

# temporary candidate information pack

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**thank you for taking up work with ellis mack and em staff**  
**prior to accepting work with ellis mack and em staff please read & review this document in full, upon this document being sent & you accepting work with ellis mack and em staff all terms as below are taken as accepted unless informed otherwise in writing**

Please also be aware that this contract is in place temporarily until you have registered with Exchequer solutions, once registered with Exchequer solutions (or any other umbrella company if you have not done so already) exchequers contract supersedes this contract

**in order to register correctly with us we require the following.**

1. ellis mack and em staff registration form completed  
(Sent in separate attachment, needs completed and returned by email or hard copy)
2. proof of eligibility to work in the UK - in accordance with current legislation.
3. read through the below info and ensure you are clear on our commitments to you and vice versa.

Our week runs from a Monday to Sunday and wages will be in the bank the following Friday unless the deadline 10am on Tuesday is missed, in which case it will go in the following week.

If you have any questions please give us a call on **0141 548 8246**

**the ellis mack and em staff and em staff team**

# our agreement terms and conditions

## ellis mack and em staff temp candidate overview.

Whilst majority of shifts start/finish times and hourly rates etc. are confirmed through ellis mack and em staff, we offer our clients and temp candidates alike two options when providing temp cover.

1. you are paid by ellis mack and em staff outsourced payroll provider Exchequer solutions either through payroll or otherwise
2. you are paid directly by the client

Prior to agreeing to a job the hourly rate is confirmed and how you are paid is made clear from the outset. If you have been agreed to work whereby you are paid directly by the end client it is your responsibility to ensure payment.

This is usually dictated by the end client so not always an option

## agreeing to a job

We realize that on occasion you may not fancy some jobs that we offer for one of many reasons, rate of pay, travel distance, duration of contract for example. We will not stop offering you work should you choose not to accept a job providing you are upfront and honest at the time we make you the offer.

However, we will offer the better paid work to the most reliable temps who appreciate that temp work comes in different forms and depending on our client's needs it is not always possible to offer the higher rates. All we ask is that you are straight with us. If you're honest and reliable with us we'll do our up most to look after you

## the check in procedure

Depending on how far ahead you have agreed to take a job the check in procedure follows a 4 stage process as below at every stage you must get back to us to confirm you are still ok for the assignment otherwise we will give the position to someone else.

1. After agreeing to the job verbally, we email you confirmation. You must respond to this email to confirm all details are correct and you agreed to the assignment
2. 7 Days prior to the vacancy start date you must contact us by email or phone to confirm you are still confirmed for the vacancy
3. 24 Hrs. prior to the vacancy start date you must contact us by email or phone to confirm you are still confirmed for the vacancy
4. depending on start time either the day before or on the start day itself you must contact us by phone to confirm you are on your way

## cancelling a job/not turning up

Once we have confirmed a booking verbally we expect you to abide by that agreement. Depending on the reason if you cancel a job after agreeing we may not offer you more work.

We will not offer more work to people who agree to go to jobs then don't turn up.

We will not offer more work to people who accept an offer and cancel without sufficient notice and without sufficient reason.

## sickness

Our consultants are on call 24 hours a day should your circumstances dictate you cannot attend your job. It is vitally important that you call us either the evening before on our mobiles, or as a last resort first thing in the morning to allow us to arrange cover. Our staff are on call from 7.30am. Failure to make contact with us will probably mean you will be replaced on the contract and not offered more work

## walking off a job

Temp work comes in many different forms ranging from care homes to football stadiums to fine dining restaurants. We ask that you take this into account when registering. Also, that you appreciate that due to the nature of the work you may not always be going into the best circumstances i.e. A busy understaffed kitchen. We in turn do the necessary checks on any business before placing you there, give you as much information as possible on the business, agree an hourly rate for you which reflects this and appreciate that you can only do your best in any given situation.

Not all jobs may be suitable to all people, this we understand completely. If there is anything you are not happy with contact us immediately. If you have a valid reason all that we ask is you allow us 48hrs to arrange adequate cover to replace you. If you walk off during your shift you will not be paid for any hours worked that day.

## client checks health & safety

Accept this as confirmation that prior to confirming any assignment, ellis mack and em staff has asked about 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 & will inform the agency worker of this if made aware (please see T&C's clause 3.3.5)

please also be aware that during the duration of your assignment & whilst on site you are working under the supervision, direction and control of supervisor in charge & under the care & liability of the end hirer.

## pay rates and payroll

Pay rates depend on your skill level, your duties and of course the rate that our clients pay us. Rates can differ from job to job though we will always tell you what rate you are on before you start. We can on occasion negotiate better rates for you with our client company providing that we are confident that you are reliable and have the skills to complete the job.

As explained when registering, all shifts etc./time sheets confirmed through ellis mack and em staff. All payroll is outsourced through Exchequer Solutions [www.exchequersolutions.co.uk](http://www.exchequersolutions.co.uk). They are set up as an Umbrella company as such you are employed by them. The pay rate quoted by Ellis mack and em staff is all inclusive of Employee and Employers National Insurance contributions, holiday pay and an admin charge from Exchequer (For all Contractors a charge of £10 will be applied including public liability).

All of these charges/deductions are taken into account & included in the pay rate we have agreed. Our payroll is processed on a weekly basis and all Timesheets need to be submitted by **12 NOON MONDAY** on payroll week.

Should you wish to opt out of this please contact the ellis mack or em staff team to confirm alternative options

The Exchequersolutions registration process explains this all in detail there are various options available to you. Please ensure you take time to read this through when registering. Please see [www.exchequersolutions.co.uk](http://www.exchequersolutions.co.uk) for more info.

The team at ellis mack and em staff have been in business for many years. We understand completely that we are only as good as our workforce. You can be assured we are here to help you and to work with you. Should you have any issues just pick up the phone and talk to us.

# Terms and conditions

## 1. DEFINITIONS AND INTERPRETATION

### 1.1. In these Terms the following definitions apply:

"Actual Rate of Pay"	means, unless and until the Agency Worker has completed the Qualifying Period, the rate of pay which will be paid for all time worked during an Assignment for each hour worked, as set out in the relevant Assignment Details Form;
"Actual QP Rate of Pay"	means the rate of pay which will be paid to the Agency Worker if and when s/he completes the Qualifying Period, as set out in any variation to the relevant Assignment Details Form; "Agency Worker" means Agency worker supplied by the Employment Business to provide services to the Hirer; "Agreed Deductions" means any deductions the Agency Worker has agreed can be made from their pay;
"Assignment"	means assignment services to be performed by the Agency Worker for the Hirer for a period of time during which the Agency Worker is supplied by the Employment Business to work temporarily for and under the supervision and direction of the Hirer;
"Assignment Details Form"	means written confirmation of the assignment details to be given to the Agency Worker upon acceptance of the Assignment;
"AWR"	means the Agency Workers Regulations 2010
"Calendar Week"	means any period of 7 days starting with the same day as the first day of the First Assignment; "Conduct Regulations"
Information"	means the Conduct of Employment Agencies and Employment Businesses Regulations 2003 "Confidential means 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 these Terms, 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 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 these Terms 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 1998, any applicable statutory or regulatory provisions and all European Directives and regulations in force from time to time relating to the protection and transfer of personal data;
"Deductions"	means any deductions which the Employment Business 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 and Class 1 National Insurance Contributions;
"Emoluments"	means any pay in addition to the Actual QP Rate of Pay;
"Employment Business"	Ellis Mack Limited registered company no. SC365567
"Engagement"	means the engagement (including the Agency Worker's acceptance of the Hirer's offer), employment or use of the Agency Worker by the Hirer or any third party to whom the Agency Worker has been introduced by the Hirer, on a permanent or temporary basis, whether under a contract of service or for services, and/or through a company of which the Agency Worker is an officer, employee or other representative, an agency, license, franchise or partnership arrangement or any other engagement; and "Engage", "Engages" and "Engaged" shall be construed accordingly;
"First Assignment"	means: <ul style="list-style-type: none"> <li>(a) the relevant Assignment; or</li> <li>(b) if, prior to the relevant Assignment:               <ul style="list-style-type: none"> <li>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</li> </ul> </li> </ul>

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) to whom the Agency Worker 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;
"Hourly Rate"	means being the minimum gross rate of pay that the Employment Business reasonably expects to achieve, for all hours worked by the Agency Worker;
"Leave Year"	means the period during which the Agency Worker accrues and may take statutory leave commencing [A: on the date that the Agency Worker starts an Assignment or a series of Assignments]
"Period of Extended Hire"	means any additional period that the Hirer wishes the Agency Worker 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 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 Schedule to these Terms;
"Relevant Period"	means 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;
"Temporary Work Agency"	means as defined in the Schedule to these Terms;
"Terms"	means these terms of engagement (including the attached schedule) together with any applicable Assignment Details Form;
"Transfer Fee"	means the fee payable by the Hirer to the Employment Business in accordance with clause 3.7, as permitted by Regulation 10 of the Conduct Regulations;
"Type of Work"	means general Chef, hospitality & retail work and
"WTR"	means the Working Time Regulations 1998

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

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

14 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 these Terms) and all subordinate legislation made (before or after these Terms) under it from time to time.

## 2 THE CONTRACT

21. These Terms constitute the entire agreement between the Employment Business and the Agency Worker for the supply of services to the Hirer and they shall govern all Assignments undertaken by the Agency Worker. However, no contract shall exist between the Employment Business and the Agency Worker between Assignments. These Terms shall prevail over any other terms put forward by the Agency Worker.
22. During an Assignment the Agency Worker will be engaged on a contract for services by the Employment Business on these Terms. For the avoidance of doubt, the Agency Worker is not an employee of the Employment Business although the Employment Business is required to make the Deductions from the Agency Worker's pay. These Terms shall not give rise to a contract of employment between the Employment Business and the Agency Worker, or the Agency Worker and the Hirer. The Agency Worker is supplied as a worker, and is entitled to certain statutory rights as such, but nothing in these Terms shall be construed as giving the Agency Worker rights in addition to those provided by statute except where expressly stated.
23. No variation or alteration to these Terms shall be valid unless the details of such variation are agreed between the Employment Business and the Agency Worker and set out in writing and a copy of the varied terms is given to the Agency Worker no later than 5 business days following the day on which the variation was made stating the date on or after which such varied terms shall apply.
24. The Employment Business shall act as an employment business (as defined in Section 13(3) of the Employment Agencies Act 1973 (as amended) when introducing or supplying the Agency Worker for Assignments with its Hirers.

### 3. ASSIGNMENTS AND INFORMATION TO BE PROVIDED

31. The Employment Business will endeavour to obtain suitable Assignments for the Agency Worker to perform the agreed Type of Work. The Agency Worker shall not be obliged to accept any Assignment offered by the Employment Business.
32. The Agency Worker acknowledges that the nature of temporary work means that there may be periods when no suitable work is available and agrees that:
  - 3.2.1. the suitability of the work to be offered shall be determined solely by the Employment Business; and
  - 3.2.2. the Employment Business shall incur no liability to the Agency Worker should it fail to offer Assignments of the Type of Work or any other work to the Agency Worker.
33. At the same time as an Assignment is offered to the Agency Worker the Employment Business shall provide the Agency Worker with an Assignment Details Form setting out the following: [see Note 15]
  - 33.1. the identity of the Hirer, and if applicable the nature of their business;
  - 33.2. the date the Assignment is to commence and the duration or likely duration of Assignment;
  - 33.3. the Type of Work, location and hours during which the Agency Worker would be required to work;
  - 33.4. the Actual Rate of Pay that will be paid and any expenses payable by or to the Agency Worker;
  - 33.5. 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
  - 33.6. 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.
34. 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 save where:
  - 3.4.1. the Agency Worker is being offered an Assignment in the same position as one in which the Agency Worker has previously been supplied within the previous 5 business days and such information has already been given to the Agency Worker and remains unchanged; or
  - 3.4.2. subject to clause 3.5, the Assignment is intended to last for 5 consecutive business days or less and such information has previously been given to the Agency Worker before and remains unchanged, the Employment Business needs only to provide written confirmation of the identity of the Hirer and the likely duration of the Assignment.
35. Where the provisions of clause 3.4.2 are met but the Assignment extends beyond the intended 5 consecutive business day period, the Employment Business shall provide such information set out in clause 3.3 to the Agency Worker in paper or electronic form within 8 days of the start of the Assignment.
36. For the purpose of calculating the average number of weekly hours worked by the Agency Worker on an Assignment for the purposes of the WTR, the start date for the relevant averaging period shall be the date on which the Agency Worker commences the first Assignment.
37. If, before or during an Assignment or during the Relevant Period, the Hirer wishes to Engage the Agency Worker directly or through another employment business, the Agency Worker acknowledges that the Employment Business will be entitled either to charge the Hirer a Transfer Fee or to agree a Period of Extended Hire with the Hirer at the end of which the Agency Worker may be Engaged directly by the Hirer or through another employment business without further charge to the Hirer.  
In addition the Employment Business will be entitled to charge a Transfer Fee to the Hirer if the Hirer introduces the Agency Worker to a third party (other than another employment business) who subsequently Engages the Agency Worker, directly or indirectly, before or during an Assignment or within the Relevant Period.
38. If the Agency Worker has 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 the Agency Worker is 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, any such 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).

### 4. AGENCY WORKER'S OBLIGATIONS

41. The Agency Worker is not obliged to accept any Assignment offered by the Employment Business but if the Agency Worker does accept an Assignment, during every Assignment and afterwards where appropriate, s/he will:
  - 4.1.1. co-operate with the Hirer's reasonable instructions and accept the direction, supervision and control of any responsible person in the Hirer's organisation;
  - 4.1.2. observe any relevant rules and regulations of the Hirer's establishment (including normal hours of work) to which attention has been drawn or which the Agency Worker might reasonably be expected to ascertain;
  - 4.1.3. take all reasonable steps to safeguard his or her own health and safety and that of any other person who may be present or be affected by his or her actions on the Assignment and comply with the Health and Safety policies and procedures of the Hirer;
  - 4.1.4. not engage in any conduct detrimental to the interests of the Employment Business and/ or 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;
  - 4.1.5. not commit any act or omission constituting unlawful discrimination against or harassment of any member of the Employment Business' or the Hirer's staff;

- 4.1.6. not at any time divulge to any person, nor use for his or her own or any other person's benefit, any Confidential Information relating to the Hirer's or the Employment Business' employees, business affairs, transactions or finances;
- 4.1.7. on completion of the Assignment or at any time when requested by the Hirer or the Employment Business, return to the Hirer or where appropriate, to the Employment Business, any Hirer property or items provided to the Agency Worker 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.
42. Where the provisions of clause 3.4.2 are met but the Assignment extends beyond the intended 5 consecutive business day period, the Employment Business shall provide such information set out in clause 3.3 to the Agency Worker in paper or electronic form within 8 days of the start of the Assignment.
43. For the purpose of calculating the average number of weekly hours worked by the Agency Worker on an Assignment for the purposes of the WTR, the start date for the relevant averaging period shall be the date on which the Agency Worker commences the first Assignment.
44. If, before or during an Assignment or during the Relevant Period, the Hirer wishes to Engage the Agency Worker directly or through another employment business, the Agency Worker acknowledges that the Employment Business will be entitled either to charge the Hirer a Transfer Fee or to agree a Period of Extended Hire with the Hirer at the end of which the Agency Worker may be Engaged directly by the Hirer or through another employment business without further charge to the Hirer. In addition the Employment Business will be entitled to charge a Transfer Fee to the Hirer if the Hirer introduces the Agency Worker to a third party (other than another employment business) who subsequently Engages the Agency Worker, directly or indirectly, before or during an Assignment or within the Relevant Period.
45. If the Agency Worker has 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 the Agency Worker is 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, any such 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).

## 5. AGENCY WORKER'S OBLIGATIONS

51. The Agency Worker is not obliged to accept any Assignment offered by the Employment Business but if the Agency Worker does accept an Assignment, during every Assignment and afterwards where appropriate, s/he will:
- 4.1.8. co-operate with the Hirer's reasonable instructions and accept the direction, supervision and control of any responsible person in the Hirer's organisation;
- 4.1.9. observe any relevant rules and regulations of the Hirer's establishment (including normal hours of work) to which attention has been drawn or which the Agency Worker might reasonably be expected to ascertain;
- 4.1.10. take all reasonable steps to safeguard his or her own health and safety and that of any other person who may be present or be affected by his or her actions on the Assignment and comply with the Health and Safety policies and procedures of the Hirer;
- 4.1.11. not engage in any conduct detrimental to the interests of the Employment Business and/ or 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;
- 4.1.12. not commit any act or omission constituting unlawful discrimination against or harassment of any member of the Employment Business' or the Hirer's staff;
- 4.1.13. not at any time divulge to any person, nor use for his or her own or any other person's benefit, any Confidential Information relating to the Hirer's or the Employment Business' employees, business affairs, transactions or finances;
- 4.1.14. on completion of the Assignment or at any time when requested by the Hirer or the Employment Business, return to the Hirer or where appropriate, to the Employment Business, any Hirer property or items provided to the Agency Worker 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.
52. If the Agency Worker accepts any Assignment offered by the Employment Business, as soon as possible prior to the commencement of each such Assignment and during each Assignment (as appropriate) and at any time at the Employment Business' request, the Agency Worker undertakes to:
- 4.2.1. inform the Employment Business of any Calendar Weeks prior to the date of commencement of the relevant Assignment and/or during the relevant Assignment in which the Agency Worker has worked in the same or a similar role with the relevant Hirer via any third party and which the Agency Worker believes count or may count toward the Qualifying Period;
- 4.2.2. provide the Employment Business 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 the Employment Business; and
- 4.2.3. inform the Employment Business if s/he has prior to the date of commencement of the relevant Assignment and/ or during the relevant Assignment carried out work which could be deemed to count toward the Qualifying Period for the relevant Assignment in accordance with Regulation 9 of the AWR because s/he has:
- 4.2.3.1. Completed two or more assignments with the Hirer;
- 4.2.3.2. Completed at least one assignment with the Hirer and one or more earlier assignments with any member of the Hirer's Group; and/or
- 4.2.3.3. 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.



53. If the Agency Worker is unable for any reason to attend work during the course of an Assignment s/he should inform the Employment Business within 1 hour of the commencement of the Assignment or shift. In the event that it is not possible to inform the Employment Business within these timescales, the Agency Worker should alternatively inform the Hirer and then the Employment Business as soon as possible.
54. If, either before or during the course of an Assignment, the Agency Worker becomes aware of any reason why s/he may not be suitable for an Assignment, s/he shall notify the Employment Business without delay.
55. The Agency Worker acknowledges that any breach of his/her obligations set out in this clause may cause the Employment Business to suffer loss and that the Employment Business reserves the right to recover such losses from the Agency Worker.

## 6. TIMESHEETS

61. 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) the Agency Worker shall deliver to the Employment Business 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 Hirer.
62. Subject to clause 5.3 the Employment Business shall pay the Agency Worker for all hours worked regardless of whether the Employment Business has received payment from the Hirer for those hours.
63. Where the Agency Worker fails to submit a properly authenticated timesheet the Employment Business shall, in a timely fashion, conduct further investigations into the hours claimed by the Agency Worker and the reasons that the Hirer has refused to sign a timesheet in respect of those hours. This may delay any payment due to the Agency Worker. The Employment Business shall make no payment to the Agency Worker for hours not worked.
64. For the avoidance of doubt and for the purposes of the WTR, the Agency Worker's working time shall only consist of those periods during which s/he is carrying out activities or duties for the Hirer as part of the Assignment. Time spent travelling to the Hirer's premises (apart from time spent travelling between two or more premises of the Hirer), lunch breaks and other rest breaks shall not count as part of the Agency Worker's working time for these purposes. This clause 5.4 is subject to any variation set out in the relevant Assignment Details Form or any variation to the relevant Assignment Details Form which the Employment Business may make for the purpose of compliance with the AWR.

## 7. PAY AND DEDUCTIONS

71. For each Assignment the Employment Business shall pay to the Agency Worker the Hourly Rate. The Actual Rate of Pay will be notified on a per Assignment basis and set out in the relevant Assignment Details Form.
72. If the Agency Worker has completed the Qualifying Period on the start of the relevant Assignment or following completion of the Qualifying Period during the relevant Assignment, the Employment Business shall pay to the Agency Worker the Actual QP Rate of Pay which will be notified on a per Assignment basis and set out in the relevant Assignment Details Form or any variation to the relevant Assignment Details Form:
73. The Hourly Rate, Actual Pay of Rate or Actual QP Rate of Pay, as applicable, will be paid weekly in arrears, subject to any Deductions and or Agreed Deductions, together with any agreed Emoluments.
74. Subject to any statutory entitlement under the relevant legislation referred to in clauses 7 (Annual leave) and 8 (Sickness absence) below and any other statutory entitlement, the Agency Worker is not entitled to receive payment from the Employment Business or the Hirer for time not spent on Assignment, whether in respect of holidays, illness or absence for any other reason unless otherwise agreed.
75. Subject to compliance with Regulation 12 of the Conduct Regulations the Employment Business reserves the right in its absolute discretion to deduct from the Agency Worker's pay any sums which s/he may owe the Employment Business including, without limitation, any overpayments or loans made to the Agency Worker by the Employment Business or any losses suffered by the Employment Business as a result of his/her negligence or breach of either the Employment Business's or the Hirer's rules.
76. If the Employment Business provides any equipment or clothing to the Agency Worker to be used in the course of an Assignment with the Hirer, the Agency Worker must take reasonable care of the equipment or clothing. Furthermore the Agency Worker must return any equipment or clothing to the Employment Business upon termination of the Terms or within days of a request from the Employment Business. In the event that the Agency Worker does not comply with the obligations set out in this clause, the Employment Business reserves the right to deduct the cost of replacement equipment or clothing from any sums owed to the Agency Worker. The question of whether the Agency Worker has taken reasonable care of the equipment or clothing will be solely assessed by the Employment Business's reasonable judgement.
77. Where the Agency Worker holds a valid A1, E101 or E102 Certificate confirming coverage by a social security scheme in a Member State other than the UK, the Agency Worker must declare this to the Employment Business and produce the Certificate. In such cases the Employment Business 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 the responsibility of the Agency Worker to pay such social fee contributions as may be applicable in the Member State concerned. In the event that the Agency Worker fails to pay such contributions and the Employment Business is required to pay contributions either in the UK or the Member State concerned, the Agency Worker undertakes to indemnify the Employment Business and the Employment Business shall be entitled to deduct the amount paid in contributions from any sums owed to the Agency Worker.

## 8. ANNUAL LEAVE

81. The Agency Worker is entitled to paid annual leave according to the statutory minimum as provided by the WTR from time to time. The current statutory entitlement to paid annual leave under the WTR is 5.6 weeks.
82. Entitlement to payment for annual leave under clause 7.1 accrues in proportion to the amount of time worked by the Agency Worker on Assignment during the Leave Year.
83. Under the AWR, on completion of the Qualifying Period the Agency Worker may be entitled to paid and/or unpaid annual leave in addition to the Agency Worker's entitlement to paid annual leave under the WTR and in accordance with clauses 7.1 and 7.2. If this is the case, any such entitlement(s), the date from which any such entitlement(s) will commence and how payment for such entitlement(s) accrues will be as set out in the relevant Assignment Details Form or any variation to the relevant Assignment Details Form.



84. All annual leave must be taken during the course of the Leave Year in which it accrues and, save as may be set out in the relevant Assignment Details Form or any variation to the relevant Assignment Details Form, none may be carried forward to the next year. The Agency Worker is responsible for ensuring that all paid annual leave is requested and taken within the Leave Year.
85. If the Agency Worker wishes to take paid annual leave during the course of an Assignment s/he should notify the Employment Business of the dates of his/her intended absence giving notice of at least twice the length of the period of annual leave that s/he wishes to take. In certain circumstances the Employment Business may require the Agency Worker to take paid annual leave at specific times or notify the Agency Worker of periods when paid annual leave cannot be taken. Where the Agency Worker has given notice of a request to take paid annual leave in accordance with this clause, the Employment Business may give counter-notice to the Agency Worker to postpone or reduce the amount of leave that the Agency Worker wishes to take. In such circumstances the Employment Business will inform the Agency Worker in writing giving at least the same length of notice as the period of leave that it wishes to postpone or reduce it by.
86. Subject to clause 7.3, the amount of payment which the Agency Worker will receive in respect of periods of annual leave taken during the course of an Assignment will be calculated in accordance with and paid in proportion to the number of hours which the Agency Worker has worked on Assignment.
87. Subject to clause 7.3, in the course of any Assignment during the first Leave Year, the Agency Worker is entitled to request leave at the rate of one-twelfth of the Agency Worker's total holiday entitlement in each month of the leave year.
88. Where these Terms are terminated by either party, the Agency Worker shall repay to the Employment Business an amount in respect of any holiday periods taken in excess of the holiday entitlement for that year and the Agency Worker hereby authorises the Employment Business to take repayment of such monies by way of deduction from any final payment owed to the Agency Worker.

## 9. SICKNESS ABSENCE

91. The Agency Worker may be eligible for Statutory Sick Pay provided that s/he meets the relevant statutory criteria.
92. The Agency Worker is required to provide the Employment Business with evidence of incapacity to work which may be by way of a self-certificate for the first 7 days of incapacity and a doctor's certificate thereafter.
93. For the purposes of the Statutory Sick Pay scheme there is one qualifying day per week during the course of an Assignment and that qualifying day shall be the Wednesday in every week.
94. In the event that the Agency Worker submits a Statement of Fitness for Work ("the Statement") or similar medical evidence, which indicates that the Agency Worker may, subject to certain conditions, be fit to work/return to work, the Employment Business will in its absolute discretion determine whether the Agency Worker will be (a) placed in a new Assignment or (b) permitted to continue in an ongoing Assignment. In making such determination the Employment Business may consult with the Hirer and the Agency Worker as appropriate to assess whether the conditions identified in the Statement or similar documentation can be satisfied for the duration of the Assignment.
95. Where clause 8.4 applies, the Agency Worker's placement in a new Assignment or continuation in an ongoing Assignment may be subject to the Agency Worker agreeing to a variation of the Terms or the assignment details set out in the Assignment Details Form to accommodate any conditions identified in the Statement or other similar medical evidence as is appropriate.

## 10. TERMINATION

101. Any of the Employment Business, the Agency Worker or the Hirer may terminate the Agency Worker's Assignment at any time without prior notice or liability.
102. The Agency Worker 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. In the event that the contract between the Employment Business and the Hirer is terminated for any reason the Assignment shall cease with immediate effect without liability to the Agency Worker (save for payment for hours worked by the Agency Worker up to the date of termination of the Assignment).
103. If the Agency Worker does not inform the Hirer or the Employment Business that they are unable to attend work during the course of an Assignment (as required in clause 4.3) this will be treated as termination of the Assignment by the Agency Worker in accordance with clause 9.1, unless the Agency Worker can show that exceptional circumstances prevented him or her from complying with clause 4.3.
104. If the Agency Worker is absent during the course of an Assignment and the Assignment has not been otherwise terminated under clauses 9.1 or 9.3 above the Employment Business will be entitled to terminate the Assignment in accordance with clause 9.1 if the work to which the Agency Worker was assigned is no longer available.
105. If the Agency Worker does not report to the Employment Business to notify his/her availability for work for a period of 3 weeks, this contract for services will automatically terminate and the Employment Business will forward his/her P45 to his/her last known address.

## 11. INTELLECTUAL PROPERTY RIGHTS

The Agency Worker acknowledges that all copyright, trademarks, patents and other intellectual property rights deriving from services carried out by him/her for the Hirer during the Assignment shall belong to the Hirer. Accordingly the Agency Worker shall execute all such documents and do all such acts as the Employment Business shall from time to time require in order to give effect to its rights pursuant to this clause.

## 12. CONFIDENTIALITY

121. In order to protect the confidentiality and trade secrets of any Hirer and the Employment Business and without prejudice to every other duty to keep secret all information given to it or gained in confidence the Agency Worker agrees as follows:
- 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 deliver up to 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 him/her 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 event any such item shall belong to the Hirer or the Employment Business as appropriate.

### 13. DATA PROTECTION

131. The Agency Worker warrants that in relation to these Terms, s/he shall comply strictly with all provisions applicable to him/her under the Data Protection Laws and shall not do or permit to be done anything which might cause the Employment Business or the Hirer to breach any Data Protection Laws.
132. The Agency Worker consents to the Employment Business, any other intermediary involved in supplying the services of the Agency Worker to the Hirer (now or in the future), and the Hirer:
1221. processing his/her personal data for purposes connected with the performance of the Assignment and pursuant to these Terms; and
1222. exporting and/or processing his/her personal data in jurisdictions outside the European Economic Area for purposes connected with the performance of these Terms.

### 14. SEVERABILITY

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

### 15. NOTICES

All notices which are required to be given in accordance with these Terms 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 or facsimile transmission. 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 or facsimile transmission, when that email or facsimile is sent.

### 16. RIGHTS OF THIRD PARTIES

None of the provisions of these Terms 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.

### 17. GOVERNING LAW AND JURISDICTION

These Terms are governed by the law of Scotland and are subject to the exclusive jurisdiction of the Courts of Scotland

\_\_\_\_\_  
Signed by the Agency Worker

\_\_\_\_\_  
[print name here]

\_\_\_\_\_  
Date

