



## TERMS OF BUSINESS - SUPPLY OF TEMPORARY RESOURCES

### 1 DEFINITIONS s INTERPRETATION

1.1 In these terms of business (Terms), the following definitions apply:

**Agency Worker:** an individual who is (i) engaged directly by Us as a PAYE worker under a contract for services or (ii) employed by an Intermediary under a contract of service.

**Assignment:** the temporary role or project which the Temporary Resource may undertake for You.

**Assignment Schedule:** the document issued by Us confirming details of the Assignment.

**AWR:** the Agency Workers Regulations 2010.

**Charges:** the charges made by Us for the supply of the Temporary Resource, which include the remuneration or fees payable to the Temporary Resource, our commission and any statutory costs incurred by Us in supplying the Temporary Resource to You including, where applicable and without limitation, holiday pay, employers National Insurance Contributions, pension costs and apprenticeship levy.

**Conduct Regulations:** The Conduct of Employment Agencies and Employment Businesses Regulations 2003.

**Connected Party:** any (i) of your holding, subsidiary, associated or connected companies (ii) organisation or business within the same purchasing group as You or (iii) organisation or business which is demonstrably connected to You through common ownership, management, or control.

**Contractor:** a limited company or limited liability partnership engaged by Us under a contract for services, excluding any Intermediary.

**Data Protection Legislation:** the Data Protection Act 2018, the retained UK-GDPR and all other relevant legislation relating to data protection in the United Kingdom.

**Engagement:** the engagement, employment, hire or use of the Temporary Resource directly or through any party other than Us, under any agreement or arrangement whatsoever and whether on a temporary, permanent, fixed term, consultancy, or any other basis. "Engage," "Engaged" and "Engages" have the corresponding meanings.

**Exempt Status:** where the Off Payroll Rules do not apply because (i) You and Your entire group of companies, where applicable, are based wholly overseas with no UK connection or (ii) You qualify as a small undertaking under sections 60A to 60F of ITEPA.

**Extended Hire Period:** an extension of the Assignment for 12 weeks, which shall commence upon expiry of any notice given by You under clause 14.1.

**Insolvency Event:** occurs if (i) a party makes any voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986) or becomes subject to an administration order or goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction); (ii) any distress or execution is levied upon a party, its property or assets; (iii) an administrator, administrative receiver, or receiver is appointed over all or part of the party's undertaking, property or assets; (iv) a party ceases, or threatens to cease, to carry on its business; (v) a party becomes unable to pay its debts as they fall due; or (vi) any analogous proceedings or events similar to those specified above are brought or occur in relation to a party outside of England or Wales.

**Intermediary:** a third-party umbrella company or contractor services business which employs or engages Temporary Resources, supplies them to Us, and is responsible for their remuneration.

**Introduction:** has the meaning in clause 3.2. "Introduce", "Introduces" and "Introduced" have the corresponding meanings.

**ITEPA:** the Income Tax (Earnings and Pensions) Act 2003.

**Off Payroll Rules:** Chapter 10 of Part 2 of ITEPA.

**Opted Out:** opted out of the Conduct Regulations under Regulation 32(9).

**Payment Terms:** 30 days from the date of Our invoice.

**Recruitment Services:** The Introduction and supply of Temporary Resources to You by Us.

**Relevant Period:** the later of (i) the period of 12 weeks commencing on the day after the Temporary Resource last provided Temporary Resource Services during an Assignment or (ii) the period of 14 weeks commencing on the day on which the Temporary Resource first provided Temporary Resource Services during an Assignment. In determining the first day on which the Temporary Resource provided Temporary Resource Services, a prior Assignment shall be disregarded where more than 42 days have passed between Assignments.

**Relevant Position:** a specific temporary position which You wish to fill.

**Remuneration:** (i) the gross annualised remuneration package payable to the Temporary Resource for the Engagement including, without limitation, basic salary, guaranteed and anticipated bonuses, guarantee payments, commission, allowances, all other emoluments and benefits in kind or (ii) if the Temporary Resource is Engaged on a self-employed basis, via a personal services company or through any third party company, firm or business, the total estimated annualised fees payable in respect of the Temporary Resource's services.

**Representative:** the director, employee, worker, or subcontractor of a Contractor who performs the Temporary Resource Services on behalf of the Contractor.

**Restricted Period:** the later of (i) 6 months from the end of the Assignment or (ii) 6 months from the most recent Introduction of the Temporary Resource to You.

**SDC:** supervision, direction, or control (or the right thereof) as to the manner in which Temporary Resource Services are performed.

**SDS:** a written assessment, in a format acceptable to Us, as to whether the Assignment falls inside or outside of IR35 under the Off Payroll Rules.

**Shared Data:** personal data and special/sensitive personal data within the meaning of the Data Protection Legislation which is shared between the parties in relation to the Recruitment Services.

**Special Conditions:** any special conditions which are agreed between the parties, and which are set out in the Assignment Schedule.

**Subcontractor:** a self-employed person engaged through an Intermediary under a contract for services.

**Substitute:** an alternative Representative or subcontractor, appointed by a Contractor to perform the Temporary Resource Services in the place of the original Representative.

**Tax:** income tax, National Insurance or social security contributions, and all other statutory deductions arising upon payments which are made to the Temporary Resource.

**Temporary Resource:** the person or limited company Introduced by Us for an Assignment and, save where otherwise indicated, includes a Contractor, Representative, Subcontractor and Agency Worker.

**Temporary Resource Services:** the work to be carried out by the Temporary Resource during an Assignment.

**Transfer Fee:** the fee payable by You upon the Engagement of a Temporary Resource.

**We/Us:** Northbuild Recruitment Ltd (Registered in England C Wales) No 15558204 whose registered office is at Imperial Court Exchange Quay Manchester M5 3EB).

"Our" has the corresponding meaning.



**WTR:** the Working Time Regulations 1998.

**You:** the person, firm, partnership, organisation, public sector body or company to which the Recruitment Services are provided under these Terms. ““Your” has the corresponding meaning.

- 1.2 A reference to a party shall mean either Us or You as applicable and a reference to the parties shall mean both Us and You.
- 1.3 The clause headings used in these Terms are not intended to affect the interpretation of any clause.
- 1.4 Unless otherwise indicated by the context (i) references to the singular include the plural and vice-versa and (ii) references to one gender include the other genders.
- 1.5 Any reference to legislation includes an amendment or re-enactment of such legislation from time to time and any secondary legislation which may be made under such legislation.

## **2 FORMATION s BASIS OF AGREEMENT**

- 2.1 If You have not confirmed acceptance of these Terms in writing, You shall be deemed to have accepted the Terms by (i) instructing Us to Introduce a Temporary Resource (ii) interviewing or meeting with a Temporary Resource who has been Introduced (iii) Engaging a Temporary Resource or (iv) instructing Us to supply a Temporary Resource, whichever occurs first following receipt of these Terms.
- 2.2 Unless otherwise agreed in writing by one of Our directors, these Terms form the entire agreement between the parties for the provision of Recruitment Services to the exclusion of any terms proposed or issued by You.
- 2.3 In the event of any inconsistent or conflicting provisions, the Special Conditions (if any) shall take priority over the main body of these Terms.
- 2.4 No variation to these Terms shall be valid unless the details of such variation are agreed between You and one of Our directors, are set out in writing and a copy of the varied Terms is given to You stating the date on or after which the varied Terms shall apply.
- 2.5 For the purposes of the Conduct Regulations, we shall act as an employment business.

## **3 INTRODUCTIONS**

- 3.1 We shall use reasonable endeavours to Introduce Temporary Resources from time to time who (i) meet the criteria specified by You under clause 4.1 or (ii) We reasonably believe may be of interest to You.
- 3.2 An Introduction shall take place upon Us:
  - 3.2.1 providing a CV or other information to You which expressly or impliedly identifies a Temporary Resource.
  - 3.2.2 arranging an interview or meeting between You and a Temporary Resource whether face to face, by telephone, by web conference or by any other means; or
  - 3.2.3 supplying or agreeing to supply a Temporary Resource to You.

## **4 PROVISION OF INFORMATION**

- 4.1 You must inform Us of all such information as We shall reasonably require regarding the Relevant Position including:
  - 4.1.1 the information relating to an Assignment specified in Regulation 18 of the Conduct Regulations.
  - 4.1.2 whether the Temporary Resource requires a DBS disclosure or any other check or security clearance to carry out the Assignment.
  - 4.1.3 any Health and Safety information which is relevant to the Assignment; and
  - 4.1.4 any reason why it may be detrimental to the interests of the Temporary Resource to carry out the Assignment.
- 4.2 You authorise Us to advertise Relevant Positions in such format and including such information as We consider appropriate. You may withdraw this authorisation at any time by notifying Us in writing that We may not advertise a Relevant Position or otherwise specifying the information about the Relevant Position which may not be advertised.
- 4.3 We shall issue an Assignment Schedule to You on commencement of the Assignment or otherwise within three business days of its commencement. If You consider any of the information within the Assignment Schedule to be incorrect, you must notify Us in writing as soon as practicable and in any event within three business days of receipt.
- 4.4 You must notify Us immediately if You intend to Engage a Temporary Resource, extend an Assignment or otherwise vary an Assignment in any way.

## **5 TEMPORARY RESOURCE CHECKS**

- 5.1 When required to do so under the Conduct Regulations, We shall:
  - 5.1.1 take all reasonably practicable steps to ensure that the Temporary Resource and You are each aware of any requirements imposed by law, or by any professional body, which must be satisfied by You or the Temporary Resource to enable the Temporary Resource to work in the Relevant Position.
  - 5.1.2 make all such enquiries as are reasonably practicable to ensure that it would not be detrimental to the interests of the Temporary Resource or You for the Temporary Resource to work in the Relevant Position; and
  - 5.1.3 ensure that the Temporary Resource is willing to work in the Relevant Position.
- 5.2 When required to do so under Regulation 22 of the Conduct Regulations due to the specific nature of the Relevant Position, we shall also take all reasonably practicable steps to:
  - 5.2.1 obtain copies of any relevant qualifications or authorisations of the Temporary Resource and offer to provide copies of those documents to You.
  - 5.2.2 obtain two references from persons who are not relatives of the Temporary Resource and who have agreed that the reference provided may be disclosed to You; and
  - 5.2.3 confirm that the Temporary Resource is suitable for the Relevant Position.

## **6 CLIENT OBLIGATIONS**

- 6.1 You shall:
  - 6.1.1 provide a safe working environment for the Temporary Resource.
  - 6.1.2 comply with all statutory provisions, by-laws, codes of practice and other legal obligations in respect of the Temporary Resource’s health and safety.
  - 6.1.3 maintain records of any accident or injury affecting any Temporary Resource, provide copies of such records to Us upon demand and, if applicable, submit the necessary report under RIDDOR;
  - 6.1.4 not require the Temporary Resource to operate any plant, equipment, or vehicle which the Temporary Resource is not qualified to operate; and
  - 6.1.5 not require the Temporary Resource to work in a role which (i) is ordinarily performed by an employee of You who is involved in a strike or industrial action or (ii) is ordinarily performed by an employee of You who has been redeployed to carry out the work of an employee who is involved in a strike or industrial action; and

- 6.1.6 ensure that the Temporary Resource is covered under Your own insurance policies or, in the case of a Contractor operating outside of the Off Payroll Rules, under insurance policies which are acceptable to You.
- 6.2 You must ensure that You, your employees, subcontractors, and representatives do not unlawfully discriminate against, harass, or victimise any Agency Worker, Subcontractor or Representative.
- 6.3 Subject to any right of substitution under clause 8.3.1, You shall not engage or hire, directly or indirectly, any third party Temporary Resource or subcontractor through a Temporary Resource which is being supplied by Us without Our prior written consent, such consent to be granted at Our entire discretion.
- 7 ADDITIONAL OBLIGATIONS RELATING TO AGENCY WORKERS**
- 7.1 We shall be responsible for making all payments to the Agency Worker and shall ensure that (i) such payments comply with the National Minimum Wage or National Living Wage as applicable and (ii) income tax and National Insurance Contributions are deducted as required by law.
- 7.2 You shall be responsible for the supervision, direction, and control of an Agency Worker throughout their Assignment.
- 7.3 You shall not require an Agency Worker to provide Temporary Resource Services for more than 48 hours per week on average unless We have confirmed that the Agency Worker has opted out of the 48 hour working week under the WTR.
- 7.4 You must comply with the AWR and assist Us in complying with the AWR by:
- 7.4.1 notifying Us without delay if the Agency Worker has been supplied to You by any other employment business in the six-month period prior to commencement of the Assignment;
- 7.4.2 providing the Agency Worker with access to collective facilities and amenities and information about permanent employment opportunities with You;
- 7.4.3 providing accurate, written details of the relevant terms and conditions which apply to any actual or hypothetical comparator together with any amendments to such terms and conditions where appropriate;
- 7.4.4 co-operating with Us in responding to or assisting Us with responding to any question or complaint made under the AWR in a timely manner;
- 7.4.5 permitting a pregnant Agency Worker to attend ante-natal appointments, with pay, during working time after the 12-week qualifying period;
- 7.4.6 carrying out a risk assessment in respect of any pregnant Agency Worker and making such adjustments to the Assignment as are necessary to protect the Agency Worker's health and wellbeing or, where necessary, identifying a suitable alternative Assignment within Your organisation for the Agency Worker to perform; and
- 7.4.7 agreeing to a proportional increase in the Charges where necessary to ensure that the Agency Worker receives equal treatment in respect of all relevant terms and conditions after the 12-week qualifying period including, where applicable, any bonus which the Agency Worker may be entitled to receive under the AWR.
- 8 ADDITIONAL OBLIGATIONS RELATING TO CONTRACTORS**
- 8.1 Prior to the supply of any Contractor and at the beginning of each tax year, You must notify Us if You have Exempt Status.
- 8.2 Unless You have Exempt Status or the Off Payroll Rules otherwise do not apply to the Contractor for any reason, You must:
- 8.2.1 provide an SDS to Us prior to commencement of the Assignment.
- 8.2.2 ensure that any SDS provided to Us is accurate.
- 8.2.3 provide all such information as We may reasonably require, without delay, to justify or support the SDS; and
- 8.2.4 co-operate in a timely manner with any query or appeal which We or the Contractor raise in respect of the SDS.
- 8.3 Subject to clause 8.4.1, if We supply a Contractor for an Assignment, You acknowledge and agree that:
- 8.3.1 the Contractor may appoint a Substitute to perform the Temporary Resource Services from time to time provided that such Substitute is suitably skilled, qualified, security cleared (where applicable) and experienced to perform the Temporary Resource Services.
- 8.3.2 You must not attempt to assign a Contractor to a different task or project or otherwise materially vary the Assignment without first agreeing such variation with Us and the Contractor.
- 8.3.3 subject to Your reasonable operational requirements and the specific nature of the Assignment, the Contractor shall determine its own schedule when performing the Temporary Resource Services and the location in which such Temporary Resource Services are performed; and
- 8.3.4 neither You nor any third party shall exercise SDC over the Contractor in respect of the Temporary Resource Services.
- 8.4 If You provide an SDS stating that the Contractor is operating inside IR35 under the Off Payroll Rules:
- 8.4.1 clause 8.3 shall not apply;
- 8.4.2 the Representative shall be an agency worker for the purposes of the AWR;
- 8.4.3 You acknowledge that the Contractor shall be entitled to submit written representations as to why the Contractor considers itself to be operating outside of IR35 and, if the Contractor submits such representations, You must provide a final determination within the 45 day period provided for under the Off Payroll Rules;
- 8.4.4 following commencement of the Assignment, We shall be entitled to terminate the Assignment immediately and without liability; and
- 8.4.5 without prejudice to clause 8.4.4, if We continue the supply of the Contractor on an inside IR35 basis, We shall ensure that all further payments to the Contractor in respect of the Assignment are subject to deductions for PAYE tax and National Insurance Contributions in respect of the Representative.
- 8.5 The parties acknowledge and agree that the Contractor shall be supplied for the specific Assignment and there is no expectation or requirement for You to offer any further work to the Contractor or for the Contractor to accept any such offer which may be made.
- 8.6 You shall indemnify and keep indemnified Us against any liability for Tax (including any interest and penalties) suffered or incurred by Us as a result of You (i) providing an inaccurate SDS (ii) failing to provide an SDS if required to do so under these Terms or by law or (iii) otherwise failing to comply with this clause 8.
- G ADDITIONAL OBLIGATIONS RELATING TO SUBCONTRACTORS**
- 9.1 You must not exercise or permit any third party to exercise SDC over any Subcontractor who is supplied for an Assignment. Nothing in this clause shall affect Your obligations under clause 6.1 or prevent You from periodically checking that the Temporary Resource Services have been performed to the required standard.
- 9.2 Notwithstanding clause 9.1, if the Subcontractor has been subject to SDC at any time during the Assignment, You must notify Us without delay. In such event, We may terminate the Assignment immediately and without liability.
- 9.3 You shall indemnify and keep indemnified Us against any liability for PAYE income tax or National Insurance contributions (including any interest and penalties) suffered or incurred by Us as a result of You exercising or permitting any third party to exercise SDC over a Subcontractor.
- 10 UNSATISFACTORY TEMPORARY RESOURCES**
- 10.1 If You, acting reasonably, are dissatisfied with the Temporary Resource Services or if the Temporary Resource does anything materially detrimental to Your interests, You shall notify Us without delay and may:
- 10.1.1 where applicable, request that the Contractor or Subcontractor remedies any defects in the Temporary Resource Services; and/or
- 10.1.2 terminate the Assignment in accordance with clause 15.3.



10.2 If You require a Contractor or Subcontractor to remedy any defects in the Temporary Resource Services, We shall use reasonable endeavours to procure that the Contractor or Subcontractor complies with Your request but shall not be liable for any refusal or failure of the Contractor or Subcontractor to do so.

#### 11 TIMESHEETS

11.1 At the end of each week of an Assignment (or at the end of the Assignment where it is for a period of one week or less), You shall approve a timesheet in a format specified by Us verifying the times worked by the Temporary Resource during that week.

11.2 You are responsible for ensuring that the times shown on the Temporary Resource's timesheet are correct and that only Your authorised employees approve the timesheet.

11.3 You acknowledge that We shall rely upon Your approval of the timesheet as confirmation of the time worked by the Temporary Resource and You must not retrospectively adjust the time which has been confirmed as having been worked by the Temporary Resource or subsequently refuse to pay any Charges in relation to an approved timesheet.

11.4 You may only refuse to approve the Temporary Resource's timesheet where:

11.4.1 You dispute the time which the Temporary Resource claims to have worked. In this event, you shall inform Us without delay and shall co-operate with Us to enable Us to establish the time, if any, which was worked by the Temporary Resource; or

11.4.2 the Temporary Resource is a Contractor who is operating outside IR35 under the Off Payroll Rules who has Opted Out and You are dissatisfied with the quality of the Temporary Resource Services which were performed in the period to which the timesheet relates. In this event, you shall inform Us without delay and shall co-operate with Us and the Contractor to determine the amount which is properly due in respect of the Temporary Worker Services.

11.5 If You refuse or fail to approve the Temporary Resource's timesheet in breach of these Terms, we may issue an invoice for the Charges which We reasonably estimate to be due in respect of the time worked by the Temporary Resource. You shall be liable to pay such estimated Charges in accordance with clause 12.3.

#### 12 CHARGES s INVOICING

12.1 You shall be liable to pay the Charges for each Assignment as set out in the relevant Assignment Schedule.

12.2 We shall invoice You for the Charges each week. Where applicable, VAT shall be charged at the standard rate.

12.3 You shall pay Our invoices within the Payment Terms and without set off or deduction.

12.4 Unless otherwise agreed by Us in writing, all invoices shall be raised and must be settled in Pounds Sterling, US dollars or Euros. You shall bear any bank charges and currency exchange costs when paying Our invoice.

12.5 If an invoice is not paid within the Payment Terms, We may:

12.5.1 charge interest at the rate of 8% per annum above the base rate of the Bank of England from the due date until the date of payment together with statutory compensation under the Late Payment of Commercial Debts (Interest) Act 1998; and

12.5.2 refer the collection of such payment to a collection agent or legal representatives and, in such circumstances, you shall be liable for all costs, fees (including legal fees), charges and disbursements incurred by Us in recovering payment from You.

12.6 We may vary the Charges, by giving written notice to You, to reflect any additional cost in supplying the Temporary Resource as a result of the AWR or any change in legislation.

12.7 No refund or rebate of the Charges or any Transfer Fee is available under these Terms.

12.8 If You employ or engage (directly or indirectly) any of Our employees with whom You have had material dealings in connection with these Terms, within 6 months of such individual leaving Our employment, You shall pay a fee to Us, which shall be a sum equivalent to 25% of the gross annualised remuneration which had been payable by Us to the employee. The fee shall be payable by You within the Payment Terms.

#### 13 TRANSFER FEE

13.1 Subject to clause 14.1, where applicable, You shall be liable to pay a Transfer Fee to Us if You or any Connected Party (i) Engages the Temporary Resource or (ii) introduces or supplies the Temporary Resource to a third party who Engages the Temporary Resource and in either case:

13.1.1 where the Temporary Resource has not commenced an Assignment, such Engagement commences in the Restricted Period;

13.1.2 where the Temporary Resource has commenced an Assignment and has Opted Out, such Engagement commences during the term of the Assignment or within the Restricted Period; or

13.1.3 where the Temporary Resource has commenced an Assignment and has not Opted Out, such Engagement commences during the term of the Assignment or within the Relevant Period.

13.2 We shall issue an invoice for the Transfer Fee on commencement of the Engagement or as soon as practicable thereafter.

13.3 The Transfer Fee shall be a sum equivalent to the hourly Charge at which the Temporary Resource was (or would reasonably have been) supplied to the Client multiplied by 350 or the daily Charge multiplied by 50, as applicable. In determining the rate at which the Temporary Resource would reasonably have been supplied to the Client, the Company may rely on such evidence as the Company deems relevant including, without limitation, any quotation which the Company provided to the Client or rate which the Client indicated that they would be willing to pay, placements which the Company has made with third parties and the market conditions generally.

#### 14 EXTENDED HIRE PERIOD

14.1 If the Temporary Resource has not Opted Out then, instead of paying the Transfer Fee, you may give one week's written notice to Us to commence an Extended Hire Period, commencing on the date on which such written notice expires.

14.2 During an Extended Hire Period, We shall supply the Temporary Resource (i) on terms no less favourable than the terms which applied immediately before We received the notice under clause 14.1 or (ii) where We have not previously supplied the Temporary Resource to You, on such commercial terms as We may reasonably specify.

14.3 If We are unable to supply the Temporary Resource for any part of an Extended Hire Period for a reason outside of Our control (including, without limitation, any adverse credit information relating to You or the prior termination of the Recruitment Services) or if You do not wish to hire the Temporary Resource on the terms set out in clause 14.2, You shall pay the Transfer Fee, reduced in proportion to any part of the Extended Hire Period for which the Temporary Resource was supplied by Us following expiry of Your written notice under clause 14.1.

#### 15 TERMINATION

15.1 Subject to clauses 15.2 and 15.3, a party may terminate an Assignment by giving the period of notice specified in the Assignment Schedule or, if no period of notice is specified, at any time and without notice.

15.2 We may terminate an Assignment without notice if (i) You have committed a serious or persistent breach of Your obligations under these Terms (ii) You undergo a change of control (iii) You are subject to an Insolvency Event (iv) We become aware of any reason why the Temporary Resource is unsuitable to carry out the Assignment (v) We



reasonably believe that it would be detrimental to Your interests or the Temporary Resource's interests for the Assignment to continue (vi) You provide an SDS determining the Assignment to be inside of IR35 after the Assignment has commenced or (vii) You refuse or fail to pay the Charges within the Payment Terms.

- 15.3 You may terminate an Assignment without notice (i) if We have committed a serious or persistent breach of Our obligations under these Terms (iii) We are subject to an Insolvency Event (iii) You, acting reasonably, are dissatisfied with the quality or performance of the Temporary Resource Services or (iv) the Temporary Resource has done anything materially detrimental to Your interests.
- 15.4 We shall use reasonable endeavours to ensure that the Temporary Resource gives the agreed notice, if any, for terminating the Assignment. However, We shall not be liable if the Temporary Resource fails to observe any notice period which had been agreed.
- 15.5 Either party may terminate the provision of Recruitment Services at any time by notifying the other party in writing. Any Assignment in progress at that time shall continue until terminated in accordance with these Terms.
- 15.6 Any provision of these Terms that expressly or by implication is intended to continue in force on or after termination of the Recruitment Services shall remain in full force and effect including, without limitation, the validity of any Introduction which was made by Us prior to such termination and Our right to charge a Transfer Fee where applicable.

## 16 LIABILITY s INDEMNITY

- 16.1 We shall use reasonable endeavours to Introduce Temporary Resources to You but shall not be liable if We do not Introduce a Temporary Resource for any reason.
- 16.2 We shall not be liable for (i) the acts or omissions of any Temporary Resource (ii) any loss, theft or damage to any materials, equipment or other property issued to or used by the Temporary Resource during the Assignment (iii) the performance or non-performance of the Temporary Resource Services or (iv) the absence or unavailability of a Temporary Resource during an Assignment.
- 16.3 We shall not be liable to You for any indirect or consequential losses or for any loss of profit, business, reputation, or goodwill howsoever arising.
- 16.4 Subject to clause 16.5, Our aggregate liability to You in respect of any claim or series of claims arising out of or in connection with these Terms, and whether arising in contract, tort (including negligence), breach of statutory duty or otherwise shall be limited to a sum equivalent to 15% of the Charges paid by You in relation to the relevant Temporary Resource in the three-month period immediately prior to such claim arising or, if there was no supply of a Temporary Resource or if the claim does not relate directly to the supply of a Temporary Resource, the sum of £25,000.
- 16.5 We do not limit or exclude liability for death or personal injury arising from Our own negligence, for fraud or fraudulent misrepresentation or for any other claim which may not be limited or excluded by law.
- 16.6 All warranties, conditions and other terms implied by statute or common law are excluded from these Terms to the fullest extent permitted by law.
- 16.7 Any claim which You may bring against Us under these Terms must be commenced within 12 months of the date on which You become aware or should reasonably have become aware of such claim.
- 16.8 You shall indemnify and keep indemnified Us against all losses, damages, costs and fees (including legal fees) suffered or incurred by Us as a result of any claim (actual or threatened) made against Us by a Temporary Resource except to the extent that such claim has arisen as a result of Our breach of contract, negligence (or any other tortious act) or breach of statutory duty.

## 17 CONFIDENTIALITY

- 17.1 You shall treat all information relating to a Temporary Resource which is provided by Us with the utmost confidentiality and, in particular, must:
  - 17.1.1 not use such information for any other purpose without Our prior consent and the consent of the Temporary Resource;
  - 17.1.2 ensure that Our employees, contractors, representatives, and agents are all bound by written confidentiality obligations in respect of such information.
- 17.2 Save to the extent that We are required to disclose such information to the Temporary Resource, We shall keep confidential any information provided by You in relation to the AWR and shall not use it for any other purpose.

## 18 DATA PROTECTION

- 18.1 The parties understand that they shall each act as independent data controllers in respect of any Shared Data.
- 18.2 Each party shall:
  - 18.2.1 control and process the Shared Data in accordance with the Data Protection Legislation;
  - 18.2.2 place the Temporary Resource on notice of their data processing activities through notices which comply with the Data Protection Legislation;
  - 18.2.3 take appropriate technical and organisational measures to safeguard the security of Shared Data under their control;
  - 18.2.4 co-operate with the other party in respect of any regulatory enquiry or investigation relating to the Shared Data; and
  - 18.2.5 co-operate with the other party if any Temporary Resource seeks to exercise their statutory rights respect of the Shared Data.

## 19 BRIBERY s HUMAN TRAFFICKING

- 19.1 The parties warrant that they shall each:
  - 19.1.1 comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010;
  - 19.1.2 promptly notify the other party of any request or demand for any undue financial or other advantage of any kind in connection with the performance of these Terms; and
  - 19.1.3 take reasonable steps and carry out appropriate checks to ensure that their respective businesses and business supply chains are free of slavery and human trafficking.

## 20 GENERAL PROVISIONS

- 20.1 You shall not assign or transfer any of Your rights or obligations under these Terms without Our prior written consent.
- 20.2 If any provision of these Terms is determined by a court to be unenforceable, the unenforceable provision shall be severed from these Terms solely to that extent and the remainder of the Terms shall continue to be valid and enforceable to the extent permitted by law.
- 20.3 No failure or delay by a party in exercising any right or remedy under these Terms or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- 20.4 Neither party shall be in breach of these Terms nor liable for delay in performing, or failure to perform, any of their obligations under these Terms if such delay or failure result from events, circumstances or causes beyond their reasonable control. In such circumstances, the affected party shall be entitled to a reasonable extension of the time for performing such obligations.
- 20.5 These Terms shall be interpreted in accordance with English law and the parties irrevocably submit to the exclusive jurisdiction of the Courts of England and Wales in respect of any dispute or claim arising in relation to the construction, interpretation, or performance of these Terms.