

SUPPLYING TEMPORARY STAFF SERVICES – CLIENT TERMS OF BUSINESS

1. DEFINITIONS

1.1 In these Terms of Business the following definitions apply:

“Assignment” means the period during which the Supplier and/or the Consultant is supplied to render services to the Client;

“Assignment Schedule” means a schedule in the form of Schedule 1 issued under these Terms setting out details of services required by the Client;

“Services” means the services to be performed by the Supplier and/or Consultant as described in the relevant Assignment Schedule;

“Client” means the person, firm or corporate body together with any subsidiary or associated company as defined by the Companies Act 1985 to which the Supplier and/or the Consultant is supplied or introduced;

“Conduct Regulations” means The Conduct of Employment Agencies and Employment Businesses Regulations 2003;

“Transfer Fee” means 15% of the Annual Remuneration if the Annual Remuneration is less than £24,999, 17.5% of the Annual Remuneration if the Annual Remuneration is £25,000 to £34,999, 20% of the Annual Remuneration if the Annual Remuneration is £35,000 to £49,999, 22.5% of the Annual Remuneration if the Annual Remuneration is £50,000 or more if the Consultant is taken on as a permanent employee. In all other cases and/or, if the Annual Remuneration is not known or agreed, the Transfer Fee will be based on 22.5% of 48 times the average weekly Payment Rate for the last 4 complete weeks that the Consultant performed the Services for the Client, and if the Payment Rate has not been agreed, the Payment Rate for the purposes of calculating the Transfer Fee will be the standard rate of the Employment Business for the type of services to be provided by the relevant Supplier and/or Consultant ;

“Premium Transfer Fee” means whichever is the greater of £10,000 (ten thousand pounds) and 35% of 48 times the average weekly Payment Rate for the last 4 complete weeks that the Consultant performed the Services for the Client, and if the Payment Rate has not been agreed, the Payment Rate for the purposes of calculating the Premium Transfer Fee will be the standard rate of the Employment Business for the type of services to be provided by the relevant Supplier and/or Consultant;

“Data Protection Laws” means the Data Protection Act 1998, any applicable statutory or regulatory provisions and all European Directives and regulations in force from time to time relating to the protection and transfer of personal data;

“AWR” means the Agency Workers Regulations 2010

“the Employment Business” means Walker Dendle Limited (company no. 3812553) whose registered office is at East House, 109 South Worple Way, London SW14 8TN and whose principal office is at Swan House, 51 High Street, Kingston, Surrey, KT1 1LQ;

“Engages/Engaged/Engagement” means the engagement, employment or use of the Consultant or the Supplier directly or indirectly by the Client or any third party or through any other employment business on a permanent or temporary basis, whether under a contract of service or for services, an agency, license, franchise or partnership arrangement, or any other engagement;

“Supplier” means, if applicable, a supplier whose details are set out in the Assignment Schedule, engaged by the Employment Business to supply the services of the Consultant;

“Consultant” means any person assigned by the Employment Business or, as applicable, the Supplier to perform services under an Assignment, and any replacement thereof in accordance with clause 8;

Consultant

“PSC Contractor” means an individual who controls and directs their own limited company through which they contract and offer their services on an independent business to business basis.

“Introduction” means (i) the Client’s interview of a Consultant in person, by telephone or by video link, following the Client’s instruction to the Employment

Business to supply a Consultant; or (ii) the passing to the Client of a curriculum vitae or information which identifies the Consultant; and which leads to an Engagement of that Consultant; and

“Annual Remuneration” means the annual salary or fees of the Supplier or the Consultant (as appropriate), including (without limitation) base salary or fees, guaranteed and/or anticipated benefits (including the benefit of a company car), bonuses, commission and allowances (including car allowances), inducement payments and all other payments and taxable (and, where applicable, non-taxable) emoluments payable to or receivable by the Supplier or the Consultant for an Engagement for the period of 12 calendar months from the date of commencement of such Engagement whether or not the Supplier or the Consultant (as appropriate) remains so Engaged for the full 12 calendar months. Where a company car is provided, a notional amount of £5,000.00 will be added to the salary in order to calculate the Employment Business’s fee.

“Losses” means any demand, contribution, claim, action, proceeding, liability, loss, damage, costs, expenses, tax, national insurance contributions (to the extent permitted by law) and charges and any related penalties, fines or interest whatsoever whether founded in statute, contract, tort or otherwise made or brought against or incurred (including without limitation all losses, liabilities and costs incurred as a result of defending or settling any claims).

1.2 Each term starting with a capital letter and not defined in clause 1.1 or elsewhere in these Terms is as defined in the Assignment Schedule.

1.3 References to “Supplier” are only relevant if applicable and if details of the Supplier have been completed in the relevant Assignment Schedule.

1.4 Unless the context otherwise requires, references to the singular include the plural and vice versa, words denoting one gender include any gender, and persons shall include bodies corporate and unincorporated associations of persons.

1.5 The headings contained in these Terms are for convenience only and do not affect their interpretation.

2. THE CONTRACT

2.1 These Terms are a framework agreement under which the parties may, from time to time, agree to issue an Assignment Schedule (in the form of Schedule 1) setting out the details of specific Client service requirements and these Terms are deemed to be accepted by the Client by virtue of its request for, interview with or Engagement of the Supplier or the Consultant or the passing of any information about the Supplier or the Consultant to any third party following an Introduction.

2.2 These Terms and each Assignment Schedule issued under these Terms contain the entire agreement between the parties and unless otherwise agreed in writing by a director of the Employment Business, these Terms and each Assignment Schedule prevail over any terms of business or purchase conditions put forward by the Client.

2.3 No variation or amendment to these Terms or any Assignment Schedule shall be valid unless it is in writing and signed on behalf of each party by a person duly authorised by that party.

3. CHARGES

3.1 The Client agrees to pay such hourly/daily/weekly charges of the Employment Business as set out in the relevant Assignment Schedule. The hourly/daily/weekly charges are calculated according to the number of hours/days/weeks worked by the Consultant (to the nearest quarter hour).

3.1.1 Where the Consultant works in excess of the standard agreed daily/weekly hours as set out in the Assignment Schedule, the Client agrees to pay such hourly/daily/weekly overtime charges of the Employment Business as set out in the relevant Assignment Schedule and at 1.5 times the standard hourly/daily/weekly charges or 2 times the hourly/daily/weekly charges at weekends and public holidays.

3.1.2 Bonus Payments and Claims for authorised travelling and out of pocket expenses, paid to the Consultant on behalf of The Client, will attract a mark up equivalent to the Gross Profit Margin applicable to the Assignment.

3.2 The charges are invoiced to the Client on a weekly basis and are payable within 7 days of the date of each invoice. The Employment Business reserves the right to charge interest on any overdue amounts at the rate of 8% per annum from the due date until the date of payment, and any such interest shall be payable on demand.

3.3 VAT, if applicable, is payable on all amounts payable under these Terms (including, for the avoidance of doubt, under clause 6).

- 3.4 There are no refunds or rebates payable in respect of the charges of the Employment Business.
- 3.4 The Employment Business may assign to a third party the right to render invoices and collect and receive payments from the Client.
- 3.5 The Client acknowledges that the charges and the Payment Rates are based on the total cost of supply of supplying the Assignment services plus the Employment Business's recruitment services fee. The Employment Business reserves the right to increase the Payment Rates to take into account any statutory or other legal change, including, without limitation, the AWR, which leads to an increase in a Supplier's or Consultant's statutory and/or legal entitlements resulting in an increase in the cost of supply. The Employment Business shall give the Client [20] Business Days written notice of any such increase to Payment Rates.
- 3.6 The Employment Business shall be entitled to charge the Client for any period during which a pregnant Consultant is absent during Normal Working Hours for the purposes of attending an ante-natal care appointment (in accordance with s.55 and s.56 of the Employment Rights Act 1996) and any such hours will be shown on the relevant time sheet.

4. THE CLIENT'S OBLIGATIONS

- 4.1 The Client warrants and confirms that, if the Employment Business issued, or caused to be issued, any advertisement in order to source potentially suitable service providers to provide the Services (or similar services), the Client had, prior to any such issue, given the Employment Business authority to source such service providers.
- 4.2 The Client warrants and confirms that it will give to the Employment Business sufficient information prior to any Introduction or any Engagement via the Employment Business in order for the Employment Business properly to consider the suitability of each Supplier and Consultant to supply the Services to the Client, including but not limited to the identity of the Client and, if applicable, the nature of the Client's business; the date on which the Client requires provision of the Services to commence and the duration or likely duration of provision of the Services; details of the Services including, but not limited to, the type of work, the location at which and the hours during which the Services are to be provided, any risks to health and safety known to the Client and the steps taken by the Client to prevent or control such risks; the experience, training, qualifications and any authorisation which the Client considers are necessary, or which are required by law or by any professional body for the Consultant to possess in order to provide the Services; and any expenses payable by or to the Supplier and/or the Consultant.
- 4.3 The Client shall if applicable, make clear to the Employment Business, the Supplier and the Consultant what rules (including health and safety, site and security regulations and IT security policies and protocols) apply in respect of the Location(s).
- 4.4 The Client shall not commit any act or omission constituting unlawful discrimination or harassment of any Consultant in connection with the performance of the Services.
- 4.5 The Client agrees to the terms relating to Absence Entitlement set out in each Assignment Schedule.
- 4.6 The Client shall provide the Employment Business, on a timely basis, with such information as the Employment Business shall reasonably request from the Client to enable the Employment Business to comply with or otherwise to evidence its and/or the Client's compliance with the AWR;
- 4.7 The Client shall notify the Employment Business if an Assignment is not suitable for pregnant workers. [If an Assignment is not suitable for such workers and the Employment Business so requires the Client will find the relevant pregnant temporary resource "suitable alternative work" in accordance with the AWR and increase the Payment Rate to reflect any increased costs which result from the alternative work or where such suitable alternative work can not be found the Client will pay the Employment Business the Payment Rate until the relevant End Date. The Client will indemnify the Employment Business for any Losses arising from breach of this clause 4.7].]

5. TIMESHEETS

- 5.1 The Client shall check and sign the Employment Business's weekly timesheet verifying the number of hours worked by the Consultant during each week.
- 5.2 Signature of all such timesheets by the Client shall be conclusive evidence that the relevant Services have been performed to the satisfaction of the Client and confirmation of the number of hours worked. If the Client is unable to sign any such timesheet because the Client disputes the hours claimed, the Client shall inform the Employment Business as soon as is

reasonably practicable and shall co-operate fully and in a timely fashion with the Employment Business to enable the Employment Business to establish what hours, if any, were worked by the Consultant. Failure by the Client to sign any such timesheet does not absolve the Client from its obligation to pay the charges in respect of the hours worked.

- 5.3 The Client shall not be entitled to decline to sign a timesheet on the basis that it is dissatisfied with the work performed by the Consultant. In cases of unsuitable work the Client should apply the provisions of clause 9.2 below.

6. TRANSFER FEES

6.1 Where there has been a supply [Only applicable where the Conduct Regulations do apply]

6.1.1 If the Client Engages a Supplier and/or Consultant supplied by the Employment Business either directly or indirectly (other than via the Employment Business), including pursuant to being supplied by another employment business, during the Assignment or within whichever of the following periods ends the later:

- 14 weeks from the start of the first Assignment (each new Assignment where there has been a break of more than 42 days (6 weeks) since the end of the previous Assignment shall also be considered to be the 'first Assignment' for these purposes); or
- 8 weeks from the day after the last day the Consultant worked on the Assignment,

the Client shall either elect for an extended period of hire as set out in clause 6.1.2 or pay a Transfer Fee. The Client must give the Employment Business 2 days' written notice in advance of the Engagement of whether it has elected to take the period of extended hire or to pay the Transfer Fee. However, where the Client does not give such notice before the Supplier and/or the Consultant is Engaged the parties agree that the Premium Transfer Fee shall be due and payable.

"Extended Period of Hire"

6.1.2 The extended period of hire shall be whichever of the following applies:

- where the Assignment has not terminated or expired, whichever is the longer of 26 weeks or the period ending 16 weeks after the End Date; or
- where the Assignment has terminated or expired, 26 weeks.

6.1.3 If the Client elects for an extended period of hire, in accordance with clause 6.1.1, but before the end of such period Engages the Supplier and/or the Consultant supplied by the Employment Business either directly or indirectly (other than via the Employment Business), including pursuant to being supplied by another employment business or if the Supplier and/or the Consultant chooses not to be supplied for an extended period of hire, the Employment Business may charge the Client the Transfer Fee, reduced by such percentage to reflect the period of extended hire already undertaken by the Supplier and/or the Consultant and paid for by the Client.

6.2 Where there has been an Introduction but no supply [Only applicable where the Conduct Regulations do apply]

6.2.1 If there is an Introduction of a Supplier and/or Consultant to the Client which does not result in the supply of that Supplier and/or Consultant by the Employment Business to the Client, but which leads to an Engagement of the Consultant by the Client either directly or indirectly (other than via the Employment Business), including pursuant to being supplied by another employment business, within 6 months of the date of the Introduction, the Client shall either elect for a period of hire as set out in clause 6.2.3 or pay a Transfer Fee. The Client must give the Employment Business 2 days' written notice in advance of the Engagement of whether it has elected to take the period of hire or to pay the Transfer Fee. However, where the Client does not give such notice before the Supplier and/or the Consultant is Engaged the parties agree that the Premium Transfer Fee shall be due and payable.

6.2.2 If (where there has been an Introduction but no supply) the Engagement is for a fixed term of less than 12 months, the Transfer Fee will apply pro rata.

"Period of Hire"

6.2.3 The period of hire will be whichever of the following applies:

- the period ending 26 weeks after the proposed End Date of the Assignment; or
- where no End Date is given, 52 weeks.

6.2.4 If the Client elects for a period of hire, in accordance with clause 6.2.1, but before the end of such period Engages the Supplier and/or the Consultant supplied by the Employment Business either directly or indirectly, including pursuant to being supplied by another employment

business, or the Supplier and/or the Consultant chooses not to be supplied for a period of hire, the Employment Business may charge the Client the Transfer Fee, reduced by such percentage to reflect the period of hire already undertaken by the Supplier and/or the Consultant and paid for by the Client.

6.3 Temp to third party transfer fees where there has been a supply [Only applicable where the Conduct Regulations do apply]

6.3.1 If the Client introduces the Supplier and/or the Consultant to a third party which results in the Engagement of the Supplier and/or the Consultant by that third party (other than via the Employment Business) during the Assignment or within whichever of the following periods ends the later:

- 14 weeks from the start of the first Assignment (each new Assignment where there has been a break of more than 42 days (6 weeks) since the end of the previous Assignment shall also be considered to be the 'first Assignment' for these purposes); or
 - 8 weeks from the day after the last day the Consultant worked on the Assignment,
- the Client shall pay a Transfer Fee.

6.4 Temp to third party transfer fees where there has been an Introduction but no supply [Only applicable where the Conduct Regulations do apply]

If there is an Introduction of a Supplier and/or a Consultant to the Client which does not result in the supply of that Supplier and/or Consultant by the Employment Business to the Client, but **the Supplier and/or the Consultant is introduced by the Client to a third party** which results in the Engagement of the Supplier and/or the Consultant by the third party within 6 months from the date of Introduction, the Client shall pay the Employment Business a **Transfer Fee**.

6.5 Refunds and rebates

The Employment Business shall not be obliged to pay any refund or rebate of any Transfer Fee or any Premium Transfer Fee paid in accordance with clause 6.1, 6.2, 6.3, 6.4 or 6.6 if the Engagement subsequently terminates.

6.6 [Only applicable where the Conduct Regulations do not apply] If a Deemed Introduction occurs within the Restricted Period the Client shall pay to the Employment Business a Transfer Fee. For the purposes of this clause 6.6:

6.6.1 a "**Deemed Introduction**" will occur where the Client, any client of the Client with whom the Supplier and/or the Consultant had material contact within the six months prior to any Engagement of the Supplier and/or Consultant by such client (a "**Client Contact**"), or any third party (including any client of the Client) to whom the Client introduces the Supplier and/or the Consultant (a "**Client Third Party Contact**"), directly or indirectly (other than through the Employment Business):

- 6.6.1.1 employs or otherwise engages the Supplier or the Consultant to carry out the Services or services similar or related to the Services; or
- 6.6.1.2 otherwise makes arrangements so that the Supplier or the Consultant provides services similar or identical or related to the Services for the Client, a Client Contact or a Client Third Party Contact;

6.6.2 "**Restricted Period**" means during the term of the relevant Assignment and the period during and within 6 (six) months from the expiry or termination of the relevant Assignment,

and the Transfer Fee shall be payable whether or not the provision of Services under the relevant Assignment has commenced when the Deemed Introduction occurs, and no refund of the Transfer Fee shall be payable if such employment, engagement or arrangement terminates.

6.6 Premium Transfer Fee

The Transfer Fee payable by the Client under clauses 6.1.1, 6.1.3, 6.2.1, 6.2.2, 6.2.4, 6.3.1, 6.4 or 6.6 applies only if the Client gives the Employment Business prior written notice that the Client or the relevant third party proposes to Engage the Supplier and/or the Consultant as set out in such clauses. If the Client does not give the Employment Business such notice, the Client shall pay the Employment Business the Premium Transfer Fee.

7. LIABILITY

7.1 The Client acknowledges that:

- 7.1.1 the Employment Business is in the business of providing resourcing services which comprise the sourcing and introduction of suitable service providers to the Client and the contractual arrangements for the provision of their services to the Client;

- 7.1.2 neither the Supplier nor the Consultant is supervised on a day to day basis by the Employment Business;
- 7.1.3 it may accept or reject in accordance with the terms of these Terms the Consultant provided via the Employment Business (and the Supplier, if applicable) with a view to performing the Services;
- 7.1.4 should it entrust the Supplier or the Consultant with the handling of money, securities, valuables, negotiable documents or confidential information, it does so at its sole risk;
- 7.1.5 the Employment Business, the Supplier and the Consultant make no warranty as to any product recommended by the Consultant in connection with the provision of the Services;
- 7.1.6 only the Client is in a position to assess and insure against risks in respect of or during or arising out of the period for which the Supplier or the Consultant is performing the Services; and
- 7.1.7 the charges made by the Employment Business reflect only those Supplier/Consultant sourcing, selection and introduction services agreed to be supplied by the Employment Business and do not indicate acceptance of any liability for the Supplier's or the Consultant's acts or omissions.

Whilst every effort is made by the Employment Business to give satisfaction to the Client by ensuring reasonable standards of skills, integrity and reliability from Suppliers and Consultants and further to provide them in accordance with the Client's booking details, the Employment Business cannot accept responsibility for the quality of the services provided by the Supplier and the Consultant or their activities while at the Client's site. Accordingly the Employment Business's liability is limited as set out in this clause 7.

- 7.2 The Employment Business is not liable for any loss, expense, damage or delay arising from any failure to provide any Supplier and/or Consultant for all or part of the period of booking or from the negligent, wrongful, dishonest or fraudulent acts or omissions or misrepresentations of the Supplier or the Consultant, including, without limitation any lack of skill of the Supplier and/or the Consultant. For the avoidance of doubt, the Employment Business does not exclude liability for death or personal injury arising from its own negligence, its own fraudulent acts or omissions or any other liability which cannot by law be excluded.
- 7.3 Nothing contained in these Terms shall in any way constitute:
 - 7.3.1 where there is a Supplier, the Supplier or the Consultant as the employee(s) or worker(s) of the Employment Business or the Client; or
 - 7.3.2 where there is no Supplier, the Consultant as the employee of the Employment Business or the employee or worker of the Client.

The Supplier, or (where there is no Supplier) the Consultant is engaged under a contract for services (in respect of which, without limitation, the Client does not have the right to control the actions of the Supplier or the Consultant in the way that it would if an employment relationship existed). The Client agrees to be responsible for all acts, errors or omissions of the Consultant, whether wilful, negligent or otherwise. The Client will also comply in all respects with all legislation including (without limitation), for the avoidance of doubt, the Working Time Regulations, the Health and Safety At Work Act, by-laws, codes of practice and legal requirements to which the Client is ordinarily subject in respect of the Client's own staff, including in particular adequate insurance during all Assignments.

- 7.4 Where there is no Supplier, the Client will assist the Employment Business in complying with the Employment Business's duties under the Working Time Regulations by supplying any relevant information about the Assignment requested by the Employment Business and the Client will not do anything to cause the Employment Business to be in breach of its obligations under these Regulations. Where there is no Supplier and the Client requires or may require the services of a Consultant for more than 48 hours in any week, the Client must notify the Employment Business of this requirement before the commencement of that week.
- 7.5 The Client undertakes that it knows of no reason why it would be detrimental to the interests of the Supplier or the Consultant for the Supplier and/or the Consultant to fill the Assignment.
- 7.6 The Client shall indemnify and keep indemnified the Employment Business against any costs, claims or liabilities incurred by the Employment Business arising out of any Assignment or arising out of any non-compliance by the Client with clauses 7.3 and 7.4 and/or as a result of any breach of these Terms by the Client.
- 7.7 The Employment Business shall not be liable to the Client in respect of any loss of profit, business, goodwill, revenue, contracts, anticipated savings and/or any claims made under third party contracts or any special, indirect or consequential damages or loss, regardless of whether such damages or losses are foreseeable or not.

- 7.8 Subject to the above provisions of this clause 7, the Employment Business's maximum aggregate liability in respect of its own and its employees' negligent or wrongful acts or omissions, other than fraud, or negligence resulting in death or personal injury, shall be limited (so far as is permitted by law) to the extent of its relevant insurance cover.
- 7.9 The Client acknowledges that the Employment Business shall not be responsible for supervising, monitoring or directing the Supplier(s) and/or Consultant(s) whilst working on Assignment and that accordingly, only the Client is in a position to assess and insure against risks in respect of or during or arising out of the period for which the Supplier and/or the Consultant is performing the Services. However, where the Services are performed by a PSC Contractor, the Client and the Employment Business acknowledge that the PSC Contractor provides its services in connection with these Terms as an independent contractor and does not work under the supervision, control or direction of the Client or Employment Business and accordingly neither the Client nor the Employment Business is responsible for supervising, monitoring or directing the PSC Contractor whilst working on Assignment. If the Client does, or intends to, supervise and direct any PSC Contractor, the Client shall immediately notify the Employment Business of that fact.

8. REPLACEMENT OF TEMPORARY WORKER

The Employment Business shall be entitled from time to time, without prejudice to the other terms of these Terms, to offer the Client a replacement temporary worker, provided that the Client shall be under no obligation to accept any such replacement temporary worker if in the Client's reasonable opinion such replacement is not suitable (whether by reason of experience, training, qualifications or any authorisation which the Client considers are necessary to perform the Services, or which are required by law or by any professional body).

9. TERMINATION

- 9.1 Each Assignment shall automatically expire at close of business on the relevant End Date and may be terminated prior to the relevant End Date as provided in this clause 9.
- 9.2 If, within one week of the Start Date, the Client reasonably considers that the services of the Consultant are unsatisfactory, the Client shall notify the Employment Business in writing to that effect and the Employment Business shall use its reasonable endeavours to procure that a suitable replacement temporary worker is available to perform the Services as soon as possible. If no such replacement is available within 14 days after receipt by the Employment Business of the Client's written notification of unsatisfactory performance, then the Client may terminate the relevant Assignment with immediate effect by written notice to the Employment Business. The Employment Business may, in such circumstances, reduce or cancel the charges for the time worked by that Consultant, provided that the Assignment terminates: -
- within four hours of the Consultant commencing the Assignment where the booking is for more than 7 hours; or
 - within two hours for bookings of 7 hours or less;
- and also provided that notification of the unsuitability of the Consultant is confirmed in writing to the Employment Business within 48 hours of the termination of the Assignment.
- 9.3 The Employment Business may terminate an Assignment at any time without prior notice and without liability.
- 9.4 The Client shall notify the Employment Business immediately and without delay and in any event within 12 hours if the Consultant fails to attend work or notifies the Client that the Consultant is unable to attend work for any reason.
- 9.5 [Only applicable where the Conduct Regulations do apply] In accordance with its obligations under the Conduct Regulations, the Employment Business shall notify the Client immediately if it receives or obtains information which gives it reasonable grounds to believe that a Consultant supplied to the Client is unsuitable for the Assignment and the Employment Business shall, without delay, inform the Client of that information and end (and be entitled to end) the supply of the Consultant's services to the Client.
- 9.6 [Only applicable where the Conduct Regulations do apply] If the Employment Business receives or obtains information which indicates that the Consultant may be unsuitable to perform the Services for the Client, but that information does not give the Employment Business reasonable grounds to believe that the Consultant is unsuitable, the Employment Business shall, without delay, inform the Client of that information and commence making such further enquiries as are reasonably practicable as to the suitability of the Consultant to perform the Services for the Client, and inform the Client of the enquiries made and any further information it receives or obtains, and, if as a result of the enquiries made, the

Employment Business has reasonable grounds to believe the Consultant is unsuitable to perform the Services for the Client it shall, without delay, inform the Client of that information and end the supply of the Consultant's services to the Client.

- 9.7 by written notice with immediate effect by the Employment Business if the Client refuses to increase the Payment Rate to the Employment Business in order that the Payment Rate (less the Employment Business's margin) is higher than the Comparator's Pay pursuant to clause 13.1.
- 9.8 by written notice with immediate effect by the Employment Business if the Client refuses to give the Employment Business any relevant Information (and/or gives the Employment Business incorrect Information) required for the Employment Business and/or the Client to comply with their AWR duties pursuant to clauses 13.2 and 13.5

10. CONFIDENTIAL INFORMATION AND INTELLECTUAL PROPERTY RIGHTS

- 10.1 All information supplied by the Employment Business to the Client about a Consultant and/or a Supplier is confidential and the Client agrees that it will not divulge such information to any third party.
- 10.2 The Employment Business shall ensure that the Consultant shall enter into an agreement to confirm that all information obtained about the Client during an Assignment shall remain confidential and that title to all work results developed during the course of an Assignment for the Client shall vest in the Client and any related intellectual property rights shall be assigned to the Client.-

11. DATA PROTECTION

Each party warrants to the other that, in relation to these Terms, it shall comply strictly with all requirements of the Data Protection Laws.

12. ANTI-BRIBERY

- 12.1 The Client acknowledges and agrees that the Employment Business will not tolerate bribery in any form in connection with the conduct of its business.
- 12.2 The Client shall:
- comply with all applicable laws, statutes, regulations, codes and guidance relating to anti-bribery and anti-corruption ("Anti-Bribery Laws"), including without limitation the Bribery Act 2010;
 - not engage in any activity, practice or conduct which would constitute an offence under the Bribery Act 2010 if such activity, practice or conduct had been carried out in the United Kingdom;
 - not do, or omit to do, any act that will cause the Employment Business to be in breach of the Anti-Bribery Laws;
 - promptly report to the Employment Business any request or demand for any undue financial or other advantage of any kind received by the Client in connection with the performance of this Terms; and
- The Client shall promptly notify the Employment Business if, at any time during the term of these Terms, its circumstances, knowledge or awareness changes such that it would not be able to repeat the warranties set out in clause 12.2.
- 12.3 Breach of this clause 12 shall be deemed a material breach of these Terms.
- 12.4 The Client shall indemnify the Employment Business against any losses, liabilities, damages, costs and expenses incurred by the Employment Business as a result of any breach of this clause 12 by the Client (including any consequential loss or damage).

13. AWR

- 13.1 For the purposes of this clause, the following definitions shall apply:

"Agency Worker" has the meaning given under Regulation 3(1) of the AWR;

"Comparable Terms" means the basic working and employment conditions applicable as of Day One Of The Relevant Qualifying Period to which an individual would be entitled (including Pay, duration of working time, night work rest periods, rest breaks and annual leave) if they were employed or engaged directly by the Client (including any variations in those relevant terms and conditions made at any time after Day One Of The Relevant Qualifying Period);

"Comparator Pay" means the Pay to which a Deemed Comparator would be entitled;

"Day One Of The Relevant Qualifying Period" means the first day on which the relevant Agency Worker starts work on an assignment which continues for 12 calendar weeks or more such that the Agency Worker completes the qualifying period in accordance with Regulation 7 of the AWR;

"Deemed Comparator" means any "comparable employee" within the meaning of Regulation 5(4) of the AWR and including any individual working for and under the supervision and direction of the Client and engaged in the same or broadly similar work as the relevant Temporary Resource having regard, where necessary, to whether they have the same level of qualification and skills;

"Information" means any information, including but not limited to Comparable Terms (including an explanation of the basis on which it is considered that the individual identified as a Deemed Comparator is considered to be a comparable employee) which may help either party to this Terms comply with their obligations under the AWR;

"Pay" means "pay" as defined under Regulation 6(2) of the AWR;

"Temporary Resource" means a Consultant or Supplier.

13.2 The Employment Business and the Client shall each comply with their obligations under the AWR and each party shall cooperate fully with the other in connection with the AWR. In particular, the Client shall provide the Employment Business on a timely basis, with such Information as the Employment Business shall reasonably request from the Client to enable the Employment Business to comply with or otherwise evidence the Employment Business's and/or the Client's compliance with the AWR and:

- (a) the Client warrants that any Information it provides or has already provided to the Employment Business is correct and up to date and that it will notify the Employment Business as soon as possible in writing if the Client becomes aware that the Information is incorrect or out of date; and
- (b) the Client will indemnify the Employment Business for any Losses arising directly or indirectly from the Client: (a) refusing to provide the Employment Business with Information; or (b) providing incorrect and/or out of date Information; or (c) failing to update the information on a timely basis.

13.3 The Employment Business and the Client acknowledge and agree that whether or not a Temporary Resource has rights as an Agency Worker will depend on the facts of that particular supply but as a general rule any temporary resource will not be an Agency Worker if they:

- (a) do not work under the supervision and direction of the Client (or the Employment Business); or
- (b) do not have a contract of employment, or any other contract with the Employment Business to perform work and services personally; or
- (c) carry on a profession and/or their own business undertaking which has the effect that the Client and/or the Employment Business are customers or clients of the individual's business,

For the purposes of this clause 13 such service providers shall be defined as a "Consultants Outside the Scope of the AWR".

13.4 For the avoidance of doubt and in accordance with Regulations 12 and 13 of the AWR, the Client will be solely liable for any breaches of any rights under the AWR applicable from the first day of an assignment but the Employment Business shall use all reasonable endeavours to assist the Client in relation to such compliance.

13.5 Once the Employment Business is provided with accurate and full Information including without being limited to Comparator Pay and the Employment Business agrees to continue to supply that Agency Worker the Employment Business shall use its reasonable endeavours to agree a fair market rate for the supply of the Services and the recruitment services, although this may from time to time mean that the Payment Rate has to be increased.

13.6 The Employment Business reserves the right to refuse to make a supply of an Agency Worker where the Employment Business reasonably considers that the Payment Rate may (after deduction of:

the Employment Business's normal recruitment services fee or margin and payment of or payment to a third party in respect of Employer's National Insurance (where applicable) and any other normal deduction in respect of sums received in relation to an Agency Worker's services) be less than the relevant Comparator Pay;

13.7 The Employment Business reserves its right to terminate or, where the Assignment has not yet commenced, withdraw from the relevant Assignment without liability and with immediate effect, if the Payment Rate the Client requires would (after deduction of the sums described at clause 13.6) result in a breach of the AWR.

13.8 Where the Services are performed by Consultants Outside the Scope of the AWR the Client shall use all reasonable endeavours to ensure it does not seek to control, give direction to or supervise such individuals. Accordingly, the Client and the Employment Business acknowledge and agree that the services of PSC Contractors are engaged on the basis that relevant individuals are independent contractors and as such without rights under the AWR. If and when:

- (a) the Client, who has day to day contact with PSC Contractors (and is therefore best placed to assess this), considers that it is exercising supervision and direction over such PSC Contractors or
- (b) the Employment Business notifies the Client that it considers that the status of a PSC Contractor may not be as represented or that the type of work involved does not lend itself to an independent supply,

then the Client shall provide the Employment Business with Information in relation to the Deemed Comparator and the provisions set out in 0 above shall apply. The Employment Business reserves the right to request an increase in the Payment Rates to allow for Comparable Pay to be paid if Information reveals that the Payment Rate (after deduction of the Employment Business's normal recruitment services fee) is less than the Comparable Rate. If the Client does not agree to such an increase the Assignment may be terminated (pursuant to clause 9.8 by the Employment Business without liability and with immediate effect.

13.9 The Client shall immediately notify the Employment Business if it receives any complaint, request for information or claim from a Temporary Resource relating to Payment Rate (after deduction of the Employment Business's normal recruitment services fee) or any other rights claimed under the AWR. The parties shall work and co-operate together to respond to and resolve any such complaints or claims. The Client undertakes to provide the Employment Business with any further Information it may request in order to respond to any such complaint, request for information or claim.

14. GENERAL

14.1 [Only applicable where the Conduct Regulations do apply] For the purposes of the Conduct Regulations the Employment Business shall operate as an employment business in relation to the Client (except where any permanent placement results from the Employment Business's introduction(s) to the Client, in which case the Employment Business shall act as an employment agency).

14.2 The Client acknowledges that, in entering the agreement under these Terms, it has not relied on any representations by the Client, the Employment Business, the Supplier or the Consultant made before the execution of these Terms other than those expressly set out in these Terms.

14.3 These Terms are personal to the Client and it shall not be entitled to assign or sub-contract its obligations or rights under these Terms to any third party without the prior written consent of the Employment Business. The Employment Business shall however be entitled to assign these Terms to any member of its group and, upon such assignment, without prejudice to the assignor's rights in respect of matters arising prior to such assignment, all references to the Employment Business shall be deemed to refer to the assignee.

14.4 [Only applicable where the Conduct Regulations do apply] Any assignment of these Terms by the Employment Business to another employment business in accordance with clause 14.5 shall be subject to the Client's prior consent (such consent not to be unreasonably withheld or delayed).

- 14.5 These Terms are governed by the law of England & Wales and are subject to the exclusive jurisdiction of the Courts of England & Wales.
- 14.6 The restrictions contained in these Terms are considered reasonable by the parties, but, if any such restriction is found void but would be valid if some part of the restriction were deleted, such restriction shall apply with such deletion as may be necessary to make it valid and effective.
- 14.7 If any provision or any part of these Terms is held to be illegal or unenforceable, in whole or in part, under any enactment or rule of law:
- 14.7.1 such provision or part shall to that extent be deemed not to form part of these Terms but the enforceability of the remainder of these Terms shall not be affected;
- 14.7.2 to the extent permitted by law, the Employment Business and the Client shall negotiate in good faith a replacement to any provision severed under clause 14.7.1 by a provision which is of similar effect but which is not illegal or unenforceable.
- 14.8 None of the provisions of these Terms is intended to be for the benefit of, or enforceable by third parties (other than permitted assignees of the Employment Business who shall be entitled to enforce the provisions of these Terms as if original parties to it) and the operation of the Contracts (Rights of Third Parties) Act 1999 is excluded.
- 15. APPLICATION OF THE CONDUCT REGULATIONS TO THIS AGREEMENT**
- 15.1 To the extent that (as indicated in the relevant Assignment Schedule) the Supplier and the Consultant have given notice to the Employment Business (in accordance with Regulation 32(9) of the Conduct

- Regulations) of their agreement that the Conduct Regulations shall not apply in respect of the supply of the Services under the relevant Assignment and such notice continues in effect then all Clauses in these Terms commencing "[Only applicable where the Conduct Regulations do apply]" shall not apply.
- 15.2 To the extent that:
- 15.2.1 (as indicated in the Assignment Schedule) the Supplier and the Consultant have not given a notice as described in clause 15.1; or
- 15.2.2 such notice under clause 15.1 ceases to have effect in accordance with its terms and Regulation 32(10),
- then all clauses in these Terms commencing "[Only applicable where the Conduct Regulations do not apply]" shall not apply.
- 15.3 If there is no limited company supplier through which the Consultant is providing the Services (i.e. if the Supplier details are stated to be "Not applicable" in Part C of the Assignment Schedule), there is no entitlement under the Conduct Regulations for the Consultant to agree that the Conduct Regulations shall not apply, and accordingly all clauses in these Terms commencing "[Only applicable where the Conduct Regulations do not apply]" shall not apply.
- 15.4 It is not necessarily accepted that (even where there is no notice as described in clause 15.1 in effect) the Supplier and/or the Consultant work or shall work for and under the control of the Client for the purposes of the Conduct Regulations or that the Conduct Regulations apply to the arrangements contemplated by these Terms.

If we have not received your signed copy of these terms, any continuing instruction from you in this matter will amount to your acceptance of our Terms and Conditions.

SIGNED: _____

NAME: _____

COMPANY: _____

DATE: _____