

This is an Agreement between:

(1) **HAYS SPECIALIST RECRUITMENT LIMITED** carrying on business as an employment agency, Registration Number: 00975677 ("**Hays**"); and

(2) «**organisationname**», trading as «**organisationlegalentity**» (the "**Client**")

1. Scope of Agreement

1.1 The parties hereby agree that these terms and conditions (the "**Agreement**") will govern every engagement by the Client, or an associated company of the Client, of every applicant notified by Hays to the Client from time to time ("**Applicant**").

1.2 For the purpose of this Agreement, "**Engagement**" shall include any use of an Applicant in the circumstances set out in clause 1.1, whether directly or indirectly (for example, where an Applicant provides services through a limited company) and whether on a fixed term contract, full-time or part-time, and whether under a contract of service or for services, or under an agency, licensee, franchise, commission only, partnership agreement, or otherwise.

2. Acceptance, Ownership and Authority to Act

2.1 These terms are deemed to be accepted by the Client in respect of each Applicant with effect from notification by Hays to the Client of the relevant Applicant. The Client authorises Hays to act on its behalf in seeking Applicants and, if the Client so requests, shall advertise for such Applicants through such methods as are agreed with the Client.

2.2 Notwithstanding any other terms of this Agreement, if no initial Engagement by the Client results from an introduction by Hays but there is a subsequent Engagement of an Applicant by the Client within twelve months of the date of their introduction by Hays, then the Client shall immediately be liable to Hays for the Introduction Fee set out under this Agreement

3. Standards Required

3.1 The Client agrees to provide to Hays sufficient information to enable Hays to assess the suitability of each relevant Applicant for each relevant Engagement. In this regard, the Client agrees to provide the following information:

- (a) the identity of the company who it is proposed will engage the relevant Applicant (this must be notified in respect of every proposed Engagement, to ensure that the correct associated company of the Client is identified), and, if applicable, the nature of the company's business;
- (b) the date on which it is proposed that the Engagement should begin, and the duration, or likely duration, of the Engagement;
- (c) the position to be filled, including the type of work which the relevant Applicant would be required to do, the location at which and the hours during which they would be required to work;
- (d) any risks to health or safety relevant to the Engagement, and what steps have been taken by the Client to prevent or control such risks;
- (e) the experience, training, qualifications and any authorisation which are necessary (or which are required by law or by any professional body) for the relevant Applicant to possess in order to work in the position, and any expenses payable by or to the relevant Applicant;
- (f) the minimum rate of pay and any other benefits to be offered in respect of the relevant position, and the intervals at which they would be paid;
- (g) where applicable, the length of notice which a successful Applicant would be required to give and entitled to receive, to end the Engagement; and
- (h) if the Applicant is required to work with vulnerable people as defined under the Conduct of Employment Agencies and Employment Businesses Regulations 2003.

The Client agrees to provide the above information in writing and in good time before the commencement of the Engagement.

3.2 Subject to clause 3.1, Hays shall take reasonably practicable steps to ensure that the Applicant is aware of all applicable requirements for the Engagement.

3.3 Hays shall make reasonable endeavours to ensure the suitability of the relevant Applicant for the Engagement. However, the Client must also satisfy itself as to the suitability of the relevant Applicant and shall be responsible for taking up and/or confirming any references (including the confirmation of any professional or academic qualifications or any authorisation required by law) provided by the relevant Applicant and/or Hays before engaging such Applicant.

3.4 The Client shall be responsible for verifying that Applicant has the right to work in the United Kingdom, for the arrangement of any medical examinations and/or investigations into the medical history of any Applicant to satisfy any medical and other requirements or qualifications required by law.

4. Introduction Fees and Retained Assignment Fees

4.1 Subject to clause 5 an introduction fee ("**Introduction Fee**") or retained assignment fee ("**Retained Assignment**") shall be payable by the Client to Hays in respect of any Engagement subsequent to notification by Hays to the Client (whether orally or otherwise) of the relevant Applicant.

4.2 The Client agrees to notify Hays in writing of the acceptance by the relevant Applicant of an Engagement together with details of the Applicant's Gross Remuneration, as soon as practicable following such acceptance.

4.3 The Introduction Fee is payable within 14 days of the date of the relevant invoice from Hays to the Client. For the avoidance of doubt payment must be made by electronic funds transfer.

4.4 Retained Assignment fees, calculated in accordance with clause 5 below will be payable by the Client to Hays as follows:

- A retainer fee is payable immediately upon commencement of the Retained Assignment and is non refundable;
- A shortlist fee is non refundable and payable upon presentation to the Client of a minimum of 3 Applicants ("**Applicant Shortlist**") who in the reasonable opinion of Hays are suitable for the relevant Engagement;
- A completion fee, is payable on the day the Applicant enters an Engagement. If after acceptance of an offer of Engagement but prior to the Applicant commencing the Engagement, the Client decides for any reason not to proceed with the Engagement, the Client shall pay the completion fee.

In the event that the Client, retains Hays on a Retained Assignment, but subsequently cancels or alters the Retained Assignment at any time prior to submission of the Applicant Shortlist, the Client shall pay a proportion of the shortlist fee, calculated pro rata to the amount of work carried out on the Retained Assignment. In the event that the Client retains Hays on a Retained Assignment, but subsequently cancels or alters the Retained Assignment after submission of the Applicant Shortlist by Hays, the Client shall pay the completion fee

4.5 Advertising costs will be invoiced on the day of a confirmed booking and are non-refundable and payable immediately by the Client.

4.6 In the event that the Engagement is for a fixed term contract of less than 12 months, the Introduction Fee will be calculated according to clause 5 and pro-rated according to the length of the fixed term contract.

4.7 If the relevant fixed term contract Engagement is extended beyond the initial fixed term, or if the Client re-engages the Applicant within 6 calendar months from the date of termination of the first period of Engagement, Hays shall have the right to charge additional Introduction Fees pro rated in accordance with this subsequent period of engagement.

5. Introduction Fee, Retained Assignment and Fixed Term Fees: Method of Calculation

5.1

- (a) The Introduction Fee shall be a percentage (as set out at clause 5.3 below) of the Gross Remuneration payable to the relevant Applicant following the start of the relevant Engagement, subject to a minimum fee of £6,000 for Engagements outside of London and £8,000 for Engagements within London (plus VAT)
- (b) The Retained Assignment fees shall be the percentages (as set out at clause 5.3 below) of the Gross Remuneration payable to the relevant Applicant following the start of the relevant Engagement, subject to a minimum combined fee ("**Total Fee**") of £8,000 (plus VAT). The fee is invoiced in 3 equal instalments, the retainer fee on the date of receipt of the Client's instruction to proceed with the assignment, the short list fee upon the submission to the Client of the shortlist of the Applicants or six weeks after the presentation of the initial invoice (whichever is sooner), and the completion fee, on formal acceptance by the Applicant of the Client's offer of employment. Where more than one appointment is made from the same supplementary shortlist, the shortlist fee and subsequent appointments will be invoiced at the same fee rate as the original appointment.

5.2 "**Gross Remuneration**" shall mean the first year's equivalent annualised remuneration, including (without limitation) any bonuses/incentives, car allowances and any guaranteed payments to which the relevant Applicant may be entitled. Any car provided to the relevant Applicant will be assessed as remuneration at the rate of £5,000 p.a. (plus VAT). Where a placement is part-time the salary will be equated to the full time equivalent and the fee shall be levied on that salary. Where the Engagement is for a fixed term contract the Applicant's salary will be calculated to the annualised equivalent.

5.3 For the purpose of clauses 5.1(a) and 5.1(b) above, the percentage(s) will be as follows:

Contingency Recruitment

Gross Remuneration	Introduction Fee
Up to £49,999	20%
£50,000 - £69,999	25%
Equal or over £70,000	28%

Fixed term contract

Gross Remuneration	Introduction Fee
Up to £49,999	20%
£50,000 - £69,999	25%
Equal or over £70,000	28%

For the avoidance of doubt the minimum Introduction Fee for a fixed term contract shall be £3,000 for Engagements outside of London and £4,000 for Engagements within London (plus VAT).

Retained Assignments

Gross Remuneration up to £79,999, Total Fee: 30%

- Retainer Fee: 10%
- Shortlist Fee: 10%
- Completion Fee: 10%

Gross Remuneration from £80,000 upwards, Total Fee: 33%

- Retainer Fee: 11%
- Shortlist Fee: 11%
- Completion Fee: 11%

6. Introduction Fee: Refunds

6.1 Subject to clause 6.2, if the relevant Applicant leaves the Client's employment (other than through redundancy constructive or unlawful dismissal) within 13 weeks of commencement of the relevant Engagement, a percentage of the Introduction fee shall be refunded to the Client as follows:

- 50% if the departure is less than 8 weeks following commencement of the relevant Engagement
- 25% if the departure is within 8 to 13 weeks of commencement of the relevant Engagement

6.2 No refund is payable in any circumstances unless:

- the relevant departure is notified by the Client to Hays in writing within 7 days; and
- the Client has paid to Hays the Introduction Fee in full in accordance with the terms of this Agreement.

6.3 Should the Client or any associated company of the Client subsequently engage the Applicant within the period of six calendar months from the relevant date of departure, a full Introduction Fee calculated in accordance with clause 5 above becomes payable, notwithstanding any previous fees paid to Hays. For the avoidance of doubt, there shall be no entitlement to a refund of any kind following such subsequent Engagement.

6.4 There shall be no refund of the Introduction Fee where the Engagement is for a fixed term contract.

7. Liability

7.1 Notwithstanding any other provision of this Agreement, but subject to clause 7.2 below, Hays shall not be liable to the Client arising out of or in relation to the Engagement or use of the Applicant.

7.2 The limits on liability under Clause 7.4 shall not apply to:

- (a) death or personal injury caused by negligence;
- (b) fraud or fraudulent misrepresentation;
- (c) Client's liability to pay the charges and fees and other sums due to Hays;
- (d) any obligation of a party pursuant to Clause 8.1; and
- (e) any other matter for which it would be unlawful to exclude or attempt to exclude its liability.

7.3 Neither party shall be liable to the other for any:

- (a) indirect, special or consequential loss arising in connection with the Agreement; and
- (b) loss of profits (except with respect to the fees), loss of sales, anticipated savings or goodwill, loss of business opportunity or contracts in each case whether direct or indirect, even if such losses could have been foreseen.

7.4 Subject to Clauses 7.2 and 7.3, the total aggregate liability of each party for all losses, liabilities, claims, costs, and demands (including legal and other professional costs) whether arising from tort (including negligence), indemnity, breach of contract or otherwise in respect of the Agreement, shall be limited to £50,000.

8. Data Protection, Confidentiality and Criminal Finances Act

8.1 Except as permitted by law or where information is available within the public domain, neither party shall disclose any information relating to the other party without the other party's prior written consent where such information is marked as confidential or which could reasonably be expected to be regarded as confidential.

8.2 To the extent that any data or information provided by Hays to the Client is personal data of Applicants:

- (a) Hays will be an independent data controller of such personal data and shall be responsible for ensuring that, in accordance with applicable Data Protection Laws, it has provided all necessary fair processing information to the Applicant and has taken appropriate steps to legitimise the disclosure of such personal data to the Client;
- (b) the parties acknowledge that the Client will also be an independent data controller of such personal data and accordingly the Client shall: (i) comply with all of its legal obligations under the Data Protection Laws which arise in connection with its processing of such personal data; and (ii) process such personal data only for purposes compatible with determining whether to engage Applicants (save to the extent that the Client has legitimised its processing of such personal data for another purpose either by obtaining consent from the Applicant or using an

alternative method to legitimise such processing in accordance with Data Protection Laws and provided fair processing information to the Applicant in relation to this purpose);

(c) Each party shall deal promptly and in good faith with all reasonable and relevant enquiries from the other party relating to its processing of personal data under this Agreement; and

(d) Each party shall, if it receives any communication or request from a regulator, Applicant or third party which relates to the other party's processing of personal data under this Agreement (including any actual or alleged breach of the Data Protection Laws) without undue delay forward such communication to the other party and provide reasonable cooperation and assistance to the other party in relation to the same.

8.3 For the purposes of this clause "**Data Protection Laws**" means all applicable data protection and privacy legislation in force in the United Kingdom including the Data Protection Act 2018, UK GDPR (as defined in sections 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended. The terms "**data controller**", "**data processor**", "**data subject**" and "**personal data**" are as defined in the Data Protection Laws

8.4 The Client warrants that it will not engage in tax evasion or the facilitation of tax evasion and will report any suspected tax evasion in the conduct of its contractual relationship with Hays and comply with all applicable laws.

9. Entire Agreement/ Variation

9.1. This Agreement constitutes the entire and only legally binding agreement between the parties relating to the Engagement, and replaces any previous agreements or arrangements. No variation to these terms on behalf of Hays can be made otherwise than in writing signed by an authorised signatory of Hays.

10. Waiver

10.1. Any failure by a party to enforce at any particular time any one or more of the terms of this Agreement shall not be deemed a waiver of such rights or of the right to subsequently enforce the terms of this Agreement.

11. Headings

11.1. Headings contained in this Agreement are for reference purposes only and shall not affect the intended meanings of the clauses to which they relate.

12. Validity

12.1. If any provision, clause or part-clause of this Agreement is held to be invalid, void, illegal or otherwise unenforceable by judicial body, the remaining provisions of this Agreement shall remain in full force and effect to the extent permitted by law.

13. Force Majeure

13.1. Save in relation to payments due by the Client to Hays under this Agreement, neither party shall be liable for any delay or failure in performance of its obligations where this arises from matters outside its reasonable control.

14. Third Parties

14.1. No provision of this Agreement shall be enforceable by any person who is not a party to it pursuant to the Contract (Rights of Third Parties) Act 1999 ("**the Act**"). This does not, however, affect any right or remedy of a third party that exists or is available independently of the Act.

15. Overdue Debts

15.1. Hays may charge interest on all overdue debts under this Agreement at the rate of 2% per month.

16. Governing Law

16.1. This Agreement shall be governed by and construed in accordance with English Law and the parties hereby submit to the exclusive jurisdiction of the English Courts.

This is an Agreement between:

(1) **HAYS SPECIALIST RECRUITMENT LIMITED** carrying on business as an employment business, Registration Number: 00975677 ("**Hays**"); and

(2) «organisationname», trading as «organisationlegalentity» (the "**Client**")

The parties hereby agree to the introduction and supply by Hays to the Client of the temporary resource (the "**Services**") engaged under a contract for services as:

- an individual (the "**Temporary Worker**"),
- a personal service limited company ("**PSC**") whereby the PSC determines the manner in which its services are provided,
- an individual via an umbrella company ("**Umbrella Worker**"),

collectively (the "**Temporary Resource**") named in the relevant correspondence between Hays and the Client (the "**Assignment Confirmation Letter**"), on the following terms. "**Assignment**" means the period during which the Temporary Resource is supplied to the Client by Hays. "**Agreement**" means these terms and conditions together with the Assignment Confirmation Letter(s).

1. Acceptance and Commencement of Assignment

1.1 This Agreement is accepted by the Client with effect from the notification to the Client by Hays of the name of the Temporary Resource. The Assignment shall, subject to earlier termination in accordance with these terms, continue for the period set out in the relevant Assignment Confirmation Letter.

1.2 These terms apply 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.

1.3 The Assignment shall commence at the start of the first day on which the Temporary Resource provides the services to the Client.

1.4 Any services provided by Hays to the Client outside of the scope of this Agreement may be charged by Hays at its then current rates.

2. Charges

2.1 In respect of each hour or day worked by the Temporary Resource, the Client agrees to pay the hourly or daily charge, plus VAT, as advised by Hays to the Client. Details of the hourly or daily charge are confirmed in the Assignment Confirmation Letter but also include Hays' commission calculated as a percentage of the Temporary Resource's hourly or daily rate and all applicable statutory costs (including, but not limited to, employer's National Insurance contributions, pension contributions and apprenticeship levy). For the avoidance of doubt Hays reserves the right to increase the charge, including without limitation, to meet statutory requirements such as any equal rights under the Agency Workers Regulations 2010 as amended from time to time (the "**AWR**").

2.2 In addition to the hourly or daily charge, travelling, hotel, or other expenses may be agreed from time to time between Hays and the Client. Such expenses shall be itemised on the relevant invoice and charged, with VAT, to the Client.

2.3 Invoices, accompanied by copies of any available supporting Temporary Resource timesheet(s), will be sent to the Client on a weekly basis. Invoiced charges are payable by the Client direct to Hays immediately on receipt by the Client of the relevant invoice. Payment by the Client shall constitute acceptance of the charges and the accuracy of any accompanying timesheet(s). Payment must be made by electronic funds transfer. Any failure by the Client to approve a timesheet does not absolve the Client of its obligation to pay the charges in respect of hours or days worked.

2.4 Where for any reason any amount in respect of VAT paid by the Client under this Agreement is determined to have not been properly due ("**Overpaid VAT**"), Hays shall take such steps as it considers appropriate to recover such Overpaid VAT from HM Revenue & Customs and shall only be liable to the Client, in respect of the Overpaid VAT, for the amount recovered, if any, less any costs and expenses incurred. Hays will have no other liability (howsoever caused or arising) to pay any amount to the Client in respect of any Overpaid VAT.

3. Responsibility for Income Tax and National Insurance

3.1 Hays is responsible for the payment of a Temporary Resource's remuneration in respect of the Assignment and shall deduct all applicable taxes (including any national insurance contributions) required by law. For the avoidance of doubt, if a PSC is providing services Hays shall deduct all applicable taxes in accordance with the status determination ("**Status Determination**") provided by the Client pursuant to Chapter 10 Part 2 of the Income Tax (Earnings and Pensions) Act 2003 or any equivalent legislation ("**IR35**").

4. Conversion Fee

4.1. Subject to clauses 4.2 and 4.4 below, a conversion fee (the "**Conversion Fee**") shall be payable by the Client to Hays if the Client:

4.1.1. Makes use of the services either directly or indirectly (including, but not limited to, through another employment business) of the Temporary Resource other than pursuant to this Agreement; or

4.1.2. Introduces the Temporary Resource to any other person (including but not limited to any subsidiary or associated company of the Client), subsequent to which

the Temporary Resource's services are used by that person or a person associated with that person (other than pursuant to this Agreement, or an equivalent agreement between Hays and that person).

4.2. The Conversion Fee shall apply in circumstances where such use or introduction (detailed under clause 4.1 above) takes place within:

- (a) the latter of (i) eight weeks following the termination of the Assignment, or (ii) fourteen weeks from the commencement of the Assignment (as set out in The Conduct of Employment Agencies and Employment Businesses Regulations 2003 as amended from time to time (the "**Conduct Regulations**")); or
- (b) the period of 26 weeks following the notification of the name of the Temporary Resource by Hays to the Client (where there has been no supply).

4.3. The Conversion Fee shall be calculated in accordance with this clause 4.3 and shall be payable within 14 days from the date of invoice. The Conversion Fee shall be calculated as follows, depending on the length of time that the Temporary Resource has provided services to the Client under an Assignment prior to the circumstances contemplated by clause 4.1 above:

Up to and including 6 months (or where there has been no supply of the Temporary Resource)	13 x the average weekly charge rate (or where there has been no supply, 13 x the weekly charge rate that would have been charged by Hays under an Assignment)
> 6 months up to and including 12 months	10 x weekly charge rate
12 months +	6 x weekly charge rate

4.4. It is agreed that clause 4.1 shall not apply where either:

- (a) following receipt by Hays of 5 business days prior written notice by the Client to Hays pursuant to this clause 4.4, the Client opts for an extended period of hire whereby it makes use of the services of the Temporary Resource on the terms set out in this Agreement for a minimum of 26 continuous weeks from the date of such notice; or
- (b) following receipt of the notice as set out in 4.4(a) above, Hays does not supply the Temporary Resource to the Client on the terms set out in this Agreement for a minimum of 26 continuous weeks from the date of such notice (unless Hays is no way at fault for such failure of supply). For the avoidance of doubt, this clause 4.4 (extended period of hire) shall be of no effect in relation to an engagement of the Temporary Resource in the circumstances set out under clause 4.1.2 (engagement by a third party).

4.5 There shall be no refund of the Conversion Fee if the engagement pursuant to clause 4.1 is subsequently terminated, for whatever reason.

4.6 Where a PSC or Umbrella Worker (and umbrella company named in the Assignment Confirmation Letter) give notice under regulation 32(9) of the Conduct Regulations to opt out of such regulations, clauses 4.2 and 4.4 shall not apply and a Conversion Fee shall be payable in the circumstances set out in clauses 4.1.1 and 4.1.2 in each case within 6 months from the later of the notification of the name of the Temporary Resource or the end of the relevant Assignment.

5. Standards Required

5.1 The Client agrees to provide to Hays sufficient information to enable Hays to confirm the suitability of the Temporary Resource for the Assignment. In this regard, the Client agrees to provide at least the following information:

- (a) the duration, or likely duration, of the Assignment;
- (b) the nature of the business and the position, the type of work the Temporary Resource would be required to do, the location at which and the hours during which services will be required if applicable;
- (c) any risks to health or safety relevant to the Assignment and known to the Client, and what steps the Client has taken to prevent or control such risks and by instructing Hays to provide the Temporary Resource, the Client confirms that it has carried out a thorough risk assessment of the place(s) of work relating to the Assignment unless it has otherwise notified Hays;
- (d) 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 Resource to possess in order to work in the position, and any expenses payable by or to the Temporary Resource, if requested by Hays,
- (e) information on facilities provided by the Client to its permanent employees and which will be made available to the Temporary Resource;
- (f) if requested by Hays, all such information as Hays may reasonably require in relation to the Client's permanent employees in order for Hays to identify and calculate any rights of the Temporary Resource under AWR including, basic pay and overtime, bonuses and commission, duration of working time, night work, rest periods, annual leave and paid time off for ante natal appointments;
- (g) whether the Temporary Resource has previously worked for the Client and if so the nature of the assignment and work and the duration; and
- (h) if the Temporary Resource is required to work with vulnerable people as defined under the Conduct Regulations.

5.2 The Client agrees to notify Hays of the above information and/or any changes in such information:

- (a) in good time before the commencement of the Assignment; and
- (b) without delay during the Assignment, where appropriate (for example, in light of a change of circumstances).

5.3 Subject to confirmation from the Client to Hays of all the information referred to in this clause 5, Hays shall take reasonably practicable steps to ensure that the Temporary Resource is aware of all applicable requirements for the Assignment including any changes thereto.

5.4. The Client warrants that the information provided under paragraph 5.1 and 5.2 above is accurate and complete in all respects.

5.5. The Client shall be responsible for:

(a) providing a working environment in compliance with all relevant health and safety laws and regulations including without limitation the provision of personal protective equipment free of charge to Temporary Resource where applicable; and
(b) where there is an introduction but no supply of the Temporary Resource by Hays but the Temporary Resource is subsequently engaged by the Client, for carrying out such checks and taking up such references to determine the suitability of the Temporary Resource.

6. Liability

6.1 Hays undertakes to make all reasonable efforts to ensure reasonable standards of skill and experience from the Temporary Resource but subject to clause 6.3 below no liability is accepted by Hays for any claim arising from failure to provide a Temporary Resource for all or part of an Assignment or from any loss or damage attributable to negligence, dishonesty, misconduct or lack of skill, experience, training qualifications, or authorisations of the Temporary Resource or attributable to any acts or omissions of the Client including failure by the Client to provide information in accordance with clause 5 above.

6.2 Notwithstanding any other provision of this Agreement, but subject to clause 6.3 below, Hays shall not be liable to the Client arising out of or in connection with the provision of (or any delay in providing or failure to provide) the services of the Temporary Resource by Hays.

6.3 The limits on liability under Clause 6.5 shall not apply to:

- (a) death or personal injury caused by negligence;
- (b) fraud or fraudulent misrepresentation;
- (c) Client's liability to pay the charges and fees and other sums due to Hays;
- (d) any obligation of a party pursuant to Clause 9.7 and Clause 10.1; and
- (e) any other matter for which it would be unlawful to exclude or attempt to exclude its liability.

6.4 Neither party shall be liable to the other for any

- (a) indirect, special or consequential loss arising in connection with the Agreement; and
- (b) loss of profits (except with respect to the fees), loss of sales, anticipated savings or goodwill, loss of business opportunity or contracts in each case whether direct or indirect, even if such losses could have been foreseen.

6.5 Subject to Clauses 6.3 and 6.4, the total aggregate liability of each party for all losses, liabilities, claims, costs, and demands (including legal and other professional costs) whether arising from tort (including negligence), indemnity, breach of contract or otherwise in respect of the Agreement, shall be limited to £100,000.

6.6 The Client shall notify Hays immediately if the Temporary Resource makes or threatens any claims in connection with AWR.

7. Replacement Temporary Resource

7.1 The Client may, on reasonable grounds, terminate the Assignment provided that:

- (a) the Client shall first give prior notice to Hays of such termination; and
- (b) Hays shall have the right to replace a Temporary Resource with another Temporary Resource to provide the services. Any replacement Temporary Resource supplied pursuant to this clause shall be deemed to be supplied under the same terms as governed the original Temporary Resource under this Agreement.

7.2 The provision of another Temporary Resource is in no way an acceptance by Hays that the work carried out by the original Temporary Resource was not carried out in accordance with these terms.

7.3 The Client acknowledges that a PSC may provide an individual substitute.

8. Unsatisfactory Standards Procedure

8.1 If the services provided by the Temporary Resource are established by the parties to be unsatisfactory, Hays shall reduce or cancel the hourly charge provided that notification by the Client to Hays (confirmed in writing within five days) is received:

- (a) within four hours of the Temporary Resource commencing the Assignment, or
- (b) within two hours of the Temporary Resource commencing the Assignment where the Assignment is for seven hours or less.

8.2 In the circumstances set out in clause 8.1 above, Hays shall have the right to replace a Temporary Resource with another Temporary Resource and clause 7.2 shall apply.

9. Responsibility

- 9.1(a) The Temporary Worker and Umbrella Worker is deemed to be under the supervision, direction and control of the Client for the duration of the Assignment.
- 9.1(b) Notwithstanding anything to the contrary under this Agreement, the manner in which a PSC provides its services shall not be under or subject to the supervision, direction, control or instruction of either the Client or Hays.
- 9.1(c) For the avoidance of doubt, the Client shall remain responsible for all Temporary Resources whilst on Assignment.

9.2 Hays is not responsible for the acts, errors or omissions of the Temporary Resource, whether wilful, negligent or otherwise.

9.3 The Client will comply with all applicable requirements (including laws, regulations, byelaws and codes of practices) relating to the supply and use of Temporary Resource and the Services including, without limitation, the Working Time Regulations 1998. The Client shall have in place adequate employer's and public liability insurance to cover the Temporary Resource during the Assignment, and shall ensure full compliance with all applicable health and safety obligations. The Client shall not bring, or seek to bring, any claim (including any claimed right of set-off) against Hays in respect of any matter for which it agrees to assume liability in this clause 9.3. Save for the requirement to have adequate insurance and comply with applicable law, this provision shall not apply where a PSC is providing the services.

9.4 The Client will assist Hays in complying with Hays' duties under the Working Time Regulations by supplying without delay any relevant information about the Assignment requested by Hays. The Client will not do anything to cause Hays to be in breach of its obligations under these Working Time Regulations. In particular, where the Client requires or may require the services of a Temporary Resource for more than 48 hours in any week, the Client must notify Hays of this requirement before the commencement of that week. This provision shall not apply where a PSC is providing the services.

9.5 The Client shall be responsible for ensuring that Temporary Workers and Umbrella Workers obtain all rights afforded to them under AWR, including without limitation:

- (a) access to facilities provided by the Client which are available to the Client's permanent employees (such as canteen, crèche, transport services, toilet/shower facilities, staff room, prayer room and car parking); and
- (b) the same information about permanent job vacancies within the Client that the Client would give to its own permanent employees during the relevant Assignment.

9.6 The Client shall not request Hays to introduce or supply a Temporary Resource to perform the duties normally performed by a worker who is taking part in a strike or other industrial action or the duties normally performed by any other worker employed by the hirer and who is assigned by the Client to perform the duties normally performed by the worker who is taking part in the strike.

9.7. Where IR35 applies to the Client it shall:

- (a) prior to the start of an Assignment provide a Valid and Correct Status Determination to Hays and the PSC stating whether the Assignment falls within or outside scope of IR35;
- (b) be responsible for dealing with any appeals under IR35;
- (c) be responsible and liable for PAYE, National Insurance and associated liabilities payable by Hays as a result of the Client's failure to provide a Valid and Correct Status Determination under clause 9.7(a) or to comply with clause 9.7(b) or 9.7(d) and shall on demand reimburse all such amounts to Hays; and
- (d) notify Hays and the PSC of any change during the Assignment which may affect the PSC's IR35 status and if applicable, shall promptly provide a new Valid and Correct Status Determination.

For the purposes of this clause 9.7:

- i) A Valid and Correct Status Determination is a written statement from the Client that meets the conditions of s61NA of IR35 and accurately concludes whether the PSC's Assignment is Inside or Outside IR35. It is not considered Correct if the Client settles, agrees or makes a payment to HMRC, even on a without prejudice basis, that an Outside IR35 Determination should have been an Inside IR35 Determination.
- ii) Outside IR35 Determination – means a determination setting out that the PSC is working on a self-employed basis
- iii) Inside IR35 Determination – means a determination setting out that the PSC is working on a deemed employed basis

10. Confidentiality, Data Protection and Criminal Finances Act

10.1 Except as permitted by law or where information is available within the public domain, neither party shall disclose any information relating to the other party without the other party's prior written consent where such information is marked as confidential or which could reasonably be expected to be regarded as confidential.

10.2 To the extent that any data or information provided by Hays to the Client is personal data of Temporary Workers:

- (a) Hays will be an independent data controller of such personal data and shall be responsible for ensuring that, in accordance with applicable Data Protection Laws, it has provided all necessary fair processing information to the Temporary Resource and has taken appropriate steps to legitimise the disclosure of such personal data to the Client;

(b) the parties acknowledge that the Client will also be an independent data controller of such personal data and accordingly the Client shall: (i) comply with all of its legal obligations under the Data Protection Laws which arise in connection with its processing of such personal data; and (ii) process such personal data only for purposes compatible with determining whether to engage Temporary Resources (save to the extent that the Client has legitimised its processing of such personal data for another purpose either by obtaining consent from the Temporary Resource or using an alternative method to legitimise such processing in accordance with Data Protection Laws and provided fair processing information to the Temporary Resource in relation to this purpose);

(c) Each party shall deal promptly and in good faith with all reasonable and relevant enquiries from the other party relating to its processing of personal data under this Agreement; and

(d) Each party shall, if it receives any communication or request from a regulator, Temporary Resource or third party which relates to the other party's processing of personal data under this Agreement (including any actual or alleged breach of the Data Protection Laws) without undue delay forward such communication to the other party and provide reasonable cooperation and assistance to the other party in relation to the same.

10.3 For the purposes of this clause "**Data Protection Laws**" means all applicable data protection and privacy legislation in force in the United Kingdom including the Data Protection Act 2018, UK GDPR (as defined in sections 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended. The terms "**data controller**", "**data processor**", "**data subject**" and "**personal data**" are as defined in the Data Protection Laws.

10.4 The Client warrants that it will not engage in tax evasion or the facilitation of tax evasion and will report any suspected tax evasion in the conduct of its contractual relationship with Hays and comply with all applicable laws.

11. Entire Agreement Variation

11.1 This Agreement constitutes the entire and only legally binding agreement between the parties relating to the Assignment and Services, and replaces any previous agreements or arrangements. Each party acknowledges and agrees that in entering into this Agreement it does not rely on, and will have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person other than as expressly set out in this Agreement.

11.2 No variation to these terms can be made otherwise than in writing signed by an authorised signatory of Hays.

12. Assignment

12.1. The Client shall not assign, transfer, sub-contract or novate its obligations under this Agreement or any Assignment without Hays' prior written consent (such consent not to be unreasonably withheld or delayed).

13. Waiver

13.1. Any failure by a party to enforce any term(s) of this Agreement shall not be deemed a waiver of such rights or of the right to subsequently enforce the terms of this Agreement.

14. Headings

14.1. Headings contained in this Agreement are for reference purposes only and shall not affect the intended meanings of the clauses to which they relate.

15. Validity

15.1. If any provision, clause or part-clause of this Agreement is held to be invalid, void, illegal or otherwise unenforceable by judicial body, the remaining provisions of this Agreement shall remain in full force and effect to the extent permitted by law.

16. Force Majeure

16.1. Save in relation to payments due by the Client to Hays under this Agreement, neither party shall be liable for any delay or failure in performance of its obligations where this arises from matters outside its reasonable control.

17. Third Parties

17.1. No provision of this Agreement shall be enforceable by any person who is not a party to it pursuant to the Contract (Rights of Third Parties) Act 1999 ("**the Act**"). This does not, however, affect any right or remedy of a third party that exists or is available independently of the Act.

18. No Employment

18.1. Nothing in this Agreement shall give rise to an employment relationship between any Temporary Resource and Hays or the Client.

19. Overdue Debts

19.1. Hays may charge interest on all overdue debts under this Agreement at the rate of 4% per month.

20. Governing Law

20.1. This Agreement shall be governed by and construed in accordance with English Law and the parties hereby submit to the exclusive jurisdiction of the English Courts.