

DATED

2023

TERMS AND CONDITIONS FOR THE SUPPLY OF TEMPORARY WORKERS

between

and

MASSTEMPS LTD



Masstemp's Ltd

This agreement is dated 2023

Parties

- (1) (REG COMPANY NAME) incorporated and registered in England and Wales with company number (REG CO NUMBER) whose registered office is at (REG CO ADDRESS) (**Client**).
- (2) Masstemps Ltd incorporated and registered in England and Wales with company number 05843994 whose registered office is at 10 Vauxhall Street, Dudley, West Midlands. DY1 1TA (**Employment Business**)

AGREED TERMS

1. Interpretation

The following definitions and rules of interpretation apply in this agreement.

1.1 Definitions

Assignment: has the meaning given in clause 4 (Client's obligations).

AWR 2010: the Agency Workers Regulations 2010 (*SI 2010/93*) as amended from time to time.

Business Day: a day other than a Saturday, Sunday or public holiday, when banks in London are open for business.

Commencement Date: has the meaning given in clause 8 (Term).

Conduct Regulations 2003: the Conduct of Employment Agencies and Employment Business Regulations 2003 (*SI 2003/3319*) as amended from time to time.

Engage: the employment of a Temporary Worker or engagement directly or indirectly through any employment business other than through the Employment Business (whether for a definite or indefinite period) as a result of any Introduction or Assignment to the Client and the terms **Engaged** or **Engagement** shall be construed accordingly.

Extended Assignment: has the meaning given in clause 5.

Group: in relation to a company, that company, any subsidiary or holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company.

holding company: has the meaning given in clause 1.5.

Indemnity: has the meaning given in clause 14.1 and **Indemnified** and **Indemnifies** shall be construed accordingly.

Introduce: the provision to the Client of information by the Employment Business by way of a curriculum vitae or in such format as the Client may from time to time require which identifies the Worker and **Introduction** and **Introduced** shall be construed accordingly.

Introduction Date: the date the Employment Business Introduces the Temporary Worker to the Client in accordance with clause 3 (Employment Business's obligations).

Introduction Fee: has the meaning given in clause 5.

Order: the Client's order for services, written acceptance of the Employment Business's quotation, request for, interview with or, hire or use in any way of a Temporary Worker.

Other Qualifying Payments: any remuneration payable to the Temporary Worker (other than their basic hourly rate), which is not excluded by virtue of regulation 6 of the AWR 2010, such as any overtime, shift premium, commission or any bonus, incentive or rewards which are directly attributable to the amount or quality of work done by a Temporary Worker and are not linked to a financial participation scheme (as defined by the AWR 2010).

Permanent Contract of Employment: a permanent contract of employment between a Temporary Worker and the Employment Business that complies with the requirements set out in regulation 10 of the AWR 2010, such contract to include providing the Temporary Worker with "the minimum amount" as defined in regulations 10(1)(c) and 11 of the AWR 2010.

Qualifying Period: means the 12-week qualifying period as defined in regulation 7 of the AWR 2010, subject to regulations 8 and 9 of the AWR 2010.

Qualifying Temporary Worker: any Temporary Worker who at the relevant time is entitled to the rights conferred by regulation 5 of the AWR 2010 and in particular has been provided to the Client (whether by the Employment Business or any third party) for the Qualifying Period and in respect of whom the Employment Business has complied with its obligations under clause 3 (Employment Business's obligations).

Relevant Period: has the meaning given in regulation 10(5) and (6) of the Conduct Regulations 2003.

Relevant Terms and Conditions: the relevant terms and conditions for any particular Qualifying Temporary Worker as defined in regulation 6 of the AWR 2010.

Services: the supply of Temporary Workers.

Subsidiary: has the meaning given in clause 1.5.

Temporary Worker: a Worker Introduced and supplied by the Employment Business to the Client to provide services to the Client not as an employee of the Client, who is deemed to be an agency worker for the purposes of regulation 3 of the AWR 2010.

Temporary Worker Fees: has the meaning given in clause 7.1.

Territory: the United Kingdom.

Unsatisfactory Temporary Worker: has the meaning given in clause 6.2.

Valid Opt-Out: means written notification from a company Worker and the individual provided by that company Worker in accordance with regulation 32(9) of the Conduct Regulations 2003, as amended from time to time.

VAT: value added tax chargeable under the Value Added Tax Act 1994.

Vulnerable Person: has the meaning given in regulation 2 of the Conduct Regulations 2003.

Worker: an individual worker, or a worker that is a company or other legal entity, as the case may be including any of the Employment Business's own employees, workers or agency staff.

- 1.2 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns.
- 1.3 The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules.
- 1.4 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 A reference to a **holding company** or a **subsidiary** means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006 and a company shall be treated, for the purposes only of the membership requirement contained in sections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (a) another person (or its nominee) by way of security or in connection with the taking of security, or (b) its nominee. In the case of a limited liability partnership which is a subsidiary of a company or another limited liability partnership, section 1159 of the Companies Act 2006 shall be amended so that: (a) references in sections 1159(1)(a) and (c) to voting rights are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and (b) the reference in section 1159(1)(b) to the right to appoint or remove a majority of its board of directors is to the right to appoint or remove members holding a majority of the voting rights.
- 1.6 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.7 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.8 A reference to **writing** or **written** includes fax and email.
- 1.9 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.10 A reference to **this agreement** or to any other agreement or document referred to in this agreement is a reference to this agreement or such other agreement or document as varied or novated (in each case, other than in breach of the provisions of this agreement) from time to time.
- 1.11 References to clauses are to the clauses of this agreement.
- 1.12 Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. Basis of the contract

- 2.1 The Order constitutes an offer by the Client to purchase Services in accordance with these Conditions.
- 2.2 The Order shall only be deemed to be accepted when the Employment Business issues written acceptance of the Order at which point and on which date the Contract shall come into existence (**Commencement Date**).
- 2.3 These Conditions apply to the Contract to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.4 No variation of this agreement shall be valid unless agreed in writing by a director of the Employment Business.

3. Employment Business's obligations

- 3.1 These terms set out the agreement between the Employment Business and the Client for the supply of Temporary Workers by the Employment Business to the Client. For the purposes of the Conduct Regulations 2003, the Employment Business acts as an employment business in relation to the Introduction and supply of Temporary Workers pursuant to this agreement.
- 3.2 The Employment Business agrees to search, in the Territory and within such timeframe as the Client may request, for Workers for the Client as Temporary Workers.
- 3.3 Prior to the commencement of the Assignment, the Employment Business shall send the Client written confirmation of:
 - (a) the identity of the Temporary Worker;
 - (b) the Temporary Worker's experience, training, qualifications and authorisations necessary for the Assignment;
 - (c) the Temporary Worker's willingness to carry out the Assignment;
 - (d) the hourly rate charged by the Employment Business in accordance with clause 7.1;
 - (e) any notice period to terminate the Assignment; and
 - (f) the intervals at which invoices shall be rendered to the Client by the Employment Business.
- 3.4 The Employment Business shall, where relevant, inform the Client whether it holds a Valid Opt-Out for each Temporary Worker whom it Introduces to the Client.
- 3.5 The Employment Business shall not be responsible for any warranty or representation howsoever made by a Worker or Temporary Worker or any other servant or agent and does not accept liability for any loss, expense, damage, cost or delay arising from any failure to provide any Temporary Worker for all or part of

the period of the Engagement or from the negligence, dishonesty, misconduct, illness or lack of skill of the Temporary Worker.

4. Client's obligations

When making a request for the provision of a Temporary Worker to perform certain services (Assignment), the Client will give the Employment Business details of:

- (a) the date on which the Client requires the Temporary Worker to commence work and the duration, or likely duration, of the work;
- (b) the position which the Client seeks to fill, including the type of work the Temporary Worker in that position would be required to do, the location at which, and the hours during which, the Temporary Worker would be required to work, and any risk to health or safety known to the Client and what steps the Client has taken to prevent or control such risks;
- (c) the experience, training, qualifications and any authorisation which the Client considers are necessary, or which are required by law, or by any professional body, for the Temporary Worker to possess in order to work in the position; any expenses payable by or to the Worker; and
- (d) any information reasonably required by the Employment Business in order for the Employment Business to fulfil its obligations under the AWR 2010.

4.2 The Client warrants that they will provide the Temporary Worker with access to the collective facilities and amenities referred to in the Agency Workers Regulations 2010 and any subsidiary or subordinate legislation ("the AWR2010") and will inform the Temporary Worker of any employment vacancies that arise.

4.3 The Client undertakes to provide to the Temporary Worker at its own cost any training and equipment required for the proper performance of the Engagement and to supervise the Temporary Worker to ensure reasonable standards of workmanship of the Temporary Worker. If the services of a Temporary Worker prove to be unsatisfactory the Employment Business may, at its sole discretion, either reduce, or, cancel the charge for the hours worked by the Temporary Worker provided that the Temporary Worker ceases the Engagement and that notification is given from the Client to Employment Business of the lack of satisfaction within 4 hours of the commencement of the hours worked and confirmed in writing in 24 hours and sent by recorded delivery to the Employment Business.

4.4 The Temporary Worker is under the direction and control of the Client for the duration of the Engagement and at all times throughout the Client shall be responsible for ensuring that:

- (a) the Temporary Worker is eligible to work in the United Kingdom and that he holds any work or other permits required by the Worker;
- (b) the Client holds any necessary Public Liability Insurance, licences, permits and consents etc for any work the Temporary Worker is required to undertake in relation to any places required to work; and

- (c) all health and safety and other legislation relating to the Engagement is observed and that the Employment Business is made aware on booking of any potential health and safety risk for potential Temporary Workers and the steps to be taken by the Client to prevent or control such risks.

4.5 Notwithstanding the above, the Employment Business shall maintain documentation required at Clause 4.4(a) above for the period immediately prior to the Temporary Worker's Engagement. These will be made available to the Client upon request and the Client undertakes to notify Employment Business immediately upon receipt of any knowledge that the Temporary Worker's eligibility and entitlement referenced at Clause 4.4(a) above has changed.

5. Temporary to permanent

5.1 Subject to clause 5.6 below, if the Client chooses not to extend the period of hire pursuant to the terms of this clause 5 and wishes to employ the Temporary Worker (whether under a contract of service or for services by the Temporary Worker) or wishes to introduce the Worker to any other person who, as a result of that introduction, employs the Temporary Worker (whether under a contract of service or for services by the Temporary Worker), the Client may do so but shall first pay the introduction fee set out below ("the Introduction Fee") and all other fees payable to the Employment Business in relation to that Temporary Worker:-

SCALE OF FEES

£0 - £17,999	15% of total annual commencing salary
£18,000 - £24,999	20% of total annual commencing salary
£25,000 +	25% of total annual commencing salary

5.2 Subject to clause 5.6 below, where the Client wishes to take a Temporary Worker into employment or engagement on a commission orientated or self-employment basis by the Client, the fee payable shall be equal to amount the Temporary Worker would reasonably be expected to earn or £10,000.00, whichever is the greater, and the fee shall be paid by the Client before the employment or engagement commences.

5.3 Where a Worker is proposed to be taken into employment the Client or other person shall be obliged to divulge the Employee's salary within 7 days of terms being offered to the Worker, or of being requested to do so whichever is sooner, and where the Client or other person to whom he has been introduced does not divulge the Employee's salary within the 7 day period the Employment Business shall charge the Client a fee of £10,000.00 such fee shall be payable within 7 days.

5.4 No guarantee period will be given and all fees are subjected to VAT.

5.5 Salary shall be deemed to include any weighting or similar taxable emoluments.

5.6 If the Introduction Fee or other fees payable under this clause 5 or generally have not been paid by the Client prior to the proposed employment or engagement, the hire of the Temporary Worker shall deem to continue in accordance with the terms of this agreement until the Introduction Fee or other fees are paid in full and in accordance with agreed payment terms, irrespective of whether the proposed employment or engagement subsequently occurs.

5.7 Where:

- (a) a Temporary Worker has been placed with the Client under an Engagement, and
- (b) their Engagement comes to an end prior to the completion of the applicable "temporary to permanent" time period, and
- (c) where there is no Extended Assignment, and
- (d) the Client engages the Temporary Worker (whether by contract of employment or for the provision of services) other than using Employment Business,

then the Client shall pay to the Employment Business a fee equivalent to those set out in clauses 5.1, 5.2 or 5.3 (as may be applicable) less the profit made by the Employment Business for the supply of the Temporary Worker to the Client for the weeks or days completed previously at the Client (such deduction to be determined absolutely by the Employment Business acting reasonably).

5.8 The Introduction Fee will not be payable if the Client gives written notice to the Employment Business that it intends to continue the hire of the Temporary Worker for a further period of three months (Extended Assignment) before it Engages the Temporary Worker other than through the Employment Business.

5.9 Where the Client decides (in accordance with clause 5) to have the Temporary Worker supplied by the Employment Business for the Extended Assignment:

- (a) the Temporary Worker Fees payable by the Client during the Extended Assignment shall be those applicable immediately before the Employment Business received the Client's notice of election;
- (b) at the end of the Extended Assignment, the Client may Engage the Temporary Worker without paying the Introduction Fee; and
- (c) if the Client chooses an Extended Assignment, but engages the Temporary Worker before the end of the Extended Assignment, the Introduction Fee may be charged by the Employment Business, reduced proportionately to reflect the amount of the Extended Assignment paid for by the Client.

5.10 Where the Client introduces the Temporary Worker to any other person the Client immediately shall so inform Employment Business in writing; failure to do so will entitle the Employment Business to charge the Client the introduction fee in accordance with the terms of this agreement.

6. Unsatisfactory Temporary Workers

- 6.1 The Client shall notify the Employment Business immediately if it believes that any Temporary Worker is unsuitable for the Assignment or if it becomes aware of any matter that indicates that an Temporary Worker may be unsuitable for the Assignment.
- 6.2 If the Client decides that a Temporary Worker is unsuitable to perform the Assignment (an Unsatisfactory Temporary Worker), then the Client shall notify the Employment Business in writing of that fact giving the grounds for its dissatisfaction with the Unsatisfactory Temporary Worker.
- 6.3 If the Client notified the Employment Business of an Unsatisfactory Temporary Worker in accordance with clause 6.2:
- (a) within 4 hours of the commencement of the Assignment and in writing within 24 hours sent by recorded delivery, then the Assignment will immediately terminate, the Worker shall cease the Engagement and Masstemps may at its own discretion reduce or cancel the Temporary Worker Fees; and
 - (b) more than 24 hours after commencement of the Assignment, then the Assignment shall terminate at the end of the day on which the Client notified the Employment Business of the Unsatisfactory Temporary Worker, and Temporary Worker Fees shall be payable up to and including the date of such termination.
- 6.4 The Employment Business or the Client may terminate an Assignment at any time on 7 day's notice.

7. Fees and VAT

- 7.1 The Client will pay the Employment Business Temporary Worker Fees in respect of Temporary Workers as agreed by the parties in writing (Temporary Worker Fees). The Temporary Worker Fees comprise the Temporary Worker's hourly rate, holiday pay, commission, National Insurance Contributions and any other amounts to which the Temporary Worker is entitled under the Agency Workers Regulations. The following conditions apply to the Temporary Worker Fees:
- (a) they are calculated according to the number of hours worked by the Temporary Worker (to the nearest quarter hour);
 - (b) the Client shall during the Assignment sign a time sheet verifying the number of hours worked by the Temporary Worker during a particular week. It is the responsibility of the Client to ensure that all timesheets are completed correctly. Approval of the timesheet constitutes acceptance that the Temporary Worker's services have been supplied for the hours recorded and that such services have been satisfactory. In the event of failure to confirm any required timesheets in reasonable time following the week worked without due cause the Temporary Worker's record of hours will be accepted and the Client will be charged on this basis.
 - (c) If the Client is unable to sign a time sheet produced for authentication by the Temporary Worker because the Client disputes the hours claimed, the Client 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 were worked by the Temporary Worker. Failure to sign the time sheet does not absolve the Client of its obligation to pay the Temporary Worker Fees in respect of the hours actually worked. In the event that the Client does not confirm any required timesheets in reasonable time following the week worked without due cause the Temporary Worker's record of hours will be accepted and the Client will be chargeable on the terms set out in this agreement;

- (d) the Client acknowledges that it shall not decline to sign a time sheet on the basis that it is dissatisfied with the work performed by the Temporary Worker. In cases of unsuitable or unsatisfactory work the provisions of clause 6.2 shall apply.
- (e) any hours in excess of 8 hours per week day and on Saturday up to 1.00pm shall be charged at time and a half; hours on Saturday after 1.00pm and all hours on Sunday shall be charged at double time. Notwithstanding anything in clause 7 below, there is a minimum charge of six hours.
- (f) any breach of this clause 7 by the Client shall entitle the Employment Business to terminate without prior notice each and every Engagement then existing between the parties.
- (g) the Employment Business shall submit all invoices together with the applicable signed time sheets verifying the number of hours worked by the Temporary Worker;
- (h) the Employment Business shall invoice the Client weekly in arrears and invoices are payable within 7 days of the date of the invoice.

7.2 If the Temporary Worker has been engaged by the Client for a period exceeding 12 weeks, then the Client undertakes to provide the Temporary Worker with all rights conferred to an employee of the Client with equal status and role to that of the Temporary Worker as required by the AWR2010 except always the right to equal pay.

7.3 The Client will provide the Employment Business with information regarding their proposals to comply with Clause 7.2 above by no later than the expiry of the tenth week of engagement of the Temporary Worker. The Employment Business reserves the right to vary the charges referred to in this clause by written notice, such variation to be effective upon the expiry of the twelfth week of engagement of the Temporary Worker.

7.4 The Client shall inform the Employment Business at the time of booking of any order number or other reference which it might adopt in respect of the Temporary Worker.

7.5 Where applicable, the Employment Business shall charge VAT to the Client, at the prevailing rate, after the Employment Business has provided the Client with a VAT invoice.

7.6 No charges paid will be refundable to the Client in any circumstances.

7.7 If the Client fails to make a payment due to the Employment Business under this agreement by the due date, then the Client shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each day at 4% a year above the

Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.

- 7.8 The Client agrees that the Employment Business has the right to instruct a debt recovery agent or solicitors practice to seek payment of any invoice outstanding for more than 7 days together with any interest chargeable pursuant to clause 7 above and that it will pay direct to the Employment Business's agent any charge made for securing payment of the said invoice.
- 7.9 The Employment Business shall be responsible for payment of wages, deduction and payment of all statutory contributions in respect of Earnings Related Insurance and the administration of Schedule E Income Tax (P.A.Y.E.).

8. Term

This agreement shall commence on the date of this agreement (the Commencement Date) and shall continue, unless terminated earlier in accordance with clause 10 (Default and early termination) until either party gives to the other party 30 Business Days' notice to terminate, expiring on or after the first anniversary of the Commencement Date.

9. Limitation of liability: THE CLIENT'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.

- 9.1 Nothing in the Contract shall limit or exclude the Employment Business liability for:
- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
 - (b) fraud or fraudulent misrepresentation; or
 - (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.
- 9.2 Subject to clause 9.1, the Employment Business shall not be liable to the Client, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract for:
- (a) loss of profits;
 - (b) loss of sales or business;
 - (c) loss of agreements or contracts;
 - (d) loss of anticipated savings;
 - (e) loss of use or corruption of software, data or information;
 - (f) loss of or damage to goodwill; or
 - (g) any indirect or consequential loss.

- 9.3 Subject to clause 9.1, the Employment Business's total liability to the Client, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract shall be limited to the total Charges paid under the Contract.
- 9.4 The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 9.5 This clause 9 shall survive termination of the Contract.

10. Default and early termination

Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of any term of this agreement and (if such a breach is remediable) fails to remedy that breach within 14 days of receipt of notice in writing to do so;
- (b) the other party repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;
- (c) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- (d) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of the other party with one or more other companies or the solvent reconstruction of the other party;
- (e) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the other party with one or more other companies or the solvent reconstruction of the other party;
- (f) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
- (g) the holder of a qualifying floating charge over the assets of the other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (h) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;

- (i) the other party (being an individual) is the subject of a bankruptcy petition, application or order;
- (j) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
- (k) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 10(c) to clause 10(h) (inclusive);
- (l) the other party suspends or threatens to suspend, or ceases or threatens to cease to carry on, all or a substantial part of its business; or
- (m) the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing their own affairs or becomes a patient under any mental health legislation.

11. Consequences of termination

- 11.1 On termination of the Contract the Client shall immediately pay to the Employment Business all of the Employment Business's outstanding unpaid invoices and interest and, in respect of the supply of Temporary Workers to the Client but for which no invoice has been submitted, the Employment Business shall submit an invoice, which shall be payable by the Client immediately on receipt;
- 11.2 Termination or expiry of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 11.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

12. Effect of early termination

- 12.1 Any provision of this agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this agreement shall remain in full force and effect.
- 12.2 Termination or expiry of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

13. Announcements

Neither party shall make, or permit any person to make, any public announcement concerning the existence, subject matter or terms of this agreement, the wider transactions contemplated by it, or the relationship between the parties, without the prior written consent of the other party (such consent not to be

unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

14. Indemnities and insurance

- 14.1 The Client shall indemnify the Employment Business for any non-compliance with the AWR 2010.
- 14.2 The Client shall indemnify the Employment Business and to the extent required from time to time by the Employment Business, its officers, agents and employees, against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) (Indemnify) suffered or incurred by the Employment Business arising out of or in connection with the Client's negligence, misrepresentation or the breach of any obligation under this agreement.
- 14.3 The Client shall fully indemnify and at all times keep indemnified the Employment Business in respect of any claims, actions, proceedings, demands or liabilities incurred by a Temporary Worker in respect of the Engagement or by any party including claims for consequential loss, loss or damage, personal injury or death arising out of any act or omission of the Temporary Worker.
- 14.4 The Client shall fully indemnify and at all times keep indemnified the Employment Business against all liability, awards, costs, expenses and claims (including all legal and other professional expenses incurred in defending a claim) and any other liabilities incurred by the Employment Business as a result of, in connection with, or arising out of:-
- (a) all claims of constructive dismissal and discrimination and any other claim including but not limited to claims of personal injury and negligence brought by the Temporary Worker; and
 - (b) any other claim to include but not limited to discrimination, unfair dismissal, breach of contract, personal injury or negligence.
 - (c) Acts or omissions of the Client or its Employees/Workers or any other person acting on the instructions of the Client.
 - (d) the Employment Business shall be entitled to setoff the above rights of indemnity against any claim which the Client might seek to bring against it.
- 14.5 If a Temporary Worker introduced or supplied by the Employment Business to the Client as a temporary worker is subsequently retained by the Client as introduced or supplied by an agency or body other than the Employment Business, then the Client shall pay the Employment Business a fee which shall be calculated in line with this agreement of this contract per Temporary Worker so retained.
- 14.6 The Client shall Indemnify the Employment Business against all liabilities arising out of or in connection with any transfer, or deemed or alleged transfer, by operation of law of any of the Employment Business's employees or any Temporary Worker occurring pursuant to the termination of this agreement.

- 14.7 The Employment Business shall be responsible for deduction and payment of all tax, National Insurance contributions and other levies in respect of persons employed by the Employment Business or Temporary Workers.
- 14.8 The Client shall at all times comply with its obligations under the AWR 2010, including but not limited to providing any Temporary Workers with access to collective facilities and amenities and employment opportunities subject to and in accordance with regulations 12 and 13 of the AWR 2010.
- 14.9 If either party receives an allegation that there has been a breach of the AWR 2010 in relation to the supply of a Temporary Worker to the Client by the Employment Business (whether that allegation has been made as a request for information under regulation 16 of the AWR 2010 or otherwise), it shall provide a copy of that allegation to the other party within seven days of receipt. The parties shall co-operate with each other in responding to that allegation, which shall include supplying any information which may be reasonably requested by the other party, and complying with any reasonable requests in relation to the contents of any response.
- 14.10 The Worker is under the direction and control of the Client for the duration of the Engagement and at all times throughout the Client shall be responsible for ensuring that (i) the Worker is eligible to work in the United Kingdom and that he holds any work or other permits required by the Worker; (ii) that he holds any necessary Public Liability Insurance, licences, permits and consents etc for any work the Worker is required to undertake in relation to any places required to work and (iii) all health and safety and other legislation relating to the Engagement is observed. The Employment Business shall be made aware on booking of any potential health and safety risk for potential Temporary Workers and the steps to be taken by the Client to prevent or control such risks.
- 14.11 Notwithstanding the above, the Employment Business will hold items and documentation required at clause 12.8 above valid for the period immediately prior to the Temporary Worker's Engagement. These will be made available to the Client upon request and the Client undertakes to notify the Employment Business immediately upon receipt of any knowledge that the Temporary Workers eligibility and entitlement referenced at Clause 12.9 above has changed.
- 14.12 The Client will comply in all respects with all statutes, by-laws, and legal obligations to which the Client is ordinarily subject in respect of its own staff but excluding the matters specifically mentioned in paragraph 5 above. In particular the Client will at all times treat the Worker with due respect and dignity and will take all steps within their control to avoid any discriminatory conduct against them, whether on the grounds of race, sex, disability or otherwise.
- 14.13 Before a Temporary Worker starts an Assignment, the Employment Business shall notify the Client if either:
- (a) the Temporary Worker is a Qualifying Temporary Worker in relation to the Assignment; or
 - (b) the Temporary Worker will become a Qualifying Temporary Worker during the course of the Assignment, and

14.14 the Employment Business shall advise the Client of the applicable Temporary Worker Fees, including any Other Qualifying Payments which may be payable.

14.15 The provisions of this clause 14 shall survive termination of this agreement.

15. Confidentiality

15.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party [or of any member of the group of companies to which the other party belongs, except as permitted by clause 15.2.

15.2 Each party may disclose the other party's confidential information:

- (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under this agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 15; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

15.3 No party shall use any other party's confidential information for any purpose other than to perform its obligations under or in connection with this agreement.

16. Data protection compliance

To the extent that any data or information belonging to the Client is personal data within the meaning of the Data Protection Act 1998 or equivalent legislation in the Territory the Client shall take such technical and organisational measures against unauthorised or unlawful processing of such data and information and against accidental loss or destruction of, or damage to, such data and information as are appropriate.

17. Warranties and undertakings

17.1 The Client warrants that it does and it shall comply with the all relevant statutes, laws, regulations and codes of practice from time to time in force in the relevant Territory.

17.2 Each party warrants that it has full capacity and authority to enter into and perform this agreement.

18. Non-solicitation

Neither party shall, either on its own account or in partnership or association with any person, firm, company or organisation, or otherwise and whether directly or indirectly during, or for a period of six months from, the end of the term of this agreement, solicit or entice away or attempt to entice away or authorise the taking of such action by any other person, any key executive of the other party who has worked on the services provided under this agreement at any time during the term of this agreement other than by means of a

national advertising campaign open to all-comers and not specifically targeted at such executives of the other party.

19. Assignment and other dealings

19.1 Neither party shall assign, transfer, mortgage, charge, declare a trust over or deal in any other manner with any or all of its rights and obligations under this agreement without the prior written consent of the other party.

20. No partnership or agency

20.1 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

20.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

21. Variation

No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

22. Entire agreement

22.1 This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

22.2 Each party acknowledges that in entering into this agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement.

22.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

22.4 Nothing in this clause shall limit or exclude any liability for fraud.

23. Third party rights

23.1 Unless it expressly states otherwise, this agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

23.2 The rights of the parties to rescind or vary this agreement are not subject to the consent of any other person.

24. Notices

24.1 With the exception of notices given by the Client pursuant to clause 6.4, which may be given by telephone, any notice [or other communication] given to a party under or in connection with this agreement shall be in writing and shall be:

- (a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- (b) sent by fax to its main fax number or sent by email.

24.2 Any notice or communication shall be deemed to have been received:

- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
- (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service.
- (c) if sent by fax or email, at 9.00 am on the next Business Day after transmission.

24.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

25. Governing law

This agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

26. Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation.

27. Force majeure

Neither party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement, including payment, if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed. If the period of delay or non-performance continues for 6 months, the party not affected may terminate this agreement by giving 30 days' written notice to the affected party.

28. Severance

28.1 If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement.

28.2 If [one party gives notice to the other of the possibility that] any provision or part-provision of this agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

This agreement has been entered into on the date stated at the beginning of it.

Signed by [NAME OF DIRECTOR]
for and on behalf of [NAME OF CLIENT] Director

Signed by [NAME OF DIRECTOR]
for and on behalf of Masstemp Ltd Director