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EXPERTS IN RECRUITMENT

2022

# TERMS OF BUSINESS

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## TERMS AND CONDITIONS OF BUSINESS

Part A applies to the introduction of **permanent or contract staff** to be directly employed by the Client.  
Part B applies to the supply of **temporary staff services**.

### PART A:

#### 1. DEFINITIONS

1.1 In Part A of these Terms of Business the following definitions apply:

**Agency:** means Love Success Ltd whose Head Office is based at: Capital Tower, 8<sup>th</sup> Floor, 91 Waterloo Road, SE1 8RT and registered office is based at A3 Broomsleigh Business Park, Worsley Bridge Road, London SE26 5BN

**Applicant:** means the person introduced by the Agency to the Client for an Engagement including any employee or other representative of the Applicant if the Applicant is a corporate body and members of the Agency's own staff.  
**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 Applicant is introduced;

**Temporary Worker:** means the individual who is introduced by the Employment Business to render temporary services to the Client.

**Engagement:** means the engagement, employment or use of the Applicant by the Client or any third party to whom the Applicant has been introduced by the Client on a permanent or temporary basis, whether under a contract of service or for services; under an agency, license, franchise or partnership agreement; or any other engagement; directly or through a limited company of which the Applicant is an officer, employee or other representative.

**Introduction:** means (i) the Client's interview of an Applicant in person or by telephone, following the Client's instruction to the Agency to search for an Applicant; or (ii) the passing to the Client of a curriculum vitae or information which identifies the Applicant; and which leads to an Engagement of that Applicant in any capacity whatsoever;

**Introduction Fee:** means the fee payable by the Client to the Agency for an Introduction resulting in an Engagement;  
**Remuneration:** Includes, without limitation, gross base salary or fees, payments and any other taxable emoluments payable to or receivable by the Applicant for services provided to or on behalf of the Client.

**Rebate Period:** means the period during which the Agency's Scale of Refund operates in accordance with the chart below.

1.2 Unless the context requires otherwise, references to the singular include the plural.

1.3 The Headings contained in these Terms of Business are for convenience only and do not affect their interpretation.

#### 2. THE CONTRACT

2.1 These Terms constitute the contract between the Agency and the Client for the supply of permanent or contract staff (to be engaged directly by the Client) and are deemed to be accepted by the Client by virtue of an Introduction to, or the Engagement of an Applicant or the passing of any information about the Applicant to any third party following an Introduction.

2.2 These Terms contain the entire agreement between the parties and unless otherwise agreed in writing by a Director of the Agency, these Terms prevail over any other terms of business or purchase conditions put forward by the Client.

2.3 No Variation or alteration to these Terms shall be valid unless the details of such variation are agreed between the Agency and the Client and are set out in writing by a Director of Love Success Ltd and a copy of the varied terms is given to the Client stating the date on or after which such varied terms shall apply.

2.4 The Agency acts as an employment agency (as defined in Section 13(2) of the Employment Agencies Act 1973) when introducing Applicants to the Client for direct Engagement by the Client.

#### 3. NOTIFICATION & FEES

3.1 The Client agrees:

3.1.1 to notify the Agency immediately of the terms of any offer of an Engagement, which it makes to the Applicant;  
3.1.2 to notify the Agency immediately that its offer of an Engagement to the Applicant has been accepted and to provide details to the Agency of the Remuneration agreed with the Applicant together with any documentary evidence as requested by the Agency; and

3.1.3 to pay the Introduction Fee within 14 days of the date of invoice. To be calculated in accordance with the provisions of this Clause 3.

3.2 The Agency reserves the right to charge interest under the Late Payment of Commercial Debts (Interest) Act 1998 on invoiced amounts unpaid by the due date at a rate of 8% per annum above the Bank of England bank rate from the due date until the date of payment.

3.3 If the Introduction Fee payable to the Agency by the Client for an Introduction resulting in an Engagement is discounted from the Fee Structure table below, the Client must pay the discounted invoice within 14 days of the invoice date. If the Client fails to pay the invoice within these terms, the original discounted invoice will be cancelled and a new invoice will be raised for the full amount according to the below Fee Structure.

3.4 The Introduction Fee payable to the Agency by the Client for an Introduction resulting in an Engagement is calculated in accordance with the Fee Structure table below, based on the salary applicable during the first 12 months of the Engagement. VAT will be charged on the fee if applicable.

3.5 In the event that the Engagement is for a fixed term of less than 12 months, the fee in Clause 3.4 will be calculated in accordance with the details in the Fixed Term Engagements Heading. If the Engagement is extended beyond the initial fixed term or if the Client re-engages the Applicant within 6 calendar months from the date of termination of the most recent Engagement the Client shall be liable to pay a further fee as stipulated in the Terms and Conditions of Business. There shall be no entitlement to a refund in the case of engagements of a fixed term of 12 months or less.

3.6 The Introduction Fee calculated in accordance with clause 3.4. If the Client subsequently engages or re-engages an Applicant within the period of 6 calendar months from the date of termination of the Engagement or withdrawal of the offer or introduction of the applicant, a full fee calculated in accordance with clause 3.4 becomes payable.

3.7 Should the Client engage a Temporary Worker supplied to them by the Agency on a permanent basis, the Introduction Fee payable to the Agency by the Client is calculated in accordance with the Fee Structure table below, based on the Remuneration applicable. No refunds will apply.

3.8 In the event that any Agency staff with whom the Client has had personal dealings accepts an Engagement with the Client while employed by the Agency (or within 3 months of leaving the Agency), the Client shall be liable to pay an Introduction Fee to the Agency calculated in accordance with Clause 3.4.

3.9 Neither the Client nor the Client Group (as defined in Part B) shall directly or indirectly entice, induce, encourage, approach (or cause to be enticed, induced, encouraged or approached) any employee of the Agency to end or seek to end his or her employment with the Agency whether or not this would be a breach of contract on the part of such employee. Where a relevant employee of the Agency (being a person with whom the Client and/or the Client's Group had material dealings at any time during the period of 12 months preceding the termination of such employee's employment with the Agency) voluntarily leaves his or her employment with the Agency and commences any employment or engagement with the Client or the Client's Group within 3 months of his or her employment terminating, the Client will pay an Introduction Fee calculated in accordance with Part A of these Terms & Conditions of Business.

#### 4. REFUNDS

4.1 In order to qualify for the refund, set out in Scale of Refunds, the Client must notify the Agency in writing of the termination of the Engagement within 7 days of its termination and must have paid the Agency's Introduction Fee within 14 days from the date of invoice.

4.2 If the Engagement terminates within the Rebate Period (except where the Applicant is made redundant) the fee will be refunded in accordance with the Scales of Refunds table below

4.3 In circumstances where clauses 3.5 or 3.6 apply the full fee stated in clause 3.4 is payable and there shall be no entitlement to a refund.

4.4 In the event that the Candidate's Engagement is terminated within the rebate period and rebate paid and subsequently re-engaged on any basis whatsoever by the Client within 6 months of the termination of the Engagement, a further FEE will be charged and calculated in accordance with Clause 3.4 above.

4.5 For the purpose of this clause 4, the date of termination of the Engagement shall be the date on which the Applicant ceases working for the Client.

4.6 In circumstances where 3.5 applies, the full Introduction Fee is payable and there shall be no entitlement to a refund.

4.7 If subsequent to the Client receiving a refund the Applicant is re-engaged within a period of 6 calendar months from the date of termination then the refund shall be repaid to the Agency. The Client shall not be entitled to any further refunds in relation to the re-engagement of this Applicant.

#### 5. CANCELLATION FEE

If, after an offer of Engagement has been made to the Applicant, the Client decides for any reason to withdraw it, the Client shall be liable to pay the Agency a minimum fee of 1% of the Remuneration where the annual Remuneration is £24,999 or less and 2% of the Remuneration where the annual Remuneration is £25,000 or more.

## 6. INTRODUCTIONS

6.1 Introductions of Applicants are confidential. The disclosure by the Client to a third party of any details regarding an Applicant introduced by the Agency which results in an Engagement with that third party within 6 months of the Introduction renders the Client liable to payment of the Agency's fee as set out in clause 3.4 with no entitlement to any refund.

6.2 An introduction fee calculated in accordance with clause 3.4 will be charged in relation to any Applicant engaged as a consequence of or resulting from an introduction by or through the Agency, whether direct or indirect, within 6 months from the date of the Agency's Introduction.

6.3 Where the amount of the actual Remuneration is not known, the Agency will charge a fee calculated in accordance

with clause 3.4 on the higher of either the minimum level of remuneration applicable for the position in which the Applicant has been engaged with regard to any information supplied to the Agency by the Client and/or comparable positions in the market generally for such positions.

6.4 In the event that any employee of the Agency with whom the Client has had personal dealings accepts an Engagement with the Client within 3 months of leaving the Agency's employment, the Client shall be liable to pay an introduction fee to the Agency in accordance with clause 3.4.

#### 7. SUITABILITY AND REFERENCES

7.1 To the extent permitted by law the Agency shall not be liable under any circumstances for any loss, damage or expense suffered or incurred by the Client arising from or in any way connected with the Agency searching for an Applicant for the Client or the Introduction to the Client by the Agency of any Applicant or the Engagement of any Candidate by the Client.

7.2 The Agency endeavours to ensure the suitability of every Applicant introduced to the Client by obtaining confirmation of the Applicant's identity; that the Applicant has the experience, training, qualifications and any authorisation which the Client considers necessary or which may be required by law or by any professional body; and that the Applicant is willing to work in the position which the Client seeks to fill.

7.3 At the same time as proposing an Applicant to the Client the Agency shall inform the Client of such matters in clause 7.2 as they have obtained confirmation of. 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 (excluding Saturday, Sunday and any public or bank holiday) following, save where the Applicant is being proposed for a position which is the same as one in which the Applicant has worked within the previous five business days and such information has already been given to the Client.

7.4 The Agency endeavours to take all such steps as are reasonably practicable to ensure that the Client and Applicant are aware of any requirements imposed by law or any professional body to enable the Applicant to work in the position which the Client seeks to fill.

7.5 The Agency endeavours to take all such steps as are reasonably practicable to ensure that it would not be detrimental to the interest of either the Client or the Applicant for the Applicant to work in the position which the Client seeks to fill.

7.6 Notwithstanding clauses 7.1, 7.2, 7.3 and 7.4 above, the Client shall satisfy itself as to the suitability of the Applicant for the position they are seeking to supply and is responsible for taking up references on the Applicant and references supplied by the Applicant prior to the commencement of the Engagement. The Client shall always be responsible for obtaining work permits and/or such other permission to work as may be required, for the arrangement of medical examinations and/ or medical history enquiries, and satisfying any medical and other requirements, qualifications or permission required by law of the country in which the Applicant is engaged to work.

7.7 To enable the Agency to comply with its obligations under clauses 7.1, 7.2, 7.3 and 7.4 above the Client undertakes to provide to the Agency details of the position which the Client seeks to fill, including the type of work that the Applicant would be required to do; the location and hours of work; the experience, training, qualifications and any authorisation which the Client considers necessary or which are required by law or any professional body for the Applicant to possess in order to work in the position; and any risks to health or safety known to the Client and what steps the Client has taken to

prevent or control such risks. In addition, the Client shall provide details of the date the Client requires the Applicant to commence, the duration or likely duration of the work; the minimum rate of remuneration, expenses and any other benefits that would be offered; the intervals of payment of remuneration and the length of notice that the Applicant would be entitled to give and receive to terminate the employment with the Client.

#### 8. LIABILITY

The Agency shall not be liable under any circumstances for any loss, expense, damage, delay, costs or compensation (whether direct, indirect or consequential) which may be suffered or incurred by the Client arising from or in any way connected with the Agency seeking an Applicant for the Client or from the Introduction to or Engagement of any Applicant by the Client or from the failure of the Agency to introduce any Applicant. For the avoidance of doubt, the Agency does not exclude liability for death or personal injury arising from its own negligence.

#### 9. LAW

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

#### FEE STRUCTURE:

In accordance with Clause 3.4 of the above Terms and Conditions of Business, Fees are payable to the Agency by the Client for Introductions resulting in an Engagement calculated in accordance with the following:

In respect of the Full Time or Part Time Permanent Engagements:

REMUNERATION	PER ANNUM INTRODUCTION FEE
£0 - £5,999	£1,200 minimum
£6,000 - £16,999	20%
£17,000 - £21,999	22%
£22,000 - £29,999	25%
£30,000 upwards	28%

VAT is always charged in addition.

#### FIXED TERM ENGAGEMENTS:

In the event that the Engagement is for a fixed term of less than 12 months, the fee in clause 3.4 will be calculated at 70% of the standard permanent placement fee. In the event that the contract is renewed or extended for any period, the remaining 30% of the standard permanent placement fee will be payable.

#### SCALE OF REFUNDS:

The following scale of refund only applies in the event that the Client complies with the provisions of clause 3.1 of these Terms and Conditions of Business, subject to the conditions in clauses 4.1, 4.2 and 4.3.

For engagements terminating Refund during or at the end of:

WEEK	REFUND
Weeks one and two	100%
Weeks three and four	65%
Weeks five and six	55%
Weeks seven and eight	40%
Weeks nine and ten	25%
Weeks eleven, twelve and thirteen	12%

\* Less £200 Administration Charge

### PART B

#### 1. DEFINITIONS

1.1 In Part B of these Terms of Business the following definitions apply:

**Assignment:** means the period during which the Temporary Worker is supplied to render services to the Client;  
**Client:** means the person, firm or corporate body together with any subsidiary or associated company as defined by the Companies Act 1985 to whom the Temporary Worker is supplied or introduced;

**Client's Group:** means a) any individual, company, partnership statutory body or other entity which from time to time Controls the Client, 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 Client, including (but not limited to) as a subsidiary or holding company as defined in section 1159 of the Companies Act 2006;

**The Employment Business** means Love Success Ltd whose registered office is based at Miller Davies Broomsleigh Business Park, Worsley, Bridge Road, London SE26 5BN.

**Engages/Engaged/Engagement** means the engagement, employment or use of the Temporary Worker directly 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; directly or through a limited Company of which the Temporary Worker is an officer or employee.

**Temporary Worker** means the individual who is introduced by the Employment Business to render temporary services to the Client. Transfer Fee means the fee payable in accordance with clause 7.1 below and Regulation 10 of the Conduct of Employment Agencies and Employment Businesses Regulations 2003. Introduction Fee means the fee payable in accordance with clause 7.2 below and Regulation 10 of the Conduct of Employment Agencies and Employment Businesses Regulations 2003.

**Agency Workers Regulations:** means the Agency Workers Regulations 2010;

**Assignment:** means assignment services to be performed by the Temporary Worker for the Client for a period of time during which the Temporary Worker is supplied by the Employment Business to work temporarily for and under the supervision and direction of the Client;

**Assignment Details Form:** means written confirmation of the assignment details agreed with the Client 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 Temporary Worker against the Client and/or the Employment Business for any breach of the Agency Workers Regulations;

**Charges:** means the hourly charges of the Employment Business calculated in accordance with clause 3.1 and as may be varied from time to time in accordance with these Terms;

**Comparable Employee:** means as defined in Schedule 1 to these Terms;

**Conduct Regulations:** means the Conduct of Employment Agencies and Employment Businesses Regulations 2003;

**Introduction** means (i) the Client's interview of a Temporary Worker in person or by telephone, following the Client's instruction to the Employment Business to supply a Temporary Worker; or (ii) the passing to the Client of a curriculum vitae or information which identifies the Temporary Worker; and which leads to an Engagement of that Temporary Worker.

**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 any additional period that the Client wishes the Temporary Worker to be supplied for beyond the duration of the original Assignment or series of Assignments as an alternative to paying a Transfer Fee;

**Qualifying Period:** means 12 continuous Calendar Weeks during the whole or part of which the Temporary Worker is supplied by one or more Temporary Worker Agencies to the relevant Client to work temporarily for and under the supervision and direction of the relevant Client in the same role, and as further defined in Schedule 1 of these Terms;

**Relevant Period:** means a) the period of 8 weeks commencing on the day after the last day on which the Temporary Worker worked for the Client having been supplied by the Employment Business; or b) the period of 14 weeks commencing on the first day on which the Temporary Worker worked for the Client 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;

**Relevant Terms and Conditions:** means terms and conditions relating to:

- a) Pay
- 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 Client whether by collective agreement or otherwise and including (for 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.

**First Assignment:** means a) The relevant Assignment; or b) If, prior to the relevant Assignment:

i. The Temporary Worker has worked in any assignment in the same role with the relevant Client as the role in which the Temporary Worker works in the relevant Assignment; and

ii. the relevant Qualifying Period commenced in any such assignment, that assignment (an assignment being (for the purpose of this defined term) a period of time during which the Temporary Worker is supplied by one or more Temporary Worker Agencies to the relevant Client to work temporarily for and under the supervision and direction of the relevant Client);

**Remuneration** Includes, base salary or fees, guaranteed and/or anticipated bonus and commission earnings, allowances, inducement payments, the benefit of a company car and all other payments and taxable (and, where applicable, non-taxable) emoluments payable to or receivable by the Temporary Worker for services rendered to or on behalf of the Client or any third party. Where a company car is provided, a Notional amount of £4850 will be added to the salary in order to calculate the Employment Business's fee.

**Temporary Work Agency:** means as defined in Schedule 1 to these Terms.

**Terms:** means these terms of business (including the attached schedules) together with any applicable Assignment Details Form;

- 1.2 Unless the context otherwise requires, references to the singular shall include the plural.
- 1.3 The headings contained in these Terms are for convenience only and do not affect their interpretation.

## 2. THE CONTRACT

2.1 These Terms constitute the contract between the Employment Business and the Client for the supply of the Temporary Worker's services by the Employment Business to the Client and are deemed to be accepted by the Client by virtue of its request for, interview with or Engagement of the Temporary Worker or the passing of any information about the Temporary Worker to any third party following an Introduction.

2.2 These Terms 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 put forward by the Client.

## 3. CHARGES

3.1 The Client agrees to pay such hourly charges of the Employment Business as shall be notified to and agreed with the client. Temporary Workers are normally paid at time-and-a-half for agreed hours in excess of 40 per week Monday to Friday inclusive and at double-time for hours worked on a Saturday or Sunday. The hourly charges are calculated according to the number of hours (to the nearest quarter hour) worked by the Temporary Worker and comprise mainly the Temporary Worker's pay but also include the Employment Business' commission calculated as a percentage of the Temporary Worker's pay, employer's National Insurance contributions and any travel, hotel or other expenses as may have been agreed with the Client or, if there is no such agreement, such as expenses are reasonable. Holiday pay, SSP and SMP payable to Temporary Workers (where applicable) is also included in the Employment Business's charge. VAT, if applicable, is payable on the entirety of these charges.

3.2 The Agency reserves the right to charge interest on invoiced amounts. Interest will be charged at a daily rate on the overdue daily balance overdue at a rate of 8% per annum above the Bank of England bank rate at the previous 30 June or 31 December. This is in accordance with the Late Payments of Commercial Debts (Interest) Act 1998.

3.3 There are no rebates payable in respect of the charges of the Employment Business.

3.4 The other components to the charges will comprise of the following:

- 3.4.1 The Temporary Workers hourly rate of pay;
- 3.4.2 an amount equal to any paid holiday leave to which the Temporary Worker is entitled under the Working Time Regulations and, where applicable, the Agency Workers Regulations and which is accrued during the course of an assignment.
- 3.4.3 any other amounts to which the Temporary Worker is entitled under the Agency Workers Regulations, where applicable;
- 3.5 The Employment Business reserves the right to reasonably vary the Charges agreed with the Client, by giving written notice to the Client:
  - 3.5.1 in order to comply with any additional liability imposed by statute or other legal requirement or entitlement, including but not limited to the Agency Workers Regulations; and/or
  - 3.5.2 if there is any variation in the Relevant Terms and Conditions.

3.6 The Charges are invoiced to the Client on a weekly basis and are payable within 14 days of invoice date

## 4. INFORMATION TO BE PROVIDED

4.1 When making an introduction of a Temporary Worker to the Client the Employment Business shall inform the Client of the identity of the Temporary Worker; that the Temporary Worker has the necessary or required experience, training, qualifications and any authorisation required by law or a professional body to work in the Assignment; whether the Temporary Worker will be employed by the Employment Business under a contract of service or apprenticeship or a contract for services and that the Temporary Worker is willing to work in the Assignment.

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 (excluding Saturday, Sunday and any public or Bank holiday) following, save where the Temporary Worker is being introduced for an Assignment in the same position as one in which the Temporary Worker had previously been supplied within the previous five business days and such information has already been given to the Client, unless the Client requests that the information be resubmitted.

## 5. TIMESHEETS

5.1 At the end of each week of an Assignment (or at the end of the Assignment where it is for a period of one week or less) the Client agrees to authorise and sign the Employment Business's timesheet either hard copy or electronic in a timely fashion confirming the number of hours worked by the Temporary Worker during that week.

5.2 Signature of the timesheet by the Client is confirmation of the number of hours worked. In signing this document the Client agrees that the hours indicated thereon have been satisfactorily worked. If the Client is unable to sign a timesheet produced for authentication by the Temporary Worker because the Client disputes the hours claimed, the Client shall inform the Employment Business immediately or otherwise 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 Temporary Worker. Failure to sign the timesheet does not absolve the Client's 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 he is dissatisfied with the work performed by the Temporary Worker. In cases of unsuitable work the Client should apply the provisions of clause 10.1 below.

## 6. PAYMENT OF THE TEMPORARY WORKER

The Employment Business assumes responsibility for paying the Temporary Worker and where appropriate for the deduction and payment of National Insurance Contributions and PAYE Income Tax applicable to the Temporary worker pursuant to sections 44-47 of the Income Tax (Earnings & Pensions Act 2003).

## 7. TRANSFER & INTRODUCTION FEES

7.1 In the event of the Engagement by the Client of a Temporary Worker supplied by the Employment Business for an Assignment either (1) directly or (2) pursuant to being supplied by another employment business during the Assignment or within whichever is the longer of either:

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 a 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 Temporary Worker worked on the Assignment the Client shall be liable, subject to electing upon giving one full calendar week's notice to either:

- a. an extended period of hire calculated in proportion to the number of weeks the Temporary Worker has been supplied to the client; or
- b. a Transfer Fee based on the Remuneration applicable during the first 12 months of the Engagement as follows:

Continuous Length of Assignment Discount off  
Fee 1 – 10 Weeks 5%  
11 – 26 Weeks 8%  
27 – 40 Weeks 10%  
41 – 52 Weeks 20%

If the remuneration is not known, the annual remuneration shall be calculated by taking the last hourly charge payable by the Client to the Employment Business multiplying this charge by 40 to give an appropriate weekly charge and then multiplying this amount by 52 to give the annual remuneration. 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. However, where the client does not give such notice before the Temporary Worker is engaged the parties agree that the Transfer Fee shall be due. Transfer fee will be calculated in accordance with Part A of these Terms and Conditions of Business.

## 7.2

In the event that there is an Introduction of a Temporary Worker to the Client which does not result in the supply of that Temporary Worker by the Employment Business to the Client, but which leads to an Engagement of supply of that Temporary Worker by the Employment Business to the Client, but the Temporary Worker is introduced by the Client to a third party which results in the Engagement of the Temporary Worker by the third party within 6 months from the date of Introduction the Client shall be liable, to an Introduction Fee calculated in accordance with Terms & Conditions of Business for the supply of Permanent staff. No refund of the Introduction Fee will be paid in the event that the Engagement subsequently terminates. VAT is payable in addition to any fee due.

7.3 Neither the Client nor the Client Group shall directly or indirectly entice, induce, encourage, approach (or cause to be enticed, induced, encouraged or approached) any employee of the Employment Business to end or seek to end his or her employment with the Employment Business whether or not this would be a breach of contract on the part of such employee. Where a relevant employee of the Employment Business (being a person with whom the Client and/or the Client's Group had material dealings at any time during the period of 12 months preceding the termination of such employee's employment with the Employment Business) voluntarily leaves his or her employment with the Employment Business and commences any employment or engagement with the Client or the Client's Group within 3 months of his or her employment terminating, the Client will pay an Introduction Fee calculated in accordance with Part A of these Terms & Conditions of Business.

## 8. LIABILITY

8.1 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 Temporary Workers and further to provide them in accordance with the Client's booking details, the Employment Business is not liable for any loss, expense, damage or delay arising from any failure to provide any Temporary Worker for all or part of the period of booking or from the negligence, dishonesty, misconduct or lack of skill of the Temporary Worker. For the avoidance of doubt, the Employment Business does not exclude liability for death or personal injury arising from its own negligence.

8.2 Temporary Workers supplied by the Employment Business 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 Client from the time they report to take up duties and for the duration of the Assignment. The Client agrees to be responsible for all acts, errors or omissions of the Temporary Worker, whether willful, negligent or otherwise as though the Temporary Worker was on the payroll of the Client. The Client will also comply in all respects with all statutes including, for the avoidance of doubt, the Working Time Regulations, Health and Safety At Work Act etc. by-laws, codes of practice and legal requirements to which the Client is ordinarily subject in respect of the Client's own staff (excluding the matters specifically mentioned in Clause 6 above), including in particular the provision of adequate Employer's and Public Liability insurance cover for the Temporary Worker during all Assignments.

8.3 The Client shall advise the Employment Business of any special health and safety matters about which the Employment Business is required to inform the Temporary Worker and about any requirements imposed

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 the Client requires or may require the services of a Temporary worker for more than 48 hours in any week, the Client must notify the Employment Business of this requirement before the commencement of that week.

by law or by any professional body, which must be satisfied if the Temporary Worker is to fill the Assignment. 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

**8.4** The Client undertakes that it knows of no reason why it would be detrimental to the interests of the Temporary Worker for the Temporary Worker to fill the Assignment.

**8.5** The Client shall indemnify and keep indemnified the Employment Business against any costs, claims or liabilities incurred by the Employment Business through no fault of the Employment Business and which arise solely as a result of the Client's actions arising out of any Assignment or arising out of any non-compliance with clauses 8.2 and 8.3 and/or as a result of any breach of these Terms by the Client.

**8.6** The Client shall inform the Employment Business in writing of any AWR Claim which comes to the notice of the Client as soon as possible but no later than 7 calendar days from the day on which any such AWR Claim comes to the notice of the Client.

**8.7** If the Temporary Worker brings, or threatens to bring, any AWR Claim against the Employment Business through no fault of the Employment Business and which arises solely as a result of the Client's actions the Client undertakes to take such action and give such information and assistance as the Employment Business may reasonably request, and within any reasonable timeframe requested by the Employment Business and where applicable at the Client's own cost, to avoid, dispute, resist, mitigate, compromise or defend any such AWR Claim and to appeal against any judgement given in respect thereof.

## 9. SPECIAL SITUATIONS

Where the Temporary Worker is required by law, or any professional body, to have any qualifications or authorisations to work on the Assignment or the Assignment involves caring for or attending one or more persons under the age of eighteen or any person who by reason of age, infirmity or who is otherwise in need of care or attention, the Employment Business will take all reasonably practicable steps to obtain and offer to provide to the Client. Copies of any relevant qualifications or authorisations of the Temporary Worker, and Two references from persons not related to the Temporary Worker who have agreed that the references they provide may be disclosed to the Client and has taken all reasonably practicable steps to confirm that the Temporary Worker is suitable for the Assignment. If the Employment Business is unable to do any of the above it shall inform the Client of the steps it has taken to obtain this information in any event.

## 10. TERMINATION

**10.1** The Client undertakes to supervise the Temporary Worker sufficiently to ensure the Client's satisfaction with the Temporary Worker's standards of workmanship. If the Client reasonably considers that the services of the Temporary Worker are unsatisfactory, the Client may terminate the Assignment either by instructing the Temporary Worker to leave the Assignment immediately or by directing the Employment Business to remove the Temporary Worker. The Employment Business may, in such circumstances, reduce or cancel the charges for the time worked by that Temporary Worker, provided that the Assignment terminates:-

a. Within four hours of the Temporary Worker commencing the Assignment where the booking is for more than seven hours; or

b. Within two hours for bookings of seven hours or less; And also provided that the notification of the unsuitability of the Temporary Worker is confirmed in writing to the Employment Business within 48 hours of the termination of the Assignment duties and that, the Client provides evidence, if required, of the unacceptable work standards.

**10.2** Any of the Client, the Employment Business or the Temporary Worker may terminate an Assignment at any time without prior notice and without liability.

**10.3** The Client shall notify the Employment Business immediately and without delay and in any event within

24 hours if the Temporary Worker fails to attend work or notifies the Client that the Temporary Worker is unable to attend work for any reason.

**10.4** The Employment Business shall notify the Client immediately if it receives or otherwise obtains information which gives it reasonable grounds to believe that a Temporary Worker supplied to the Client is unsuitable for the Assignment and shall terminate the Assignment under the provisions of clause 10.2.

## 11. CLIENT OBLIGATIONS

**11.1** To enable the Employment Business to comply with its obligations under the Conduct Regulations the Client undertakes to provide to the Employment Business details of the position which the Client seeks to fill, including the following:

**11.1.1** the type of work that the Temporary Worker would be required to do;

**11.1.2** the location and hours of work;

**11.1.3** the experience, training, qualifications and any authorisation which the Client considers necessary or which are required by law or any professional body for the Temporary Worker to possess in order to work in the position;

**11.1.4** any risks to health or safety known to the Client and what steps the Client has taken to prevent or control such risks;

**11.1.5** the date the Client requires the Temporary Worker to commence the Assignment;

**11.1.6** the duration or likely duration of the Assignment.

**11.2** The Client 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 so as not to be in breach of its obligations under these Regulations. If the Client requires the services of a Temporary Worker for more than 48 hours in any week during the course of an Assignment, the Client 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 Client requires the Temporary Worker to work in excess of 48 hours.

**11.3** The Client 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 the Agency Workers Regulations.

**11.4** To enable the Employment Business to comply with its obligations under the Agency

Workers Regulations, the Client 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.

**11.4.1** To inform the Employment Business of any Calendar Weeks since 1 October 2011 in which the relevant Temporary Worker has worked in the same or a similar role with the Client via any third party prior to the date of commencement of the relevant Assignment and/or during the relevant Assignment which count or may count towards the Qualifying Period;

**11.4.2** If, since 1 October 2011, the Temporary Worker has worked in the same or a similar role with the Client via any third party prior to the date of commencement of the relevant Assignment and/or works in the same or a similar role with the Client via any third party during the relevant Assignment, to provide the Employment Business with all the necessary details of such work, including (without limitation) details of where, when and the period(s) during which such work was undertaken and any other details reasonably requested by the Employment Business.

**11.4.3** to inform the Employment Business if, since 1 October 2011, the Temporary Worker has prior to the date of commencement of the relevant Assignment and/or during the relevant Assignment.

**11.4.3.1** completed two or more assignments with the Client;

**11.4.3.2** completed at least one assignment with the Client and one or earlier assignments with any member of the Client's Group; and/or

**11.4.3.3** worked in more than two roles during an assignment with the Client and on at least two occasions worked in a role that was not the same role as the previous role;

**11.4.4** save where the Temporary Worker will not complete the Qualifying Period during the term of the Assignment, to:

**11.4.4.1** provide the Employment Business with written details of the basic working and employment conditions the Temporary Worker would be entitled to for doing the same job if the Temporary Worker had been recruited directly by the Client as an employee or worker at the time the Qualifying Period commenced or with those of a comparable Employee, such basic working and employment conditions being the Relevant Terms and Conditions;

**11.4.4.2** inform the Employment Business in writing whether the Relevant Terms and Conditions provided are those of a hypothetical directly recruited employee or worker or those of a Comparable Employee;

**11.4.4.3** if the Relevant Terms and Conditions provided are those of a Comparable Employee, provide the Employment Business with a written explanation of the basis on which the Hirer considers that the relevant individual is a Comparable Employee; and

**11.4.4.4** inform the Employment Business in writing of any variations in the Relevant Terms and Conditions made at any time during the relevant Assignment after the Qualifying Period commenced; and

**11.4.5** save where the Temporary Worker will not complete the Qualifying Period during the term of the Assignment, to provide the Employment Business with written details of its pay and benefits structures and appraisal processes and any variations of the same.

**11.5** In addition, for the purpose of awarding any bonus to which the Temporary Worker may be entitled under the Agency Workers Regulations, the Client will:

**11.5.1** integrate the Temporary Worker into its relevant performance appraisal system; assess the Temporary Worker's performance;

Temporary Worker's performance;

**11.5.2** provide the Employment Business with copies of all documentation relating to any appraisal of the Temporary Worker, including without limitation written details of the outcome of any appraisal and the amount of any bonus awarded;

**11.5.3** provide the Employment Business with an assessment of the Temporary Worker's performance for the purpose of awarding any bonus.

**11.6** The Client will comply with all the Employment Business' reasonable requests for information and any other reasonable requirements to enable the Employment Business to comply with the Agency Workers Regulations.

**11.7** The Client warrants that:

**11.7.1** all information and documentation supplied to the Employment Business in accordance with clauses 11.4, 11.5 and 11.6 is complete, accurate and up-to-date; and

**11.7.2** 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

11.4, 11.5 and 11.6

**11.8** Without prejudice to clauses 8.6 and 8.7 the Client shall inform the Employment Business in writing of any:

**11.8.1** oral or written complaint the Temporary Worker makes to the Client which is or may be a complaint connected with rights under the Agency Workers Regulations; and

**11.8.2** written request for information relating to the Relevant Terms and Conditions that the Client receives from the Temporary Worker;

As soon as possible but no later than 7 calendar days from the day on which any such oral complaint is made to or written complaint or request is received by the Client and the Client will take such action and give such information and assistance as the Employment Business may reasonably request, and within any reasonable timeframe requested by the Employment Business, in order to resolve any such complaint or to provide any such information in a written statement to the Temporary Worker within 28 days of the Client's receipt of such a request in accordance with Regulation 16 of the Agency Workers Regulations and the Client will provide the Employment Business with a copy of any such written statement.

**11.9** The Client undertakes that it knows of no reason why it would be detrimental to the interests of the Temporary Worker for the Temporary Worker to fill the Assignment.

## 12. CONFIDENTIALITY AND DATA PROTECTION

**12.1** All information relating to a Temporary Worker is confidential and subject to the Data Protection Act of 1998 and is provided solely for the purpose of providing work-finding services to the Client. Such information must not be used for any other purpose nor divulged to any third party and the Client undertakes to abide by the provisions of the Data Protection Act 1998 in receiving and processing the data at all times.

**12.2** The Employment Business undertakes to keep confidential all Relevant Terms and Conditions that the Client discloses to the Employment Business and not to use such information except for the purposes of compliance with the Agency Workers Regulations (including for the avoidance of doubt and without limitation, when dealing with any request for information or complain made by any Temporary Worker or any AWR claim).

**12.3** Information relating to the Employment Business' business which is capable of being confidential must be kept confidential and not divulged to any third party, except information which is the public domain.

## 13. INTELLECTUAL PROPERTY RIGHTS

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

## 14. LAW

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

## SCHEDULE 1:

### "COMPARABLE EMPLOYEE", "QUALIFYING PERIOD" AND "TEMPORARY WORK AGENCY"

"Comparable Employee" means as defined in Regulation 5(4) of the Agency Workers Regulations being an employee of the Client who:

(a) works for and under the supervision of the Client and is engaged in the same or broadly similar work as the Temporary Worker having regard, where relevant, to whether the employee and the Temporary Worker have a similar level of qualification and skill; and

(b) works or is based at the same establishment as the Temporary Worker or, where there is no comparable employee working or based at that establishment who satisfies the requirements of (a) above, works or is based at a different establishment and satisfies those requirements.

For the purpose of the definition of "Qualifying Period" in clause 1.1 of these Terms, when calculating whether any weeks completed with the Client count as continuous towards the Qualifying Period, where:

(a) the Temporary Worker has started working during an assignment and there is a break, either between assignments or during an assignment, when the Temporary Worker is not working;

(b) the break is:

(i) for any reason and not more than six Calendar Weeks;

(ii) wholly due to the fact that the Temporary Worker is incapable of working in consequence of sickness

or injury and the break is 28 Calendar Weeks or less; paragraph (ii) does not apply; and, if required to do so by the Employment Business, the Temporary Worker has provided such written medical evidence as may reasonably be required;

(iii) related to pregnancy, childbirth or maternity and is at a time in a protected period, being a period beginning at the start of the pregnancy and ending at the end of the 26 weeks beginning with childbirth (being the birth of a living child or the birth of a child whether living or dead after 24 weeks of pregnancy) or, if earlier, when the Temporary Worker returns to work;

(iv) wholly for the purpose of taking time off or leave, whether statutory or contractual, to which the Temporary Worker is otherwise entitled which is:

I. ordinary, compulsory or additional maternity leave;

II. ordinary or additional adoption leave;

III. ordinary or additional paternity leave;

IV. time off or other leave not listed in paragraphs (iv), ii, or iii above; or

V. for more than one of the reasons listed in paragraphs (iv), ii, iii to iv above;

(v) wholly due to the fact that the Temporary Worker is required to attend at any place in pursuance to being summoned for service as a juror and the break is 28 Calendar Weeks or less;

(vi) wholly due to a temporary cessation in the Client's requirement for any worker to be present at the

establishment and work in a particular role for a pre-determined period of time according to the established custom and practices of the Client;

(vii) wholly due to a strike, lock-out or other industrial action at the Client's establishment; or

(viii) wholly due to more than one of the reasons listed in paragraphs (ii), (iii), (iv), (v), (vi) or (vii); and

(c) the Temporary Worker returns to work in the same role with the Client,

any weeks during which the Temporary Worker worked for the Client before the break shall be carried forward and treated as counting towards the Qualifying Period with any weeks during which the Temporary Worker works for the Client after the break. In addition, when calculating the number of weeks during which the Temporary Worker has worked, where the Temporary Worker has started working in a role during an Assignment and is unable to continue working for a reason described in paragraph (b)(iii) or (b)(iv), ii, or iii., for the period that is covered by one or more such reasons, the Temporary Worker shall be deemed to be working in that role with the Client for the original intended duration or likely duration of the relevant Assignment, whichever is the longer. For the avoidance of doubt, time spent by the Temporary Worker working during an assignment before 1 October 2011 does not count for the purposes of the definition of "Qualifying Period".

"Temporary Work Agency" means as defined in Regulation 4 of the Agency Workers Regulations being a person engaged in the economic activity, public or private, whether or not operating for profit, and whether or not carrying on such activity in conjunction with others, of:

(a) supplying individuals to work temporarily for and under the supervision and direction of clients; or

(b) paying for, or receiving or forwarding payment for, the services of individuals who are supplied to work temporarily for and under the supervision and direction of clients.

Notwithstanding paragraph (b) of this definition a person is not a Temporary Work Agency if the person is engaged in the economic activity of paying for, or receiving or forwarding payments for, the services of individuals regardless of whether the individuals are supplied to work for clients. For the purpose of this definition, a "client" means a person engaged in economic activity, public or private, whether or not operating for profit, to whom individuals are supplied, to work temporarily for and under the supervision and direction of that person.