



MASTER AGREEMENT FOR THE SUPPLY OF CONTRACTOR SERVICES TO CLIENTS

BACKGROUND:

- A) The Company is acting as an employment business.
- B) The Client has identified a need for technical help and assistance in the performance and completion of works and wishes the Company to introduce and/or supply to the Client service providers under this Agreement.
- C) When the Client requests the Company to supply the services of a service provider, the Company and the Client will enter into a separate Supply Schedule in accordance with this Agreement for the supply of that service provider.
- D) Each Supply Schedule will incorporate the terms and conditions set out in this Agreement.

1 Definitions and Interpretation

1.1 In this Agreement the following definitions apply:

“Agreement” means the agreement between the Company and the Client, incorporating the terms and conditions contained herein, the schedules and the worksheets.

“Agency Workers Regulations” means the Agency Workers Regulations 2010 as amended from time to time.

“AWR Compliance Information” means accurate and complete information relating to the basic working and employment conditions which the Consultant(s) would have been entitled to for doing the same job had the Consultant(s) been recruited directly by the Client, including, but not limited to, the level of basic pay; overtime payments and/or shift/unsocial hours allowance; working time and annual leave entitlements; the types of bonus schemes the Client operates (and how individual performance is appraised in relation to such bonus schemes) and entitlement to any monetary voucher scheme, and any other information reasonably requested by the Company in order to comply with its obligations under regulation 5 of the Agency Workers Regulations.

“Charge Rate” means the anticipated charge rate payable to the Company per hour or day (as applicable) for the Consultant’s services, which is: (i) agreed between the Company and the Client, or (ii) failing agreement, communicated orally or in writing by the Company to the Client at or around the time of the Introduction; or (iii) determined by reference to the market rate for a person with similar skills to the Consultant.

“Client” means a person, firm or corporate body to whom a Service Provider is Introduced and/or supplied by the Company.

“Confidential Information” means any information relating to the business and affairs of both the Company and the Client and to the identity and business and affairs of either party’s customers and clients and potential customers and clients which comes to either parties’ attention or possession and which both parties regard or could reasonably be expected to regard as confidential, whether or not any such tangible information is marked ‘confidential’.

“Consultant(s)” means the person(s) Introduced to the Client by the Company and shall include the Consultant(s) specified in a Supply Schedule.

“End User” means the person, firm or corporate body with whom Client has an agreement.

“Engagement” means the engagement, employment, retention or utilisation of a Service Provider and/or a Consultant (whether directly or indirectly) and **“Engage(s)”** and **“Engaged”** shall be construed accordingly.

“Extended Period of Hire” means an extended period of hire of 12 months during which the Service Provider will be supplied to the Client by the Company, upon no less favourable terms.

“First Year’s Remuneration” means the anticipated total remuneration payable in the 12-month period commencing on the date of the Engagement, including, but not limited to, any salary or fees, any bonus or commission, any car, weighting or relocation allowance and any share options or buyouts. If the Consultant is Engaged on a part-time basis or for a fixed-term of less than 12 months, for the purposes of calculating the Transfer Fee, the First Year’s Remuneration shall be equated to the full-time annualised equivalent.

“Intellectual Property Rights” include but are not limited to copyright, patents, utility models, trade marks, service marks, design rights (whether registered or unregistered), database rights and proprietary information rights in all materials, designs, programs, reports, manuals, visual aids and any other material prepared under this Agreement.

“Introduction” means the provision of any written or oral information to the Client by the Company which enables a Service Provider or a Consultant to be identified by any means whatsoever, whether that information includes the name of the Service Provider and/or Consultant or not, and irrespective of whether the Service Provider and/or Consultant was previously known to the Client.

“Introduction Fee” has the meaning given in clauses 11.1.2 or 11.3.1 (as applicable).

“Online Worksheet System” means the Company’s chosen password protected, web-based time recording system, facilitating the parties’ management of the Service Provider(s)’ worksheets, invoices and payments.

“Regulations” means The Conduct of Employment Agencies and Employment Businesses Regulations 2003 as amended from time to time.

“Restriction Period” means the period of 12 months following either:

1. the Introduction of the relevant Service Provider and/or Consultant; or
2. the termination or expiration of the relevant Supply Schedule;

whichever expires last, save that if the relevant Service Provider and Consultant have not opted out of the Regulations and there has been a Supply, then the Restriction Period shall have the same meaning as “the relevant period” (as defined by the Regulations).

“Service Provider” means the limited companies providing the Consultant(s) including any representative, employee, or officer thereof (and shall include the Consultant(s)) introduced to the Client by the Company and includes the service provider with whom the Company contracts to carry out the Services.

“Services” means all or any part of the work or services to be performed by a Service Provider detailed herein and in each Supply Schedule.

“Supply” means the supply of Services to the Client by a Service Provider through the Company, details of which are set out in the applicable Supply Schedule.

“Supply Schedule” means the agreement between the Company and the Client setting out the terms and conditions with respect to a Supply.

“Transfer Fee” means a fee payable by the Client to the Company calculated according to the type of Engagement. If the Consultant is Engaged under a contract of employment, the amount of the Transfer Fee shall be calculated by applying the appropriate percentage shown below to the First Year’s Remuneration:



| <u>Duration of the Supply(ies)</u> | <u>% of First Year's Remuneration</u> |
|------------------------------------|---------------------------------------|
| Between 0-6 months | 25% |
| Between 6-12 months | 20% |
| Greater than 12 months | 15% |

If the Service Provider and/or Consultant is Engaged on any other basis, the Transfer Fee shall be calculated by multiplying the weekly client rate specified in the relevant Supply Schedule by 12. For the purposes of calculating the Transfer Fee, if no weekly client rate is specified in the relevant Supply Schedule, such a rate shall be calculated by multiplying the weekly working commitment by the hourly rate specified in the relevant Supply Schedule.

1.2 In this Agreement, the following rules of interpretation apply:

- 1.2.1 Any reference to the masculine throughout this Agreement shall be deemed to include the feminine.
- 1.2.2 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.2.3 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.2.4 A reference to a **person** shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality).
- 1.2.5 A reference to a **company** shall include any company, corporation, organisation or other body corporate, wherever and however incorporated or established.
- 1.2.6 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms

2 This Agreement

- 2.1 This Agreement is deemed to have been accepted by the Client with effect from the earlier to occur of (a) any act by the Client of accepting or requesting services from the Company or (b) an Introduction or (c) the Client's interview or request to interview a Service Provider and/or a Consultant or (d) an Engagement by the Client or (e) the Client's signature at the head of this Agreement and shall remain in force unless terminated in accordance with clause 10 below.
- 2.2 The parties agree that the terms of this Agreement shall only apply to business conducted between the Client and the Company, and are not applicable to business conducted by any of the Company's other trading divisions.

3 Performance of Services

- 3.1 This Agreement is a contract for the supply of services and governs the overall relationship of the parties in relation to the Services.
- 3.2 If, following an Introduction, the Client requests the Company to Supply the applicable Service Provider (and the Service Provider is willing to perform the Supply) the Company will:
 - 3.2.1 Issue a Supply Schedule to the Client detailing the terms agreed between the parties specific to that Supply;
 - 3.2.2 Enter into a contract for services with the Service Provider, under which the Company will be responsible for paying the Service Provider for any work done by the Consultant during the Supply; and
 - 3.2.3 Supply the services of the Service Provider to the Client pursuant to the terms of this Agreement and the Supply Schedule.
- 3.3 Prior to the commencement of a Supply:
 - 3.3.1 the Company shall, if practicable, notify the Client if the Regulations apply to the Supply; and
 - 3.3.2 the Client warrants to provide the Company with the AWR Compliance Information, in order that the Company can comply with its obligations under the Agency Workers Regulations, to the extent applicable.
- 3.4 Services
 - 3.4.1 A Supply shall be for the period detailed in the relevant Supply Schedule.
 - 3.4.2 It is the Client's responsibility to specify its requirements and timeframes and to provide all information to the Service Provider(s) and to liaise with the Service Provider(s) to ensure it is providing the Services as required and to the Client's satisfaction, such service reviews should be conducted prior to authorising worksheets which will commit the Client to settle invoices. The Client shall, at its own expense, provide the Service Provider(s) with all documents or other materials and data, or other information necessary for the completion of the Services. The Service Provider(s) shall use its own equipment where appropriate.
 - 3.4.3 The Service Provider(s) shall freely and independently arrange its activities and may perform the Services at its place of business subject to prior agreement with the Client.
 - 3.4.4 The Service Provider(s) may schedule the Services at its discretion subject to the terms set out in the schedules and agreement with the Client.
 - 3.4.5 The Client shall ensure that the Service Provider(s) is accorded sufficient access to any of the Client's premises, information, data or personnel and use of any equipment, which is reasonably necessary for the completion of the Services. Whilst the Service Provider(s) is working at the Client's premises, its Consultant(s) shall be provided with a suitable place of work and such materials in a good condition and sufficient for the purposes for which they are required and the Client should ensure that the Consultant(s) abides by the rules and regulations of the Client's site.
 - 3.4.6 The Client understands that the Service Provider(s) is providing specialist independent services and that the Consultant(s) should not be integrated into the Client's workforce, nor should the Client issue employer type instructions.
 - 3.4.7 Whilst the Consultant(s) is working at the Client's premises, the Client shall ensure that the health and safety standards required by the applicable law and regulations are observed. The Client undertakes to notify the Company of specific risks to health or safety known to it and what steps the Client has taken to prevent or control such risks and confirms it knows of no reason why it would be detrimental to the interests of the Service Provider(s) to undertake the Supply.
 - 3.4.8 The Client will provide the Service Provider(s) with its data protection policies and (where required) training as soon as practically possible, and in any event prior to the Supply commencing.
- 3.5 Standard of Services
 - 3.5.1 The Company shall use reasonable endeavours to ensure that the Service Provider(s) is suitable to carry out the Services with reasonable skill and care.
 - 3.5.2 The Client should notify any complaints concerning the Service Provider(s)' performance promptly to the Company.

4 Payment of fees



- 4.1 The Client shall pay the Company for all Services performed by the Service Provider(s). All charge rates, including additional hour rates and special rates for weekends and bank holidays, are set out in the relevant Supply Schedule. Fees are calculated by multiplying the relevant charge rate by the number of hours/days/weeks (as appropriate) worked by the Consultant(s) in performing the Services.
- 4.2 The Company shall provide the Service Provider(s) with access to the Online Worksheet System to record the time worked by the Consultant(s). The Service Provider(s) will submit these worksheets to the Client for authorisation either in writing or by way of online authorisation. It is the Client's responsibility to ensure that the worksheets are a true reflection of the time worked by the Service Provider(s), and that it is satisfied with the quality of the work performed. Failure to authorise the worksheet(s), for any reason, does not absolve the Client of its obligation to pay the Company's charges in respect of all Services supplied by the Service Provider(s).
- 4.3 The Client shall authorise these worksheets via the Online Worksheet System without delay, or in the case of manual worksheets sign the worksheets and return them promptly to the Service Provider(s). In any event the Client shall be obliged to authorise worksheets (whether online or manual) within 14 days of their submission by the Service Provider(s).
- 4.4 The parties acknowledge that the Company relies on the fact that the Client has authorised the worksheets when making payment to the Service Provider(s), and that the Company may also rely on any refusal by the Client to authorise the worksheets, for instance by disputing (including in legal proceedings) the Service Provider(s)' right to payment. The Client shall assist the Company if it needs to verify hours claimed on a worksheet. The Client shall retain one copy of each worksheet for its own records.
- 4.5 An authorised representative of the Client must approve all expenses, before they are incurred, and provide confirmation of such approval either in writing or through the Online Worksheet System. The Client may reimburse the Service Provider(s)' expenses directly. The Client shall retain copies of all expense receipts submitted.
- 4.6 An invoice for the work performed by the Service Provider(s) shall be presented to the Client for payment, and the Client warrants that it shall be paid within 14 days of the invoice being tendered, unless otherwise specified in the relevant schedule or unless a standing order is arranged. No fee rebates shall apply.
- 4.7 In the event of late payment of an invoice, the Client shall pay to the Company statutory interest on the sum due, in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 (as amended from time to time) together with the compensatory payment specified by section 5A of the aforesaid Act.
- 4.8 The Client agrees to supply the Company with any required Purchase Order within 14 days of the last working day covered by the worksheet. Where the Client fails to do so the Company is authorised to invoice the Client without an accompanying Purchase Order. The Company's invoice shall be payable as specified in clause 4.6 above.

5 Intellectual Property Rights

- 5.1 All Intellectual Property Rights and other rights shall belong to the Client and the Company shall assist the Client in acquiring any Intellectual Property Rights that shall arise as a result of the Services.

6 Confidentiality

- 6.1 Except as permitted by law, the parties shall not disclose any Confidential Information relating to the other party without the other party's prior written consent.
- 6.2 Either party shall immediately notify the other party if it becomes aware of the possession, use or knowledge of any of the Confidential Information by any unauthorised person, whether during or after the term of this Agreement and shall provide such assistance as is reasonable to deal with such an event.

7 Liability

- 7.1 The Company shall not be liable for any indirect or consequential losses or damage including but not limited to: loss of profits, revenue, goodwill, anticipated savings or for claims by third parties arising out of the Company's performance or failure to perform any of its obligations in this Agreement.
- 7.2 Except as required by law, the sole aggregate liability of the Company to the Client under or in connection with this Agreement howsoever arising shall be limited to £250,000.
- 7.3 No liability is accepted by the Company for any loss, expense, damage, costs or delay arising from:
 - 7.3.1 the negligent acts or omissions, dishonesty, misconduct or lack of skill of the Service Provider(s) or its Consultant(s); and/or
 - 7.3.2 the quality of Services provided by the Service Provider(s).
- 7.4 Neither party shall have any liability in respect of any delay in carrying out or failing to carry out any of its obligations under this Agreement caused by fire, strikes or other industrial action or dispute, Acts of Government or any circumstance outside the reasonable control of the parties.

8 Indemnity

- 8.1 The Client shall indemnify the Company against any costs, claims, damages and expenses incurred by the Company as a result of:
 - 8.1.1 any breach of this Agreement by the Client;
 - 8.1.2 any breach by the Client of any applicable statutory provisions (including, without limitation, the Agency Workers Regulations or the Data Protection Act 1998); and
 - 8.1.3 failure by the Client to pay an invoice in accordance with clause 4.6. For the avoidance of doubt, the provisions of this clause are without prejudice to any other rights which the Company may possess (whether at common law or under statute) to recover interest or costs.

9 Substitution of the Consultant(s) by the Service Provider(s)

- 9.1 A Service Provider may substitute the Consultant named in a Supply Schedule provided that:
 - 9.1.1 the Services remain as detailed in this Agreement; and
 - 9.1.2 the proposed substitute possesses the necessary skills, expertise and resources to fulfil the Services; and
 - 9.1.3 the proposed substitute will comply with its rules on health, safety, security and confidentiality; and
 - 9.1.4 no delay or reduction in quality shall occur due to the lack of technical or Client knowledge held by the substitute.

10 Termination

Termination of this Agreement

- 10.1 This Agreement may be terminated at any time by either party upon the provision of 90 days' notice to the other party in writing.
- 10.2 This Agreement and each Supply Schedule then in force may be terminated by the Company with immediate effect by giving written notice to the Client if:
 - 10.2.1 the Client materially breaches this Agreement;



10.2.2 the Client goes into liquidation or a receiver, administrative receiver, administrator or someone of similar office be appointed to the Client or any part of its assets or undertakings;

10.2.3 the Client fails to pay any one invoice in accordance with clause 4.6;

10.2.4 the Client defaults on its payment obligations under any other agreement in force between the Client and the Company;

10.2.5 in the sole opinion of the Company, the Client's financial condition is such that it may not be able to meet its continuing obligations under this Agreement unless the Client immediately pays all invoices due under this Agreement together with such further sums as the Company considers necessary, in its reasonable opinion, to secure its position with regard to future sums due under this Agreement;

10.2.6 the Client refuses or fails to provide the AWR Compliance Information; or

10.2.7 the Client fails to comply with the provisions of clause 11.

10.3 Subject to clause 10.2, on termination (or expiry) of this Agreement, each Supply Schedule then in force at the date of such termination (or expiry) shall nevertheless continue in full force and effect for the remainder of the term of such Supply Schedule(s) unless terminated earlier in accordance with the terms of such Supply Schedule(s). The terms contained in the main body of this Agreement shall govern the remainder of the term of such Supply Schedule(s).

10.4 In the event that the Company terminates this Agreement in accordance with clause 10.2.3, the Company shall be entitled to claim all monies under all Supply Schedules in force between the Client and the Company, as rightfully due, including fees for work in progress unsupported by signed worksheets.

Termination of a Supply Schedule

10.5 The Client may terminate a Supply Schedule immediately if it provides satisfactory evidence to the Company, in writing, that either:

10.5.1 the Client, in its reasonable opinion, finds the Service Provider and/or its Specified Consultant to be negligent, inefficient, unsatisfactory, or technically unsuitable; or

10.5.2 the Service Provider's Specified Consultant has committed an act of serious misconduct which, in the Client's reasonable opinion makes it unacceptable for it to continue to use the Services.

10.6 The Company may terminate a Supply Schedule immediately if any of the events in clauses 10.2.1 to 10.2.7 (inclusive) take place.

10.7 Unless stated otherwise in the relevant Supply Schedule, a Supply Schedule may be terminated at any time by either party upon provision of 28 days' notice to the other party in writing.

11 Restrictions

11.1 Should the Client, within the Restriction Period, wish to Engage the services of a Service Provider and/or its Consultant(s) other than through the Company then it shall:

11.1.1 if the Service Provider has not opted out of the Regulations have the option to elect by 28 days' written notice to utilise the services of the Consultant(s) and/or the Service Provider for the Extended Period of Hire on the terms and conditions specified in this Agreement and the relevant Supply Schedule, or in the event of no Supply on terms as are agreed at the time; or

11.1.2 in the event of no Supply, pay the Introduction Fee to the Company equivalent to 12 weeks of the Charge Rate calculated on the basis of a working commitment of 5 days per week and 8 hours per day; or

11.1.3 following termination or expiration of the relevant Supply Schedule, pay the appropriate Transfer Fee.

11.2 In the event the Client fails to specify whether payment of an Introduction Fee, Transfer Fee or Extended Period of Hire is preferred, an Introduction Fee or Transfer Fee (as applicable) shall be charged upon Engagement by the Client.

11.3 Should any subsidiary or associated company of the Client, any End User or any other third person to whom the Client has introduced a Service Provider, within the Restriction Period Engage the services of the Service Provider other than through the Company then the Client shall either:

11.3.1 in the event of no Supply, pay the Introduction Fee to the Company equivalent to 12 weeks of the Charge Rate calculated on the basis of a working commitment of 5 days per week and 8 hours per day; or

11.3.2 following termination or expiration of the relevant Supply Schedule, pay the appropriate Transfer Fee.

12 Anti-Corruption Obligations

12.1 The Client shall not:

12.1.1 offer, give or agree to give to any employee or other representative of the Company any gift or other consideration, which could act or reasonably be perceived to act as an inducement or a reward for any act or failure to act connected to the award or performance of this Agreement; nor

12.1.2 enter into this Agreement if it is aware that any money has been, or will be, paid to any person working for or engaged by either Party, unless any such arrangement constitutes bona fide payment for the Services or has been disclosed to the Company in writing prior to the conclusion of this Agreement.

13 General

13.1 The terms of this Agreement and of any specification provided under this Agreement may only be varied in writing by authorised representatives of both parties.

13.2 The forbearance or failure of the Company to enforce any of its rights or remedies to which it is entitled under this Agreement shall not be construed as a waiver of those rights or remedies and shall not restrict or prevent the Company enforcing or exercising those rights or remedies in any other instance at any time whether during or after the termination of this Agreement.

13.3 If any provision of this Agreement is held invalid, illegal or unenforceable for any reason, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if this Agreement had been executed with the invalid provision eliminated. In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of this Agreement, the parties shall immediately commence good faith negotiations to remedy such invalidity.

13.4 The Company may, at any time, assign, transfer, charge, subcontract or deal in any other manner with any or all of its rights or obligations under this Agreement. The Client may not assign, transfer, charge, subcontract or deal in any other manner with any or all of its rights or obligations under this Agreement, without the Company's prior consent.

13.5 This Agreement shall be governed, construed and shall take effect in accordance with the laws of England and shall be subject to the exclusive jurisdiction of the English courts.

13.6 The terms of this Agreement represent the entire Agreement between the parties and supersede any previous representations or agreements whether recorded in writing or otherwise. The parties acknowledge that prior to a start date a Supply Schedule(s) may not have been agreed however the terms of this Agreement shall remain binding.

13.7 Nothing in this Agreement shall serve to create any employer/employee relationship or principal/agent relationship between:

13.7.1 the Company and the Client; or



- 13.7.2 the Client and the Service Provider(s); or
- 13.7.3 the Consultant(s) and the Client.

- 13.8 If any term herein conflicts with any term in the schedules, then the schedules shall take precedence and if there is a conflict in terms between the schedules, then Schedule 2 shall take precedence.
- 13.9 No rights shall accrue to any third party under the Agreement pursuant to The Contracts (Rights of Third Parties) Act 1999.
- 13.10 Those clauses which, by their nature, are intended to continue to have effect following termination or expiry of this Agreement shall survive and continue to bind the parties.

14 Notices

- 14.1 Any notice required to be given under this Agreement shall be delivered by hand, sent by facsimile, e-mail or prepaid first class post to the recipient at its fax number or address specified in this Agreement (or as otherwise notified from time to time to the sender by the recipient for the purposes of this Agreement).
- 14.2 Notices in connection with this Agreement shall be deemed to have been given and served:
 - 14.2.1 if delivered by hand, at the time of delivery if delivered before 5.00pm on a business day or in any other case at 10.00am on the next business day after the day of delivery;
 - 14.2.2 if sent by facsimile or by e-mail, at the time of despatch if despatched on a business day before 5.00 p.m. or in any other case at 10.00 a.m. on the next business day after the day of despatch, unless the transmission report indicates a faulty or incomplete transmission or, within the relevant business day, the authorised recipient informs the sender that the facsimile or e-mail message was received in an incomplete or illegible form; or
 - 14.2.3 if sent by prepaid first class post, at 10:00am on the second business day after posting.
- 14.3 For the avoidance of doubt and for the purpose of this clause 14, a "business day" shall mean any day excluding Saturday, Sunday and public holidays.