

Terms of Business for the Introduction of Permanent Staff

1. DEFINITIONS & INTERPRETATION

- 1.1. In these Terms of Business (**Terms**) the following definitions apply:
- 1.1.1. **Cancellation Fee** means the fee payable by the Client to Kenton Black in accordance with clause 6 if the Client withdraws an offer of Engagement;
 - 1.1.2. **Candidate** means a person who is Introduced by Kenton Black to the Client;
 - 1.1.3. **Client** means the person, firm, company or business to which the Candidate is Introduced by Kenton Black;
 - 1.1.4. **Conduct Regulations** means the Conduct of Employment Agencies and Employment Businesses Regulations 2003;
 - 1.1.5. **Engagement** means the engagement, employment or use of the Candidate by the Client on any basis whatsoever, whether directly or indirectly through any corporate entity;
 - 1.1.6. **Introduction** means (i) the provision by Kenton Black to the Client of a CV or other information which expressly or impliedly identifies a Candidate or (ii) the arrangement by Kenton Black of an interview or meeting between the Client and a Candidate whether face to face, by telephone or by web/video conference; "Introduce," "Introduces" and "Introduced" shall be interpreted accordingly;
 - 1.1.7. **Introduction Fee** means the fee payable by the Client to Kenton Black;
 - 1.1.8. **Introduction Period** means the twelve month period from the most recent Introduction or Third Party Introduction of a Candidate;
 - 1.1.9. **Kenton Black** means Kenton Black Limited (Registered in England & Wales No. 06664214) whose address for correspondence is 127 Hagley Road, Birmingham B16 8LD;
 - 1.1.10. **Payment Terms** means 14 days from the date of Kenton Black's invoice;
 - 1.1.11. **Refund Period** means the 12 week period from commencement of a Candidate's engagement;
 - 1.1.12. **Remuneration** means (i) the gross annual remuneration package payable to the Candidate by the Client including, without limitation, basic salary, guaranteed and estimated bonuses and commission, allowances and all other taxable and non-taxable emoluments. £5,000 shall be added to the Remuneration in respect of any company vehicle provided to the Candidate or (ii) if the Candidate is Engaged on a self-employed basis or via a personal services company or any other corporate entity, the total estimated annual charges payable to the Candidate by the Client;
 - 1.1.13. **Third Party Engagement** means the engagement of a Candidate by a party other than the Client following a Third Party Introduction; and
 - 1.1.14. **Third Party Introduction** means the disclosure of a Candidate's details to a third party by the Client, including disclosure to any holding, subsidiary or associated company of the Client.
- 1.2. Unless the context requires otherwise, references to the singular include the plural.
- 1.3. A person includes a natural person, firm, corporate or unincorporated body (whether or not having a separate legal personality).
- 1.4. Any phrase introduced by the words including, include, in particular or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those words.
- 1.5. A reference to a statute or statutory provision is reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- 1.6. The headings in these Terms are for convenience only and do not affect their interpretation.

2. BASIS OF CONTRACT

- 2.1. These Terms shall form the contract between Kenton Black and the Client for the Introduction of Candidates and shall be deemed to be accepted upon the Client instructing Kenton Black to Introduce a Candidate, the Client interviewing a Candidate pursuant to an Introduction by Kenton Black or the Client otherwise acting upon an Introduction, whichever occurs first.
- 2.2. These Terms contain the entire agreement between the parties and prevail over any terms or conditions of purchase proposed or issued by the Client unless otherwise agreed in writing by a director of Kenton Black.
- 2.3. No variation or alteration to these Terms shall be valid unless the details of such variation are agreed between a director of Kenton Black and the Client, are set out in writing and a copy of the varied terms is given to the Client stating the date on or after which such varied terms shall apply.
- 2.4. The Client acknowledges that authorised employees of Kenton Black may agree to vary Kenton Black's Introduction Fee for a specific Engagement but such variation shall not apply to any future

Engagement unless the Terms are formally varied in accordance with clause 2.3 above.

- 2.5. The Client warrants that it has not relied on any contractual statement, promise or representation made or given by or on behalf of Kenton Black which is not set out in these Terms.
- 2.6. For the purposes of the Conduct Regulations, Kenton Black shall act as an Employment Agency when providing recruitment services to the Client pursuant to these Terms.

3. INTRODUCTIONS & OFFERS

- 3.1. Kenton Black shall use reasonable endeavours to Introduce Candidates from time to time who meet the criteria specified by the Client pursuant to clause 9.3 but shall have no liability to the Client for failing to introduce any Candidates.
- 3.2. An Introduction by Kenton Black shall be deemed to be the sole and effective cause of any Engagement of the Candidate unless all of the following conditions apply:
 - 3.2.1. The Client has, in the six month period prior to Kenton Black's Introduction of the Candidate, been in active discussions with the Candidate, directly or through another employment agency, with a view to employing the Candidate in the same position; and
 - 3.2.2. The Client provides evidence of such active discussions to Kenton Black's reasonable satisfaction; and
 - 3.2.3. The Client has not requested or arranged an interview of the Candidate through Kenton Black.
- 3.3. The Client shall:
 - 3.3.1. Notify Kenton Black immediately of any offer of an Engagement which it makes to a Candidate and the relevant terms of such offer;
 - 3.3.2. Notify Kenton Black immediately upon the acceptance of an offer of Engagement by a Candidate;
 - 3.3.3. Provide details to Kenton Black of the Remuneration agreed with the Candidate and, if requested by Kenton Black, a copy of the proposed contract of employment.

4. INTRODUCTION FEES

- 4.1. The Client will pay an Introduction Fee to Kenton Black in respect of each Introduction by Kenton Black which results in an accepted offer of Engagement within the Introduction Period.
- 4.2. Kenton Black shall issue an invoice for the Introduction Fee on the first day of the Engagement or as soon as reasonably practicable thereafter. VAT shall be charged on all sums invoiced under these Terms.
- 4.3. The Client shall settle Kenton Black's invoice within the Payment Terms and time for payment shall be of the essence.
- 4.4. If the Client does not pay Kenton Black's invoice within the Payment Terms, Kenton Black may:
 - 4.4.1. Pursuant to the Late Payment of Commercial Debts (Interest) Act 1998, charge late payment compensation and interest on such invoiced amounts at the rate of 8% per annum above the base rate of the Bank of England from the due date until the date of payment;
 - 4.4.2. Refer the collection of such payment to a collection agency or legal representatives and, if so referred, the Client shall be liable for all costs, fees (including legal fees on an indemnity basis), charges and disbursements incurred by Kenton Black in recovering payment from the Client.
- 4.5. Subject to clauses 4.6 and 4.7, the Introduction Fee payable to Kenton Black by the Client for an Introduction resulting in an Engagement shall be an amount equivalent to a percentage of the Remuneration payable to the Candidate in the first calendar year of the Engagement, rounded to the nearest pound, and calculated in accordance with the following Fee Structure:

Remuneration	Introduction Fee
Below £40,000	17.5%
£40,000 and above	20.0%

- 4.6. The minimum Introduction Fee for an Engagement shall be £2,000.
- 4.7. Subject to clause 4.6, the Introduction Fee shall be charged on a pro-rata basis for a fixed term Engagement of less than 12 months (**Fixed Term Contract**).
- 4.8. If the a Fixed Term Contract is extended, or if the Client Engages the Candidate within 12 months from termination or expiry of the Fixed Term Contract, the Client shall pay the balance of the full Introduction Fee to Kenton Black.
- 4.9. If the amount of actual Remuneration is not known or the Client fails to provide details of such Remuneration to Kenton Black, Kenton Black will charge an Introduction Fee based on the level of Remuneration which, in Kenton Black's reasonable opinion, is the market rate for the Engagement.
- 4.10. If the parties agree in writing that Kenton Black shall conduct a specific advertising campaign for the Client's vacancies, Kenton Black shall submit a separate invoice to the Client upon incurring any advertising costs. Such invoice shall be payable by the Client in accordance with clause 4.3.
- 4.11. All Introduction Fees shall be charged to the Client in Pounds Sterling (GBP). Where a Candidate's Remuneration is not provided in GBP, for the purposes of calculating the

Introduction Fee, Kenton Black shall convert the Remuneration to GBP using the exchange rate published by the Bank of England on the date of invoice and shall submit the invoice in GBP. The Client shall bear all bank and currency exchange charges when paying Kenton Black's invoice.

5. REFUND GUARANTEE

5.1. If the Engagement terminates in the Refund Period, the Introduction Fee or part will be refunded to the Client in accordance with the scale set out in clause 5.2 (**Refund**), provided that:

- 5.1.1. The Client paid the Introduction Fee within the Payment Terms;
- 5.1.2. The Client notified Kenton Black in writing within 7 days of the termination of the Engagement, giving the reasons for such termination;
- 5.1.3. The Candidate has not been made redundant or been wrongfully or unfairly dismissed by the Client;
- 5.1.4. The Engagement is not a Third Party Engagement;
- 5.1.5. The Client is not in breach of these Terms or any other contract entered into with Kenton Black;
- 5.1.6. The Introduction Fee paid by the Client was in accordance with the standard Fee Structure in clause 4.5; and
- 5.1.7. The Candidate was not previously supplied to the Client by Kenton Black as a Temporary Worker for a period of more than one month.

5.2. Subject to clause 5.1, Kenton Black shall within 30 days give a Refund to the Client in accordance with the following scale:

Week Candidate Leaves	% Refund
1-4	75%
5-8	50%
9-12	25%

5.3. For the purposes of this clause 5, the date of termination of the Engagement shall be the date on which the Candidate ceases working or would have ceased working for the Client but for any period of garden leave or payment in lieu of notice, whichever is later.

5.4. If the Client re-Engages the Candidate within 12 months of termination of the Engagement, an Introduction Fee shall become payable and on this re-engagement, there shall be no entitlement to a Refund should the Candidate's Engagement then terminate.

6. CANCELLATION FEE

If the Client decides to withdraw an offer of Engagement for a reason which does not relate to the Candidate's suitability for the position, the Client shall pay to Kenton Black a Cancellation Fee of 25% of the Introduction Fee, which shall be invoiced in accordance with clause 4.

7. NON-SOLICITATION

If the Client makes an offer of employment or engagement to any Kenton Black employee with whom the Client has had material dealings and the employee commences such employment or engagement within six months of leaving Kenton Black, the Client shall pay an Introduction Fee to Kenton Black, which shall be calculated and invoiced in accordance with clause 4.

8. THIRD PARTY INTRODUCTIONS

8.1. If a Third Party Introduction results in a Third Party Engagement within the Introduction Period, the Client shall pay an Introduction Fee, which shall be calculated in accordance with clause 4.5.

8.2. The Client shall have no entitlement to a Refund if the Third Party Engagement terminates for any reason.

9. RESPONSIBILITY FOR VETTING CHECKS

9.1. Kenton Black shall endeavour to ensure that Candidates Introduced to the Client are suitable to work in the position which the Client is seeking to fill by taking reasonably practicable steps to:

- 9.1.1. Ensure that it would not be detrimental to the interests of either the Client or the Candidate for the Candidate to work in the relevant position;
- 9.1.2. Ensure that both the Client and Candidate are aware of any requirements imposed by law or by any professional body for the Candidate to work in the relevant position; and
- 9.1.3. Confirm that the Candidate is willing to work in the position.

9.2. Notwithstanding clause 9.1, the Client shall satisfy itself as to the suitability of the Candidate for the position they are seeking to fill by:

- 9.2.1. Taking up any references provided by the Candidate before Engaging the Candidate;
- 9.2.2. Checking the Candidate's right to work and obtaining permission to work as may be required by the law of the country in which the Candidate is Engaged to work;

9.2.3. Arranging any medical examinations and/or investigations into the medical history of any Candidate; and

9.2.4. Checking any other requirements, qualifications or permission required for the Candidate to be Engaged by the Client.

9.3. The Client shall provide to Kenton Black all such information as Kenton Black shall reasonably require regarding the position which the Client is seeking to fill including, without limitation, the information specified in Regulation 18 of the Conduct Regulations.

10. CONFIDENTIALITY & DATA PROTECTION

10.1. The Client must use any information supplied by Kenton Black regarding a Candidate solely for the purpose of conducting the recruitment process and must:

- 10.1.1. Must not disclose any such information to any third party prior to making an offer of Engagement without the express written consent of Kenton Black;
- 10.1.2. Not contact the Candidate's current employer for a reference until the Candidate has formally accepted an offer of Engagement;
- 10.1.3. Not export any personal data regarding the Candidate outside of the European Economic Area without the written consent of the Candidate; and
- 10.1.4. Ensure that its employees are subject to obligations of confidentiality preventing the disclosure of a Candidate's details to any third party.

11. LIABILITY

11.1. Whilst Kenton Black will use reasonable endeavours to ensure that any Candidate Introduced to the Client meets the requirements specified by the Client pursuant to clause 9.3, Kenton Black gives no warranty, whether express or implied, as to the suitability of a Candidate for the relevant position.

11.2. Kenton Black shall not be liable to the Client for any indirect or consequential losses or for any loss of profit, loss of business or loss of goodwill howsoever arising.

11.3. Subject to clause 11.4, the aggregate liability of Kenton Black to the Client in respect of any claim arising out of or in connection with the performance or non-performance of these Terms and whether in contract, tort (including negligence), breach of statutory duty or otherwise, is limited to the Introduction Fee paid by the Client to Kenton Black in respect of the Engagement in relation to which such claim arises or, if there was no Engagement, the sum of £5,000.

11.4. Kenton Black does not exclude liability for death or personal injury arising from its own negligence, for fraud or fraudulent misrepresentation or for any other claim which may not be limited or excluded by law.

11.5. Except as set out in these Terms, all warranties, conditions and other terms implied by statute or common law are excluded from these Terms to the fullest extent permitted by law.

11.6. Any claim which the Client may bring against Kenton Black pursuant to these Terms must be commenced within 12 months of the date on which the Client becomes aware or should reasonably have become aware of such claim.

11.7. The Client shall indemnify Kenton Black against all losses, damages, costs, claims (whether actual or threatened) and fees (including legal fees) suffered or incurred by Kenton Black as a result of the Client's breach of contract, negligence (or any other tortious act), breach of statutory duty or otherwise.

12. BRIBERY & ANTI-CORRUPTION

12.1. The Client and Kenton Black each warrant that they shall:

- 12.1.1. Comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010; and
- 12.1.2. Promptly notify the other party of any request or demand for any undue financial or other advantage of any kind in connection with the performance of these Terms.

13. GENERAL PROVISIONS

13.1. The Client shall not assign any of its rights or obligations under these Terms without the written consent of Kenton Black. Kenton Black may assign any monies owing from the Client to a third party including, without limitation, a recruitment finance or factoring company.

13.2. The Client shall not deduct or set off against any sum due to Kenton Black under these Terms, any sum which is owed or which the Client alleges or claims is owed by Kenton Black to the Client, whether under these Terms or under any other agreement between Kenton Black and the Client.

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

13.4. No failure or delay by a party in exercising any right or remedy under these Terms or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

- 13.5. Kenton Black and the Client do not intend these Terms to be enforceable by any third party.
- 13.6. These Terms shall be interpreted in accordance with English law.
- 13.7. The parties irrevocably submit to the exclusive jurisdiction of the Courts of England and Wales in respect of any dispute or claim arising between the parties in relation to the construction, interpretation or performance of the Terms.

Terms of Business for the Supply of Temporary Workers

I. DEFINITIONS & INTERPRETATION

- 1.1. In these Terms of Business (**Terms**), the following definitions apply:
- 1.1.1. **Agency Worker** means a Temporary Worker who is an agency worker within the meaning of the AWR, including an employee of an umbrella company;
- 1.1.2. **Assignment** means the temporary role which the Temporary Worker shall undertake for the Client;
- 1.1.3. **Assignment Schedule** means the document confirming details of the Assignment which is issued to the Client by Kenton Black;
- 1.1.4. **AWR** means the Agency Workers Regulations 2010;
- 1.1.5. **Charges** means the charges made by Kenton Black for the supply of the Temporary Worker including the Temporary Worker's hourly or daily rate, Kenton Black's commission and, in respect of a Temporary Worker who is an Agency Worker, any Employer's National Insurance contributions, pension contributions, holiday pay and additional monies due pursuant to the AWR;
- 1.1.6. **Client** means the business to which the Temporary Worker is Introduced by Kenton Black including, where the Client is a corporate entity, any holding, subsidiary or associated company;
- 1.1.7. **Conduct Regulations** means the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (as amended);
- 1.1.8. **Contractor** means a self-employed subcontractor of the Temporary Worker;
- 1.1.9. **Engagement** means the engagement, employment or use of the Temporary Worker by the Client on any basis whatsoever directly or through any party other than Kenton Black. Engage, Engages and Engaged shall be interpreted accordingly;
- 1.1.10. **Introduction** means (i) the provision by Kenton Black to the Client of a CV or other information which expressly or impliedly identifies a Temporary Worker; (ii) the arrangement of an interview or meeting between the Client and a Temporary Worker whether face to face, by telephone or by web/video conference; or (iii) the supply of a Temporary Worker; and "Introduces" and "Introduced" shall be interpreted accordingly;
- 1.1.11. **Kenton Black** means Kenton Black Limited (Registered in England & Wales No. 06664214) whose address for correspondence is 127 Hagley Road, Birmingham B16 8LD;
- 1.1.12. **Payment Terms** means 30 days from the date of Kenton Black's invoice;
- 1.1.13. **Period of Extended Hire** means an extension of the Assignment for 26 weeks;
- 1.1.14. **Relevant Period** means the period defined in regulation 10(5) of the Conduct Regulations;
- 1.1.15. **Remuneration** includes gross basic salary or fees, 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 Worker for services provided to or on behalf of the Client or any third party. Where a company car is provided, a notional amount of £5,000 will be added to the salary in order to calculate the Transfer Fee;
- 1.1.16. **Restricted Period** means the later of (i) six months from the end of the Assignment or (ii) twelve months from the most recent Introduction of the Temporary Worker to the Client;
- 1.1.17. **SDC** means supervision, direction or control as to the manner in which the Services are carried out;
- 1.1.18. **Services** means the work to be carried out by the Temporary Worker during the course of the Assignment as described in the Assignment Schedule;
- 1.1.19. **Temporary Worker** means the person, firm or corporate body (including an umbrella company) Introduced or supplied to the Client by Kenton Black and, save where otherwise indicated, includes a Contractor or Agency Worker; and
- 1.1.20. **Transfer Fee** means the fee payable in accordance with Regulation 10 of the Conduct Regulations pursuant to clause 8.1 below.
- 1.2. Unless the context requires otherwise, references to the singular include the plural.
- 1.3. A person includes a natural person, firm, corporate or unincorporated body (whether or not having a separate legal personality).
- 1.4. Any phrase introduced by the words including, include, in particular or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those

works.

- 1.5. A reference to a statute or statutory provision is reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

- 1.6. The headings in these Terms are for convenience only and do not affect their interpretation.

2. BASIS OF CONTRACT

- 2.1. These Terms together with the Assignment Schedule, comprise the entire agreement between Kenton Black and the Client for the supply of a Temporary Worker to the Client to the exclusion of any alternative terms which are proposed by the Client. In the event of any conflict or inconsistency, the Assignment Schedule shall take priority.
- 2.2. These Terms shall be deemed to have been accepted by the Client upon signing the Terms to confirm acceptance, the Client acting upon an Introduction, Engaging the Temporary Worker or otherwise utilising the Temporary Worker's services, whichever occurs first.
- 2.3. The Client shall not rely on any statement, promise or representation made or given by or on behalf of Kenton Black which is not set out in these Terms.
- 2.4. No variation or alteration to these Terms shall be valid unless the details of such variation are agreed between a director of Kenton Black and the Client, are set out in writing and a copy of the varied Terms is given to the Client stating the date on or after which such varied Terms shall apply.
- 2.5. For the purposes of the Conduct Regulations, Kenton Black shall be acting as an employment business when introducing or supplying a Temporary Workers for an Assignment with the Client.
- 2.6. Unless Kenton Black notifies the Client that a Temporary Worker has opted-out of the Conduct Regulations, the Conduct Regulations shall be deemed to apply to any Assignment carried out by a Temporary Worker.

3. CLIENT OBLIGATIONS

- 3.1. Where the Conduct Regulations apply to an Assignment, the Client shall provide to Kenton Black all such information regarding the Assignment which is specified in Regulation 18 of the Conduct Regulations.
- 3.2. The Client will assist Kenton Black in complying with Kenton Black's duties under the Working Time Regulations 1998 (WTR) by supplying any relevant information about the Assignment requested by Kenton Black and the Client will not do anything to cause Kenton Black to breach its obligations under the WTR.
- 3.3. The Client will comply and will assist Kenton Black with complying with its obligations under the AWR by, without limitation:
- 3.3.1. Providing the Agency Worker with access to collective facilities and amenities and information about permanent employment opportunities with the Client;
- 3.3.2. Providing information to Kenton Black about any previous assignment for which the Agency Worker has been supplied by any other employment business;
- 3.3.3. Where relevant, providing written details of the relevant terms and conditions which apply to any actual or hypothetical comparator to the Agency Worker together with any amendments to such terms and conditions where appropriate;
- 3.3.4. Co-operating with Kenton Black in responding to or assisting Kenton Black with responding to any question or complaint made under the AWR in a timely manner; and
- 3.3.5. After the 12 week qualifying period under the AWR, paying a proportional increase in the hourly charges for the Agency Worker where necessary, together with any other emoluments to which the Agency Worker is entitled.
- 3.4. The Client warrants that s44(2)(a) of Income Tax (Earnings and Pensions) Act 2003 (ITEPA) shall apply to any Assignment carried out by a Contractor and the Client must notify Kenton Black without delay it believes that s44(2)(a) ITEPA 2003 is not or is no longer applicable to an Assignment.
- 3.5. The Client shall advise Kenton Black of any special health and safety matters about which Kenton Black is required to inform the Temporary Worker and about any requirements imposed by law or by any professional body, which must be satisfied if the Temporary Worker is to fill the Assignment. The Client will also comply in all respects with all statutory provisions as are in force from time to time including, without limitation, the Health and Safety at Work Act 1974, the Management of Health and Safety at Work Regulations 1999 and all other relevant by-laws, codes of practice and legal requirements.
- 3.6. The Client must:
- 3.6.1. Provide a safe working environment for the Temporary Worker;
- 3.6.2. Ensure that, where applicable, the Temporary Worker uses all necessary safety and personal protective equipment during the Assignment;
- 3.6.3. Comply with all statutory provisions, by-laws, codes of practice and other legal obligations in respect of the Temporary Worker's health and safety whilst carrying out an Assignment; and
- 3.6.4. Maintain records of any accident or injury affecting the Temporary Worker and provide copies of such records to Kenton Black upon demand; and

3.6.5. Ensure that the Temporary Worker is insured under the Client's insurance policies for the duration of the Assignment.

- 3.7. The Client must not request the supply of a Temporary Worker to perform the duties normally performed by a worker who is taking part in official industrial action or duties normally performed by a worker who has been transferred by the Client to perform the duties of a person on strike or taking official industrial action.
- 3.8. The Client must notify Kenton Black without delay if it is aware of any reason why it would be detrimental to the interests of the Temporary Worker to carry out the Assignment.
- 3.9. The Client must notify Kenton Black immediately if it intends to Engage a Temporary Worker, extend an Assignment or otherwise vary the Assignment in any way.

4. PROVISION OF INFORMATION

- 4.1. Where the Conduct Regulations apply to an Assignment, Kenton Black shall provide to the Client all such information as is specified in Regulation 21 of the Conduct Regulations.
- 4.2. In all cases, Kenton Black shall use reasonable endeavours to provide an Assignment Schedule to the Client on commencement of the Assignment or as soon as possible thereafter.
- 4.3. The Client shall provide all such information as Kenton Black shall require to assess whether a Temporary Worker shall be subject to SDC. The Client acknowledges that Kenton Black shall rely upon the accuracy of such information and the Client must notify Kenton Black without delay if such information becomes inaccurate at any time.

5. TIMESHEETS

- 5.1. At the end of each week of an Assignment (or at the end of the Assignment where it is for a period of one week or less), the Client shall sign a timesheet in a format specified by Kenton Black verifying the number of hours worked by the Temporary Worker during that week.
- 5.2. The Client is responsible for ensuring that the hours shown on the Temporary Worker's timesheet are correct and that only duly authorised employees sign the timesheet.
- 5.3. Signature of the timesheet by the Client is confirmation of the number of hours worked. If the Client is unable to sign a timesheet produced for authentication by the Temporary Worker because the Client disputes the hours claimed, the Client shall inform Kenton Black as soon as is reasonably practicable and shall co-operate fully and in a timely manner with Kenton Black to enable Kenton Black to establish what hours, if any, were worked by the Temporary Worker.
- 5.4. Failure to sign the timesheet does not absolve the Client's obligation to pay the charges in respect of the hours worked.
- 5.5. The Client acknowledges that Kenton Black shall rely upon the Client's confirmation of the number of hours worked by the Temporary Worker and the Client must not retrospectively adjust the number of hours duly confirmed as having been worked by the Temporary Worker.
- 5.6. The Client shall not be entitled to decline to sign a timesheet on the basis that the Client is dissatisfied with the Services but may be entitled to terminate the Assignment in accordance with clause 9 below.

6. CHARGES

- 6.1. The Client shall pay the Charges as specified in the Assignment Schedule.
- 6.2. Kenton Black shall issue an invoice to the Client for the Charges each week and such invoice shall be payable within the Payment Terms. VAT shall be charged at the standard rate on all sums invoiced under these Terms.
- 6.3. Kenton Black may vary the Charges, by giving written notice to the Client, to reflect any additional cost in supplying the Temporary Worker as a result of the AWR or any statutory change.
- 6.4. There are no refunds or rebates payable in respect of the Charges and the Client shall pay the Charges without deduction or set off including, without limitation, any deduction in respect of the CITB levy.
- 6.5. If an invoice is not paid within the Payment Terms, Kenton Black may:
- 6.5.1. Terminate the supply of Temporary Workers to the Client without notice;
- 6.5.2. Pursuant to the Late Payment of Commercial Debts (Interest) Act 1998, charge late payment compensation and interest on such invoiced amounts at the rate of 8% per annum above the base rate of the Bank of England from the due date until the date of payment; and
- 6.5.3. Refer the collection of such payment to a collection agency or legal representatives and, if so referred, the Client shall be liable for all costs, fees (including legal fees on an indemnity basis), charges and disbursements incurred by Kenton Black in recovering payment from the Client.

7. RESPONSIBILITY FOR PAYMENTS

Kenton Black is responsible for making payments to the Temporary Worker and, where relevant, shall ensure that PAYE Income Tax and National Insurance Contributions are deducted from such payments pursuant to sections 44-47 of ITEPA 2003.

8. TRANSFER FEES

- 8.1. Subject to clause 8.4, the Client shall pay a Transfer Fee ("Transfer Fee") if the Client (i) Engages a Temporary Worker Introduced by Kenton Black or (ii) introduces the Temporary Worker to a third party and such introduction results in an engagement of the Temporary Worker by the

third party and:

- 8.1.1. Where the Temporary Worker has commenced an Assignment and has not opted out of the Conduct Regulations, such Engagement takes place within the Relevant Period; or
- 8.1.2. Where the Temporary Worker has commenced an Assignment and has opted out of the Conduct Regulations or where the Temporary Worker has not commenced an Assignment, such Engagement takes place within the Restricted Period.

- 8.2. The Transfer Fee shall be calculated as a percentage of the Remuneration payable to the Temporary Worker in the first calendar year of the Engagement in accordance with the following Transfer Fee Structure:

Remuneration	Introduction Fee
Below £40,000	17.5%
£40,000 and above	20.0%

- 8.3. If the actual Remuneration is not disclosed to Kenton Black, the Transfer Fee shall be the hourly Charge at which the Temporary Worker was (or would have been) supplied to the Client multiplied by 300.
- 8.4. No refund of the Transfer Fee will be due if the Engagement subsequently terminates.
- 8.5. Unless Temporary Worker has opted out of the Conduct Regulations, the Client may, instead of paying the Transfer Fee, on giving one week's written notice to Kenton Black, request that the Temporary Worker continues to provide the Services for the Period of Extended Hire.
- 8.6. During an Period of Extended Hire, Kenton Black shall supply the Temporary Worker on the same terms as which they were supplied during the Assignment and, in any case, on terms no less favourable than those terms which applied immediately before Kenton Black received the notice pursuant to clause 8.5.
- 8.7. If Kenton Black is unable to supply the Temporary Worker for any reason outside its control for the whole or any part of the Period of Extended Hire or the Client does not wish to hire the Temporary Worker on the same terms as the Assignment but the Temporary Worker is Engaged by the Client, the Client shall pay the Transfer Fee, reduced in proportion to any part of the Period of Extended Hire for which the Temporary Worker was supplied after expiry of the notice served by the Client under clause 8.5.

9. TERMINATION OF THE ASSIGNMENT

- 9.1. Subject to clauses 9.2, 9.3 and 9.4, either party may terminate an Assignment at any time by giving the notice specified in the Assignment Schedule or, if no period of notice is specified, at any time without notice.
- 9.2. Irrespective of any notice period specified in the Assignment Schedule, either party may terminate an Assignment without notice if the other party has committed a serious or persistent breach of its obligations under this Agreement, if the other party undergoes a change of control or becomes insolvent.
- 9.3. Kenton Black shall have no liability to the Client if the Temporary Worker fails to give the agreed notice, if any, upon terminating the Assignment.
- 9.4. Kenton Black may terminate an Assignment without notice if it becomes aware of any reason why the Temporary Worker is unsuitable to work in the Assignment.
- 9.5. If the Client, acting reasonably, is dissatisfied with the Services, the Client may on the first day terminate an Assignment within the first 4 hours if the booking was for more than 7 hours (or within the first 2 hours if the booking was for 7 hours or less) and, provided that such termination is confirmed by the Client in writing within 48 hours, the Employment Business shall cancel the Charges for such period.

10. CONFIDENTIALITY AND DATA PROTECTION

- 10.1. All information relating to a Temporary Worker is confidential and provided solely for the purpose of arranging an Assignment. Such information must not be used for any other purpose nor divulged to any third party and the Client shall comply with the Data Protection Act 1998 when receiving and processing such data.
- 10.2. Save to the extent that Kenton Black is required to disclose such information to the Temporary Worker, Kenton Black shall keep confidential any information provided by the Client for the purpose of complying with the AWR and shall not use it for any other purpose.

11. NON-SOLICITATION

If the Client makes an offer of employment or engagement to any Kenton Black employee with whom the Client has had material dealings and the employee commences such employment or engagement within six months of leaving Kenton Black, the Client shall pay a fee to Kenton Black, which shall be calculated in accordance with the Transfer Fee Structure in clause 8.2 and payable by the Client within the Payment Terms.

12. LIABILITY

- 12.1. Subject to clause 12.2, the Client shall be responsible for the supervision, direction and control of a Temporary Worker during the course of their Assignment.
- 12.2. The Client shall not, nor shall it permit any other person to, exercise or assert the right to exercise SDC over:
- 12.2.1. a Contractor at any time; and
- 12.2.2. any other Temporary Worker where the Client has informed Kenton Black that the

Temporary Worker shall not be subject to SDC pursuant to clause 4.3.

- 12.3. Nothing in clause 12.2 shall:
- 12.3.1. prevent the Client from periodically checking that the Temporary Worker has performed the Services to the required standard;
 - 12.3.2. negate the Client's obligation to ensure the health and safety of such Temporary Worker whilst on the Client's site; or
 - 12.3.3. make Kenton Black liable for the performance or non-performance of the Services.
- 12.4. Kenton Black does not exercise supervision, direction or control over any Temporary Worker and shall not therefore be liable for any errors or defects in the Services.
- 12.5. Kenton Black shall not be liable to the Client, whether in contract, tort (including negligence), breach of statutory duty or otherwise for failing to supply a Temporary Worker, for terminating an Assignment, for any claim for loss of profit or business, or for any indirect or consequential loss arising out of or in connection with these Terms.
- 12.6. Subject to clause 12.7, the aggregate liability of Kenton Black to the Client in respect of any claim or series of claims arising out of or in connection with these Terms shall be limited to 15% of the Charges paid by the Client in relation to the relevant Temporary Worker in the three month period immediately prior to such claim arising or, if there was no supply of a Temporary Worker, the sum of £5,000.
- 12.7. Kenton Black does not exclude liability for death or personal injury arising from its own negligence, for fraud or fraudulent misrepresentation or for any other claim which may not be limited or excluded by law.
- 12.8. Except as set out in these Terms, all warranties, conditions and other terms implied by statute or common law are excluded from these Terms to the fullest extent permitted by law.
- 12.9. Any claim which the Client may bring against Kenton Black pursuant to these Terms must be commenced within 12 months of the date on which the Client becomes aware or should reasonably have become aware of such claim.
- 12.10. The Client shall indemnify and keep indemnified Kenton Black against all losses, damages or claims suffered or incurred by Kenton Black as a result of the Client's breach of contract, negligence (or any other tortious act), breach of statutory duty or otherwise.
- 12.11. The Client shall indemnify and keep indemnified Kenton Black against any demand or assessment for PAYE income tax or National Insurance contributions (including any penalties) suffered or incurred by Kenton Black where the Client has incorrectly informed Kenton Black that a Temporary Worker shall not be subject to SDC.
- 13. BRIBERY & ANTI-CORRUPTION**
- 13.1. The Client and Kenton Black each warrant that they shall:
- 13.1.1. Comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010; and
 - 13.1.2. Promptly notify the other party of any request or demand for any undue financial or other advantage of any kind in connection with the performance of these Terms.
- 14. GENERAL PROVISIONS**
- 14.1. The Client shall not assign any of its rights or obligations under these Terms without the written consent of Kenton Black. Kenton Black may assign any monies owing from the Client to a third party including, without limitation, a recruitment finance or factoring company.
- 14.2. If any of the provisions of these Terms shall be determined by any competent authority to be unenforceable to any extent, such provision shall, to that extent, be severed from the Terms, which shall continue to be valid to the fullest extent permitted by law.
- 14.3. No failure or delay by a party in exercising any right or remedy under the Terms or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- 14.4. The Terms shall be interpreted in accordance with English law.
- 14.5. The parties irrevocably submit to the exclusive jurisdiction of the Courts of England and Wales in respect of any dispute or claim arising between the parties in relation to the construction, interpretation or performance of the Terms.

Terms Acceptance

AGREED FOR AND ON BEHALF OF THE CLIENT

Print Name _____

Print Title _____

Company Name _____

Date _____

Client Signature