



Edstaff Ltd

Edstaff Terms of Business for the Introduction and Supply of Temporary Workers

This is a contract between:

- (1) **EDSTAFF LIMITED** ("the Employment Business"); and
- (2) (the "**Client**").

The parties hereby agree to the introduction and supply by the Employment Business to the Client of the temporary worker (or in the case of a limited company the contractor acting through its representatives) named in the Confirmation of Engagement Document ("the Temporary Worker") (who is engaged under a contract for services by the Employment Business or via the limited company named in the Confirmation of Engagement Document) to provide the services identified in the Confirmation of Engagement Document ("the Services"), on the following terms (together, "the Assignment").

Acceptance and Commencement of Assignment

1.1 This Agreement is accepted by the Client with effect from the notification to the Client by the Employment Business of the name of the Temporary Worker. The Assignment shall, subject to earlier termination in accordance with these terms, continue for the period set out in the relevant Confirmation of Engagement Document.

1.2 These terms apply to the Agreement to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

1.3 Subject to clause 4.6 below, the Assignment shall commence at the start of the first day on which the Temporary Worker provides the Services to the Client.

1.4 Any services provided by the Employment Business to the Client outside of the scope of the Assignment may be charged by the Employment Business. However, prior to any service being undertaken fees would be agreed between the Employment Business and the Client.

Charges

2.1 The Client agrees to pay the Daily Charge, plus VAT, in respect of each day/part day worked by the Temporary Worker, as advised by the Employment Business to the Client prior to the Assignment. Where the Temporary Worker is engaged directly by the employment business the daily charge will comprise of the Temporary Worker's pay and also include the Employment Business' commission calculated as a percentage of the Temporary Worker's daily rate, employer's National Insurance contributions and an amount equal to any paid holiday leave to which the Agency 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. Where the Temporary Worker is engaged via a limited company the daily rate will comprise of the limited company's fees and will also include the Employment Business' commission calculated as a percentage of the limited company's fees. For the avoidance of doubt, the Employment Business reserves the right to increase the daily charge subject to statutory requirement, including, without limitation, any equal rights under the Agency Workers Regulations 2010 as amended from time to time (the "Regulations").

2.2 Invoices will be sent to the Client on a weekly basis. Invoiced charges are payable by the Client within 14 days on receipt by the Client of the relevant invoice. Payment by the Client shall constitute acceptance of the level of the charges. No refunds are payable in respect of the Charges of the Employment Business

Responsibility for Income Tax and National Insurance

3. The Employment Business or the limited company named in the Confirmation of Engagement Document is responsible for the payment of a Temporary Worker's remuneration in respect of the Services and shall deduct all applicable taxes (including any national insurance contributions) required by law.

Placement Fee

4.1 Subject to clause 4.4, a placement fee shall be payable by the Client to the Employment Business if the Client:

4.1.1 makes use of the services either directly or indirectly (including through another employment business) of the Temporary Worker (or where such Temporary Worker is provided through a supplier

company, any other employees, representatives, contractors or sub-contractors of such supplier company introduced by the Employment Business) (other than pursuant to this Agreement); or

4.1.2 introduces the Temporary Worker to any other person (including but not limited to any subsidiary or associated company of the Client), subsequent to which the Temporary Worker's services are used by that person or a person associated with that person (other than pursuant to this Agreement, or an equivalent agreement between the Employment Business and that person), in each case during an assignment or within:

- (a) the later period of (i) eight weeks following the termination of the Assignment, or (ii) fourteen weeks following the commencement of the Assignment (as defined in clause 4.6); or
- (b) (where there has been no supply) the period of 26 weeks following the notification of the name of the Temporary Worker by the Employment Business to the Client but prior to the commencement of the Assignment.

The placement fee shall be calculated in accordance with clause 4.2 below and shall be payable within 14 days from the date of the relevant invoice.

4.2 The Placement Fee shall be a percentage (as set out at clause 4.3 below) of the gross remuneration payable to the Temporary Worker in respect of the provision of his or her services in the circumstances contemplated by clause 4.1 above, subject to a minimum of 1,000 GBP (plus VAT). "Gross remuneration" shall mean:

- either the first year's equivalent annualised remuneration, including (without limitation) any bonuses/incentives to which the Temporary Worker may be entitled. Where a placement is part-time the salary will be equated to the full-time equivalent and the fee shall be levied on that salary;
- or where the amount of the gross remuneration is not readily ascertainable by using the method set out above, it will be calculated as a multiple of 300 times the hourly charge (plus VAT, where applicable) at which the Temporary Worker was last supplied to the Client by the Employment Business.

4.3 For the purpose of clause 4.2 above, the percentage will be as follows:

- for all gross remuneration: 15%
- VAT will be charged in addition to the fee.

E.g. Salary 21,000 GBP + bonus of 2000 GBP = 23,000 GBP @ 15% = 3,450 GBP + VAT

Where the Client appoints an Applicant on a fixed term contract basis the following introduction fee will apply:

- 1 term: 2,000 GBP
- 2 terms: 3,000 GBP
- 1 year contract: clause 4.3 applies

Where an Applicant is employed for a period of time and the contract is subsequently extended then the balance of the fee will be payable. VAT will be charged in addition to the fee.

4.4 If the Client wishes to Engage the Agency Worker other than via the Employment Business without liability to pay a Placement fee, the Client may, on giving the Employment Business 7 days prior written notice, opt for an extended period of hire whereby it makes use of the services of the Temporary Worker on the terms set out in this Agreement for 26 weeks from the date of such notice.

During such 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 4.4; and the Client shall continue to pay the Charges set out in clause 2. 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 Client does not wish to hire the Agency Worker on the same terms as the Assignment; but the Agency Worker is Engaged by the Client, the Client shall pay the Placement 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 Client. If the Client 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 Placement Fee shall be due in full.

4.5 There shall be no refund of the Placement Fee if the engagement pursuant to clause 4.1 is subsequently terminated, for whatever reason.

4.6 For the purpose of clause 4.1(a) only, the term "within fourteen weeks following the commencement of the Assignment" shall be defined by reference to Regulation 10(5) and (6) of The Conduct of Employment Agencies and Employment Businesses Regulations 2003 as amended from time to time.

Standards Required

5.1 The Client agrees to provide to the Employment Business sufficient information to enable the Employment Business to confirm the suitability of the Temporary Worker for the Assignment. In this regard, the Client agrees to provide at least the following information:

- (a) the duration, or likely duration, of the Assignment;
- (b) the nature of the business and the position, the type of work the Temporary Worker would be required to do, the location at which and the hours during which he or she would be required to work;
- (c) any risks to health or safety relevant to the Assignment and known to the Client, and what steps the Client has taken to prevent or control such risks and by instructing the Employment Business to provide the Temporary Worker, the Client confirms that it has carried out a thorough risk assessment of the place(s) of work relating to the Assignment unless it has otherwise notified the Employment Business;
- (d) the experience, training, qualifications and any authorisation which the Client considers are necessary, or which are required by law or by any professional body, for the Temporary Worker to possess in order to work in the position;
- (e) information on facilities provided by the Client to its permanent employees and which will be made available to the Temporary Worker;
- (f) if requested by the Employment Business, all such information as the Employment Business may reasonably require in relation to the Client's permanent employees in order for the Employment Business to identify and calculate any rights of the Temporary Worker under the Regulations including, basic pay and overtime, bonuses and commission, duration of working time, rest periods, annual leave and paid time off for ante natal appointments; and
- (g) whether the Temporary Worker has previously worked for the Client and if so the nature of the assignment and work and the duration.

5.2 The Client agrees to notify the Employment Business of the above information and/or any changes in such information:

- (a) in good time before the commencement of the Assignment; and
- (b) without delay during the Assignment, where appropriate (for example, in the light of a change of circumstances).

5.3 Subject to confirmation from the Client to the Employment Business of all the information referred to in this clause 5, the Employment Business shall take reasonably practicable steps to ensure that the Temporary Worker is aware of all applicable requirements for the Assignment including any changes thereto.

5.4. The Client warrants that the information provided under paragraph 5.1 and 5.2 above is accurate and complete in all respects.

5.5. The Client shall be responsible for providing a working environment in compliance with all relevant health and safety laws and regulations.

Liability

6.1 The Employment Business undertakes to make all reasonable efforts to ensure reasonable standards of skill and experience from the Temporary Worker but no liability is accepted by the Employment Business for any claim arising from failure to provide a Temporary Worker for all or part of an Assignment or from any loss or damage attributable to negligence, dishonesty, misconduct or lack of skill, experience, training qualifications, or authorisations of the Temporary Worker or attributable to any failure by the Client to provide information in accordance with clause 5 above.

6.2 Notwithstanding any other provision of this Agreement, but subject to clause 6.4 below, the Employment Business shall not be liable to the Client arising out of or in connection with this Agreement and/or the provision of (or any delay in providing or failure to provide) the services of the Temporary Worker by the Employment Business for (i) any loss of or damage to profit, revenue, savings, data, use, contract, goodwill or business or (ii) any indirect or consequential loss or damage, in each case howsoever caused or arising.

6.3 The term "howsoever caused or arising" when used in this clause 6 shall be construed widely to cover all causes and actions giving rise to liability, including but not limited to (i) whether arising by

reason of any misrepresentation (whether made prior to and/or in this Agreement), negligence, breach of statutory duty, other tort, breach of contract, restitution or otherwise and (ii) whether arising under any indemnity and (iii) whether caused by any total or partial failure or delay in supply of the services of the Temporary Worker by the Employment Business.

6.4 Nothing in this Agreement shall limit or exclude any party's liability for fraud or for death or personal injury caused by the negligence, or to the extent otherwise not permitted by law.

6.5 The Client shall notify the Employment Business immediately if the Temporary Worker makes or threatens any claims in connection with the Agency Worker Regulations 2010.

Replacement Temporary Worker

7. The Client may, on reasonable grounds, terminate the Assignment provided that:

- (a) the Client shall first give prior notice to the Employment Business of such termination; and
- (b) the Employment Business shall have the right to replace a Temporary Worker with another individual to provide the Services. Any replacement Temporary Worker supplied pursuant to this clause shall be deemed to be supplied under the same terms as governed the original Temporary Worker under this Agreement.

The provision of a substitute is in no way an acceptance by the Employment Business that the work carried out by the Temporary Worker was not carried out in accordance with these terms.

Unsatisfactory Standards Procedure

8.1 If the Services provided through the Temporary Worker are established by the parties to be unsatisfactory, the Employment Business may, in its absolute discretion, reduce or cancel the charges provided that notification by the Client to the Employment Business (confirmed in writing within five days) is received:

- (a) within four hours of the Temporary Worker commencing the Assignment, unless
- (b) the Assignment is for seven hours or less, in which case within two hours of the Temporary Worker commencing the Assignment. No refunds are payable in respect of the Charges of the Employment Business

8.2 In the circumstances set out in clause 8.1 above, the Employment Business shall have the right to replace a Temporary Worker with another individual to provide the Services. The provision of a substitute is in no way an acceptance by the Employment Business that the work carried out by the Temporary Worker was not carried out in accordance with these terms.

Responsibility

9.1 The Temporary Worker has been engaged by the Employment Business under a contract for services. The Temporary Worker is deemed to be under the supervision, direction and control of the Client from the time he/she reports to take up duties and for the duration of the Assignment.

9.2 The Client agrees to be responsible for all acts, errors or omissions of the Temporary Worker, whether wilful, negligent or otherwise, as though the Temporary Worker was an employee of the Client.

9.3 The Client will also comply in all respects in relation to the Temporary Worker with all statutes (including, for the avoidance of doubt, the Working Time Regulations 1998), 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 3 above) or to which it would be subject if the Temporary Worker were an employee of the Client. This includes in particular the provision of adequate employer's and public liability insurance cover for the Temporary Worker during the Assignment, and full compliance with all applicable health and safety obligations. The Client shall not bring, or seek to bring, any claim (including any claimed right of set-off) against the Employment Business in respect of any matter for which it agrees to assume liability in this clause 9.2. The provisions of clauses 9.3 shall not apply if the Temporary Worker is an individual who is contracting with the Employment Business via a limited company

9.4 The Client will assist the Employment Business or the limited company named in the Confirmation of Engagement Document in complying with the Working Time Regulations by supplying without delay any relevant information about the Assignment requested by the Employment Business. The Client will not do anything to cause the Employment Business or the limited company named in the Confirmation of Engagement Document to be in breach of its obligations under these Regulations. In particular, 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.

9.5 The Client shall be responsible for ensuring that the Temporary Worker obtains all rights afforded to it under the Regulations, including without limitation:-

- access to facilities provided by the Client which are available to the Client's permanent employees (such as canteen, crèche, transport services, toilet/shower facilities, staff room, prayer room and car parking);
- the same information about permanent job vacancies within the Client that the Client would give to its own permanent employees during the period of the Temporary Worker's relevant Assignment.

9.6 The Client shall not request the Employment Business to introduce or supply a Temporary Worker to perform the duties normally performed by a worker who is taking part in a strike or other industrial action or the duties normally performed by any other worker employed by the hirer and who is assigned by the Client to perform the duties normally performed by the worker who is taking part in the strike.

Confidentiality and Data Protection

10.1 Except as permitted by law each party shall not disclose any Confidential Information relating to the other party without the other party's prior written consent either during or after termination of any Assignment. For the purposes of this Clause "Confidential Information" means any information relating to the business and affairs of the Employment Business and/or the Client (including, without limitation, the charges and rates payable under these terms in relation to any Temporary Worker) and which comes to either party's attention or possession and which either party regards or could reasonably be expected to regard as confidential, whether or not any such tangible information is marked confidential.

10.2 To the extent that any data or information belonging to the Client is personal data within the meaning of the Data Protection Act 1998 or equivalent legislation in the territory:

- (a) the Employment Business will process such data and information only in accordance with the Client's instructions;
- (b) the Client consents to the Employment Business transmitting such data and information to a country or territory outside the European Economic Area; and
- (c) the Employment Business will take such technical and organisational measures against unauthorised or unlawful processing of such data and information and against accidental loss or destruction of, or damage to, such data and information as are appropriate to the Client as data controller.

Indemnity

11 The Client shall 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 any Assignment including (without limitation) as a result of:

- (a) any breach of this Agreement by the Client (including, without limitation, any breach of the warranty under Clause 5.4); and
- (b) any breach by the Client or any associated company of the Client, or any of its or their employees or agents, of any applicable statutory provisions (including, without limitation, any statutory provisions prohibiting or restricting discrimination or other inequality of opportunity);
- (c) any matter in respect of which the Client has agreed to take responsibility in clause 9.2 or 9.4 above;
- (d) any failure by the Client to afford the Temporary Worker equal working conditions;
- (e) the Client engaging (or instructing the Employment Business to engage) in any anti-avoidance measures prohibited by the Regulations; and
- (f) the Client requesting the Services of any supplier company and treating (or instructing the Employment Business to treat) such supplier company as falling outside of the scope of the Regulations.

Entire Agreement Variation

12.1 This Agreement, together with the details provided in the Confirmation of Engagement Document, constitutes the entire and only legally binding agreement between the parties relating to the Assignment, and replaces any previous agreements or arrangements. Each party acknowledges and agrees that in entering into this Agreement it does not rely on, and will have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person other than as expressly set out in this Agreement.

12.2 No variation or alteration to these Terms shall be valid unless the details of such variation are agreed between an authorised representative 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.

Assignment

13 The Client shall not assign, transfer, sub—contract or novate its obligations under this Agreement or any Assignment without the Employment Business' prior written consent.

Waiver

14 Any failure by the Employment Business to enforce at any particular time any one or more of the terms of this Agreement shall not be deemed a waiver of such rights or of the right to subsequently enforce the terms of this Agreement.

Headings

15 Headings contained in this Agreement are for reference purposes only and shall not affect the intended meanings of the clauses to which they relate.

Validity

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

Force Majeure

17 The Employment Business shall have no liability for any delay or failure in performance of its obligations to the Client where this arises from matters outside its reasonable control.

Third Parties

18 No provision of this Agreement shall 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.

No Employment

19 Nothing in this Agreement shall give rise to an employment relationship between the Temporary Worker and either the Employment Business or the Client.

Overdue Debts

20 The Employment Business may charge interest on all overdue debts under this Agreement at the rate of 4% per month.

Governing Law

21 This Agreement shall be governed by and construed in accordance with the laws of England and the parties hereby submit to the non-exclusive jurisdiction of the English Courts in relation to any claim or dispute arising out of or in connection with this Agreement (including non-contractual disputes or claims).