

HIRER SCHEDULE 1

Contract Number:

Employment Business:

Marcus Donald People Limited

Consultant Assigned:

Contractor Assigned: (means the limited company and or Contractor introduced to the Hirer by the Employment Business and engaged by the Hirer to carry out an Assignment (and save where otherwise, indicated, includes any officer employee or representative thereof and any third party to whom the provision of Contractor services is assigned or sublet with the prior approval of the Hirer).

Hirer: (means the person, firm or corporate body together with any subsidiary or associated company as defined by the Companies Act 1985 requiring the services of the Contractor)

Date:

Hirer Address:

Assignment: (means the services which the Contractor position is engaged by the Hirer to render to the Hirer or means the Intermediary Services to be performed by the Agency Worker for the Hirer for a period of time during which the Intermediary is supplied by the Employment Business to provide the Intermediary Services to the Hirer)

Work Location:

Hirer Contact:

Start Date:

End Date:

Notice Period:

Hirer Rate: Hourly/Daily Rate (excluding VAT):

Daily / Weekly hours:

37.5 over a 5 day week. If the contractor works less than 7.5 hours per day then time is made up in lieu over the remainder of the week or duration of the contract.

Expenses:

Expenses are only claimable by the Contractor if agreed in writing in advance by the Hirer and must be properly incurred and receipted in accordance with Hirer policies.

Invoice Contact:

Invoice Address:

Invoice Frequency:

Upon receipt of an approved Marcus Donald People timesheet

Payment Terms:

14 days from date of invoice

Other information: Marcus Donald People Limited hereby inform the Hirer that the Contractor has opted out of the Conduct of Employment Agencies and Employment Businesses Regulations 2003.

Signed for the Employment Business

Signed for the Hirer

Signature

Signature

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

NB: The signing of Schedule 1 confirms acceptance of the prevailing Employment Businesses "Terms and Conditions"

TERMS OF BUSINESS WITH HIRER FOR THE SUPPLY OF A CONTRACTOR (OUTSIDE IR35)

THE PARTIES

- (1) Hirer Name (registered company no.) of Address ("**the Hirer**") to whom the Contractor is supplied or 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 Contractor is supplied or introduced.
- (2) Marcus Donald People Ltd (registered company no. 06065676) of Suite 1, 41B High Street, Swanley, Kent, BR8 8AE ("**the Employment Business**")

RECITALS

- (A) The Employment Business carries on the business of sourcing and supplying consultancies to provide services to Hirers of The Employment Business. The Hirer has instructed The Employment Business to supply a Contractor to provide certain services, as specified in the attached schedules ("**the Schedules**") ("**the Contractor Services**").
- (B) The Employment Business will supply a Contractor to the Hirer to provide the Contractor Services to the Hirer on the terms and subject to the conditions of this agreement ("**Agreement**").

IT IS AGREED as follows:

1. DEFINITIONS

1.1. In the Agreement the following definitions apply, unless the context otherwise requires:

"Agreement"	means the agreement between The Employment Business and the Hirer, incorporating the terms and conditions contained herein, the schedules and the worksheets.
"Agency Worker"	means any officer, employee, worker, or representative of the Intermediary supplied to provide the Intermediary Services;
"Agency Workers Regulations"	means Agency Worker Regulations 2010 (AWR); In accordance with AWR, a contractor will have day 1 rights where the Hirer may be obligated to provide access to onsite facilities and if contractors have provided services for 12 calendar weeks, Regulation 5 provides that the Contractor may be entitled to the same basic working and employment conditions as (he/she) would be entitled for doing the same job had (he/she) been recruited by the Hirer.
"Assignment"	means the period during which the Contractor is supplied by The Employment Business to provide the Contractor Services to the Hirer; or means the Intermediary Services to be performed by the Agency Worker for the Hirer for a period of time during which the Intermediary is supplied by the Employment Business to provide the Intermediary Services to the Hirer;
"Assignment Schedule"	means written confirmation of the Assignment details agreed with the Hirer prior to commencement of the Assignment. The Assignment Schedule is an Annex to the Recruitment Businesses standard terms and by agreeing and signing the Assignment Schedule the Hirer hereby agrees to the prevailing Recruitment Businesses terms as laid out below.
"Employment Business"	means Marcus Donald People Ltd of Suite 1, 41B High Street, Swanley, Kent, BR8 8AE
"Hirer"	means person, firm or corporate body to whom the Contractor is Introduced and supplied by The Employment Business and (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 an associated, subsidiary or holding company as defined in section 1159 of the Companies Act 2006;
"Contractor"	means the person, firm or corporate body Introduced to the Hirer by The Employment Business to carry out an Assignment (and save where otherwise indicated, includes Contractor Staff and any third party to whom the provision of the Contractor Services is assigned or sub-contracted with the prior approval of the Hirer). May also be known as Intermediary which means the

person, firm or corporate body Introduced to the Hirer by the Employment Business to carry out an Assignment (and, save where otherwise indicated, includes the Agency Worker)

“Qualifying Period”	means as defined with Regulation (7) AWR where after 12 continuous Calendar Weeks during the whole or part of which the Agency Worker is supplied by one or more Temporary Work Agencies to the relevant Hirer to work temporarily for and under the supervision and direction of the relevant Hirer in the same role, and as further defined in Schedule 1 to this Agreement;								
“Calendar Week”	means any period of seven days starting with the same day as the first day of the First Assignment								
“Engagement”	means any engagement, employment, retention or use of the Contractor’s services or the services of any Contractor Staff, directly by the Hirer or by any third party to whom they have been introduced by the Hirer on a permanent or temporary basis, whether under a contract of service or for services, an agency, licence, franchise or partnership arrangement, or any other engagement or through another employment business; and “Engage”, “Engages” and “Engaged” shall be construed accordingly.								
“Extended Period of Hire”	Save that if the Contractor and its Consultant(s) have not opted out of the Regulations and there has been a Supply then an extended period of hire may be requested by the Hirer during which the Contractor will be supplied to the Hirer by The Employment Business, upon no less favourable terms, the length of which is determined by the duration of the Agreement and which will be calculated on a sliding scale as follows: <table border="0" style="margin-left: 40px;"> <thead> <tr> <th style="text-align: left;"><u>Duration of the Agreement</u></th> <th style="text-align: left;"><u>Extended Period of Hire</u></th> </tr> </thead> <tbody> <tr> <td>Between 0-6 months</td> <td>9 months</td> </tr> <tr> <td>Between 6-12 months</td> <td>6 months</td> </tr> <tr> <td>Greater than 12 months</td> <td>3 months</td> </tr> </tbody> </table>	<u>Duration of the Agreement</u>	<u>Extended Period of Hire</u>	Between 0-6 months	9 months	Between 6-12 months	6 months	Greater than 12 months	3 months
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“Introduction”	means the provision of any information to the Hirer by The Employment Business (whether in writing or orally), which identifies the Contractor or Contractor Staff. (i) the Hirer’s interview of an Contractor in person or by telephone, following the Hirer’s instruction to The Employment Business to send CVs or search for a Contractor; or (ii) the passing to the Hirer of a curriculum vitae or information which identifies the Contractor and if a Contractor introduced by the Company is engaged by the Hirer, an Associated Company, Subsidiary Company or Organisation or any other Group company of the Hirer other than the via The Employment Business within 12 months from Introduction, the fee’s set out in the provisions, hereof will be payable by the Hirer who shall, for the purposes of these terms, be deemed to have engaged the Contractor for beneficial services. Introduces and Introduction shall be construed accordingly								
“Introduction Fee”	means an agreed fee payable by the Hirer to The Employment Business equivalent to 12 weeks of the anticipated gross charge out rate for the Contractor and /or Consultant(s) or £30,000 whichever is the greater.								
“Transfer Fee”	means agreed fee payable by the Hirer to The Employment Business, calculated by multiplying 12 x the weekly Hirer charge rate specified in the Schedule; or £30,000 whichever is the greater.								
“Relevant Terms and Conditions”	means all clauses contained within this Agreement.								
“Restriction Period”	means the 12 months following either: <ol style="list-style-type: none"> 1. the Introduction of the Contractor and/or its Contractor(s); or 2. the termination or expiration of the Agreement; whichever expires last. Save that if the Contractor and its Contractor(s) have not opted out of the Regulations and there has been a Supply then the Restriction Period shall mean the relevant period stated in the Regulations.								
“Services”	means all or any part of the work or services to be performed by the Contractor detailed herein and in the schedules.								
“Supply”	means the supply of Services to the Hirer by the Contractor through The Employment Business.								
“Charges”	means the charges as notified to the Hirer at the commencement of the Assignment and which may be varied by The Employment Business from time to time during the Assignment. The charges are comprised of the Contractor Fees, The Employment Business’s commission, and any travel,								

hotel or other disbursements as may have been agreed with the Hirer or, if there is no such agreement, such expenses as are reasonable;

“Contractor Fees”	means the fees payable to the Contractor for the provision of the Contractor Services;
“Contractor Staff”	means any officer, employee or representative of the Contractor supplied to provide the Contractor Services;
“Remuneration”	includes gross fees, guaranteed and/or anticipated bonus and commission earnings, allowances, inducement payments, the benefit of a company car and all other payments taxable, (and, where applicable, non-taxable) payable to or receivable by the Contractor for services rendered to or on behalf of the Hirer. Where a company car is provided, a notional amount of £5,500 will be added to the sums paid to the Contractor in order to calculate The Employment Business’s fee;
“Conduct Regulations”	means the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (as amended);
“Social Media”	any electronic means of processing, viewing, obtaining or exchanging information or communications about work seekers through use of the internet or web based technologies/applications or any telephonic (mobile or otherwise) messaging system, but excluding electronic email programs.

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 this Agreement are for convenience only and do not affect their interpretation.

2. THE CONTRACT

- 2.1. This Agreement together with the Schedules constitute the entire agreement between The Employment Business and the Hirer for the supply of the Contractor Services to the Hirer, and for the avoidance of doubt, shall prevail over any terms of business or purchase conditions (or similar) put forward by the Hirer.
- 2.2. These Terms are effective from and including 1st July 2017 and supersede all previous terms of business issued by the Employment Business.
- 2.3. These Terms shall be deemed to be accepted by the Hirer and to apply by virtue of (a) an Introduction to the Hirer of, or the Engagement by the Hirer of, a Contractor or (b) the passing of information about the Contractor by the Hirer to any third party or (c) the Hirer’s interview or request to interview a Contractor or (d) the Hirer’s signature at the end of these Terms or (e) any other written, expressed acceptance of these Terms or (f) the signature by the Hirer on a timesheet relating to services provided by the Contractor. For the avoidance of doubt, these Terms apply whether or not the Contractor is Engaged by the Hirer for the same type of work as that for which the Introduction was originally effected.
- 2.4. This Agreement is deemed to be accepted by the Hirer by virtue of its request for the Introduction of a Contractor, Engagement of a Contractor or the passing of any information about the Contractor to any third party following an Introduction.
- 2.5. No variation or alteration to this Agreement 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.
- 2.6. The Hirer acknowledges that the Contractor and the Contractor Staff carrying out the Assignment have opted out of the Conduct Regulations and that none of the Conduct Regulations apply to any Assignments governed by this Agreement.
- 2.7. The Hirer acknowledges that the Contractor may supply any of the Contractor Staff to perform the Contractor Services and where the Contractor is unable to provide any part of the Contractor Services for whatever reason the Contractor shall be entitled to assign or sub-contract the performance of the Contractor Services provided that The Employment Business and the Hirer are reasonably satisfied that the assignee or sub-contractor has the required skills, qualifications, resources and personnel to provide the Contractor Services to the required standard and that the terms of any such assignment or sub-contract contain the same obligations imposed by the agreement between the Contractor and The Employment Business and further that any person to whom the performance of the Contractor Services has been assigned or sub-contracted has opted out of the Conduct Regulations.
- 2.8. The Hirer acknowledges that the Contractor shall be permitted to determine how it will provide the Contractor Services and will have the flexibility to determine the number of hours required and the times worked, to complete the Contractor Services, subject to the Contractor complying with any reasonable operational requirements of the Hirer. The Contractor will be at liberty to determine the location at which it will provide the Contractor Services, but where the Contractor Services are undertaken at the Hirer’s site, the Contractor

will comply with any reasonable requirements relating to working hours, and any other operational requirements in relation to the Hirer's site.

- 2.9. The Hirer will comply with its obligations under Regulations 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.
- 2.10. The Hirer will comply with any and all the Employment Business' requests for information and any other requirements to enable the Employment Business to comply with the Agency Workers Regulations.
- 2.11. Without prejudice to clauses 12.4 and 12.5, the Hirer shall inform the Employment Business in writing of any:
 - 2.11.1 oral or written complaint the Agency Worker makes to the Hirer which is or may be a complaint connected with rights under the Agency Workers Regulations; and
 - 2.11.2 written request for information relating to the Relevant Terms and Conditions that the Hirer receives from the Agency 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 Hirer and 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, in order to resolve any such complaint or to provide any such information in a written statement to the Agency Worker within 28 days of the Hirer's receipt of such a request in accordance with Regulation 16 of the Agency Workers Regulations and the Hirer will provide the Employment Business with a copy of any such written statement.

- 2.12 Where the AWR applies to the Assignment, the Hirer warrants that it shall, from the start of the Assignment, provide the Agency Worker with -
 - a) information about relevant vacant posts with the end user; and
 - b) save where objectively justifiable, access to any and all collective facilities and amenities, in the same manner as if the Agency Worker were a direct worker or employee of the End User.
- 2.13 Where the AWR applies to the Assignment, the Hirer agrees that it shall, upon request from the Employment Business and without delay, provide accurate details relating to the working and employment conditions (as defined within regulation 5(2) and regulation 6 of the AWR) of the End User's workers and/or employees who undertake the same or broadly similar work as that of the Agency Worker during the Assignment.
- 2.14 Where the AWR applies to the Assignment and where applicable pursuant to information obtained under clause 2.13 above, the Hirer shall, and where applicable shall ensure that the End User shall, apply to the Agency Worker the same or similar process as applied to assess Pay that is directly attributable to the amount or quality of the work done. For the purposes of this clause "Pay" means as defined in regulation 6(2) of the AWR.
- 2.15 Where there is a conflict of provisions between these Terms and the Contractor Schedule, the Contractor Schedule shall take precedence.

3. INFORMATION TO BE PROVIDED

- 3.1 Prior to the commencement of the Assignment, or if this is not practical, upon commencement of the Assignment, The Employment Business will send to the Hirer an Assignment details form setting out the following information:
- 3.2 the length of notice that the Hirer would be entitled to give and receive to terminate the Assignment. The Hirer undertakes to confirm in writing to the Employment Business –
 - a) the date upon which the Candidate is required to commence the provision of the Services; and
 - b) the expected duration of the Engagement; and
 - c) the nature of and/or specifics of the services required to be provided by the Candidate; and
 - d) the location/s the Candidate is expected to deliver the Services; and
 - e) the number of hours/days and any specific time-keeping and recording requirements the Hirer expects of the Contractor; and
 - f) any experience, training, qualifications, professional body authorisations the Hirer requires the Candidate to possess to provide the Services; and
 - g) any expenses payable by or to the Candidate; and
 - h) any site regulations, IT access/security/usage policies, any other procedures or policies the Hirer requires the Candidate to adhere to and shall provide copies of any such policies/procedure to the Employment Business.

- 3.3 The Hirer undertakes to notify the Employment Business immediately of its intention to –
- a) engage a Candidate Introduced by the Employment Business; or
 - b) extend an Assignment of or otherwise Engage directly or indirectly a Candidate Introduced and/or supplied via the Employment Business; or
 - c) engage a Candidate and/or Representative on a permanent, contract or temporary basis or otherwise (including through another recruitment agency, employment business or limited company).

4 VERIFICATION OF EXECUTION OF THE CONTRACTOR SERVICES

- 4.1 At the end of each month of the Assignment (or at the end of the Assignment where the Assignment is for a period of less than 1 month or is completed or finished before the end of a month) the Hirer shall verify the execution of the Contractor Services by signature of a form provided to the Hirer for this purpose.
- 4.2 Verification by the Hirer of the execution of the Contractor Services constitutes acceptance by the Hirer that the Contractor Services have been provided satisfactorily and in accordance with this Agreement. Failure to verify execution in writing does not affect the Hirer's obligation to pay the Employment Business in respect of the work done by the Contractor.
- 4.3 The Hirer's obligations shall be performed without any right of the Hirer to invoke set-off, deductions, withholdings or other similar rights. This includes but is not limited to; unsatisfactory work provided by the Contractor and invoices presented will be paid to the Employment Business to mirror the obligations of the Employment Business, which are to make payment to The Contractor, even if the work is unsatisfactory.

5 CHARGES

- 5.1 The Employment Business shall raise invoices monthly (unless otherwise specified in the Contractor Schedule) in respect of the charges payable and shall be paid by the Hirer within fourteen days of the date of the invoice, unless otherwise specified in the Contractor Schedule.
- 5.2 All invoices will be deemed to be accepted in full by the Hirer in accordance with the payment terms stated within the Contractor Schedule unless the Hirer notifies the Employment Business in writing within five days of the amount the Hirer disputes and the reason the Hirer disputes that amount. In the event the Hirer does so notify the Employment Business that it wishes to dispute part of an invoice, the Hirer shall pay the undisputed part of the invoice within the agreed payment terms and shall co-operate fully with the Employment Business in order to resolve the dispute as quickly as possible.
- 5.3 The Employment Business reserves the right to charge interest on invoiced amounts overdue at the statutory rate as prescribed pursuant to Section 6 of the Late Payment of Commercial Debts (Interest) Act 1998 (and as may be calculated using the calculator on the website: www.payontime.co.uk).
- 5.4 The Charges are invoiced to the Hirer on a monthly basis and are payable within 14 days.

6 TERMINATION OF ASSIGNMENTS

- 6.1 The Hirer must instruct the Employment Business, in writing, to end the Services of the Contractor immediately in the event of substantial non-performance of or serious misconduct by the Contractor, provided that the Hirer provides detailed, written confirmation of the non-performance and/or professional misconduct.
- 6.2 The Employment Business may end any and/or all Assignments immediately by giving the Hirer notice in writing if the Hirer is in material breach of these Terms.
- 6.3 Either party may terminate an Assignment prior to the end of the Assignment by giving not less than 4 weeks' notice in writing, or such other notice as set out in the relevant Contractor Schedule.
- 6.4 When notice of termination of an Assignment is served by the Hirer, payment for each week of notice shall be based on the specified hours/days agreed in the Contractor Schedule or actual hours worked by the Representative, whichever is the greater. Payment shall be made by the Hirer in accordance with clauses 5 and 6 above irrespective of whether or not the Contractor continues to provide the Services during this notice period.
- 6.5 In any event of termination of an Assignment pursuant to clause 6.1 above, the Employment Business shall use reasonable endeavours to provide an alternative Contractor within fourteen days that in the reasonable opinion of the Employment Business is suitable to provide the Services.
- 6.6 These Terms may be terminated by either party by giving to the other immediate notice in the event that either the Employment Business or the Hirer goes into liquidation, becomes bankrupt or enters into an arrangement with creditors or has a receiver or administrator appointed or where the Employment Business has reasonable grounds to believe the Hirer will not pay the Employment Business's invoice within the payment terms agreed within clause 5.4.

- 6.7 The Employment Business may substitute the Contractor and/or any Representative with another suitably qualified and similarly skilled Contractor and/or Representative with reasonable notice at its absolute discretion.
- 6.8 The Employment Business reserves the right to vary the Charges agreed with the Hirer, by giving written notice to the Hirer:
- 6.8.1 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 set out in under clause 5.1 (or as set out in the relevant Contractor Schedule if applicable) in order to comply with the AWR.; and/or
 - 6.8.2 If there is any variation in the Relevant Terms and Conditions.
 - 6.8.3 The Hirer's obligations under this clause shall be performed without any right of the Hirer to invoke set-off, deductions, withholdings or other similar rights. This includes but is not limited to; unsatisfactory work provided by the Contractor and invoices presented will be paid to The Employment Business to mirror the obligations of The Employment Business, which are to make payment to The Contractor, even if the work is deemed unsatisfactory.
 - 6.8.4 The Employment Business shall raise invoices monthly (unless otherwise specified in the Contractor Schedule) in respect of the charges payable and shall be paid by the Hirer within fourteen days of the date of the invoice, unless otherwise specified in the Contractor Schedule.
- 6.9 The Employment Business reserves the right to charge interest on invoiced amounts overdue at the statutory rate as prescribed pursuant to Section 6 of the Late Payment of Commercial Debts (Interest) Act 1998 (and as may be calculated using the calculator on the website: www.payontime.co.uk).

7 PAYING THE CONTRACTOR

The Employment Business is responsible for paying the Contractor Fees.

8 RESTRICTIONS

- 8.1 Should the Hirer, within the Restriction Period, wish to Engage the services of the Contractor and/or the Consultant(s) other than through The Employment Business then it shall;
- 8.1.1 if the Contractor has not opted out of the Regulations have the option to elect by 14 days' written notice to utilise the services of the Consultant(s) and/or the Contractor for the appropriate Extended Period of Hire on the terms and conditions specified in the Agreement, or in the event of no Supply on terms as are agreed at the time; or
 - 8.1.2 in the event of no Supply, pay the Introduction Fee; or
 - 8.1.3 following termination or expiration of the Agreement, pay the appropriate Transfer Fee. Or
 - 8.1.4 Pay the agreed fee of £30,000, whichever is the greater.
- 8.2 In the event the Hirer fails to specify whether payment of an Introduction Fee, Transfer Fee or Extended Hire Period is preferred, an Introduction Fee or Transfer Fee (as applicable) shall be charged upon Engagement by the Hirer or a fee of £30,000 whichever is the greater.
- 8.3 Should any subsidiary or associated company of the Hirer, any Hirer of the Hirer or any other third party to whom the Hirer has introduced the Contractor, within the Restriction Period Engage the services of the Contractor other than through The Employment Business then the Hirer shall either:
- 8.3.1 in the event of no Supply, pay the Introduction Fee; or
 - 8.3.2 following termination or expiration of the Agreement, pay the appropriate Transfer Fee; or
 - 8.3.3 Pay the agreed fee of £30,000 whichever is the greater: or
- 8.4 Sub Clauses 8.1, 8.2 and 8.3 shall survive the termination of the Agreement for the Restriction Period.

9 TERMINATION OF THE ASSIGNMENT

- 9.1 Either party may terminate the Assignment by giving to the other party in writing the period of notice specified in Schedule 1.
- 9.2 Notwithstanding the provisions of clause 9.1 the Hirer may terminate the Assignment by notice in writing to The Employment Business where:

- 9.1.1 the Contractor has acted in breach of any statutory or other reasonable rules and regulations applicable to them while providing the Contractor Services; or
 - 9.1.2 the Hirer reasonably believes that the Contractor has not observed any condition of confidentiality applicable to the Contractor from time to time; or
 - 9.1.3 the Hirer suspects any member of the Contractor Staff of any fraud, dishonesty or serious breach; or
 - 9.1.4 the Hirer is dissatisfied with the Contractor's provision of the Contractor Services.
- 9.3 In the event the Hirer specifies in writing that the provision of services for the Assignment will no longer be required as the piece of work or project ("Assignment") will be ending prematurely due to no further budget or early completion of the Assignment. In this event, the termination of the service provision ensures the relevant notice period is required which is specified in the Schedule 1.
- 9.4 The Employment Business may terminate an Assignment forthwith by notice in writing if:
- 9.3.1 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
 - 9.3.2 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
 - 9.3.3 an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the Hirer; or
 - 9.3.4 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
 - 9.3.5 (where the Hirer is an individual) the Hirer dies, or as a result of illness or incapacity becomes incapable of managing his or her own affairs, or is the subject of a bankruptcy petition or order.
 - 9.3.6 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;
 - 9.3.7 Should the Hirer continuously fail to make relevant payments to The Employment Business, The Employment Business reserves the right to remove The Contractor from its service provision with The Hirer without notice until such time invoices have been paid and are up to date.
- 9.5 In the event the Hirer provides notice to terminate an assignment of the Contractor Services and the Hirer does not continue with the Contractor Services during the period of notice specified in the Schedule. The Hirer agrees that the notice period specified in the Schedule is still due and payable as if the Contractor Services were provided during this period.

10 INTELLECTUAL PROPERTY RIGHTS

All copyright, trademarks, patents and other intellectual property rights deriving from the provision of the Contractor Services by the Contractor or any third party to whom the Contractor Services are assigned or sub-contracted for the Hirer during the Assignment shall belong to the Hirer, save such rights as may be expressly owned or retained by the Contractor and set out in Schedule 1 to this Agreement. Accordingly the Employment Business shall use its reasonable endeavours to ensure that the Contractor shall (and any relevant member of the Contractor Staff shall) execute all such documents and do all such acts in order to give effect to the Hirer's rights pursuant to this clause.

11 CONFIDENTIALITY, DATA PROTECTION AND PERSONAL DATA

- 11.1 Information relating to either party's business which is capable of being confidential must be kept confidential by the other party and not divulged to any third party, except information which is in the public domain.
- 11.2 All applicable laws relating to data protection and privacy including but not limited to the Data Protection Act 2018, UK GDPR and the General Data Protection Regulation (EU) 2016/679 and the Privacy and Electronic Communications (EC Directive) Regulations 2003 and any applicable national implementing laws, regulations or secondary legislation.
- 11.3 Personal data (as defined by the Data Protection Laws) which is processed by the parties in connection with the provision of recruitment services under this Agreement.

- 11.4 Each party warrants and undertakes to the other that, in relation to this Agreement, it shall comply strictly with all requirements of the Data Protection Act 2018 and UK GDPR and EU GDPR, and any applicable statutory or regulatory provisions and all European Directives and regulations in force from time to time relating to the protection and transfer of personal data.
- 11.5 Each party agrees to comply with all applicable provisions of the Data Protection Laws in sharing and processing of the Personal Data and agree and acknowledge that each is a controller (as defined by the Data Protection Laws) in respect of the Personal Data. The parties agree that they do not jointly determine the purpose and means of the processing of the Personal Data in the context of this Agreement and thus do not qualify as joint controllers (as defined by the Data Protection Law).
- 11.6 All information relating to services is confidential and where that information relates to an individual is also subject to the Data Protection Act 2018, UK GDPR, and EU GDPR and is provided solely for the purpose of providing an Applicant/Contractor for hiring or services to the Hirer. Each party shall comply with the applicable Data Protection Laws on data protection and privacy for all individuals within the country relevant to this Agreement and the terms "Data Controller" and "Data Processor" will have the meanings given to them in accordance with the applicable law governing the Agreement. To the extent that any data or information provided by one party to the other party contains personal data within the meaning of the Act or equivalent legislation, the party deemed to be the Data Processor will: (i) process such data and information only in accordance with the Data Controller's instructions; (ii) not transmit such data and information to a country or territory outside the European Economic Area, including the UK without the Data Controller's prior written consent unless at least one of the permitted derogations set out in the Data Protection Act 2018, UK GDPR, and EU GDPR; and (iii) take such technical and organizational measures against unauthorized 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. 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 Act 2018, UK GDPR and EU GDPR in receiving and processing the data at all times. In addition, information relating to The Employment Business's 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 LIABILITY

- 12.1 Whilst reasonable efforts are made by The Employment Business to give satisfaction to the Hirer by ensuring reasonable standards of skills, integrity and reliability from the Contractor and to provide the same in accordance with the Assignment details provided by the Hirer, no liability is accepted by The Employment Business for any loss, expense, damage, costs or delay arising from the failure to provide a Contractor for completion of the Assignment or from the negligence, dishonesty, misconduct or lack of skill of the Contractor or if the Contractor 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.
- 12.2 For the avoidance of doubt, neither the Contractor nor the Contractor Staff are under the supervision or control of The Employment Business. Intermediaries and Agency Workers supplied by the Employment Business to the Hirer are deemed to be under the supervision, direction and control of the Hirer for the duration of the Assignment.
- 12.3 The Hirer shall advise The Employment Business of any special health and safety matters about which The Employment Business is required to inform the Contractor and about any requirements imposed by law or by any professional body, which must be satisfied if the Contractor is to fill the Assignment.
- 12.4 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 Contractor.
- 12.5 The Hirer shall indemnify and keep indemnified The Employment Business against any costs, claims damages, expenses or liabilities incurred by The Employment Business arising out of any Assignment or arising out of any non-compliance with and/ or as a result of any breach of this Agreement by the Hirer.
- 12.6 The Hirer shall inform the Employment Business in writing of any AWR Claim which comes to the notice of the Hirer as soon possible but no later than 7 (seven) calendar days from the day on which any such AWR Claim comes to the notice of the Hirer.
- 12.7 If the Agency Worker brings, or threatens to bring, any AWR Claim, the Hirer undertakes to take such action and to give such information and assistance as the Employment Business may request, and within any timeframe requested by the Employment Business and at the Hirer's own cost, to avoid, dispute, resist, mitigate, compromise or defend any such AWR Claim and to appeal against any judgment given in respect thereof.
- 12.8 The parties acknowledge that for any payments made on or after 6 April 2021, The Hirer will be obliged to determine whether chapter 10, Part 2 Income Tax (Earnings and Pensions) Act 2003 (as amended from time to time) ("IR35") applies to the Contractor. The Employment Business and the Hirer undertake on a continuing basis to promptly share with one another any information which might reasonably be expected to affect any determination as to whether IR35 applies.
- 12.9 In the event that The Hirer pursuant to its legal obligations makes a determination that IR35 applies to the Contractor, and has provided a Status Determination Statement ("SDS") to that effect to the Contractor's staff and the

Employment Business, the provisions of this agreement will be terminated with immediate effect and a new contract where the Contractor is deemed "inside" of IR35 will be issued to the Contractor:

- 12.10. In the event that The Hirer pursuant to its legal obligations makes a determination that IR35 does not apply to the Contractor and it has provided an SDS to that effect to the Contractor's staff and the Employment Business. The Hirer will hold harmless and indemnify the Employment Business in such matters where, in order the Employment Business is not deemed in any way shape or form liable to treat the Contractor's staff as its employees for PAYE income tax, NIC and Apprenticeship Levy purposes."

13 ANTI-BRIBERY AND ANTI-CORRUPTION

- 13.1 The Employment Business is a recruitment business who comply with all applicable laws, statutes, directives and/or regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010; We do not engage in any activity, practice or conduct which would constitute an offence under the Bribery Act 2010; including but not limited to; to offer, promise, give, request, agree, receive or accept bribes.
- 13.2 You will comply with the Employment Business's Anti-Bribery Policy or equivalent (as amended from time to time), a copy of which is available from the Employment Business, including but not limited to implementing 'adequate procedures' in line with the guidance issued by the Secretary of State under section 9 of the Bribery Act 2010;
- 13.2.1 promptly report to the Employment Business any request or demand which if complied with would amount to a breach of either this Agreement or the Employment Business's Anti-Bribery Policy;
- 13.2.2 ensure that any person associated with it who is performing services and/or providing goods in connection with this Agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the [Hirer/Contractor] in this clause.
- 13.3 Any breach of this clause shall be deemed a material breach of this Agreement entitling the Employment Business to terminate it immediately.

14 NOTICES

All notices which are required to be given in accordance with this Agreement 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, by email or facsimile transmission. 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 or facsimile transmission, when that email or facsimile is sent.

15 DATA PROTECTION AND PERSONAL DATA

- 15.1. Each party shall comply with the means:
- (a) European Union Directives 95/46/EC and 2002/58/EC (as amended by Directive 2009/139/EC) and any legislation and/or regulation implementing or made pursuant to them including but not limited to the UK's Data Protection Act 2018, UK GDPR and EU GDPR and the Privacy and Electronic Communications (EC Directive) Regulations 2013;
- (b) from and including 25 May 2018, the General Data Protection Regulation (Regulation (EU) 2016/679) (the "GDPR"); and
- (c) any applicable associated or supplementary data protection laws, regulations, codes of practice or guidance, as updated, amended or replaced from time to time; and the terms "Data Controller" and "Data Processor" will have the meanings given to them under the Act. To the extent that any data or information provided by one party to the other party contains personal data within the meaning of the Act or equivalent legislation, the party deemed to be the Data Processor will: (i) process such data and information only in accordance with the Data Controller's instructions; (ii) not transmit such data and information to a country or territory outside the European Economic Area without the Data Controller's prior written consent unless at least one of the permitted derogations set out in Principle 8 of the Act is complied with; and (iii) 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.
- 15.2. Information relating to either party's business which is capable of being confidential must be kept confidential by the other party and not divulged to any third party, except information which is in the public domain.
- 15.3. All applicable laws relating to data protection and privacy including but not limited to the Data Protection Act 2018, UK GDPR and the General Data Protection Regulation (EU) 2016/679 and the Privacy and Electronic Communications (EC Directive) Regulations 2003 and any applicable national implementing laws, regulations or secondary legislation.
- 15.4. Personal data (as defined by the Data Protection Laws) which is processed by the parties in connection with the provision of recruitment services under this Agreement.
- 15.5 Each party warrants and undertakes to the other that, in relation to this Agreement, it shall comply strictly with all requirements of the Data Protection Act 2018 and UK GDPR and EU GDPR, and any applicable statutory or regulatory provisions and all European Directives and regulations in force from time to time relating to the protection and transfer of personal data.

- 15.6 Each party agrees to comply with all applicable provisions of the Data Protection Laws in sharing and processing of the Personal Data and agree and acknowledge that each is a controller (as defined by the Data Protection Laws) in respect of the Personal Data. The parties agree that they do not jointly determine the purpose and means of the processing of the Personal Data in the context of this Agreement and thus do not qualify as joint controllers (as defined by the Data Protection Law).
- 15.7. All information relating to services is confidential and where that information relates to an individual is also subject to the Data Protection Act 2018, UK GDPR, and EU GDPR and is provided solely for the purpose of providing an Applicant/Contractor for hiring or services to the Hirer. Each party shall comply with the applicable Data Protection Laws on data protection and privacy for all individuals within the country relevant to this Agreement and the terms "Data Controller" and "Data Processor" will have the meanings given to them in accordance with the applicable law governing the Agreement. To the extent that any data or information provided by one party to the other party contains personal data within the meaning of the Act or equivalent legislation, the party deemed to be the Data Processor will: (i) process such data and information only in accordance with the Data Controller's instructions; (ii) not transmit such data and information to a country or territory outside the European Economic Area, including the UK without the Data Controller's prior written consent unless at least one of the permitted derogations set out in the Data Protection Act 2018, UK GDPR, and EU GDPR; and (iii) take such technical and organizational measures against unauthorized 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. 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 Act 2018, UK GDPR and EU GDPR in receiving and processing the data at all times. In addition, information relating to The Employment Business's 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."

16 SEVERABILITY

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

17 GOVERNING LAW AND JURISDICTION

This Agreement is governed by the law of England & Wales and is subject to the exclusive jurisdiction of the Courts of England & Wales.

18 JOINT DRAFTERS

With respect to any dispute concerning the meaning of this Agreement, this Agreement shall be interpreted as a whole with reference to its relevant provisions and in accordance with its fair meaning, and no part of this Agreement shall be construed against **THE EMPLOYMENT BUSINESS** on the basis that **THE EMPLOYMENT BUSINESS** drafted it. This Agreement shall be viewed as if prepared jointly by **THE EMPLOYMENT BUSINESS** and **THE HIRER**.

Signed on behalf of The Employment Business

Print name

Date

I confirm I am authorised to sign this Agreement on behalf of the Hirer

Signed for and on behalf of the Hirer

Print name

Date
