

Standard Terms of Business

Introduction and Supply of PAYE Agency Workers to Clients

1. Definitions

1.1 In these Terms -

“**Agency Worker**” means the individual named within the relevant area of the Assignment Details;

“**Alternative Hire Period**” means the period set out within the Assignment Details;

“**Assignment**” means the period during which the Agency Worker supplied by the Employment Business renders the Services;

“**Assignment Details**” means the details given by the Employment Business to the Client confirming the details of each Assignment;

“**AWR**” means the Agency Worker’s Regulations 2010(as amended);

“**Candidate**” means the person introduced by the Employment Business to the Client for an Engagement including, but not limited to, members of the Employment Business’s own staff;

“**Client**” means the person, firm or corporate body together with any subsidiary or associated company (as defined by s. 1159 of the Companies Act 2006) to whom Employment Business supplies or introduces Candidate;

“**Client Group**” means the Client, any corporate body of which the Client is a subsidiary (as defined by s. 1159 of the Companies Act 2006), any other subsidiary of such body corporate and any subsidiary of the Client;

“**Conduct Regulations**” means the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (as amended);

“**Data Controller**” means

(a) "data controller" in the Data Protection Act 1998 in respect of processing undertaken on or before 24 May 2018; and

(b) "controller" in accordance with the General Data Protection Regulation (EU) 2016/679 in respect of processing undertaken on or after 25 May 2018;

“**Data Protection Legislation**” means all applicable laws and regulations, as amended or updated from time to time, in the United Kingdom relating to data protection, the processing of personal data and privacy, including without limitation,(a) the Data Protection Act 1998; (b) (with effect from 25 May 2018) the General Data Protection Regulation (EU) 2016/679; (c) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (as may be amended by the proposed Regulation on Privacy and Electronic Communications); and (d) any legislation that replaces or converts into United Kingdom law the General Data Protection Regulation (EU) 2016/679, the proposed Regulation on Privacy and Electronic Communications or any other law relating to data protection, the processing of personal data and privacy resulting from the United Kingdom leaving the European Union;

“**End User**” means the company under whose supervision and direction the Agency Worker temporarily works for during the Assignment;

“**Employment Business**” means Handle Recruitment Limited a company incorporated in England and Wales

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under company number 1419017 and whose registered office is at 164 -182 Oxford Street, London W1D 1NN.

“Engagement” means the engagement, employment or use of the Candidate and/or Agency Worker by the Client, by Client Group, by End User or by any third party to whom or to which the Candidate and/or Agency Worker was introduced by the Client (whether with or without the Employment Business’s knowledge or consent) on a permanent or Temporary basis, whether under a contract of service or for services; under an agency, license, franchise or partnership agreement; or through any other engagement directly or through a limited company of which the Candidate is an officer or employee or through a limited liability partnership of which the Candidate and/or Agency Worker is a member or employee; or indirectly through another Employment Business or company which holds itself out as such and “Engage”, “Engages” and “Engaged” will be construed accordingly;

“Introduced” means

- a) the interview of a Candidate by the Client in person or by telephone or by any other means,
 - b) the passing of a curriculum vitae or information in any format which identifies the Candidate; or
- following the Client’s instruction to the Agency to search for a Candidate and, in either case, which leads to and Engagement of the Candidate, whichever is earlier and **“Introduces”** and **“Introduction”** will be construed accordingly;

“Personal Data” means as set out in, and will be interpreted in accordance with Data Protection Legislation;

“Personal Data Breach” means the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise Processed in connection with these Terms or which relates to any Candidate and, where applicable, to any Agency Worker;

“Process” means as set out in, and will be interpreted in accordance with Data Protection Legislation and **“Processed”** and **“Processing”** will be construed accordingly;

“Qualifying Period” means as defined within regulation 7 of the AWR;

“Quarantine Period” means the “relevant period” as set out within regulation 10(5) of the Conduct Regulations;

“Remuneration” means basic salary, shift or weighting allowances, guaranteed and/or anticipated bonus and commission earnings, car allowance and any other benefit or allowance;

“Services” means the work to be performed by the Agency Worker pursuant to these Terms and as described within the Assignment Details;

“Terms” means these terms of business and will include any Assignment Details issued pursuant to these terms of business; and

“Transfer Fee” means the fee set out in clause 8.1

2. These Terms

2.1 These Terms are effective from the date of issue to the Client and supersede all previous terms of business issued by the Employment Business.

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2.2 These Terms will be deemed to be accepted by the Client and to apply by virtue of (a) an Introduction to the Client of, or the Engagement by the Client of, a Candidate or (b) the passing of information about the Candidate by the Client to any third party or (c) the Client's interview or request to interview a Candidate or (d) the Client's signature at the end of these Terms or (e) any other written, expressed acceptance of these Terms or (f) the signature by the Client of a timesheet relating to services performed by an Agency Worker. For the avoidance of doubt, these Terms apply whether or not the Candidate is Engaged by the Client for the same type of work as that for which the Introduction was originally effected.

2.3 These Terms contain the entire agreement between the parties in relation to the subject matter hereof and, unless otherwise agreed in writing, these Terms prevail over any previous terms of business, agreement or any purchase conditions put forward by the Client. This clause is without prejudice to any rights which have arisen prior to termination of such and nothing will operate to exclude or limit the liability of any party in respect of fraud.

2.4 For the purposes of these Terms, the Employment Business acts as an employment business as defined within the Conduct Regulations; save where a permanent placement results, in which case Employment Business will be acting as an employment agency as defined within the Conduct Regulations.

2.5 The Client authorises the Employment Business to act on its behalf in seeking Candidates and, if the Client so requests, will advertise for Candidates through

such additional methods as are agreed with the Client at the Client's exclusive cost.

2.6 Where there is a conflict of provisions between the main body of these terms of business and Assignment Schedule, the main body of these terms of business will take precedence save where expressly provided for within the clauses herein or agreed as a variation set out within Assignment Schedule.

2.7 Headings contained in these Terms are for reference purposes only and will not affect the intended meanings of the clauses to which they relate.

2.8 Unless the context otherwise requires, references to the singular include the plural and feminine includes masculine and vice versa.

3. Client Obligations

3.1 The Client agrees to, and where applicable will ensure End User will responsible for providing the working environment and any necessary resources, tools and facilities for the Agency Worker.

3.2 These Terms are personal to the Client and will not be assigned by it without the prior written consent of the Employment Business. For the avoidance of doubt, this restriction includes any assignment to any subsidiary, associated company or member of the Client's group.

3.3 The Client undertakes to provide the Employment Business with details of any specific health and safety risks in relation to the Services and Assignment, together with details of any steps taken to prevent or control such risks.

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3.4 The Client will ensure:

- a) the Agency Worker works in a safe environment in accordance with a safe system of work and that the Client complies with all relevant health and safety legislation and adheres to industry best practice; and
- b) the Agency Worker does not undertake any work during the Assignment which is hazardous without first conducting a risk assessment, informing the Employment Business and the Agency Worker of the outcome of that risk assessment and steps taken (or to be taken) to reduce the risk.

3.5 The Client will indemnify and keep indemnified the Employment Business from and against all loss or liability suffered or incurred by the Employment Business as a result of any claim by the Agency Worker arising out of any injury or damage to his/her person and/or property suffered in the course of performing the Services.

3.6 The Client warrants and confirms that it has given the Employment Business sufficient information to properly consider the suitability of the Candidate and the Client undertakes to confirm in writing to the Employment Business:

- a) the date upon which the Candidate/ Agency Worker is required to commence the provision of the Services; and
- b) the expected duration of the Engagement; and
- c) the nature of and/or specifics of the services required to be provided by the Agency Worker; and
- d) the location/s the Agency Worker is expected to deliver the Services; and
- e) details of any applicable End User;

f) the number of hours/days and any specific time-keeping and time recording requirements that the Client expects of the Agency Worker; and

g) any experience, training, qualifications, professional body authorisations that the Client, the law or any relevant professional body requires the Agency Worker to possess to provide the Services; and

h) any expenses payable by or to the Agency Worker; and

i) any site regulations, IT access/security/usage policies, health and safety procedures and any other procedures or policies the Client (or End User) requires the Candidate/ Agency Worker to adhere to and will provide copies of any such policies/procedure to the Employment Business; and

j) any health and safety risks and any steps taken to address those risks.

3.7 The Client undertakes to notify the Employment Business immediately of its, or any member of the Client Group's, or of End User's, intention to:

a) Engage a Candidate Introduced by the Employment Business; or

b) extend an Assignment or otherwise Engage directly or indirectly a Candidate and/or Agency Worker Introduced and/ or supplied by the Employment Business.

3.8 The Client will inform the Employment Business within 4 hours of any significant issues in relation to the Agency Worker or where the Client is dissatisfied with any Agency Worker in any respect.

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3.9 The Client warrants that it will, and where applicable will ensure that the End User will, from the start of the Assignment, provide the Agency Worker with;

- a) information about relevant vacant posts with the Client, or with End User where applicable; and
- b) save where objectively justifiable, access to any and all collective facilities and amenities of the Client or of End User, (where applicable), in the same manner as if the Agency Worker was a direct worker or employee of the End User (where applicable).

3.10 Upon request from the Employment Business, the Client undertakes to provide (without delay) to the Employment Business accurate information about the working and employment conditions that are applicable to the Client (or End User, where relevant), whether by contract or by collective agreement or otherwise and will include subsequent variations thereto, that relate to the Client's (or to the End User's) employees and direct workers including (without limitation)

- a) the End User's standard terms and conditions that apply to their employees and those that apply to their workers;
- b) details relating to the application and calculation of, pay scales, bonuses, commission, overtime, shift allowance, unsocial hours allowance, hazardous duties, holiday pay, other related emoluments;
- c) entitlements relating to annual leave, night work, rest periods, rest breaks;
- d) benefits of monetary value including, without limitation, vouchers and stamps; and
- e) any other information as may be required by the Employment Business to comply with the AWR.

3.11 Where the AWR applies to the Assignment, the Client agrees that it will, upon request from the Employment Business and without delay, provide accurate details relating to the working and employment conditions (as defined within regulation 5(2) and regulation 6 of the AWR) of the Client's (or End User's) workers and/or employees who undertake the same or broadly similar work as that of the Agency Worker during the Assignment.

3.12 Where the AWR applies to the Assignment and where applicable pursuant to information obtained under clause 3.11 above, the Client will, and where applicable will ensure that the End User will, apply to the Agency Worker the same or similar process as applied to assess Pay that is directly attributable to the amount or quality of the work done by the Agency Worker. For the purposes of this clause "Pay" means as defined in regulation 6(2) of the AWR.

3.13 Where the AWR applies to the Assignment and the Agency Worker is pregnant, the Client acknowledges and agrees that, following the Qualifying Period, the Client will, and where applicable will procure that the End User will, permit the Agency Worker time off to attend ante-natal medical appointments and ante-natal classes.

3.14 Where the AWR applies to the Assignment, the Client acknowledges and agrees that, following the Qualifying Period and whereupon the Agency Worker is unable to continue to provide some or all of the Services on maternity grounds due to reasons of health and safety, the Client will, and where applicable will procure that the End User will, undertake to make such reasonable adjustments as are necessary to allow the

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Agency Worker to continue providing services for the duration of the Assignment. For the avoidance of doubt, such reasonable adjustments will include provision of alternative work on terms no less favourable than those applicable during the Assignment.

3.15 The Client undertakes and agrees to immediately notify the Employment Business where an Agency Worker has worked for the Client/ End User in the same or similar role as the Assignment where, prior to the planned commencement of the Assignment, such role is within the Qualifying Period.

3.16 The Client warrants and undertakes that it will not, and where applicable will procure that the End User will not, seek to deny the Agency Worker's entitlement to rights under the AWR by virtue of the structure of assignments and will at all times comply with regulation 9 of the AWR.

3.17 The Client warrants and undertakes that all information it provides to the Employment Business under these Terms is true and accurate.

4. The Employment Business's Obligations

4.1 The Employment Business will use reasonable endeavours to introduce Candidates to the Client who meet the Client's stated requirements.

4.2 Where the Employment Business and the Client have agreed that the Employment Business will supply the Client with the services of a particular Candidate, the Employment Business will give the Client an Assignment Details confirming the name of the Agency Worker, the agreed charge rate(s), duration of the Assignment,

description of the Services, notice periods and any other relevant details communicated and agreed between the parties.

4.3 The Employment Business will use reasonable endeavours to ensure that the Agency Worker co-operates with the Client and complies with all the Client's reasonable and lawful instructions.

4.4 The Employment Business will use reasonable endeavours to ensure that the Agency Worker enters into an agreement which contains an obligation on the Agency Worker to assign to the Employment Business for onward assignment to Client, or directly to Client (as directed by Client to Employment Business), intellectual property rights of whatever nature and, if capable of registration, whether registered or not, in all documents or other material and data or other information and devices or processes provided or created by the Agency Worker in the provision of the Services.

4.5 The Employment Business will use reasonable endeavours to ensure that the Agency Worker enters into an agreement which contains an obligation on the Agency Worker to keep confidential all confidential information of the Client obtained during the Assignment. For the purposes of this clause, confidential information is confidential if it is clearly marked confidential or if the Client states it is confidential clearly in writing to the Agency Worker.

4.6 The Employment Business may substitute the Agency Worker with another suitably qualified and similarly skilled Agency Worker with reasonable notice at its absolute discretion.

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4.7 The Employment Business is responsible for payment to the Agency Worker for work done during the Assignment and for any PAYE, National Insurance and any other statutory deductions required to comply with legislation.

5. Charges / Fees

5.1 The Client agrees to pay the Employment Business's charges for the Introduction of and for the Services of the Agency Worker/ Candidate as notified to and agreed with the Client. The charges are calculated according to the number of hours worked by the Agency Worker (to the nearest quarter hour). The Agency Worker charges comprise the following:

- a. the Agency Worker's hourly rate of pay;
- b. an amount equal to any paid holiday leave to which the Agency Worker is entitled under the Working Time Regulations 1998 and, where applicable, the Agency Workers Regulations and which is accrued during the course of an Assignment;
- c. any other amounts to which the Agency Worker is entitled under the Agency Workers Regulations, where applicable;
- d. employer's National Insurance contributions calculated on the workers total basic pay at the current rate;
- e. any amounts to which the Agency Worker is entitled to for pensions auto-enrolment legislation;
- f. employer's Apprenticeship Levy contribution;

g. any travel, hotel or other expenses as may have been agreed with the Hirer or, if there is no such agreement, such expenses as are reasonable; and

h. the Employment Business' fee, which is calculated as a margin of the gross sales figure.

5.2 Signature by the Client (or by End User where applicable) of timesheets or other verification of hours worked is confirmation of the amount of time worked by the Agency Worker and satisfaction of the Services provided. Failure to sign/ authorise the timesheet does not absolve the Client of its obligation to pay Terms for the Services provided by Agency Worker during the Assignment.

5.3 If the Client is unable to sign a timesheet (or other agreed method of verification of hours/days) produced for authentication by the Agency Worker because the Client disputes the amount of time claimed, then the Client will notify the Employment Business within two working days from the presentation to the Client of the claimed hours/days for verification and will co-operate fully and in a timely fashion with the Employment Business, including providing documentary evidence of the hours/days worked by the Agency Worker, to enable the Employment Business to establish what periods of time, if any, the Agency Worker worked.

5.4 With reference to clause 3.13, where such time off to attend ante-natal medical appointments and ante-natal classes falls within the normal working periods of the Agency Worker during the Assignment, the Client agrees to pay the Employment Business's charges, in

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accordance with clause 5.1, for such periods whether by inclusion of such time on a timesheet or otherwise.

5.5 There are no refunds or rebates payable by the Employment Business to the Client (or to Client Group or, for the avoidance of doubt, End User) in respect of the Employment Business's charges.

5.6 The Client agrees to pay the Employment Business all reasonable business expenses incurred by the Agency Worker in the provision of the Services.

5.7 VAT will be payable in addition to charges/fees where applicable.

5.8 The Client acknowledges and agrees that the Employment Business may, upon notice, increase the charge rate set out in under clause 5.1 (or as set out in the relevant Assignment Details if applicable) in order to comply with the AWR or where the cost of the supply of the Agency Worker increases due to a change in legislation, or for reasons otherwise outside the Employment Business' control, including but not limited to any steps taken by the Employment Business to comply with pensions auto-enrolment legislation.

5.9 The Client acknowledges that it has no right to set-off, withhold or deduct monies from sums due to the Employment Business under these Terms.

5.10 The Employment Business will not be liable for fraudulent timesheets.

5.11 The Client acknowledges the Employment Business may increase its charges where the cost of the supply of the Agency Worker increases due to a change in legislation.

5.12 Where the Client engages, either on its own account or in partnership or association with any person,

company or organisation, or otherwise and whether directly or indirectly during, or for a period of 12 months from the expiration of, these Terms of Business, any employee or any key executive of the Employment Agency, the Client shall pay the Employment Agency a fee equivalent to 12 months of the current gross salary of the relevant employee/key executive. The Employment Agency will charge VAT on the fee where applicable. There is to be no entitlement to any rebate, discount or refund to the Client in relation to fees paid in accordance with this clause 5.12.

6. Invoices

6.1 The Employment Business will raise invoices weekly in respect of the charges payable and the Client agrees to pay such invoices within fourteen (14) days of the date of the invoice, unless otherwise agreed and set out within the relevant area of the Assignment Details.

6.2 All invoices will be deemed to be accepted in full by the Client in accordance with the payment terms stated within clause 6.1 above unless the Client notifies the Employment Business in writing within five days of the amount the Client disputes and the reason the Client disputes that amount. In the event the Client does so notify the Employment Business that it wishes to dispute part of an invoice, the Client agrees to pay the undisputed part of the invoice within the agreed payment terms and will co-operate fully with the Employment Business in order to resolve the dispute as quickly as possible.

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6.3 The Employment Agency will be entitled to charge interest on invoiced amounts overdue at the statutory rate as prescribed pursuant to Section 6 of the Late Payment of Commercial Debts (Interest) Act 1998, (and as may be calculated using the calculator on the website: www.payontime.co.uk) from the due date until the date payment is received in cleared funds and to charge compensation and further recovery costs in accordance with the Late Payment of Commercial Debts Regulations 2013, and to suspend work until they are paid.

6.4 In the event that a Purchase Order number is required it must be submitted by the Client before the Candidate commences the Engagement. Should the Client fail to provide the required Purchase Order number, invoices will be submitted for payment and due in full in accordance with clause 6.1.

6.5 All invoices will be raised in GBP by the Employment Agency. All payments made against the invoices must be in GBP unless agreed otherwise, in writing, by both parties.

7. Termination of Assignments

7.1 The Client may, subject to clause 7.2 below, instruct the Employment Business in writing, to end the Services of the Agency Worker immediately in the event of substantial non-performance or serious misconduct of the Agency Worker, provided that the Client provides detailed, written confirmation of the non-performance and/or misconduct.

7.2 The Employment Business may end any and/or all Assignment immediately by giving the Client notice in writing if the Client is in material breach of these Terms.

7.3 Either party may terminate an Assignment prior to the end of the Assignment by giving not less than 1 weeks' notice in writing, or such other period of notice agreed and set out within the relevant area of the Assignment Details.

7.4 When notice of termination of an Assignment is served by the Client, payment for each period of notice will be based on the specified hours agreed in and set out within the relevant area of the Assignment Details or actual hours worked by the Agency Worker, whichever is greater. The Client agrees to make payment in accordance with clauses 5 and 6 above irrespective of whether or not the Agency Worker continues to provide the Services during this notice period.

7.5 In any event of termination of an Assignment pursuant to clause 7.1 above, the Employment Business will use reasonable endeavours to provide an alternative Agency Worker within fourteen (14) days that in the reasonable opinion of the Employment Business is suitable to provide the Services.

7.6 These Terms may be terminated by either party by giving to the other immediate notice in the event that either the Employment Business or Client goes into liquidation, becomes bankrupt or enters into an arrangement with creditors or has a receiver or administrator appointed or where the Employment Business has reasonable grounds to believe the Client will not pay the Employment Business's invoice within the

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payment terms agreed in accordance with clauses 5 and 6.

7.7 Notwithstanding clause 4.6, the Employment Business may, at its absolute discretion and at any time, terminate the Assignment upon immediate notice where in the opinion of the Employment Business the Agency Worker is no longer suitable to provide the Service.

7.8 Following termination (howsoever arising) of these Terms, the provisions contained within clauses 1, 2, 3.7, 3.10, 3.11, 3.12, 5.5, 5.6, 5.9, 5.10, 8, 9, 10, 11, 12, 13, 14 and 15 will continue in full force and effect.

8. Engagement of Agency Worker by Client or Third Parties

8.1 Subject to clause 9.1, the Client agrees that when the Client or Client Group or End User Engages an Agency Worker (other than through the Employment Business) either during the Assignment or within the Quarantine Period, the Client agrees to notify the Employment Business of that Engagement and agrees to pay the Employment Business the Transfer Fee of 20% of the Agency Worker's Remuneration applicable during the first 12 months of the Engagement, irrespective of the planned duration of the Engagement. No refund of the Transfer Fee will be paid in the event that the Engagement subsequently terminates. VAT is payable in addition to any fee due.

8.2 Subject to clause 9.2, where there has been an Introduction of a Candidate to the Client which does not immediately result in the supply of the services of that Candidate by the Employment Business to the Client, but

which later leads to an Engagement of the Candidate by the Client or Client Group or by End User (howsoever arising), within 6 months from the date of Introduction, the Client agrees to notify the Employment Business of that Engagement and agrees to pay a Transfer Fee in accordance with clause 8.1 above.

VAT, where applicable, is payable in addition to any fee due.

8.3 All Introductions are confidential. If the Client passes details of a Candidate and/or Agency Worker to any third party (including, for the avoidance of doubt, Client Group or End User) resulting in the Engagement of that Candidate and/or Agency Worker, the Client agrees to pay the Transfer Fee. VAT, where applicable, is payable in addition to any fee due.

8.4 Client acknowledges and agrees that where it fails to notify the Employment Business of the actual Remuneration/fees it (or where applicable, Client Group or End User) intends to (directly or indirectly) pay the Candidate/ Agency Worker, the Employment Business will be entitled to base the calculation of the Transfer Fee based on comparable market rates for similar roles.

8.5 For the avoidance of doubt, no refund of the Transfer Fee will be paid in the event that the Engagement subsequently terminates.

9. Alternative Hire Periods

9.1 As an alternative to the Transfer Fee agreed in clause 8.1, the Client may provide the Employment Business with the written notice in accordance with clause 7.3 above and to require the Employment

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Business to supply the services of the Agency Worker for a further period agreed as the Alternative Hire Period, during which period the Client will pay the charges agreed pursuant to clause 5.1.

9.2 As an alternative to the Transfer Fee agreed in clause 8.2, the Client may provide the Employment Business with five days written notice to require the Employment Business to supply the services of the Agency Worker for the Alternative Hire Period agreed, during which period the Client agrees to pay the charges agreed pursuant to clause 5.1 above, or where none agreed, pursuant to market rate in the sole opinion of Employment Business.

9.3 Upon completion of the entire duration of Alternative Hire Period and the payment in full of invoices relating thereto, the Client may engage with the Agency Worker directly or indirectly without any additional payment to the Employment Business.

9.4 Where the Client does not give such notice as required within clauses 9.1 and 9.2 above before the Candidate/ Agency Worker is Engaged, the Client agrees and acknowledges that the Transfer Fee will become due in full to the Employment Business.

9.5 Pursuant to clauses 9.1 and 9.2 above, a further Assignment Details will be issued by the Employment Business and these Terms will continue in full force and effect during the Alternative Hire Period.

9.6 In the event the Agency Worker or Candidate ceases to provide services for whatever reason during the Alternative Hire Period, the Client agrees and acknowledges that the Transfer Fee will become due in full, minus the portion directly relating to the gross profit

of the Employment Business paid by the Client to the Employment Business during the period of the Alternative Hire Period, that the Candidate/ Agency Worker completed.

9.7 For the avoidance of doubt, there will be no refund of any fees or charges paid by the Client to the Employment Business in relation to Alternative Hire Period.

10. Data Protection

10.1 For the purposes of this clause 10 "**Data Subject**" means as set out in, and will be interpreted in accordance with Data Protection Legislation. For the avoidance of doubt, Data Subject includes the Candidate and Agency Worker.

10.2 The parties hereto acknowledge that the Employment Business is a Data Controller in respect of the Personal Data of the Candidate/Agency Worker and provides such Personal Data to Client in accordance with the Data Protection Legislation for the purposes anticipated by these Terms.

10.3 The parties hereto acknowledge that the Client is a Data Controller but the parties hereto are not Joint Controllers (as defined within Data Protection Legislation) save where a specific agreement is made to that effect between the parties hereto.

10.4 The parties hereto agree that the Agency Worker is not the Client's Data Processor (as defined within Data Protection Legislation) save where agreed otherwise within the Assignment Details and subject to additional terms and conditions.

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10.5 The parties hereto warrant to each other that any Personal Data relating to a Data Subject, whether provided by the Client, Employment Business or by the Candidate or Agency Worker, will be used, Processed and recorded by the receiving party in accordance with Data Protection Legislation.

10.6 The parties hereto will take appropriate technical and organisational measures to adequately protect all Personal Data against accidental loss, destruction or damage, alteration or disclosure.

10.7 The Client will:

- a) Comply with the instruction of the Employment Business as regards the transfer/sharing of data between the parties hereto. If Client requires Personal Data not already in its control to be provided by the Employment Business, the Client will set out their legal basis for the request of such data and accept that the Employment Business may refuse to share/transfer such Personal Data where, in the reasonable opinion of the Employment Business, it does not comply with its obligations in accordance with Data Protection Legislation; and
- b) Not cause the Employment Business to breach any of their obligations under the Data Protection Legislation.

10.8 In the event the Client becomes aware of an actual or any reasonably suspected Personal Data Breach, it will immediately notify the Employment Business and will provide the Employment Business with a description of the Personal Data Breach, the categories of data that was the subject of the Personal Data Breach and the identity of each Data Subject affected and any

other information the Employment Business reasonably requests relating to the Personal Data Breach.

10.9 In the event of a Personal Data Breach, the Client will promptly (at its own expense) provide such information, assistance and cooperation and do such things as the Employment Business may request to -

- a) investigate and defend any claim or regulatory investigation;
- b) mitigate, remedy and/or rectify such breach; and
- c) prevent future breaches.

The Client will provide the Employment Business with details in writing of all such steps taken.

10.10 The Client will not release or publish any filing, communication, notice, press release or report concerning any Personal Data Breach without the prior written approval of the Employment Business.

10.11 The Client agrees it will only Process Personal Data of Candidate or of Agency Worker for the agreed purpose of provision of Services pursuant to these Terms.

10.12 The Client will provide evidence of compliance with clause 10 upon request from the Employment Business.

11. Liability

11.1 The Employment Business will use reasonable endeavours to ensure the Agency Worker has the required standard of skill, integrity and reliability; nevertheless, the Employment Business will not be liable for any loss, expense, damage or delay arising from and in connection with any failure on the part of the Agency

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Worker to perform the Services nor for any negligence whether willful or otherwise, dishonesty, fraud, acts or omissions, misconduct or lack of skill of the Agency Worker howsoever arising.

11.2 The Employment Business will not be liable for any loss, expense or damage arising from or in connection with any property, equipment, or items provided to the Agency Worker in connection with or for the purpose of the assignment which may include but not limited to laptop, computers, phones, ID cards, uniforms, personal protective equipment or clothing. The Employment Business will not be liable to ensure safe return of such property or equipment back to the Client.

11.3 The Agency Worker is engaged under a contract for services. Under no circumstances shall they be considered an employee of the Employment Business.

11.4 The Client will comply, and will procure that End User will comply, with all relevant statutes, by-laws and legal requirements including provision of adequate public liability insurance in respect of the Agency Worker. The Client agrees to allow and reasonably assist the Employment Business in complying with its legal obligations regarding the introduction of Candidate/s and supply of Services by the Agency Worker.

11.5 Where it is foreseeable that Agency Worker will work hours in contravention to the provisions of the Working Time Regulations, Client will provide written notice to Employment Business in good time prior to the commencement of Assignment. Employment Business will ask if Agency Worker is willing to sign the relevant opt-out under the Working Time Regulations.

11.6 The Employment Business is providing resourcing services comprising of sourcing, introduction and payroll administration in relation to Services performed by the Agency Worker and accordingly, the Employment Business will not accept any liability whatsoever, howsoever arising for the quality of services provided by the Agency Worker, save for death or personal injury caused by the Employment Business's negligence.

11.7 Save where required by law, the parties hereto are not liable for –

- a) loss of profits, loss of business, loss of revenue, depletion of goodwill, pure economic loss, loss of anticipated saving, damages, charges, expenses and/or similar losses; or
- b) any special, indirect or consequential losses.

11.8 The sole aggregate liability of the Employment Business to the Client arising in connection with these Terms will be limited to £10,000.

12. Indemnity

12.1 The Client agrees to indemnify and keep indemnified the Employment Business against any costs, claims or liabilities incurred directly or indirectly by the Employment Business arising out of or in connection with these Terms including (without limitation) as a result of:

- a) any breach of these Terms by the Client (including its employees, subcontractors and agents); and
- b) any breach by the Client, or any of its employees or agents, of any applicable statutory provisions (including, without limitation, any statutory provisions

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prohibiting or restricting discrimination or other inequality of opportunity).

13. General

13.1 Employment Business is not liable for any delay or failure in performance of its obligations to Client where this arises from matters outside its reasonable control.

13.2 Any failure by the Employment Business to enforce at any particular time any one or more of these Terms will not be deemed a waiver of such rights or of the right to enforce these Terms subsequently.

13.3 If any provision, clause or part-clause of these Terms is held to be invalid, void, illegal or otherwise unenforceable by any judicial body, the remaining provisions of these Terms will remain in full force and effect to the extent permitted by law.

13.4 No provision of these Terms will be enforceable by any person who is not a party to it pursuant to the Contract (Rights of Third Parties) Act 1999 ("the Act"). This does not, however, affect any right or remedy of a third party that exists or is available independently of the Act.

13.5 Without prejudice to clause 2.2, whereupon these Terms and/ or Assignment Detail/s are executed by the signature of duly authorised representatives of the parties this forms a binding agreement and will supersede all previous agreements or representations whether written or oral including without limitation the Client's terms and conditions, purchase order or other Client documents with respect to the provision of the

Services set out herein provided by the Employment Business.

13.6 These Terms may not be modified or amended except in writing and signed by a duly authorised representative of the Employment Business.

14. Notices

14.1 Any notice required to be given under these Terms will be delivered by hand, e-mail or prepaid first class post to the recipient at its address specified in these Terms (or as otherwise notified from time to time to the sender by the recipient for the purposes of these Terms)

14.2 Notices in connection with these Terms will be deemed to have been given and served,

- a) if delivered by hand, at the time of delivery if delivered before 5.00pm on a business day or in any other case at 10.00am on the next business day after the day of delivery;
- b) if sent by e-mail, at the time of dispatch if dispatched on a business day before 5.00 p.m. or in any other case at 10.00 a.m. on the next business day after the day of dispatch, unless the authorised recipient informs the sender that the e-mail message was received in an incomplete or illegible form; or
- c) if sent by prepaid first class post, 48 hours from the time of posting.

For the avoidance of doubt and for the purpose of this clause 14.2, a "business day" will mean any day excluding Saturday, Sunday and public holidays.

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15. Governing Law

15.1 These Terms will be governed and construed in accordance with laws of England and Wales and all disputes, claims or proceedings between the parties relating to the validity, construction or performance of these Terms will be subject to the exclusive jurisdiction of the courts of England and Wales.