TERMS OF BUSINESS WITH A SCHOOL (THE HIRER) – EDUCATION SUPPLY TERMS

THE PARTIES

(1) A-Day Consultants Ltd t/a Academics of Kingston House, Towers Business Park, Wilmslow Road, Manchester, M20 2LD (**"the Employment Business"**)

(2) You are a Hirer or potential Hirer of ours and are the recipient of these Terms of Business to whom the Temporary Contractor is Introduced. For the avoidance of doubt the Hirer shall also include any subsidiary or associated person, firm or corporate body (as the case may be) to whom the Temporary Contractor is Introduced.

In accordance with clause 2.1, once the Hirer has received this document, comprising this page and the pages that follow, any act by the Hirer of accepting or requesting services from the Employment Business, or using in any way information from the Employment Business relating to a Temporary Contractor, is deemed to be and shall constitute the Hirer's acceptance of these Terms of Business. Upon such acceptance, and in consideration of the mutual benefits set out herein, it is agreed as follows:

RECITALS

(A) The Employment Business carries on the business of sourcing and supplying contractors to provide services to clients of the Employment Business. The Hirer has instructed the Employment Business to supply a Temporary Contractor as specified in the relevant Assignment Details Form.

(B) The Hirer gives no preference to whether the Temporary Contractor is supplied directly or through an Intermediary.

(C) The Employment Business will introduce a Temporary Contractor to the Hirer to provide the Temporary Contractor's services on the terms and subject to the conditions of this Agreement. These Terms will apply to all dealings between the Employment Business and the Hirer relating to the supply of Temporary Contractors.

(D) The Employment Business shall act as an employment business (as defined in Section 13(3) of the Employment Agencies Act 1973) [as amended) when Introducing Temporary Contractors for Assignments with the Hirer.

1. DEFINITIONS AND INTERPRETATION

1.1. In these Terms the following definitions apply:

"Apprenticeship Levy" means the apprenticeship levy due in accordance with the Finance Act 2017 and the Income Tax (Pay as you Earn) (Amendment) Regulations 2017; **"Assignment"** means assignment services to be performed by the Temporary Contractor for the Hirer for a period of time during which the Temporary Contractor is supplied by the Employment Business whether directly or through an Intermediary to work temporarily for the Hirer;

"Assignment Details Form" means written confirmation of the assignment details agreed with the Hirer prior to commencement of the Assignment;

"AWR" means the Agency Workers Regulations 2010;

"AWR Claim" means any complaint or claim to a tribunal or court made by or on behalf of the Temporary Contractor against the Hirer and/or the Employment Business for any breach of the 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 calculated in accordance with clause 6.1 and as may be varied from time to time in accordance with these Terms;

"Comparable Employee" means as defined in the AWR;

"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 the Assignment) in any form or medium whether disclosed or granted access to whether in writing, orally or by any other means, provided

to the Temporary Contractor or the Intermediary or any third party in relation to the Assignment 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;

"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 2018, the General Data Protection Regulation (EU 2016/679) and any applicable statutory or regulatory provisions in force from time to time relating to the protection and transfer of personal data;

"Engagement" means the engagement (including the Intermediary's and/or the Temporary Contractor's acceptance of the Hirer's offer), or use of the Temporary Contractor or the Intermediary by the Hirer or by any third party to whom the Temporary Contractor has been introduced by the Hirer, direct or indirectly, on a permanent or temporary basis, whether under a contract for services under an agency, licence, franchise or partnership agreement; or any other engagement;, and/or through a limited company of which the Temporary Contractor is a representative,; and "Engage", "Engages" and "Engaged" shall be construed accordingly";

"First Assignment" means: relevant Assignment; or (a) if, prior to the relevant Assignment:

(b) if, prior to the relevant Assignment:

(i) the Temporary Contractor has worked in any assignment in the same role with the relevant Hirer as the role in which the Temporary Contractor 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 Contractor is supplied by one or more Temporary Work Agencies to the relevant Hirer; **"FOIA"** means the Freedom of Information Act 2000;

"Hirer" means 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 Intermediary and/or Temporary 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; **"Intermediary"** a limited company which contracts with the Employment Business to supply the Temporary Contractor (and, save where otherwise indicated, includes any Temporary Contractor);

"Introduction" means whichever occurs later of (i) the passing to the Hirer of a curriculum vitae or information which identifies the Temporary Contractor and / or Intermediary; or (ii) the Hirer's interview of the Temporary Contractor and / or Intermediary (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 Temporary Contractor (whether directly or through an Intermediary); and, in any case, which leads to an Engagement of the temporary worker or the Temporary Contractor (whether directly or through the Intermediary); and "Introduce", "Introduced" and "Introducing" shall be construed accordingly; **"ITEPA"** means the Income Tax (Earnings and Pensions) Act 2003;

"Losses" means all losses, liabilities, damages, costs, expenses, fines, penalties or interest 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; and "Loss" shall be construed accordingly;

"NICs Legislation" means legislation regarding the deduction and payment of national insurance contributions including in particular the Social Security (Categorisation of Earners) Regulations 1978 and the Social Security (Miscellaneous Amendments No. 2) Regulations 2000;

"Period of Extended Hire" means any additional period that the Hirer wishes the Temporary Contractor to be supplied, whether directly or through an Intermediary, 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 Contractor is supplied by one or more Temporary Work Agencies to the relevant Hirer in the same role, and as further defined in the AWR;

"Relevant Period" means (a) the period of 8 weeks commencing on the day after the last day on which the Temporary Contractor worked for the Hirer having been supplied by the Employment Business (whether or not through an Intermediary); or (b) the period of 14 weeks commencing on the first day on which the Temporary Contractor worked for the Hirer having been supplied by the Employment Business (whether or not through an Intermediary) 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 Hirer 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 annualised gross 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 Contractor or Intermediary (as applicable) for services provided to or on behalf of the Hirer or any third party;

"Safeguarding Legislation" means the Safeguarding Vulnerable Groups Act 2006; "**Temporary Contractor**" means the individual who is Introduced by the Employment Business to provide services to the Hirer whether directly or through an Intermediary; **"Temporary Work Agency"** means as defined in the AWR;

"Terms" means these terms of business (including the attached schedules) together with any applicable Assignment Details Form; **"Transfer Fee"** means the fee payable in accordance with clause 8 and Schedule 1 of these Terms and Regulation 10 of the Conduct Regulations;

"Vulnerable Person" means any person who by reason of age, infirmity, illness, disability or any other circumstance is in need of care or attention, and includes any person under the age of eighteen; and **"WTR"** 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 the Temporary Contractor and / or Intermediary's services by the Employment Business to the Hirer and are deemed to be accepted by the Hirer by virtue of its request for, interview with or Engagement of the Temporary Contractor and / or Intermediary, or the passing of any information by the Hirer about a Temporary Contractor or Intermediary to any third party following an Introduction.

2.2. These Terms together with the Schedules and any applicable Assignment Details Form contain the entire agreement between the parties and unless otherwise agreed in writing by a director 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 when Introducing Temporary Contractors or Intermediaries for Assignments with the Hirer.

2.5. The Employment Business shall supply the services of the Temporary Contractor, who shall be engaged under a Contract for Services.

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 Temporary Contractor 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 Temporary Contractor and / or Intermediary 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 Temporary Contractor or Intermediary to commence the Assignment;

3.1.6. the duration or likely duration of the Assignment.

3.1.7. responses to any additional questions the Employment Business may raise in relation to the position the Hirer seeks to fill.

3.2. The Hirer will assist the Employment Business or the Intermediary (as applicable) in complying with the Employment Business' or the Intermediary's (as applicable) 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 or the Intermediary (as applicable) to be in breach of its obligations under these Regulations. If the Hirer requires the services of a Temporary Contractor or Intermediary 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 Temporary Contractor or the Intermediary to work in excess of 48 hours.

3.3. The Hirer will comply with its obligations under Regulation 12 (Rights of Temporary Contractors in relation to access to collective facilities and amenities) and 13 (Rights of Temporary Contractors in relation to access to employment) the AWR.

3.4. To enable the Employment Business and / or Intermediary 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 in which the relevant Temporary Contractor has worked in the same or a similar role with the Hirer 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;

3.4.2. if, the Temporary Contractor has worked in the same or a similar role with the Hirer 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 Hirer via any third party during the relevant Assignment, to provide the Employment Business with all the 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 requested by the Employment Business;

3.4.3. to inform the Employment Business if, the Temporary Contractor has prior to the date of commencement of the relevant Assignment and/or during the relevant Assignment:

3.4.3.1. completed two or more assignments with the Hirer;

3.4.3.2. completed at least one assignment with the Hirer and one or more earlier assignments with any member of the Hirer's Group; and/or

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

3.4.4. save where the Temporary Contractor will not complete the Qualifying Period during the term of the Assignment, to:

3.4.4.1. provide the Employment Business with written details of the basic working and employment conditions the Temporary Contractor would be entitled to for doing the same job if the Temporary Contractor had been recruited directly by the Hirer 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;

3.4.4.2. 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;

3.4.4.3. 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

3.4.4.4. 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

3.4.5. save where the Temporary Contractor 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.

3.5. In addition, for the purpose of awarding any bonus to which the Temporary Contractor may be entitled under the AWR, the Hirer will:

3.5.1. integrate the Temporary Contractor into its relevant performance appraisal system;

3.5.2. assess the Temporary Contractor's performance;

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

3.5.4. provide the Employment Business with all other assistance the Employment Business may request in connection with the assessment of the Temporary Contractor's performance for the purpose of awarding any bonus.

3.6. 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.

3.7. The Hirer warrants that:

3.7.1. all information and documentation supplied to the Employment Business in accordance with clauses 3.1, 3.4, 3.5 and 3.6 is complete, accurate and up-to-date; and

3.7.2. it will, either before or 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 3.1, 3.4, 3.5 and 3.6.

3.8. Without prejudice to clause 14, the Hirer shall inform the Employment Business in writing of any:

3.8.1. oral or written complaint the Temporary Contractor or Intermediary makes to the Hirer which is or may be a complaint connected with rights under the AWR; and

3.8.2 written request for information relating to the Relevant Terms and Conditions that the Hirer receives from the Temporary Contractor or Intermediary.

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 Hirer and the Hirer will take such action and give such information and assistance as the Employment Business may request, and within any 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 Contractor or Intermediary within 28 days of the Hirer's receipt of such a request in accordance with Regulation 16 of the AWR and the Hirer will provide the Employment Business with a copy of any such written statement.

3.9. The Hirer undertakes that it knows of no reason why it would be detrimental to the interests of the Temporary Contractor or Intermediary for the Temporary Contractor or Intermediary to fill the Assignment.

3.10. The Hirer will allow the Employment Business to suspend the services of the Temporary Contractor and / or Intermediary if the Temporary Contractor is absent due to sickness, provided that the Employment Business will notify the Hirer as soon as practicable of any required absence for sickness.

3.11. The Hirer will not integrate the Temporary Contractor into its workforce or treat the Temporary Contractor as an employee or do any act or thing towards the Temporary Contractor which may be regarded as the act of an employer towards an employee save as detailed within these Terms or required by law.

3.12. The Hirer undertakes not to request the supply of a Temporary Contractor 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.

3.13 The Hirer irrevocably authorises the Employment Business to advertise and promote any vacancy or recruitment assignment instructed by the Hirer. The Employment Business may publish advertisements in the Hirer's name or, where appropriate, on a confidential basis, across such advertising channels as the Employment Business considers suitable. The Hirer confirms that it has provided accurate information relating to the vacancy and grants the Employment Business permission to use such information solely for the purpose of advertising, promoting, and recruiting candidates in connection with the assignment.

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

4.1. When Introducing a Temporary Contractor or Intermediary to the Hirer the Employment Business shall inform the Hirer:

4.1.1. of the identity of the Temporary Contractor and, where applicable, the fact that an Intermediary is involved and the name of that Intermediary;

4.1.2. that the Temporary Contractor 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 Temporary Contractor is willing to work in the Assignment; and **4.1.4.** 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 following, save where the Temporary Contractor or Intermediary is Introduced for an Assignment in the same position as one in which the Temporary Contractor 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.

4.3. If the Hirer has previous knowledge of the Temporary Contractor the Employment Business is seeking to Introduce the Hirer will notify the Employment Business in writing within 3 Business days of the identity of the Temporary Contractor being provided in accordance with clause 4.1.1 and will provide supporting documentary evidence of the previous knowledge. Where such notification is not provided, there will be deemed to be an Introduction; the Charges will be due in accordance with clause 6.

5. TIMESHEETS

5.1. The Hirer agrees to keep a timesheet verifying the amount of time or type of work (as the case may be) worked by the Temporary Contractor during each week of the Assignment. At the end of each week of 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 timesheet verifying the content. The Hirer will cooperate with the Employment Business in relation to any reasonable requests for information regarding the timesheets.

5.2. Signature of the timesheet by the Hirer is confirmation of the number of days worked or type of work undertaken (as the case may be). If the Hirer is unable to sign a timesheet produced for authentication by the Temporary Contractor or Intermediary because the Hirer disputes the days or type of work 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, if any, or type of work, were worked by the Temporary Contractor. **Failure to sign the timesheet does not absolve the Hirer of its obligation to pay the Charges in respect of the time or type of work 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 Temporary Contractor. In the event that the Hirer is dissatisfied with the Temporary Contractor or

Intermediary, the provisions of clause 10.3 below shall apply.

5.4. If there is any dispute about time spent by the Temporary Contractor, without prejudice to the Employment Business' right to recover additional Charges from the Hirer, the Hirer will produce its own records of the time spent and pay the Charges based on that amount pending resolution of the dispute.

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 time worked (calculated as full and half days) by the Temporary Contractor and comprise the following:

6.1.1. Where the Temporary Contractor is supplied directly to the Hirer by the Employment Business:

6.1.1.1. the Temporary Contractor's rate of pay;

6.1.1.2. an amount equal to any paid holiday leave to which the Temporary Contractor is entitled in connection with the Working Time Regulations and, where applicable, the AWR and which is accrued during the course of an Assignment;

6.1.1.3. any other amounts to which the Temporary Contractor is entitled under the AWR, where applicable; **6.1.1.4.** employer's National Insurance
contributions;

6.1.1.5. 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

6.1.1.6. the Employment Business' commission, which is calculated as a percentage of the Temporary Contractor's pay including any bonus payments.

6.1.2. Where the Temporary Contractor is supplied by the Employment Business to the Hirer through an Intermediary:

6.1.2.1. the Intermediary's fees;

6.1.2.2. any travel, hotel or other expenses or disbursements as may have been agreed with the Hirer or, if there is no such agreement, such expenses as are reasonable; and **6.1.2.3.** the Employment Business' commission.

6.2. The Employment Business reserves the right to vary the Charges agreed with the Hirer, by giving written notice to the Hirer:

6.2.1. In order to comply with an additional liability imposed by statute or other legal requirement or entitlement, including but not limited to the AWR, ITEPA, the NICs Legislation, the WTR, Social Security Contributions and Benefits Act 1992, Apprenticeship Levy, and/or Pensions Act 2008; and/or

6.2.2. if there is any variation in the Relevant Terms and Conditions.

6.3. Subject to clause 10, the Charges become due upon the Hirer's confirmation that it wishes to use the services of the Temporary Contractor (whether or not provided through an Intermediary). The Charges remain due where the Assignment does not take place or the Temporary Contractor does not provide services during all of the anticipated duration of the Assignment as a result of:

6.3.1. the Temporary Contractor or Intermediary no longer being required by the Hirer;

6.3.2. closure of the Hirer's premises for any reason;

6.3.3. strike or other industrial action;

6.3.4. after the Qualifying Period is completed, the Temporary Contractor taking paid time off for ante-natal appointments;

6.3.5. a pregnant Temporary Contractor being unable to provide services by virtue of a health and safety risk assessment carried out by the Hirer, there being no reasonable adjustments, which can be made to the role, and no suitable alternative work with another hirer, which can be offered to the Temporary Contractor by the Employment Business.

The Hirer is required to notify the Employment Business immediately that the services of the Temporary Contractor are not required for the reasons stated in this clause 6.3 or for any other reason and provide the Employment Business with details of why the services are no longer required.

6.4. Where notice is given to terminate an Assignment in accordance with clause 11 the Charges remain payable during any notice period irrespective of whether the Hirer uses the services of the Temporary Contractor or Intermediary during the notice period.

6.5. The Charges are invoiced to the Hirer and are payable within 14 days. The initial fee will be due within 30 days of the commencement of the Engagement whether or not an invoice is raised.

6.6. In addition to the Charges, the Hirer will pay the Employment Business an amount equal to any bonus that the Hirer awards to the Temporary Contractor in accordance with clause 3.5 immediately following any such award and the Employment Business will pay any such bonus to the Temporary Contractor or Intermediary (as applicable). For the avoidance of doubt, the Hirer will also pay any employer's National Insurance Contributions and the Employment Business' commission on the bonus (calculated using the same percentage rate as that used under clause 6.1.1.6 or, where applicable, such other rate as agreed between the parties) in addition to any bonus payable to the Temporary Contractor or Intermediary.

6.7. VAT is payable at the applicable rate on the entirety of the Charges and all sums payable under clause 6.6.

6.8. The Employment Business 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 the rate of 8% per annum above the base rate from time to time of the Bank of England from the due date until the date of payment.

6.9. The Employment Business will not refund any of the Charges.

6.10. 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 TEMPORARY CONTRACTOR OR INTERMEDIARY

7.1. The Employment Business assumes responsibility for paying the Temporary Contractor or, where applicable, the Intermediary. Where the Temporary Contractor is supplied to the Employment Business through an Intermediary, the Intermediary assumes responsibility for paying the Temporary Contractor.

7.2. Where appropriate, the Employment Business or Intermediary (as applicable) assumes responsibility for the deduction and payment of National Insurance Contributions and PAYE Income Tax applicable to the Temporary Contractor pursuant to sections 4447 of the Income Tax (Earnings and Pensions) Act 2003.

8. TRANSFER FEES

8.1. The Hirer shall be liable to pay a Transfer Fee upon the commencement of the Engagement if the Hirer Engages a Temporary Contractor or Intermediary Introduced by the Employment Business other than via the Employment Business or introduces the
Temporary Contractor or Intermediary to a third party and such introduction results in an Engagement of the Temporary Contractor or Intermediary by the third party other than via the Employment Business and:

8.1.1. where the Temporary Contractor or Intermediary 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 Temporary Contractor or Intermediary has not been supplied, such Engagement takes place within 9 months from the date of the Introduction to the Hirer.

The Engagement will be deemed to commence on the earlier of the date of an agreement to Engage or the commencement of any services under the Engagement. The Transfer Fee will be calculated in accordance with Schedule 1.

8.2. If the Hirer wishes to Engage the Temporary Contractor or Intermediary other than via the Employment Business without liability to pay a Transfer Fee, the Hirer may, on giving one month's written notice to the Employment Business, engage the Temporary Contractor or Intermediary for a Period of Extended Hire as defined in Schedule 1.

8.3. During such Period of Extended Hire the Employment Business shall supply the Temporary Contractor or Intermediary 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. The Hirer shall continue to pay the Charges set out in clause 6 during the period of Extended Hire.

8.4. If the Employment Business is unable to supply the Temporary Contractor or
Intermediary for any reason outside its control for the whole or any part of the Period of Extended Hire 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 Temporary Contractor or Intermediary before being Engaged by the Hirer.

8.5. If:

8.5.1. the Hirer does not wish to hire the Temporary Contractor or Intermediary on the same terms as the Assignment; but the Temporary Contractor or Intermediary is Engaged by the Hirer, or

8.5.2. the Temporary Contractor or Intermediary requires the payments to them to be increased for any reason and there is a resulting increase to the Charges which is notified to the Hirer; the Hirer shall either:

8.5.3 provide confirmation that the varied terms are no less favourable than the terms in the proceeding Assignment and the provision of the

services will be treated as a period of Extended Hire; or

8.5.4 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 Temporary Contractor or Intermediary before being Engaged by the Hirer.

8.6 If the Hirer fails to give notice of its intention to Engage the Temporary Contractor or Intermediary other than via the Employment Business before such Engagement commences, the parties agree that the Transfer Fee shall be due in full.

8.7 Where prior to the commencement of the Hirer's Engagement 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 Temporary Contractor or Intermediary for the agreed fixed term. Should the Hirer extend the Temporary Contractor or Intermediary's Engagement or re-Engage the Temporary Contractor or Intermediary within 12 months from the commencement of the initial Engagement the Employment Business reserves the right to recover the balance of the Transfer Fee.

8.8 To allow the Employment Business to calculate the Transfer Fee in accordance with Schedule 1, the Hirer will, within 7 Business days of a written request from the Employment Business, provide the Employment Business with full details of the Remuneration or proposed or projected Remuneration and the terms of the Engagement including details of any renewal or extension or any new Engagement relating to a Temporary Contractor.

8.9 If the Hirer fails to provide information in accordance with clause 8.7 the Employment Business will calculate the Remuneration based upon the rates payable to the Temporary Contractor under the last Assignment, or where there has been no Assignment, the highest sum indicated by either the Hirer or the Employment Business as payable for the services sought by the Hirer at the time of the Introduction of the relevant Temporary Contractor. The Employment Business reserves its right to recover any additional sums where the amount of Remuneration calculated under this clause is less than the actual Remuneration.

8.10 No refund of the Transfer Fee will be paid in the event that the Engagement of the Temporary Contractor or Intermediary other than via the Employment Business by the Hirer or by a third party to which the Hirer introduces the Temporary Contractor or Intermediary terminates or terminates before the end of the fixed term referred to in clause 8.7.

8.11 If any party wishes to terminate the Period of Extended Hire notice should be given in accordance with clause 11.

8.12 VAT is payable in addition to any Transfer Fee due.

8.13 For the avoidance of doubt, the Hirer shall be liable to pay a Transfer Fee notwithstanding a change in control of the Hirer (as defined in section 1124 of the Corporation Tax Act 2010) and the accrued rights and liabilities of the parties under this clause 8 shall survive such change in control and continue in full force and effect.

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

9.1. Where:

9.1.1. the Temporary Contractor or Intermediary is required by law, or any professional body to have any qualifications or authorisations to work on the Assignment, the Employment Business will take all reasonably practicable steps to obtain and offer to provide to the Hirer copies of any relevant qualifications or authorisations of the Temporary Contractor or Intermediary although the ultimate responsibility for ensuring the Temporary Contractor or Intermediary is suitable remains with the Hirer; and

9.1.2. in addition, where the Assignment involves working with, caring for or attending one or more Vulnerable Persons, the Employment Business will take all reasonably practicable steps to obtain and offer to provide copies to the Hirer of two references from persons who are not relatives of the Temporary Contractor and who have agreed that the references they provide may be disclosed to the Hirer although the ultimate responsibility for ensuring the Temporary Contractor or Intermediary is suitable remains with the Hirer; and such other reasonably practicable steps as are required to confirm that the Temporary Contractor or Intermediary is suitable for the Assignment. If the Employment Business has taken all reasonably practicable steps to obtain the information above and has been unable to do so fully it shall inform the Hirer of the steps it has taken to obtain this information in any event. It is the Hirer's ultimate responsibility to ensure that the Intermediary and Temporary Contractor or Intermediary are suitable.

9.2. The Hirer shall advise the Employment Business at the time of instructing the Employment Business to supply a Temporary Contractor or Intermediary whether during the course of the Assignment, the Temporary Contractor will be required to work with, care for or attend one or more Vulnerable Persons or engage in regulated activity or otherwise be working in a position covered by the Safeguarding Legislation.

9.3. The Hirer shall assist the Employment Business by providing any information required to allow the Employment Business or Intermediary to comply with its statutory obligations under the Safeguarding Legislation and to allow the Employment Business to select a suitable Temporary Contractor or Intermediary for the Assignment.

9.4. In particular in the event that the Hirer removes a Temporary Contractor from an Assignment in circumstances which would require the Employment Business to provide information to the Disclosure and Barring Service (or the equivalent authority) under the Safeguarding Legislation, the Hirer will provide sufficient information to the Employment Business to allow it to discharge its statutory obligations.

10. UNSUITABILITY OF THE TEMPORARY CONTRACTOR AND INTERMEDIARY

10.1. Save as detailed in clause 9 above, it is the responsibility of the Hirer, that the Temporary Contractor is suitable for the position to be filled, to take up appropriate references, verify the curriculum vitae supplied, interview the Temporary Contractor and / or Intermediary if appropriate, explain the role required for the Temporary Contractor, and verify the Temporary Contractor's ability to carry out the role required to be filled. Save as specified in this Agreement, the Employment Business accepts no liability for any loss arising from the Hirer's failure to verify the suitability of the Temporary Contractor and / or Intermediary.

10.2. It is the Hirer's responsibility to ensure that the Temporary Contractor is aware of and understands any rules, regulations or procedures relating to the way the Hirer requires the Type of Work to be undertaken and relating to external contractors or other third parties the Temporary Contractor will come into contact with when undertaking the Type of Work.

10.3. The Hirer undertakes to supervise the Temporary Contractor sufficiently to ensure the Hirer's satisfaction with the Temporary Contractor's standard of work. The Hirer shall notify the Employment Business immediately if they intend to raise concerns about the Temporary Contractor's performance or conduct with any regulatory body or unsatisfactory standards of work. If the Hirer is not satisfied with the Temporary Contractor for any reason, they should inform the Employment Business immediately in writing giving reasons for the dissatisfaction. If the Hirer reasonably considers that the services of the Temporary Contractor or Intermediary are unsatisfactory, the Hirer may either instruct the Temporary Contractor to leave the Assignment immediately, or direct the Employment Business to remove the Temporary Contractor or Intermediary. The Hirer must allow 3 Business days for an Assignment of 10 days or more or 1 Business days for an Assignment of less than 10 days for the Employment Business to find a suitable replacement. Where the Employment Business does not provide a suitable replacement, the Hirer may terminate the Assignment in accordance with clause 11. The Employment Business may, in its absolute discretion, in such circumstances, reduce or cancel the Charges for the time worked by that Temporary Contractor, less any payment the Employment Business has agreed to make to the Temporary Contractor, provided that the Hirer has notified the Employment Business:

10.3.1. within 4 hours of the Temporary Contractor or Intermediary commencing the Assignment where the Assignment is more than 7 hours; or

10.3.2. within 2 hours for assignments of 7 hours or less;

and provided that notification of the unsuitability of the Temporary Contractor or Intermediary is confirmed in writing to the Employment Business within 48 hours of the termination of the Assignment.

10.4. 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:

10.4.1. any Temporary Contractor or Intermediary supplied to the Hirer is unsuitable for the Assignment;

10.4.2. the Hirer is not meeting its obligations to the Temporary Contractor or Intermediary;

10.4.3. the Hirer is in breach of the Terms; 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.

10.5. The Hirer shall notify the Employment Business immediately and without delay and in any event within two hours if the Temporary Contractor 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. Any of the Hirer, the Employment Business or the Temporary Contractor (or the Intermediary where applicable) may terminate an Assignment at any time by giving the other party in writing the period of notice specified in the relevant Assignment Details Form. Where no notice is specified in the relevant Assignment Details Form the Assignment can be terminated 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. The Employment Business may terminate an Assignment with immediate effect by notice in writing if:

11.2.1. the Hirer is in wilful or persistent breach of its obligations under this Agreement and where the breach is capable of being remedied, fails to remedy the breach within 7 days of receiving written notice from the Employment Business to do so; or

11.2.2. the Hirer fails to pay any amount which is due to the Employment Business in full and on the date that the payment falls due; or

11.2.3. the Hirer is dissolved, ceases to conduct all (or substantially all) of its business, is or becomes unable to pay its debts as they fall due, is or becomes insolvent or is declared insolvent, or convenes a meeting or makes or proposes to make any arrangement or composition with its creditors; or

11.2.4. an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the Hirer; or

11.2.5. an order is made for the winding up of the Hirer, or where the Hirer passes a resolution for its winding up (other than for the purpose of a solvent company reorganisation or amalgamation where the resulting entity will assume all the obligations of the other party under this Agreement); or

11.2.6. the Employment Business knows or suspects that the Hirer has breached the Data Protection Laws.

12. CONFIDENTIALITY AND DATA PROTECTION

12.1. All information relating to a Temporary Contractor and Intermediary (where applicable) is confidential and subject to the Data Protection Laws and is provided solely for the purpose of providing work-finding and/or intermediary 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 the data at all times.

12.2. 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 the AWR (including, for the avoidance of doubt and without limitation, when dealing with any request for information or complaint made by any Temporary Contractor or Intermediary or any the AWR Claim).

12.3. The Hirer will not discuss with the Temporary Contractor or Intermediary the terms of the Temporary Contractor or Intermediary's Engagement with the Employment Business, other than as required by law or for the performance of the Assignment. The Hirer will comply in all respects with all relevant statutes, by-laws, codes of practice and legal requirements including the provision of adequate public liability insurance in respect of the Intermediary.

12.4. 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 in the public domain.

12.5. The Employment Business will enter into a contract with the Temporary Contractor and / or Intermediary which requires the Temporary Contractor and / or Intermediary to:

12.5.1 keep confidential and not divulge to any third party information relating to the Hirer's business which is capable of being confidential, except where such information is in the public domain;

12.5.2 on completion of the Assignment or at any time when requested by the Hirer or the Employment Business, return to the Hirer or where appropriate, to the Employment Business, any Hirer property or items provided to the Temporary Contractor in connection with or for the purpose of the Assignment.

13. INTELLECTUAL PROPERTY RIGHTS

All copyright, trademarks, patents and other intellectual property rights deriving from the Assignment shall belong to the Hirer. Accordingly, the Employment Business shall use its reasonable endeavours to ensure that the Temporary Contractor and/or Intermediary 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 Temporary Contractor and/or Intermediary and to provide the same in accordance with the Assignment details as provided by the Hirer, no liability is accepted by the Employment Business for any loss, expense, damage or delay arising from any failure to provide any Temporary Contractor or Intermediary for all or part of the Assignment or from the negligence, dishonesty, misconduct or lack of skill of the Temporary Contractor and/or Intermediary or if the Temporary Contractor or Intermediary (as applicable) 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 under law.

14.2. Temporary Contractors 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 and direction 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 Temporary Contractor, whether wilful, negligent or otherwise for liability, insurance and health and safety purposes as though the Temporary Contractor was on the payroll of the Hirer.

14.3. The Hirer shall advise the Employment Business of any special health and safety matters about which the Employment Business or Intermediary is required to inform the Temporary Contractor and about any requirements imposed by law or by any professional body, which must be satisfied if the Temporary Contractor is to fill the Assignment.

14.4. The Hirer will also 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 WTR, the Data Protection Laws, 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 (excluding the matters specifically mentioned in clause 7.2 above), including in particular the provision of adequate Employer's and Public Liability Insurance cover for the Temporary Contractor during all Assignments.

14.5. The Hirer shall indemnify and keep indemnified the Employment Business against any Losses incurred by the Employment Business by reason of any proceedings, claims or demands by any third party (including specifically, but without limitation, HMRC and any successor, equivalent or related body pursuant to any of the provision of ITEPA (and/or supporting or consequential secondary legislation relating thereto) or the NICs legislation arising out of any Assignment or arising out of any non-compliance with, and/or as a result of any breach of, this Agreement by the Hirer.

14.7. The Hirer shall indemnify and keep the indemnified the Employment Business against any Losses incurred by the Employment Business by reason of any proceedings, claims or demands by the Intermediary, the Temporary Contractor or any third party arising out of any non-compliance with, and/or result of, any breach of the Data Protection Laws by the Hirer.

14.8. The Hirer shall inform the Employment Business in writing of any the 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 the AWR Claim comes to the notice of the Hirer.

14.9. If the Temporary Contractor or Intermediary brings, or threatens to bring, any the 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 the AWR Claim and to appeal against any judgment given in respect thereof.

14.10. Without prejudice to the other provisions of this clause 14, the Employment Business's total liability arising under or in connection with this agreement or in relation to the supply of the Temporary Contractor or the Assignment, whether arising in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, shall in all circumstances be limited to direct damages not exceeding the Charges payable for 3 months under the relevant Assignment.

15. NOTICES

All notices which are required to be given in accordance with these Terms shall be in writing and may be delivered personally or by first class prepaid post to the registered office of the party upon whom the notice is to be served or any other address that the party has notified the other party in writing, including by email. Any such notice shall be deemed to have been served: if by hand when delivered, if by first class post 48 hours following posting and if by email, when that email is sent.

16. 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.

17. RIGHTS OF THIRD PARTIES None of the provisions of this Agreement is intended to be for the benefit of or enforceable by third parties and the operation of the Contracts (Rights of Third Parties) Act 1999 is excluded.

18. 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/Scotland.

SCHEDULE 1: TRANSFER FEES

(a) The Transfer Fee referred to in clause 8 shall be calculated as follows: the percentage detailed below, the Remuneration payable to the Temporary Contractor during the first 12 months of the Engagement or, if the actual amount of the Remuneration is not known, the proposed or projected Remuneration. Where the Temporary Contractor has been supplied for 195 days prior to the Hirer serving notice under clause 8.2 above no Transfer Fee is payable.

(b) The Period of Extended Hire, referred to in clause 8, before the Hirer Engages a Temporary Contractor shall be: 6 months.

Transfer Fee:

%	Days worked
20%	**If worked less than 65 days**
17.5%	**If worked more than 65 days but less than 130 days**
15%	**If worked more than 130 days but less than 195 days**
0%	**After 195 working days**