

Terms of business with a hirer for the supply of agency workers

1. Definitions and interpretation

1.1. In these Terms the following definitions apply:

“Agency Worker”	means the person who is Introduced by the Employment Business to provide services to the Hirer;
“Assignment”	the 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,
“Charges”	means the hourly charge of the Employment Business calculated in accordance with clause 6.1 as may be varied from time to time in accordance with these Terms;
“Conduct Regulations”	means the Conduct of Employment Agencies and Employment Business Regulations 2003;
“Confidential Information”	means confidential commercial, financial, marketing, technical or other information or data of whatever nature relating to the parties or their business or affairs (including their, data, records, reports, agreements, software, programs, specifications, know-how, trade secrets whether or not concerning the Assignment) whether created in writing, orally or by any other means, including information together with any reproductions of such information in any form or medium or any part(s) of such information;
“Data Protection Laws”	means (1) unless and until the General Data Protection Regulation ((EU) 2016/679) (“GDPR”) is no longer directly applicable in the UK, the GDPR and any national implementing laws regulations and secondary legislation as amended or updated from time to time in the UK; (2) any successor legislation to the GDPR or the Data Protection Act 2018.

“Employment Business”

means Harris Hill Limited (registered company no. 04112164) of 1 -2 Paris Garden, London, SE1 8ND acting as an Employment Business under the Conduct Regulations.

“Engagement”

means the engagement, employment or use of the Agency Worker or Intermediary by the Hirer (or any third party to whom the Hirer has sent details of the Agency Worker or Intermediary) either directly or indirectly, on a permanent or temporary basis, whether under a contract of service or for services, or under an agency, license, franchise or partnership arrangement, and “Engage”, “Engages” and “Engaged” shall be construed accordingly.

“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 Introduced;

“Intermediary”

means the person, firm or corporate body Introduced to the Hirer by the Employment Business whose officer, employee, worker or representative will carry out the Assignment as an Agency Worker.

“Introduction”

means (1) the passing to the Hirer a curriculum vitae or information which identifies the Agency Worker or Intermediary; or (2) the Hirer’s interview of the Intermediary or Agency Worker, following the Hirer’s instruction to the Employment Business to supply a temporary worker; and “Introduced” and “Introducing” shall be construed accordingly

“Losses”

means all losses, liabilities, damages, costs, expenses whether direct, indirect, special or consequential (including, without limitation, any economic loss or other loss of profits, business or goodwill, management time and reasonable legal fees) and charges, including such items arising out of or resulting from actions, proceedings, claims and demands;

“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;

“Relevant Period”	means (1) the period of eight 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 (2) the period of 14 weeks commencing on the first day on which the Agency Worker worked for the Hirer having been supplied by the Employment Business or 14 weeks from the first day of the most recent Assignment where there has been a break of more than six weeks (42 days) since any previous assignment;
“Remuneration”	means the gross taxable annual remuneration payable to the Intermediary or Agency Worker by the Hirer or the third party to whom the Hirer has introduced the Intermediary or Agency Worker.
“Terms”	means these terms of business (including the attached schedules) together with any relevant Assignment Details Form;
“Transfer Fee”	means the fee payable in accordance with clause 8 of these Terms and Regulation 10 of the Conduct Regulations;
“Vulnerable Person”	means any person who by reason of age, infirmity, illness, disability or any other circumstance is in need of care or attention, and includes any person under the age of eighteen;
“Working Time Regulations”	means the Working Time Regulations 1998.

- 1.2. Unless the context otherwise requires, references to the singular include the plural and references to the masculine include the feminine and vice versa.
- 1.3. The headings contained in these Terms are for convenience only and do not affect their interpretation.
- 1.4. Any reference, express or implied, to an enactment includes a reference to that enactment as from time to time amended, modified, extended, re-enacted, replaced or applied by or under any other enactment (whether before or after the date of these Terms) and all subordinate legislation made (before or after these Terms) under it from time to time.

2. The contract

- 2.1. These Terms constitute the contract between the Employment Business and the Hirer for the supply of the Intermediary or Agency Worker's services by the Employment Business to the Hirer and are deemed to be accepted by the Hirer by virtue of its request for, interview with or Engagement of the Intermediary or Agency Worker, or the passing of any information by the Hirer about an Intermediary or Agency Worker to any third party following an Introduction.
- 2.2. These Terms contain the entire agreement between the parties and unless otherwise agreed in writing by the Employment Business, these Terms prevail over any terms of business or purchase conditions (or similar) put forward by the Hirer.
- 2.3. Subject to clause 6.2, no variation or alteration to these Terms shall be valid unless the details of such variation are agreed between of the Employment Business and the Hirer and are set out in writing and signed by both parties.

3. Hirer obligations

- 3.1. To enable the Employment Business to comply with its obligations under the Conduct Regulations the Hirer undertakes to provide to the Employment Business details of the position which the Hirer seeks to fill, including the following:
 - 3.1.1. the type of work that the Agency Worker will be required to do;
 - 3.1.2. the location and hours of work;
 - 3.1.3. the experience, training, qualifications and any authorisation which the Hirer considers necessary or which are required by law or any profession body for the Agency Worker to possess in order to work in the position;
 - 3.1.4. any risks to health or safety known to the Hirer and what steps the Hirer has taken to prevent or control such risks;
 - 3.1.5. the date the Hirer requires the Agency Worker to commence the Assignment;
 - 3.1.6. the duration or likely duration of the Assignment.
- 3.2. The Hirer will assist the Employment Business in complying with the Employment Business' duties under the Working Time Regulations by supplying any relevant information about the Assignment requested by the Employment Business and the Hirer will not do anything to cause the Employment Business to be in breach of its obligations under these Regulations. If the Hirer requires the services of an Agency Worker for more than 48 hours in any week during the course of an Assignment, the

Hirer must notify the Employment Business of this requirement before the commencement of the Assignment or at the very latest, where this is not reasonably practicable, before the commencement of the week in which the Hirer requires the Agency Worker to work in excess of 48 hours.

- 3.3. The Hirer undertakes that it knows of no reason why it would be detrimental to the interests of the Agency Worker for the Agency Worker to fill the Assignment.

4. Information to be provided by the Employment Business to the Hirer

- 4.1. When Introducing an Agency Worker to the Hirer the Employment Business shall inform the Hirer:
- 4.1.1. of the identity of the Agency Worker;
 - 4.1.2. that the Agency Worker has the necessary or required experience, training, qualifications and any authorisation required by law or a professional body to work in the Assignment;
 - 4.1.3. that the Agency Worker is willing to work in the Assignment; and
 - 4.1.4. the Charges.

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 one week or less) the Hirer shall sign the Employment Business' timesheet verifying the number of hours worked by the Agency Worker during that week.
- 5.2. Signature of the timesheet by the Hirer is confirmation of the number of hours worked. If the Hirer is unable to sign a timesheet because the Hirer disputes the hours claimed, the Hirer shall inform the Employment Business as soon as is reasonably practicable and shall co- operate fully and in a timely fashion with the Employment Business to enable the Employment Business to establish what hours, if any, were worked by the Agency Worker. Failure to sign the timesheet does not absolve the Hirer of its obligation to pay the Charges in respect of the hours worked.
- 5.3. The Hirer shall not be entitled to decline to sign a timesheet on the basis that it is dissatisfied with the work performed by the Agency Worker. In the event that the Hirer is dissatisfied with the Agency Worker the provisions of clause 10.1 below shall apply.

6. Charges

- 6.1. The Hirer agrees to pay the Charges as notified to and agreed with the Hirer. The Charges are calculated according to the number of hours worked by the Agency Worker (to the nearest quarter hour) and comprise the following:
 - 6.1.1. the Agency Worker's hourly rate of pay;
 - 6.1.2. an amount equal to any paid holiday leave to which the Agency Worker is entitled under the Working Time Regulations and, where applicable, the Agency Workers Regulations and which is accrued during the course of an Assignment;
 - 6.1.3. any other amounts to which the Agency Worker is entitled under the Agency Workers Regulations, where applicable;
 - 6.1.4. employer's National Insurance contributions;
 - 6.1.5. any travel, hotel or other expenses as may have been agreed with the Hirer, or, if there is no such agreement, such expenses as are reasonable; and
 - 6.1.6. the Employment Business' commission, which is calculated as a percentage of the total charge rate.
- 6.2. The Employment Business reserves the right to vary the Charges agreed with the Hirer by given written notice to the Hirer in order to comply with any additional liability imposed by statute or other legal requirement.
- 6.3. The Charges are invoiced to the Hirer on a weekly basis and are payable within 14 days.
- 6.4. In addition to the Charges, the Hirer will pay the Employment Business an amount equal to any bonus that the Hirer awards to the Agency Worker immediately following any such award and the Employment Business will pay any such bonus to the Agency Worker. For the avoidance of doubt, the Hirer will also pay any employer's National Insurance Contributions and the Employment Business' commission on the bonus (calculated using the same percentage rate as that used under clause 6.1.6) in addition to any bonus payable to the Agency Worker.
- 6.5. VAT is payable at the applicable rate on the entirety of the Charges and all sums payable under clause 6.4.
- 6.6. The Employment Business reserves the right to charge interest under the Late Payment of Commercial Debts (Interest) Act 1998 on invoiced amounts unpaid by the due date at the rate of 8% per annum above the base rate from time to time of the Bank of England from the due date until the date of payment.

- 6.7. No refunds are payable in respect of the Charges of the Employment Business.
- 6.8. The Hirer's obligations under this clause 6 shall be performed without any right of the Hirer to invoke set-off, deductions, withholdings or other similar rights.

7. Payment of the Agency Worker

The Employment Business is responsible for paying the Intermediary or Agency Worker and where appropriate, for the deduction and payment of National Insurance Contributions and PAYE Income Tax applicable to the Agency Worker.

8. Transfer fees

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

8.1.1. where the Intermediary or Agency Worker has been supplied on an Assignment by the Employment Business, such Engagement takes place during the Assignment or within the Relevant Period; or

8.1.2. where the Intermediary or Agency Worker has not been supplied or on Assignment, such Engagement takes place within six months from the date of the Introduction to the Hirer.

8.1.3. The Transfer Fee shall be calculated as follows:

Mainstream recruitment	15% of Remuneration
Management recruitment	18% of Remuneration
Senior executive recruitment	20% of Remuneration

If the actual amount of the Remuneration is not known, it will be calculated as the Charges multiplied by 300.

Where the Agency Worker has been on an Assignment with the Hirer more than 12 weeks but less than 26 week from the commencement the Transfer Fee shall be reduced by 50%

Where the Agency Worker has been on an Assignment with the Hirer for more than 26 weeks from the commencement the Transfer Fee shall be nil.

The Period of Extended Hire before the Hirer Engages an Agency Worker shall be: 26 weeks from the commencement of the assignment.

- 8.1.4. The Period of Extended Hire before the Hirer Engages an Agency Worker shall be: 26 weeks from the commencement of the assignment.
- 8.2. If the Hirer wishes to Engage the Intermediary or Agency Worker other than via the Employment Business without liability to pay a Transfer Fee, the Hirer may, on giving one week's written notice to the Employment Business, engage the Intermediary or Agency Worker for the Period of Extended Hire.
- 8.3. During such Period of Extended Hire the Employment Business shall supply the Intermediary or Agency Worker on the same terms on which s/he has or would have been supplied during the Assignment and in any case on terms no less favourable than those terms which applied immediately before the Employment Business received the notice in clause 8.2; and the Hirer shall continue to pay the Charges set out in clause 6. If the Employment Business is unable to supply the Intermediary or Agency Worker for any reason outside its control for the whole or any part of the Period of Extended Hire; or the Hirer does not wish to hire the Intermediary or Agency Worker on the same terms as the Assignment; but the Intermediary or Agency Worker is Engaged by the Hirer, the Hirer shall pay the Transfer Fee, reduced pro-rata to reflect any Charges paid by the Hirer during any part of the Period of Extended Hire worked by the Agency Worker before being Engaged by the Hirer. If the Hirer fails to give notice of its intention to Engage the Agency Worker other than via the Employment Business before such Engagement commences, the parties agree that the Transfer Fee shall be due in full.
- 8.4. Where prior to the commencement of the Hirer's Engagement other than via the Employment Business the Employment Business and the Hirer agree that such Engagement will be on the basis of a fixed term of less than 12 months, the Employment Business may, in its absolute discretion, reduce the Transfer Fee pro-rata. Such reduction is subject to the Hirer Engaging the Intermediary or Agency Worker for the agreed fixed term. Should the Hirer extend the Intermediary or Agency Worker's Engagement or re- Engage the Intermediary or Agency Worker within 12 months from the commencement of the initial Engagement the Employment Business reserves the right to recover the balance of the Transfer Fee.
- 8.5. No refund of the Transfer Fee will be paid in the event that the Engagement of the Intermediary or Agency Worker other than via the Employment Business by the Hirer or by a third party to which the Hirer introduces the Agency Worker terminates or terminates before the end of the fixed term referred to in clause 8.4.

- 8.6. VAT is payable in addition to any Transfer Fee due.

9. Suitability checks and information to be provided in special situations

- 9.1. Where it is made aware by the Hirer that:

9.1.1. the Agency Worker is required by law, or any professional body to have any qualifications or authorisations to work on the Assignment, the Employment Business will take all reasonably practicable steps to obtain and offer to provide to the Hirer copies of any relevant qualifications or authorisations of the Agency Worker; and

9.1.2. the Assignment involves working with, caring for or attending one or more Vulnerable Persons, the Employment Business will take all reasonably practicable steps to obtain and offer to provide copies to the Hirer of two references from persons who are not relatives of the Agency Worker and who have agreed that the references they provide may be disclosed to the Hirer;

and such other reasonably practicable steps as are required to confirm that the Agency Worker is suitable for the Assignment.

- 9.2. The Hirer shall advise the Employment Business at the time of instructing the Employment Business to supply an Intermediary or Agency Worker whether during the course of the Assignment, the Agency Worker will be required to work with, care for or attend one or more Vulnerable Persons or engage in activity or otherwise be working in a position covered by the Safeguarding Vulnerable Groups Act 2006 or the Protecting Vulnerable Groups (Scotland) Act 2007 as applicable.

- 9.3. In particular in the event that the Hirer removes an Agency Worker from an Assignment in circumstances which would require the Employment Business to provide information to the Independent Safeguarding Authority (or the equivalent authority) under the Safeguarding Vulnerable Groups Act 2006 or the Protecting Vulnerable Groups (Scotland) Act 2007, the Hirer will provide sufficient information to the Employment Business to allow it to discharge its statutory obligations.

10. Unsuitability of the Agency Worker

- 1.1. The Hirer undertakes to supervise the Agency Worker sufficiently to ensure the Hirer's satisfaction with the Agency Worker's standards of work. If the Hirer reasonably considers that the services of the Agency Worker are unsatisfactory, the Hirer may terminate the Assignment either by instructing the Agency Worker to leave the Assignment immediately, or by directing the Employment Business to remove the Agency Worker. The Employment Business may, in its absolute discretion, in such

circumstances, reduce or cancel the Charges for the time worked by that Agency Worker, provided that the Hirer has notified the Employment Business immediately that they have asked the Agency Worker to leave the Assignment or the Assignment terminates:

- 10.1.1. within four hours of the Agency Worker commencing the Assignment where the Assignment is for more than seven hours; or
- 10.1.2. within two hours for Assignments of seven hours or less;

and provided that notification of the unsuitability of the Agency Worker is confirmed in writing to the Employment Business within 48 hours of the termination of the Assignment.

11. Termination of the Assignment

Any of the Hirer, the Employment Business, the Intermediary or Agency Worker may terminate an Assignment at any time without prior notice and without liability (except in the case of termination by the Hirer, who shall be liable for any Charges due under clause 6 above).

12. Confidentiality and Data Protection

- 12.1. All information relating to an Agency Worker is confidential and subject to the Data Protection Laws and is provided solely to the Hirer for the purpose of providing work-finding services to the Hirer. Such information must not be used for any other purpose nor divulged to any third party and the Hirer undertakes to abide by the provisions of the Data Protection Laws in receiving and processing the data at all times.
- 12.2. Each party undertakes to the other to keep confidential all Confidential Information that one party discloses to the other and not to use such information except for the purposes of the assignment or in compliance with the Agency Workers Regulations (including, for the avoidance of doubt and without limitation, when dealing with any request for information or complaint made by any Intermediary, Agency Worker or any claim under the Agency Worker Regulations 2010. ("AWR"))

13. Intellectual property rights

All copyright, trademarks, patents and other intellectual property rights deriving from the Assignment shall belong to the Hirer. Accordingly the Employment Business shall use its reasonable endeavours to ensure that the Agency Worker or Intermediary shall execute all such documents and do all such acts in order to give effect to the Hirer's rights pursuant to this clause.

14. Liability

- 14.1. Whilst reasonable efforts are made by the Employment Business to give satisfaction to the Hirer by ensuring reasonable standards of skill, integrity and reliability from the Agency Worker and to provide the same in accordance with these Terms, no liability is accepted by the Employment Business for any Losses arising from any failure to provide any Intermediary or Agency Worker for all or part of the Assignment or from the negligence, dishonesty, misconduct or lack of skill of the Agency Worker or from the termination of the Assignment by any person for any reason. For the avoidance of doubt, the Employment Business does not exclude liability for death or personal injury arising from its own negligence or for any other loss which it is not permitted to exclude under law.
- 14.2. Agency Workers supplied by the Employment Business pursuant to these Terms are engaged by the Employment Business or Intermediary and under contracts for services and are deemed to be under the supervision and direction of the Hirer for the duration of the Assignment. The Hirer agrees to be responsible for all acts, errors or omissions of the Agency Worker, whether wilful, negligent or otherwise as though the Agency Worker was on the payroll of the Hirer.
- 14.3. The Hirer will comply with all statutory provisions that apply to the Agency Worker during the Assignment as are in force from time to time including, but not limited to the Working Time Regulations, AWR, Health and Safety at Work etc. Act 1974, the Management of Health and Safety at Work Regulations 1999, by-laws, codes of practice and legal requirements including in particular the provision of adequate Employer's and Public Liability Insurance cover.
- 14.4. The Hirer undertakes not to request the supply of an Agency Worker to perform the duties normally performed by a worker who is taking part in official industrial action or duties normally performed by a worker who has been transferred by the Hirer to perform the duties of a person on strike or taking official industrial action.
- 14.5. The Hirer shall indemnify and keep indemnified the Employment Business against any Losses incurred by the Employment Business arising out of any Assignment or arising out of any non-compliance with, and/or as a result of any breach of, these Terms by the Hirer.

15. Notices

All notices which are required to be given in accordance with these Terms shall be in writing and may be delivered personally, by first class prepaid post to the office of the party upon whom the notice is to be served or 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 the first working day after that email is sent.

16. Severability

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

17. 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.

Signed for and on behalf of the Client

Print name:

I confirm I am authorised to sign these Terms on behalf of the Client.

Date: _____