

# Nova Healthcare Services Ltd

## Contract of Employment

### Zero Hour Contract

#### THE PARTIES

1. Nova Healthcare Services registered company no. 13166195 of The Charter Building, Charter Place, Uxbridge, UB8 1JG ("the Company" or "We" or "Us")

1. Employee Name \_\_\_\_\_ of address  
\_\_\_\_\_ ("the Employee" or "You" or "Your")

#### 1. DEFINITIONS AND INTERPRETATION

1. In this Agreement the following definitions apply:

**"Actual Rate of Pay"** means, unless and until You complete the Qualifying Period, the rate of pay which We will pay You for all time worked during an Assignment weekly in arrears, subject to Deductions and any Agreed Deductions, as set out in the relevant Assignment Details Form;

**“Actual QP Rate of Pay”** means the rate of pay which We will pay You if and when You complete the Qualifying Period. Such rate will be paid for all time worked during an Assignment weekly in arrears, subject to Deductions and any Agreed Deductions, as set out in any variation to the relevant Assignment Details Form;

**“Agreed Deductions”** means any deductions You have agreed We can make to Your pay.

**“Assignment”** means assignment services You must provide to the Client for the period of time during which We assign You to work temporarily for and under the supervision and direction of the Client;

**“Assignment Details Form”** means written confirmation of the assignment details We will give You when You accept an Assignment;

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

**“Calendar Week”** means any period of seven days starting with the same day as the first day of the First Assignment;

**“Client”** means the person, firm or corporate body together with any subsidiary or associated person, firm or corporate body (as the case may be) to whom You are assigned or Introduced by the Company.

**“Client's Group”** means (a) any individual, company, partnership, statutory body or other entity which from time to time Controls the Client, including (but not limited to) as a holding company as defined in section 1159 of the Companies Act 2006; and (b) any company, partnership, statutory body or other entity which from time to time is Controlled by or is under common Control with the Client, including (but not limited to) as a subsidiary or holding company as defined 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 and all confidential commercial, financial, marketing, technical or other information or data of whatever nature relating to the Client or Us or our business or affairs (including but not limited to this Agreement, data, records, reports, agreements, software, programs, specifications, know-how, trade secrets and other information concerning the Assignment) in any form or medium whether disclosed or granted access to whether in writing, orally or by

any other means, provided to You or any third party in relation to the Assignment by the Client or Us or by a third party on behalf of the Client whether before or after the date of this Agreement together with any reproductions of such information in any form or medium or any part(s) of such information;

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

**“Data Protection Laws”** means the Data Protection Act 2018, the General Data Protection Regulation (EU 2016/679) and any applicable statutory or regulatory provisions in force from time to time relating to the protection and transfer of personal data;

**“Deductions”** means any deductions which We may be required by law to make to Your pay and in particular in respect of PAYE income tax, national insurance contributions and pension;

**“Emoluments”** means any pay in addition to the Actual QP Rate of Pay;

**“Engagement”** means the engagement (including Your acceptance of the Client’s offer), employment or use of You by the Client or by any third party to whom You have been introduced by the Client, on a permanent or temporary basis, whether under a contract of service or for services; under an agency, licence, franchise or partnership agreement; or any other engagement; or through a limited company of which You are an officer, employee or other representative; and “Engage”, “Engages” and “Engaged” shall be construed accordingly;

**“First Assignment”** means:

- a. the relevant Assignment; or
- b. if, prior to the relevant Assignment:
- c. You have worked in any assignment in the same role with the relevant Client as the role in which You work in the relevant Assignment; and
  - i. the relevant Qualifying Period commenced in any such assignment,

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

**“Hourly Rate”** means £10 being the minimum gross rate of pay (subject to Deductions and any Agreed Deductions) that We

reasonably expect to achieve, for all hours worked by You;

**“Leave Year”** means the period during which the Employee accrues and may take statutory leave commencing on 1st Feb and runs until the anniversary of that date;

**“Period of Extended Hire”** means any additional period that the Client wishes You to be supplied for beyond the duration of the original Assignment or series of assignments as an alternative to paying a Transfer Fee;

**“Qualifying Period”** means 12 continuous Calendar Weeks during the whole or part of which You are supplied by one or more Temporary Work Agencies to the relevant Client to work temporarily for and under the supervision and direction of the relevant Client in the same role, and as further defined in the Schedule to this Agreement;

**“Relevant Period”** means whichever ends the later of (a) the period of 8 weeks commencing on the day after the last day on which You worked for the Client having been supplied by Us; or (b) the period of 14 weeks commencing on the first day on which You worked for the Client having been supplied by Us 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;

**“Temporary Work Agency”** means as defined in the Schedule to this Agreement;

**“Type of Work”** means Health and Personal Care

**“Transfer Fee”** means the fee payable by the Client to Us in accordance with clause 6.2, as permitted by Regulation 10 of the Conduct Regulations; and

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

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

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

1. Any reference, express or implied, to an enactment includes a reference to that enactment as from time to time amended, modified, extended, re-enacted, replaced or applied by or under any other enactment (whether before or after the commencement date of this Agreement) and all subordinate legislation made (before or after this Agreement) under it from time to time.

## 1. THE AGREEMENT

1. We are giving You this Agreement to comply with section 1 of the Employment Rights Act 1996. For each Assignment We will also give you an Assignment Details Form, which together with this Agreement forms Your contract of employment between You and the Company. If there is any conflict between the terms of this Agreement and any relevant Assignment Details Form, the terms of the relevant Assignment Details Form will take precedence.
1. Any prior agreements or arrangements (written or oral, express or implied) between You and the Company relating to or arising out of Your employment are hereby cancelled and superseded by this Agreement.
1. Any reference, express or implied, to an enactment within this Agreement includes a reference to that enactment as from time to time amended, modified, extended, re-enacted, replaced or applied by or under any other enactment (whether before or after the date of this Agreement) and all subordinate legislation made (before or after this Agreement) under it from time to time.
1. No variation or alteration to this Agreement shall be valid unless the details of such variation are agreed between You and the Company and set out in writing and we give You a copy of the varied terms stating the date on or after which such varied terms shall apply.
1. We act as an employment business (as defined in Section 13(3) of the Employment Agencies Act 1973) when introducing or supplying You for Assignments with Clients.

## 1. COMMENCEMENT AND DURATION OF EMPLOYMENT

1. You will be engaged under a contract of employment and Your employment under this Agreement will begin on the start date of Your First Assignment as specified in the first relevant Assignment Details Form and will continue unless and until terminated in accordance with the notice provisions at clause 14 (Notice to Terminate Employment) below. [The first 3 months of Your employment will be a probationary period.
1. Your period of continuous employment with the Company will begin on the date Your employment begins as set out in clause 3.1 above and no other previous period of work with the Company or any third party counts towards Your continuous employment.

## 1. JOB TITLE AND DUTIES

1. Your job title will be Support Worker / Healthcare Assistant.
  
1. Your normal duties will entail You being assigned to various Clients of the Company who have requested Us to provide them with health and personal care.
  
1. As soon as possible prior to the start of each Assignment and during each Assignment (as appropriate) and at any time at our request, You undertake to:
  1. inform Us of any Calendar Weeks prior to the start date of the relevant Assignment and/or during the relevant Assignment in which You have worked in the same or a similar role with the relevant Client through any third party and which You believe count or may count toward the Qualifying Period; and
  
  1. provide Us with all the details of such work, including (without limitation) details of where, when and the period(s) during which such work was undertaken and any other details requested by Us; and
  
  1. inform Us if You have, before starting the relevant Assignment and/or during the relevant Assignment, carried out work which could be deemed to count towards the Qualifying Period for the relevant Assignment in accordance with Regulation 9 of the AWR because You have:
    1. completed two or more assignments with the Client;
  
    1. completed at least one assignment with the Client and one or more earlier assignments with any member of the Client's Group; and/or
  
    1. 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.
  
1. We will take reasonable steps to find You suitable work with our Clients and You agree to accept all such Assignments We offer You. We may be entitled to terminate Your employment on notice in accordance with clause 14 (Notice to Terminate Employment) below if You refuse to accept suitable Assignments. Your refusal of a suitable Assignment may, depending on the circumstances, constitute gross misconduct under our disciplinary procedure entitling Us to terminate Your employment with immediate effect as set out in clause 14.4 below.

1. If We are not able to assign You to any of our Clients for any period of time, You agree that You will remain contactable by telephone so that We can offer You suitable work as soon as it becomes available. Subject to clause 6 (Other Employment), for the avoidance of doubt You are not prohibited from taking up other work under any other contract or arrangement with third parties, nor are You required to ask our permission to do so. However, for operational reasons You must keep Us informed of when You are and are not available to accept an Assignment from Us. You must notify Us immediately if You are not available to undertake Assignments at any time during the period of this Agreement and You must comply fully with any notification requirements specified by Us in this regard. Failure to notify Us of Your unavailability shall constitute a disciplinary offence because You may receive payment to which You are not entitled and any such failure may result in the termination of Your employment with immediate effect as set out in clause 14.4 below.

1. While You are on Assignment with any of our Clients You shall:

1. co-operate with the Client's staff and accept the direction, supervision and instruction of any responsible person in the Client's organisation;

1. follow any of the Client's rules and regulations, including without limitation those regarding health and safety, to which Your attention has been drawn;

1. not engage in any conduct detrimental to our interests and/or the Client which includes any conduct which could bring Us and/or the Client into disrepute and/or which results in the loss of custom or business by either Us or the Client;

1. not commit any act or omission constituting unlawful discrimination against or harassment of any member of the Client's or our staff;

1. not at any time divulge to any person, nor use for Your own or any other person's benefit, any Confidential Information relating to the Client's or our employees, business affairs, transactions or finances;

1. comply strictly with the Data Protection Laws and shall not do or permit to be done anything which might cause Us or the Client to breach any Data Protection Laws; and

1. when You finish an Assignment or at any time when requested by the Client or Us, return to the Client or where appropriate, to Us, any Client property or items provided to You in connection with or for the purpose of the Assignment, including, but not limited to any equipment, materials, documents, swipe cards or ID cards, uniforms, personal protective equipment or clothing.

## 1. HOURS OF WORK

1. Whilst on Assignment, You will be required to work such hours as are set out in the relevant Assignment Details Form and in any event the normal hours of work required by the Client.
1. You may be required to work/offered overtime in addition to your normal hours of work, if instructed to do so, by Us or the Client. If this is the case it will be stated in the relevant Assignment Details Form and You [may/will] receive additional payment for such overtime hours worked.
1. Subject to any amendments made to Your basic working and employment conditions during the term of this Agreement in compliance with Regulation 5 of the AWR, time spent travelling to and from the premises of the Company or its Clients (apart from time spent travelling between two or more premises of the Client), lunch breaks and other rest breaks and periods during which We are not able to offer you any Assignments shall not count as part of Your working time for the purpose of the WTR.
1. If You are entitled to any terms and conditions relating to the duration of working time, night work, rest periods and/or rest breaks under the AWR which are preferential to rights and entitlements relating to the same under the WTR, any such terms and conditions and the date from which they commence will be as set out in the relevant Assignment Details Form or any amendments to that form.

## 1. OTHER EMPLOYMENT

1. During each and every Assignment, You must devote the whole of Your time, attention and abilities during Your normal hours of work to Your duties for Us. If during the course of this Agreement, You accept other work under any other contract or arrangement with any other party You must ensure that You continue to comply with the terms of this Agreement, including but not limited to, clause 17.1 (Confidentiality).
1. If, before or during an Assignment or during the Relevant Period, the Client wishes to Engage You directly or through another employment business, You acknowledge that We will be entitled either to charge the Client a fee or to agree a Period of Extended Hire with the Client at the end of which You may be engaged directly by the Client or through another employment business without further charge to the Client. In addition, We will be entitled to charge a fee to the Client if the Client introduces You to a third party who subsequently engages You within the aforementioned periods.

## 1. INFORMATION TO BE PROVIDED



1. At the same time as We offer You an Assignment, We will give You an Assignment Details Form setting out the following:

**For the purposes of the Conduct Regulations:**

1. the identity of the Client, and if applicable the nature of their business;
2. the date the Assignment is to start and how long the Assignment will last or is expected to last;
1. the Type of Work, location and hours during which You would be required to work;
1. the Actual Rate of Pay or Actual QP Rate of Pay (as appropriate) that We will pay You and any expenses payable by or to You;
1. any risks to health and safety known to the Client in relation to the Assignment and the steps the Client has taken to prevent or control such risks; and
1. what experience, training, qualifications and any authorisation required by law or a professional body the Client considers necessary or which are required by law to work in the Assignment.

**For the purposes of Section 1 of the Employment Rights Act:**

1. any other paid leave such as maternity, paternity or adoption leave;
1. the details of pension entitlements and pensions schemes; and
1. any other benefits.
1. Where such information is not given in paper form or by electronic means it shall be confirmed by such means by the end of the third business day (excluding Saturday, Sunday and any Public or Bank Holiday) following except where:

1. We offer You an Assignment in the same position as one in which You have previously worked within the previous 5 business days and We already gave You has not changed; or
  
1. subject to clause 7.3, the Assignment is intended to last for 5 consecutive business days or less and the information we already gave You has not changed, We need only to give You written confirmation of the identity of the Client and how long We expect the Assignment to last.
  
1. Where the provisions of clause 7.2.2 are met but the Assignment extends beyond the intended 5 consecutive business day period, We shall provide such information set out in clause 7.1 to You in paper or electronic form within 8 days of the start of the Assignment.
  
1. For the purpose of calculating the average number of weekly hours worked by You on an Assignment for the purposes of the WTR, the start date for the relevant averaging period shall be the date on which You commence the First Assignment.
  
1. If You have completed the Qualifying Period on the start date of the relevant Assignment or following completion of the Qualifying Period during the relevant Assignment, and if You are entitled to any terms and conditions relating to the duration of working time, night work, rest periods and/or rest breaks under the AWR which are different and preferential to rights and entitlements relating to the same under the WTR, We will set out such terms and conditions in the relevant Assignment Details Form or any variation to the relevant Assignment Details Form (as appropriate).

## 1. LOCATION OF WORK

You will be required to work for our Clients at various locations within the area. We will give You the exact address of each Assignment in the relevant Assignment Details Form. We may give You Assignments outside of this area. For the avoidance of doubt, We regard total daily commuting time of under 4 hours to be reasonable. We will not pay You for the time it takes to travel to work.

## 1. PAY

1. During periods when You are carrying out Assignments for our Clients, We will pay You the Hourly Rate.
  
1. If and when You complete the Qualifying Period] We will pay You:

1. the Actual QP Rate of Pay; and

1. the Emoluments (if any),

which will be notified on a per Assignment basis and as set out in the relevant Assignment Details Form or any variation to the relevant Assignment Details Form.

1. Subject to any statutory entitlement under the relevant legislation referred to in clauses 11 (Annual Leave) and 12 (Absences and Sick Pay) and any other statutory entitlement, You will not be entitled to be paid during rest periods, lunch breaks, time spent travelling to and from work and during periods when You are not working on an Assignment (including periods when We have been unable to find You an Assignment or You have chosen not to accept any Assignment offered to You).
1. We will pay You weekly in arrears by credit transfer on Fridays. **You must give us Your timesheets on Monday by 2pm, otherwise there may be a delay in paying You.**
1. Your pay and any Minimum Pay is subject to any Agreed Deductions and any deductions which the Company may be required by law to make and in particular in respect of PAYE pursuant to Sections 44-47 of the Income Tax (Earnings and Pensions) Act 2003, Class 1 National Insurance Contributions and employee pension contribution (where relevant).
1. Subject to compliance with Regulation 12 of the Conduct Regulations We reserve the right in our absolute discretion to deduct from Your pay any sums which You may owe Us including, without limitation, any overpayments (whether made as a result of our mistake or as a result of Your submission of an incorrect (including fraudulent) timesheet) or loans made to You by Us or losses suffered by Us as a result of Your negligence or breach of our rules or this Agreement.
1. You must take reasonable care of any equipment or clothing We give You to be used whilst on an Assignment with the Client. You must also return any equipment or clothing to Us upon termination of this Agreement or within [3] days of a request from Us. If You do not comply with the obligations set out in this clause, We reserve the right to deduct the cost of replacement equipment or clothing from any sums owed to You. The question of whether You have taken reasonable care of the equipment or clothing will be solely assessed by our reasonable judgement.

1. If You hold a valid A1, E101 or E102 Certificate confirming coverage by a social security scheme in a EU Member State other than the UK, You must declare this to Us and produce the Certificate. In such cases We shall not deduct Class 1 National Insurance Contributions from the Actual Rate of Pay or the Actual QP Rate of Pay (where applicable) but it shall be Your responsibility to pay such social fee contributions as may be applicable in the EU Member State concerned. If You fail to pay such contributions and We are required to pay contributions either in the UK or the EU Member State concerned, You undertake to indemnify Us and We shall be entitled to deduct the amount paid in contributions from any sums owed to You.

## 1. TIMESHEETS

1. 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 or is completed before the end of a week You shall deliver to Us a timesheet duly completed to indicate the number of hours worked during the preceding week (or such lesser period) and signed by an authorised representative of the Client.
1. Subject to the provisions of clause 10.3, We will pay You for all hours worked regardless of whether We have received payment from the Client.
1. If You do not give us a timesheet signed by the Client We shall, in a timely fashion, conduct further investigations into the hours claimed by You and the reasons that the Client has refused to sign a timesheet in respect of those hours. This may delay any payment due to You. We will not pay You for hours claimed but not worked. **If You claim for hours not worked You may be subject to our disciplinary procedure.**

## 1. ANNUAL LEAVE

1. Subject to clause 11.2 You are entitled to paid annual leave according to the statutory minimum entitlement under the WTR. The current statutory entitlement to paid annual leave under the WTR is 28 days (pro-rated for part-time workers).
1. Your annual leave pay accrues in proportion to the amount of time You work on Assignment during the Leave Year.
1. Under the AWR, on completion of the Qualifying Period You may be entitled to paid or unpaid annual leave in addition to Your entitlement to paid annual leave under the WTR and in accordance with clauses 11.1 and 11.2. If this is the case, We will tell You in the relevant Assignment Details Form how much additional paid or unpaid leave You are entitled to, when You are entitled to the additional leave and how much annual leave pay You will be entitled to.

1. You must take Your annual leave during the Leave Year in which it accrues and, except as may be set out in the relevant Assignment Details Form or any variation to the relevant Assignment Details Form, You may not carry over any annual leave to the next year. You are responsible for ensuring that You request all the paid annual leave You are entitled to and that You take it during the relevant Leave Year.
  
1. You must take Your holiday during periods when You are not rostered to work. Unless stated otherwise in the Assignment Details Form, if You wish to take paid annual leave You should request such annual leave in writing from Us, setting out the dates of Your intended absence providing notice of at least twice the length of the period of leave that You wish to take. We may accept or decline Your request depending on the operational requirements of the Client for whom You are carrying out an Assignment. If You book annual leave, We may give You a counter-notice to postpone or reduce the amount of annual leave that You wish to take and, unless stated otherwise in the Assignment Details Form, in such circumstances We will inform You in writing giving at least the same length of notice as the period of leave that it wishes to postpone or reduce it by. We reserve the right to ask You to take annual leave at times convenient to its business and that of its Clients.\
  
1. Subject to clause 11.3 We will calculate and pay Your holiday pay in proportion to the number of hours which You have worked on Assignment. You may not take more than 2 weeks' holiday in any one-month period, nor may You during Your first 12 months of employment take holiday which has not accrued.
  
1. Except where this clause is amended by the Assignment Details Form, where a bank holiday or other public holiday falls on a working day and You do not work on that day, subject to You having accrued entitlement to payment for leave in accordance with clause 11.6 (or clause 11.3, if applicable) You may, upon giving one week's notice, take a bank holiday or other public holiday as part of Your paid annual leave entitlement.
  
1. When Your employment terminates, Your holiday entitlement for that Leave Year shall be in direct proportion to the period employed in that Leave Year. We will pay You in lieu of any holiday entitlement that was accrued but not taken at the date of termination of employment, or, as the case may be, You shall repay to Us an amount in respect of any holiday taken in excess of Your holiday entitlement for that year and You hereby authorise Us to take repayment of such monies by way of deduction from any final payment owed to You. If, following such deduction You owe further monies in respect of pay received for annual leave taken but not accrued at the time of Termination, You will repay such monies within 7 days of termination of this Agreement.

## 1. NOTIFICATION OF ABSENCES AND SICK PAY

1. If You are cannot attend work for any reason and We have not previously authorised Your absence, You must tell Us that You are absent, and why, by 8 hours before on each working day of absence. Once You have been absent for a total of 7 days including weekends You must provide Us with a medical certificate or statement of fitness for work on the eighth day of sickness or injury if Your absence is medically related. After that, You must give Us medical certificates or statements of fitness for work to cover any continued medical related absence. If, on a medical certificate or statement of fitness for work, Your doctor recommends any adjustments to Your duties, hours or working conditions to facilitate a return to work, You must co-operate with Us regarding the possible

implementation of such changes, notwithstanding the fact that the advice on a statement of fitness for work is not binding on Us.

1. Immediately following Your return to work after a period of absence which has not previously been authorised by Us, You are required to complete a self-certification form (irrespective of whether You have a medical certificate or statement of fitness for work to cover part or all of the period of absence) stating the dates of and the reason for Your absence, including details of sickness on non-working days as this information is required by Us for calculating statutory sick pay entitlement. We will keep self-certification forms in our records.
1. If You are absent from work due to sickness or injury and comply with the requirements of this clause, We will pay You Statutory Sick Pay in accordance with the provisions of the Social Security Contributions & Benefits Act 1992. For statutory sick pay purposes Your qualifying days are Your contracted working days.
1. We may at our sole discretion make payments in addition to statutory sick pay.

## 1. PENSION AND OTHER BENEFITS

1. You will, subject to satisfying certain eligibility criteria and the rules of the scheme, be entitled to become a member of the Nest pension scheme ("the Scheme") and You will be entitled to remain a member for the duration of Your Employment. We will make contributions into the Scheme on the Your behalf, in equal monthly instalments of an amount equal to [3] % of Your basic annual salary, provided that You make Your own monthly contributions to the Scheme equal to [5]% of Your basic annual salary.
1. We may vary this clause in order to comply with any statutory obligations We may have in the future under the Pensions Act 2008 or any subsequent or equivalent legislation.
1. You are not entitled to any benefits other than those set out in this agreement].

## 1. NOTICE TO TERMINATE EMPLOYMENT

1. If We wish to terminate Your employment, We will give You the following notice in writing:
  1. 2 weeks' notice if You have been continuously employed for one month or more but less than two years; followed by

1. one week's notice for each completed year of continuous service plus an additional week up to a maximum of 13 weeks' notice after 12 years' continuous service.

1. Subject to clause 14.3, if You want to terminate Your employment, You must give Us one weeks' notice in writing.

1. If You have been employed for less than one month no notice is required from either party to terminate Your employment under this Agreement.

1. If You are found to have committed an act of gross misconduct We will be entitled to terminate Your employment without notice or pay in lieu of notice.

## 1. DISCIPLINARY AND GRIEVANCE PROCEDURES

1. Details regarding our grievance, disciplinary and dismissal procedures are annexed to this Agreement (Appendix 1). However such procedures are non-contractual.

1. We expressly reserve the right to suspend You from employment pending investigation and any further action in relation to any disciplinary or related matters, for such period as We consider appropriate or until any disciplinary process has been completed.

1. If, either before or during the course of an Assignment, You become aware of any reason why You may not be suitable for an Assignment, You shall notify Us without delay. A failure to notify Us under this clause shall constitute a disciplinary offence.

## 1. EXPENSES

1. We will reimburse You all expenses properly incurred by You in the proper performance of Your duties, provided that You [seek prior authorisation to incur those expenses and] provide Us with such receipts or other evidence of actual payment of such expenses as We may reasonably require.

1. We will not reimburse You for travelling expenses incurred to and from Your place of employment

## 1. CONFIDENTIALITY

1. You must not disclose any trade secrets or other information of a confidential nature relating to our business or any of our Clients or any of their business associates or in respect of which We or any of our Clients owes an obligation of confidence to any third party either during or after Your employment except in the proper course of Your employment or as required by law.
1. You must not remove any documents or tangible items which belong to Us or our Clients which contain any Confidential Information from either our premises or a Client's premises at any time without proper advance authorisation.
1. If We request it, on the termination of Your employment, You must return all property belonging to Us or any of our Clients or any of their business associates including without limitation all documents and tangible items including those which contain or refer to any Confidential Information and which are in Your possession or under Your control.

## 1. HEALTH AND SAFETY AT WORK

1. We will take all reasonably practicable steps to ensure Your health, safety and welfare while at work.
1. During every Assignment You will take all reasonable steps to safeguard Your own health and safety and that of any other person who may be present or be affected by Your actions on the Assignment and comply with the health and safety policies and procedures of the Client.

## 1. DATA PROTECTION

You acknowledge that We must process personal data about You in order to properly fulfil its obligations under this Agreement and as otherwise required by law in relation to Your employment in accordance with the Data Protection Laws. Such processing will principally be for personnel, administrative and payroll purposes.

## 1. Severability

If any of the provisions of this Agreement shall be determined by any competent authority to be unenforceable to any extent, such provision shall, to that extent, be severed from the remaining Agreement, which shall continue to be valid to the fullest extent permitted by applicable laws.



## 1. RIGHTS OF THIRD PARTIES

None of the provisions of this Agreement are intended to be for the benefit of or enforceable by third parties and the operation of the Contracts (Rights of Third Parties) Act 1999 is excluded.

## 1. NOTICES

All notices which are required to be given in accordance with this Agreement shall be in writing and may be delivered personally or by first class prepaid post to the registered office of the party upon whom the notice is to be served or any other address that the party has notified the other party in writing including by email. Any such notice shall be deemed to have been served: if by hand when delivered; if by first class post 48 hours following posting; and if by email, when that email is sent.

## 1. JURISDICTION AND GOVERNING LAW

This Agreement shall be governed and interpreted in all respects by English law and the parties irrevocably submit to the non-exclusive jurisdiction of the Courts of England.

The parties to this Agreement have read understood and agree to be bound by its terms.

***Signed for and on behalf of the Company***

[print name here]

Date

I confirm that I am not subject to any legal restraints which affect my ability to perform my duties under this Agreement.

***Signed by the employee***

Date

**SCHEDULE: "QUALIFYING PERIOD" AND "TEMPORARY WORK AGENCY"**

For the purpose of the definition of "Qualifying Period" in clause 1 of this Agreement, when calculating whether any weeks completed with the Client count as continuous towards the Qualifying Period, where:

- a. You have started working during an assignment and there is a break, either between assignments or during an assignment, when You are not working;
  - a. the break is:
    - i. for any reason and not more than six Calendar Weeks;
    - ii. wholly due to the fact that You are incapable of working in consequence of sickness or injury and the break is 28 Calendar Weeks or less; paragraph (iii) does not apply; and, if required to do so by Us, You have provided such written medical evidence as may reasonably be required;
    - iii. related to pregnancy, childbirth or maternity and is at a time in a protected period, being a period beginning at the start of the pregnancy and ending at the end of the 26 weeks beginning with childbirth (being the birth of a living child or the birth of a child whether living or dead after 24 weeks of pregnancy) or, if earlier, when You return to work;
    - iv. wholly for the purpose of taking time off or leave, whether statutory or contractual, to which You are otherwise entitled which is:
      - i. ordinary, compulsory or additional maternity leave;
      - ii. ordinary or additional adoption leave;
      - iii. ordinary or additional paternity leave;
      - iv. time off or other leave not listed in paragraphs (iv)i, ii, or iii above; or
      - v. for more than one of the reasons listed in paragraphs (iv)i, ii, iii to iv above;

- v. wholly due to the fact that You are required to attend at any place in pursuance to being summoned for service as a juror and the break is 28 Calendar Weeks or less;
- vi. wholly due to a temporary cessation in the Client's requirement for any worker to be present at the establishment and work in a particular role for a pre-determined period of time according to the established custom and practices of the Client;
- vii. wholly due to a strike, lock-out or other industrial action at the Client's establishment; or
- viii. wholly due to more than one of the reasons listed in paragraphs (ii), (iii), (iv), (v), (vi) or (vii); and

- a. You return to work in the same role with the Client,

any weeks during which You worked for the Client before the break shall be carried forward and treated as counting towards the Qualifying Period with any weeks during which You work for the Client after the break. In addition, when calculating the number of weeks during which You have worked, where You have started working in a role during an Assignment and are unable to continue working for a reason described in paragraph (b)(iii) or (b)(iv)i., ii, or iii., for the period that is covered by one or more such reasons, You shall be deemed to be working in that role with the Client for the original intended duration or likely duration of the relevant Assignment, whichever is the longer. For the avoidance of doubt, time spent by You working during an assignment before 1 October 2011 does not count for the purposes of the definition of "Qualifying Period".

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

(a) supplying individuals to work temporarily for and under the supervision and direction of hirers; or

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

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

## APPENDIX 1 – Disciplinary/dismissal and grievance procedure

### 1. GENERAL PRINCIPLES

The following general principles will apply to the disciplinary/dismissal and grievance procedures

- Each step and action will be taken without unreasonable delay.
- The Company will investigate to establish the facts of the case and will inform You.
- Whenever You are invited by Us to attend a meeting, You must take all reasonable steps to attend.
- You will be permitted to be accompanied at any formal meeting
- Timing and location of meetings will be reasonable.
- Meetings will be conducted in a manner that enables both You and Us to explain our case before a decision is made.
- For appeal hearings We will as far as reasonably practicable, be represented by a more senior manager than attended the first meeting (unless the most senior manager attended that meeting).
- Whenever You or We are required to send each other a statement a copy will suffice if the original is not available.

## 1. DISMISSAL AND DISCIPLINARY PROCEDURES

These Dismissal and Disciplinary procedures are designed to help and encourage all employees to achieve and maintain standards of conduct, attendance and job performance.

The standard disciplinary procedure is set out below. The standard procedure will be used when We contemplate dismissing or taking formal disciplinary action against You such as that set out in paragraph 2.3 below.

### 1. Disciplinary Procedure

**Step 1** Following an investigation We will set out in writing Your alleged conduct or characteristics, or other circumstances, which lead Us to contemplate dismissing or taking disciplinary action against You. We will send the statement or a copy of it to You and invite You to attend a meeting to discuss the matter.

**Step 2**(1) The meeting will take place before any action is taken, except in the case where the disciplinary action consists of a suspension on full pay.

(2) The meeting must not take place unless:

-We have informed You of the ground or grounds for contemplating disciplinary action or dismissal in the form of a written statement

-You have had a reasonable opportunity to consider Your response to that information

(3) You shall be informed of Your right to be accompanied at the meeting.

(4) After the meeting, We will inform You in writing of its decision and notify You of the right to appeal against the decision if You are not satisfied with it.

**Step 3(1)** If You do wish to appeal, You must inform Us within 5 working days of Your grounds of appeal, and on doing so We will invite You to attend a further meeting.

(2) The appeal meeting may not take place before the dismissal or disciplinary action takes effect but will be arranged within a reasonable period of time.

(3) After the appeal meeting, We will inform You of its final decision.

## 1. General points

1. We may suspend You with or without pay while an investigation takes place. Such a suspension will be reviewed as soon as possible and will not normally exceed 10 working days.
  
1. You have the right to be accompanied by a work colleague of Your choice during any disciplinary or grievance meetings but if Your companion is unable to attend any such meeting You may suggest an alternative date, provided it is within 5 working days of the original date.
  
1. You will not be dismissed for a first breach of discipline except in the case of gross misconduct (when the penalty may be dismissal without either notice or payment in lieu of notice).
  
1. Misconduct will generally fall into two categories, namely "general" misconduct (in respect of which the general disciplinary procedure described below applies) and "gross" misconduct, which is of so serious a nature that it justifies instant dismissal for a first offence. Listed below are examples of which would normally be considered to be either general misconduct or gross misconduct. However, it should be recognised that neither list can be regarded as complete to meet every case, and also that action described as general misconduct may amount to and be treated as gross misconduct if the circumstances or the manner of the misconduct are such as to warrant serious disciplinary action. These lists should be regarded therefore as being illustrative rather than exhaustive.

### Examples of "gross" misconduct

Summary dismissal (dismissal without notice or pay in lieu of notice) may be necessary in cases of gross misconduct. For guidance, the following are examples of the offences which may be regarded as gross misconduct and will normally result in summary dismissal. It is emphasised that this is not an exhaustive list:

- Unauthorised use or disclosure of confidential information or business matters relating to Us, our clients, temporary workers or applicants.
  
- Breach of the Data Protection Laws;

- Acts of violence, including physical assault; unlawful discrimination; drunkenness; taking of non-prescribed drugs in such a way as to impair the ability to carry out work; conduct of any kind which endangers the health and safety of others.
  
- A criminal offence committed at work other than a minor road traffic offence committed in the course of the employment, or an offence committed outside work which is incompatible with the employee remaining in employment.
  
- Falsification of information or references on appointment.
  
- Falsification of a timesheet.
  
- Unauthorised absence or gross negligence in the performance of duties.
  
- Acceptance of any bribe, secret profit or unauthorised commission.
  
- Any conduct tending to bring Us, any of our clients or You into disrepute or which results in the loss of custom of a client, temporary worker or applicant or a loss of business.
  
- Working for or assisting a competitor of ours or any of our clients or seeking to establish a business which is likely to compete with Us or any of our clients or divulging confidential information concerning Us and our business or that of its clients.
  
- Refusal to obey a lawful instruction in connection with the employment, including the refusal of a suitable assignment offered by Us.
  
- Failure to notify Us of any unavailability to undertake assignments.

### **Examples of “general” misconduct**

The following may be regarded as reasons for disciplinary action in that they deviate from accepted standards and constitute general misconduct. Your first offence will usually result in a verbal or written warning as appropriate. Repetition of offences following a warning could lead to a written warning or a final written warning as appropriate. Thereafter any repetition will result in dismissal. It is again emphasised that this is not an exhaustive list:

- Poor job performance.
- Poor time-keeping.
- Failure to comply with any other conditions under the contract of employment.
- Unseemly or disruptive conduct.

## **2.3 Disciplinary Action**

The following represents the disciplinary action that may be taken in cases of misconduct or unsatisfactory performance. The disciplinary and dismissal procedure may be implemented at any stage if the seriousness or repetitive nature of Your misconduct or unsatisfactory performance warrants such action:

### **STAGE 1 – INFORMAL ACTION: ORAL WARNING**

If Your conduct or performance is unsatisfactory, You will be given an informal oral warning. However this will be recorded in writing on Your personnel file. The warning will be disregarded after 6 months' satisfactory service.

### **STAGE 2 – FORMAL WRITTEN WARNING**

If the offence is serious, or if there is no improvement in standards after informal action has been taken in cases of minor misconduct or unsatisfactory performance or there has been further misconduct within 6 months of any informal action, a written warning will be given. This written warning will include the reason for the warning and a note that, if there is no improvement after a specified period, a final written warning will be given. A copy of the written warning will be given to You and a copy will be placed on Your personnel file. The warning will be disregarded after 6 months satisfactory service.

### **STAGE 3 – FORMAL FINAL WRITTEN WARNING**

If following a written warning, conduct or performance remains unsatisfactory, or if a serious incident occurs, a final written warning will be given making it clear that any recurrence of the offence or other serious misconduct within a specified period will result in dismissal. A copy of the written warning will be given to You and a copy will be placed on Your personnel file. The warning will then be disregarded after 12 months satisfactory service.

### **STAGE 4 – DISMISSAL**

If there is no satisfactory improvement or if further serious misconduct occurs within 12 months, You may be dismissed either with or without notice or payment in lieu of notice.

## 1. GRIEVANCE PROCEDURE

This procedure should be used if You have a grievance or complaint about Your work or about those You work with. Where possible You should try to raise the matter informally in the first instance.

Step 1 You must set out Your grievance in writing and send this statement to the Company.

Step 2 We will invite You to attend a meeting to discuss Your grievance.

The meeting must not take place unless:

-You have informed Us of the basis for the grievance set out in the statement under step 1

-We have had a reasonable opportunity to consider its response to that information

After the meeting We will inform You of its decision, and We will notify You of Your right to appeal if You are not satisfied with it.

Step 3 If You do wish to appeal, You must inform Us within 5 working days of Your grounds of appeal, and if You do so We will invite You to attend a further meeting. After the appeal meeting, We will inform You of our final decision.

## **Qualifying for ‘equal treatment’**

## **Day 1 rights for all agency workers**

## **Regulations 12-13**

The Regulations give agency workers the same access to certain facilities provided by the hirer and information on job vacancies. The test relates to what comparable workers and employees receive and the agency worker is entitled from the first day of their assignment (so not after 12 weeks):

- Access to facilities
- Access to information relating to vacancies



## Access to collective facilities and amenities

### Regulation 12

From day one of an assignment, agency workers are entitled to be treated no less favourably than a comparable worker or employee<sup>1</sup> in relation to access to collective facilities and amenities provided by the hirer.

This is not intended to extend to all benefits which a hirer might provide to directly recruited workers or employees; rather, it applies to collective facilities provided by the hirer either to workers or employees as a whole or to particular groups of workers or employees. These may include:

- a canteen or other similar facilities
- a workplace crèche
- transport services (e.g. in this context, local pick up and drop offs, transport between sites – but not company car allowances or season ticket loans)
- toilets/shower facilities
- staff common room
- waiting room
- mother and baby room
- prayer room
- food and drinks machines
- car parking

This is a non-exhaustive list and acts as an indication of which kind of facilities should be included. It applies to facilities provided by the hirer and therefore these facilities will usually be on-site. However, for example, if a canteen is used on another site – or shared with another company – then this should also be available to agency workers.

Access to facilities is not:

This does not mean that agency workers will be given ‘enhanced’ access rights, for example, where access to a crèche involves joining a waiting list, the agency workers would also be able to join the list and would not be given an automatic right to have a crèche place.

Nor is it about access to off-site facilities and amenities which are not provided by the hirer, such as subsidised access to an off-site gym as part of a benefit package to reward long term service or loyalty or to other types of benefits such as the ability to purchase discounted company goods in a staff shop or subsidised meals in a canteen. However, this does not prevent hirers offering these to agency workers if they choose to do so.

## Objective Justification

This is the only element of these Regulations where there can be “objective justification” for less favourable treatment. Essentially, hirers have to ask themselves “is there a good reason for treating the agency worker less favorably?” Cost may be one factor to take into account but hirers are unlikely to be able to rely on cost alone to justify different treatment. Practical and organizational considerations could also be a factor. Even if there is objective justification, hirers may want to consider whether it is possible or feasible to offer agency workers certain access to facilities on a partial basis, as an alternative to excluding them altogether.

### Access to facilities – comparable worker

An agency worker’s right is to treatment in relation to relevant facilities that is no less favourable than that given to an actual comparable worker 2 – an employee or worker directly employed by the hirer.

First, the hirer should establish if there are any comparable workers or employees. To be comparable they should be:

- doing the same or broadly similar work to the agency worker
- working at the same location as the agency worker or, if there is no such person, be in another location owned by the hirer (this is to avoid any confusion when a company has several different locations and may have, for example, a canteen in one particular location to which all direct employees in all the locations have access).

If there are no comparable workers or employees there is no entitlement to equal treatment.

### Access to information on job vacancies

#### Regulation 13

From day one of an assignment, all agency workers will be entitled to be provided with information about any relevant job vacancies within the hirer that would be available to a comparable employee or worker.

Hirers can choose how to publicise vacancies, whether it is via the internet/intranet or on a notice board in a communal area. But the agency worker should know where and how to access this information.

Access to vacancies is not:

This obligation does not constrain hirers' freedom regarding;

- any qualification or experience requirements such as time in service with the organisation
- how they treat applications

This right will not apply in the context of a genuine ‘headcount freeze’ where posts are ring fenced for redeployment purposes or internal moves which are a matter of restructuring and redeploying existing internal staff in order to prevent a redundancy situation.

Access to vacancies comparator:

The need to inform agency workers of vacancies is limited to where there is a comparable employee or worker currently based at the same establishment. Practical difficulties would arise from including those who may be geographically remote or on the basis of comparison with a predecessor.

In summary

Day 1 entitlements – liability

The hirer is responsible for providing equal treatment for day 1 entitlements and is liable for any breach of this obligation given the TWA has no control over providing an agency worker with access to facilities when they are on an assignment.

Information about access to facilities is likely to be set out in company handbooks. The hirer could either provide agency workers with information about their facilities, for example as part of an induction pack, or provide information to TWAs to pass to agency workers as part of the information about the assignment.