundays & Public Holidays.
- 2.9- "ETQA" means Education & Training Qualification Authority
- 2.10- "Learner(s)" means any person undergoing any training, education, Learnership, skills programme, AET or apprenticeship in terms of this agreement.
- 2.11- "Learnership" refers to a learning programme where the Learner spends some time learning theory & some time learning practical skills in a workplace in terms of the Learnership Agreement, as amended from time to time by SETA, which is registered with SAQA in terms of the Skills Development Act, 1998 & this Agreement which can lead to attaining a qualification registered on the NQF.
- 2.12- "NQF" means National Qualifications Framework.
- 2.13- "Other Services" means any other services other than training services which the Company provides to the Client.
- 2.14- "SAQA" means South African Qualifications Authority.
- 2.15- "SETA internship, Learnership, apprenticeship agreements" refers to the SETA agreements pertaining to the relevant programme.
- 2.16- "SETA" means Sector Education & Training Authority.
- 2.17- "SDF" means a Skills Development Facilitator.
- 2.18- "Short Course" means a short learning programme where Learners may or may not be awarded credits.
- 2.19- "Skills Development Consulting" means consulting provided for Clients regarding skills development which includes but is not limited to skills auditing & training requirements.
- 2.20- "Skills Programmes" means a short learning programme that is longer than a short course but shorter than a qualification.
- 2.21- "Tax Benefit/s" means the tax allowance benefits that the Client could qualify for in terms of Section 12H of the Income Tax Act 58 of 1962.
- 2.22- "Trainer" refers to the person designated by the Company to conduct the Training Services &/or Other Services provided to the Client.
- 2.23- "Training Services" refers to the training & development of learner(s) provided by the Company to the Client.
- 2.24- "Training Material" refers to any material used for the purpose of providing Training Services &/or Other Services in terms of this agreement.
- 2.25- "WSP" means a Workplace Skills Plan, which is a document that sets training & development needs & the implementation thereof in its workplace
- 2.26- Unless the context indicates a contrary intention, words using the singular shall include the plural & words denoting the male gender shall include the female gender, & vice versa.

3 OBLIGATIONS OF THE COMPANY

The Company shall:

- 3.1- Conduct such training as the Client specifies on the Order Confirmation Form.
- 3.2- Ensure that all training & assessment material including, but not limited to, learnerships & apprenticeships, comply with the relevant SETA, ETQA & SAQA requirements & accreditations, subject however to clause 9.3. hereof.
- 3.3- Keep record of all relevant documents & results concerning Learners.
- 3.4- Report on Learners' progress with regard to the training, by furnishing reports & conducting meetings with the client.
- 3.5- Comply with any applicable SETA learnership &/or apprenticeship agreements.
- 3.6- Upon the request of the Client, the Company shall be appointed as a SDF.
- 3.7- Unless otherwise agreed to in writing, a Learner's signature on the Log Sheet/Attendance Register shall constitute proof that the Learner duly attended & received the training & that all Training Services &/or Other

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Services have been performed to the Client's satisfaction

4 UNDERTAKINGS BY THE CLIENT

The Client undertakes:

- 4.1-** To ensure that no part of any training material of the Company is reproduced, stored or transmitted in any form or by any means, by the Client, its Learners, employees, representatives, agents &/or contractors, without the prior written consent of a director of the Company. The Client acknowledges that any training material developed by the Company remains the property of the Company, & that the Company is the owner of the copyright thereof.
- 4.2-** Not to disclose any of the Company's confidential information to any third party, without the prior written consent of a director of the Company.
- 4.3-** To provide refreshments & training rooms (at its own expense) if the training takes place on the Client's premises or at any premises other than that of the Company, unless otherwise agreed upon between the parties in writing
- 4.4-** To release the employees & learner(s) to attend all training indicated on the training schedule as agreed to between the Client & the Company before commencement of any training intervention commences & the schedule cannot be changed by the Client unless agreed in writing by the Company.

5 REQUIRED CONDUCT OF LEARNERS


- 5.1-** Learners must arrive punctually for all training.
- 5.2-** Learners must conduct themselves politely throughout the training.
- 5.3-** The Company reserves the right, to be exercised in its sole discretion, to require any Learner to leave the training facilities &/or course, if such Learner:
 - 5.3.1-** makes sexist, racist, or any other form of derogatory remarks during the training;
 - 5.3.2-** is abusive towards other Learners, participants or trainers; or
 - 5.3.3-** makes himself/herself guilty of any form of unacceptable behaviour that disrupts the training environment.
Such decision of the Company shall be final.
- 5.4-** No equipment may be removed from the training environment by anyone other than a representative of the Company.

6 CANCELLATIONS, POSTPONEMENT & SUBSTITUTIONS

- 6.1-** Upon signature of the Order Confirmation, 100 % of the agreed Fees for Services will become immediately due by the Client.
- 6.1.1- CANCELLATIONS:**
 - 6.1.1.1-** Should the Training Services &/or Other Services subsequently be cancelled by the Client for any reason whatsoever more than 7 days.
- 6.2.1- POSTPONEMENTS:**
 - 6.2.1.1-** The Client agrees that in the event that any Training Services &/or Other Services have been postponed for any reason whatsoever, then in such an event, the postponement needs be in writing to the Company at least 7 business days prior to the Training Services &/or Other Services being booked. In the event that the Client postpones the Training Services &/or Other Services in less than 7 business days prior to the Training Services &/or Other Services then the Client will incur an additional cost of 20 %, which the Client acknowledges is fair & reasonable.
 - 6.2.1.2-** In the event that the Training Services &/or Other Services has been postponed, the Client shall undertake to reschedule the Training Services &/or Other Services in question, & the training shall commence within 30 (thirty) business days from the date of the postponement, & in such an event the full amount of the Training Services &/or Other Services will be due & payable as well as the additional cost, if applicable.
 - 6.2.1.3-** The Client understands & agrees that only one postponement per Order Confirmation is permitted.
- 6.3.1- SUBSTITUTION:**
 - 6.3.1.1-** The Client shall be entitled to substitute &/or replace any such Learner, prior to commencement of the training & shall remain liable for the total Learners as cited on the Order Confirmation.
 - 6.3.1.2-** In the event that any Learner does not attend or absconds after the Training Services &/or Other Services have commenced, the Learner/s may be replaced &/or substituted if it has been agreed to in writing between the Client & the Company.

7 LIABILITY & INDEMNITY FOR DAMAGE, LOSS &/or INJURY

- 7.1-** It is recorded that the Training Services & or Other Services may be provided at the premises of the Company or the premises of the Client or any other premises agreed to between the parties.
- 7.2-** Irrespective at which premises the Training Services &/or Other Services are provided, the Client will be liable for:
 - 7.2.1-** any injury (including death) of any Learner or other person; &/or
 - 7.2.2-** any loss or damage to any equipment or property, whether as a result of negligence or otherwise, arising from or incidental to the rendering of the Training Services &/or Other Services to the Client
- 7.3-** The Client indemnifies the Company, its employees & representatives against any claims for loss or damages that the Client or any third party may suffer, directly or indirectly, whether caused negligently or otherwise, arising from or incidental to the rendering of the Training Services &/or Other Services to the Client. This indemnity includes, but is not limited to, any loss or damage that may arise from or that is incidental to:
 - 7.3.1-** any organisation or individual acting (or refraining from action) in reliance on the training &/or training material received, &/or
 - 7.3.2-** the performance or non-performance of any Learner of his duties & functions; &/or
 - 7.3.3-** the use or implementation by the Learner of the Training Services &/or Other Services provided.
 - 7.3.4-** ATR, WSP submissions & Skills Consulting.
- 7.4-** Clause 7.3 must be read in conjunction with clause 10.5.
- 7.5-** The Client indemnifies the Company, its employees & representatives against any & all claims for loss or damages that the Client, or any third party, may suffer, directly or indirectly, whether caused negligently or otherwise in relation to:

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7.5.1- any SETA grants, arising from or incidental to information contained in the Client's WSP & the ATR, or as a result of any non-compliance &/or failure of any party in respect of WSP & ATR;

7.5.2- any & all advices by the Company, inter alia in respect of drafting &/or implementation of WSP & ATR;

7.5.3- SETA if the WSP & ATR cannot be located, found &/or is rejected for any reason whatsoever by SETA.

7.6- The Company shall endeavour to register all Qualifications with the relevant body. During the registration process SETA's verify that learners wanting to register on a Qualification are not already registered on another

Qualification. Learners may only be registered on one Qualification at a time. However, the Client understands and undertakes that in the event that the Client requests the Training Services in respect of Qualifications be

commenced with prior to the learners being registered with the relevant body then:

7.6.1- The Client indemnifies the Company, its employees and representatives against any and all claims for loss, damages, BEE scores, effected tax benefits and/or any other statutory benefits that the Client or any third

party may have benefited from by way of statute or otherwise, suffered, directly or indirectly, whether caused negligently or otherwise, arising from or incidental to the rendering of the Training Services and/or Other

Services to the Client;

7.6.2- The Client understands and acknowledges that the Training Services commenced with in respect of learners that have not been registered with the

relevant body, will constitute ordinary training and not training for

purposes of the Qualifications until such time as the learners have been registered and approved with the relevant body.

7.7- Notwithstanding the aforementioned, the Client understands and acknowledges that it will still be liable for Training Services and/or Other Services as

aforementioned and the Company will invoice the Client

accordingly.

8 RATES

8.1- The rate of remuneration for the Training Services &/or Other Services provided shall be calculated in accordance with the rates reflected on the Company's Order Confirmation Form.

8.2- If, for whatever reason, no rate is reflected on the Order Confirmation Form, the rate reflected in the Quotation will apply, failing which the rate that the Company would have charged for such Training Services &/or Other Services in that region will be the applicable rate.

8.3- In the event that the Client elects not to comply with the Company's pre-assessment &/or selection criteria with regard to Training Services &/or Other Services & further days are required to complete the Training Services &/or Other Services, then the Client may be held liable for additional cost incurred with regard to the Training Services &/or Other Services.

8.4- In the event of 8.3 above, the Company shall invoice the Client for the additional cost incurred & shall be due & payable in terms of the Terms of Payment as stated hereunder in Clause 9.

9 TERMS OF PAYMENT

9.1- Should the Client elect not to open an account with the Company &/or in the event that the Company does not approve the Client opening an account with the Company for any reason whatsoever, & instead request to pay cash, the Company shall, upon signature of this agreement, provide the Client with an invoice for the full amount, which invoice shall be payable before the date of commencement of the Training Services &/or Other Services.

9.2- All invoices other than those referred to in 9.1 above, shall be due & payable immediately upon receipt thereof, which payment shall be affected within 30 days after the date reflected on the invoice. All payments are to be made unconditionally, unless otherwise agreed to between the parties in writing.

9.3- No certificates shall be issued to any learner or the Client until such time as all invoices have been settled in full.

9.4- In the event of:

9.4.1- the Client advising the Company after signature of the terms & conditions that it no longer requires the Training Services &/or Other Services in respect of any such advise that needs to be in writing;

9.4.2 the Client reducing the number of Learners to be trained;

9.4.3- any Learners not attending the training, for whatever reason;

9.4.4- any Training Services &/or Other Services be disrupted by the behaviour of the Client's Learners &, as a result, not completed; &/or

9.4.5- the Learner failing to sign the Log Sheet/Attendance Register, the Client shall nonetheless remain liable to pay the Company the full amount set out in the Order Confirmation Form.

9.5- In the event of any Training Services &/or Other Services being rendered to the Client in the absence of a duly signed or completed Order Confirmation Form, for whatever reason, all Training Services &/or Other Services rendered shall be deemed to have been rendered in terms of this Agreement & the Client shall be deemed to have accepted the terms & conditions of this agreement.

9.6- Should the Client fail timeously to pay any invoice in full, the Client agrees that it will be liable for interest on all outstanding amount(s), calculated from the day following the 30th day referred to in clause 9.2, at a rate equivalent to the prime overdraft lending rate plus 2.5%, as charged from time to time by the Company's bank & as certified by a manager of that bank (whose appointment & authority it shall not be necessary to prove), or at the interest rate as prescribed by law, whichever is the higher.


9.7- The Company may, in its sole discretion, appropriate any amounts received from or on behalf of the Client to current or arrear debts, costs, interest or any other amount due by the Client to the Company, notwithstanding that the Client, when making payment, required the Company to appropriate such payment to any particular debt or portion thereof.

9.8- In the event of non-payment of any outstanding amounts &/or interest due, the Company reserves the right to, in its sole discretion:

9.8.1- withhold or suspend performance of its obligations in terms of this Agreement; &/or

9.8.2- cancel this Agreement without prejudice to any of the Company's other rights. In such circumstances, the Client shall have no claim whatsoever against the Company arising from the withholding, suspension or cancellation in terms of clauses 9.6.1 & 9.8.2.

9.9- The Client further agrees & undertakes to pay to the Company all amounts due without any deduction or set-off & payment shall not, under any circumstances, be withheld or deferred on account of any dispute or claim which may exist.

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10 WARRANTIES & LIABILITIES

- 10.1-** The Client cannot rely on any warranty or representation given by the Company with regard to this agreement, unless such warranty or representation is recorded in these terms & conditions.
- 10.2-** In the event of a dispute arising with regard to the authority, or lack thereof, of any person to bind the Company, the Client shall bear the onus of proving that person's authority or the lack thereof.
- 10.3-** The Client warrants & guarantees that the person whose name &/or signature appears on any Order Confirmation Form, or any agreement between the Company & the Client, is duly authorised & competent to bind the Client unconditionally to the terms thereof.
- 10.4-** Circumstances outside the control of the Company:
- 10.4.1-** The Company shall not be liable to the Client or be deemed in breach of contract if any delay or failure to perform any of the Company's obligations is the result of circumstances beyond the Company's reasonable control.
- 10.4.2-** The Company will use its best endeavours to provide the Training Services &/or Other Services as agreed. However, the Company reserves the right to change the content, timing, presenter, date & venue of the Training Services &/or Other Services. Such cancellations or changes by the Company, whatever the reason therefore, will not result in any obligation or liability to the Client other than the issue of a credit note in lieu of performance, where applicable.
- 10.5-** The Company records that:
- 10.5.1-** It will use all reasonable care & skill in providing the Training Services &/or Other Services provided for in this agreement, including the use of suitably qualified & experienced trainers. However the Company makes no warranty with regard to the outcome or result to be attained by Learners or employees who attend the Training Services or as a result of the provision of Other Services. The decisions & actions of Learners or employees, having received such Training Services &/or Other Services, are their own & they remain wholly responsible for their actions.
- 10.5.2-** Except as expressly provided for otherwise, & as far as it is not prohibited by law, all training provided (including any documentation given by or on behalf of the Company) is furnished on an "as is" basis without warranty of any kind, whether express or implied, with regard to the quality, reliability, recentness, usefulness, sufficiency or accuracy thereof.
- 10.5.3-** It shall also not be liable for loss or damages suffered should a Learner select the incorrect seminar, for whatever reason.
- 10.5.4-** Clause 9.5 must be read in conjunction with clause 10.5.
- 10.6-** Both the Company & the Client warrant that they shall comply with the applicable Health & Safety legislation & relevant codes of practice.

11 ADVERTISING

- 11.1-** The Company may make reference to the contract with the Client within the context of any proposal it makes to other prospective clients, provided that only fundamental facts may be divulged & not proprietary or confidential information.
- 11.2-** The Company may store the names of the Learners for the purpose of advising them of the availability of further courses in the future.

12 NON-SOLICITATION

- 12.1-** The Client acknowledges that the Training Services &/or Other Services provided by the Company have been made possible by the Company's substantial investment in the provision of Training Services &/or Other Services, which includes the development of its employees. The Client accordingly irrevocably & unconditionally undertakes that neither it nor any of its associates, employees, agents or representatives shall, without the Company's prior written permission:
- 12.1.1-** employ, solicit, deal or transact with any employee of the Company, whether directly or indirectly, other than in terms of the provisions of this Agreement; or
- 12.1.2-** shall introduce any employee of the Company to a third party for purposes of rendering any services or in any way use the services of any such employee, within a period of 12 months from the last day on which the Training Services &/or Other Services in terms of this agreement were rendered, or the date of termination of this Agreement, whichever is later.
- 12.2-** Should the Client breach its undertakings given in clause 12.1, the Client will immediately become indebted to the Company to pay damages in an amount of R 150 000, which the Client acknowledges is a fair & reasonable consideration in respect of the breach.
- 12.3-** All the provisions contained in this clause 12 shall survive the cancellation &/or termination of this Agreement.

13 DURATION & TERMINATION

Notwithstanding the date of signature of this Agreement, this Agreement shall commence on & be binding from the date on which the Client first requests the Company to provide Training Services &/or Other Services to the Client.

14 BREACH

Subject to clause 9, should either party at any stage contend that the other party is in breach of any of the provisions of this Agreement, such party shall not be entitled to terminate this Agreement without:


- 14.1-** advising the other party in writing of the alleged breach; &
- 14.2-** affording such party not less than seven (7) days from receipt of such notice to remedy the alleged breach.

15 CERTIFICATE OF PAYMENT

The Company shall, at its own instance, be entitled to produce a certificate signed by a director of the Company substantiating the amount due & payable by the Client to the Company. The certificate shall constitute prima facie proof of the allegations & amounts stated therein for purposes of any proceedings & the Client shall bear the onus of disproving the contents of the certificate.

16 JURISDICTION, ARBITRATION & LEGAL COSTS

- 16.1-** The Client hereby consents to the jurisdiction of the Magistrate's Court in respect of any claim or dispute arising out of or in connection with this Agreement, notwithstanding that the amount claimed or value of the dispute, is in excess of the Magistrate's Court jurisdiction.
- 16.2-** Clause 16.1 does not in any way constitute a waiver of the Company's right to institute proceedings in the High Court or any other appropriate forum & the Company reserves the right, in its sole discretion, to decide whether or not to proceed in the Magistrate's Court.
- 16.3-** The Client hereby consents to the jurisdiction of the South Gauteng High Court, Johannesburg in respect of the proceedings referred to in clause 16.2.

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16.4- Notwithstanding the provisions of clauses 16.1, 16.2 and 16.3, the Company may elect, in its sole discretion, to refer any dispute to arbitration, which arbitration shall be conducted in terms of the Arbitration Act, 1965, subject to the following provisions:

- 16.4.1- The tribunal shall consist of one arbitrator.
 - 16.4.2- The arbitration proceedings shall be conducted in accordance with the formalities &/or procedures determined by the arbitrator.
 - 16.4.3- The arbitration shall be held in Johannesburg.
 - 16.4.4- The arbitration shall be conducted in English.
 - 16.4.5- The outcome of the arbitration shall be binding on the parties & shall not be appealable, but a party may approach a court for review of the process followed in the arbitration.
 - 16.4.6- The parties shall endeavour to ensure that the arbitration is completed within 90 days after written notice requiring the dispute to be referred to arbitration, was given.
 - 16.4.7- The decision of the arbitrator must be in writing & must include reasons for the award.
 - 16.4.8- The proceedings & decision shall be confidential to the parties & their advisors.
 - 16.4.9- The parties agree to keep the arbitration, including the subject matter thereof & the evidence heard during the arbitration, confidential & not to disclose it to anyone other than their legal advisors.
 - 16.4.10- The arbitrator shall be a practicing attorney or advocate of not less than 10 years standing, who shall not be Senior Counsel, unless specifically agreed to between the parties in writing. The arbitrator shall be appointed by the Company's auditors unless the parties agree otherwise in writing within 14 days after arbitration was requested.
 - 16.4.11- Each party shall be liable for payment of half of the arbitration costs, as & when such costs become due & payable. Arbitration costs include, but are not limited to, costs of the arbitrator, venue & recording facilities, but do not include the costs of each party's representatives, which shall be for each party's own account. Despite the aforementioned provision the Arbitrator may make a costs order to the contrary & as he/she deems fit in the circumstances.
- 16.5- The provisions of this clause:
- 16.5.1- constitute an irrevocable consent by the parties to any proceedings in terms hereof & no party shall be entitled to withdraw therefrom or claim at any such proceedings that it is not bound by such provisions;
 - 16.5.2- are severable from the rest of this agreement & shall remain in effect despite the termination of or invalidity for any reason of this Agreement.
- 16.6- If the Company institutes legal action against the Client, including any arbitration proceedings, as a result of any breach or default by the Client of any terms & conditions of this Agreement, the Client undertakes & agrees to pay all such legal costs, expenses & other charges including, collection commission, tracing fees & disbursements incurred by the Company, on the scale as between attorneys & own client.
- 16.7- The Client waives all the rights it may have in any legal proceedings to require the Company to furnish security for costs (as provided for in the Rules of both the High Court &/or the Magistrate's Court).

17 ASSIGNMENT, VARIATION, NON-WAIVER & SEVERABILITY

- 17.1- The Company shall be entitled to cede & assign any of its obligations &/or rights in terms of this Agreement to any third party, provided that written notification is given to the Client seven (7) days prior to such cession & assignment.
- 17.2- The Client may not cede or assign any of its rights &/or obligations in terms of this Agreement unless the Company's prior written consent has been obtained.
- 17.3- This Agreement constitutes the entire Agreement between the parties. No amendment shall be of any force unless agreed to by both parties in writing.
- 17.4 - No variation, amendment, extension of time, waiver of rights, relaxation or termination of any provisions contained in this Agreement shall in any way constitute a waiver on the side of any party of such party's right to demand compliance from the other party with the terms of this agreement.
- 17.5 - In the event of any one or more of the provisions of this Agreement being found to be unenforceable, then the Company shall be entitled, in its sole discretion, to sever such provision(s) from the agreement so that the remainder of the provisions remain in full force and effect.

18 DOMICILIUM CITANDI ET EXECUTANDI (Address for service of all legal notices & documents)

The Client hereby chooses its domicilium citandi et executandi for the service of all notices & legal proceedings to be the physical address set out on the front of this document. Any notice of any change of its domicilium citandi et executandi must be given in writing & delivered by hand to the Company or the Client within 5 days of the changing thereof.

The above stated Terms and Conditions is read and signed by the clients on the dates, and places stated hereunder;

Signed at (Place) _____ (date) of _____ (month) _____ 20 _____

Company Name _____

Signature _____

Designation _____