

## TERMS OF ENGAGEMENT WITH AN AGENCY WORKER

Terms of engagement with an agency worker

### 1. DEFINITIONS AND INTERPRETATION

1.1. In these Terms the following definitions apply:

"Actual Rate of Pay" means, unless and until the Agency Worker has completed the Qualifying Period, the rate of pay which will be paid for all time worked during an Assignment for each hour worked, as set out in the relevant Assignment Details Form;

"Actual QP Rate of Pay" means the rate of pay which will be paid to the Agency Worker if and when s/he completes the Qualifying Period, as set out in any variation to the relevant Assignment Details Form;

"Agency Worker" means MF: Candidate Name, MF: Candidate Address - Fully supplied by the Employment Business to provide services to the Hirer;

"Agreed Deductions" means any deductions the Agency Worker has agreed can be made from their pay;

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

"Assignment Details Form" means written confirmation of the assignment details to be given to the Agency Worker upon acceptance of the Assignment;

"AWR" means the Agency Workers Regulations 2010

"Calendar Week" means any period of 7 days starting with the same day as the first day of the First Assignment;

"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 Agency Worker 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;

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"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

"Deductions" means any deductions which the Employment Business may be required by law to make and, in particular, in respect of PAYE pursuant to Sections 44-47 of the Income Tax (Earnings and Pensions) Act 2003 and Class 1 National Insurance Contributions;

"Emoluments" means any pay in addition to the Actual QP Rate of Pay;

"Employment Business" Healthcare Staffing Solutions Limited (registered company no. 10326674) of 90-96 Victoria Road, Chelmsford, CM11QU

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

"First Assignment" means:

- a) the relevant Assignment; or
- b) if, prior to the relevant Assignment:
  - i. the Agency Worker has worked in any assignment in the same role with the relevant Hirer as the role in which the Agency Worker works in the relevant Assignment; and
  - ii. the relevant Qualifying Period commenced in any such assignment, that assignment (an assignment being (for the purpose of this defined term) a period of time during which the 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);

"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 Agency Worker is supplied or introduced;

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“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;

“Hourly Rate” means the hourly rate quoted on the attached booking confirmation of placement [% PLACE HOLDER holderid=’4b3996a4-6463-4360-878b-7cfc8c3a56a9’%] sent at [% PLACE HOLDER holderid=’b7ce99b0-74a8-4613-8bc1-e8456b8a72ab’%] being the minimum gross rate of pay that the Employment Business reasonably expects to achieve, for all hours worked by the Agency Worker;

“Leave Year” means the period during which the Agency Worker accrues and may take statutory leave commencing 1st June and runs until the anniversary of that date;

“Period of Extended Hire” means any additional period that the Hirer wishes the Agency Worker to be supplied for beyond the duration of the original Assignment or series of assignments as an alternative to paying a Transfer Fee;

“Qualifying Period” means 12 continuous Calendar Weeks during the whole or part of which the 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 the Schedule to these Terms;

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

“Temporary Work Agency” means as defined in the Schedule to these Terms;

“Terms” means these terms of engagement (including the attached schedule) together with any applicable Assignment Details Form;

“Transfer Fee” means the fee payable by the Hirer to the Employment Business in accordance with clause 3.7, as permitted by Regulation 10 of the Conduct Regulations;

“Type of Work” means [insert the type of work you expect to supply the Agency Worker into]; and

“WTR” means the Working Time Regulations 1998

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- 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 entire agreement between the Employment Business and the Agency Worker for the supply of services to the Hirer and they shall govern all Assignments undertaken by the Agency Worker. The contract between the parties starts on the first day of the First Assignment under these Terms however, no contract shall exist between the Employment Business and the Agency Worker between Assignments. These Terms shall prevail over any other terms put forward by the Agency Worker.
- 2.2. During an Assignment the Employment Business will engage the Agency Worker on a contract for services on these Terms. For the avoidance of doubt, the Agency Worker is not an employee of the Employment Business although the Employment Business is required to make the Deductions from the Agency Worker's pay. These Terms shall not give rise to a contract of employment between the Employment Business and the Agency Worker, or the Agency Worker and the Hirer. The Agency Worker is supplied as a worker, and is entitled to certain statutory rights as such, but nothing in these Terms shall be construed as giving the Agency Worker rights in addition to those provided by statute except where expressly stated.
- 2.3. No variation or alteration to these Terms shall be valid unless the details of such variation are agreed between the Employment Business and the Agency Worker and set out in writing and a copy of the varied terms is given to the Agency Worker no later than 5 business days following the day on which the variation was made stating the date on or after which such varied terms shall apply.
- 2.4. The Employment Business shall act as an employment business (as defined in Section 13(3) of the Employment Agencies Act 1973 (as amended) when introducing or supplying the Agency Worker for Assignments with its Hirers.

## 3. ASSIGNMENTS AND INFORMATION TO BE PROVIDED

- 3.1. The Employment Business will endeavour to obtain suitable Assignments for the Agency Worker to perform the agreed Type of Work. The Agency Worker shall not be obliged to accept any Assignment offered by the Employment Business.
- 3.2. The Agency Worker acknowledges that the nature of temporary work means that there may be periods when no suitable work is available and agrees that:
- 3.2.1. the suitability of the work to be offered shall be determined solely by the Employment Business; and
- 3.2.2. the Employment Business shall incur no liability to the Agency Worker should it fail to offer Assignments of the Type of Work or any other work to the Agency Worker.

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3.3. At the same time as an Assignment is offered to the Agency Worker the Employment Business shall provide the Agency Worker with an Assignment Details Form setting out the following:

For the purposes of the Conduct Regulations:

- 3.3.1. the identity of the Hirer, and if applicable the nature of their business;
- 3.3.2. the date the Assignment is to commence and the duration or likely duration of Assignment;
- 3.3.3. the Type of Work, location and details of hours during which the Agency Worker would be required to work;
- 3.3.4. the Actual Rate of Pay that will be paid, intervals and any expenses payable by or to the Agency Worker;
- 3.3.5. any risks to health and safety known to the Hirer in relation to the Assignment and the steps the Hirer has taken to prevent or control such risks;
- 3.3.6. what experience, training, qualifications and any authorisation required by law or a professional body the Hirer considers necessary or which are required by law to work in the Assignment; and

For the purposes of Section 1 of the Employment Rights Act:

- 3.3.7. any other paid leave such as maternity, paternity or adoption leave;
- 3.3.8. the details of pension entitlements and pensions schemes; and
- 3.3.9. any other benefits

3.4. Where the Employment Business does not give such information in paper form or by electronic means, it shall confirm the information by such means by the end of the third business day (excluding Saturday, Sunday and any Public or Bank Holiday) following except where:

- 3.4.1. the Agency Worker is being offered an Assignment in the same position as one in which the Agency Worker has previously been supplied within the previous 5 business days and such information has already been given to the Agency Worker and remains unchanged; or
- 3.4.2. subject to clause 3.5, the Assignment is intended to last for 5 consecutive business days or less and such information has previously been given to the Agency Worker before and remains unchanged, the Employment Business needs only to provide written confirmation of the identity of the Hirer and the likely duration of the Assignment.

3.5. Where the provisions of clause 3.4 are met but the Assignment extends beyond the intended 5 consecutive business day period, the Employment Business shall provide such information set out in clause 3.3 to the Agency Worker in paper or electronic form within 8 days of the start of the Assignment.

3.6. For the purpose of calculating the average number of weekly hours worked by the Agency Worker on an Assignment for the purposes of the WTR, the start date for the relevant averaging period shall be the date on which the Agency Worker commences the First Assignment.

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3.7. If, before or during an Assignment or during the Relevant Period, the Hirer wishes to Engage the Agency Worker directly or through another employment business, the Agency Worker acknowledges that the Employment Business will be entitled either to charge the Hirer a Transfer Fee or to agree a Period of Extended Hire with the Hirer at the end of which the Agency Worker may be Engaged directly by the Hirer or through another employment business without further charge to the Hirer. In addition, the Employment Business will be entitled to charge a Transfer Fee to the Hirer if the Hirer introduces the Agency Worker to a third party (other than another employment business) who subsequently Engages the Agency Worker, directly or indirectly, before or during an Assignment or within the Relevant Period.

3.8. If the Agency Worker has completed the Qualifying Period on the start date of the relevant Assignment or following completion of the Qualifying Period during the relevant Assignment, and if the Agency Worker is entitled to any terms and conditions relating to the duration of working time, night work, rest periods and/or rest breaks under the AWR which are different and preferential to rights and entitlements relating to the same under the WTR, any such terms and conditions will be as set out in the relevant Assignment Details Form or any variation to the relevant Assignment Details Form (as appropriate).

## 4. AGENCY WORKER'S OBLIGATIONS

4.1. The Agency Worker is not obliged to accept any Assignment offered by the Employment Business but if the Agency Worker does accept an Assignment, then during every Assignment and afterwards where appropriate, s/he will:

4.1.1. co-operate with the Hirer's reasonable instructions and accept the direction, supervision and control of any responsible person in the Hirer's organisation;

4.1.2. observe any relevant rules and regulations of the Hirer's establishment (including normal hours of work) to which attention has been drawn or which the Agency Worker might reasonably be expected to ascertain;

4.1.3. take all reasonable steps to safeguard his or her own health and safety and that of any other person who may be present or be affected by his or her actions on the Assignment and comply with the Health and Safety policies and procedures of the Hirer;

4.1.4. not engage in any conduct detrimental to the interests of the Employment Business and/ or Hirer which includes any conduct which could bring the Employment Business and/or the Hirer into disrepute and/ or which results in the loss of custom or business by either the Employment Business or the Hirer;

4.1.5. not commit any act or omission constituting unlawful discrimination against or harassment of any member of the Employment Business's or the Hirer's staff;

4.1.6. not at any time tell or give to any person, nor use for his or her own or any other person's benefit, any Confidential Information relating to the Hirer's or the Employment Business's employees, business affairs, transactions or finances;

4.1.7. 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 Agency Worker in connection with or for the purpose of the Assignment, including, but not limited to any equipment, materials, documents, swipe cards or ID cards, uniforms, personal protective equipment or clothing.



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4.2. if the Agency Worker accepts any Assignment offered by the Employment Business, as soon as possible prior to the commencement of each such Assignment and during each Assignment (as appropriate) and at any time at the Employment Business's request, the Agency Worker undertakes to:

4.2.1. inform the Employment Business of any Calendar Weeks prior to the date of commencement of the relevant Assignment and/or during the relevant Assignment in which the Agency Worker has worked in the same or a similar role with the relevant Hirer via any third party and which the Agency Worker believes count or may count toward the Qualifying Period;

4.2.2. 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; and

4.2.3. inform the Employment Business if s/he has prior to the commencement of the relevant Assignment and/or during the relevant Assignment carried out work which could be deemed to count toward the Qualifying Period for the relevant Assignment in accordance with Regulation 9 of the AWR because s/he has:

completed two or more assignments with the Hirer;

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

4.2.3.2. 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.

4.3. If the Agency Worker is unable for any reason to attend work during the course of an Assignment s/he should inform the Employment Business within 1 hour of the commencement of the Assignment or shift. In the event that it is not possible to inform the Employment Business within these timescales, the Agency Worker should alternatively inform the Hirer and then the Employment Business as soon as possible.

4.4. If, either before or during the course of an Assignment, the Agency Worker becomes aware of any reason why s/he may not be suitable for an Assignment, s/he shall notify the Employment Business without delay.

4.5. The Agency Worker warrants that in relation to these Terms, s/he shall comply strictly with all provisions applicable to him/her under the Data Protection Laws and shall not do or permit to be done anything which might cause the Employment Business or the Hirer to breach any Data Protection Laws.

4.6. The Agency Worker acknowledges that any breach of his/her obligations set out in these Terms may cause the Employment Business to suffer loss and that the Employment Business reserves the right to recover such losses from the Agency Worker.

## 5. TIMESHEETS

5.1. At the end of each week of an Assignment (or at the end of the Assignment where it is for a period of 1 week or less or is completed before the end of a week) the Agency Worker shall deliver to the Employment Business a timesheet duly completed to indicate the number of hours worked during the preceding week (or such lesser period) and signed by an authorised representative of the Hirer.

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undertakings in this clause 4, including, without limitation, Losses and/or which they would not have suffered or incurred but for: (i) the Supplier or the Consultant claiming to be; and/or, (ii) some official, public body or authority for any purpose regarding the Consultant as an employee or worker of the Company (or, as the case may be, the Client) or otherwise entitled to any rights or benefits that employees or workers enjoy.

4.4 The Company shall be entitled to withhold from any payment due to the Supplier under this Agreement any sum that it may in its reasonable opinion be or become liable to pay in respect of income tax or national insurance relating to Consultants supplied via the Supplier including any such liability under the Intermediaries Legislation and shall release such sum to the Supplier on provision of, and to the extent of, such evidence from Supplier as the Company shall reasonably require that such liability shall not arise.

4.5 The Supplier shall promptly supply to the Company at the end of each month (or other period from time to time required by the Company) confirmation in writing as follows:

- (a) the names of all Consultants supplied via the Supplier in that month and such information as the company may require relating to such workers under the Intermediaries Legislation;
- (b) in relation to any such Consultant who, notwithstanding the Supplier's warranty in clause 4.2, is supplied to the Supplier via an umbrella company or other intermediary, confirmation and documentary evidence that such company or intermediary has accounted fully for PAYE and NICs in respect of payments to the Consultant and has paid the Consultant's remuneration in the United Kingdom.

4.6 The Supplier warrants covenants and undertakes that the confirmation and documentary evidence supplied for the purposes described above shall be full and accurate and it agrees that a nil response shall constitute confirmation that there are no workers to whom the Intermediaries Legislation shall apply and it shall indemnify the Company in respect of any Loss it suffers as a result of any documentation or evidence not being full, accurate or supplied in good time.

4.7 The Supplier further warrants, covenants and undertakes that:

- (a) it is registered and based in the UK;
- (b) it has appropriate tax accounting arrangements in place;
- (c) it operates in accordance with all UK tax and social security legislation (or equivalent legislation in the jurisdictions in which the Services are being performed);
- (d) all remuneration paid by it to the Consultant(s) shall be paid subject to PAYE tax and Class 1 National Insurance Contributions (primary and secondary);
- (e) it will account to HMRC for the Apprenticeship Levy;
- (f) no Consultant is engaged as a sole trader, via a personal service company or otherwise on a contract for services or self-employed basis or as a member of a partnership;
- (g) no Consultant is engaged or otherwise paid via an offshore arrangement or secondary employer;
- (h) that the Supplier is the sole intermediary involved in the payment of the Consultant;
- (i) the Consultant is not paid via or by his/her personal service company or via any intermediary other than the Supplier;

nt is the employee, worker, agent, partner or servant of the Company (or the Client) and accordingly:



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5.2. Subject to clause 5.3, the Employment Business shall pay the Agency Worker for all hours worked regardless of whether the Employment Business has received payment from the Hirer for those hours.

5.3. Where the Agency Worker does not submit a properly authenticated timesheet the Employment Business shall, in a timely fashion, conduct further investigations into the hours claimed by the Agency Worker and the reasons that the Hirer has refused to sign a timesheet in respect of those hours. This may delay any payment due to the Agency Worker. The Employment Business will not pay the Agency Worker for hours not worked.

For the avoidance of doubt and for the purposes of the WTR, the Agency Worker's working time shall only consist of those periods during which s/he is carrying out activities or duties for the Hirer as part of the Assignment. Time spent travelling to the Hirer's premises (apart from time spent travelling between two or more premises of the Hirer), lunch breaks and other rest breaks shall not count as part of the Agency Worker's working time for these purposes. This clause 5.4 is subject to any variation set out in the relevant Assignment Details Form or any variation to the relevant Assignment Details Form which the Employment Business may make for the purpose of compliance with the AWR.

## PAY AND DEDUCTIONS

5.4. For each Assignment the Employment Business shall pay to the Agency Worker the Hourly Rate. The Actual Rate of Pay will be notified on a per Assignment basis and set out in the relevant Assignment Details Form.

5.5. If the Agency Worker has completed the Qualifying Period on the start of the relevant Assignment or following completion of the Qualifying Period during the relevant Assignment, the Employment Business shall pay to the Agency Worker the Actual QP Rate of Pay which will be notified on a per Assignment basis and set out in the relevant Assignment Details Form or any variation to the relevant Assignment Details Form.

5.6. The Hourly Rate, Actual Pay of Rate or Actual QP Rate of Pay, as applicable, will be paid weekly in arrears, subject to any Deductions and or Agreed Deductions, together with any agreed Emoluments.

5.7. Subject to any statutory entitlement under the relevant legislation referred to in clauses 7 (Annual leave) and 8 (Sickness absence) below and any other statutory entitlement, the Agency Worker is not entitled to receive payment from the Employment Business or the Hirer for time not spent on Assignment, whether in respect of holidays, illness or absence for any other reason unless otherwise agreed.

5.8. Subject to compliance with Regulation 12 of the Conduct Regulations, the Employment Business reserves the right in its absolute discretion to deduct from the Agency Worker's pay any sums which s/he may owe the Employment Business including, without limitation, any overpayments or loans made to the Agency Worker by the Employment Business or any losses suffered by the Employment Business as a result of his/her negligence or breach of either the Employment Business's or the Hirer's rules.

## 6. ANNUAL LEAVE

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6.1. The Agency Worker is entitled to paid annual leave according to the statutory minimum as provided by the WTR from time to time. The current statutory entitlement to paid annual leave under the WTR is 5.6 weeks.

6.2. The Agency Worker's entitlement to payment for annual leave under clause 7.1 accrues in proportion to the amount of time worked by him/ her on Assignment during the Leave Year. [

6.3. Under the AWR, on completion of the Qualifying Period the Agency Worker may be entitled to paid and/or unpaid annual leave in addition to the Agency Worker's entitlement to paid annual leave under the WTR and in accordance with clauses 7.1 and 7.2. If this is the case, any such entitlement(s), the date from which any such entitlement(s) will commence and how payment for such entitlement(s) accrues will be as set out in the relevant Assignment Details Form or any variation to the relevant Assignment Details Form.

6.4. The Agency Worker must take all annual leave during the Leave Year in which it accrues and, except as may be set out in the relevant Assignment Details Form or any variation to the relevant Assignment Details Form, the Agency Worker may not carry any annual leave forward to the next year. The Agency Worker is responsible for ensuring that they request and take all paid annual leave within the Leave Year.

6.5. If the Agency Worker wishes to take paid annual leave during an Assignment s/he should notify the Employment Business of the dates of his/her intended absence giving notice of at least twice the length of the period of annual leave that s/he wishes to take. In certain circumstances the Employment Business may require the Agency Worker to take paid annual leave at specific times or notify the Agency Worker of periods when paid annual leave cannot be taken. Where the Agency Worker has given notice of a request to take paid annual leave in accordance with this clause, the Employment Business may give counter-notice to the Agency Worker to postpone or reduce the amount of leave that the Agency Worker wishes to take. In such circumstances the Employment Business will inform the Agency Worker in writing giving at least the same length of notice as the period of leave that it wishes to postpone or reduce it by.

6.6. Subject to clause 7.3, the amount of payment which the Agency Worker will receive in respect of periods of annual leave taken during an Assignment will be calculated in accordance with and paid in proportion to the number of hours which the Agency Worker has worked on Assignment.

6.7. Subject to clause 7.3, during any Assignment during the first Leave Year, the Agency Worker is entitled to request leave at the rate of one-twelfth of the Agency Worker's total holiday entitlement in each month of the leave year.

6.8. where this clause is amended by the Assignment Details Form, where a bank holiday or other public holiday falls during an Assignment and the Agency Worker does not work on that day, then subject to the Agency Worker having accrued entitlement to payment for leave in accordance with clause 7.2 or clause 7.3 (if applicable), that day shall count as part of the Agency Worker's paid annual leave entitlement

6.9. Where these Terms are terminated by either party, the Agency Worker shall repay to the Employment Business an amount in respect of any holiday periods taken in excess of the holiday entitlement for that year and the Agency Worker hereby authorises the Employment Business to take repayment of such monies by way of deduction from any final payment owed to the Agency Worker.

## 7. SICKNESS ABSENCE

7.1. The Agency Worker may be eligible for statutory sick pay (SSP) provided that s/he meets the relevant statutory criteria.

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7.2. The Agency Worker must give the Employment Business evidence of incapacity to work, which may be by way of a self-certificate for the first 7 days of incapacity and a doctor's certificate thereafter.

7.3. For the purposes of SSP there is one qualifying day per week during the course of an Assignment and that qualifying day shall be the Wednesday in every week.

7.4. If the Agency Worker submits a statement of fitness for work ("the Statement") or similar medical evidence, which indicates that the Agency Worker may, subject to certain conditions, be fit to work/return to work, the Employment Business will in its absolute discretion determine whether the Agency Worker will be (a) placed in a new Assignment or (b) permitted to continue in an ongoing Assignment. In making such determination the Employment Business may consult with the Hirer and the Agency Worker as appropriate to assess whether the conditions identified in the Statement or similar documentation can be satisfied for the duration of the Assignment.

7.5. Where clause 8.4 applies, the Agency Worker's placement in a new Assignment or continuation in an ongoing Assignment may be subject to the Agency Worker agreeing to a variation of the Terms or the assignment details set out in the Assignment Details Form to accommodate any conditions identified in the Statement or other similar medical evidence as is appropriate.

## 8. TERMINATION

8.1. Any of the Employment Business, the Agency Worker or the Hirer may terminate the Agency Worker's Assignment at any time without prior notice or liability.

8.2. The Agency Worker acknowledges that the continuation of an Assignment is subject to and conditioned by the continuation of the contract entered into between the Employment Business and the Hirer. If the contract between the Employment Business and the Hirer is terminated for any reason, the Assignment shall cease with immediate effect without liability to the Agency Worker (except for payment for hours worked by the Agency Worker up to the date of termination of the Assignment).

8.3. If the Agency Worker does not tell the Hirer or the Employment Business that they are unable to attend work during the course of an Assignment (as required in clause 4.3) this will be treated as termination of the Assignment by the Agency Worker in accordance with clause 9.1, unless the Agency Worker can show that exceptional circumstances prevented him or her from complying with clause 4.3.

8.4. If the Agency Worker is absent during an Assignment and the Assignment has not been otherwise terminated under clauses 9.1 or 9.3 above, the Employment Business will be entitled to terminate the Assignment in accordance with clause 9.1 if the work to which the Agency Worker was assigned is no longer available.

8.5. If the Agency Worker does not report to the Employment Business to notify his/her availability for work for a period of [3] weeks, this contract for services will automatically terminate and the Employment Business will forward his/her P45 to his/her last known address.

## 9. INTELLECTUAL PROPERTY RIGHTS

The Agency Worker acknowledges that all copyright, trademarks, patents and other intellectual property rights deriving from services carried out by him/her for the Hirer during the Assignment shall belong to the Hirer. Accordingly, the Agency Worker shall execute all such documents and do all such acts as the Employment Business shall from time to time require in order to give effect to its rights pursuant to this clause.

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### 10. CONFIDENTIALITY

10.1. In order to protect the confidentiality and trade secrets of any Hirer and the Employment Business and without prejudice to every other duty to keep secret all information given to it or gained in confidence the Agency Worker agrees as follows:

10.1.1. not at any time, whether during or after an Assignment (unless expressly so authorised by the Hirer or the Employment Business as a necessary part of the performance of its duties) to disclose to any person or to make use of any of the trade secrets or the Confidential Information of the Hirer or the Employment Business with the exception of information already in the public domain;

10.1.2. to deliver up to the Hirer or the Employment Business (as directed) at the end of each Assignment all documents and other materials belonging to the Hirer (and all copies) which are in its possession including documents and other materials created by him/her during the course of the Assignment; and

10.1.3. not at any time to make any copy, abstract, summary or précis of the whole or any part of any document or other material belonging to the Hirer except when required to do so in the course of its duties under an Assignment in which event any such item shall belong to the Hirer or the Employment Business as appropriate.

### 1. DATA PROTECTION

The Agency Worker acknowledges that the Employment Business must process personal data about him/her in order to properly fulfil its obligations under these Terms and as otherwise required by law in relation to his/ her engagement in accordance with the Data Protection Laws. Such processing will principally be for personnel, administrative and payroll purposes.

### 2. 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.

### 3. 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.

### 4. RIGHTS OF THIRD PARTIES

None of the provisions of these Terms are 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.

### 5. 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.

## TERMS OF ENGAGEMENT WITH AN AGENCY WORKER

Signed by the Agency Worker  
By working this shift you agree to the attached terms.

MF: Candidate Name

MF: Last Updated Date  
Date

## UMBRELLA COMPANY

for purposes connected with the supply of the Services under this Agreement, and that it has either:

- (i) obtained written consent from the Consultant to such processing; or
- (ii) secured another legal data processing ground, in accordance with applicable Data Protection Legislation, to share the Consultant's Personal Data with the Company, the Client and any relevant Third Party;
- (b) the Consultant has been notified of the Company's fair processing information as set out at <http://www.gpslocums.co.uk/privacy-policy/> (as updated from time to time) and that it will direct the Consultant to any other fair processing information as required by the Company, the Client or Third Party from time to time;
- (c) where the Assignment involves or may involve the processing of the Consultant's Personal Data in jurisdictions outside the UK or the European Economic Area (the "EEA"), the Supplier shall only process the Consultant's Personal Data in accordance with applicable Data Protection Legislation.

9.7 The Supplier shall (and shall procure that the Consultant shall) do nothing to place the Company, the Client or any Third Party in breach of Data Protection Legislation.

9.8 The Supplier acknowledges and agrees that where it (and/or the Consultant) processes Client Data, the Client's data processing policies shall apply to such processing.

9.9 The Supplier shall indemnify the Company for any Losses the Company incurs or suffers arising from any breach of any warranty contained in clause 9..

## 10. Anti-Bribery

10.1 The Supplier acknowledges and agrees (and shall procure that the Consultant also acknowledges and agrees) that the Company will not tolerate bribery in any form in connection with the conduct of its business.

10.2 The Supplier shall (and shall procure that the Consultant and any substitute shall):

- (a) comply with all applicable laws, statutes, regulations, codes and guidance relating to anti-bribery and anti-corruption ("Anti-Bribery Laws"), including without limitation the Bribery Act 2010;
- (b) not engage in any activity, practice or conduct which would constitute an offence under the Bribery Act 2010 if such activity, practice or conduct had been carried out in the United Kingdom;
- (c) not do, or omit to do, any act that will cause the Company to be in breach of the Anti-Bribery Laws; and
- (d) promptly report to the Company any request or demand for any undue financial or other advantage of any kind received by the Supplier and/or the Consultant in connection with the performance of this Agreement;

10.3 The Supplier and/or the Consultant shall promptly notify the Company if, at any time during the term of this Agreement, its circumstances, knowledge or awareness changes such that it would not be able to repeat the warranties set out in clause 10.2.

10.4 Breach of this clause 10 shall be deemed a material breach of this Agreement.



## UMBRELLA COMPANY

10.5 The Supplier shall indemnify the Company against any Losses incurred by the Company as a result of any breach of this clause 10 by the Supplier (including any consequential loss or damage).

### 11. AWR

11.1 For the purposes of this clause, the following definitions shall apply:

"Agency Worker" has the meaning given under Regulation 3(1) of the AWR;

"Comparable Terms" means the basic and working employment conditions of an individual as of Day One Of The Relevant Qualifying Period to which an individual would be entitled (including Pay, duration of working time, night work rest periods, rest breaks and annual leave) if they were employed or engaged directly by the Client (including any variations in those relevant terms and conditions made at any time after Day One Of The Relevant Qualifying Period);

"Comparable Pay" means the Pay which would be payable under the relevant Comparable Terms;

"Day One Of The Relevant Qualifying Period" means the first day on which the relevant Agency Worker starts work on an assignment which continues for 12 calendar weeks or more such that the Agency Worker completes the qualifying period in accordance with Regulation 7 of the AWR;

"Pay" means "pay" as defined under Regulation 6(2) of the AWR;

11.2 The Company and the Supplier shall each comply with their obligations under the AWR and each party shall cooperate fully with the other in connection with the AWR. The Company will use reasonable endeavours to procure that any End User fulfils their obligations under the AWR and in particular, to provide the Supplier with any information the End User provides or has already provided to the Company insofar as such information relates to the Assignment Schedule.

11.3 The Company accepts no responsibility for the accuracy or correctness of any Information provided by the End User.

11.4 The Company shall not be responsible for any Losses incurred by the Supplier arising from information provided by the End User or the End User's failure to provide or update accurate information on a timely basis.

11.5 As the Consultant's employer the Supplier shall be responsible at all times for ensuring that the Consultant is paid at a rate not less than the relevant Comparable Pay rate and that the Consultant receives the same basic working and employment conditions in accordance with the AWR.

11.6 The Supplier shall immediately notify the Company if it receives any complaint, request for information or claim from a Consultant relating to pay or any other rights claimed under the AWR. The parties shall work and co-operate together to respond to and resolve any such complaints or claims. The Supplier undertakes to provide the Company with any further Information it may request in order to respond to any such complaint, request for information or claim.

11.7 The Supplier shall indemnify the Company in respect of any and all Losses the Company suffers or incurs arising as a consequence of any employment tribunal finding that any PBA Model through which Consultants are employed does not meet the requirements of Regulations 10 and 11 of the AWR.

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### 12. General

12.1 [Only applicable if the Conduct Regulations do apply] For the purposes of the Conduct Regulations the Company shall operate as an employment business in relation to the Supplier (except where any permanent placement results from the Company's introduction(s) to the Client, in which case the Company shall act as an employment agency). The Company is prohibited by the Employment Agencies Act 1973 from charging the Supplier a fee for introducing the Supplier to the Client.

12.2 This Agreement (and any undertaking given by the Consultant to the Company and any Opt Out notice given by the Supplier and the Consultant to the Company) constitutes the entire agreement between the parties and supersedes all previous agreements and arrangements (if any) whether written, oral or implied between the Company and the Supplier and/or the Consultant relating to the Services and all such agreements still effective at the date of this Agreement (if any) shall (without prejudice to the rights of the Company arising prior to the Start Date in respect of prior breaches by the Supplier or the Consultant of which the Company is not aware) be deemed to have been terminated by mutual consent with effect from the Start Date but so that nothing in this clause 12.2 shall operate to exclude or limit the liability of any party in respect of fraud.

12.3 The Supplier acknowledges that, in entering this Agreement, it has not relied on any representations by the Company, the Client or the Consultant made before the execution of this Agreement other than those expressly set out in this Agreement.

12.4 This Agreement is personal to the Supplier and the Supplier shall not be entitled to assign or sub-contract its obligations or rights under this Agreement to any third party or (save in accordance with clause 8.2) to procure that the Services are performed by any person other than the Consultant. The Company shall, however, be entitled to assign this Agreement to any member of the Company's Group and, upon such assignment, without prejudice to the assignor's rights in respect of matters arising prior to such assignment; all references to the Company shall be deemed to refer to the assignee.

12.5 [Only applicable if the Conduct Regulations do apply] Any assignment of this Agreement by the Company in accordance with clause 12.4 shall be subject to the Supplier's prior consent (such consent not to be unreasonably withheld or delayed).

12.6 No amendment to this Agreement is effective unless it is in writing and signed by or on behalf of each party by a person duly authorised by that party.

12.7 Any notice required to be given under this Agreement (including the delivery of any timesheet or invoice) shall be in writing signed by a person duly authorised by the sending party and delivered by hand, sent by facsimile, e-mail or prepaid first class post to the recipient at its fax number or address specified in this Agreement (or as otherwise notified from time to time to the sender by the recipient for the purposes of this Agreement).

12.8 This Agreement shall be governed by and construed in all respects in accordance with English law and the Courts of England and Wales shall have exclusive jurisdiction.

12.9 The restrictions contained in this Agreement are considered reasonable by the parties, but, if any such restriction is found void but would be valid if some part of the restriction were deleted, such restriction shall apply with such deletion as may be necessary to make it valid and effective.

12.10 Save as set out in clause 12.11, none of the provisions of this Agreement is intended to be for the benefit of, or enforceable by third parties (other than permitted assignees) and the operation of the Contracts (Rights of Third Parties) Act 1999 is excluded.

12.11 The Client shall be entitled to rely on and enforce the provisions of clause 4.1(i) and the indemnities given by the Supplier in favour of the Client, notwithstanding that the Client is not a party to this Agreement.

## UMBRELLA COMPANY

### 13. Application of the Conduct Regulations to this Agreement

13.1 If, (as indicated in the Assignment Schedule) the Supplier and the Consultant have Opted Out of the Conduct Regulations in respect of the supply of the Services under this Agreement and such notice continues in effect, then all clauses in this Agreement commencing "[Only applicable where the Conduct Regulations do apply]" shall not apply.

13.2 If (as indicated in the Assignment Schedule) the Supplier and the Consultant have not Opted Out; or such Opt Out ceases to have effect, then all clauses in this Agreement commencing "[Only applicable where the Conduct Regulations do not apply]" shall not apply.

(1) Signed by Paige Jarvis on behalf of Healthcare Staffing Solutions Ltd, GPS Locums

LTD Date: 19/02/2020

Position \_\_\_\_\_ Finance Director \_\_\_\_\_

Signed by \_\_\_\_\_ on behalf of

Date:

Position Director