

1	Definitions	
1.1	In these Terms of Business the following definitions apply:	
	"Agency Worker"	means the individual who is introduced by the Employment Business to render services to the Hirer;
	"Assignment"	means the assignment services to be performed by the Agency Worker for the Hirer for the period during which the Agency Worker is supplied by the Employment Business to work temporarily for and under the supervision and direction of the Hirer;
	"AWR"	means the Agency Workers Regulations 2010;
	"Claim"	means any complaint or claim to a tribunal or court made by or on behalf of the Agency Worker against the Hirer and/or the Employment Business for any breach of the AWR;
	"Comparable Employee"	is defined in the Schedule to these terms;
	"Employment business"	means Thorn Baker Limited;
	"Engagement"	means the engagement, employment or use of the Agency Worker directly by the Hirer or any third party or through any other employment business 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; directly or through a limited company of which the Agency Worker is an officer or employee;
	"First Assignment"	means the Assignment; or if, prior to the Assignment the Agency Worker has worked in any assignment in the same role with the Hirer as the role in which the Agency Worker works in the Assignment, and the relevant Qualifying Period commenced during such assignment, that assignment;
	"Hirer"	means the person, firm or corporate body together with any subsidiary or associated person, firm or corporate body 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;
	"Introduction Fee"	means the fee payable in accordance with clause 8.2.2 below and Regulation 10 of the Conduct of Employment Agencies and Employment Businesses Regulations 2003;
	"Introduction"	means (i) the Hirer's interview of a Agency Worker in person or by telephone, following the Hirer's instruction to the Employment Business to supply a Agency Worker; or (ii) the passing to the Hirer of a curriculum vitae or information which identifies the Agency Worker; and which leads to an Engagement of that Agency Worker;
	"Qualifying Period"	means 12 continuous 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 Schedule 1 to these terms;
	"Relevant Period"	means the later or either 14 weeks from the first day on which the Agency Worker was supplied by the Employment Business to work for the Hirer, or 8 weeks from the day after the Agency Worker was last supplied by the Employment Business to the Hirer;
	"Remuneration"	includes base salary or fees, guaranteed and/or anticipated bonus and commission earnings, allowances, inducement payments, the benefit of a company car and all other payments and taxable (and, where applicable, non-taxable) emoluments payable to or receivable by the Agency Worker for services rendered to or on behalf of the Hirer or any third party.
	"Transfer Fee"	means the fee payable in accordance with clause 8.1.2 below and Regulation 10 of the Conduct of Employment Agencies and Employment Businesses Regulations 2003;
	"Week"	means any period of seven days starting with the same day as the first day of the First Assignment;
	"WTR"	means the Working Time Regulations 1998.

- 1.2 Unless the context otherwise requires, references to the singular include the plural.
- 1.3 The headings contained in these Terms are for convenience only and do not affect their interpretation.

2 The Contract

- 2.1 These Terms constitute the contract between the Employment Business and the Hirer for the supply of the Agency Worker's services by the Employment Business to the Hirer and are deemed to be accepted by the Hirer by virtue of its request for, interview with or Engagement of the Agency Worker or the passing of any information about the Agency Worker to any third party following an Introduction.
- 2.2 These Terms contain the entire agreement between the parties and unless otherwise agreed in writing by a Director of the Employment Business, these Terms prevail over any terms of business or purchase conditions put forward by the Hirer.
- 2.3 Subject to clause 4.2, no variation or alteration to these Terms shall be valid unless the details of such variation are agreed between the Employment Business and the Hirer and are set out in writing and a copy of the varied terms is given to the Hirer stating the date on or after which such varied terms shall apply.

3 Obligations of the Hirer

- 3.1 The Hirer undertakes to provide to the Employment Business details of the position which the Hirer seeks to fill, including: the type of work that the Agency Worker would be required to do; the location and hours of work; the experience, training, qualifications and any authorisation which the Hirer considers necessary or which are required by law or any professional body for the Agency Worker to possess in order to work in the position; any risks to health or safety known to the Hirer and what steps the Hirer has taken to prevent or control such risks; the date the Hirer requires the Agency Worker to commence the Assignment; and the duration or likely duration of the Assignment.
- 3.2 The Hirer will assist the Employment Business in complying with the Employment Business' duties under the WTR by supplying any relevant information about the Assignment requested by the Employment Business and the Hirer will not do anything to cause the Employment Business to be in breach of its obligations under WTR. If the Hirer requires the services of an Agency Worker for more than 48 hours in any week during the course of an Assignment, the Hirer must notify the Employment Business of this requirement before the commencement of the Assignment

or at the very latest, where this is not reasonably practicable, before the commencement of the week in which the Hirer requires the Agency Worker to work in excess of 48 hours.

- 3.3 The Hirer will comply with its obligations under Regulation 12 (Rights of agency workers in relation to access to collective facilities and amenities) and 13 (Rights of agency workers in relation to access to employment) of the AWR.
- 3.4 To enable the Employment Business to comply with its obligations under the AWR, the Hirer undertakes as soon as possible prior to the commencement of each Assignment and during each Assignment (as appropriate) and at any time at the Employment Business' request:
 - 3.4.1 to inform the Employment Business of any Weeks since 1 October 2011 in which the relevant Agency Worker has worked in the same or a similar role with the Hirer via any third party prior to the date of commencement of the relevant Assignment and/or during the relevant Assignment which count or may count towards the Qualifying Period;
 - 3.4.2 if, since 1 October 2011, the Agency Worker has worked in the same or a similar role with the Hirer via any third party prior to the date of commencement of the relevant Assignment and/or works in the same or a similar role with the Hirer via any third party during the relevant Assignment, to 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;
 - 3.4.3 to inform the Employment Business if, since 1 October 2011, the Agency Worker has prior to the date of commencement of the relevant Assignment and/or during the relevant Assignment:
 - 3.4.3.1 completed two or more assignments with the Hirer;
 - 3.4.3.2 completed at least one assignment with the Hirer and one or more earlier assignments with any member of the Hirer's Group; and/or
 - 3.4.3.3 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;
 - 3.4.4 Save where the Agency Worker will not complete the Qualifying Period during the term of the Assignment, to:
 - 3.4.4.1 provide the Employment Business with written details of the basic working and employment conditions the Agency Worker would be entitled to for doing the same job if the Agency Worker had been recruited directly by the Hirer as an employee or worker at the time the Qualifying Period commenced or with those of a Comparable Employee (the "Relevant Terms and Conditions");
 - 3.4.4.2 inform the Employment Business in writing whether the Relevant Terms and Conditions provided are those of a hypothetical directly recruited employee or worker or those of a Comparable Employee;
 - 3.4.4.3 if the Relevant Terms and Conditions provided are those of a Comparable Employee, provide the Employment Business with a written explanation of the basis on which the Hirer considers that the relevant individual is a Comparable Employee; and
 - 3.4.4.4 inform the Employment Business in writing of any variations in the Relevant Terms and Conditions made at any time during the relevant Assignment after the Qualifying Period commenced; and
 - 3.4.4.5 provide the Employment Business with written details of its pay and benefits structures and appraisal processes and any variations of the same.
- 3.5 In addition, for the purpose of awarding any bonus to which the Agency Worker may be entitled under the AWR, the Hirer will:
 - 3.5.1 integrate the Agency Worker into its relevant performance appraisal system;
 - 3.5.2 assess the Agency Worker's performance;
 - 3.5.3 provide the Employment Business with copies of all documentation relating to any appraisal of the Agency Worker, including without limitation written details of the outcome of any appraisal and the amount of any bonus awarded; and
 - 3.5.4 provide the Employment Business with all other assistance the Employment Business may request in connection with the assessment of the Agency Worker's performance for the purpose of awarding any bonus.
- 3.6 The Hirer will comply with all the Employment Business' requests for information and any other requirements to enable the Employment Business to comply with the AWR.
- 3.7 The Hirer warrants that all information and documentation supplied to the Employment Business in accordance with clauses 3.4, 3.5 and 3.6 is complete, accurate and up-to-date; and that it will, during the term of the relevant Assignment, immediately inform the Employment Business in writing of any subsequent change in any information or documentation provided in accordance with clauses 3.4, 3.5 and 3.6
- 3.8 Without prejudice to clauses 14.7 and 14.8, the Hirer shall inform the Employment Business in writing of any oral or written complaint the Agency Worker makes to the Hirer which is or may be a complaint connected with rights under the AWR and of any written request for information relating to the Relevant Terms and Conditions that the Hirer receives from the Agency Worker, in either case as soon as possible but no later than seven calendar days from the day on which any such oral complaint is made to or written complaint or request is received by the Hirer and the Hirer will take such action and give such information and assistance as the Employment Business may request, and within any timeframe requested by the Employment Business, in order to resolve any such complaint or to provide any such information in a written statement to the Agency Worker within 28 days of the Hirer's receipt of such a request in accordance with Regulation 16 of the AWR and the Hirer will provide the Employment Business with a copy of any such written statement.

4 Charges

- 4.1 The Hirer agrees to pay the hourly charges of the Employment Business. The charges are calculated according to the number of hours worked by the Agency Worker (to the nearest quarter hour). The charges comprise mainly the Agency Worker's pay but also include the Employment Business' commission, employer's National Insurance contributions, an amount equal to any paid holiday to which the Agency Worker is entitled under the WTR and the AWR and which is accrued during the course of an Assignment, any other amounts to which the Agency Worker is entitled under the AWR, and any travel, hotel or other expenses as may have been agreed with the Hirer or, if there is no such agreement, such expenses as are reasonable.
- 4.2 The Employment Business reserves the right to vary the charges agreed with the Hirer, by giving written notice to the Hirer, in order to comply with any additional liability imposed by statute or other legal requirement or entitlement (including the AWR), and/or if there is any variation in the Relevant Terms and Conditions.
- 4.3 In addition, the Hirer will pay the Employment Business an amount equal to any bonus that the Hirer awards to the Agency Worker in accordance with clause 3.5 immediately following any such award and the Employment Business will pay any such bonus to the Agency Worker. For the avoidance of doubt, the Hirer will also pay any employer's National Insurance Contributions and the Employment Business' commission on the bonus (calculated using the same percentage rate as that used under clause 4.1) in addition to any bonus payable to the Agency Worker.
- 4.4 VAT, if applicable, is payable on the entirety of these charges.

- 4.5 The charges are invoiced to the Hirer on a weekly basis and are payable within 21 days unless otherwise agreed. The Employment Business reserves the right to charge interest on any overdue amounts at the rate of 8% per annum above the base rate from time to time of the Bank of England from the due date until the date of payment.
- 4.6 There are no rebates payable in respect of the charges of the Employment Business.
- 5 Information to be provided by the Employment Business**
- 5.1 When making an Introduction of a Agency Worker to the Hirer the Employment Business shall inform the Hirer of the identity of the Agency Worker; that the Agency Worker has the necessary or required experience, training, qualifications and any authorisation required by law or a professional body to work in the Assignment; whether the Temporary Worker will work for the Employment Business under a contract of service or apprenticeship or a contract for services; and that the Agency Worker is willing to work in the Assignment; and the charges. The Employment Business reserves the right to use an intermediary supplier to source the agency worker.
- 5.2 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 the Agency Worker is being Introduced for an Assignment in the same position as one in which the Agency Worker had previously been supplied within the previous five business days and such information has already been given to the Hirer.
- 6 Time sheets**
- 6.1 At the end of each week of an Assignment (or at the end of the Assignment where it is for a period of one week or less) the Hirer shall sign the Employment Business' time sheet verifying the number of hours worked by the Agency Worker during that week.
- 6.2 Signature of the time sheet by the Hirer is confirmation of the number of hours worked. If the Hirer is unable to sign a time sheet produced for authentication by the Agency Worker because the Hirer disputes the hours claimed, the Hirer shall inform the Employment Business as soon as is reasonably practicable and shall co-operate fully and in a timely fashion with the Employment Business to enable the Employment Business to establish what hours, if any, were worked by the Agency Worker. Failure to sign the time sheet does not absolve the Hirer's obligation to pay the charges in respect of the hours worked.
- 6.3 The Hirer shall not be entitled to decline to sign a time sheet on the basis that he is dissatisfied with the work performed by the Agency Worker. In cases of unsuitable work the Hirer should apply the provisions of clause 11.1 below.
- 7 Payment of the Agency Worker**
- 7.1 The Employment Business assumes responsibility for paying the Agency Worker and where appropriate, for the deduction and payment of National Insurance Contributions and PAYE Income Tax applicable to the Agency Worker pursuant to Sections 44-47 of the Income tax (Earnings and Pensions) Act 2003.
- 8 Transfer and Introduction Fees**
- 8.1 In the event of the Engagement of a Agency Worker supplied by the Employment Business either (1) directly by the Hirer or (2) by the Hirer pursuant to being supplied by another employment business, within the Relevant Period the Hirer shall be liable to either:
- 8.1.1 subject to electing upon giving 7 days notice unless otherwise agreed, an extended period of hire of the Agency Worker being 12 weeks unless otherwise agreed during which the Employment Business shall be entitled to the charges set out in clause 4.1 above for each hour the Agency Worker is so employed or supplied; or
- 8.1.2 a Transfer Fee calculated as follows: 15% of the Remuneration applicable during the first 12 months of the Engagement or, if the actual amount of the Remuneration is not known, the hourly charges referred to in clause 4.1 multiplied by 300. No refund of the Transfer Fee will be paid in the event that the Engagement subsequently terminates. VAT is payable in addition to any fee due.
- 8.2 In the event that there is an Introduction of a Agency Worker to the Hirer which does not result in the supply of that Agency Worker by the Employment Business to the Hirer, but there is a later Engagement of the Agency Worker by the Hirer either directly or pursuant to being supplied by another employment business within 3 months of the Introduction the Hirer shall be liable, to either:
- 8.2.1 subject to electing upon giving 7 days notice unless otherwise agreed, a period of hire of the Agency Worker being 12 weeks unless otherwise agreed during which the Employment Business shall be entitled to the charges set out in clause 4.1 above for each hour the Agency Worker is so employed or supplied; or
- 8.2.2 an Introduction Fee calculated as follows: 15% of the Remuneration applicable during the first 12 months of the Engagement or, if the actual amount of the Remuneration is not known, the hourly charges referred to in clause 4.1 multiplied by 300. No refund of the Introduction Fee will be paid in the event that the Engagement subsequently terminates. VAT is payable in addition to any fee due.
- 8.3 In the event that the Engagement of the Agency Worker is for a fixed term of less than 12 months, the fee in clause 8.1.2 and 8.2.2, calculated as a percentage of the Remuneration, will apply pro-rata. If the Engagement is extended beyond the initial fixed term or if the Hirer re-engages the Agency Worker within 3 months of the termination of the first Engagement the Hirer shall be liable to pay a further fee based on the additional Remuneration applicable for the period of Engagement following the initial fixed term up to the termination of the second Engagement or the first anniversary of its commencement, whichever is sooner.
- 8.4 In the event that the Agency Worker is introduced by the Hirer to a third party which results in the Engagement of the Agency Worker by the third party within the Relevant Period the Hirer shall be liable to pay a Transfer Fee calculated as follows: 15% of the Remuneration applicable during the first 12 months of the Engagement or, if the actual amount of the Remuneration is not known, the hourly charges referred to in clause 4.1 multiplied by 300. No refund of the Transfer Fee will be paid in the event that the Engagement subsequently terminates. VAT is payable in addition to any fee due.
- 9 Liability**
- 9.1 Whilst every effort is made by the Employment Business to give satisfaction to the Hirer by ensuring reasonable standards of skills, integrity and reliability from Agency Workers and further to provide them in accordance with the Hirer's booking details, the Employment Business is not liable for any loss, expense, damage or delay arising from any failure to provide any Agency Worker for all or part of the period of booking or from the negligence, dishonesty, misconduct or lack of skill of the Agency Worker. For the avoidance of doubt, the Employment Business does not exclude liability for death or personal injury arising from its own negligence.
- 9.2 Agency Workers supplied by the Employment Business are not the employees of the Employment Business but are deemed to be under the supervision and direction control of the Hirer from the time they report to take up duties and for the duration of the Assignment. The Hirer agrees to be responsible for all acts, errors or omissions of the Agency Worker, whether wilful, negligent or otherwise as though the Agency

Worker was on the payroll of the Hirer. The Hirer will also comply in all respects with all statutes including, for the avoidance of doubt, the Working Time Regulations, Health and Safety At Work Act etc, by-laws, codes of practice and legal requirements to which the Hirer is ordinarily subject in respect of the Hirer's own staff (excluding the matters specifically mentioned in clause 7 above), including in particular the provision of adequate Employer's and Public Liability Insurance cover for the Agency Worker during all Assignments.

- 9.3 The Hirer shall advise the Employment Business of any special health and safety matters about which the Employment Business is required to inform the Agency Worker and about any requirements imposed by law or by any professional body, which must be satisfied if the Agency Worker is to fill the Assignment. The Hirer will assist the Employment Business in complying with the Employment Business' duties under the Working Time Regulations by supplying any relevant information about the Assignment requested by the Employment Business and the Hirer will not do anything to cause the Employment Business to be in breach of its obligations under these Regulations. Where the Hirer requires or may require the services of a Agency Worker for more than 48 hours in any week, the Hirer must notify the Employment Business of this requirement before the commencement of that week.
- 9.4 The Hirer undertakes that it knows of no reason why it would be detrimental to the interests of the Agency Worker for the Agency Worker to fill the Assignment.
- 9.5 The Hirer shall indemnify and keep indemnified the Employment Business against any costs, claims or liabilities incurred by the Employment Business arising out of any Assignment or arising out of any non-compliance with clauses 9.2 and 9.3 and/or as a result of any breach of these Terms by the Hirer.
- 9.6 The Hirer shall inform the Employment Business in writing of any Claim which comes to the notice of the Hirer as soon as possible but no later than seven calendar days from the day on which any such Claim comes to the notice of the Hirer.
- 9.7 If the Agency Worker brings, or threatens to bring, any Claim, the Hirer undertakes to take such action and give such information and assistance as the Employment Business may request, and within any timeframe requested by the Employment Business and at the Hirer's own cost, to avoid, dispute, resist, mitigate, compromise or defend any such Claim and to appeal against any judgment given in respect thereof.

10 **Special Situations**

- 10.1 Where the Agency Worker is required by law, or any professional body to have any qualifications or authorisations to work on the Assignment or the Assignment involves caring for or attending one of more persons under the age of eighteen or any person who by reason of age, infirmity or who is otherwise in need of care or attention, the Employment Business will take all reasonably practicable steps to obtain and offer to provide copies of any relevant qualifications or authorisations of the Agency Worker, two references from persons not related to the Agency Worker who have agreed that the references they provide may be disclosed to the Hirer and has taken all reasonably practicable steps to confirm that the Agency Worker is suitable for the Assignment. If the Employment Business is unable to do any of the above it shall inform the Hirer of the steps it has taken to obtain this information in any event.

11 **Termination**

- 11.1 The Hirer undertakes to supervise the Agency Worker sufficiently to ensure the Hirer's satisfaction with the Agency Worker's standards of workmanship. If the Hirer reasonably considers that the services of the Agency Worker are unsatisfactory, the Hirer may terminate the Assignment either by instructing the Agency Worker to leave the Assignment immediately, or by directing the Employment Business to remove the Agency Worker. The Employment Business may, in such circumstances, reduce or cancel the charges for the time worked by that Agency Worker, provided that the Assignment terminates:
- 11.1.1 within eight hours of the Agency Worker commencing the Assignment where the booking is for more than eight hours; or
- 11.1.2 within two hours for bookings of seven hours or less and also provided that notification of the unsuitability of the Agency Worker is confirmed in writing to the Employment Business within 48 hours of the termination of the Assignment.
- 11.2 Any of the Hirer, the Employment Business or the Agency Worker may terminate an Assignment at any time without prior notice and without liability.
- 11.3 The Hirer shall notify the Employment Business immediately and without delay and in any event within 24 hours if the Agency Worker fails to attend work or notifies the Hirer that the Agency Worker is unable to attend work for any reason.
- 11.4 The Employment Business shall notify the Hirer immediately if it receives or otherwise obtains information which gives it reasonable grounds to believe that a Agency Worker supplied to the Hirer is unsuitable for the Assignment and shall terminate the Assignment under the provisions of clause 11.2.

12 **Law**

- 12.1 These terms are governed by the law of England & Wales and are subject to the exclusive jurisdiction of the Courts of England & Wales.

SCHEDULE

COMPARABLE EMPLOYEE

"Comparable Employee" is defined in Regulation 5(4) of the AWR being an employee of the Hirer who:

- (a) works for and under the supervision of the Hirer and is engaged in the same or broadly similar work as the Agency Worker having regard, where relevant, to whether the employee and the Agency Worker have a similar level of qualification and skill; and
- (b) works or is based at the same establishment as the Agency Worker or, where there is no comparable employee working or based at that establishment who satisfies the requirements of (a) above, works or is based at a different establishment and satisfies those requirements.

QUALIFYING PERIOD

For the purpose of the definition of "Qualifying Period" in clause 1.1 of these terms, when calculating whether any weeks completed with the Hirer count as continuous towards the Qualifying Period, where:

- (a) the Agency Worker has started working during an assignment and there is a break, either between assignments or during an assignment, when the Agency Worker is not working;
- (b) the break is:
 - (i) for any reason and not more than six Calendar Weeks;
 - (ii) wholly due to the fact that the Agency Worker is incapable of working in consequence of sickness or injury and the break is 28 Calendar Weeks or less; paragraph (iii) does not apply; and, if required to do so by the Employment Business, the Agency Worker has provided such written medical evidence as may reasonably be required;
 - (iii) related to pregnancy, childbirth or maternity and is at a time in a protected period, being a period beginning at the start of the pregnancy and ending at the end of the 26 weeks beginning with childbirth (being the birth of a living child or the birth of a child whether living or dead after 24 weeks of pregnancy) or, if earlier, when the Agency Worker returns to work;
 - (iv) wholly for the purpose of taking time off or leave, whether statutory or contractual, to which the Agency Worker is otherwise entitled which is:
 - i. ordinary, compulsory or additional maternity leave;
 - ii. ordinary or additional adoption leave;
 - iii. ordinary or additional paternity leave;
 - iv. time off or other leave not listed in paragraphs (iv)i, ii, or iii above; or
 - v. for more than one of the reasons listed in paragraphs (iv)i, ii, iii to iv above;
 - (v) wholly due to the fact that the Agency Worker is required to attend at any place in pursuance to being summoned for service as a juror and the break is 28 Calendar Weeks or less;
 - (vi) wholly due to a temporary cessation in the Hirer's requirement for any worker to be present at the establishment and work in a particular role for a pre-determined period of time according to the established custom and practices of the Hirer;
 - (vii) wholly due to a strike, lock-out or other industrial action at the Hirer's establishment; or
 - (viii) wholly due to more than one of the reasons listed in paragraphs (ii), (iii), (iv), (v), (vi) or (vii); and

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

TEMPORARY WORK AGENCY

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

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

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

Signed: _____

Date: _____

Print Name: _____

Job Title: _____

Company Name: _____

Company Registration Number:
(required) _____

Please tick this box if you do not want Thorn Baker to use any of the details of your assignments to form confidential adverts to attract candidates to Thorn Baker. []

CLIENT TERMS OF BUSINESS FOR THE INTRODUCTION OF PERMANENT STAFF

1. DEFINITIONS

1.1 In these Terms of Business the following definitions apply:

"Applicant"

means the person introduced by the Agency to the Client for an Engagement including any officer or employee of the Applicant if the Applicant is a limited company and members of the Agency's own staff;

"Client"

means the person, firm or corporate body together with any subsidiary or associated Company as defined by the Companies Act 1985 to which the Applicant is introduced;

"Agency"

means Thorn Baker Limited.

"Engagement"

means the engagement, employment or use of the Applicant by the Client or any third party on a permanent or temporary basis, whether under a contract of service or for services; under an agency, licence, franchise or partnership agreement; or any other engagement; directly or through a limited company of which the Applicant is an officer or employee

"Introduction"

means (i) the Client's interview of an Applicant in person or by telephone, or (ii) the passing to the Client of a curriculum vitae or information which identifies the Applicant; and which leads to an Engagement of that Applicant;

"Remuneration"

includes base salary or fees, guaranteed and/or anticipated bonus and commission earnings, allowances, inducement payments, the benefit of a company car and all other payments and taxable (and, where applicable, non-taxable) emoluments payable to or receivable by the Applicant for services rendered to or on behalf of the Client.

1.2 Unless the context requires otherwise, references to the singular include the plural.

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

2. THE CONTRACT

- 2.1 These Terms constitute the contract between the Agency and the Client and are deemed to be accepted by the Client by virtue of an Introduction to, or the Engagement of an Applicant or the passing of any information about the Applicant to any third party following an Introduction.
- 2.2 These terms contain the entire agreement between the parties and unless otherwise agreed in writing by a Director of the Agency, these Terms of Business prevail over any other terms of business or purchase conditions put forward by the Client.
- 2.3 No variation or alteration to these Terms shall be valid unless the details of such variation are agreed between the Agency and the Client and are set out in writing and a copy of the varied terms is given to the Client stating the date on or after which such varied terms shall apply.

3. NOTIFICATION AND FEES

3.1 The Client agrees:

- a) To notify the Agency immediately of any offer of an Engagement which it makes to the Applicant. Should such notification not be received in writing within 7 days of the Applicant's Engagement any alteration to our normal fee scales will not apply;
- b) To notify the Agency immediately that its offer of an Engagement to the Applicant has been accepted and to provide details of the Remuneration to the Agency; and;
- c) To pay the Agency's fee within 21 days of the date of invoice. Should no such payment be received within 21 days any alteration to our normal fee scales will not apply.

3.2 Except in the circumstances set out in clause 5.1 below, no fee is incurred by the Client until the Applicant commences the Engagement when the Agency will render an invoice to the Client for its fees.

3.3 The Agency reserves the right to charge interest on invoiced amounts unpaid for more than 21 days at the rate of 8% per annum above the base rate from time to time of the Bank of England from the due date until the date of payment

3.4 The fee payable to the Agency by the Client for an Introduction resulting in an Engagement is the amount equal to the following % of the Remuneration applicable during the first 12 months of the Engagement as listed below. VAT will be charged on the fee if applicable.

<u>Total Annual Salary</u>	<u>% Charge</u>
£0 - £9999	16
£10000 - £14999	18
£15000 - £19999	20
£20000 - £29999	25
£30000 +	30

- 3.5 In the event that the Engagement is for a fixed term of less than 12 months, the fee in clause 3.4 will apply pro-rata. If the Engagement is extended beyond the initial fixed term or if the Client re-engages the Applicant within 6 calendar months from the date of termination of the first Engagement the Client shall be liable to pay a further fee based on the additional Remuneration applicable for the period of Engagement following the initial fixed term up to the termination of the second Engagement or the first anniversary of its commencement, whichever is the sooner.
- 3.6 If the Client subsequently engages or re-engages the Applicant within the period of 6 calendar months from the date of termination of the Engagement or withdrawal of the offer, a full fee calculated in accordance with clause 3.4 above becomes payable.

4. REFUNDS

- 4.1 In order to qualify for the following refund, the Client must pay the Agency's fee within 21 days of the date of invoice and must notify the Agency in writing of the termination of the Engagement within 7 days of its termination.

If the Engagement terminates before the expiry of 8 weeks from the commencement of the Engagement (except where the Applicant is made redundant) the fee will be refunded in accordance with the accompanying Scale of Refund set out below:

Period of employment	% of refund
Up to 2 weeks	100
Not exceeding 3 weeks	60
Not exceeding 4 weeks	40
Not exceeding 5 weeks	30
Not exceeding 6 weeks	20
Not exceeding 7 weeks	10
Not exceeding 8 weeks	5

- 4.2 In circumstances where clause 3.6 applies the full fee stated in clause 3.4 is payable and there shall be no entitlement to a refund.

5. INTRODUCTIONS

- 5.1 Introductions of Applicants are confidential. The disclosure by the Client to a third party of any details regarding an Applicant introduced by the Agency which results in an Engagement with that third party within 6 months of the Introduction renders the Client liable to payment of the Agency's fee as set out in clause 3.4 with no entitlement to any refund.
- 5.2 An introduction fee calculated in accordance with clause 3.4 will be charged in relation to any Applicant engaged as a consequence of or resulting from an introduction by or through the Agency, whether direct or indirect, within 6 months from the date of the Agency's Introduction.
- 5.3 Where the amount of the actual Remuneration is not known the Agency will charge a fee calculated in accordance with clause 3.4 on the minimum level of remuneration applicable for the position in which the Applicant has been engaged with regard to any information supplied to the Agency by the Client and/or comparable positions in the market generally for such positions.

6. SUITABILITY AND REFERENCES

- 6.1 The Agency endeavours to ensure the suitability of any Applicant introduced to the Client by checking that the Applicant has the experience, training, qualifications which may be required by law or by any professional body; and that the Applicant is willing to work in the position which the Client seeks to fill.
- 6.2 At the same time as proposing an Applicant to the Client the Agency shall inform the Client of such matters in clause 6.1 as they have obtained confirmation of. 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.
- 6.3 The Agency endeavours to take all such steps as are reasonably practicable to ensure that the Client and Applicant are aware of any requirements imposed by law or any professional body to enable the Applicant to work in the position which the Client seeks to fill.
- 6.4 The Agency endeavours to take all such steps as are reasonably practicable to ensure that it would not be detrimental to the interests of either the Client or the Applicant for the Applicant to work in the position which the Client seeks to fill.
- 6.5 Notwithstanding clauses 6.1, 6.2, 6.3 and 6.4 above the Client shall satisfy itself as to the suitability of the Applicant and the Client shall take up any references provided by the Applicant to it or the Agency before engaging such Applicant. The Client is responsible for obtaining work permits and/or such other permission to work as may be required, for the arrangement of medical examinations and/or investigations into the medical history of any Applicant, and satisfying any medical and other requirements, qualifications or permission required by law of the country in which the Applicant is engaged to work.
- 6.6 To enable the Agency to comply with its obligations under clauses 6.1, 6.2, 6.3 and 6.4 above the Client undertakes to provide to the Agency details of the position which the Client seeks to fill, including the type of work that the Applicant would be required to do; the location and hours of work; the experience, training, qualifications and any authorisation which the Client considers necessary or which are required by law or any professional body for the Applicant to possess in order to work in the position; and any risks to health or safety known to the Client and what steps the Client has taken to prevent or control such risks. In addition the Client shall provide details of the date the Client requires the Applicant to commence, the duration or likely duration of the work; the minimum rate of remuneration, expenses and any other benefits that would be offered; the intervals of payment of remuneration and the length of notice that the Applicant would be entitled to give and receive to terminate the employment with the Client.

7. SPECIAL SITUATIONS

- 7.1 Where the Applicant is required by law, or any professional body to have any qualifications or authorisations to work in the position which the Client seeks to fill; or the work involves caring for or attending one or more persons under the age of eighteen, or any person who by reason of age, infirmity or who is otherwise in need of care or attention, the Agency will take all reasonably practicable steps to obtain and offer to provide copies of any relevant qualifications or authorisations of the Applicant, two references from persons not related to the Applicant who have agreed that the references they provide may be disclosed to the Client and has taken all reasonably practicable steps to confirm that the Applicant is suitable for the position. If the Agency is unable to do any of the above it shall inform the Client of the steps it has taken to obtain this information in any event.

8. LIABILITY

- 8.1 The Agency shall not be liable under any circumstances for any loss, expense, damage, delay, costs or compensation (whether direct, indirect or consequential) which may be suffered or incurred by the Client arising from or in any way connected with the Agency seeking an Applicant for the Client or from the Introduction to or Engagement of any Applicant by the Client or from the failure of the Agency to introduce any Applicant. For the avoidance of doubt, the Agency does not exclude liability for death or personal injury arising from its own negligence.

9. LAW

- 9.1 These Terms are governed by the law of England & Wales and are subject to the exclusive jurisdiction of the Courts of England & Wales.

Please tick this box if you do not wish Thorn Baker to confidentially use any of the details of your vacancy within our own adverts to attract candidates to Thorn Baker Ltd. [☐]

Signed:

Date:

Print Name:

Job Title:

Company Name:

Company Registration Number:
(required)