



## Client Terms of Business

### Provision of Temporary & Contract Resource

We are Human Capital Ventures Limited trading as Human Capital Ventures or HCV (throughout “we”, “us”, “our” and “ours”) of Challenge House, Bletchley, Sherwood Drive, Milton Keynes, MK3 6DP including, for the purposes of this agreement, our branch offices and our subsidiary companies (as defined by s.1159 Companies Act 2006) or associated bodies corporate (as defined by s.256 Companies Act 2006).

You are a client or potential client of ours and are the recipient of these Terms of Business (throughout “you”, “your” and “yours”) including, for the purposes of this agreement, an Associate.

#### Introduction and acceptance

We are a provider of first class services for the supply of candidates. The terms in this document set out the arrangements and fees for our service, together with the information that we are obliged to collect from you for the benefit of our candidates in accordance with the Regulations. Once you have received this document, comprising this page and the pages that follow, any act by you of accepting or requesting services from us, or using in any way information from us relating to a Candidate, is deemed to be and shall constitute your acceptance of these Terms of Business. Upon such acceptance, and in consideration of the mutual benefits set out herein, these terms apply.

### SECTION 1 – PRINCIPAL TERMS

#### Application and capacity

1. These Terms of Business, which are subject to the definitions in Section 2, apply to all dealings between you and us relating to our supply of personnel or any other services referred to herein. We operate as an Employment Business (as referred to in the Regulations) unless specified otherwise.

#### Our obligations

2. We agree as follows:
  - (a) to use our reasonable endeavours to locate Candidates for you, in accordance with your Requirements, and to provide Additional Services if agreed from time to time
  - (b) to supply Candidates to you on Assignment for your Requirement, and to advise you of the terms of each Assignment which may be set out in a written Assignment confirmation
  - (c) if the Candidate we supply proves wholly unsuitable for your purposes within 1 working day of commencement of the Assignment and you notify us within that period of the unsuitability of the Candidate, we shall either allow the Waiver Sum against an invoice issued to you or issue an invoice net of the Waiver Sum
  - (d) to invoice you
    - (i) for the Fee at the times agreed in the Assignment, or
    - (ii) in the case of a Transfer Fee at any time after we become aware of the transfer but any delay in issue shall not affect our entitlement to payment in any event
  - (e) in our contract with the Candidate, which shall be a contract for services unless we inform you otherwise, we shall procure that the Candidate agrees
    - (i) to perform the work required under an Assignment in good faith, and with due care and skill, and that the Candidate will not perform any work during the Period of Supply for any third party which is in conflict with your interests
    - (ii) where appropriate not to make use of your confidential information in terms similar to those set out in clause 11(b)
    - (iii) upon termination of the Assignment to deliver up to either you or an End User any documents and other materials of yours or the End User's held by the Candidate.

#### Information and obligations

3. You agree to accept our services and you acknowledge and agree the following:
  - (a) the Regulations require us to provide specific information to each Candidate in relation to any Requirement; accordingly to enable us to comply with our obligations you must
    - (i) upon issuing a Requirement or as soon as possible thereafter provide the Requirement Information to us together with answers to any additional questions that we may raise, and
    - (ii) prior to an Assignment notify us of any additional information that may affect the information already provided or which may be relevant to the decision of a Candidate to accept work proposed in the Requirement
  - (b) in order to achieve a satisfactory outcome, you shall check that the Candidate is suitable for your purposes and that you are satisfied with the information and confirmations we have provided to you, regardless of our statutory obligations, and you agree in particular
    - (i) regardless of any references or information that we may provide, to take up your own references for the Candidate and verify the curriculum vitae supplied, and
    - (ii) to ensure that the Candidate has any necessary permit or authority to work for you and comply with asylum and immigration requirements relevant to an employer, and
    - (iii) to explain your requirements to the Candidate promptly on commencement if you have not already done so
  - (c) you shall ensure that the Information provided under clause 3(a) is full and accurate and that you provide us with up to date Information should there be a change to the Information previously provided

- (d) by reason of your acceptance of clauses 3(a) to (c) we shall not be liable for any loss or damage arising out of a representation, including any mistake or misrepresentation, made by us in good faith that may have induced you to accept an Assignment, or for any breach of contract, negligence or tort of the Candidate
- (e) to comply with the provisions of clauses 9 and 10.

#### Introductions and fees

4. You also agree
  - (a) to keep us promptly informed of your intentions in relation to an Engagement of a Candidate throughout the Fee Period following our Introduction, or where we have supplied the Candidate on an Assignment, following the Assignment and during the Transfer Period. Note - we are entitled to our Fee for an Introduction or transfer regardless of the role or tasks to be performed or undertaken by the Candidate
  - (b) if you have previous knowledge of a Candidate prior to a first Introduction by us you must notify us in writing within 3 business days of the Introduction together with supporting documentary evidence. In the absence of such notification such Engagement shall be deemed to have resulted from and effectively be caused by our Introduction and you waive the right to rely on such previous knowledge as a reason for non-payment of any Fee and our entitlement to a Fee shall not be affected by any fee you pay to a third party relating to the same Candidate; **it is your sole responsibility for checking whether a Candidate has been previously introduced by another party**
  - (c) if you are using any Social Media for the purposes of recruitment of persons to fill positions that you have asked us to fill as a Requirement you agree to promptly inform us, and for the avoidance of doubt where we have Introduced a Candidate your decision to Engage the Candidate based on or resulting from the use of Social Media shall not disentitle us to our Fee
  - (d) if you Engage a Candidate within the Fee Period, an Assignment (other than through supply by us) or Transfer Period you shall within 7 days of our written request provide to us information to enable us to identify the Remuneration and term of the Engagement including details of any renewal or extension of an Engagement or of any new Engagement relating to a Candidate
  - (e) unless you have notified us otherwise prior to the commencement of an Assignment, you warrant that there are no circumstances relevant to the work, or any aspect of an Assignment, which may result in the Candidate suffering a detriment of any kind
  - (f) the date of an Engagement shall in all cases be the earlier of the date of an agreement to Engage or the date of commencement of any services under an Engagement.

#### Fees and remuneration

5. In relation to fees and remuneration the following shall apply:
  - (a) wherever there is an Engagement or Additional Service you shall pay the Fee in accordance with the Payment Terms without any deduction, set off or counterclaim
  - (b) you agree to promptly repay any monies not properly due to you
  - (c) Remuneration shall be calculated on an annualised basis. If you have not informed us of the full projected sum within 14 days of enquiry from us, or by any later date we raise an invoice, Remuneration shall be deemed to be an amount calculated on the basis of the higher of either the rate payable under the last previous Assignment, or where there has been no such previous Assignment, the highest amount or rate indicated by either you or us as payable for the services sought by you at the time of the Introduction of the relevant Candidate, or the highest amount achievable in the market place for a person of similar experience to work in the position that has been filled, such amount to be determined by us and based upon appropriate evidence.

### **Your obligations throughout an Assignment**

6. As an ongoing obligation throughout an Assignment you agree to
- (a) be responsible for the health and safety of the Candidate as if the Candidate were a worker directly engaged by you, and, without limiting that responsibility in any way, you shall
    - (i) undertake risk assessments of the activities required to be undertaken by the Candidate and notify the Candidate and us immediately of any specific or potential hazards relating to the Assignment and the precautions that the Candidate should take relating to that risk
    - (ii) not allow the Candidate to undertake any work that is hazardous without first undertaking the assessment and providing the notification referred to in clause 6(a)(i) and ensuring that the work complies with all health and safety procedures and requirements relevant to that work
    - (iii) ensure that any equipment or vehicles provided by you for the use of the Candidate are in good order, suitable, safe and compliant with all relevant regulations and safety requirements
    - (iv) maintain adequate insurances including but not limited to, Employer's and Public Liability Insurance which provides cover for Candidates supplied by us
  - (b) notify us as soon as possible in writing if you are not satisfied with a Candidate, giving details of your reasons for that dissatisfaction, and in this event you must allow us at least 2 working days to find and supply a suitable replacement
  - (c) ensure that the Candidate is aware of regulations applicable to external contractors
  - (d) be solely responsible for providing reasonable directions and instructions to the Candidate as to the work to be undertaken and for supervising and monitoring performance and compliance with such instructions by the Candidate, but without conflicting with clause 6(f), and you shall provide such instructions and suitable facilities to the Candidate as are necessary to enable the services of the Candidate to be provided
  - (e) allow us to suspend the services of the Candidate if
    - (i) the Candidate or a person supplied by the Candidate wishes to take annual leave and you have agreed a period of leave in advance, or
    - (ii) the Candidate or a person supplied by a Candidate is absent due to sickness, provided that we shall require that the Candidate notify you as soon as practicable of any required absence for sickness
  - (f) not integrate the Candidate into your workforce or treat the Candidate as an employee or do any act or thing towards the Candidate which may be regarded as the act of an employer towards an employee, for any purpose, but not so that this shall prejudice your obligations in relation to health and safety, the AWR, or other specific obligations under this agreement
  - (g) not discuss with the Candidate the terms of the Candidate's engagement with us, other than strictly as required for the proper objectives of the work required under the Assignment or as required by law, and you agree that the Candidate is not an employee of yours and that neither the Candidate nor you has any obligation to the other to perform or provide work for any specific period.

### **Timesheets and records**

7. In relation to records of time you agree to
- (a) keep records of the time spent, and/or work provided as the case may be, by the Candidate until all matters under the Assignment are concluded and you agree to cooperate with us in relation to any query
  - (b) at the end of each week verify a correct record of hours worked by the Candidate and you shall sign time records provided by the Candidate or us or, in the case of project work chargeable upon deliverables, verify the objectives achieved at the relevant time on records provided by the Candidate or us, your signature on such timesheets or records being conclusive evidence of the acceptance of works undertaken by the Candidate for the relevant period; for the avoidance of doubt your failure to verify or sign a record in accordance with this provision shall amount to a breach of contract and you shall not be entitled to refuse payment to us on the sole basis of such failure or alleged dissatisfaction with the quality of work – if there is any dispute about time spent you shall produce to us your own record of time spent and pay for that time pending resolution of the dispute.

### **Termination**

8. The following shall apply in relation to termination:
- (a) we may terminate an Assignment immediately without liability and without prejudice to any right for relief if you are in breach of any provision of the terms herein, or if, in good faith, we form the opinion for any reason, which need not be reasonable, that
    - (i) you may not meet your obligations to us or a Candidate, or
    - (ii) our Candidate may no longer be willing, able or suitable to undertake work for you
  - (b) either you or we may terminate an Assignment by giving notice to the other
    - (i) of the notice period where a notice period is agreed for termination of an Assignment, or
    - (ii) if the other shall commit an Insolvency Event, namely that it becomes insolvent within the meaning of the Insolvency Act 1986 or has a receiver appointed or an order or resolution made to wind it up or enters into any arrangement or composition with its creditors or passes a resolution to cease trading or actually ceases trading or being an unincorporated body is dissolved or declared bankrupt
    - (iii) if we do not provide a suitable replacement in accordance with clause 6(b)

- (c) if an Assignment is terminated
- (i) by notice under clause 8(b)(i) you shall make payment to us of the Fee for the period of such notice whether or not you utilise the services of the Candidate for the period of the notice, or
- (ii) by us on the basis set out in clauses 8(a) or 8(b)(ii) or (iii) you agree we are not at fault and you accept that we have taken a prudent commercial step to avoid actual or potential loss.

### **Agency Workers Regulations**

9. The AWR and related regulations impose obligations on both hirers and employment businesses to provide R.5 Rights and R.5 Terms and Day 1 Rights as well as other obligations; accordingly to enable both you and us to comply you agree the following:
- (a) the AWR under R.5 require us to provide to each Candidate after 12 weeks on assignment the R.5 Terms; unless we advise you that a Candidate is not an Agency Worker, to enable us to ensure that the Candidate is provided with these rights, you must provide us with the Previous Work Information prior to the commencement of an Assignment and as soon as we advise you of the identity of the Candidate
  - (i) the Comparator Terms Information prior to the commencement of an Assignment if the Candidate already has R.5 Rights, or in any other case as soon as possible, but where you ask us to supply multiple Candidates to do the same job role you need only provide us with the Comparator Terms Information once, subject to clause 9(b)
  - (ii) answers to any additional questions that we may raise following the provision of the Previous Work Information and/or Comparator Terms Information as soon as possible after the provision of the relevant information
  - (b) you shall at all times keep us updated in relation to the information provided in accordance with clause 9(a) and if the Comparator Terms Information changes because there is a change to the terms that apply in your organisation to new recruits doing the same job you must inform us immediately with details of the change
  - (c) you acknowledge that we shall be entitled to increase our charge to you to reflect any increased value which should accrue to the Candidate as a result of the change in comparator terms
  - (d) liability under the AWR may attach to both you and us in the event that R.5 Rights are not correctly provided where applicable; accordingly you recognise that we may rely upon the information you provide and we cannot accept liability in the event of your provision of incorrect Information upon which we have relied and which results in a claim by the Candidate
  - (e) as the Candidate has entitlement to Day 1 Rights which the hirer must provide unless a Candidate is not an Agency Worker, in relation to shared facilities, you agree not to treat the Candidate any less favourably than a comparable worker save on the grounds set out in R.12 AWR
  - (i) job opportunities, you shall provide the opportunities as set out in R.13 AWR and you acknowledge and agree that it is your sole responsibility to provide the Day 1 Rights, you agree to do so and that we have no liability for your failure to do so
  - (ii) you agree to refrain from subjecting the Candidate to any detriment on any of the grounds set out in R.17 of the AWR
  - (g) in respect of a Candidate who is pregnant, has recently given birth or is breastfeeding, where, for health and safety reasons, there may be a risk to the Candidate, you agree before ending an Assignment
    - (i) to take all reasonably practicable steps to make any reasonable adjustments or modifications to remove or reduce the risk to acceptable levels and
    - (ii) consider whether there are any other suitable roles within your organisation for which the Candidate can be supplied by us and advise us accordingly, and
    - (iii) not to discriminate against the Candidate.

### **Your status**

10. Wherever we supply a Candidate to you who as an individual is either carrying on a profession or a business undertaking, you agree the following:
- (a) without affecting the arrangements for supply and payment through us, your status in relation to that individual is as a client or customer of that profession or business undertaking so carried on, and the individual is not an Agency Worker by virtue of R.3(2)(b) of the AWR; accordingly in these circumstances we agree to inform you of the profession or business undertaking so carried on, and where we do so, subject to clause 10(b), clauses 9(a) to (g) inclusive shall not apply
  - (b) where we inform you that the individual is carrying on a profession or business undertaking, it will be our reasonable belief from information provided to us by the individual Candidate that this is the case; accordingly should you become aware of any circumstances leading to the conclusion that the Candidate is not in fact carrying on a profession or business undertaking, you must inform us immediately and provide us with the information required under clauses 9(a) and (b)
  - (c) pursuant to the Contracts (Rights of Third Parties) Act 1999 the Candidate has the benefit of clauses 4(e), 6(a), 6(c), and 6(d) of the main agreement and it is the intention that you should be able to directly enforce against the Candidate the obligations of the Candidate towards you that are contained in the agreement between ourselves and the Candidate.

**IMPORTANT NOTE – IF YOU REQUIRE ANY INFORMATION ON THE RS.12, 13 OR 17 OF THE AWR PLEASE ASK US TO PROVIDE IT**

## **Confidentiality**

11. The following shall apply in relation to confidentiality:
- (a) you shall keep any information comprising an Introduction confidential and not use it for any purpose other than that disclosed by you to us at the time the information was requested; in particular you shall not directly or indirectly induce nor seek to induce a Candidate that is engaged by contract to us to terminate such contract for any reason and it is agreed that should you be in breach of this provision you shall be liable to us for liquidated damages for each breach in the sum of £20,000 being estimated damages that you agree are reasonable for our loss
  - (b) subject to clause (c) neither you nor we shall divulge to any other party, or use for your or our own benefit, any information capable of being confidential relating to the affairs of your or our business or business methods, or confidential information, received from each other, except that which is in the public domain or is trivial or obvious or authorised to be released or required by Court Order to be disclosed
  - (c) you acknowledge that the Information you have provided to us may be disclosed to third parties involved in the supply of Candidates to you with whom we may deal, including, but not limited to, Candidates.

## **Liability**

12. The following shall apply in relation to liability:
- (a) neither we nor our staff shall be liable to you for any loss, damage, delay or compensation of any kind whether in contract or tort, or for breach of the Regulations or AWR by any person other than us, arising out of these terms or an Assignment, save to the extent that exclusion of liability is prohibited by law
  - (b) without prejudice to clauses 3(d) and 12(a), our liability shall in any event, other than where liability cannot be limited by law, be in respect of direct losses, not exceed a sum equivalent to the Fee payable for 1 month under the relevant Assignment, and you agree that the liability terms and limits set out in clauses 3(d) and 12(a) and this clause are reasonable.

## **Transfer fees and optional extension**

13. The following shall apply in relation to the transfer of a Candidate:
- (a) if you Engage a Candidate other than through supply by us, or you introduce (by providing information or otherwise) a Candidate to a third party which enters into an Engagement of the Candidate, in either case whether the Engagement is direct or through the medium of a third party, during the Fee Period, Period of Supply, or thereafter within the Transfer Period, you shall upon the Engagement pay us a Transfer Fee
  - (b) in a case where we have already supplied the Candidate, where we have not received a valid and effective Opt Out Notice for the relevant Candidate, no Transfer Fee referred to in clause 13(a) shall be due if, before the Engagement, you have served us with a written notice (a "Transfer Notice") that you agree to take a supply of the Candidate through us for a further period of 12 months upon the terms set out in clause 14 (the "Option Terms") and you actually take a supply of the Candidate from us upon the Option Terms for the agreed period without any break other than similar to those allowed for under the previous Assignment unless we are at fault in failing to supply the Candidate.

## **Option terms**

14. The Option Terms are
- (a) you first provide us with any relevant information to enable us to comply with the Regulations
  - (b) save in respect of the period and the amount of the Fee, the terms are the same as the terms relating to the last preceding Assignment of the Candidate or are such other terms as we agree with you in advance
  - (c) the Fee shall be the same as that under the last preceding Assignment of the Candidate unless the Candidate requires us to increase our payment to the Candidate in which event the Fee shall be increased by such sum as reflects the increase required by the Candidate as we shall notify to you; for the avoidance of doubt our Charge shall not increase.
15. You further agree in relation to a further supply under clause 13(b)
- (a) if you have agreed other terms as referred to in clause 14(b) that are any different from those relating to the last preceding Assignment, or the Fee is increased in accordance with clause 14(c), your agreement to such terms is your unequivocal acceptance that the different terms do not represent terms that are less favourable to you than under the last preceding Assignment of the Candidate
  - (b) if we lawfully terminate the further supply on the basis set out in clauses 8(a) or 8(b)(ii) or (iii) we are not, and we shall not be deemed to be, at fault in causing termination
  - (c) notwithstanding your agreement in clause 15(a) if you should maintain at a later date than the start of the further supply that the terms represent terms that are less favourable to you than under the last preceding Assignment of the Candidate, the Assignment, which would otherwise have been regarded as an Optional Extension, shall be regarded as a period of new supply and shall be a new Assignment.
16. If, during the Fee Period but before any supply through us, you intend to Engage a Candidate we have Introduced
- (a) you may, where there is no valid Opt Out Notice, elect by giving us notice prior to the Engagement to take a supply of the Candidate through us on the terms herein for 12 months at the rate we pay the Candidate plus our Charge of 25% of that rate
  - (b) except where you have given us a notice of election pursuant to clause 16(a), you shall pay the Transfer Fee on the date of the Engagement.

17. For the avoidance of doubt
- (a) we shall not be at fault in failing to supply the Candidate under an Optional Extension if the Candidate does not provide services because the Candidate is not ready, willing or able to do so, or if the services are not provided due to a material breach of these terms by you of which we have informed you
- (b) you shall not be entitled to any discount against the Transfer Fee if the supply is ended before the period of Optional Extension has expired.

## **Additional provisions and general terms**

18. It is also agreed that
- (a) these terms apply to any request you make of us for a Candidate to be supplied by us on a temporary basis and are separate and distinct from any terms that may apply to any other business
  - (b) where a person we Introduce is provided by or through a company and we have informed you of the existence of the company, we will normally have received an Opt Out Notice; accordingly you acknowledge that we have received an Opt Out Notice unless we inform you otherwise
  - (c) all fees are subject to value added tax which shall be charged in addition, and for the purpose of calculating our Fee, Remuneration in foreign currency will be calculated at the Bank of England Sterling exchange rate applicable on the date of our invoice and no rebates are due unless otherwise stated herein
  - (d) whilst at all times we shall act in good faith we give no guarantee or warranty that we will be able to locate any suitable Candidate, or that any Candidate provided under an Assignment is suitable for your purposes or that any Candidate shall be supplied for any specific period of time
  - (e) for the avoidance of doubt, during period (a) of the Fee Period there is no implied term that an Introduction be the effective cause of an Engagement and our entitlement to a Fee and the clauses related thereto, survive any termination of our services
  - (f) where times are referred to herein such times are of the essence
  - (g) other than for third party rights specifically conferred in or under this agreement or in Special Terms, the Contracts (Rights of Third Parties) Act 1999 is excluded
  - (h) each portion of this agreement, defined by punctuation and/or sections or numbering, is separate, distinct and severable and to give meaning to the intention of you and us the Court may modify any portion that may otherwise be void; subject thereto, any void portion may be severed and the remaining provisions shall continue in force
  - (i) any notice under this agreement shall be in writing and sent to the addressee at the last known address, fax number or electronic mail address either, respectively, by first class post, or by fax or by electronic mail, and shall be deemed to have been received, in the case of post on the postal date following the date of posting, in the case of fax on the date of transmission, and in the case of electronic mail on the date electronic confirmation of receipt is received by the sender
  - (j) save for any Special Terms the terms set out in the Terms of Business are the sole and entire agreement between you and us relating to the business described, supersede any previous terms issued by us, and override any terms proposed by you and you acknowledge that you have not relied on any representations made by us that are not set out in these terms; these terms may not be varied except either by us in providing you with a general amendment notice, which shall be deemed to apply unless you notify us in writing that you do not accept the amendments within 7 days of receipt of the notice, or by agreement (whether orally or otherwise) and confirmed in writing signed by a director of ours; any terms provided by you to us and included within any request for services shall not apply unless we expressly agree the same in writing signed by a director of ours and no other action by us shall imply acceptance by us of any such terms; no notice of termination by either party shall have any effect other than to end the provision of our services
  - (k) for the avoidance of doubt the creation of an Assignment is not a variation to these terms of business
  - (l) neither party ("the first party") shall, for the duration of this agreement or for a period of 12 months following the termination of an Assignment, directly or indirectly solicit or entice into their employment any person employed by the other party ("the second party") with whom the first party has had any dealings arising from this agreement, without the second party's prior written consent
  - (m) you shall at all times comply with all applicable laws and regulations whether in relation to us or the Candidate
  - (n) you shall indemnify us and keep us fully indemnified against any claims or demands including costs of dealing with the same (i) brought or made by a Candidate, or another business (of any kind) with which we have been dealing in relation to a Requirement, arising from incorrect or incomplete information provided by you to us (ii) brought or made by you in relation to a matter under clause 12(a) or (iii) arising out of any breach of clause 18(m)
  - (o) you are not entitled to assign this agreement to any party without our express authority to do so, but we may assign the agreement upon giving notice to you
  - (p) the laws of England and Wales govern this agreement and the English Courts shall have sole jurisdiction.

## **SECTION 2 - DEFINITIONS AND MEANINGS**

### **General definitions**

**Additional Service** - any additional specific service we provide to you, following a request from you (which may be ancillary to or as part of our service as an Employment Business, or which may relate to other business)

**Agency Worker** - an agency worker as defined by R.3 of the AWR

**Assignment** - an Engagement negotiated and agreed through us

**Associate** - a person with whom we conduct business being (a) a subsidiary company (as defined by s.1159 Companies Act 2006) or associated bodies corporate (as defined by s.256 Companies Act 2006) of yours, or (b) a business (whether corporate or unincorporated)

- (i) which is a member of, director of, or partner in, your company or business, or
- (ii) of which you are a member, or director or partner, or
- (iii) for which either you, or a representative of yours is authorised by you (whether expressly or impliedly) to, undertake work (other than solely in a professional capacity)

**AWR** - Agency Workers Regulations 2010 (as amended)

**Candidate** - any person, whether employed or self-employed, and/or a limited company through which a person is offering services, or a supplier company, in respect of whom or which, or in respect of whose skills or services, information is provided to you by us

**Day 1 Rights** – rights under the AWR which a hirer must apply to an Agency Worker from the first day of an Assignment, under R.12 (rights to shared facilities) and under R.13 (rights to be informed of relevant job opportunities in the same way as directly recruited comparable workers)

**End User** - any third party to whom you provide information concerning a Candidate following an Introduction and for whose benefit the Candidate provides any services, and any associate (as defined by s.435 Insolvency Act 1986) of that third party

**Engagement** - any engagement or employment of any description (including as defined by s.13(1) (a) of the Employment Agencies Act 1973) under an Assignment or otherwise, whether direct or indirect, under which a Candidate is due to provide any services for the benefit of you or to an End User including, but not limited in meaning to, an engagement or employment which is temporary or permanent in nature or through the intermediary of a limited company or by contract through a third party, and “Engage” and “Engaged” shall have corresponding meaning

**Expenses** - any agreed expenses to be paid by you

**Information** - the information we need from you namely

- (a) **Requirement Information** - sufficient information to enable us to seek a Candidate including the role or position to be filled and date for commencement; nature of the work and/or position required; working conditions and location; proposed salary and/or other payment terms; any issues relating to health and safety and steps taken by you to prevent or control risk or information which may affect a decision to accept work; experience and qualifications required for the Candidate; details of any requirements of law or professional bodies and confirmation that you have all necessary licences and consents
- (b) **Previous Work Information** – your information as to whether the Candidate we supply or propose to supply to you has previously worked for you with the details required using the template form a copy of which is set out in Appendix A
- (c) **Comparator Terms Information** - information to enable us to determine the pay and basic working and employment conditions as set out in R.6 of the AWR that are ordinarily in force within your business and which would have been applicable had the Candidate been engaged directly by you on the first day of their assignment to do the same job, using the template form a copy of which is set out in Appendix B

**Introduction** - the provision of information by us, whether or not such information includes the Candidate’s name, or by a Candidate that enables you to identify a Candidate or relating to a Candidate, already identified, including all negotiations between you and us relating to a Candidate, and “Introduce” and “Introducing” shall have corresponding meaning

**Optional Extension** - an Assignment that comes into being on the applicable terms either (a) set out in clause 14 following the service of a Transfer Notice under clause 13(b), or (b) set out in clause 16(a), and for the purposes of these terms any reference to the Period of Supply includes the period of an Optional Extension

**Opt Out Notice** - a notice of agreement between a person and a company through which that person is supplied that Regulation 32(1-8) of the Regulations does not apply

**Period of Supply** - the period during which we actually supply a Candidate to you under an Assignment whether or not the relevant Assignment confirmation provides for a longer or shorter term

**Regulations** - the Conduct of Employment Agencies and Employment Businesses Regulations 2003

**Remuneration** - the total proposed or projected sum (whichever is higher) payable by you or an End User for the benefit of the services of a Candidate under an Engagement calculated in accordance with clause 5(c) together with the value attributable by HM Revenue and Customs, or for the avoidance of doubt, would be attributed by HM Revenue and Customs were the benefit subject to tax in the UK, of all taxable benefits provided under the Engagement such value in respect of any motor vehicle being not less than £5,000

**Requirement** - a request from you in any form for an Introduction or other service

**R.5 Rights** - rights to the R.5 Terms

**R.5 Terms** - the terms and conditions to which an Agency Worker is entitled under R.5 AWR, namely the same terms and conditions (subject to the limitations in the AWR) ordinarily in force in your business that would have been applicable had the Candidate been engaged directly by you to do the same job at the time the Candidate’s AWR qualifying period commenced

**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

**Special Terms** - specific terms relevant to a stated Requirement, agreed with you and set out in a Requirement confirmation or an Assignment confirmation and which vary terms applicable only to that Requirement

**Terms of Business** - the terms herein, which comprise our agreement with you

**Transfer Period** - within the later of (i) 14 weeks from the first day of supply by us of the Candidate to you (disregarding any supply that ended more than 42 days prior to any new supply) or (ii) 8 weeks after the last day of supply or (iii) where we have received a valid and effective Opt Out Notice in relation to that Candidate, 6 months after the last day of supply

**Waiver Sum** - the sum payable by you to us under an Assignment for the supply of a Candidate less the sum we pay to or in respect of the Candidate

### **Fees definitions**

**Additional Fee** - a fee agreed between you and us for an Additional Service provided by us, and any Expenses

**Fee** - (i) the amount specified by us as our fee in respect of the Assignment, calculation being based upon the total of the cost to us of supplying the Candidate (including statutory payments we make to or relating to the Candidate) plus our charge (“Charge”) from time to time, (ii) any Additional Fee, (iii) a Transfer Fee

**Fee Period** - any time (a) during 9 months after an Introduction relating to the Candidate concerned or (b) after an Introduction where the Introduction was the effective cause of the Engagement

**Payment Terms** - under an Assignment or for any other Additional Service you shall pay the Fee within 14 days of the date of our invoice and that in all other cases you shall pay the Fee within 14 days of commencement of the Engagement, the sum due in respect of the Fee being a debt due to us, whether or not we have submitted an invoice; if payment is late you shall pay interest on any overdue sum calculated at the rate of 8% per month and will be liable for all costs associated with recovery of the unpaid debt.

**Transfer Fee** - the fee for Introducing the Candidate being 25% of Remuneration applicable in the circumstances set out in clauses 13 and 16.