

Terms of Engagement with an Umbrella Company

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Global Resourcing Limited

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Tel: +44 (0)20 8253 1800 - **Fax:** +44 (0)20 8253 1801 - **Website:** www.global-resourcing.com
 VAT Number: 739 7056 01 - Registered in England & Wales No. 3390805

THE PARTIES

- (1) **[Insert Umbrella Company's name]** (registered company no. **[insert registered company no.]**) of **[address]** ("the Umbrella Company").
- (2) **Global Resourcing Limited** (registered company no. 3390805) of The Arena Building B, Watchmoore Park, Riverside Way, Camberley, GU15 3YL ("the Employment Business").

RECITALS

- (A) The Umbrella Company provides the services of agency workers and has agreed to provide those services ("the Umbrella Company Services") specified in the relevant Assignment Details Form.
- (B) The Employment Business has requested the Umbrella Company and the Umbrella Company has agreed, to supply the Umbrella Company Services to the Hirer on the terms and subject to the conditions of this Agreement.

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement the following definitions apply:

"Agency Worker"	means as defined in Regulation 3 of the AWR and includes any of the Umbrella Company's employees, workers, officers or representatives who provide the Umbrella Company Services to the Hirer;
"Assignment"	means the Umbrella Company Services to be provided by the Agency Worker, on behalf of the Umbrella Company, for the period of time during which the Umbrella Company is supplied by the Employment Business to the Hirer;
"Assignment Details Form"	means written confirmation of the Assignment details, (including where the Conduct Regulations apply, the details set out in clause 6.2);
"AWR"	means the Agency Workers Regulations 2010;
"Bribery Act"	means the Bribery Act 2010;
"Calendar Week"	means any period of seven days starting with the same day as the first day of the First Assignment;
"Companies Acts"	means the Companies Acts 1985, 1989 and 2006;

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“Conduct Regulations”

means the Conduct of Employment Agencies and Employment Businesses Regulations 2003;

“Confidential Information”

shall mean any and all confidential commercial, financial, marketing, technical or other information or data of whatever nature relating to the Hirer or Employment Business or their 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 the Umbrella Company, the Agency Worker or any third party in relation to the Assignment by the Hirer or the Employment Business or by a third party on behalf of the Hirer 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 UK GDPR, the Data Protection Act 2018, the Privacy and Electronic Communications Regulations (as applicable), and any other applicable laws and ICO guidance relating to the processing of personal data, in each case as amended or replaced from time to time;

“Engagement”

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

“First Assignment”

means:

- (a) the relevant Assignment; or
- (b) if, prior to the relevant Assignment:

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- i. the Agency Worker has worked in any assignment in the same role with the relevant Hirer as the role in which the Agency Worker works in the relevant Assignment; and
- ii. the relevant Qualifying Period commenced in any such assignment, that assignment (an assignment being (for the purpose of this defined term) a period of time during which the Agency Worker is supplied by one or more Temporary Work Agencies to the relevant Hirer to work temporarily for and under the supervision and direction of the relevant Hirer);

“Hirer”

means the person, firm or corporate body together with any subsidiary or associated person, firm or corporate body (as the case may be) and to whom the Umbrella Company is supplied or introduced;

“Hirer’s Group”

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

“Intermediary”

means any entity (incorporated or unincorporated), other than Umbrella Company, through which an Agency Worker provides their services to the Hirer;

“Irregular Hour Worker”

means a worker whose paid hours of work in relation to a leave year in each pay period during the term of their contract in that year is, under the terms of their contract, wholly or mostly variable as defined under Regulation 15F (1)a WTR 1998

“ITEPA”

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

“Key Information Document”

means the document required under Regulation 13A of the Conduct Regulations;

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“Losses”	means all losses, liabilities, damages, costs, expenses, fines, penalties or interest 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 such items arising out of or resulting from actions, proceedings, claims and demands and “Loss” shall be construed accordingly;
“Master Vendor”	means a vendor in a - second tier supplier arrangement where the vendor is the preferred supplier of staff to the Hirer
“Material Interest”	means: (a) in the case of a company, owning, controlling or being entitled to a beneficial interest in more than 5% of the shares; or (b) in the case of a partnership, being entitled to the benefit of 60% or more of the profits of the partnership;
“MSC Legislation”	means Part 2, Chapter 9 ITEPA;
“Neutral Vendor”	means a vendor in a - second tier supplier arrangement where the vendor the Vendor provides no staff directly to the Hirer but simply manages the supplies of staff from secondary Employment Businesses on behalf of the Hirer;
“NICs Legislation”	means legislation regarding the deduction and payment of national insurance contributions including in particular the Social Security (Categorisation of Earners) Regulations 1978 and the Social Security Contributions (Intermediaries) Regulations 2000;
“Non-Material Interest”	means: (a) in the case of a company, owning, controlling or being entitled to a beneficial interest 5% or less of the shares; or (b) they receive, expect, or entitled to receive payment that is not deemed employment income
“Off-Payroll Rules”	means Part 2, Chapter 10 ITEPA;
“Period of Extended Hire”	means (for the purposes of the Conduct Regulations) any additional period that the Hirer wishes the the Agency Worker to be supplied beyond the duration of the original assignment or series of assignments as an alternative to paying a Transfer Fee;

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“Qualifying Period”

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

“Relevant Period”

means (for the purposes of the Conduct Regulations) whichever ends the later of (a) the period of 8 weeks commencing on the day after the last day on which the Agency Worker worked for the Hirer having been supplied by the Employment Business; or (b) the period of 14 weeks commencing on the first day on which the Agency Worker worked for the Hirer having been supplied by 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:

- (a) pay;
- (b) the duration of working time;
- (c) night work;
- (d) rest periods;
- (e) rest breaks; and
- (f) annual leave

that are ordinarily included in the contracts of employees or workers (as appropriate) of the Hirer whether by collective agreement or otherwise and including (for the avoidance of doubt and without limitation) such terms and any basic working and employment conditions that have become contractual by virtue of custom and practice, including copies of all relevant documentation;

“Reporting Requirements”

means the requirements of the Income Tax (Pay as You Earn) (Amendment No. 2) Regulations 2015;

“Rolled Up Holiday Pay”

Pay due to a worker in respect of leave to which the worker is entitled which must be paid at the same time as a worker’s remuneration for work in accordance with Regulations 16A,16(1) and 15B of WTR 1998.

“Safeguarding Legislation”

means the Safeguarding Vulnerable Groups Act 2006;

“Specified Intermediary”

means the party required to submit the report to HMRC in compliance with the Reporting Requirements;

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“Temporary Work Agency”	means as defined in the AWR;
“Transfer Fee”	means a fee payable by the Hirer to the Employment Business if the Hirer or any third party wishes to Engage the Agency Worker as set out in clauses 3.6 and 3.7;
“Transparency Regulations”	means the Modern Slavery Act 2015 (Transparency in Supply Chains) Regulations 2015;
“Type of Work”	means (for the purposes of the Conduct Regulations) the type of work specified in the relevant Assignment Details Form;
"Umbrella Company"	Means: (a) any person or entity meeting the definition of an umbrella company and/or participating in arrangements as a purported umbrella company within the meaning(s) set out in Chapter 11 ITEPA and/or: (b) any person or entity meeting the definition of an umbrella company as set out in the Employment Agencies Act 1973: And/or (c) a person or entity meeting the definition of an umbrella company within the meaning set out in the Conduct Regulations.
“Umbrella Company Fees”	means the fees payable to the Umbrella Company for the provision of the Umbrella Company Services;
“Vulnerable Person”	means (for the purposes of the Conduct Regulations) any person who by reason of age, infirmity, illness, disability or any other circumstance needs care or attention, and includes any person under the age of 18;
“WTR”	means the Working Time Regulations 1998;

- 1.2 Unless the context requires otherwise references to the singular include the plural and references to the masculine include the feminine and vice versa.
- 1.3 The headings contained in this Agreement are for convenience only and do not affect their interpretation.
- 1.4 Any reference, express or implied, to an enactment includes a reference to that enactment as from time to time amended, modified, extended, re-enacted, replaced or applied by or under any other enactment (whether before or after the date of this Agreement) and all subordinate legislation made (before or after this Agreement) under it from time to time.

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2. THE AGREEMENT

- 2.1 This Agreement together with the attached Schedule and any applicable Assignment Details Form constitutes the entire agreement (**"the Agreement"**) between the Employment Business and the Umbrella Company for the supply of the Umbrella Company Services to the Hirer. This Agreement shall prevail over any terms put forward by the Umbrella Company.
- 2.2 This Agreement governs the underlying relationship between the Employment Business and the Umbrella Company and shall govern all Assignments undertaken by Agency Workers on behalf of the Umbrella Company. Termination of an Assignment (in accordance with clause 9) will not terminate the underlying relationship between the Umbrella Company and the Employment Business.
- 2.3 The Employment Business and the Umbrella Company will agree any variations to this Agreement in writing (and, **where the Conduct Regulations apply:** the Employment Business will give a copy of the varied terms (stating the date on or after which the varied terms apply) to the Umbrella Company no later than 5 business days following the day on which they varied the Agreement).
- 2.4 **Where the Conduct Regulations apply:** The Employment Business shall act as an employment business (as defined in Section 13(3) of the Employment Agencies Act 1973) when introducing or supplying the Umbrella Company for Assignments with its Hirer.
- 2.5 The Umbrella Company acknowledges that where both the Agency Worker and the Umbrella Company:
- 2.5.1 do not opt out of the Conduct Regulations before the start of a relevant Assignment, all of the Conduct Regulations will apply to that Assignment; or
 - 2.5.2 opt out of the Conduct Regulations before the start of a relevant Assignment, none of the Conduct Regulations (except Regulation 13A) will apply to that Assignment.
- 2.6 The Umbrella Company acknowledges that neither it, nor the Agency Worker, can opt out of the Conduct Regulations if the Agency Worker will work with Vulnerable Persons.

3. RELATIONSHIP BETWEEN THE EMPLOYMENT BUSINESS, THE UMBRELLA COMPANY AND THE HIRER

- 3.1 The Employment Business will try to find suitable Assignments for the Umbrella Company performing the agreed Type of Work.
- 3.2 The Umbrella Company shall not be obliged to accept an Assignment offered by the Employment Business.

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- 3.3 The Umbrella Company acknowledges that the nature of temporary work means that there may be periods when no suitable work is available and agrees that:
- 3.3.1 only the Employment Business will determine the suitability of the work to be offered;
 - 3.3.2 the Employment Business shall not be liable to either the Umbrella Company or an Agency Worker if it does not offer assignments to either of them.

Independent contractor

- 3.4 The Umbrella Company acknowledges that it provides the Umbrella Company Services to the Employment Business as an independent contractor and that the contract between the Umbrella Company and the Employment Business is a contract for services.
- 3.5 The Umbrella Company employs the Agency Worker and bears sole responsibility for all employer liabilities towards the Agency Worker, including all other statutory and legal requirements relating to an Agency Worker both during Assignments and between Assignments. Nothing in this Agreement shall render any Agency Worker an employee or worker of either the Employment Business or the Hirer. The Umbrella Company shall ensure that the Agency Worker does not hold themselves out as an employee or worker of either the Employment Business or the Hirer. If anyone should try to establish any liability or obligation upon the Employment Business on the grounds that the Agency Worker is an employee or worker of the Employment Business or the Hirer, the Umbrella Company shall upon demand indemnify the Employment Business and keep it indemnified in respect of any such liability or obligation and any related Losses which the Employment Business or Hirer shall incur.
- 3.6 Should any person try to and/or successfully transfer liability to the Employment Business and/or a Master or Neutral Vendor and/or a Hirer in respect of the Umbrella Company's failure to meet its employer liabilities, including all other statutory and legal requirements relating to an Agency Worker both during Assignments and between Assignments. The Umbrella Company shall upon demand indemnify the Employment Business and keep it indemnified in respect of any such liability or obligation and any related Losses which the Employment Business shall incur.

Transfer Fees

- 3.7 If before or during an Assignment (or, **where the Conduct Regulations apply**: during the Relevant Period) the Hirer wishes to Engage an Agency Worker directly or through another employment business, the Umbrella Company acknowledges on its own behalf, and on behalf of the Agency Worker, that the Employment Business will be entitled to charge the Hirer a Transfer Fee. (**Where the Conduct Regulations apply**: As an alternative to the Transfer Fee the Hirer may choose to use the Agency Worker's services for a Period of Extended Hire at the end of which the Hirer may engage the

Agency Worker directly or through another employment business without further charge to the Hirer).

- 3.8 The Employment Business will also be entitled to charge the Hirer a Transfer Fee if the Hirer introduces the Umbrella Company to a third party (including any member of the Hirer's Group) who subsequently Engages any Agency Worker before or during an Assignment (or, **where the Conduct Regulations apply**: within the Relevant Period).

The AWR

- 3.9 If the Agency Worker completes the Qualifying Period, and if the Agency Worker is entitled to any Relevant Conditions, those Relevant Terms and Conditions will be as set out in the relevant Assignment Details Form or any variation to the relevant Assignment Details Form (as appropriate) and the Umbrella Company will give the Agency Worker any such entitlements.
- 3.10 The Umbrella Company will advise the Employment Business in writing no later than the start of this Agreement, if the Umbrella Company continues to employ Agency Workers on contracts of employment which met the requirements of AWR Regulation 10 before its repeal on 6 April 2020 ("**AWR Regulation 10 Contracts**"). If the Umbrella Company continues to employ Agency Workers on AWR Regulation 10 Contracts, the Umbrella Company undertakes to give equal pay and other equal treatment entitlements to those Agency Workers when they complete the Qualifying Period, and will indemnify the Employment Business against any AWR claims if should fail to do so.
- 3.11 As a Temporary Work Agency, the Umbrella Company will comply with the AWR in all relevant respects.
- 3.12 Except to the extent any Losses result from any act or omission of the Employment Business or the Hirer, the Umbrella Company shall indemnify and keep indemnified the Employment Business (or, as the case may be, the Hirer) against any Losses the Employment Business (or the Hirer) may suffer or incur as a result of any claim made by or on behalf of the Agency Worker under the AWR.

4. WARRANTIES PROVIDED BY THE UMBRELLA COMPANY

- 4.1 The Umbrella Company warrants to the Employment Business that:
- 4.1.1 by entering into and performing its obligations under this Agreement it will not be in breach of any obligation which it owes to any third party;
 - 4.1.2 the Agency Worker has the necessary skills and qualifications to provide the Umbrella Company Services;
 - 4.1.3 the Agency Worker does not have and will not have a Material Interest or Non-Material Interest in the Umbrella Company, or any other Intermediary, for the

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duration of any Assignment during which they provide the Umbrella Company Services;

- 4.1.4 the Umbrella Company employs the Agency Worker and has not and will not engage the Agency Worker through another Intermediary;
- 4.1.5 the Umbrella Company will not provide any fraudulent documentation or enter into any arrangements or schemes designed to avoid the payment of PAYE income tax and national insurance due under ITEPA (including the Off-Payroll Rules) and the NICs legislation. This includes but is not limited to paying the Agency Worker through another Intermediary;
- 4.1.6 the Umbrella Company is incorporated in the UK;
- 4.1.7 the Umbrella Company will pay the Agency Worker only into a nominated UK bank account in the Agency Worker's name;
- 4.1.8 all information the Umbrella Company provides to the Employment Business to comply with the Reporting Requirements and clauses 5.1.10 to 5.1.17 inclusive is complete and accurate;
- 4.1.9 the Umbrella Company and the Agency Worker will comply with the Data Protection Laws; and
- 4.1.10 the Umbrella Company will not offer any reward or inducement to the Employment Business or any of the Employment Business's staff to use the Umbrella Company Services, including where such reward or inducement might be deemed to be a bribe under the Bribery Act 2020.
- 4.1.11 The Umbrella Company is, and shall throughout the term of this Agreement remain, a full member of the Freelancer and Contractor Services Association (FCSA) (or any successor body) and shall maintain such membership in good standing at all times, including complying with all applicable membership requirements and codes of conduct.
- 4.1.12 The Umbrella Company is, and shall throughout the term of this Agreement remain, Saferec accredited (or accredited under any successor scheme) and shall maintain such accreditation in good standing at all times, including complying with all applicable accreditation requirements, standards and codes of practice.
- 4.1.13 The Umbrella Company shall, on request and within a reasonable time, provide to the Employment Business (and/or the Hirer where required) copies of payslips, payroll summaries and such other information and records as are reasonably necessary to verify that all PAYE income tax and National Insurance contributions (including employer's National Insurance contributions) have been correctly calculated, deducted and accounted for and that all amounts due have been paid to HM Revenue & Customs in accordance with applicable law. The Umbrella

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Company shall permit the Employment Business to audit such records for these purposes.

5. THE UMBRELLA COMPANY'S OBLIGATIONS

- 5.1 The Umbrella Company agrees on its own part and on behalf of the Agency Worker if it accepts any Assignment offered by the Employment Business as follows:
- 5.1.1 to co-operate with the Hirer's reasonable instructions and accept the direction of any responsible person in the Hirer's organisation within the scope of the Assignment;
 - 5.1.2 to observe any relevant rules and regulations of the Hirer's establishment or the premises where the Umbrella Company Services are being performed and to which attention has been drawn or which the Umbrella Company or Agency Worker might reasonably be expected to be aware of, including but not limited to those relating to health and safety to the extent that they are reasonably applicable to the Umbrella Company or the Agency Worker;
 - 5.1.3 to take all reasonable steps to safeguard its own safety, the safety of the Agency Worker and the safety of any other person who may be affected by the actions of the Agency Worker whilst on the Assignment;
 - 5.1.4 to comply with the Data Protection Laws in respect of any personal data which the Umbrella Company is granted access to for the purpose of or by reason of the performance of the Umbrella Company Services;
 - 5.1.5 not to divulge to any person, nor use for its own or any other person's benefit, any Confidential Information relating to the Hirer's or the Employment Business's employees, business affairs, transactions or finances;
 - 5.1.6 not to engage in any conduct detrimental to the interests of the Employment Business and/or the Hirer which includes any conduct which could bring the Employment Business and/or the Hirer into disrepute and/or which results in the loss of custom or business by either the Employment Business or the Hirer;
 - 5.1.7 not to commit any act or omission constituting unlawful discrimination against or harassment of any member of the Employment Business's or the Hirer's staff;
 - 5.1.8 not to sub-contract or assign to any third party any of the Umbrella Company Services which it or the Agency Worker is required to perform under any Assignment;
 - 5.1.9 to give the Hirer and/or the Employment Business any progress reports it may request from time to time;

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- 5.1.10 to notify the Employment Business immediately in writing if commences insolvency procedures, any of its partners/persons with control of the business commence bankruptcy procedures, and/or if any of the arrangements set out in clauses **Error! Reference source not found.** to **Error! Reference source not found.**8 apply;
- 5.1.11 to comply with all relevant legal obligations, including but not limited to ITEPA, the NICS Legislation, VAT legislation and the Companies Act;
- 5.1.12 to give the Employment Business all information it may need to comply with (a) the Reporting Requirements where it is the Specified Intermediary or (b) any contractual obligations the Employment Business has to provide information to the Specified Intermediary (where it is a party other than the Employment Business) to enable the Specified Intermediary to comply with its Reporting Requirements;
- 5.1.13 to notify the Employment Business in writing immediately if it becomes subject to a HMRC investigation or compliance activity including but not limited to any of ITEPA, the NICs legislation or VAT legislation;
- 5.1.14 to give the Employment Business a copy of the terms under which the Umbrella Company has engaged the Agency Worker;
- 5.1.15 to give the Employment Business on request, any information required to comply with Transparency Regulations 2015; and
- 5.1.16 the Umbrella Company will complete a Key Information Document and will submit complete and accurate information to the Employment Business;
- 5.1.17 to update the Employment Business immediately where any of the information required under clauses 5.1.10 to 5.1.16 inclusive changes.
- 5.2 As soon as possible prior to the start of each Assignment and during each Assignment (as appropriate) and at any time at the Employment Business's request, the Umbrella Company undertakes to:
 - 5.2.1 inform the Employment Business of any Calendar Weeks in which the Agency Worker has worked in the same or a similar role with the relevant Hirer through any third party and which the Umbrella Company and/or the Agency Worker believes count or may count toward the Qualifying Period; and
 - 5.2.2 give the Employment Business all the details of such work, including (without limitation) details of where, when and the period(s) during which such work was undertaken and any other details requested by the Employment Business; and
 - 5.2.3 inform the Employment Business if the relevant Agency Worker has:
 - 5.2.3.1 completed two or more assignments with the Hirer;

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- 5.2.3.2 completed at least one assignment with the Hirer and one or more earlier assignments with any member of the Hirer's Group; and/or
 - 5.2.3.3 worked in more than two roles during an assignment with the Hirer and on at least two occasions worked in a role that was not the same role as the previous role.
- 5.3 If the Agency Worker is unable for any reason to provide the Umbrella Company Services during the course of an Assignment, the Umbrella Company should tell the Employment Business as soon as possible, but in any event no later than 1 hour after the start of the Assignment or shift. If it is not possible to tell the Employment Business within these timescales, the Umbrella Company should alternatively tell the Hirer and then the Employment Business as soon as possible.
- 5.4 If, either before or during the course of an Assignment, the Umbrella Company becomes aware of any reason why it or the Agency Worker supplied to perform the Umbrella Company Services may not be suitable for an Assignment, the Umbrella Company shall notify the Employment Business without delay. This includes but is not limited to any information the Employment Business may require to meet its obligations under the Safeguarding Legislation and to give information to the Disclosure and Barring Service (or the equivalent authority).
- 5.5 The Umbrella Company acknowledges that any breach of its obligations set out in clause 4 (Warranties provided by the Umbrella Company) and this clause 5 (The Umbrella Company's Obligations) may cause the Employment Business to suffer Losses and that the Employment Business reserves the right to recover such Losses from the Umbrella Company by set off or deduction from any sums owed by the Employment Business to the Umbrella Company.
- 5.6 The Umbrella Company will include the appropriate provisions in its contracts with Agency Workers to ensure their compliance with clauses 4 and 5 of this Agreement.

6. THE EMPLOYMENT BUSINESS'S OBLIGATIONS

- 6.1 Subject to any right of set off or deduction set out in clause 5.5, throughout the term of this Agreement the Employment Business will pay the Umbrella Company:
- 6.1.1 **Where the Conduct Regulations apply:** at least the Minimum Rate in respect of the provision of the Umbrella Company Services. The actual Umbrella Company Fees will be confirmed on a per Assignment basis; or
 - 6.1.2 **Where the Conduct Regulations do not apply:** the Umbrella Company Fees in respect of the provision of the Umbrella Company Services in accordance with clause 8.

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- 6.2 **Where the Conduct Regulations apply:** At the same time as an Assignment is offered to the Umbrella Company, the Employment Business shall give the Umbrella Company an Assignment Details Form setting out the following information:
- 6.2.1 the identity of the Hirer, and if applicable the nature of their business;
 - 6.2.2 the date the Assignment is to commence and the duration or likely duration of the Assignment;
 - 6.2.3 the Type of Work, location and hours during which the Umbrella Company would be required to provide the Umbrella Company Services;
 - 6.2.4 the Umbrella Company Fees and any expenses payable by or to the Umbrella Company;
 - 6.2.5 any risks to health and safety known to the Hirer in relation to the Assignment and the steps the Hirer has taken to prevent or control such risks; and
 - 6.2.6 what experience, training, qualifications and any authorisation required by law or a professional body the Hirer considers necessary or which are required by law to work in the Assignment.
- 6.3 **Where the Conduct Regulations apply:** Where the Employment Business does not give the information in clause 6.2 in paper form or by electronic means, it shall confirm that information by such means by the end of the third business day (excluding Saturday, Sunday and any public or bank holiday) following, except where:
- 6.3.1 the Umbrella Company is being offered an Assignment in the same position as one in which the Agency Worker had previously been supplied within the previous 5 business days and such information has already been given to the Umbrella Company; or
 - 6.3.2 subject to clause 6.4, the Assignment is intended to last for 5 consecutive business days or less and such information has previously been given to the Umbrella Company and remains unchanged, the Employment Business needs only to provide written confirmation of the Hirer's identity and the likely duration of the Assignment.
- 6.4 **Where the Conduct Regulations apply:** Where the provisions of clause 6.3.2 are met but the Assignment extends beyond the intended 5 consecutive business day period, the Employment Business shall give such information set out in clause 6.2 to the Umbrella Company in paper or electronic form within 8 days of the start of the Assignment.

7. TIMESHEETS AND INVOICING

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- 7.1 The Umbrella Company will use the Employment Business's electronic timesheet and paybill system described in Schedule 2. Irrespective of the system used the following will apply:
- 7.1.1 at the end of each week of an Assignment (or at the end of the Assignment where an Assignment is for a period of less than 1 week or is completed before the end of a week) the Umbrella Company shall upload for the Employment Business the Agency Worker's timesheet duly completed to indicate the number of hours worked by the Agency Worker during the previous week and signed by an authorised representative of the Hirer;
 - 7.1.2 Global Resourcing operates a self-billing system for invoice processing. Global Resourcing will issue invoices based on timesheets that are signed by an authorised representative of the Hirer only. Such Self-bill invoices will include the Umbrella Company's name and company registration number, the name of the Agency Worker(s) who provided the Umbrella Company Services, and the Umbrella Company's VAT number, and should state any VAT due; and
 - 7.1.3 to ensure prompt payment, the Employment Business should receive the signed timesheet no later than specified in Schedule 2.

8. PAYING THE UMBRELLA COMPANY

- 8.1 **Where the Conduct Regulations apply:** Subject to clause 8.2 the Employment Business undertakes to pay the Umbrella Company for all hours worked regardless of whether the Employment Business has received payment from the Hirer for those hours.
- 8.2 **Where the Conduct Regulations apply:** Where the Umbrella Company does not confirm delivery of the Umbrella Company Services, the Employment Business shall, in a timely fashion, investigate the hours claimed by the Umbrella Company and the reasons that the Umbrella Company has not produced such confirmation. This may delay any payment due to the Umbrella Company. The Employment Business will not pay the Umbrella Company for work not carried out.
- 8.3 **Where the Conduct Regulations apply:** Subject to receiving a timesheet signed by an authorised representative of the Hirer and being able to raise a Self-Bill invoice in accordance with clause 7, the Employment Business will pay the Umbrella Company Fees as specified in schedule 2.
- 8.4 **Where the Conduct Regulations do not apply:** The Employment Business will pay the Umbrella Company Fees as specified in Schedule 2 or if not possible due to unforeseen circumstances, at the earliest opportunity, subject to:
- 8.4.1 the satisfactory performance of the Umbrella Company Services;
 - 8.4.2 the Umbrella Company's compliance with this Agreement;

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- 8.4.3 the Employment Business's receipt of a timesheet signed by an authorised representative of the Hirer and being able to raise a Self-Bill invoice in accordance with clause 7 above; and
- 8.4.4 payment by the Hirer of the Employment Business's charges for the Umbrella Company Services.
- 8.5 When the Agency Worker completes the Qualifying Period, the Employment Business reserves the right to vary the Umbrella Company Fees if there is any variation in the Relevant Terms and Conditions. The Employment Business will vary the relevant Assignment Details Form and the Umbrella Company shall ensure that, if at any time the Employment Business varies the Umbrella Company Fees in accordance with this clause 8.5, the Umbrella Company will, at the same time, make the same variations to the corresponding payments the Umbrella Company makes to the Agency Worker.
- 8.6 Under the AWR, on completion of the Qualifying Period the Agency Worker may be entitled to annual leave in addition to the Agency Worker's entitlement to paid annual leave under the WTR. If this is the case, the Employment Business will pass the relevant information it receives from the Hirer to the Umbrella Company. The Umbrella Company will pass this information to the Agency Worker and, if the Employment Business pays the Umbrella Company for additional leave under the AWR, the Umbrella Company will make the same payment(s) to the Agency Worker.
- 8.7 On completion of the Qualifying Period the Agency Worker will be entitled to the Relevant Terms and Conditions, which may include a bonus. The Umbrella Company will, and will procure that the Agency Worker will, comply with any requirements of the Employment Business and/or the Hirer relating to the assessment of the Agency Worker's performance for the purpose of determining whether or not the Agency Worker is entitled to a bonus and the amount of any such bonus. If, subject to satisfying the relevant criteria, the Agency Worker is entitled to receive a bonus, the Employment Business will pay the bonus to the Umbrella Company subject to any appropriate deductions and the Umbrella Company will pay the bonus to the Agency Worker.
- 8.8 The Employment Business will pay the Umbrella Company only and will not pay any third party or the Agency Worker directly (unless required by law to do so). The Employment Business will pay the Umbrella Company Fees into a UK business bank account in the Umbrella Company's name only and shall not be liable to make any payment unless and until it is in receipt of the Umbrella Companies bank details.
- 8.9 The Employment Business shall not be obliged to pay the Umbrella Company for: any periods during which the Umbrella Company Services are not provided, whether this is due to either the Umbrella Company or the Agency Worker being unable to provide the Umbrella Company Services or where the Hirer does not require the Umbrella Company Services, or otherwise in respect of annual leave (except in accordance with clause 8.6), illness or absence of the Agency Worker.
- 8.10 Payments to the Umbrella Company in respect of Pre-Agreed Expenses shall only be made where the Employment Business is in receipt of properly completed record in the

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form specified by the Employment Business from time to time, (including relevant VAT receipts).

- 8.11 Expenses must have been agreed by the Hirer in advance, and which have been reasonably and properly incurred by the Agency Worker in carrying out the Services and be duly signed and authorised by the Hirer Contact;
- 8.12 If, for any reason whatsoever, the Hirer raises a query in relation to a timesheet, Self-Bill invoice or any expenses then the Umbrella agrees that it shall be solely responsible for verifying the accuracy and truth of the information contained on such to the absolute satisfaction of the Hirer.

9. TERM AND TERMINATION

- 9.1 Either of the Employment Business or the Umbrella Company may terminate an Assignment in writing by giving the notice period specified in the relevant Assignment details form and without liability. Otherwise, the Assignment will terminate on the end date shown in the relevant Assignment Details Form. Either party may terminate the Assignment earlier by giving to the other party notice in writing the period of notice specified in the relevant Assignment Details Form
- 9.2 Notwithstanding clauses 9.1 and 9.3 of this Agreement, where required by the Hirer, the Employment Business may without notice and without liability to either the Umbrella Company or the Agency Worker, instruct the Umbrella Company to cease work on an Assignment at any time, where:
 - 9.2.1 either of the Umbrella Company or the Agency Worker has acted in breach of the rules and regulations applicable to third parties providing services to the Hirer or to the Hirer's own staff; or
 - 9.2.2 either of the Umbrella Company or the Agency Worker has committed any serious or persistent breach of any of its obligations under this Agreement; or
 - 9.2.3 the Hirer reasonably believes that either of the Umbrella Company or Agency Worker has not observed any condition of confidentiality from time to time; or
 - 9.2.4 the Hirer is dissatisfied with either of the Umbrella Company's or the Agency Worker's provision of the Umbrella Company Services and has terminated the Assignment; or
 - 9.2.5 either the Hirer or the Umbrella Company is dissolved, ceases to conduct all (or substantially all) of its business, is or becomes unable to pay its debts as they fall due, is or becomes insolvent or is declared insolvent, or convenes a meeting or makes or proposes to make any arrangement or composition with its creditors or an officer of the Hirer or the Umbrella Company, becomes unable to pay their debts as they fall due, is or becomes bankrupt or is declared bankrupt, convenes

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- a meeting or makes or proposes to make any arrangement or composition with their creditors; or
- 9.2.6 an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the Hirer or the Umbrella Company; or
- 9.2.7 an order is made for the winding up of the Hirer or the Umbrella Company, or where the Hirer or the Umbrella Company passes a resolution for its winding up (other than for the purpose of a solvent company reorganisation or amalgamation where the resulting entity will assume all the obligations of the other party under this Agreement); or
- 9.2.8 An officer of the Umbrella Company becomes subject to disqualification procedures or similar; or
- 9.2.9 the Umbrella Company or the Agency Worker is suspected of any fraud, dishonesty or serious misconduct; or
- 9.2.10 the Umbrella Company or the Agency Worker is unable to perform the Umbrella Company Services for 2 days or more; or
- 9.2.11 the Umbrella Company does not comply with clause 13.3; or
- 9.2.12 the Employment Business knows or suspects that the Umbrella Company has given incomplete or inaccurate information for the purposes of the Key Information Document;
- 9.2.13 the Employment Business knows or suspects that the Umbrella Company has or proposes to engage the Agency Worker through another intermediary, including but not limited to an intermediary in which the Agency Worker has a Material Interest or Non-Material interest;
- 9.2.14 the Employment Business knows or suspects that the Umbrella Company promotes or has entered into arrangements or schemes designed to avoid tax and other legal obligations including but not limited to the payment of wages, holiday pay, NMW, PAYE income tax and national insurance due under ITEPA (including the Off-Payroll Rules) and the NICs legislation;
- 9.2.15 the Employment Business knows or suspects that the Umbrella Company does not or has failed to comply with ITEPA, the NICs Legislation, VAT legislation or the Companies Acts;

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- 9.2.16 the Employment Business knows or suspects that either the Umbrella Company or the Agency Worker have breached the Data Protection Laws;
- 9.2.17 the Employment Business knows or suspects that the Umbrella Company does not or has failed to comply with its obligations under the Immigration, Asylum and Nationality Act 2006, the Safeguarding Legislation or any other employer obligations it may have towards the Agency Worker.
- 9.3 The Umbrella Company acknowledges that the continuation of an Assignment is subject to and conditioned by the continuation of the contract entered into between the Employment Business and the Hirer. If the contract between the Employment Business and the Hirer is terminated for any reason the Assignment shall end with immediate effect without liability to either the Umbrella Company or the Agency Worker.
- 9.4 Neither the Umbrella Company or Agency Staff shall at any time after the termination of this agreement represent itself as being in any way connected with the business of the Employment Business or the Hirer, unless the Employment Business or the Hirer wishes the Umbrella Company or Agency Staff to do so.
- 9.5 Upon termination of this agreement for whatever reason, the Umbrella Company shall deliver to the Employment Business or the Hirer (as appropriate) all books, documents, papers, memoranda, notes, records (including any contained in electronic or other forms of computer storage), videos, tapes, digital, electronic and any other property, and any other materials relating to the business of the Employment Business and/or the Hirer which may at that time be in its possession power or control. The ownership of all such property will at all times remain vested in the Employment Business or the Hirer (as appropriate).

10. INTELLECTUAL PROPERTY RIGHTS

- 10.1 The Umbrella Company acknowledges that all copyright, trademarks, patents and other intellectual property rights deriving from the Umbrella Company Services carried out by the Umbrella Company and the Agency Worker for the Hirer during the Assignment shall belong to the Hirer. Accordingly, the Umbrella Company shall (and shall procure that the Agency Worker shall) execute all documents and do all acts as the Employment Business shall require to give effect to its rights pursuant to this clause.
- 10.2 Any Designs and Inventions shall be disclosed to the Hirer whether conceived apprehended or learned by the Umbrella Company and/or the Agency staff during the course of or after the termination of this agreement and the Umbrella Company and/or the Agency Staff shall at the Hirers request join with it and do and perform all acts and things necessary to procure the registration and/or the protection of any Designs and Inventions as the Hirer may direct.

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- 10.3 Each of the Umbrella Company and Agency Staff irrevocably appoints and authorises the Hirer to act as its attorney and agent for the purposes of executing and/or signing all or any such documents as may be required to give the Hirer (and/or its nominee and/or assignee) the full benefit of the provisions of this Clause.
- 10.4 The Umbrella Company and Agency Staff each irrevocably waives and abandons in favour of the Hirer any and all moral rights held by it or to be held in or relating to any Designs and Inventions.

11. CONFIDENTIALITY

- 11.1 The Umbrella Company agrees on its own part and on behalf of the Agency Worker:
- 11.1.1 not at any time whether during or after an Assignment (unless expressly so authorised by the Hirer or the Employment Business as a necessary part of the performance of its duties) to disclose to any person or to make use of any of the trade secrets or the Confidential Information of the Hirer or the Employment Business with the exception of information already in the public domain;
 - 11.1.2 to give the Hirer or the Employment Business (as directed) at the end of each Assignment all documents and other materials belonging to the Hirer (and all copies) which are in its possession including documents and other materials created by it or the Agency Worker during the course of the Assignment; and
 - 11.1.3 not at any time to make any copy, abstract, summary or précis of the whole or any part of any document or other material belonging to the Hirer except when required to do so in the course of its duties under an Assignment in which case any such item shall belong to the Hirer or the Employment Business as appropriate.
- 11.2 The Umbrella Company will include the appropriate provisions in its terms with the Agency Worker to reflect the requirements of clause 11.1.
- 11.3 The restriction contained in clause 11.1 will continue to apply after the termination of this agreement without limit in time but will cease to apply to information which may come into the public domain otherwise than through unauthorised disclosure by the Umbrella Company or Agency Staff. Neither the Umbrella Company or Agency Staff will be prevented by this clause from using any general knowledge, experience or skill which was in its possession prior to this agreement or which is independently developed or acquired otherwise than in the provision of the Services.
- 11.4 Clause 11.1 shall not apply to any disclosure or use authorised by the Employment Business or the Hirer in writing or required by law or by this agreement nor to any disclosure made by the Umbrella Company or the Agency staff relating to information which it can show, by documentary evidence, was in its possession prior to the date of this agreement.

12.COMPUTER EQUIPMENT WARRANTY

The Umbrella Company shall ensure that any computer equipment and associated software that it give the Agency Worker for the purpose of providing the Umbrella Company Services contains anti-virus protection with the latest released upgrade from time to time.

13.CONTRACT MONITORING AND AUDITS

- 13.1 The Employment Business reserves the right to audit the Umbrella Company on an ad hoc basis to ensure compliance with this Agreement and all statutory requirements in relation to all Agency Workers supplied to provide the Umbrella Company Services.
- 13.2 To help the Employment Business in its audit the Umbrella Company will:
 - 13.2.1 keep such records as are necessary to comply with this Agreement and all statutory requirements in relation to all Agency Workers supplied to provide the Umbrella Company Services, and will give the Employment Business copies of those records on request; and
 - 13.2.2 give the Employment Business access to its premises and original records relating to all Agency Workers supplied to provide the Umbrella Company Services.
- 13.3 If having conducted an audit, the Employment Business requires the Umbrella Company to take any action the Umbrella Company shall take such action within the period specified by the Employment Business. If the Umbrella Company does not take such action or correct the matter to the Employment Business's satisfaction, the Employment Business may terminate this Agreement in accordance with clause 9 (Term and Termination).

14.LIABILITY

- 14.1 The Umbrella Company shall:
 - 14.1.1 be liable for any Losses or injury to any party resulting from breach of this Agreement and/or the deliberate and/or negligent acts or omissions of the Umbrella Company or Agency Worker during an Assignment; and
 - 14.1.2 obtain adequate employer's liability insurance, public liability insurance, professional indemnity insurance and any other suitable policies of insurance in respect of the Umbrella Company or the Agency Worker. The Umbrella Company shall maintain such insurances for the duration of the Assignment and following termination of the Assignment for the period specified. The Umbrella Company shall give a copy of the policy to the Employment Business upon request.

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15. INDEMNITY

The Umbrella Company shall indemnify and keep indemnified the Employment Business against any Losses suffered or incurred by the Employment Business by reason of any proceedings, claims or demands by the Agency Worker, the Hirer or any third party arising out of any non-compliance with, and/or as a result of, any breach of this Agreement including in particular, but not limited to ITEPA (including the Off-Payroll Rules), the NICs Legislation or the Data Protection Laws by either the Umbrella Company or the Agency Worker.

16. SEVERABILITY

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

17. NOTICES

All notices which the parties must give under 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.

18. RIGHTS OF THIRD PARTIES

- 18.1 Except as set out in clause 18.2, 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 [Contracts (Rights of Third Parties) Act (Scotland) 2017] is excluded.
- 18.2 The Hirer shall be entitled to rely on and enforce the indemnities in clauses 3. (Relationship ...) and 15 (Indemnity) given by the Umbrella Company in favour of the Hirer, notwithstanding that the Hirer is not a party to this Agreement.

19. RESTRICTION

Where the Conduct Regulations do not apply: The Umbrella Company shall not (and shall ensure that the Agency Worker shall not) during the Assignment or for a period of 12 months following the termination of the Assignment supply the services of the Agency Worker directly, or through any other person, firm or Employment Business, to any Hirer for which s/he has carried out Assignments at any time during the previous 12 months.

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20. DATA PROTECTION

- 20.1 **Definitions.** The term “Data Protection Laws” has the meaning given to it in clause 1 (Definitions and Interpretation). For the purposes of this clause 20, the terms “controller”, “processor”, “data subject”, “personal data”, “processing” and “personal data breach” have the meanings given to them in the Data Protection Laws.
- 20.2 **Independent controllers.** Each party acts as an independent controller in respect of the personal data it processes under or in connection with this Agreement. Nothing in this clause 20 is intended to prevent the parties agreeing, where required by the Data Protection Laws, an alternative allocation of roles for a particular processing activity.
- 20.3 **Controller-to-processor processing.** If and to the extent that (in relation to any specific processing activity) one party (the **Controller**) instructs the other party (the **Processor**) to process personal data on the Controller’s behalf, then, prior to that processing taking place, the parties shall enter into a written controller–processor agreement complying with the Data Protection Laws (including, where applicable, Article 28 of the UK GDPR). Without prejudice to the foregoing, the Processor shall not process such personal data other than on the documented instructions of the Controller (including in respect of any transfers of personal data to a third country or international organisation) unless required to do so by applicable law, in which case the Processor shall (to the extent permitted by law) inform the Controller of that legal requirement before processing.
- 20.4 The controller–processor agreement referred to in clause 20.3 shall, as a minimum, set out: (a) the subject-matter and duration of the processing; (b) the nature and purpose of the processing; (c) the type of personal data and categories of data subjects; (d) the obligations and rights of the Controller; and shall require the Processor to: (i) ensure persons authorised to process the personal data are subject to appropriate confidentiality obligations; (ii) implement appropriate technical and organisational measures to protect the personal data; (iii) not appoint sub-processors without the Controller’s prior written authorisation (general or specific) and flow down equivalent obligations to any approved sub-processor; (iv) assist the Controller with data subject requests and with compliance obligations relating to security, breach notification, DPIAs and prior consultation, taking into account the nature of processing and the information available to the Processor; (v) on termination of the relevant services, at the Controller’s choice, delete or return all personal data (and delete existing copies) unless applicable law requires storage; (vi) make available to the Controller all information necessary to demonstrate compliance and allow for and contribute to audits/inspections on reasonable notice; and (vii) promptly inform the Controller if, in the Processor’s opinion, an instruction infringes the Data Protection Laws.
- 20.5 **Purposes; lawful basis; data minimisation.** Each party shall process and disclose personal data to the other only to the extent necessary for the performance of this Agreement (including to assess suitability for and administer Assignments, to engage/supply Agency Workers, to make payments, and to meet legal or regulatory obligations). Each party

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warrants that it has, and will maintain, an appropriate lawful basis to process and share such personal data for those purposes, and shall ensure that the personal data it shares is adequate, relevant and limited to what is necessary.

- 20.6 **Umbrella Company warranty.** The Umbrella Company warrants that it has provided all privacy information required under the Data Protection Laws to Agency Workers whose personal data it shares under this Agreement, and that it has all necessary rights and appropriate lawful bases to disclose such personal data to the Employment Business (and, where applicable, the Hirer) for the purposes set out in clause 20.5.
- 20.7 **Categories of personal data.** The categories of personal data shared may include names, contact details, identification and verification information, right-to-work/residency information, assignment/work history, payroll/payment administration information, and such other information as is reasonably required for the purposes set out in clause 20.5.
- 20.8 **Transparency and accuracy.** Each party is responsible for providing any required privacy information to individuals whose personal data it collects and/or discloses under this Agreement, including (where applicable) informing them that their personal data may be shared with the other party and/or the Hirer for the purposes in clause 20.3. Each party shall take reasonable steps to ensure personal data it processes and shares is accurate and kept up to date.
- 20.9 **Security and confidentiality.** Each party shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risks presented by the processing (including, as appropriate, measures to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services). Each party shall ensure that personnel with access to personal data are subject to appropriate confidentiality obligations.
- 20.10 **Personal data breaches and cooperation.** Each party shall notify the other without undue delay upon becoming aware of any personal data breach affecting personal data shared under this Agreement and shall provide reasonable information and cooperation to support investigation, mitigation and any required notifications to the ICO and/or affected individuals. Each party shall also provide reasonable cooperation to enable the other party to respond to data subject requests or regulatory enquiries relating to personal data shared under this Agreement.
- 20.11 **International transfers; retention.** Neither party shall transfer (or permit the transfer of) personal data shared under this Agreement to any country or territory outside the United Kingdom (and, where the EU GDPR applies to the relevant processing, outside the European Economic Area) unless it has first ensured that the transfer is permitted under the Data Protection Laws and that appropriate safeguards are in place (for example, the UK International Data Transfer Agreement and/or the UK Addendum to the EU Standard Contractual Clauses, and/or the EU Standard Contractual Clauses, as applicable). Each party shall retain personal data only for so long as necessary for the purposes in clause 20.5 and/or to comply with applicable law, and shall securely delete or anonymise it thereafter in accordance with its retention policies.

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- 20.12 The Umbrella Company shall indemnify the Employment Business against all loss, liability, damages, costs, third party claims, fees and reasonable incurred expenses which the Employment Business and/or any of its Hirers may incur or suffer by reason of any breach of this clause 20 or the Data Protection Laws by the Umbrella Company. This indemnity shall only apply to the extent that such losses, liability, damages, costs, claims, fees and expenses are not materially contributed to by the Employment Business.

21. GOVERNING LAW AND JURISDICTION

This Agreement is governed by the law of England & Wales and is subject to the exclusive jurisdiction of the Courts of England & Wales.

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