**AGREEMENT FOR THE SUPPLY OF AGENCY WORKERS AND/OR LIMITED COMPANY CONTRACTORS**

This Agreement is dated DATE, between:

|  |  |
| --- | --- |
| **Client:** | Viacom International Media Networks U.K. Limited of 17-29 Hawley Crescent, London, NW1 8TT, registered number 10311647 (together with the following group companies:   1. Nickelodeon UK Limited of 17-29 Hawley Crescent, London, NW1 8TT, registered number 02797365; 2. Paramount UK Partnership of 17-29 Hawley Crescent, London, NW1 8TT; 3. Channel 5 Broadcasting Limited of Fieldfisher LLP, Riverbank House, 2 Swan Lane, London EC4R 3TT, registered number 03147640; 4. VIMN CP services (UK) Limited of 17-29 Hawley Crescent, London, NW1 8TT, registered number 08878007; 5. Viacom Camden Lock Limited of 17-29 Hawley Crescent, London, NW1 8TT, registered number 07139521; and 6. Viacom Global Limited of Riverbank House, 2 Swan Lane, London, EC4R 3TT, registered number 04056282;   (together, “**ViacomCBS**” and/or “**Client**”) |
| AND  Employment Business: | Name, registered address, Company number of the Employment Business and/or Temporary Work Agency (the “Employment Business”) |

**DETAILED TERMS**

Interpretation

## The definitions and rules of interpretation in this clause apply to the whole of this Agreement.

**“Agency Worker”** means the individual who is Introduced by the Employment Business to work temporarily for and under the supervision and direction of the Client;

**“Agency Worker Costs”** means

### the Agency Worker’s hourly rate of pay;

### an amount equal to any paid holiday leave to which the Agency Worker is entitled under the Working Time Regulations and, where applicable, the Agency Workers Regulations and which is accrued during the course of an Assignment;

### any other amounts to which the Agency Worker is entitled under the Agency Workers Regulations, where applicable; and

### employer’s national insurance contributions which must reflect actual cost to the Employment Business;

**“Agency Workers Regulations”** means the Agency Workers Regulations 2010;

**“Assignment”** means:

### In the case of Agency Workers, the services to be performed by the Agency Worker for the Client for an agreed period of time during which the Agency Worker is supplied by the Employment Business to work temporarily for and under the supervision and direction of the Client;

### In the case of Contractors, the services to be provided by the Contractor to the Client for an agreed period of time;

**“Assignment Details”** means the details specific to each Assignment and agreed with the Client prior to commencement of the Assignment in the form set out in the Schedule 3;

**“AWR Claim”** means:

### any complaint or claim to a tribunal or court made by or on behalf of the Agency Worker against:

* the Client; and/or
* the Employment Business

for any breach of the Agency Workers Regulations; or

### any purported claim assertion that a Contract Resource is an Agency Worker for the purpose of the Agency Workers Regulations and is entitled to rights under the Agency Workers Regulations.

**“Charges”** means the charges of the Employment Business calculated in accordance with clause 7 and as may be varied from time to time in accordance with this Agreement;

“**Client Group Company**” means any holding company or subsidiary of the Client from time to time and any other subsidiary of any holding company of the Client from time to time, where “holding company” and “subsidiary” have the meanings given in section 1159 of the Companies Act 2006;

**“Conduct Regulations”** means the Conduct of Employment Agencies and Employment Businesses Regulations 2003;

## **“Confidential Information”** means any confidential information, including but not limited to:

### particulars of the Client’s or any Client Group Company’s current or future recruitment needs;

### particulars of the Client’s or any Client Group Company’s remuneration, benefits or reward structures or strategies whether in force or under discussion;

### the Relevant Terms and Conditions;

### lists and particulars of the Client’s or any Client Group Company’s actual or potential clients, participants lists, mailing lists;

### details of relationships or arrangements with or knowledge of the requirements of the Client’s or any Client Group Company’s actual or potential clients including terms of business and pricing arrangements in force or under discussion;

### details of the Client’s or any Client Group Company’s business methods, finances (including but not limited to billing lists and accounting procedures), price arrangements in force or under discussion, pricing strategy, terms of business, marketing or development or management plans or strategies or forecasts;

### details of any tenders, pitches or presentations proposed or made by the Client or any Client Group Company;

### personal information about any of the Client’s or any Client Group Company’s directors, employees or other staff;

### information divulged to the Client or any Client Group Company by a third party in confidence; and

### any information relating to the Client or any Client Group Company or any of their clients, which the Client, Client Group Company or the client in question reasonably considers (or is likely to consider) to be confidential.

## Confidential Information does not include information which is generally known or easily accessible by the public, unless it is generally known or easily accessible by the public because of a breach of the Employment Business’s or the Agency Worker’s or Contractor’s obligations or any other person in breach of confidentiality undertakings;

**“Contract Resource”** means the Contractor and/or the Contractor Staff that the Contractor supplies, which are supplied by the Employment Business to perform an Assignment;

**“Contractor”** means the registered limited liability company which is supplied by the Employment Business to perform the assignment services;

**“Contractor Fees”** means either a one-off fixed fee for completion of the Assignment or the Contractor’s daily fee for providing services;

**“Contractor Staff”** means the individual(s) employed, engaged and/or supplied by the Contractor (including any agreed substitute) to carry out the Assignment;

**“Data Protection Laws”** means (i) the Data Protection Act 2018 and the Privacy and Electronic Communications Regulations (EC Directive) 2003 (S.I.2003/2426) (ii) all applicable requirements of the General Data Protection Regulation ((EU) 2016/679) (the “**GDPR**”) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time in the UK unless and until the GDPR is no longer directly applicable in the UK and then (iii) any successor legislation to the GDPR or the Data Protection Act and (iv) any legally binding guidance or codes of practice;

**“Engagement”** means the engagement, employment or use of the Agency Worker, Contractor or Contractor Staff by the Client or a Client Group Company, directly or indirectly, on a permanent or temporary basis, whether under a contract of service or for services, and/or through a company of which the Agency Worker or Contractor Staff is an officer, employee or other representative, an agency, license, franchise or partnership arrangement, or any other engagement; and “**Engage**”, “**Engages**” and “**Engaged**” will be construed accordingly;

**“Good Industry Practice”** means the use of standards, practices, methods and procedures conforming to applicable law and the exercise of that degree of skill, care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person engaged in the provision of similar services to an entity of similar size and nature as the Client under the same or similar circumstances;

**“Intellectual Property Rights”** means:

### all present and future copyright, design rights, patents, petty patents, short term patents, utility models, registered designs, database rights, trademarks (whether registered or unregistered), service marks, performance rights, unregistered design rights, rights in any compilation of data, rights in any trade, brand or business name, rights in any trading style or get-up, rights in goodwill, semi-conductor topography rights, domain names, know-how and any other analogous rights subsisting anywhere in the world including all revivals, renewals and reversions;

### any application for or any right to apply for registration of any such right;

### any revival, extension, renewal or reversion of any such right;

### the benefit (subject to the burden) of any agreement, arrangement or licence in connection with any such right;

**“Introduction”** means:

### the submission to the Client of a curriculum vitae or information which identifies the Agency Worker, Contractor or Contractor Staff following the Client’s instruction to the Employment Business to supply an Agency Worker or a Contractor; or

### the Client’s:

### interview of the Agency Worker; or

### introduction to the Contractor or Contractor Staff;

### (in person or by telephone or by any other means) following the Client’s instruction to the Employment Business to supply an Agency Worker or a Contractor; or

### the supply of an Agency Worker, a Contractor or Contractor Staff;

### and “**Introduced**”, “**Introduces**” and "**Introducing**" will be construed accordingly;

**“Losses”** means all losses, liabilities, damages, costs, penalties, fines, judgments, settlements, awards, expenses whether direct, indirect, special or consequential (including, without limitation, any economic loss or other loss of profits, business or goodwill, management time and reasonable legal fees) and charges, including PAYE, income tax, NIC and apprenticeship levy including any interest or penalties in respect of the same and any items arising out of or resulting from actions, proceedings, claims and demands;

**“Materials”** means any work or material developed, delivered or prepared by the Agency Worker or Contract Resource during an Assignment (whether individually, collectively or jointly with the Client or any Client Group Company and on whatever media) including (without limitation) any copy; art; music; slogans; product ideas; inventions; all advertising and promotional ideas; computer software, specifications or programs; writings (including reports, studies, source and object codes, manuals and other documentation); discoveries; drawings; models; data; diagrams; charts; and related copies and working papers;

**“NIC”** means employee and employer National Insurance Contributions;

**“Relevant Period”** means (a) the period of 8 weeks commencing on the day after the last day on which the Agency Worker or Contractor worked for the Client having been supplied by the Employment Business; or (b) the period of 14 weeks commencing on the first day on which the Agency Worker or Contractor worked for the Client having been supplied by the Employment Business or 14 weeks from the first day of the most recent Assignment where there has been a break of more than 6 weeks (42 days) since any previous assignment;

**“Relevant Terms and Conditions”** means terms and conditions relating to:

### pay;

### the duration of working time;

### night work;

### rest periods;

### rest breaks; and

### annual leave

that are ordinarily included in the contracts of employees or workers (as appropriate) of the Client 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”** means:

### In the case of Agency Workers gross base salary payable to or receivable by the Agency Worker;

### In the case of Contractors, pay payable to or receivable by the Contract Resource;

for services provided to or on behalf of the Client or any Client Group Company at the point of Engagement for the first 12 months, and excludes any emoluments, bonuses, commission or benefits in kind (pensions, healthcare, car schemes etc.);

**“Transfer Fee”** means the fee payable in accordance with clause 8 and Regulation 10 of the Conduct Regulations;

**“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; and

**“Working Time Regulations”** means the Working Time Regulations 1998.

## The headings in this Agreement are inserted for convenience only and shall not affect the interpretation or construction of this Agreement.

## Words expressed in the singular shall include the plural and vice versa. Words referring to a particular gender include every gender. References to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership, joint venture, government, state or agency of state.

## The words and phrases “other”, “including”, “in particular” and words of similar effect shall be construed without limitation.

## References to any statute, statutory provision, enactment, order, regulation or other similar instrument shall include (i) any subordinate legislation made under it, (ii) any provision that it has modified or re-enacted (whether with or without modification), and (iii) any provision that subsequently supersedes it or re-enacts it (whether with or without modification) whether made before or after the date of this Agreement.

## References to any standards, policies or guidelines shall be to the most recently published version of those standards, policies or guidelines.

## All references in this Agreement to clauses and schedules are to the clauses and schedules in this Agreement unless otherwise stated.

## If any condition or other provision contained in this Agreement requires a party to it not to do an act or thing, it shall be a breach of any such condition or provision to permit or suffer such act or thing to be done.

## Where a provision of this Agreement is subject to agreement of the parties, or requires approval, consent or permission of a party, such agreement, approval, consent and permission must be evidenced in writing and given by an authorised representative of the parties.

## Unless expressly stated otherwise, in the case of any conflict or inconsistency in relation to any of the following elements of this Agreement, they shall prevail in the following order:

### the main body of this Agreement;

### the Schedules; and

### the agreed Assignment Details.

## This Agreement sets out the terms on which the Employment Business shall supply Agency Workers and Contractors, and shall apply to the exclusion of all other terms and conditions that the Employment Business seeks to impose or incorporate, or which are implied by trade, custom, practice, course of dealing or otherwise.

Commencement and purpose

## This Agreement will be deemed to commence from the date this Agreement is entered into. This Agreement constitutes the contract between the Employment Business and the Client for the supply of the Agency Workers and Contractor’s services by the Employment Business to the Client. If the Client requests provision of an Agency Worker or Contractor for an Assignment, this Agreement will apply.

## The Employment Business shall act as an employment business (as defined in Section 13(3) of the Employment Agencies Act 1973) when Introducing Agency Workers or Contractors for Assignments with the Client.

Employment Business’s obligations

## The Employment Business agrees that it shall in providing Agency Workers or Contractors to the Client:

### use reasonable care, skill and diligence and in accordance with Good Industry Practice;

### act in a timely manner and in accordance with any specified deadlines which shall be of the essence;

### co-operate with the Client in all matters relating to the Agreement and comply with all of the Client’s reasonable and lawful instructions;

### ensure that the provision of, and the Client’s receipt of, the services provided by the Employment Business in accordance with this Agreement shall comply with applicable law and will not infringe the Intellectual Property Rights of any third party;

### ensure that the Employment Business’s personnel are suitably skilled, experienced and qualified to perform tasks assigned to them, and of sufficient number to ensure that the Employment Business performs its obligations in accordance with this Agreement;

### devote all the time and attention to the provision of the services as necessary to provide them in accordance with this Agreement;

### keep the Client informed of the status of the services provided under this Agreement on a regular basis and, in any event, as and when reasonably requested by the Client;

### obtain and at all times maintain all necessary licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under this Agreement and comply with all applicable laws;

### observe and procure that the Employment Business’s personnel observe all health and safety rules and regulations and any other security requirements that apply at any of the Client’s premises;

### comply with the specific provisions applicable to Agency Workers as set out in Schedule 1;

### comply with the specific provisions applicable to Contractors as set out Schedule 2; and

### not do or omit to do anything that may:

#### bring the name or reputation of the Client or any Client Group Company into disrepute or prejudice the interests of the business of the Client or any Client Group Company; or

#### cause the Client to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business and the Employment Business acknowledges that the Client may rely or act on the services provided under this Agreement.

## On being invited to supply an Agency Worker or Contractor to the Client for an Assignment, the Employment Business must:

### acknowledge the invitation and tell the Client without delay whether it will be able to Introduce an Agency Worker or Contractor;

### Introduce an Agency Worker or Contractor:

#### within one business day of the invitation; or

#### within such other time period as the Client may specify in respect of that Assignment.

## The Employment Business shall ensure that each Agency Worker or Contractor shall be contractually obliged to comply with:

### all relevant statutes, laws, regulations and codes of practice from time to time in force applicable to the performance of an Assignment and applicable to the Client’s business; and

### the Client’s health and safety policy whilst the Agency Worker or Contractor Staff are on the Client’s premises or any of the Client’s customers' or suppliers' or agents' (direct or indirect) premises.

## During the term of this Agreement and for 12 months after the termination of this Agreement, the Employment Business whether directly or indirectly, on either its own account or on behalf of or in conjunction with any other person, firm, company or organisation, must not:

### solicit, or try to solicit employees or staff of the Client for positions outside of the Client; or

### seek to persuade any employee or staff of the Client to discontinue employment with the Client.

### This clause will not prevent the Employment Business from acting for or placing the Client’s employees or staff who approach the Employment Business in respect of an advertised role.

Information to be provided by the Employment Business to the Client

## When Introducing an Agency Worker or Contractor to the Client the Employment Business will verify and confirm in writing to the Client:

### the identity of the Agency Worker or Contractor;

### that the Agency Worker or Contract Resource has the necessary or required experience, training, qualifications and any authorisation required by law or a professional body to carry out the Assignment;

### that the Agency Worker or Contract Resource is willing to perform the Assignment; and

### the Charges.

## Where such information is not given in paper form or by electronic means it must be confirmed by such means by the end of the third business day (excluding Saturday, Sunday and any public or bank holiday) following.

## Where:

### the Agency Worker or Contract Resource is required by law, or any professional body to have any qualifications or authorisations to work on the Assignment, the Employment Business will provide to the Client copies of any relevant qualifications or authorisations of the Agency Worker or Contract Resource; and

### the Assignment involves working with, caring for or attending one or more Vulnerable Persons, the Employment Business will provide copies to the Client of two references from persons who are not relatives of the Agency Worker or Contract Resource and who have agreed that the references they provide may be disclosed to the Client.

## The Employment Business will take any such other reasonably practicable steps as are required to confirm that the Agency Worker or Contract Resource 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 will inform the Client of the steps it has taken to obtain this information.

## The parties agree that as a minimum, the Employment Business must obtain and verify the following information, prior to the first day of the Assignment:

### in respect of Agency Workers as set out in Schedule 1; and

### in respect of Contractors as set out in Schedule 2.

## The Employment Business will ensure that:

### all information and documentation supplied to the Client in accordance with the terms of this Agreement is complete, accurate and up-to-date; and

### it will, during the term of the relevant Assignment, inform the Client in writing of any subsequent change in any information or documentation provided in accordance with this Agreement.

Client obligations

## In order to enable the Employment Business to comply with its obligations under the Conduct Regulations the Client will provide to the Employment Business details of the Assignment, including the following:

### the type of work that the Agency Worker or services that the Contractor would be required to do;

### the location and hours of work or timing requirements;

### the experience, training, qualifications and any authorisation which the Client considers necessary or which are imposed by law or any professional body, which must be satisfied if the Agency Worker or Contract Resource is to carry out the Assignment;

### any risks to health or safety known to the Client and about which the Employment Business will be required to inform the Agency Worker or Contractor, together with what steps the Client has taken to prevent or control such risks;

### the date the Client requires the Agency Worker or Contractor to commence the Assignment;

### the duration or likely duration of the Assignment; and

### whether the Agency Worker or Contractor will be required during the Assignment 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.

### The Client may (but is not obliged to) provide the above information using the relevant Assignment Details form.

Timesheets

## At the end of each week of an Assignment (or at the end of the Assignment where it is for a period of 1 week or less) the Client will verify the number of hours or days worked by the Agency Worker or Contractor during that week by signing the Employment Business's timesheet (or an electronic equivalent).

## If the Client is unable to sign a timesheet produced for authentication by the Agency Worker or Contractor because the Client disputes the time claimed, the Client will inform the Employment Business as soon as is reasonably practicable and will co-operate with the Employment Business to enable the Employment Business to establish what time, if any, was worked by the Agency Worker or Contractor.

Charges

## The Client agrees to pay the Charges as agreed between the parties and specified in the Assignment Details. The Charges are calculated according to the number of hours (to the nearest quarter hour) or days (to the nearest half day) completed by the Agency Worker or Contractor and comprise the following:

#### the Agency Worker Costs or Contractor Fees as set out in the Assignment Details and;

#### the Employment Business's commission (margin), which is calculated as 15% of the Agency Worker Costs or Contractor Fees.

## The Charges (and any applicable Transfer Fees) comprise the entire payment for provision of the Employment Business’s services (including the provision of Agency Workers and Contractors) and no other sums are payable.

## The Employment Business must obtain written consent from the Client if it needs to vary the Charges:

### in order to comply with any additional liability imposed by statute or other legal requirement or entitlement, including but not limited to the Agency Workers Regulations; and/or

### if there is any variation in the Relevant Terms and Conditions.

## The Charges are invoiced to the Client on a monthly basis in arrears and are payable within 45 days. The Employment Business shall ensure that each invoice specifies, the Employment Business’s VAT registration number and any other additional information as requested by the Client. Any invoice that does not comply with these requirements shall be deemed to have been incorrectly submitted and shall not be payable.

## If the Client disputes the whole or any part of an invoice, it may withhold payment in respect of the disputed amount. In such event, it shall explain in writing to the Employment Business the grounds for withholding payment. The parties shall negotiate in good faith to attempt to resolve the dispute promptly. The Employment Business shall provide all such evidence as may be reasonably necessary to verify the disputed invoice. Where only part of an invoice is disputed, the Client shall pay the undisputed amount on the due date. The Employment Business’s obligations to supply the services under this Agreement shall not be affected by any payment dispute.

## Except where the Client withholds an amount due a bona fide dispute pursuant to clause 7.5, the Employment Business shall be entitled to charge simple interest on undisputed overdue sums at the rate of 1% per annum above the prevailing base rate of the Bank of England from the day after the due date for payment until the Employment Business has received payment of the overdue amount. The parties agree that the Employment Business’s right to claim interest under this clause 7.6 shall be a substantial remedy for late payment of undisputed invoices. In relation to payments disputed in good faith, interest under this clause 7.6 is payable only after the dispute is resolved, on sums found or agreed to be due, from the due date until payment.

## The Charges:

### exclude amounts in respect of VAT (unless stated otherwise), which the Client shall additionally be liable to pay to the Employment Business at the prevailing rate, subject to receipt of a valid VAT invoice; and

### include all taxes and duties other than VAT and all costs and expenses incurred (directly or indirectly) by the Employment Business in connection with the performance of the services under this Agreement.

## If the parties have agreed that the Client shall pay any of the Agency Worker’s or Contractor’s expenses, the Client shall reimburse the Employment Business for reasonable out-of-pocket travelling and other expenses incurred by the Agency Worker or Contract in the provision of services provided that:

### such expenses have been reasonably and necessarily incurred in accordance with the Client’s expenses policy (provided on request);

### the Employment Business shall give the Client reasonable opportunity to arrange (and pay directly for) any expenses required by the Agency Worker or Contractor in performance of the Assignment;

### such expenses shall not include any mark-ups or administration fees;

### such expenses shall have been expressly authorised in advance by the Client in the Assignment Details; and

### the Employment Business shall provide or shall procure the provision by the Agency Worker or Contractor such documentary evidence in support of any expense claims as the Client may reasonably require.

Transfer Fees

## If, following the supply of an Agency Worker or Contractor by the Employment Business to the Client, and within the Relevant Period, the Client Engages an Agency Worker or Contract Resource, the Client will pay the Employment Business the Transfer Fee at the rate calculated in accordance with clause 8.4.

## The Transfer Fee will not, without limitation, be payable if the Client gives written notice to the Employment Business that it intends to continue the services of the Agency Worker or Contractor for an additional period of 2 weeks (“**Extended Assignment**”) before it Engages the Agency Worker or Contract Resource.

## Where the Client decides, in accordance with clause 8.2, to continue the supply of the Agency Worker or Contractor’s services by the Employment Business for the Extended Assignment:

### the Charges payable by the Client during the Extended Assignment shall be those applicable immediately before the Employment Business received the Client’s notice of election;

### the Employment Business will supply the Agency Worker or Contractor on the same terms on which it would have been supplied during the Assignment, and in any case on terms no less favourable than those terms which applied immediately before the Employment Business received the Client’s notice under 8.2;

### at the end of the Extended Assignment, the Client may Engage the Agency Worker or Contract Resource without paying the Transfer Fee; and

### if the Client chooses an Extended Assignment, but Engages the Agency Worker or Contract Resource before the end of the Extended Assignment, the Transfer Fee may be charged by the Employment Business, but shall be reduced proportionately to reflect the amount paid by the Client during the Extended Assignment.

## The Transfer Fee payable, subject to the rest of clause 8, shall be calculated as set out below:

|  |  |
| --- | --- |
| Percentage of Remuneration of the Agency Worker or Contract Resource during the first 12 months of the Engagement | No. of complete weeks of the Assignment that the Agency Worker completed |
| 10% | 3 or fewer |
| 8% | 4 to 6 |
| 6% | 7 to 9 |
| 4% | 10 to 12 |
| 2% | 13 to15 |
| No transfer fee | 16 or more |

## Where an Engagement will be on the basis of a fixed term of less than 12 months, the Transfer Fee will be calculated on the Remuneration anticipated at the start of the Engagement.

No Employment or Agency Relationship

## In performing this Agreement, the Employment Business is acting in business on its own account and nothing in this Agreement shall be construed as creating any contract of employment or relationship of principal and agent between the Employment Business and the Client. The Employment Businessand its employees are not covered by any personal accident, medical or other insurance policies or other arrangements in place for employees of the Client. The Employment Businessmust not make any purchases or incur any liability on behalf of the Client nor in any way bind the Client or do anything likely to cause the Employment Businessto be taken by Agency Workers, Contractors or third parties as an agent of the Client.

Unsuitability

## If, in the Client’s reasonable opinion, the Agency Worker or Contractor’s performance of the Assignment is unsatisfactory, the Client may (without liability) terminate the Assignment either by instructing the Agency Worker or Contractor to leave the Assignment immediately, or by directing the Employment Business to remove the Agency Worker or Contractor. The Employment Business shall, in such circumstances, reduce or cancel the Charges for the services provided by the Agency Worker or Contractor. On request by the Client, the Employment Business shall provide a replacement Agency Worker or Contractor in respect of the terminated Assignment.

## The Employment Business must notify the Client immediately if it receives or otherwise obtains information which gives the Employment Business reasonable grounds to believe that any Agency Worker or Contract Resource supplied to the Client is unsuitable for the Assignment and will be entitled to terminate the Assignment forthwith without prior notice and without liability.

# Notice and Termination

## Without prejudice to any other termination rights under this Agreement, either party may terminate an Assignment at any time without prior notice and without liability.

## Either party may terminate this Agreement by providing one month’s written notice to the other party.

## Either party may immediately terminate this Agreement by written notice if the other party is unable to pay its debts as they fall due or suspends payment of any of its debts or enters into any arrangement with creditors for the payment of any of its debts or if an administrator, administrative or other receiver, manager or liquidator is appointed in respect of either party or any of its assets or any application is made for the appointment of such officer.

## The Client may terminate this Agreement immediately by giving written notice to the Employment Business having immediate effect if:-

### the Employment Business commits a continuing or material breach of any of the provisions of this Agreement or an Assignment and, if the breach is capable of remedy, fails to remedy the same within 30 days of receipt of written notice giving full particulars of the breach and the action required to remedy such breach;

### the Employment Business repeatedly breaches any of the terms of this Agreement or an Assignment in a manner inconsistent with an intention or ability to give effect to the terms of this Agreement;

### the Employment Business acts in any manner that in the Client’s reasonable opinion brings or is likely to bring the Employment Business or the Client into disrepute or is materially adverse to the interests of the Client;

### the Employment Business or any of its employees or other personnel or Agency Workers or Contract Resource act in a way which, in the Client’s reasonable opinion, is prejudicial to the Client’s interests or to the efficient performance of the Employment Business’s obligations under this Agreement;

### the Employment Business, Agency Worker or Contractor commits a breach of applicable law;

### the Employment Business neglects, fails, refuses or is unable to perform its obligations under this Agreement to the standards reasonably required by the Client;

### there is a change of control of the Employment Business or any of its parent companies; or

### there is a change to relevant legislation or code of practice in any material respect that means that, in the reasonable opinion of the Client, it is no longer commercially viable or otherwise appropriate for the Client to continue the Agreement.

## Where the Client has a right to terminate this Agreement, it may at its absolute discretion by written notice to the Employment Business elect to terminate only part of this Agreement, including one or more Assignments.

# Data Protection and Processing

## For the purposes of this clause, “**processing**”, “**controller**” and “**personal data**” shall have the same meaning given to them under the GDPR. “**Agreed Purpose**” means the provision by the Employment Business of Agency Workers and Contractors to the Client in accordance with the terms of this Agreement and such other purposes as the parties may agree in writing from time to time. “**Shared Personal Data**” means the personal data to be shared between the parties for the Agreed Purposes, and such other personal data as agreed from time to time between the parties.

## The Employment Business is the “data controller” in respect of the personal data of any Agency Worker or Contractor Staff and will share the personal data with the Client as independent data controllers. Each party therefore agrees that it is a controller and shall comply with all applicable requirements of Data Protection Legislation, including in relation to notifications with the ICO, having in place appropriate privacy notices and obtaining any and all necessary consents.

## Each party agrees to process the Shared Personal Data only for the Agreed Purpose and in accordance with the provisions of this Agreement. This clause 12 is in addition to, and does not relieve, remove or replace a party’s obligations under the Data Protection Legislation.

## Neither party shall transfer any Shared Personal Data outside the EU without the other party’s prior written consent.

## The Employment Business will ensure that each Agency Worker and Contractor is provided with adequate information notices and in particular is informed that data will be shared with the Client. The Employment Business will also provide the Client’s own privacy notice to each Agency Worker and Contractor.

## Without undue delay and in any event within 24 hours of becoming aware, the Employment Business must notify the Client in writing, and provide such co-operation, assistance and information the Client may reasonably require if the Employment Business:

### receives any complaint, notice or communication which relates directly or indirectly to the processing of the personal data under this Agreement or to any party’s compliance with Data Protection Legislation;

### becomes aware of any security breach or personal data breach which relates directly or indirectly to the processing of the personal data under this Agreement; or

### receives a data subject rights request (including a data subject access request, request for erasure or rectification) which relates directly or indirectly to the processing of personal data under this Agreement.

## The Employment Business agrees to assist the Client by appropriate technical and organisational measures in responding to, and complying with, data subject rights requests and to provide full co-operation and assistance in relation to the Client’s obligations and rights under Data Protection Legislation including providing the Client and regulators (as applicable) with all information and assistance necessary to investigate security breaches and where relevant notify the relevant regulator and/or affected data subject of the relevant security breach, carry out privacy impact assessments or otherwise to assess or demonstrate compliance by the parties with Data Protection Legislation.

## Should it become apparent during the term of this Agreement that the Employment Business is failing to meet the requirements of this clause 12, including non-compliance or breach of the Data Protection Legislation, the Client reserves the right to terminate this Agreement immediately and without liability.

# Confidentiality

## During and after this Agreement the Employment Business:

### shall ensure that it keeps all Confidential Information which it obtains or otherwise receives safely and effectively protected against improper disclosure or use;

### ensure that it uses the Confidential Information exclusively for the purpose of performing the Employment Business’s obligations under this Agreement;

### must not unless required to do so by law:

#### disclose any of the Client’s trade secrets or Confidential Information to any person (including when dealing with any request for information or complaint made by any Agency Worker or Contract Resource); or

#### use any of the Client’s trade secrets or Confidential Information for any purposes other than to provide services to the Client under this Agreement;

### if requested, deliver to the Client all Confidential Information in whatever form or medium which is in the Employment Business’s possession at any time; and

### on termination of this Agreement, return to the Client all documents and materials, including Confidential Information, provided to it by the Client.

## The Employment Business will procure that each Agency Worker and Contractor enters into obligations on its own behalf about confidentiality, to protect the Confidential Information and to mirror the obligations in clauses 13.1 above.

## The Employment Business must not release any press release or make any announcements relating to or referring to the Client (including without limitation, any reference to this Agreement and the services hereunder) without first seeking the Client’s prior written approval.

Intellectual Property Rights

## The Employment Business warrants that it has, or shall obtain, the benefit of an effective assignment from the Agency Worker or Contract Resource with full title guarantee of all Intellectual Property Rights in the Materials created or arising during an Assignment. The Employment Business hereby assigns to the Client absolutely and irrevocably (including for copyright by way of a present assignment of future copyright) with full title guarantee all Intellectual Property Rights in the Materials created by the Agency Worker or Contract Resource during the Assignment such that such rights shall immediately on creation vest in the Client.

## The Employment Business shall, and shall ensure that the Agency Worker and Contract Resource shall, promptly and at no additional cost to the Client, execute all necessary documents and do all necessary acts in order to give effect to the Client’s rights pursuant to this clause 14.

## The Employment Business shall, and shall ensure that the Agency Worker and Contract Resource shall, upon request by the Client, and in any event upon the end of an Assignment, promptly deliver to the Client all Materials in its/his/her possession or control.

## The Employment Business shall procure that the Agency Worker and Contract Resource waives and will not assert any of its moral rights (and any analogous rights) in the Intellectual Property Rights so far as is legally possible.

## The Employment Business shall procure that any Materials created or developed by an Agency Worker or Contract Resource during an Assignment shall be the Agency Worker’s or Contract Resource’s own original work and shall not incorporate any Intellectual Property Rights owned by a third party without the Client’s prior written consent.

## The Employment Business represents, warrants and undertakes that it has all necessary rights and authority to perform the obligations under this clause 14.

## The Client’s Confidential Information and the Materials (including all Intellectual Property Rights in the same) supplied or provided by the Client shall be and shall remain the exclusive property of the Client or relevant third party and the Employment Business, Agency Worker and Contract Resource shall acquire no right, title or interest in or to the same. The Employment Business shall use such items solely for the purpose of providing the services under this Agreement.

# Employment business’ failure to perform services

## If the Employment Business fails to perform any of the services in accordance with this Agreement the Client may, without limiting any of its other rights or remedies:

### require the Employment Business at its own cost to re-perform the services and/or remedy any deficiency or non-compliance in the services as soon as possible and in any event within 10 business days;

### terminate this Agreement with immediate effect by giving written notice to the Employment Business;

### refuse to accept any subsequent performance of the services which the Employment Business attempts to make;

### recover from the Employment Business any additional costs incurred by the Client in obtaining substitute services from a third party;

### where the Client has paid in advance for services that have not been provided by the Employment Business in accordance with this Agreement, to require the Employment Business to refund the Charges relating to such services on demand; or

### claim damages for any other costs, loss or expenses incurred by the Client which are in any way attributable to the Employment Business's failure to perform the services in accordance with this Agreement.

Liability

## Neither party limits its liability for:

### death or personal injury caused by its negligence or that of its employees, agents or subcontractors;

### fraud or fraudulent misrepresentation by it or its employees;

### wilful default or abandonment of its obligations under this Agreement; or

### any act or omission, liability for which may not be limited under applicable law.

## Subject to clause 16.1, the Employment Business's liability in connection with this Agreement for any one claim or series of connected claims in respect of:

### any indemnity provided under this Agreement is unlimited;

### any breach of clause 12 (Data Protection), clause 13 (Confidentiality) or clause 14 (Intellectual Property Rights) is unlimited;

### all other claims, losses or damages shall in no event exceed the greater of (i) £500,000; or (ii) the Charges paid or payable under this Agreement.

## Subject to clause 16.1, the Client’s total aggregate liability in connection with this Agreement, (howsoever arising and including as a result of breach of contract, tort (including negligence), or statutory duty) shall in no event exceed £500,000.

## The Employment Business is liable for any Losses arising out of, concerning, relating to or connected with:

### any non-compliance with and/or breach of this Agreement or the Employment Business’s obligations under this Agreement by the Employment Business;

### any failure to provide an Agency Worker or Contractor for all or part of the Assignment;

### the negligence or lack of skill of the Agency Worker or Contractor;

### save as set out in this Agreement, all employment related liabilities of the Agency Worker or Contractor Staff;

### any PAYE, income tax, or NIC that the Client incurs or may incur in connection with this Agreement; and

### death or personal injury arising from the Employment Business’s own negligence and for any loss which it is not permitted to exclude by law.

## Agency Workers and Contractors supplied by the Employment Business pursuant to this Agreement are engaged by the Employment Business and the parties acknowledge that they have no direct relationship with, and are not the employees or workers of, the Client.

## The Client will not request the supply of an Agency Worker or Contractor 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.

## In respect of Agency Workers and Contractor Staff, the Client will comply with all health & safety and other legal requirements in respect of third parties at or visitors to its workplace, including the provision of adequate Public Liability Insurance cover.

## Both parties acknowledge that the service being supplied by the Employment Business under this Agreement is that of being an employment business, and each Contractor is self-employed, and as such no Agency Worker or Contractor or Contractor Staff will transfer pursuant to the Transfer of Employment (Protection of Employment) Regulations 2006 (“**TUPE**”) in the event that the Client ends this Agreement or uses another employment business to provide the same or a similar service.

## In the event that an Agency Worker, Contractor or Contractor Staff purports to bring a claim (or brings a claim) against the Client, the Employment Business will use all reasonable endeavours to procure that such claims are withdrawn against the Client and brought against the Employment Business only.

# Indemnity

## The Employment Business will (and will procure that Contractor will) indemnify (and keep indemnified) the Client against any Losses, claims and expenses that the Client incurs or may incur on account of or arising from:

### any Assignment;

### any non-compliance with, and/or breach of, this Agreement by the Employment Business;

### any alleged or actual infringement, whether or not under English law, of any third party's Intellectual Property Rights or other rights arising out of the use or supply of the services under this Agreement or the Materials created or developed by an Agency Worker or Contract Resource during an Assignment;

### any actual, threatened or pending finding, claim, assertion or demand made by or on behalf of the Employment Business or any Agency Worker or Contract Resource alleging transfer of Agency Worker or Contractor Staff’s employment pursuant to TUPE;

### any PAYE, income tax, NIC that the Client incurs or may incur in connection with this Agreement;

### any claim or demand made by HMRC (or an equivalent or replacement body) against the Client in respect of any income tax (whether under PAYE or otherwise), apprenticeship levy or NIC in respect of sums payable by the Client to the Employment Business and/or by the Employment Business to the Agency Worker or Contractor in connection with this Agreement and against any interest or penalties imposed in connection with any such tax, levy or contributions;

### any actual, threatened or pending finding, claim, assertion or demand made by or on behalf of the Employment Business or any Agency Worker or Contract Resource alleging any entitlement as against the Client to:

#### employment status or worker status; or

#### employment or worker legal rights, protections or benefits (including unfair dismissal, wrongful dismissal, breach of contract, harassment, discrimination, victimisation, working time rights, and/or personal injury);

### the Employment Business’s negligence;

### misrepresentation by the Employment Business;

### any claim made against the Client pursuant to discrimination legislation which relates to or arises from any alleged act or omission by the Employment Business; and

### any reasonable legal fees or other costs incurred by the Client in enforcing its rights under this clause 17.

## If the Client wishes to claim under an indemnity set out in clause 17.1, it shall:

### as soon as reasonably practicable, give written notice of such claim to the Employment Business, specifying the nature of the claim in reasonable detail;

### if the claim relates to a claim or action made against the Client by a third party (a "**Third Party Claim**"):

#### not make any admission of liability, agreement or compromise in relation to the Third Party Claim without the Employment Business's prior written consent (such consent not to be unreasonably withheld, delayed or conditioned), provided that the Client may settle the Third Party Claim (after giving prior written notice of the terms of settlement (to the extent legally possible) to the Employment Business, but without requirement to obtain the Employment Business's consent) if the Client reasonably believes that failure to settle the Third Party Claim would be prejudicial to it in any material respect;

#### subject to the Employment Business providing security to the Client to the Client's reasonable satisfaction against any claim, liability, costs, expenses, damages or losses which may be incurred, take such action as the Employment Business may reasonably request to avoid, dispute, compromise or defend the Third Party Claim.

## The Employment Business will procure that the Contractor gives a written indemnity indemnifying the Client against all Losses whatsoever suffered in connection with the Contractor or the Contractor Staff claiming any of the entitlements covered by the indemnity set out at clause 17.1.

## The Employment Business will (and will procure that any Contractor will) indemnify (and keep indemnified) the Client against any Losses, claims and expenses that the Client incurs or may incur on account of or arising from (i) in respect of Agency Worker an AWR Claim or (ii) any actual, threatened or pending finding, claim, assertion or demand made that the Contract Resource is an ‘agency worker’ pursuant to the Agency Workers Regulations 2010 and/or will have rights as an agency worker.

Anti-Facilitation of Tax Evasion

## The Employment Business shall*:*

## not engage in any activity, practice or conduct which would constitute either:

## a UK tax evasion facilitation offence under section 45(1) of the Criminal Finances Act 2017; or

## a foreign tax evasion facilitation offence under section 46(1) of the Criminal Finances Act 2017;

## comply with the Client’s Anti-Facilitation of Tax Evasion Policy and procedures from time to time, a copy of which will be provided on request;

## have and shall maintain in place throughout the term of this Agreement such policies and procedures as are both reasonable to prevent the facilitation of tax evasion by another person (including without limitation employees of the Employment Business, Agency Workers and the Contract Resource) and to ensure compliance with this clause;

## promptly report to the Client any request or demand from a third party to facilitate the evasion of tax within the meaning of Part 3 of the Criminal Finances Act 2017, in connection with the performance of this Agreement;

## provide such supporting evidence of compliance as the Client may reasonably request; and

## ensure that any person associated with the Employment Business who is performing services in connection with this Agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Employment Business in this clause (“**Relevant Terms**”).

## The Employment Business shall be responsible for the observance and performance (i) by employees, Agency Workers and Contract Resource of relevant policies and procedures and (ii) by such others persons associated with the Employment Business of the Relevant Terms, and shall be directly liable to the Client for any breaches.

## The meaning of reasonable prevention procedure shall be determined in accordance with any guidance issued under section 47 of the Criminal Finances Act 2017 and a person associated with the Employment Business includes any subcontractor of the Employment Business.

Assignment

## The Employment Business must not assign, delegate or sub-contract any of its rights or obligations under this Agreement without the Client’s express written consent.

Miscellaneous

## The Employment Business confirms that it is not entering into this Agreement in reliance upon any oral or written representations made to it by or on behalf of the Client.

## The Agreement and the documents referred to in it contain the whole agreement between the Client and the Employment Business in connection with the Employment Business’s engagement by the Client to supply Agency Workers and Contractors, and supercede any prior written or oral agreements, representations or understandings between the parties in relation to its subject matter.

## No variation or alteration to this Agreement will be valid unless the details of such variation are agreed in writing between the Employment Business and the Client and a signed by an authorised representative of each party.

## Nothing in this Agreement grants the Employment Business any volume of work or form of exclusivity in relation to the Introduction of Agency Workers and Contractors and the Employment Business acknowledges that the Client uses other employment businesses. If an Agency Worker or Contractor is recommended by more than one employment business, the Client may in its absolute discretion choose which employment business it deals with in relation to that Agency Worker or Contractor.

## Any Client Group Company may enjoy the benefit and enforce the terms of this Agreement in accordance with the Contracts (Rights of Third Parties) Act 1999.

Governing Law and Jurisdiction

## This Agreement is governed by the laws of England and Wales and the Courts of England and Wales will have exclusive jurisdiction to adjudicate any disputes arising under or in connection with it.

1. Schedule 1

SUPPLY OF AGENCY WORKERS

Interpretation

## The following additional definitions and rules of interpretation in this clause apply to this Schedule 1.

**“Calendar Week”** means any continuous Monday to Sunday period;

**“Comparable Employee”** shall have the meaning set out in Regulation 5(4) of the Agency Workers Regulations;

## **“Confidential Information”** in the context of an Agency Worker also includes the Relevant Terms and Conditions;

**“Qualifying Period”** shall have the meaning set out in Regulation 7 of the Agency Workers Regulations.

Parties’ obligations (Agency Workers)

## To enable the Employment Business to comply with its obligations under the Agency Workers Regulations, both parties will take reasonable steps to identify and notify the other:

### of any Calendar Weeks in the period of 12 months prior to the date of this Agreement in which the Agency Worker has worked in the same or a similar role for the Client via any third party:

#### before the date of commencement of the Assignment; or

#### during the Assignment;

### which count or may count towards the Qualifying Period;

### if, in the period of 12 months prior to the date of this Agreement, the Agency Worker has worked in a role that is notifiable under 23.1(a) above, details of such work, including (if available) details of where, when and the period(s) during which such work was undertaken;

### if, in the period of 12 months prior to the date of this Agreement, the Agency Worker has prior to the date of commencement of the Assignment and/or during the Assignment:

#### completed two or more assignments with the Client;

#### completed at least one assignment with the Client and one or more earlier assignments with any Client Group Company; and/or

#### worked in more than two roles during an assignment with the Client and on at least two occasions worked in a role that was not the same role as the previous role.

Employment Business obligations (Agency Workers)

## The Employment Business will be responsible for paying the Agency Worker and deducting and paying income tax and NIC due in respect of sums payable to the Agency Worker.

## The Employment Business will be responsible for:

### dealing with appraisals, grievances and disciplinary matters, raised by or in respect of the Agency Worker;

### approving expenses and holiday requests submitted by the Agency Worker; and

### checking the eligibility of the Agency Worker to work in the United Kingdom.

Client obligations (Agency Workers)

## The Client will assist the Employment Business in complying with the Employment Business's duties under the Working Time Regulations by supplying any relevant information about the Assignment requested by the Employment Business.

## The Client will use its reasonable endeavours to 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 Agency Workers Regulations.

## To enable the Employment Business to comply with its obligations under the Agency Workers Regulations, save where the Agency Worker will not complete the Qualifying Period during the term of the Assignment, the Client will:

### provide the Employment Business with written details of the Relevant Terms and Conditions:

#### the Agency Worker would be entitled to for doing the same job if the Agency Worker had been recruited directly by the Client as an employee or worker at the time the Qualifying Period commenced; or

#### (if a Comparable Employee exists) of a Comparable Employee;

### inform the Employment Business 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;

### if the Relevant Terms and Conditions provided are those of a Comparable Employee, explain to the Employment Business the basis on which the Client considers that the relevant individual is a Comparable Employee; and

### use its reasonable endeavours to inform the Employment Business of any variations in the Relevant Terms and Conditions made during the Assignment after the Qualifying Period commenced.

## Only if it is anticipated that the Agency Worker will complete the Qualifying Period during the term of the Assignment:

### for the purpose of awarding any bonus to which the Agency Worker may be entitled under the Agency Workers Regulations, the Client will:

#### provide the Employment Business with appropriate information about the Agency Worker's performance and any relevant documentation;

#### notify the Employment Business of what (if any) bonus would have been awarded to the Agency Worker had the Agency Worker been directly employed by the Client;

#### assist the Employment Business in connection with the assessment of the Agency Worker's performance for the purpose of awarding any bonus;

### the Client will comply with the Employment Business's reasonable requests for information and any other requirements to enable the Employment Business to comply with the Agency Workers Regulations.

## The Client will use reasonable endeavours to ensure that:

### all information and documentation supplied to the Employment Business in accordance with clauses 23.1 is complete, accurate and up-to-date; and

### it will, during the term of the relevant Assignment, inform the Employment Business in writing of any subsequent change in any information or documentation provided in accordance with clauses 23.1;

## The Client will inform the Employment Business in writing of any:

### oral or written complaint the Agency Worker makes to the Client which is or may be a complaint connected with rights under the Agency Workers Regulations; and

### written request for information relating to the Relevant Terms and Conditions that the Client receives from the Agency Worker;

## and will give such information and assistance as the Employment Business may reasonably request in order to resolve any such complaint or to provide any such information in accordance with Regulation 16 of the Agency Workers Regulations.

Charges (Agency Workers)

## In addition to the Charges, the Client will promptly pay the Employment Business an amount equal to any bonus that the Agency Worker may become entitled to in accordance with clause 25.4 and the Employment Business will pay any such bonus to the Agency Worker. The Client will not be liable to pay the Employment Business’s commission on the bonus.

1. Schedule 2

SUPPLY OF INDEPENDENT CONTRACTORS

Interpretation

## The following additional definitions and rules of interpretation in this clause apply to this Schedule 2.

**“Valid Opt Out”** means written notification from the Contractor and the Contractor Staff in accordance with regulation 32(9) of the Conduct Regulations.

Employment Business Obligations

## The Employment Business will be responsible for:

### procuring a Valid Opt Out from the Contractor and the Contractor Staff in advance of each;

### providing the Client with copies of any Valid Opt Outs in advance of each Assignment;

### ensuring that it contracts with the Contractor rather than the Contractor Staff;

### paying the Contractor; and where appropriate (but subject to clause 28.3 below) deducting and paying tax and NIC due in respect of sums payable by the Contractor to the Contractor Staff;

### checking the eligibility and suitability of the Contractor to perform each Assignment, including but not limited to:

#### checking the current Companies House status of the Contractor;

#### checking the Contractor has appropriate Professional Indemnity Insurance, Public Liability Insurance and Employer’s Liability Insurance covering the full period of the Assignment;

#### obtaining satisfactory references covering the period of five years prior to the Assignment;

#### checking the employment status of Contractor Staff and obtaining evidence regarding the employment earnings paid to Contractor Staff;

#### verifying that the Contractor is tax resident in the UK;

#### verifying that the Contractor is not a managed service company under Chapter 9, Part 2 Income Tax (Earnings and Pensions) Act 2003.

### recording in its contract with the Contractor that:

#### neither the Contractor nor its Contractor Staff are temporary agency workers;

#### the terms on which the Contractor Staff are engaged by the Contractor are substantially determined by the Contractor;

### procuring that in all dealings with the Contractor and the Client, the paperwork properly records that the Contractor is contracted to perform the Assignment services, and not the individual Contractor Staff; and

### satisfying itself that the Assignment is suitable to be performed by a Contractor under these terms.

## Contractors supplied by the Employment Business pursuant to this Agreement must be limited companies registered in England and Wales. The Employment Business must not directly engage any Contractor Staff.

## The Client and the Employment Business acknowledge that that for any payments made on or after 6 April 2021 in respect of labour provided on or after 6 April 2021 the Client will be obliged to determine whether chapter 10, Part 2 Income Tax (Earnings and Pensions) Act 2003 (as amended from time to time) (“**IR35**”) applies to the Contract Resource. The Employment Business undertakes on a continuing basis to promptly share with the Client any information which might reasonably be expected to affect any determination as to whether IR35 applies.

## The Employment Business also undertakes not to make any payments to a Contractor after 5 April 2021 until the Client has issued a Status Determination Statement (“**SDS**”) in respect of the relevant Contractor Staff confirming that Client’s determination of the employment status of the Contractor Staff and the reasons for it.

## In the event that the Client pursuant to its legal obligations makes a determination that IR35 applies to the Contract Resource and has provided a SDS to that effect to the Contractor Staff and the Employment Business, the following provisions shall apply:

### the Employment Business shall in accordance with its obligations under Income Tax (Earnings and Pensions) Act 2003 (as amended from time to time) treat the Contractor Staff as its employees for all PAYE income tax, NIC and apprenticeship levy purposes and shall indemnify the Client in respect of any Losses arising from the Employment Business’s failure to meet such obligations;

### If the Contract Resource and/or the Employment Business challenge the SDS the Employment Business shall continue to treat the Contractor Staff as its employees for all PAYE income tax, NIC and apprenticeship levy purposes unless and until the Client withdraws the previous SDS and issues a new SDS notifying the Contractor Staff and the Employment Business that IR35 does not apply; and

### the Client shall have the right to require the Employment Business to provide such evidence as the Client shall reasonably require so that the Client may verify that the Employment Business is operating PAYE, NIC and the apprenticeship levy in accordance with IR35.

## In the event that the Client pursuant to its legal obligations makes a determination that IR35 does not apply to the Contract Resource and has provided a SDS to that effect to the Contractor Staff and the Employment Business, subject to clause 28.8, the Employment Business will not be obliged to treat the Contractor Staff as its employees for PAYE income tax, NIC and apprenticeship levy purposes provided the Employment Business obtains written evidence to the Client’s satisfaction that:

### the Contractor Staff is an employee or office-holder of the Contractor; and

### the Contractor:

#### is tax resident in the UK for all purposes;

#### treats the Contractor Staff as an employee or office-holder for all tax and NIC purposes;

#### operates PAYE and pays NICs on the employment or deemed employment earnings of the Contractor Staff; and

#### is not a managed service company under Chapter 9, Part 2 Income Tax (Earnings and Pensions) Act 2003.

## Where the Employment Business does not treat Contractor Staff as an employee for tax and NIC purposes in accordance with this clause, the Employment Business undertakes to comply with all its record-keeping and return requirements imposed under the Finance (No 2) Act 2014.

## The Employment Business acknowledges that Client is required to keep its determination as to whether Contractor Staff fall within IR35 under review and therefore the Client may issue a new SDS with a different determination at any time if it considers it appropriate. If any subsequent SDS in respect of Contractor Staff confirms that the Contractor Staff is within IR35, clause 28.5 shall apply.

## The parties acknowledge that there will be no contractual or financial relationship between (a) the Client; and (b) the Contract Resource. The Employment Business is solely responsible for arranging payments to the Contractor.

Client Obligations (Contractors)

## The Client will not directly control or take responsibility for the Contractor. The Client acknowledges that the Contractor is a professional which will use its own initiative and will not be subject to supervision, direction or control as to the manner in which it performs the Assignment.

|  |  |
| --- | --- |
| **Confirmation of Agreement** | |
| **Client Signature** |  |
| Print Name |  |
| ***For and on behalf of ViacomCBS*** | |
| Date |  |
|  | |
| **Employment Business Signature** |  |
| Print Name (Company) |  |
| Print Name (Person) |  |
| ***For and on behalf of Employment Business*** | |
| Date |  |

**DELETE THESE NOTES BEFORE SENDING SCHEDULE 3!**

BEFORE DETAILED TERMS ARE SIGNED (PAGES 1 – 25) = = = > SEPARATE SCHEDULE 3 (page 26 onwards) AND USE FOR INDIVIDUAL ENGAGEMENTS ONLY, as addition to signed “master DETAILED terms”

**There are 2 “Schedule 3” templates:**

* **PAYE Agency Worker**
* **LTD Company Contractor**

**ONLY USE 1 Template for each assignment, depending on whom you are engaging!**

**DELETE UP TO AND INCLUDING THIS LINE: This Schedule 3 is for engaging PAYE Agency Workers ONLY**

1. Schedule 3

Summary Terms - Assignment Details Form

These Assignment Details are entered into pursuant to an Agreement between the Client and the Employment Business, dated DATE, and have been completed by an individual authorised by the Client, and by the Employment Business.

|  |  |
| --- | --- |
| **ViacomCBS Information** | |
| **ViacomCBS Brand/Dept** | X |
| **Business Unit** | X |
| **Project** | X |
| **Reporting Manager** | X |
| **Employment Business Details** | |
| **Employment Business Name** | Agency name |
| **Employment Business Contact person and contact details** | Name, email address and phone number |
| **Assignment and Worker/Contractor Information** | |
| **Status** | PAYE Agency Worker |
| **Agency Worker Name** | Name of individual engaged via Agency (person name) |
| **Right to work in the UK** | It is confirmed that the Agency Worker has the necessary right to work in the UK and proof of this right has been verified to the Employment Business. |
| **Services** | job title services as agreed between the Consultant Company and ViacomCBS. Any work outside the scope of the Services shall be subject to a new agreement between the Consultant Company and ViacomCBS. |
| **Period of engagement** | From date until date; unless terminated earlier in accordance with this Agreement. |
| **Timing** | Services to be provided on whatever days and at whatever times ViacomCBS requests and the Consultant Company agrees. **OR** Services to be provided on whatever days and at whatever times ViacomCBS the Consultant Company agree together. |
| **Location** | At the Client’s premises **OR** At whatever locations the Client reasonably requires **OR** From whatever location the Contractor chooses, as long as the Contractor Resource is easily contactable during any day when providing the Services and available to attend meetings at the Client’s offices or other locations as reasonably requested. |
| **Conduct Regulations Opt out** | The Worker does **OR** does not have a Valid Opt Out. Copy enclosed if applicable. |
| **Additional Checks** | State whether the type of Assignment requires any additional checks to be carried out and, if so, what checks – For example DBS if working with children (Nickelodeon) |
| **Notice Period to terminate Assignment** | XX weeks by the ClientXX weeks by Employment Business |
| **Payment Information** | |
| **Fees** | £XX per day /per hour / buyout for providing the Services;The Fees include Agency charges. |
| **Expenses** | ViacomCBS will only reimburse the Consultant Company for reasonable travelling and other expenses incurred by the Consultant Company in performance of the Services, subject to ViacomCBS’s prior approval and on the production of receipts or other evidence. **OR** N/A |
| **Payment Terms** | 45 Days |
| **Invoice Frequency** | Monthly |

|  |  |
| --- | --- |
| **Confirmation of Agreement** | |
| **Client Signature** |  |
| Print Name |  |
| For and on behalf of ViacomCBS | |
| Date |  |
|  | |
| **Employment Business Signature** |  |
| Print Name (Company) |  |
| Print Name (Person) |  |
| For and on behalf of Employment Business | |
| Date |  |

**DELETE THESE NOTES BEFORE SENDING SCHEDULE 3!**

BEFORE DETAILED TERMS ARE SIGNED (PAGES 1 – 25) = = = > SEPARATE SCHEDULE 3 (page 26 onwards) AND USE FOR INDIVIDUAL ENGAGEMENTS ONLY, as addition to signed “master DETAILED terms”

**There are 2 “Schedule 3” templates:**

* **PAYE Agency Worker**
* **LTD Company Contractor**

**ONLY USE 1 Template for each assignment, depending on whom you are engaging!**

**DELETE UP TO AND INCLUDING THIS LINE: This Schedule 3 is for engaging LIMITED COMPANY CONTRACTORS ONLY**

1. Schedule 3

Summary Terms - Assignment Details Form

These Assignment Details are entered into pursuant to an Agreement between the Client and the Employment Business, dated DATE, and have been completed by an individual authorised by the Client, and by the Employment Business.

|  |  |
| --- | --- |
| **ViacomCBS Information** | |
| **ViacomCBS Brand/Dept** | X |
| **Business Unit** | X |
| **Project** | X |
| **Reporting Manager** | X |
| **Employment Business Details** | |
| **Employment Business Name** | Agency name |
| **Employment Business Contact person and contact details** | Name, email address and phone number |
| **Assignment and Worker/Contractor Information** | |
| **Status:** | Contractor; At the time of entering into this Agreement, the Contractor was deemed to be Outside IR35 (Off-Payroll Working Rules do not apply). SDS has been sent to Employment Business and Contractor. |
| **Contractor and Contractor Staff** | The Contractor: NAME of LTD company of the person providing services  Contractor Staff: NAME of person providing the services |
| **Conduct Regulations Opt out** | The Contractor does **OR** does not have a Valid Opt Out. Copy enclosed if applicable. |
| **Services** | job title services as agreed between the Consultant Company and ViacomCBS. Any work outside the scope of the Services shall be subject to a new agreement between the Consultant Company and ViacomCBS. |
| **Period of engagement** | From date until date; unless terminated earlier in accordance with this Agreement. **OR**  From date until the services have been completed to the satisfaction of the Client; unless terminated earlier in accordance with the terms of the Agreement. |
| **Timing** | Services to be provided on whatever days and at whatever times ViacomCBS requests and the Consultant Company agrees. **OR** Services to be provided on whatever days and at whatever times ViacomCBS the Consultant Company agree together. **OR** The Contractor will use its best endeavours to complete the Services by the deadline of DATE (unless otherwise agreed with the Client). If at any time the Contractor believes or has reasonable grounds for believing that this deadline may not be met, it must immediately notify the Client. |
| **Additional Checks** | State whether the type of Assignment requires any additional checks to be carried out and, if so, what checks – For example DBS if working with children (Nickelodeon) |
| **Location** | At the Client’s premises **OR** At whatever locations the Client reasonably requires **OR** From whatever location the Contractor chooses, as long as the Contractor Resource is easily contactable during any day when providing the Services and available to attend meetings at the Client’s offices or other locations as reasonably requested. |
| **Notice Period to terminate Assignment** | XX weeks by the ClientXX weeks by Employment Business |
| **Payment Information** | |
| **Fees** | £XX per day /per hour / buyout for providing the Services;The Fees include Agency charges. |
| **Expenses** | ViacomCBS will only reimburse the Consultant Company for reasonable travelling and other expenses incurred by the Consultant Company in performance of the Services, subject to ViacomCBS’s prior approval and on the production of receipts or other evidence. **OR** N/A |
| **Payment Terms** | 45 Days |
| **Invoice Frequency** | Monthly |

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| **Confirmation of Agreement** | |
| **Client Signature** |  |
| Print Name |  |
| For and on behalf of ViacomCBS | |
| Date |  |
|  | |
| **Employment Business Signature** |  |
| Print Name (Company) |  |
| Print Name (Person) |  |
| For and on behalf of Employment Business | |
| Date |  |