

Protocol Education Ltd Terms of Business with a Hirer for the Supply of Agency Workers

1st January 2012

1. DEFINITIONS AND INTERPRETATION

1.1. In these Terms the following definitions apply:

- “Agency Worker”** means any individual who is Introduced by the Employment Business to the Hirer;
- “AWR”** means the Agency Workers Regulations 2010;
- “Assignment”** means services specified in a Booking and Placement Form to be performed by the Agency Worker supplied by the Employment business to work for and under the supervision direction and control of the Hirer;
- “Booking and Placement Form”** means written confirmation of the Hirer’s requirements for an Assignment agreed by the Employment Business with the Hirer prior to commencement of the Assignment;
- “AWR Claim”** means any complaint or claim to a tribunal or court made by or on behalf of the Agency Worker against the Hirer and/or the Employment Business for any breach of AWR;
- “Calendar Week”** means any period of seven days starting with the same day as the first day of the First Assignment;
- “Charges”** means the daily charges of the Employment Business (pro rata for shorter periods) calculated in accordance with clause 6.1 and as may be varied from time to time in accordance with these Terms;
- “Comparable Employee”** means an employee of the Hirer who at the time of comparison works for and under the supervision of the Hirer and is engaged in the same or broadly similar work as the Agency Worker having regard, where relevant, to whether the employee and the Agency Worker have a similar level of qualification and skills; **and** works or is based at the same establishment as the Agency Worker or, where there is no employee of the Hirer working or based at that establishment who satisfies the other requirements of this definition, works or is based at a different establishment of the Hirer and satisfies those requirements;
- “Conduct Regulations”** means the Conduct of Employment Agencies and Employment Businesses Regulations 2003;
- “Confidential Information”** means any and all confidential commercial, financial, marketing, technical or other information or data of whatever nature relating to the Hirer or Employment Business or their business or affairs (including but not limited to these Terms, data, records, reports, agreements, software, programs, specifications, know-how, trade secrets and other information concerning any Assignment or any Agency Worker’s personal data) in any form or medium and however disclosed, provided to the Agency

Worker or any third party in relation to the Assignment or by the Hirer or the Employment Business or by a third party on behalf of the Hirer whether before or after the date of these Terms together with any reproductions of such information in any form or medium or any part(s) of such information, excluding any such information that has entered the public domain other than as a result of a breach by one of the parties of its obligations under these Terms;

“Control”

means (a) the legal or beneficial ownership, directly or indirectly, of more than 50% of the issued share capital or similar right of ownership; or (b) the power to direct or cause the direction of the affairs and/or general management of the company, partnership, statutory body or other entity in question, whether through the ownership of voting capital, by contract or otherwise, and "Controls" and "Controlled" shall be construed accordingly;

“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;

“Employment Business”

Protocol Education Limited (registered company no. 2926583), a Temporary Work Agency;

“Engagement”

means the engagement, employment or use of the Agency Worker by the Hirer or any third party to whom the Agency Worker has been introduced by the Hirer, directly or indirectly, on a permanent or temporary basis, whether under a contract of service or for services, and/or through a company of which the Agency Worker is an officer, employee or other representative, an agency, license, franchise or partnership arrangement, or any other engagement; and “Engage”, “Engages” and “Engaged” shall be construed accordingly;

“First Assignment”

means:

- (a) the current Assignment; or
- (b) if, prior to the current Assignment:
 - (i) the Agency Worker has been supplied by any Temporary Work Agency to work in the same role or a substantively similar role as the current Assignment with the relevant Hirer; and
 - (ii) the relevant Qualifying Period commenced in any such previous period of supply, that earlier supply;

“Hirer”

means any school, academy, local authority, nursery or similar body that contracts with the Employment Business for the Introduction and supply of Temporary Workers under Assignment; and/or the person, firm or corporate body together with any subsidiary or associated person, firm or corporate body (as the case may be) to whom the Agency Worker is Introduced;

“Hirer's Group”

means (a) any individual, company, partnership, statutory body or other entity which from time to time Controls the Hirer, including (but not limited to) as a holding company as defined in section 1159 of the Companies Act 2006; and (b) any company, partnership, statutory body or other entity which from time to time is Controlled by or is under common Control with the Hirer, including (but not limited to) as a

subsidiary or holding company as defined in section 1159 of the Companies Act 2006;

“Introduction”

means any of (i) the passing to the Hirer of a curriculum vitae or information, whether oral or in written form, which identifies the Agency Worker; or (ii) the Hirer’s interview of the Agency Worker (in person or by telephone or by any other means), following the Hirer’s instruction to the Employment Business to supply a temporary worker; or (iii) the supply of the Agency Worker; and, in any case, which leads to an Engagement of the Agency Worker; and “Introduced” and “Introducing” shall be construed accordingly;

“Losses”

means all losses, liabilities, damages, costs, expenses whether direct, indirect, special or consequential (including, without limitation, any economic loss or other loss of profits, business or goodwill, management time and reasonable legal fees) and charges, including such items arising out of or resulting from actions, proceedings, claims and demands;

“Period of Extended Hire”

means an additional period that the Hirer wishes the Agency Worker to be supplied for in accordance with clause 8 of these Terms;

“Qualifying Period”

means 12 Calendar Weeks which are either continuous or counted as continuous in accordance with Regulation 7 AWR during the whole or part of which the Agency Worker is supplied by one or more Temporary Work Agencies to the relevant Hirer to work temporarily for and under the supervision and direction of the relevant Hirer in the same role;

“Relevant Period”

means (a) the period of 8 weeks commencing on the day after the last day on which the Agency Worker worked for the Hirer having been supplied by the Employment Business; or (b) the period of 14 weeks commencing on the first day on which the Agency Worker worked for the Hirer having been supplied by the Employment Business or 14 weeks from the first day of the most recent Assignment where there has been a break of more than 6 weeks (42 days) since any previous assignment, whichever period ends later;

“Relevant Terms and Conditions”

means terms and conditions relating to:

- (a) pay (including any bonus payable by reference to individual performance;
- (b) the duration of working time;
- (c) night work;
- (d) rest periods;
- (e) rest breaks; and
- (f) annual leave

that are ordinarily included in the contracts of employees or workers (as appropriate) of the Hirer who do the same or substantively similar work to the work performed under the Assignment, whether by collective agreement or otherwise and including (for the avoidance of doubt and without limitation) such terms and conditions that have become contractual by virtue of custom and practice, including copies of all relevant documentation;

“Remuneration”

includes gross base salary or fees, guaranteed and/or anticipated bonus and commission earnings, allowances, inducement payments, the benefit of a company car, pension and all other payments and taxable (and, where applicable, non-taxable) emoluments payable to or

receivable by the Agency Worker for services provided to or on behalf of the Hirer or any third party;

- “Specified Work”** means planning, preparing and delivering lessons and courses to pupils and assessing and reporting on the development, progress and attainment of pupils, as defined in the Education Specified Work and Registration (England) Regulations 2003 and the Agency Workers Regulations 2010 Supplementary Guidance Relating To Agency Supply Teachers (DFE/BIS);
- “Temporary Work Agency”** shall have the meaning prescribed in Regulation 4 AWR;
- “Terms”** means these terms of business (including any attached schedules) together with any applicable Booking and Placement Form;
- “Transfer Fee”** means the fee payable in accordance with clause 8 of these Terms;
- “Working Time Regulations”** means the Working Time Regulations 1998.

- 1.2. Unless the context otherwise requires, references to the singular include the plural and references to the masculine include the feminine and vice versa.
- 1.3. The headings contained in these Terms are for convenience only and do not affect their interpretation.
- 1.4. Any reference, express or implied, to an enactment includes a reference to that enactment as from time to time amended, modified, extended, re-enacted, replaced or applied by or under any other enactment (whether before or after the date of these Terms) and all subordinate legislation made (before or after these Terms) under it from time to time.

2. THE CONTRACT

- 2.1. These Terms constitute the contract between the Employment Business and the Hirer for the supply of Agency Worker services by the Employment Business to the Hirer and are deemed to be accepted by the Hirer and govern all Introductions and supplies of Agency Workers from the earlier of the date of signature of these Terms or the Hirer’s request following receipt of these terms for Introduction or Engagement of an Agency Worker, or the passing of any information by the Hirer about an Agency Worker to any third party following an Introduction.
- 2.2. These Terms together with any Booking and Placement Forms issued from time to time contain the entire agreement between the parties and unless otherwise agreed in writing by a director of the Employment Business, these Terms prevail over any terms of business or purchase conditions (or similar) put forward by the Hirer.
- 2.3. Subject to clause 6.2, no variation or alteration to these Terms shall be valid unless the details of such variation are agreed between a director of the Employment Business and the Hirer and are set out in writing and a copy of the varied Terms is given to the Hirer stating the date on or after which such varied Terms shall apply.
- 2.4. The Employment Business shall act as an employment business (as defined in Section 13(3) of the Employment Agencies Act 1973) when Introducing Agency Workers for Assignments with the Hirer.

3. HIRER OBLIGATIONS

- 3.1. To enable the Employment Business to comply with its obligations under the Conduct Regulations the Hirer undertakes to provide to the Employment Business details of the position which the Hirer seeks to fill, including the following:

- 3.1.1. the type of work that the Agency Worker would be required to do;
- 3.1.2. the location and hours of work;
- 3.1.3. the experience, training, qualifications and any authorisation which the Hirer considers necessary or which are required by law or any professional body for the Agency Worker to possess in order to work in the position;
- 3.1.4. any risks to health or safety known to the Hirer and what steps the Hirer has taken to prevent or control such risks;
- 3.1.5. the date the Hirer requires the Agency Worker to commence the Assignment;
- 3.1.6. the duration or likely duration of the Assignment;
- 3.1.7. any expenses payable, if applicable;

and unless specifically stated to the contrary, in providing such information the Hirer will be warranting that it knows of no reason why it would be detrimental to the interests of the Agency worker to fill the Assignment.

- 3.2. The Hirer will assist the Employment Business in complying with the Employment Business' duties under the Working Time Regulations by supplying any relevant information about the Assignment requested by the Employment Business and the Hirer will not do anything to cause the Employment Business to be in breach of its obligations under the Working Time Regulations. If the Hirer requires the services of an Agency Worker for more than 48 hours in any week during the course of an Assignment, the Hirer must notify the Employment Business of this requirement before the commencement of the Assignment or at the very latest, where this is not reasonably practicable, before the commencement of the week in which the Hirer requires the Agency Worker to work in excess of 48 hours.
- 3.3. The Hirer will comply with its obligations under Regulation 12 (Rights of agency workers in relation to access to collective facilities and amenities) and 13 (Rights of agency workers in relation to access to employment) of AWR.
- 3.4. To enable the Employment Business to comply with its obligations under the AWR, the Hirer undertakes as soon as possible prior to the commencement of each Assignment and during each Assignment (as appropriate) and at any time at the Employment Business' request:
 - 3.4.1. to inform the Employment Business of any Calendar Weeks since 1 October 2011 in which the relevant Agency Worker has worked in the same or a similar role with the Hirer or any member of the Hirer's Group via any third party, whether prior to the date of commencement of the relevant Assignment and/or during the relevant Assignment which counts or may count towards the Qualifying Period;
 - 3.4.2. to provide the Employment Business with all the details of work falling within 3.4.1 above, including (without limitation) details of where, when and the period(s) during which such work was undertaken, the role performed and any other details requested by the Employment Business;
 - 3.4.3. On reasonable request to provide the Employment Business with written details of the role required for an Assignment and:
 - 3.4.3.1. where an Assignment covers all aspects of Specified Work, provide the Employment Business with the scale point for the role as defined by the Hirer

- in the prevailing School Teachers' Pay and Conditions Document, together with all other Relevant Terms and Conditions for a Comparable Employee;
- 3.4.3.2. where the Assignment does not cover all aspects of Specified Work, provide the Employment Business with details of the role and Relevant Terms and Conditions for a Comparable Employee, or if none, the Relevant Terms and Conditions that would have applied if the Hirer had employed the Agency Worker directly;
- 3.4.4. On completion of the Qualifying Period and as required throughout the term of the Assignment to provide the Employment Business with details of Relevant Terms and Conditions and appraisal processes and any variations of the same.
- 3.5. The Hirer will comply with all the Employment Business' requests for information and any other requirements to enable the Employment Business to comply with the AWR. If the Employment Business in its discretion considers that a pattern of hire breaches or may breach Regulation 9 AWR but the Hirer refuses to accept that the Agency Worker is to be treated as having completed the Qualifying Period, the Employment Business may refuse to supply a worker without any liability to the Hirer for any loss arising from that decision.
- 3.6. The Hirer warrants that:
- 3.6.1. all information and documentation supplied to the Employment Business in accordance with clauses 3.4 and 3.5 will be complete, accurate and up-to-date; and
- 3.6.2. it will, during the term of the relevant Assignment, immediately inform the Employment Business in writing of any subsequent change in any information or documentation provided in accordance with clauses 3.4 and 3.5;
- 3.7. Without prejudice to clauses 14.7 and 14.8, the Hirer shall inform the Employment Business immediately in writing of any:
- 3.7.1. oral or written complaint an Agency Worker makes to the Hirer which is or may be a complaint connected with rights under the Agency Workers Regulations;
- 3.7.2. or written request for information relating to the Relevant Terms and Conditions that the Hirer receives from an Agency Worker.

4. INFORMATION TO BE PROVIDED BY THE EMPLOYMENT BUSINESS TO THE HIRER

- 4.1. When Introducing an Agency Worker to the Hirer the Employment Business shall inform the Hirer:
- 4.1.1. of the identity of the Agency Worker;
- 4.1.2. that the Agency Worker has the necessary or required experience, training, qualifications and any authorisation required by law or a professional body to work in the Assignment;
- 4.1.3. that the Agency Worker is willing to work in the Assignment; and
- 4.1.4. of the Charges.
- 4.2. Where such information is not given in paper form or by electronic means it shall be confirmed by such means by the end of the third business day (being any day other than a Saturday, Sunday and any Public or Bank Holiday) following, save where the Agency Worker is Introduced for an Assignment in the same position as one in which the Agency Worker had previously been supplied within the previous 5 business days and such information has already been given to the Hirer, unless the Hirer requests that the information be resubmitted.

5. TIMESHEETS

- 5.1. At the end of each week during which services are performed under an Assignment (or at the end of the Assignment where it is for a period of 1 week or less) the Hirer shall sign the Employment Business' timesheet verifying the number of days (or hours if applicable) worked by the Agency Worker during that week.
- 5.2. Signature of the timesheet by the Hirer is confirmation of the number of days/hours worked. If the Hirer is unable to sign a timesheet produced for authentication by the Agency Worker because the Hirer disputes the days/hours claimed, the Hirer 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 days/hours, if any, were worked by the Agency Worker. **Failure to sign the timesheet does not absolve the Hirer of its obligation to pay the Charges in respect of the hours worked.**
- 5.3. The Hirer shall not be entitled to decline to sign a timesheet on the basis that it is dissatisfied with the work performed by the Agency Worker. In the event that the Hirer is dissatisfied with the Agency Worker the provisions of clause 10.1 below shall apply.

6. CHARGES

- 6.1. The Hirer agrees to pay the Charges as notified to and agreed with the Hirer. The Charges are calculated according to the number of days worked by the Agency Worker (pro rata for shorter periods) and comprise the following:
 - 6.1.1. the Agency Worker's daily rate of pay;
 - 6.1.2. an amount equal to any paid holiday leave to which the Agency Worker is entitled under the Working Time Regulations and, where applicable, AWR;
 - 6.1.3. any other amounts to which the Agency Worker is entitled under AWR;
 - 6.1.4. employer's National Insurance contributions;
 - 6.1.5. 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
 - 6.1.6. the Employment Business' commission.
- 6.2. The Employment Business reserves the right to vary the Charges agreed with the Hirer without reason by giving notice to the Hirer, and specifically
 - 6.2.1. in order to comply with any additional liability imposed by statute or other legal requirement or entitlement, including but not limited to **AWR**; and/or
 - 6.2.2. if there is any variation in the Relevant Terms and Conditions.
- 6.3. The Charges are invoiced to the Hirer on a weekly basis and are payable on receipt of invoice by the Hirer.
- 6.4. VAT is payable at the applicable rate on the entirety of the Charges and all sums payable under clause 6.1.
- 6.5. The Employment Business reserves the right to charge interest on invoiced amounts unpaid by the due date at the rate of 1% per annum above the base rate from time to time of Bank of Scotland PLC, from the due date until the date of payment.

- 6.6. No refunds are payable in respect of the Charges of the Employment Business.
- 6.7. The Hirer's obligations under this clause 6 shall be performed without any right of the Hirer to invoke set-off, deductions, withholdings or other similar rights.

7. PAYMENT OF THE AGENCY WORKER

The Employment Business assumes responsibility for paying the Agency Worker and where appropriate, for the deduction and payment of National Insurance Contributions pursuant to Social Security (Categorisation of Earners) Regulations 1978 and PAYE Income Tax applicable to the Agency Worker pursuant to sections 44-47 of the Income Tax (Earnings and Pensions) Act 2003.

8. TRANSFER FEES

- 8.1. Irrespective of the length of Engagement, subject to clause 8.2 the Hirer shall be liable to pay a Transfer Fee if the Hirer Engages an Agency Worker Introduced by the Employment Business other than via the Employment Business or introduces the Agency Worker to a third party and such introduction results in an Engagement of the Agency Worker by the third party other than via the Employment Business and:
 - 8.1.1. where the Agency Worker has been supplied by the Employment Business, such Engagement takes place during the Assignment or within the Relevant Period; or
 - 8.1.2. where the Agency Worker has not been supplied, such Engagement takes place within 6 months from the date of the Introduction to the Hirer.

The Transfer Fee will be calculated in accordance with Schedule 1.

- 8.2. If the Hirer wishes to Engage the Agency Worker other than via the Employment Business without liability to pay a Transfer Fee, the Hirer may, on giving written notice to the Employment Business to be served before the Hirer Engages or makes an offer of Engagement to the Agency Worker, engage the Agency Worker for the Period of Extended Hire specified in Schedule 1, such Period of Extended Hire to commence on the day after notice is served.
- 8.3. During any Period of Extended Hire the Employment Business shall supply the Agency Worker on the same terms on which s/he has or would have been supplied during the Assignment and in any case on terms no less favourable than those terms which applied immediately before the Employment Business received the notice in clause 8.2; and the Hirer shall continue to pay the Charges set out in clause 6. If the Employment Business is unable to supply the Agency Worker for any reason outside its control for the whole or any part of the Period of Extended Hire; or the Hirer does not wish to hire the Agency Worker on the same terms as the Assignment; but the Agency Worker is Engaged by the Hirer, the Hirer shall pay the Transfer Fee, reduced pro-rata to reflect any Charges paid by the Hirer during any part of the Period of Extended Hire worked by the Agency Worker before being Engaged by the Hirer. If the Hirer fails to give notice of its intention to Engage the Agency Worker other than via the Employment Business before such Engagement commences, the parties agree that the Transfer Fee shall be due in full.
- 8.4. Where prior to the commencement of the Hirer's Engagement of the Agency Worker other than via the Employment Business the Employment Business and the Hirer agree that such Engagement will be on the basis of a fixed term of less than 12 months, the Employment Business may, in its absolute discretion, reduce the Transfer Fee as calculated in accordance with Schedule 1 pro-rata. Such reduction is subject to the Hirer Engaging the Agency Worker for the agreed fixed term. Should the Hirer extend the Agency Worker's Engagement or re-Engage the Agency Worker within 12 months from the commencement of the initial Engagement the Employment Business reserves the right to recover the balance of the Transfer Fee.

- 8.5. No refund of the Transfer Fee will be paid in the event that the Engagement of the Agency Worker by the Hirer other than via the Employment Business or by a third party to which the Hirer introduces the Agency Worker terminates or terminates before the end of the fixed term referred to in clause 8.4.
- 8.6. VAT is payable in addition to any Transfer Fee due.

9. SUITABILITY CHECKS AND INFORMATION TO BE PROVIDED IN SPECIAL SITUATIONS

- 9.1. Unless advised in writing by the Hirer of any different requirements, the Employment Business will carry out all the checks specified in DSCF document “Safeguarding Children and Safe Recruitment in Education” dated 1 January 2007 before supplying an Agency Worker and will email the Hirer all the information required for maintenance of its Single Central Record for each confirmed Assignment.
- 9.2. It is the Hirer’s responsibility to provide the Employment Business with details of specific qualifications required for each Assignment and the Hirer will assist the Employment Business by providing any information required to allow the Employment Business to comply with its statutory obligations under the Safeguarding Vulnerable Groups Act 2006 or the Protecting Vulnerable Groups (Scotland) Act 2007 as applicable and to allow the Employment Business to select a suitable Agency Worker for the Assignment in particular in the event that the Hirer removes an Agency Worker from an Assignment in circumstances which would require the Employment Business to provide information to the Independent Safeguarding Authority (or the equivalent authority) under the Safeguarding Vulnerable Groups Act 2006 or the Protecting Vulnerable Groups (Scotland) Act 2007, the Hirer will provide sufficient information to the Employment Business to allow it to discharge its statutory obligations.

10. UNSUITABILITY OF THE AGENCY WORKER

- 10.1. The Hirer undertakes to supervise the Agency Worker sufficiently to ensure the Hirer’s satisfaction with the Agency Worker’s standards of work. If the Hirer reasonably considers that the services of the Agency Worker are unsatisfactory, the Hirer may terminate the Assignment immediately by giving notice to the Employment Business. Without prejudice to its obligation to give notice to terminate the Assignment to the Employment Business, the Hirer may direct the Agency Worker to cease providing services under the Assignment and/or to leave its premises where in its judgement the performance or conduct of the Agency Worker is below the standard reasonably required by the Hirer.
- 10.2. Where clause 10.1 applies the Employment Business may, in its absolute discretion reduce or cancel the Charges for the time worked by that Agency Worker, provided that the Hirer has notified the Employment Business immediately that they have asked the Agency Worker to leave the Assignment or the Assignment terminates:
- 10.2.1. within 4 hours of the Agency Worker commencing the Assignment where the Assignment is for more than 7 hours; or
- 10.2.2. within 2 hours for Assignments of 7 hours or less;
- and provided that written notification of the unsuitability of the Agency Worker is confirmed to the Employment Business within 48 hours of the Hirer requesting the Agency Worker to leave or the termination of the Assignment.
- 10.3. The Employment Business shall notify the Hirer immediately if it receives or otherwise obtains information which gives the Employment Business reasonable grounds to believe that any Agency Worker supplied to the Hirer is unsuitable for the Assignment and shall be entitled to terminate the Assignment forthwith without prior notice and without liability. Notwithstanding, the Hirer shall remain liable for all Charges incurred prior to the termination of the Assignment.

- 10.4. The Hirer shall notify the Employment Business immediately and without delay and in any event within two hours if the Agency Worker fails to attend work or has notified the Hirer that they are unable to attend work for any reason.

11. TERMINATION OF THE ASSIGNMENT

- 11.1. Both the Hirer and the Employment Business may terminate an Assignment at any time without prior notice and without liability (except in the case of termination by the Hirer, who shall be liable for any Charges due under clause 6 above).
- 11.2. Where an Agency Worker is no longer available to complete an Assignment or the Hirer gives notice to terminate an Assignment on grounds of unsatisfactory performance by the Agency Worker the Employment Business shall have the right to provide a substitute to complete the Assignment provided that such substitute meets all the requirements specified in the relevant Booking and Placement Form.

12. CONFIDENTIALITY AND DATA PROTECTION

- 12.1. The parties agree that they will keep confidential all Confidential Information and take reasonable steps to ensure that their officers, employees and agents do not disclose Confidential Information save in the proper performance of the parties' obligations under these Terms.
- 12.2. Without prejudice to the generality of 12.1 above:
- 12.2.1. All information relating to an Agency Worker is confidential and subject to the Data Protection Laws and is provided solely for the purpose of providing work-finding services to the Hirer. Such information must not be used for any other purpose nor divulged to any third party and the Hirer undertakes to abide by the provisions of the Data Protection Laws in receiving and processing personal data at all times.
- 12.2.2. The Employment Business undertakes to keep confidential all Relevant Terms and Conditions that the Hirer discloses to the Employment Business and not to use such information except for the purposes of compliance with AWR.

13. INTELLECTUAL PROPERTY RIGHTS

All copyright, trademarks, patents and other intellectual property rights deriving from the Assignment shall belong to the Hirer and the Employment Business shall on written request from the Hirer use its reasonable endeavours to ensure that the Agency Worker shall execute all such documents and do all such acts in order to give effect to the Hirer's rights pursuant to this clause.

14. LIABILITY

- 14.1. Whilst reasonable efforts are made by the Employment Business to give satisfaction to the Hirer by ensuring reasonable standards of skill, integrity and reliability from the Agency Worker and to provide the same in accordance with the details as provided by the Hirer under clause 3.1, no liability is accepted by the Employment Business for any loss, expense, damage or delay arising from any failure to provide any Agency Worker for all or part of the Assignment or from the negligence, dishonesty, misconduct or lack of skill of the Agency Worker or if the Agency Worker terminates the Assignment for any reason. For the avoidance of doubt, the Employment Business does not exclude liability for death or personal injury arising from its own negligence or for any other loss which it is not permitted to exclude by law.
- 14.2. Agency Workers supplied by the Employment Business pursuant to these Terms are engaged under contracts for services. They are not the employees of the Employment Business but are deemed to be under the supervision direction and control of the Hirer from the time they report to take up duties and for the duration of the Assignment. The Hirer agrees to be responsible for all acts, errors

or omissions of the Agency Worker, whether wilful, negligent or otherwise as though the Agency Worker was on the payroll of the Hirer.

- 14.3. The Hirer will comply in all respects with all statutory provisions as are in force from time to time including, for the avoidance of doubt, but not limited to the Working Time Regulations, Health and Safety At Work etc. Act 1974, the Management of Health and Safety at Work Regulations 1999, by-laws, codes of practice and legal requirements to which the Hirer is ordinarily subject in respect of the Hirer's own staff including in particular the provision of adequate Employer's and Public Liability Insurance cover for the Agency Worker during all Assignments.
- 14.4. The Hirer undertakes not to request the supply of an Agency Worker to perform the duties normally performed by a worker who is taking part in official industrial action or duties normally performed by a worker who has been transferred by the Hirer to perform the duties of a person on strike or taking official industrial action.
- 14.5. The Hirer shall indemnify and keep indemnified the Employment Business against any Losses incurred by the Employment Business arising out of any Assignment or arising out of any non-compliance with, and/or as a result of any breach of, these Terms by the Hirer.
- 14.6. The Hirer shall inform the Employment Business in writing of any AWR Claim which comes to the notice of the Hirer as soon possible but no later than 7 calendar days from the day on which any such AWR Claim comes to the notice of the Hirer.
- 14.7. If the Agency Worker brings, or threatens to bring, any AWR Claim, the Hirer undertakes to take such action and give such information and assistance as the Employment Business may request, and within any timeframe requested by the Employment Business and at the Hirer's own cost, to avoid, dispute, resist, mitigate, compromise or defend any such AWR Claim and to appeal against any judgment given in respect thereof.

15. SEVERABILITY

If any of the provisions of these Terms shall be determined by any competent authority to be unenforceable to any extent, such provision shall, to that extent, be severed from the remaining Terms, which shall continue to be valid to the fullest extent permitted by applicable laws.

16. GOVERNING LAW AND JURISDICTION

These Terms are governed by the law of England & Wales and are subject to the exclusive jurisdiction of the Courts of England & Wales.

Signed for and on behalf of the Hirer

[print name here]

I confirm I am authorised to sign these Terms for and on behalf of the Hirer.

Date

SCHEDULE 1: TRANSFER FEES

The Transfer Fee referred to in clause 8 shall be calculated as follows: 20% of the Remuneration payable to the Agency Worker during the first 12 months of the Engagement. If the actual amount of the Remuneration is not known, fees shall be calculated using an assumed salary of £28,627.

The Period of Extended Hire, referred to in clause 8, before the Hirer Engages an Agency Worker shall be 20 weeks during which the Agency Worker works the same hours as applied in the most recent period of supply or where there has been no supply, a minimum of 3 days per week. Any week during the Period of Extended Hire during which the Agency Worker does not work the hours stipulated shall be disregarded in the calculation of the 20 week Period of Extended Hire.