



Opus LGSS People Solutions Ltd

Contract for the provision of Temporary Resources

Supplier Agreement

OPUS LGSS PEOPLE SOLUTIONS LTD (THE “VENDOR”)
SUPPLIER AGREEMENT

This Contract is made by and between the Parties set out below on :

Opus LGSS People Solutions Ltd (registered number: 10449174) whose registered office is at Endeavour House, 8 Russell Road, Ipswich, IP1 2BX (“the Vendor”);

AND

Caja Ltd (registered number: 9382834) whose registered office is at Innovation Centre 1, Keele University Science Park, Keele, ST5 5NB (the “Supplier”)

(Each a “Party”; and together the “Parties”)

WHEREAS:

- (A) The Vendor will act as a master vendor for the provision of Temporary Resources (and as the party through which the services of secondary suppliers are managed) on behalf of:
 - a. Cambridgeshire County Council
 - b. Northamptonshire County Council
 - c. any other LGSS partner or client(each referred to as “the Hirer”).
- (B) The Vendor wishes to sub-contract with the Supplier to provide Temporary Resources to the Hirer and the Supplier agrees to provide such workers and candidates in accordance with the terms of this Contract.
- (C) The Vendor placed a Contract Notice in the Official Journal of the European Union on 25 November 2016 to establish a Dynamic Purchasing System (“DPS”) for the procurement of Temporary Workers.
- (D) In accordance with Regulation 34 of the Public Contracts Regulations 2015 (the Regulations), the Vendor has used the restricted procedure to establish a DPS.
- (E) The Vendor has contracted with Matrix SCM Limited to provide a web-based software system namely CR.net, or such other technology as agreed between the Parties from time to time, to procure Services via the DPS and for such Services to be transacted as further set out in this Contract.
- (F) The Vendor shall admit to the DPS each supplier that satisfies the Selection Criteria and has submitted a compliant Request to Participate to the Vendor in accordance with the invitation to participate documentation and DPS process prepared by the Vendor.
- (G) It is the Parties' intention that there will be no obligation for the Vendor to award any Placement Agreements under the Contract during its Term as defined in clause 4.3

IT IS AGREED

1. Definitions and Interpretation

1.1. In this Contract the following words and expressions shall have the following meanings except where the context requires otherwise:

“Agency Worker”	means a Temporary Resource who for the purposes of the Agency Workers Regulations 2010 is defined as an Agency Worker;
“AWR”	means the Agency Workers Regulations 2010;
“Assignment”	means the services to be performed by the relevant Temporary Resource for the Hirer for the period of time during which the Temporary Resource is supplied by the Vendor or a Supplier to work temporarily for the Hirer under the supervision and direction of the relevant Hirer;
“AWR Claim”	means any complaint or claim to a tribunal or court made by or on behalf of the Temporary Resource against the Hirer and/or the Vendor and/or the Supplier for any breach of the AWR;
“Award Criteria”	the award criteria to be applied to tenders as set out in the OJEU notice and supplemented in the Recruitment Order;
“Calendar Week”	means any period of seven days starting with the same day as the first day of the First Assignment;
“Candidate”	means an individual (whether Introduced via an Intermediary or not) seeking direct temporary engagement with the Hirer ;
“Category”	means a category of Services, as described in the DPS.
“Commencement Date”	means once fully accredited;
“Comparable Employee”	means as defined in Schedule 3 to this Contract;
“Conduct Regulations”	means the Conduct of Employment Agencies and Employment Businesses Regulations 2003;
“Confidential Information”	means any and all confidential commercial, financial, marketing, technical or other information or data of

whatever nature relating to the Hirer, the Vendor or the Supplier or their business or affairs (including but not limited to this Contract, data, records, reports, agreements, software, programs, specifications, know-how, trade secrets and other information concerning the Assignment) in any form or medium whether disclosed or granted access to whether in writing, orally or by any other means, provided to the Temporary Resource or any third party in relation to the Assignment by the Hirer, the Vendor or the Supplier or by a third party on behalf of the Hirer or the Vendor whether before or after the date of this Contract together with any reproductions of such information in any form or medium or any part(s) of such information;

“Contract”

means this agreement between the Vendor and the Supplier comprising the terms set out in this document, including the attached Schedules and the Self-Bill Agreement;

“Contract Period”

means the duration of the Contract as set out at Clause 4.1;

“Contract Price”

means the charge rates specified in Schedule 1;

“Control”

means (a) the legal or beneficial ownership, directly or indirectly, of more than 50% of the issued share capital or similar right of ownership; or (b) the power to direct or cause the direction of the affairs and/or general management of the Vendor, partnership, statutory body or other entity in question, whether through the ownership of voting capital, by contract or otherwise, and "Controls" and "Controlled" shall be construed accordingly;

“Data Protection Laws”

means the Data Protection Act 1998, any applicable statutory or regulatory provisions and all European Directives and regulations in force from time to time relating to the protection and transfer of personal data;

“Dynamic Purchasing System (DPS)”

means a system for the procurement of goods and services (in this instance temporary resources) established in accordance with Regulation 34 of the Public Contract Regulations 2015;

“CEAR”

means the The Conduct of Employment Agencies and Regulations (2003);

“Employment Business”

means an employment business as defined in

Regulation 2 of the CEAR

“Engagement”

means the engagement (including the Candidate’s acceptance of the Hirer’s offer), employment or use of any Candidate, Temporary Resource or Intermediary by the Vendor and/or the Hirer or any third party to whom any Candidate, Temporary Resource or Intermediary has been introduced by the Vendor and/or the Hirer, directly or indirectly, on a permanent or temporary basis, whether under a contract of service or for services, an agency, licence, franchise or partnership arrangement, or any other engagement; and “Engage”, “Engages” and “Engaged” shall be construed accordingly;

“First Assignment”

means:

- (a) the relevant Assignment; or
- (b) if, prior to the relevant Assignment:
 - (i) the Agency Worker has worked in any assignment in the same role with the relevant Hirer as the role in which the Agency Worker works in the relevant Assignment; and
 - (ii) the relevant Qualifying Period commenced in any such assignment,

that assignment (an assignment being (for the purpose of this defined term)) a period of time during which the Agency Worker is supplied by one or more Temporary Work Agencies to the relevant Hirer to work temporarily for and under the supervision and direction of the relevant Hirer);

“Force Majeure Event”

means any circumstance beyond the reasonable control of a party which renders the continued providing or receiving of all or part of the Services in accordance with the Contract illegal or impossible, including, but not limited to fire, flood, Act of God, riot, civil disturbance, industrial dispute (not directly involving either party), war or sabotage;

“Hirer's Group”

means (a) any individual, company, partnership, statutory body or other entity which from time to time controls the Hirer, including (but not limited to) as a holding company as defined in section 1159 of the Companies Act 2006; and (b) any company, partnership, statutory body or other entity which from time to time is Controlled by or is under common Control with the Hirer, including (but not limited to) as a subsidiary or

holding company as defined in section 1159 of the Companies Act 2006;

“Intermediary”

means any firm or corporate body (not including the Vendor) through which a Temporary Resource provides services whether or not this is via an Employment Business. As such, and to avoid doubt, within the meaning of this Contract a Supplier may be an Intermediary;

“Introduction”

means (i) the passing to the Vendor and/or the Hirer of a curriculum vitae or information which identifies any Candidate or Temporary Resource; or (ii) the Vendor's and/or the Hirer's interview of any Candidate or Temporary Resource (in person or by telephone or by any other means), following the Vendor's instruction to the Supplier to supply a temporary worker; or (iii) the supply of any Candidate or Temporary Resource; and, in any case, which leads to an Engagement of the Temporary Resource or the Candidate; and “Introduced” and “Introducing” shall be construed accordingly;

“ITEPA”

means the Income Tax (Earnings and Pensions) Act 2003;

“Pensions Act”

means the Pensions Act 2008;

“Placement Agreement”

means the order placed by the Vendor with the Supplier where the Supplier is successful in tendering for a Recruitment Order, on the terms set out in the Recruitment Order and this Contract;

“Potential Provider”

means an organisation which has satisfied the DPS selection criteria, has been admitted to the DPS and has entered into a contract to become a supplier and is therefore eligible to bid for Recruitment Orders under this Contract;

“Qualifying Period”

means 12 continuous Calendar Weeks during the whole or part of which the Agency Worker is supplied by one or more Temporary Work Agencies to the relevant Hirer to work temporarily for and under the supervision and direction of the relevant Hirer in the same role, and as further defined in Schedule 3 to this Contract;

“Recruitment Order”

means a tender issued by the Vendor under the DPS for Potential Providers to bid to provide a Temporary Resource or Candidate for the Hirer;

“Regulated Activity”	in relation to children shall have the same meaning as set out in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 and in relation to vulnerable adults shall have the same meaning as set out in Part 2 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006.
“Relevant Terms and Conditions”	means, for the purposes of the AWR, terms and conditions relating to: <ul style="list-style-type: none"> (a) pay; (b) the duration of working time; (c) night work; (d) rest periods; (e) rest breaks; and (f) annual leave that are ordinarily included in the contracts of employees or workers (as appropriate) of the Hirer whether by collective agreement or otherwise and including (for the avoidance of doubt and without limitation) such terms and conditions that have become contractual by virtue of custom and practice, including copies of all relevant documentation;
“Remuneration”	includes gross base salary or fees, guaranteed and/or anticipated bonus and commission earnings, allowances, inducement payments, the benefit of a company car and all other payments and taxable (and, where applicable, non-taxable) emoluments payable to or receivable by the Temporary Resource or Candidate for services provided to or on behalf of the Hirer or any third party.
“Reporting Requirements”	means the information the Vendor is required to provide to HMRC under section 716B ITEPA and set out in the Income Tax (Pay as you Earn) (Amendment no. 2) Regulations 2015;
“Self-Bill Agreement”	means an agreement in the form set out at Schedule 4;
“Services”	means the recruitment services to be provided by the Supplier pursuant to this Contract and any Placement Agreements and as set out in the Specification;
“Specification”	means the specification for the Services as set out in Schedule 2;
“Supplier”	means the person, firm or company that has entered into the Contract to provide the Services;

“Temporary Resource”	means any individual (including an individual who may be an officer, employee, worker or representative of an Intermediary) supplied by the Supplier to the Vendor or Hirer to work on Assignment for the Hirer;
“Temporary Work Agency”	means as defined in Schedule 3 to this Contract;
“Term”	means the period of five years starting on the Commencement Date;
“Transfer Fee”	means the fee payable by the Hirer in accordance with Schedule 1 - Section 2, Clause 12 and Regulation 10 of the Conduct Regulations;
“TUPE”	means the Transfer of Undertakings (Protection of Employment) Regulations 2006;
“Vendor's Group”	means (a) any individual, company, partnership, statutory body or other entity which from time to time controls the Vendor, including (but not limited to) as a holding company as defined in section 1159 of the Companies Act 2006; and (b) any company, partnership, statutory body or other entity which from time to time is Controlled by or is under common Control with the Vendor, including (but not limited to) as a subsidiary or holding company as defined in section 1159 of the Companies Act 2006;
“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;
“WTR”	means the Working Time Regulations 1998.

1.2. Reference to the Supplier’s personnel shall be deemed to include the Supplier’s partners, directors, workers and employees, agents and sub-Contractors unless the context otherwise requires.

1.3. Unless the context otherwise requires, references to the singular include the plural and references to the masculine include the feminine and vice versa.

1.4. The headings contained in this Contract are for convenience only and do not affect their interpretation.

- 1.5. 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 this Contract) and all subordinate legislation made (before or after this Contract) under it from time to time.

2. Principles

- 2.1. Subject to any variations made pursuant to Clause 3, this Contract contains the entire agreement between the parties and prevails over any terms of business or purchase conditions (or similar) put forward by the Supplier.
- 2.2. The Supplier is deemed to have satisfied itself as to the nature and extent of the Services to be provided and shall be deemed to be satisfied as to the accuracy and sufficiency of the rates and prices stated in its tender which shall (except insofar as is otherwise expressly set out in the Contract) cover all the Supplier's obligations and costs under the Contract. The Supplier shall be deemed to have obtained for itself all necessary information as to risks, contingencies and any other circumstances, which might reasonably influence or affect the Supplier's tender.
- 2.3. Where the Supplier shall act as an employment business (as defined in Section 13(3) of the CEAR) when Introducing Temporary Resources for Assignments with the Hirer the Supplier will be a Temporary Work Agency for the purposes of the AWR.
- 2.4 Where the Supplier is an Intermediary and the Intermediary is a Temporary Work Agency, it shall comply with the AWR in all relevant respects.

3. Variations

- 3.1. Subject to Clause 11.2 and 11.3 no variation or alteration to this Contract shall be valid unless the details of such variation are agreed between the Vendor and the Supplier and are set out in writing and signed by both parties' and a copy of the varied Contract is given to the Vendor and the Supplier stating the date on or after which the varied Contract shall apply.
- 3.2. Where a variation arises out of the variation of any contract between the Vendor and the Hirer, the Vendor shall give as much notice to the Supplier as it has received from the Hirer less one day where the notice received is more than one week, or less 4 hours where the notice received is less than one week, save where the variation is to take immediate effect.

4. Appointment and Contract duration

- 4.1 The Contract shall commence on the Commencement Date and continue for the Term, unless ended earlier in accordance with the provisions of this Contract or the common law.
- 4.2 During the Term, the Vendor shall
- 4.2.1 Invite all Potential Providers who have been admitted to the relevant Category of the DPS to submit a tender for each Recruitment Order within that Category within a time limit specified by the Vendor;

- 4.2.2 apply the Award Criteria to any compliant tenders submitted by Potential Providers through the tender process;
 - 4.2.3 where the Vendor decides to proceed with an award, to award the Placement Agreement to the Potential Provider who submits the tender which best meets the Award Criteria;
 - 4.2.4 not (and does not) guarantee any or any specific volume of business to the Supplier under this Contract. The Supplier therefore accepts that the Vendor shall have no direct or indirect liability whatsoever to the Supplier in respect of, or arising out of the volume of orders passed by the Vendor to the Supplier during the term of this Contract nor shall the provision of the Services be exclusive to the Potential Providers.
- 4.3 Notwithstanding the fact that the Vendor has followed the procedure set out above, the Vendor may cancel, postpone, delay or end the procedure without placing a Placement Agreement. Nothing in this Contract shall oblige the Vendor to place any Placement Agreement.
- 4.4 The parties shall enter into the Self-Bill Agreement (which shall form part of the Contract) and the self-billing arrangements shall commence no later than Commencement Date.

5. Supplier's and Vendor's obligations

The Supplier's obligations

- 5.1. The Supplier shall provide the Services in compliance with this Contract. To avoid doubt, the terms of this Contract shall apply to any Placement Agreement issued by the Vendor to the Supplier, as if set out in full in the Placement Agreement.
- 5.2. The Supplier shall provide the Services:
- 5.2.1. with reasonable skill, care and diligence and due propriety;
 - 5.2.2. with the utmost good faith;
 - 5.2.3. in accordance with legislative requirements; and
 - 5.2.4. in accordance with all Placement Agreements;
- and whether all of these requirements are met shall be determined by the Vendor acting reasonably.
- 5.3. The Supplier shall ensure that all Temporary Resources supplied have suitable qualifications, skills and experience for the assignments and roles in which they are to be placed and shall meet the compliance criteria set out in the Specification and the Placement Agreement any such other criteria the Vendor may require and which will be notified in writing.
- 5.4. The Supplier shall carry out and shall procure necessary and appropriate checks on any potential Candidate or Temporary Resource prior to that Candidate's or Temporary Resource's details being put forward to the Vendor for possible placement at the Hirer. Such checks shall include but not be limited to those set out in the Specification.

- 5.5. The Supplier shall promptly inform the Vendor and confirm in writing, if the Services, or any part of them, are not being, or may not be, performed for whatever reason including if the result of any act or omission by the Vendor and/or the Hirer, giving details, reasons and likely duration of such non-performance. The provision of this information shall not relieve either the Vendor or the Supplier from their respective Contractual obligations.
- 5.6. The Supplier shall at all times comply with all relevant Hirer policies, codes of practice and rules, provided they are lawful and reasonable and a copy has been provided by the Vendor or the Hirer to the Supplier.
- 5.7. Save where a Temporary Resource is supplied by an Intermediary (not acting as a Supplier for the purposes of this Contract), the Supplier shall accept full responsibility for the terms of engagement of that Temporary Resource and shall undertake all administration regarding that Temporary Resource and make all statutory deductions from pay (as appropriate) and maintain all records required either legally or to satisfy the specific requirements of this Contract. Where a Temporary Resource is engaged via an Intermediary, that Intermediary shall be responsible for the terms of engagement, all administration and all statutory deductions. However, the Supplier shall ensure that (a) the Intermediary provides information required to enable the Vendor to comply with the Reporting Requirements and (b) the Supplier passes such information to the Vendor by the date required by the Vendor.
- 5.8. The Supplier shall provide on a quarterly basis the information set out in Schedule 2, in order to enable the Vendor to comply with the Reporting Requirements.

The Vendor's obligations

- 5.9. In relation to Agency Workers, the Vendor will ensure that the Hirer will comply with its obligations under Regulation 12 (Rights of Agency Workers in relation to access to collective facilities and amenities) and 13 (Rights of Agency Workers in relation to access to employment) of the AWR.
- 5.10. To enable the Supplier to comply with its obligations under the AWR, in relation to each Agency Worker, the Vendor undertakes as soon as possible prior to the commencement of each Assignment and during each Assignment (as appropriate) and at any time at the Supplier's reasonable request:
- 5.10.1. to inform the Supplier of any Calendar Weeks since 1 October 2011 in which the relevant Agency Worker has worked in the same or a similar role with the Hirer via any third party prior to the date of commencement of the relevant Assignment and/or during the relevant Assignment which count or may count towards the Qualifying Period;
 - 5.10.2. if, since 1 October 2011, the Agency Worker has worked in the same or a similar role with the Hirer via any third party prior to the date of commencement of the relevant Assignment and/or works in the same or a similar role with the Hirer via any third party during the relevant Assignment, to provide the Supplier with all the details of such work, including (without limitation) details of where, when and the period(s) during which such work was undertaken and any other details requested by the Supplier;

5.10.3. to inform the Supplier if, since 1 October 2011, the Agency Worker has prior to the date of commencement of the relevant Assignment and/or during the relevant Assignment:

- 5.10.3.1. completed two or more assignments with the Hirer;
- 5.10.3.2. completed at least one assignment with the Hirer and one or more earlier assignments with any member of the Hirer's Group; and/or;
- 5.10.3.3. worked in more than two roles during an assignment with the Hirer and on at least two occasions worked in a role that was not the same role as the previous role.

5.10.4. save where the Agency Worker will not complete the Qualifying Period during the term of the Assignment, to:

- 5.10.4.1. provide the Supplier with written details of the basic working and employment conditions the Agency Worker would be entitled to for doing the same job if the Agency Worker had been recruited directly by the Hirer as an employee or worker at the time the Qualifying Period commenced or with those of a Comparable Employee, such basic working and employment conditions being the Relevant Terms and Conditions;
- 5.10.4.2. inform the Supplier in writing whether the Relevant Terms and Conditions provided are those of a hypothetical directly recruited employee or worker or those of a Comparable Employee;
- 5.10.4.3. if the Relevant Terms and Conditions provided are those of a Comparable Employee, provide the Supplier with a written explanation of the basis on which the Hirer considers that the relevant individual is a Comparable Employee;
- 5.10.4.4. inform the Supplier in writing of any variations in the Relevant Terms and Conditions made at any time during the relevant Assignment after the Qualifying Period commenced; and
- 5.10.4.5. save where the Agency Worker will not complete the Qualifying Period during the term of the Assignment, to provide the Supplier with written details of the Hirer's pay and benefits structures and appraisal processes and any variations of the same.

5.11. In addition, for the purpose of awarding any bonus to which any Agency Worker may be entitled under the AWR, the Vendor will ensure that the Hirer:

- 5.11.1. integrates the Agency Worker into its relevant performance appraisal system;
- 5.11.2. assesses the Agency Worker's performance;

5.11.3. provides the Supplier (via the Vendor) with copies of all documentation relating to any appraisal of the Agency Worker, including without limitation written details of the outcome of any appraisal and the amount of any bonus awarded; and

5.11.4. provides all other assistance the Supplier may request in connection with the assessment of the Agency Worker's performance for the purpose of awarding any bonus.

The Vendor will comply in a timely fashion with all the Supplier's reasonable requests for information and any other reasonable requirements to enable the Supplier to comply with the AWR.

5.12 Without prejudice to Clauses 16.1 and 16.2, the Vendor shall inform the Supplier in writing of any oral or written complaint any Temporary Resource makes to the Vendor and shall use its reasonable endeavours to obtain information about any such complaint made to the Hirer which is or may be a complaint connected with rights under the AWR; and shall take similar steps in relation to any written request for information relating to the Relevant Terms and Conditions that the Vendor and/or the Hirer receives from any Temporary Resource

Working with Vulnerable Persons

5.13 The Vendor shall advise the Supplier at the time of issuing the Recruitment Order whether during the course of the Assignment, the Temporary Resource 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.

5.14 The Supplier shall

5.14.1 ensure that all individuals engaged in Regulated Activity are subject to a valid enhanced disclosure check for regulated activity undertaken through the Disclosure and Barring Service (DBS); and

5.14.2 monitor the level and validity of the checks under this Clause 5.14 for each member of staff;

5.14.3 not use the services of any person who is barred from, or whose previous conduct or records indicate that he or she would not be suitable to carry out Regulated Activity or who may otherwise present a risk to service users.

5.15 The Supplier warrants that at all times for the purposes of this Contract it has no reason to believe that any person who is or will be employed or engaged by the Supplier in the provision of the Services is barred from the activity in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 and any regulations made thereunder, as amended from time to time.

5.16 The Supplier shall immediately notify the Vendor of any information that it reasonably requests to enable it to be satisfied that the obligations of this Clause 5 have been met.

- 5.17 The Supplier shall refer information about any person carrying out the Services to the DBS where it removes permission for such person to carry out the Services (or would have, if such person had not otherwise ceased to carry out the Services) because, in its opinion, such person has harmed or poses a risk of harm to the service users or children or vulnerable adults.

6 Observance of Statutory and Other Requirements

- 6.1 Both the Vendor and the Supplier will comply with all applicable legislation in so far as it places obligations upon them in the performance of the Contract.
- 6.2 Neither the Vendor nor the Supplier shall knowingly do or omit to do anything, which may interfere with compliance by the other party of its obligations under this Contract and shall comply with any reasonable request from the other party for that purpose.
- 6.3 Neither the Supplier nor the Vendor shall unlawfully discriminate within the meaning of the Equality Act 2010 or any other enactment relating to discrimination in employment and both the Supplier and the Vendor shall take all reasonable steps to secure the observance of this Clause by all their personnel engaged in the performance of this Contract and by the Temporary Resources.
- 6.4 Both parties shall comply with all current relevant health, safety, fire and environmental legislation and official codes of practice and guidance, including, for the avoidance of doubt, but not limited to, the requirements of the Working Time Regulations, the Health and Safety at Work etc. Act 1974, the Management of Health and Safety at Work Regulations 1999, the Provision and Use of Work Equipment Regulations 1992;
- 6.5 The supplier shall comply with
- 6.5.1 all Hirer health, safety, fire and environmental requirements, codes of practice and guidance as notified in writing by the Hirer to the Vendor and the Vendor to the Supplier; and
- 6.5.2 all requirements of the Contract in relation to health, fire, safety and environmental matters.
- 6.6 The parties shall upon request provide to each other a copy of any relevant risk assessment and their policies in relation to health, safety, fire and environmental issues, their approach to equal opportunities and promoting diversity in relation to the supply of Workers.
- 6.7 In the event that either party enters into any sub-contract in connection with the Contract, it shall impose obligations on its sub-Contractors in terms substantially similar to those imposed on it pursuant to this Clause 6.
- 6.8 The Supplier shall, in the provision of the Services, comply with the provisions of the Human Rights Act 1998 as if the Supplier were a public authority for the purposes of that Act.

7 Supplier's obligations in connection with TUPE

7.1 In circumstances where TUPE applies or may apply the Supplier shall and shall ensure that any sub-contractor will) within the period of six months immediately preceding the expiry of the Contract or following the service of a termination notice or as a consequence of the Vendor notifying the Supplier of its intention to re-let this Contract or bring the arrangements “in-house”:

7.1.1 on receiving a request from the Vendor provide in respect of any person engaged or employed by the Supplier (or any sub-contractor) in the provision of the Services (the **Assigned Employees**) full and accurate details regarding the identity, number, age, sex, length of service, job title, grade and terms and conditions of employment of and other matters affecting each of those Assigned Employees who it is expected, if they remain in the Supplier’s the employment (or in the employment of any sub-contractor) until immediately before the end of the Contract, would be Returning Employees (the **Re-tendering Information**);

7.1.2 provide the Re-tendering Information promptly and at no cost to the Vendor;

7.1.3 notify the Vendor forthwith in writing of any material changes to the Re-tendering Information promptly as and when such changes arise;

7.1.4 be precluded from making any material increase or decrease in the numbers of Assigned Employees other than in the ordinary course of business and with prior written consent of the Vendor (such consent not to be unreasonably withheld or delayed);

7.1.5 be precluded from making any increase in the remuneration or other change in the terms and conditions of the Assigned Employees other than in the ordinary course of business and with the Vendor’s prior written consent (such consent not to be unreasonably withheld or delayed); and

7.1.6 be precluded from transferring any of the Assigned Employees to another part of its business or moving other employees from elsewhere in the Supplier’s (business who have not previously been employed or engaged in providing the Services to provide the Services (and shall ensure that its sub-contractors are under a like obligations) save with the Vendor’s prior written consent (such consent not to be unreasonably withheld or delayed),

and the Supplier must indemnify, and must keep the Vendor indemnified in full, and at the Vendor’s request any Future Service Provider against all losses arising from any breach of the provisions of Clause 7.1.

- 7.2 On the expiry or earlier termination of the Contract, the Supplier shall ensure that all wages, salaries and other benefits of the Returning Employees and other employees or former employees of the Supplier (or any sub-contractor who had been engaged in the provision of the Services) and all PAYE tax deductions, pension contributions and national insurance contributions relating thereto in respect of the employment of the Returning Employees and such other employees or former employees of the Supplier (or a sub-contractor) up to the Return Date are satisfied;
- 7.3 The Supplier shall remain (and procure that any sub-contractor remains) responsible for all its (or any sub-contractor's) employees (other than the Returning Employees) on or after the Return Date and shall indemnify the Vendor and any Future Service Provider against all losses incurred by the Vendor or any Future Service Provider resulting from any claim whatsoever, whether arising before on or after the Return Date by or on behalf of any of the Supplier's or a sub-contractor's employees who do not constitute the Returning Employees;
- 7.4 in respect of the Returning Employees, the Supplier shall indemnify the Vendor and any Future Service Provider against all losses incurred by the Vendor or any Future Service Provider resulting from any claim whatsoever by or on behalf of any of the Returning Employees in respect of the period on or before the Return Date (whether any such claim, attributable to the period up to and on the Return Date, arises before, on or after the Return Date) including but not limited to any failure by the Vendor (or any sub-contractor) to comply with its or their obligations under TUPE
- 7.5 The Vendor shall be entitled to assign the benefit of this indemnity to any Future Service Provider.
- 7.6 For the purposes of this Clause 7 **Returning Employees** means those employees assigned to the provision of the Services immediately before the expiry or termination of this Agreement whose employment transfers to Us or a Future Service Provider pursuant to the Transfer Regulations. Upon expiry or termination of this Agreement for whatever reason (such date being termed the **Return Date**), the provisions of this Clause 7 will apply.
- 7.7 If the Supplier fails to comply with the requirements of this Clause 7, in addition to its other Contractual remedies, the Vendor may exclude the Supplier from the re-tender process.

8 Contract Personnel

- 8.1 The Supplier shall employ or engage sufficient persons to ensure that the Services are provided in accordance with the Contract. The personnel employed or engaged by the Supplier in connection with the Contract shall be properly and sufficiently qualified, competent, skilled, honest and experienced and shall at all times exercise care in the execution of their duties and each party shall ensure that such persons are properly and sufficiently instructed and supervised with regard to the provision of the Services and in particular:
- 8.1.1 the task or tasks such person has to perform;
- 8.1.2 all relevant provisions of the Contract and the Placement Agreement;

8.1.3 all relevant policies, rules, procedures and standards of the Supplier, Vendor and the Hirer; and;

8.1.4 all relevant legislative requirements.

9 Performance Monitoring

9.1 The Supplier shall operate a self-regulatory system of quality assurance and quality measures relevant to the Contract in addition to any quality requirements in the Specification to ensure that the Services are provided in accordance with the law and the Contract, including the measures set out in the Specification. Notwithstanding this Clause the Vendor reserves the right to audit the Supplier in accordance with Clauses 9.2 to 9.6 inclusive.

9.2 Notwithstanding any relevant provisions of the Specification, the Vendor may at any time on not less than 7 days' notice instigate review meetings at a location convenient to the parties to monitor and assess the Supplier's performance of the Services. The Supplier and any other relevant personnel (not including Candidates or Temporary Resources) involved in the Contract shall where reasonably practicable attend such review meetings.

9.3 Generally, in order to assess whether or not the Supplier is providing the Services to the required standard, the Vendor shall have regard to:

9.3.1 the Supplier's compliance with any relevant oral and written complaints from recipients or users of the Service;

9.3.2 the reliability of the Service provided;

9.3.3 performance against performance indicators, if any, set out in the Specification;

9.3.4 random spot-checks; and

9.3.5 regular formal Contract review meetings where the parties' shall discuss the Supplier's performance in accordance with the Contract.

9.4 Upon receipt of one (1) month's written notice from the Vendor of its intention to carry out an audit the Supplier shall permit or procure permission for any auditor or other authorised representative of the Vendor to have reasonable access for audit purposes to information, premises or equipment used in the provision of the Services.

9.5 At all times when carrying out such an audit the Vendor's authorised representatives and/or auditors shall comply with all reasonable requirements of the Supplier for the purpose of complying with the Data Protection Laws and for the purpose of protecting the confidentiality of the information of the Supplier and third parties and no such information will be divulged to any third party save in pursuance of any statutory obligation.

9.6 During access and inspection visits, the Supplier shall provide all reasonable access and facilities free of charge.

10 Complaints in Respect of Service Provision

- 10.1 Each party shall deal with any complaints received from whatever source in a prompt, courteous and efficient manner. As a minimum, the receiving party will acknowledge a complaint within three (3) working days of its receipt.
- 10.2 Each party shall keep a written record of all complaints received and of the action taken in relation to such complaints. Such records shall be kept available for inspection by the other party at all reasonable times. The receiving party shall immediately notify the other party in writing of all complaints received and of all steps taken in response.

11 Price and payment for Temporary Resources

- 11.1 Subject to Clause 11.5 the Vendor shall pay the Supplier for the services of each Temporary Resource supplied to the Hirer based on the Contract Price. For the avoidance of doubt the Contract Price includes the gross rate payable to the Temporary Resource and, where applicable, any sums for statutory payments including but not limited to employers' national insurance, WTR and the Pensions Act and the Supplier's Commission
- 11.2 Subject to Clause 11.3 and to any variation made pursuant to this Clause 11.2, the Contract Price is fixed under the Contract. The Supplier may not pay a Temporary Resource a rate different to the pay rate stipulated in Schedule 1 unless the different rate has been agreed as a variation to this Contract in accordance with Clause 3. The Contract Price is subject to **annual** review by the Vendor and the Vendor may vary the Contract Price by giving written notice to the Supplier before they are applied to the Contract following such review.
- 11.3 The Supplier may vary the Contract Price by giving written notice to the Vendor:
 - 11.3.1 in order to comply with any additional liability imposed by statute or other legal requirement or entitlement, including but not limited to the AWR, WTR, the Pensions Act and ITEPA; and/or
 - 11.3.2 if there is any variation in the Relevant Terms and Conditions in relation to an Agency Worker.
- 11.4 In addition to the Contract Price, the Vendor will pay the Supplier an amount equal to any bonus that the Hirer awards to any Agency Worker in accordance with Clause 5.12 immediately following any such award and the Supplier will pay any such bonus to the relevant Agency Worker. For the avoidance of doubt, the Vendor will also pay any employers' national insurance contributions, WTR, Pensions Act contributions on the bonus in addition to any bonus payable to the Agency Worker.
- 11.5 Payment referred to in Clause 11.1 will require the receipt by the Vendor of a timesheet properly authorised by the Hirer. The Vendor reserves the right to request consolidated invoices either from the supplier or to generate them through the Vendor's pay and charge systems on behalf of the Supplier.
- 11.6 The Vendor shall pay the Supplier monies due under this Contract within thirty (30) days of receipt of the Supplier's valid and undisputed invoice. Each invoice must contain all appropriate

references and a detailed breakdown of the Services and must be supported by any other documentation reasonably required by the Vendor to substantiate the invoice.

- 11.7 The Vendor shall consider and verify invoices in a timely fashion and undue delay on the Vendor's part in doing so shall not be sufficient justification for failing to regard an invoice as valid and undisputed.
- 11.8 Where the Vendor has not received payment for the Temporary Resource's services from the Hirer and this leads to any delay in payment of the Supplier, the Vendor shall use its best endeavours to obtain payment from the Hirer as soon as reasonably practicable.
- 11.9 If there is any dispute regarding the hours claimed on a timesheet, the hourly rate of a Temporary Resource, or alleged unsatisfactory performance by the Temporary Worker, the Vendor reserves the right to withhold payment of the invoice until such time as the matter is resolved. The parties agree to use their reasonable endeavours to investigate the matter in dispute and to work together in good faith towards a resolution of the disputed sum as soon as reasonably practicable.
- 11.10 In the event of a delay or default by the Vendor in making payment of an undisputed element of the Contract Price, the Supplier shall be entitled to interest on such element of the Contract Price in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.
- 11.11 Where the Supplier enters into a sub-contract with a sub-contractor for the purpose of performing its obligations under the Contract, the Supplier shall ensure that a provision is included in such a sub-contract which requires payment to be made of all sums due by the Supplier to the sub-contractor within a specified period not exceeding 30 days from the receipt of a valid undisputed invoice and that terms to the same effect as Clause 11.6 are also included in any such sub-contract. In addition, the Supplier shall ensure that the terms of any such sub-contract require the sub-contractor to include provisions to the same effect as Clause 11.6 in any sub-contract which the sub-contractor in turn awards.

12 Transfer Fees and Introduction Fees

Transfer Fees

- 12.1 Save where Clause 12.4 applies, the Vendor shall be liable to pay a Transfer Fee if the Vendor and/or the Hirer Engages a Temporary Resource (other than via the Supplier) and such Engagement takes place during the first twelve weeks of the Assignment.

The Transfer Fee will be calculated as set out in Schedule 1.

- 12.2 Where prior to the commencement of the Vendor's or the Hirer's (as appropriate) Engagement of the Temporary Resource other than via the Supplier, the Supplier and the Vendor agree that such Engagement will be on the basis of a fixed term of less than 12 months, the Transfer Fee shall be reduced as calculated in accordance with Schedule 1 pro-rata. Such reduction is subject to the Vendor or the Hirer (as appropriate) engaging the Temporary Resource for the agreed fixed term. Should the Vendor or the Hirer (as appropriate) extend the Temporary Resource's Engagement or re-Engage the Intermediary or Temporary Resource within twelve (12) months

from the commencement of the initial Engagement the Supplier reserves the right to recover the balance of the Transfer Fee.

12.3 No refund of the Transfer Fee will be paid in the event that an Engagement of the Temporary Resource by the Vendor or the Hirer, other than via the Supplier, terminates or terminates before the end of the fixed term referred to in Clause 12.2.

12.4 If the Supplier is acting as an Intermediary then no Transfer Fee shall be payable.

13 VAT

13.1 VAT is payable in addition to all charges and fees due.

14 Liability, Indemnities and Insurance

14.1 Subject to Clause 14.3, the Supplier shall be liable for and shall indemnify promptly and keep indemnified the Vendor against all liabilities, demands, proceedings, damages, costs, losses, claims, charges and expenses arising out of or in connection with:

14.1.1 the breach by the Supplier of any requirement of the Contract or failure to provide the Services or any part of them; and

14.1.2 the injury to, or death of, any person howsoever arising whether in Contract, tort or otherwise,

except and to the extent that it may arise out of the act default or negligence of either the Vendor or the Hirer, their employees or agents.

14.2 The Supplier shall hold the following insurances:

14.2.1 in respect of Professional Indemnity one million pounds sterling (£1,000,000) in the aggregate, (for a period of 6 years from the date of the completion by the Supplier of its obligations pursuant to the Contract;

14.2.2 in respect of Public Liability five million pounds sterling (£5,000,000) in respect of any one incident; and,

14.2.3 in respect of Employers Liability five million pounds sterling (£5,000,000) in respect of any one incident. For the avoidance of doubt, the liability set out in Clause 14.4 shall include liability for third parties employed by the Supplier in connection with the Services so far as the supervision, management of, or instructions issued to, such third parties is the responsibility of the Supplier.

14.3 Save as set out in clause 14.4 and 14.5, the Supplier's total aggregate liability under or in connection with this agreement shall be limited to the following sums:

- 14.3.1 Where the claim is covered by the insurances listed in clause 14.2 the liability will be limited to the level of the respective insurance
- 14.3.2 For all other claims the aggregate limit of liability shall be £1,000,000 (one million pounds).
- 14.4 Neither party shall be liable to the other for (i) any loss of or damage to profit, revenue, savings, data, use, contract, goodwill or business or (ii) any indirect or consequential loss or damage howsoever caused or arising.
- 14.5 Nothing in this Agreement shall limit or exclude any party's liability for fraud or for death or personal injury caused by their negligence, or to the extent otherwise not permitted by law.
- 14.6 If the Supplier fails to take out and maintain any of the insurances required under this Clause 14 or if the Vendor reasonably considers that the policies of insurance do not provide sufficient cover, then the Vendor shall require the Supplier to immediately obtain such insurance as the Vendor may reasonably require. If the Supplier fails to obtain the required insurance then the Vendor may, on written notice to the Supplier, purchase the insurance on behalf of the Supplier. The amount paid or payable by the Vendor may be deducted from any monies due or to become due to the Supplier under the Contract or such amount may be recoverable by the Vendor from the Supplier as a debt.
- 14.7 The Supplier indemnifies the Vendor against all claims made by any Temporary Resources supplied under this Contract in relation to employment rights with the Hirer or the Vendor except and to the extent that any such claim arises out of the direction, control, supervision or management of the relevant Temporary Resource by either the Hirer, the Vendor or their employees or any act or series of acts or omission of the Hirer or the Vendor, the Vendor's failure to comply with any of its obligations under this Contract or the Hirer's failure to comply with any of its obligations under its corresponding Contract with the Vendor.
- 14.8 Save to the extent that the Temporary Resource is responsible for his/her own safety and the safety of any other person on the Hirer's premises, the Vendor confirms that the Hirer and/or the Vendor accepts all health and safety obligations while the Temporary Resource are on Assignments including any training or induction on the Hirer's health and safety policies.
- 14.9 Each party shall notify the other party of any accident, damage or breach of any statutory provision relating in any way to the Services immediately upon becoming aware of it. Such notification shall include all relevant information to enable each party to investigate the matter fully.
- 14.10 If requested to do so by the other party, the Supplier and Vendor shall provide the other party with any relevant information arising out of the provision of the Services, in connection with any legal inquiry, hearing, arbitration or Court proceedings in which the Hirer and/or the Vendor or Supplier may become involved and shall give evidence in such inquiries or proceedings or hearings.
- 14.11 the Vendor shall inform the Supplier in writing of any AWR Claim which comes to the notice of the Vendor and/or the Hirer as soon possible but no later than 7 calendar days from the day on which any such AWR Claim comes to the notice of the Vendor and/or the Hirer.

- 14.12 The Supplier shall inform the Vendor in writing of any AWR Claim which comes to the notice of the Supplier as soon possible but no later than 7 calendar days from the day on which any such AWR Claim comes to the notice of the Supplier.
- 14.13 If the Agency Worker brings, or threatens to bring, any AWR Claim, the Vendor undertakes to use its reasonable endeavours to, and will use its reasonable endeavours to procure that the Hirer undertakes to, take such action and give such information and assistance as the Supplier may reasonably request, and within any reasonable timeframe requested by the Supplier and at the Hirer's cost, to avoid, dispute, resist, mitigate, compromise or defend any such AWR Claim and to appeal against any judgment given in respect thereof.

15 Access to the Hirer's Premises

- 15.1 The Vendor shall ensure that the Hirer shall by prior arrangement with the Vendor provide such access to the Hirer's premises as the Supplier may reasonably require to fulfil its obligations under this Contract.
- 15.2 The Supplier shall comply with all security requirements of the Hirer while at the Hirer's premises including providing identity details and submitting to security checks on request and complying with the Hirer's requirements relating to security passes, including returning them on exiting the Hirer's premises.
- 15.3 The Vendor reserves the right for the Vendor and/or the Hirer to refuse admission to or require the removal of any person from the Hirer's premises who the Vendor and/ or Hirer, in their reasonable opinions believes is in breach of the Hirer's requirements or is not suitable to provide the Services.

16 Retention of Documents

- 16.1 The Supplier shall keep and maintain for the Contract Period and for six (6) years after the date of termination or expiry of the Contract full and accurate records and accounts in relation to the Contract, including the services provided under it.
- 16.2 The Supplier shall and shall procure that any sub-Contractors or Intermediaries keep and maintain for the Contract Period and for six (6) years after the date of termination or expiry of the Contract full and accurate records and accounts in relation to the Contract, including in particular (but not limited to) records relating to pay (including tax and national insurance), the WTR and AWR.
- 16.3 The Supplier shall provide access to the Vendor to its premises and records to enable the Vendor to audit the Supplier to ensure proper conduct of this Contract. For the avoidance of doubt any such audits will be limited to information relating to the conduct of this Contract and not to any other business conducted by the Supplier.

17 Intellectual Property Rights

- 17.1 Except where otherwise expressly agreed in writing, any drawings, specifications, software, designs or other data (including working documents, maps and photographs) completed or provided by the Hirer or the Vendor in connection with the Contract shall become or, as the

case may be, remain the property of the Hirer, in whom shall be, or shall remain, vested all intellectual property rights and be delivered up to the Hirer on completion or termination of the Contract.

- 17.2 The Supplier shall not in connection with this Contract use, manufacture, supply or deliver any process, article, matter or thing, the use, manufacture, supply or delivery of which would be an infringement of any patent or patent rights or any other intellectual property rights of any third party and the Supplier shall indemnify the Vendor against all actions, claims, demands, proceedings, damages, costs, charges and expenses which the Vendor may sustain, incur or be put to by reason or in consequence directly or indirectly of any breach of this provision.
- 17.3 Insofar as the Hirer and/or the Vendor wish to ensure that any and all intellectual property rights developed under the Contract or arising from the provision of the Services by the Supplier shall belong to the Vendor and/or Hirer (except insofar as they reproduce any existing copyright or other intellectual property right in the work or a substantial part of any work) the Hirer and/or the Vendor must execute or cause to be executed all deeds and documents and undertake all acts required to vest such intellectual property rights in the Hirer. The Supplier cannot and does not make any representations or warranties that any and all intellectual property rights developed under the Contract or arising from the provision of the Services by the Supplier shall belong to anyone other than the author of any work so developed or arising from the Services.

18 Assignment and Sub-Contracting

- 18.1 The Vendor shall not be entitled to assign or novate the benefit of the Contract or any part of it, save to a successor body performing its functions and in any such case the Supplier shall do all such things and execute all such documents as are necessary to effect such assignment or novation on such terms as the Vendor shall reasonably require.
- 18.2 The Supplier shall neither assign the Contract or any part thereof or the benefit or advantage of the Contract or any part thereof nor sub-contract the provision of the Services or any part thereof.

19 Termination

- 19.1 Save where the party is an Intermediary, either party may terminate the Contract at any time by giving the other party three (3) months' written notice.
- 19.2 Where the party is an Intermediary, the Contract will terminate in accordance with the notice set out in the Placement Agreement.
- 19.3 Either party may terminate the Contract forthwith by giving notice of termination in writing if any one of the following events occurs:
 - 19.3.1 the other party commits a material or fundamental breach of any of the terms of this Contract and such material or fundamental breach is in the reasonable opinion of both parties incapable of remedy; or
 - 19.3.2 the other party commits a breach of this Contract which in the case of a breach capable

of remedy shall not have been remedied within 14 days of the receipt by the other party of a notice from the innocent party identifying the breach and requiring its remedy; or

- 19.3.3 the other party persistently breaches any of its obligations under the Contract; or
 - 19.3.4 the other party persistently breaches or is suspected of breaching the Bribery Act or commits or is suspected of committing a Prohibited Act (as defined in Clause 14); or
 - 19.3.5 the other party is dissolved, ceases to conduct all (or substantially all) of its business, is or becomes unable to pay its debts as they fall due, is or becomes insolvent or is declared insolvent, or convenes a meeting or makes or proposes to make any arrangement or composition with its creditors; or
 - 19.3.6 an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party; or
 - 19.3.7 an order is made for the winding up of the other party, or where the other party passes a resolution for its winding up (other than for the purpose of a solvent Vendor reorganisation or amalgamation where the resulting entity will assume all the obligations of the other party under this Contract).
- 19.4 The Vendor may terminate this Contract forthwith by giving notice of termination in writing if the Supplier or, where applicable, any of its directors or partners:
- 19.4.1 ceases to carry on the whole or a substantial part of its business or disposes of the whole or a substantial part of its assets, is subject to a merger, change of control, or take-over or changes its composition or reduces its staffing levels in a way which, in the reasonable opinion of the Vendor, would adversely affect the delivery of the Services; or
 - 19.4.2 has any of its directors or partners convicted of dishonesty; or
 - 19.4.3 experiences, in the reasonable opinion of the Vendor, whose reasonable opinion shall be final and binding, an irreconcilable conflict of interest with the Vendor or the Hirer; or
 - 19.4.4 fails to provide the information the Vendor requires to comply with the Reporting Requirements; or
 - 19.4.5 provides a fraudulent document which is intended to constitute evidence that section 44 ITEPA does not apply to any Temporary Resource; or
 - 19.4.6 enters into, or the Vendor suspects that the Supplier has entered into arrangements the main purpose, or one of the main purposes of which is to secure that a Temporary Resource's services are not treated for income tax purposes under section 44 ITEPA.
- 19.5 The Supplier acknowledges that the continuation of the Contract is dependent upon the continuation of the contract between the Vendor and the Hirer.

20 Consequences of Termination

- 20.1 If this Contract expires or is terminated for any reason other than the reasons specified in Clauses 20.2 or 20.3 then the Supplier shall be entitled to payment for the Services rendered by it up to and including the date of termination, excluding any sums already paid in respect of such Services. In the event that the Vendor and/or the Hirer or any third party wishes to Engage any Temporary Resource supplied up to and immediately prior to the date of termination either directly or through an employment business (as defined under the Conduct Regulations) other than the Supplier, the Vendor may be liable to pay a Transfer Fee or an Introduction Fee in accordance with Clauses 13.
- 20.2 If either party terminates the Contract as provided in Clauses 20.2 or 20.3, the Vendor and/or the Hirer shall:
- 20.2.1 be entitled to reoccupy any premises and repossess any other physical resources licensed, loaned, or hired to the Supplier, and shall have full and unlimited licence over all drawings, documents, descriptive Contracts and other data for use in connection with the Services;
 - 20.2.2 be entitled to make all arrangements which are, in its view, necessary to procure the orderly completion of the provision of the Services including emergency, temporary arrangements if required and re-letting another Contract and, if the Hirer is a public authority, subject to the Hirer's best value duty, the Vendor shall have no obligation to use the least expensive method of performing the Services;
 - 20.2.3 be entitled in respect of any costs, loss or damage to the Vendor arising out of the termination of the Supplier's Services, to deduct the same from any amount which would otherwise have been due from the Vendor to the Supplier under the Contract. Such costs, loss or damage shall include the reasonable costs to the Vendor of the time spent by its officers in terminating the Supplier's Services and in making alternative arrangements for the provision of the Services or any part of them.
- 20.3 If the Contract is terminated under Clause 20, neither the Vendor nor the Supplier shall have a claim against the other in respect of any loss or damage resulting from or arising out of the termination of this Contract except that:
- 20.3.1 the Supplier shall be entitled to receive from the Vendor any sum or sums due in respect of work properly performed up to the end of the Contract.
- 20.4 Where the Contract is terminated under Clause 20 the Vendor may, during any notice period:
- 20.4.1 direct the Supplier, (a) where the Services or part of them have not already commenced, not to commence the Services or part of them or (b) where the Services have commenced, to cease work immediately; or
 - 20.4.2 direct the Supplier to complete in accordance with the Contract all or any part of the Services, which shall be paid at the Contract Price.

- 20.5 The rights of each party under this Clause 21 are in addition to and without prejudice to any other rights or remedies of that party against the other directly or pursuant to any guarantee, indemnity or bond.

21 Force Majeure

- 21.1 If either party is prevented, hindered or delayed from performing its obligations under this Contract by a Force Majeure Event then:
- 21.1.1 that party's obligations under this Contract shall be suspended for so long as the Force Majeure Event continues and to the extent that the party is so prevented, hindered or delayed;
 - 21.1.2 as soon as reasonably possible after commencement of the Force Majeure Event that party shall notify the other party in writing of the occurrence of and start date of the Force Majeure Event, and the effects of the Force Majeure Event on its ability to perform its obligations under the Contract;
 - 21.1.3 if that party fails to give the notice referred to in Clause 21.1.2 it shall forfeit its rights under Clause 21.1.1;
 - 21.1.4 that party shall use all reasonable efforts to mitigate the effects of the Force Majeure Event upon the performance of its obligations under this Contract; and
 - 21.1.5 as soon as reasonably possible after the cessation of the Force Majeure Event that party shall notify the other party in writing of the cessation of the Force Majeure Event and shall resume performance of its obligations under this Contract.
- 21.2 If the Force Majeure Event continues for more than fourteen (14) days after the commencement of the Force Majeure Event either party may terminate the Contract with immediate effect.

22 Data Protection

- 22.1 The Parties shall comply with the provisions of the Data Protection Laws so far as applicable to this Contract and the Services and shall indemnify each other against all actions, costs, expenses claims, proceedings and demands which may be brought against the other party for breach of any of the Data Protection Laws which arises from the use disclosure or transfer of personal data by the other party or its employees, workers or agents.
- 22.2 If either party receives a subject access request from a Candidate or Temporary Resource Introduced or supplied by the Supplier, and where the party receiving the request is the data processor and the other party is the data controller, that party shall advise the other party promptly. Each party shall do all in its power to assist the other party to comply with the subject access request and the Data Protection Laws in relation to that request.

23 Confidentiality

- 23.1 The terms of this Contract are confidential between the parties and neither shall disclose the contents to any third party, save for the purposes of taking legal advice or where it is strictly necessary for the performance of the Contract, without the prior written consent of the other.
- 23.2 This Clause 24 shall not apply to Confidential Information which is or comes into the public domain other than: which is required to be disclosed by law, or a competent authority; was in the other party's lawful possession prior to the disclosure; or is lawfully disclosed to the other party without restriction on disclosure.
- 23.3 The parties acknowledge that in the course of the provision of the Services the Supplier, the Hirer and the Vendor may receive or have access to each other's Confidential Information.
- 23.4 Each party undertakes to hold any Confidential Information in the strictest confidence and not to disclose it to any third party including any of the Hirer's officers or employees, except as is strictly necessary for the performance of the Services. Each party further undertakes to use the Confidential Information solely and exclusively for the purposes of the Hirer's recruitment requirements as disclosed by the Vendor to the Supplier and for which the Services of the Supplier have been secured, and to afford the Confidential Information the same level of protection against unauthorised disclosure or use as each party uses to protect its own confidential information. Each party hereby confirms that any processing of Confidential Information, which includes data about Temporary Resources and Candidates will comply with the provisions of the Data Protection Laws.
- 23.5 Each party shall notify the other party promptly of any unauthorised use or disclosure of the Confidential Information of which it has actual knowledge and will provide such assistance and co-operation as is required or requested by the other party to prevent or minimise further unauthorised uses or disclosures.
- 23.6 Each party agrees that, at the request of the other party, it will immediately return or destroy all documents (including copies), disks, tapes and other material (in whatever medium stored) that it holds or is under their control, which contain any Confidential Information, except where such information is required for the purposes of any statutory record keeping requirements or a court order.
- 23.7 The Vendor accepts that all Introductions of potential Temporary Resources and Candidates along with all information relating to such personnel provided by the Supplier are strictly confidential. The Engagement by the Vendor or the Hirer, otherwise than by using the services of the Supplier, of any Temporary Resource or Candidate whether for a definite or indefinite period, or the Introduction of such Temporary Resource or Candidate to any member of the Vendor's Group or the Hirer's Group or Hirer of the Vendor or Hirer, or to any third party, with a resulting Engagement, constitutes an improper use of the Supplier's Confidential Information and represents a breach of this Contract.
- 23.8 The Vendor undertakes to ensure that all of the Confidential Information supplied by the Supplier and relating to particular Temporary Resources or Candidates Introduced by the Supplier in the course of the Services shall be deleted from their database within 1 week of the rejection of the potential Temporary Resource's or the Candidate's services.

- 23.9 The Supplier undertakes to keep confidential all Relevant Terms and Conditions that the Vendor discloses to the Supplier and not to use such information except for the purposes of compliance with the AWR (including, for the avoidance of doubt and without limitation, when dealing with any request for information or complaint made by any Temporary Resources or any AWR Claim).
- 23.10 The Vendor agrees to use its reasonable endeavours to procure the agreement of the Hirer in similar terms to the matters contained in this Clause 23.

24 Anti-bribery

24.1 Each party agrees:

- 24.1.1 not to offer or give, or agree to offer or give to any employee, agent, servant or representative of either the other party or the Hirer, or any other person, any gift or other consideration of any kind which could act as either an inducement or a reward for any act or failure to act in relation to this Contract;
- 24.1.2 not to engage in or commit in relation to this Contract, an act prohibited under the Bribery Act 2010 ("the Bribery Act") or any other relevant legislation or codes in relation to bribery and anti-corruption (a Prohibited Act);
- 24.1.3 in relation to this Contract, to act in accordance with guidance issued by the Ministry of Justice under section 9 of the Bribery Act;
- 24.1.4 to have and enforce an anti-bribery policy (which shall be made available to the other party on request) to prohibit it and any of its employees, agents, servants or sub-Contractors from committing a Prohibited Act;
- 24.1.5 to immediately notify the other party if it suspects or becomes aware of any breach of this Clause 24;
- 24.1.6 to respond promptly to any enquiries made by the other party regarding any breach, potential breach or suspected breach of this Clause 24 and shall co-operate with any investigation and shall allow the other party to audit its books, records and any other relevant documentation in connection with such breach.

- 24.2 Each party (the First Party) shall indemnify the other party (the Second Party) against any loss incurred by the Second Party as a result of the First Party's breach of this Clause 24.

25 Dispute Resolution

- 25.1 If any dispute or difference of any kind whatsoever shall arise between the Vendor and the Supplier in connection with or arising out of the Contract or the carrying out of the Services, including any dispute as to any decision, opinion, instruction, direction, certificate or valuation given by the Vendor (whether during the progress of the Contract or after its completion, and whether before or after termination, abandonment or breach of the Contract), it shall be referred to a representative of each party who shall endeavour to resolve the dispute or difference.

- 25.2 If the parties representative fail to resolve a matter pursuant to Clause 25.1 within fourteen (14) days the matter shall be referred to a Director of each party. If the matter is still unresolved for a further fourteen (14) days, either party may require that the matter be referred to arbitration under the Arbitration Rules of the Chartered Institute of Arbitrators or as otherwise may be agreed between the parties. The award of the arbitrator shall be final and binding upon the Vendor and the Supplier.
- 25.3 If, upon the referral to an arbitrator of any dispute between the Vendor and the Supplier, the arbitrator shall find that in the exercise of its powers, duties and discretions under the Contract either party has acted unreasonably in all the circumstances in the issue of any notice, instruction or certificate or in the giving or withholding of any consent, the arbitrator shall have the power to make an award which has the effect of amending such notice, instruction, certificate or decision to give or withhold consent in such manner as the arbitrator may think fit.

26 Agency and Authority

- 26.1 Except as expressly provided otherwise in this Contract or as instructed in writing by the Vendor neither the Supplier nor its personnel shall in any circumstances hold itself or themselves out as being the employee, worker or agent of either the Vendor or the Hirer.
- 26.2 The Supplier shall ensure that neither it nor its personnel is held out as having the power to enter into any contract on behalf of the Vendor or the Hirer or in any other way to bind the Vendor or the Hirer to the performance, variation, release or discharge or any legal obligations with third parties; or to perform or discharge duties or functions which by statute must be performed or discharged by the Vendor or the Hirer.

27 Notices

Any demand, notice, or other communication required to be given or served under this Contract shall be in writing and shall be sufficiently served if served personally on the Vendor or the Supplier as appropriate, or if sent by first class post to the registered office or last known address of the party to be served. Any notice will be deemed served: if delivered personally, at the time of delivery; if posted, on the second day after posting, subject to proof to the contrary.

28 Waiver

Failure by either party at any time to enforce the provisions of the Contract or to require performance by the other party of any of the provisions of the Contract shall not be construed as a waiver of or as creating an estoppel in connection with any such provisions and shall not affect the validity of the Contract or any part thereof or the right of the parties to enforce any of the provisions in accordance with its terms.

29 Severance

If any provision of this Contract shall be determined by any competent authority to be unenforceable to any extent, such provision shall, to that extent, be severed from the remaining Clauses of this Contracts which shall continue to be valid to the fullest extent permitted by law.

30 Third Party Rights



Save for the Hirer, this Contract shall not create or give rise to, nor shall it be intended to create or give rise to, any third party rights. No third party, save for the Hirer, shall have any right to enforce or rely on any provision of the Contract, which does or may confer any right or benefit on any third party, directly or indirectly, expressly or impliedly. Save in relation to the Hirer, the application of any legislation giving or conferring on third parties Contractual or other rights in connection with the Contract shall be excluded.

31 Law and Jurisdiction

This Contract shall be governed and construed in accordance with the laws of England and Wales and shall be enforceable in the Courts of England and Wales.

32 Freedom of Information Act

- 32.1 This clause applies where the Hirer is a public authority for the purposes of the Freedom of Information Act 2000 (FOIA).
- 32.2 The Supplier acknowledges that as a public authority for the purposes of FOIA, the Hirer may receive requests for the release of certain information under the FOIA (FOIA Requests) and that compliance with such requests may override the confidentiality provisions set out in Clause 24 of this Contract.
- 32.3 If the Hirer or Vendor receive a FOIA Request relating to this Contract, the Supplier shall provide such information as shall be requested without delay. Notwithstanding the Hirer's sole discretion to decide how to respond to the FOIA Request, the Vendor will convey the Supplier's views regarding compliance with such request to the Hirer.

Signature:		XXX
Print name:		XXXXXXXXXXXX
Print job title:	OPERATIONS MANAGER	Managing Director
Date:		24/11/2017
	I confirm I am authorised to sign this Contract on behalf of the Vendor	I confirm I am authorised to sign this Contract on behalf of the Supplier

Schedule 1 – Rates and Pricing

1. Temporary Resource rates

1.1 The Contract Price for each Placement Agreement shall be comprised of the following elements:



114

[illegible]

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

2 **Transfer Fees** (Clause 13)

2.1 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

SCHEDULE 2 –Specification

The Provision of Temporary Resources

1. Introduction

This Specification outlines the services, processes and standards in relation to the Services to be provided pursuant to the Contract. The Vendor will manage the Introduction of Candidates and the provision of Temporary Resources supplied by employment agencies and businesses including the Supplier on behalf of the Hirer on a master vendor basis.

The terms of this Specification will be used along with any key performance indicators as the basis against which the Services are monitored and reviewed. This Specification will remain in place for the duration of the Contract and will be changed or modified by agreement by both parties in writing after regular reviews. Such changes will become part of this Specification.

2. The Services

The Supplier shall ensure that it has in place suitable arrangements for the implementation and service of this Specification.

The Supplier shall operate the following quality measures as a minimum:

- make available back-up, replacement and support personnel whenever necessary;
- ensure that there are properly organised and efficient systems and processes in place between the Supplier and any permitted sub-Contractors to enable full understanding and agreement concerning the Services which are to be provided and the necessary liaison with the Vendor;
- enable a quick response to the Vendor's requests or requirements for the Services and matters associated with the Services, including but not limited to attendance at meetings and requests for information;
- ensure compliance with all Contractual timescales and all other reasonable response times;
- 100% compliance for all legislative, vetting and training requirements;
- accurate and timely management information for quarterly contract review meetings, monthly management information and upon request;
- assist the Vendor (and the Hirer) with regular service benchmarking on the Services rates, multipliers, usage and utilisation which will be shared with the Hirer on a quarterly basis;
- provide the Services in such a way as to promote equalities and work towards meeting the Hirers' equalities and other organisational strategies;
- provide the Services in such a way as to support the Hirers' and their partners' strategies;
- maintain and monitor all Contractual or relevant key performance indicators;
- check that information, data or software supplied pursuant to the Contract is fit for the purpose for which the Hirer intends to use it;
- full compliance, if applicable, with the regional Memorandum of Co-operation in relation to both Children and Adult social care provision;
- deal properly with any potential conflicts of interest in accordance with the Contract; and
- keep the Vendor informed about progress in the provision of the Services.

The Supplier shall provide the following services:

- adhere to the agreed selection criteria for all Candidates and Temporary Resources. The selection criteria will be based upon the needs of each role along with the quality checking criteria as outlined in section 5.2.b of this Specification. the Vendor will undertake regular audits to monitor the Supplier's quality checking of Candidates and Temporary Resources;
- manage sickness and holiday cover for Temporary Resources;
- manage the timesheet and invoicing processes;
- deal with, and support the Vendor in dealing with any performance issues relating to any Candidates or Temporary Resources that are Introduced or supplied to the Hirer. The Supplier will liaise with the Vendor's Representative and the Candidate or Temporary Resource to help resolve any issues;
- attend the Contract and service reviews with the Vendor;
- provide management information and reports;
- use the Hirer's/ Vendor's E-invoicing and E-purchasing system;

3. Formal Review Meetings

The Supplier shall attend review meetings as required by the Vendor.

4. Candidates and Temporary Resources

- 1) The Vendor will be the only point of contact for all Recruitment Orders received from the Hirer. All Recruitment Orders will be handled in accordance with the process set out below.
- 2) The Vendor will notify the Supplier and publish details of requirements via the Vendor's requirements portal / DPS system.
- 3) The Supplier agrees to respond to Recruitment Orders as quickly as possible, and in any event within the timescale set out in the Recruitment Order, excluding weekends or Public Holidays provided that the Supplier shall not be required to respond if it does not have a suitable Candidate or Temporary Resource or does not wish to bid to provide the Services.
- 4) The Supplier shall supply the Vendor with CVs to enable the selection of a Candidate or Temporary Resource by the Hirer. The CV shall exclude any personal contact details. The Supplier shall respond to contacts within the agreed response times and ensure the Temporary Resource is matched against the Hirer's requirements, including but not limited to Job Description and Person Specification
- 5) The Vendor shall ensure that any Candidate or Temporary Resource meet vetting requirements in accordance with the Hirer's standards and legislative requirements, including but not limited to references, certificates/qualifications, registration with professional bodies (HCPC), asylum and immigration status, limited company status, minimum/maximum age levels, disclosure and barring service checks, medical, confidentiality agreement, worker registration and baseline personnel security standard
- 6) keep the Supplier informed of the status of current Recruitment Orders.

- 7) The Supplier shall not put forward a Candidate or Temporary Resource directly to the Hirer for any Recruitment Order.
- 8) The Vendor shall use reasonable endeavours to notify the Supplier of a Recruitment Order cancellation as soon as possible
- 9) If the Supplier needs to cancel the supply of a Temporary Resource it shall use its reasonable endeavours to notify the Vendor as soon as possible before the Temporary Resource is due to commence an Assignment. The Vendor will decide in its discretion whether to request the Supplier to provide a substitute Temporary Resource or to pass the Recruitment Order to another supplier.
- 10) The Supplier ensure regular compliance checks are carried out every three to six month, regardless of the method of supply
- 11) The Supplier shall ensure workers are vetted in relation to tax status and consultant / contractors are appropriately registered for tax etc.
- 12) The Supplier shall ensure workers receive a pre-booking briefing, induction and been made aware of health and safety issues in accordance with the standard which must be recorded
- 13) The Supplier shall ensure the quality of the workers through undertaking a post placement evaluation to ensure levels of satisfaction are high and managers would rehire, that workers are rated as excellent/good and any rated poorly are not placed in the future and receive appropriate feedback to confirm this
- 14) The Supplier shall ensure workers receive the living wage in line with the Council's employees
- 15) The Supplier shall ensure complaints are logged and dealt with through an agreed complaints procedure which will be in place within the first six months of operation
- 16) The Supplier shall ensure compliance meets the agreed standards, including but not limited to risk of inferred employment rights monitored and reported, booking authorisation fully complied with, accurate costing of invoice, temp to perm authorisation adhered to, Working Time Regulations and AWR complied with
- 17) The Supplier shall ensure all workers are made aware of health and safety issues and any risk assessments associated with their area of work and that an on-site induction must be completed before by the worker commences an assignment.
- 18) The Supplier shall ensure all payments to workers are in accordance with the Hirer's agreed payment rates and that holiday entitlement are provided in a compliant and lawful manner
- 19) The Supplier shall ensure all appropriate internal authorisations have been received and confirmation of this will be kept in relation to each placement

5. Management of Candidates and Temporary Resources

The Supplier shall ensure that regular progress checks are undertaken to ensure that all Candidates and Temporary Resources meet the Vendor's expectations as part of the audit process.

6. Selection process for Candidates and Temporary Workers

The Supplier shall ensure that it complies with the following recruitment selection processes:

- i. **Checking identity:** Save where the Supplier is acting as an Intermediary, the Potential Candidates and Temporary Resources must be interviewed face-to-face where possible (this can include video interviewing via Skype for Candidates or Temporary Resources based more than 20 miles from the Supplier's office). If not possible, a telephone interview must take place. Interviews must be conducted by a suitably trained and experienced member of the Supplier's staff. This is to ensure that potential Candidates and Temporary Resources are suitable for the position applied for and that they meet the requirements of the relevant role specification. All interview feedback will be made available to Vendor.
- ii. **Approval to represent:** Save where the Supplier is acting as an Intermediary, the Supplier must obtain approval to have the "right to represent" the Candidate and Temporary Resource for each vacancy the Supplier wishes to put the Candidate or Temporary Resource forward for. In the event that the same candidate is submitted by two suppliers and both have confirmed they have the right to represent the candidate, then the Vendor reserves the right to choose which supplier shall represent the candidate.
- iii. **Suitability of the Candidate or Temporary Resource:**

Where:

- the Candidate or Temporary Resource is required by law, or any professional body to have any qualifications or authorisations to work on the Assignment the Supplier shall 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
- in addition, where the Assignment involves working with, caring for or attending one or more Vulnerable Persons, the Supplier shall 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 Candidate or Temporary Resource 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 Intermediary or the Agency Worker supplied to do the work is suitable for the Assignment. If the Employment Business has taken all reasonably practicable steps to obtain the information above and has been unable to do so fully it shall inform the Hirer of the steps it has taken to obtain this information in any event.

If the Supplier has taken all reasonably practicable steps to obtain the information above and has been unable to do so fully it shall inform the Vendor of the steps it has taken to obtain this information in any event.

Where the Candidate or Temporary Resource will be working with Vulnerable Persons, in the event of no previous employer being able to provide references they must be obtained from educational establishments, professional individuals and/or from organisations where such persons have been employed in a voluntary capacity. If the Supplier has taken all reasonably practicable steps to obtain such references but has been unable to comply fully with these requirements the Supplier must inform the Vendor who will decide whether the Candidate or Temporary Resource is suitable.

iv. **Right to work: All Candidates and Temporary Resources must be eligible to work in the United Kingdom.**

Eligibility to work in the United Kingdom must be confirmed by the Supplier by (i) checking and (ii) taking photocopies of the original appropriate documentation before submission of a candidate. "Appropriate documentation" means the documents listed in the current guidance and/or legislation as being acceptable for the purposes of claiming a defence against any breach of the current immigration rules.

[The Supplier shall undertake all the relevant checks to ensure the suitability of each candidate submitted, and all relevant checks and proofs must be in place before a candidate is placed on an Assignment with the Hirer. These will be held by the Supplier and the Vendor.

v. **Intermediaries:** The Supplier shall provide the Vendor the following details regarding all Temporary Resources supplied via an Intermediary wherever incorporated or registered:

- details of each Temporary Resource supplied including:
 - name (first and last names are mandatory, middle names are optional)
 - address and postcode
 - National Insurance number or, if this is not available, date of birth and gender
- the Temporary Resource's engagement details including:
 - how the Temporary Resource was engaged to do the work (e.g. through a partnership, limited liability partnership, limited company or another party that operated PAYE e.g. umbrella)
 - start and end date (if there is one) of each engagement
 - amount paid for the Temporary Resource's services (currency and inclusive of VAT) (only for the self-employed and others engaged where PAYE has not been operated)
 - the name and address of the Intermediary paid for the Temporary Resource's services
 - the Intermediary's company registration number (if applicable)

The Supplier must comply with, and indemnify the Vendor from any breach of, the reporting requirements as required by The Income Tax (Pay As You Earn) (Amendment No. 2) Regulations 2015.

KPIs, Service Targets and Service Credits



Key performance indicator	Service Levels	Measured by	Service credit
Communication			
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Filling temporary bookings			
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Candidate compliance			
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Candidate induction			
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Quality			
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Schedule 3 – AWR definitions

Definitions of “Comparable Employee”, “Qualifying Period” and “Temporary Work Agency”.

"Comparable Employee" means as defined in Regulation 5(4) of the AWR being an employee of the Hirer who:

- (a) works for and under the supervision of the Hirer and is engaged in the same or broadly similar work as the Agency Worker having regard, where relevant, to whether the employee and the Agency Worker have a similar level of qualification and skill; and
- (b) works or is based at the same establishment as the Agency Worker or, where there is no comparable employee working or based at that establishment who satisfies the requirements of (a) above, works or is based at a different establishment and satisfies those requirements.

For the purpose of the definition of **"Qualifying Period"** in clause 1.1 of this Contract, when calculating whether any weeks completed with the Hirer count as continuous towards the Qualifying Period, where:

- (a) the Agency Worker has started working during an assignment and there is a break, either between assignments or during an assignment, when the Agency Worker is not working;
- (b) the break is:
 - (i) for any reason and not more than six Calendar Weeks;
 - (ii) wholly due to the fact that the Worker is incapable of working in consequence of sickness or injury and the break is 28 Calendar Weeks or less; paragraph (iii) does not apply; and, if required to do so by the Vendor and/or the Supplier, the Agency Worker has provided such written medical evidence as may reasonably be required;
 - (iii) related to pregnancy, childbirth or maternity and is at a time in a protected period, being a period beginning at the start of the pregnancy and ending at the end of the 26 weeks beginning with childbirth (being the birth of a living child or the birth of a child whether living or dead after 24 weeks of pregnancy) or, if earlier, when the Agency Worker returns to work;
 - (iv) wholly for the purpose of taking time off or leave, whether statutory or Contractual, to which the Agency Worker is otherwise entitled which is:
 - i. ordinary, compulsory or additional maternity leave;
 - ii. ordinary or additional adoption leave;
 - iii. ordinary or additional paternity leave;
 - iv. time off or other leave not listed in paragraphs (iv)i, ii, or iii above; or
 - v. for more than one of the reasons listed in paragraphs (iv)i, ii, iii to iv above;
 - (v) wholly due to the fact that the Agency Worker is required to attend at any place in pursuance to being summoned for service as a juror and the break is 28 Calendar Weeks or less;
 - (vi) wholly due to a temporary cessation in the Hirer's requirement for any worker to be present at the establishment and work in a particular role for a pre-determined period of time according to the established custom and practices of the Hirer;
 - (vii) wholly due to a strike, lock-out or other industrial action at the Hirer's establishment; or
 - (viii) wholly due to more than one of the reasons listed in paragraphs (ii), (iii), (iv), (v), (vi) or (vii); and
- (c) the Agency Worker returns to work in the same role with the Hirer, any weeks during which the Agency Worker worked for the Hirer before the break shall be carried forward and treated as counting towards the Qualifying Period with any weeks during which the Agency Worker works for the Hirer after the break. In addition, when calculating the number of weeks during which the Agency Worker has worked, where the Agency Worker has started working in a role during an Assignment and is unable to continue working for a reason described in paragraph (b)(iii) or (b)(iv)i, ii, or iii., for the period that is covered by one or more such reasons, the Agency Worker shall be deemed to

be working in that role with the Hirer for the original intended duration or likely duration of the relevant Assignment, whichever is the longer. For the avoidance of doubt, time spent by the Agency Worker working during an assignment before 1 October 2011 does not count for the purposes of the definition of "Qualifying Period".

"Temporary Work Agency" means as defined in Regulation 4 of the AWR being a person engaged in the economic activity, public or private, whether or not operating for profit, and whether or not carrying on such activity in conjunction with others, of:

- (a) supplying individuals to work temporarily for and under the supervision and direction of hirers; or
- (b) paying for, or receiving or forwarding payment for, the services of individuals who are supplied to work temporarily for and under the supervision and direction of hirers.

Notwithstanding paragraph (b) of this definition a person is not a Temporary Work Agency if the person is engaged in the economic activity of paying for, or receiving or forwarding payments for, the services of individuals regardless of whether the individuals are supplied to work for hirers. For the purpose of this definition, a "hirer" means a person engaged in economic activity, public or private, whether or not operating for profit, to whom individuals are supplied, to work temporarily for and under the supervision and direction of that person.

Schedule 4

Self-Bill Agreement



Opus LGSS People Solutions Ltd

Contract for the provision of Temporary Resources

Self-Billing Agreement

Self-Billing Agreement

This Self-Billing Agreement made on

BETWEEN

(1) **Opus LGSS People Solutions Ltd, Company No. 10449174** of Endeavour House, 8 Russell Road, Ipswich IP1 2BX (the “Vendor”)

and

(2) **Caja Ltd (9382834)** of Innovation Centre 1, Keele University Science Park, Keele, ST5 5NB (the “Supplier”)

(Each a “Party”, together the “Parties”)

WHEREAS:

- (A) The Vendor and the Supplier have entered into a Supplier Agreement which governs the relationship between the Parties. The Vendor and the Supplier have entered or will enter into Placement Agreements at various times for the individual provision of the Services.
- (B) The Vendor and the Supplier have agreed to use a self-billing procedure for all transactions (the “Relevant Transactions”) from **27th November 2017** the Start Date) in respect of the Services;
- (C) The Vendor and the Supplier shall adhere to the conditions imposed by HM Revenue and Customs in respect of self-billing invoices, as may be amended from time to time;
- (D) The Vendor and the Supplier agree that this Self-Billing Agreement shall be incorporated into the terms and conditions of the Supply Agreement and each Placement Agreement.

Definitions:

All terms defined within the Supplier Agreement and the Placement Agreements shall have the same meaning when used within this Self-Billing Agreement.

It is agreed as follows:

1. The Supplier hereby agrees:
 - i. to accept electronically delivered Self-Billing invoices raised on its behalf by the Vendor in respect of all Relevant Transactions;
 - ii. not to issue VAT invoices in respect of the Services;

- iii. where for internal compliance reasons it raises dummy invoices, the Supplier will reconcile such dummy invoices to the Self-Billing Invoice;
 - iv. to reconcile their account with any factoring company as may be applicable from time to time;
 - v. to only submit paper-copy Service where pre-agreed in writing with the Vendor;
 - vi. subject to (v) above, to ensure the Application's Timesheet submission system is used to capture all hours worked in respect of the Services;
 - vii. to ensure that rates, hours, hours types and expenses are verified prior to submission or on-line entry of Timesheets;
 - viii. to raise any discrepancies between a Self-Billing Invoice received from the Vendor and invoicing data in its internal records within fourteen (14) days of receipt of such Self-Billing invoice;
 - ix. to notify the Vendor immediately if the Supplier changes its VAT registration number, ceases to be VAT registered or sells or otherwise disposes of all or part of its business;
 - x. to respond to any request for confirmation of its VAT registration details within seven (7) days of receipt of the request.
2. The Supplier agrees and acknowledges that where there is any breach whatsoever of Clause 1 above, the Vendor may at its sole discretion delay or not process payment of the sums due to the Supplier from such Self-Bill Invoices that the breach pertains to.
3. The Vendor agrees:
- i. wherever reasonably possible, to provide a valid Self-billing VAT invoice to the Supplier on a regular (e.g. weekly or monthly) basis;
 - ii. to include on each invoice the Supplier's name, address and VAT registration number, invoice total and details of applicable VAT at the prevailing rate;
 - iii. to inform the Supplier of any relevant changes to the Vendor's VAT registration status, and enter into a new Self-Billing agreement should this be necessary;
4. The Vendor will not accept any liability for payment of any of the Services where the Supplier does not hold a valid signed/approved Timesheet, as applicable, or where the Timesheet has not been authorised via the Application's online Timesheet system, CR.Net, or such other application as directed by the Vendor from time to time.
5. For the avoidance of doubt, any payment properly due to the Supplier will be made in accordance with the terms and conditions of the Supply Agreement between the Parties.
6. The Parties shall, without limitation to the foregoing, comply at all times with all conditions imposed by HM Revenue & Customs in respect of Self-Billing Invoicing processes.
7. The Supplier acknowledges and accepts that the Self-Billing process and payments made under this Self-Billing Agreement shall be exclusively performed by the Vendor.

All charges for services provided under this Self-Billing Agreement will be subject to VAT at the prevailing rate.

XXXXXX
XXXXXX

Signed for and on behalf of Opus LGSS People Solutions by its authorised officer:

Name:	S Stables
Position:	Operations Manager
Date:	

Signed for and on behalf of the Supplier:

(Insert digital signature here: xxx

Name:	xxxx
Position:	Managing Director
Date:	24/11/2017

