

TEMPORARY RECRUITMENT TERMS

INTRODUCTION & ENGAGEMENT OF TEMPORARY WORKERS

(1) [ENTER NAME OF CLIENT], and;

(2) Nation Medical Ltd

Dated: [INSERT DATE]



Parties

- (1) **FULL COMPANY NAME** incorporated and registered in England and Wales with company number **NUMBER** whose registered office is at **REGISTERED OFFICE ADDRESS** (the “Client”)
- (2) Nation Medical Limited incorporated and registered in England and Wales with company number 12963204 whose registered office is at Kemp House 160 City Road, London, EC1V 2NX (the “Agency”)

TERMS AND CONDITIONS

1. Interpretation

1.1 In these Terms and Conditions, the following definitions apply:

Agency: means the employment business providing temporary workers to the Client, identified above as the second party to this Agreement;

Agency Worker: means an agency worker as defined in Regulation 3 of the AWR 2010;

Agreement: the agreement containing these Terms and Conditions;

Assignment Schedule: means the description or specification of the services to be performed or work to be carried out by the Temporary Worker for or on behalf of the Client and the term **Assignment** shall be construed accordingly;

AWR 2010: means the Agency Workers Regulations 2010;

Claims: all demands, claims, proceedings, penalties, fines and liability (whether criminal or civil, in contract, tort or otherwise);

Client: means the end client (i.e., the deemed employer by default in arrangements that fall within IR35), identified above as the first party to this Agreement;

Commencement Date: has the meaning set out in clause 2.3;

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

Consultancy: means the Consultant’s Personal Service Company;

Consultant: means an individual providing their services;

Engage(s) (or Engagement or Engaged): the employment or engagement, hire or other use, directly or indirectly and whether under a contract of service or contract for services, and whether on a permanent or temporary basis, of a Temporary Worker by or on behalf of the Client;

Fee(s): the fees payable by the Client to the Agency resulting from the Engagement of one or more Temporary Worker(s) as set out under clause 4 of this Agreement;

Group Company: means, in relation to a company, that company, any subsidiary or holding company of that company and any subsidiary of a holding company.

Introduce (or Introduction): the provision to the Client of a curriculum vitae or any other details, whether written or oral, of a Temporary Worker, whether or not the Client had knowledge of that Temporary Worker before the Introduction;

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

IR35 Legislation: means Section 48 – 61X of ITEPA 2003 (as amended from 6 April 2021);

Losses: all losses including financial losses, damages, legal costs and other expenses of any nature whatsoever.

Parties: the Agency and the Client, and ‘Party’ will mean either one of them;

Period of Extended Hire: (for the purposes of the Conduct Regulations) an additional period that the Client wishes a Temporary Worker to be supplied beyond the duration of the original Assignment or series of Assignments by an extension of 20 weeks, instead of paying a Transfer Fee;

Recruitment Services: the supply to the Client by the Agency of Temporary Workers for vacancies of which the Client has notified the Agency, or the search of Temporary Workers for vacancies that the Client has notified to the Agency and the Introduction of them to the Client by the Agency;

Relevant Period: means (for the purposes of the Conduct Regulations) whichever ends the later of (a) the period of eight weeks commencing on the day after the last day on which a Temporary Worker worked for the Client having been supplied by the Agency; or (b) the period of 14 weeks commencing on the first day on which a Temporary Worker worked for the Client having being supplied by the Agency or 14 weeks from the first day of the most recent Assignment where there has been a break of more than six weeks (42 days) since any previous Assignment;

Remuneration: includes gross base salary or fees, guaranteed and/or anticipated bonus and commission earnings, allowances, inducement payments, a notional amount in respect of the benefit of a company car and all other payments and taxable (and, where applicable, non-taxable) emoluments payable to or receivable by the Temporary Worker for services provided to or on behalf of the Client or any third party;

Supplier: any individual, limited company, partnership or similar entity which engages with and provides the services of Temporary Workers to the Agency;

Temporary Worker: any employees, workers, hired assistants, agents, subcontractors, or Consultancy Introduced or supplied by the Agency to the Client for the purposes of carrying out work for the Client;

Terms and Conditions: means these terms and conditions as amended from time to time in accordance with clause 15.2; and

Transfer Fee: means the fee payable by the Client to the Agency pursuant to clause 5.

2. **Acceptance of Terms and Conditions**

2.1 These Terms and Conditions govern the terms of the Agreement between the Parties in respect of any supply of Temporary Workers by the Agency under any Assignment and/or the Introduction of any Temporary Worker for any position.

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

2.3 The Client will be deemed to have accepted and agreed to these Terms and Conditions, which will prevail over any other terms put forward by the Client, when any of the following events occurs:

(a) In respect of any Assignment:

- (i) the Client requests the Agency to supply a Temporary Worker for any Assignment;
- (ii) the Agency supplies a Temporary Worker to the Client; or
- (iii) a Temporary Worker begins an Assignment for the Client,

at which point and on which date the Agreement shall come into existence (**Commencement Date**).

(b) In respect of any Introduction:

- (i) the Client requests the Agency to Introduce a Temporary Worker for any position;
- (ii) the Client, or a third party acting on the Client's behalf, interviews a Temporary Worker;
- (iii) the Client Engages a Temporary Worker in any capacity;
- (iv) a Temporary Worker begins work for the Client in any capacity; or
- (v) the Agency provides any of the Recruitment Services to the Client,

at which point and on which date the Agreement shall come into existence (**Commencement Date**).

3. **Recruitment Services**

3.1 The Agency will provide the Recruitment Services to the Client in consideration of the Client paying the Fees to the Agency, subject to these Terms and Conditions.

3.2 The Agency will use reasonable endeavours to Introduce or supply (as applicable) to the Client Temporary Workers suitable to carry out work of such nature as the Client notifies to the Agency. The Agency does not warrant, represent or undertake to find a suitable Temporary Worker for each vacancy notified to it by the Client.

3.3 The Agency actively promotes equality of opportunity for all, and seeks to prevent unlawful discrimination because of age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex and/or sexual orientation.

3.4 If the Client breaches any of these Terms and Conditions, the Agency reserves the right to withdraw, without notice, any Temporary Workers supplied without incurring any liability to the Client.

3.5 If more than one agency submits details of the same Temporary Worker to the Client, the agency which first submitted the details will be deemed to have Introduced the Temporary Worker to the Client. No subsequent submission of the same Temporary Worker's detail will be deemed as a valid Introduction, and if the Client Engages that Temporary Worker in any capacity, no fees will be payable to any agency other than the first to submit the Temporary Worker's details.

3.6 By requesting the Agency to Introduce Temporary Workers for a vacancy, the Client authorises the Agency to advertise such a vacancy and by making such a request the Agency is deemed to have the Client's consent to use the Client's name in any such adverts, unless the Agency is informed otherwise by the Client in writing.

4. **Fees and payment**

- 4.1 The Fees shall be agreed between the Parties in writing. The Client agrees to pay the Fees. VAT is payable at the applicable rate on the entirety of the Fees.
- 4.2 The Agency reserves the right to vary the Fees with the Client, by giving written notice to the Client:
- (a) In order to comply with any additional liability imposed by statute or other legal requirement or entitlement, including but not limited to the Agency Workers Regulations 2010, Apprenticeship Levy, Income Tax (Earnings & Pensions) Act 2003, the NICs Legislation and the Pensions Act 2003; or
 - (b) If there is any variation in the Agreement.
- 4.3 The Agency will invoice the Client on a weekly basis. The Client will pay the Fee within 30 days of receipt of a valid Invoice (the "Payment Term").
- 4.4 The Agency shall not give any refund or rebate in respect of the Fees and the Client shall pay the Fees due under this clause 4, and has no right to set-off, deduct or withhold any sums due.
- 4.5 If an invoice is not paid within the Payment Term, the Agency may:
- (a) Terminate the supply of Temporary Workers to the Client without notice;
 - (b) Charge interest under the Late Payment of Commercial Debts (Interest) Act 1998 on invoiced amounts unpaid by the due date at the rate of 8% per annum above the base rate of the Bank of England from the due date until the date of payment; and
 - (c) Refer the collection of such payment to its legal representatives and, in such circumstances, the Client shall be liable for all costs, fees (including legal fees on an indemnity basis), charges and disbursements incurred by the Agency in recovering payment from the Client.
5. Transfer Fees
- 5.1 The Client shall pay the Agency a Transfer Fee where the Agency Introduces a Temporary Worker to the Client and the Client either:
- (a) Engages the Temporary Worker directly or through another agency; or
 - (b) Introduces the Temporary Worker to a third party (including any member of the Client's Group Company) and the third party Engages the Temporary Worker other than through the Agency either during the Assignment; and
 - (c) Engages the Temporary Worker within the Relevant Period, or if there was no supply, within 12 months of the Introduction of the Temporary Worker by the Agency to the Client.
- 5.2 The Transfer Fee shall be the sum equivalent to 20% of the Remuneration payable to the Temporary Worker during the first 12 months of the Engagement or that would be payable if the Engagement were to last 12 months.
- 5.3 If the Remuneration is not disclosed to the Agency or if it is impracticable to calculate the Remuneration, the Transfer Fee shall be the hourly Fee at which the Temporary Worker was (or would have been) supplied to the Client multiplied by 360.
- 5.4 If the Client wishes to Engage the Temporary Worker other than through the Agency, but without liability to pay a Transfer Fee, the Client may, on giving one week's written notice to the Agency, engage the relevant Temporary Worker for the Period of Extended Hire, commencing on the date on which such written notice expires.
- 5.5 During the Period of Extended Hire, the Agency shall supply a Temporary Worker on the same terms on which it has or would have been supplied during the Assignment and in any case, on terms no less favourable than those terms which applied immediately before the Agency received the notice in clause 5.4 and the Client shall continue to pay the agreed Fees. If the Agency is unable to supply a Temporary Worker for any reason outside its control for the whole or any part of the Period of Extended Hire, or the Client does not wish to hire the Temporary Worker on the same terms as the Assignment, but a Temporary Worker is Engaged by the Client, the Client shall pay the Transfer Fee, reduced pro-rata to reflect any Fees paid by the Client during any part of the Period of Extended Hire worked by the Temporary Worker before being Engaged by the Client. If the Client does not give the Agency notice of its intention to Engage a Temporary Worker other than via the Agency before the Engagement takes place, the Parties agree that the Transfer Fee shall be due in full.
- 5.6 Where, before the start of the Client's Engagement of a Temporary Worker other than through the Agency, the Agency and the Client agree that such Engagement will be on the basis of a fixed term of less than 12 months, the Agency may, in its absolute discretion, reduce the Transfer Fee as calculated in accordance with clause 5.2. Such reduction is subject to the Client Engaging the Temporary Worker for the agreed fixed term. Should the Client extend the Temporary Worker's Engagement or re-Engage the Temporary Worker within 12 months from the commencement of the initial Engagement the Agency reserves the right to recover the balance of the Transfer Fee.

- 5.7 The Agency will not refund the Transfer Fee if the Engagement of the Temporary Worker whether by the Client or a third party to which the Client introduces the Temporary Worker, subsequently terminates or terminates before the end of the fixed term referred to in clause 5.6.
- 5.8 VAT is payable at the applicable rate in addition to any Transfer Fee due.
- 5.9 The rights and obligations in relation to the Transfer Fee, as set out in this clause 5 will survive termination of this Agreement.
6. **Client's obligations and acknowledgements**
- 6.1 When requesting the Agency to supply Temporary Workers under any Assignment, the Client will:
- (a) specify its exact requirements by providing full details of the work for which the Temporary Worker is required and, in particular, by notifying the Agency when placing the order of:
 - (i) any special skills required for such work;
 - (ii) any special health and safety matters about which the Agency is obliged to inform the Temporary Worker; and
 - (iii) any requirements imposed by law or by any professional body, in particular the General Medical Council and the Care Quality Commission, which must be satisfied if the Temporary Worker is to fill the Assignment;
 - (b) not allow any Temporary Worker to undertake any work other than that which has been notified to the Agency by the Client in placing the order for that Temporary Worker in accordance with clause 6.1(a);
 - (c) verify at the beginning of the Assignment that the Temporary Workers are suitable for the purposes for which they are required and that they have the capability to carry out the work required, including the operation of any machinery or vehicles;
 - (d) be responsible for obtaining any certificate of sponsorship or permit that may be needed to enable the Temporary Worker to work in the United Kingdom and for ensuring that the Temporary Worker satisfies any medical requirements or other qualifications that may be appropriate or required by law.
- 6.2 When requesting the Agency to supply Temporary Workers under any Assignment, the Client acknowledges and agrees that:
- (a) any Temporary Worker supplied by the Agency to the Client may be engaged by the Agency under a contract of service, contract for services or engaged by a Supplier;
 - (b) where any Temporary Worker supplied by the Agency to the Client is engaged by a Supplier, the Client acknowledges and agrees that the Temporary Worker may be engaged by the Supplier under a contract of service or as a Consultancy engaged under a contract for services;
 - (c) any information regarding the nature of the Temporary Worker's engagement (i.e., whether any Temporary Worker supplied by the Agency to the Client is engaged under a contract of service, contract for services, or engaged by a Supplier under a contract of service or as a Consultancy engaged under a contract for services) must be requested by the Client in writing by sending an email to [support@nationmedical.co.uk] ("the Nominated Email Address");
 - (d) pursuant to clause 6.2(c), the Client accepts and agrees that unless the Client sends an enquiry regarding the nature of a Temporary Worker's engagement to the Nominated Email Address, the Agency will treat the enquiry as not received;
 - (e) the Client is responsible for all acts, errors and omissions, whether willful, negligent or otherwise, of the Temporary Worker in respect of an Assignment;
 - (f) the Client will in all respects comply with all statutes, byelaws and other legal requirements and codes of practice to which the Client is ordinarily subject in respect of its own staff, including the Working Time Regulations 1998 and the Health and Safety at Work Act 1974;
 - (g) the Client will provide adequate employer's and public liability insurance cover for the Temporary Worker during all Assignments;
 - (h) if the Client reasonably considers the Temporary Worker to be unsatisfactory, it will make a complaint to the Agency by telephone and confirm it in writing within one day of the finding, but will not have the right to withhold from the Agency payment of any Fee due;
 - (i) the Client will at all times treat all Temporary Workers with due respect and dignity and in particular must take all steps within its control to avoid any unlawful discriminatory treatment of each of them;
 - (j) the Client will carry out all necessary risk assessments and provide a safe working environment for the Temporary Workers;
 - (k) where applicable, the Client will provide all necessary safety and personal protective equipment for the Temporary Workers to use during the Assignment;

- (l) the Client will maintain records of any accident or injury affecting the Temporary Workers and provide copies of such records to the Agency upon demand;
- (m) the Client will indemnify and keep indemnified the Agency for any claim arising out of or in connection with the death of personal injury of the Temporary Workers in the course of or as a result of an Assignment;
- (n) the Client undertakes not to require a Temporary Worker to perform the duties normally performed by a Temporary Worker who is taking part in official industrial action.

6.3 Where the Agency supplies a Temporary Worker to the Client, and that Temporary Worker is an Agency Worker, the Client must comply with the AWR 2010 and assist the Agency in complying with the same by, without limitation:

- (a) Notifying the Agency without delay if the Agency Worker has been supplied to the Client by any other company in the six-month period prior to commencement of the Assignment;
- (b) Providing the Agency Worker with access to collective facilities and amenities and information about permanent employment opportunities with the Client;
- (c) Where relevant, providing written details to the Agency of the relevant terms and conditions which apply to any actual or hypothetical comparator to the Agency Worker together with any amendments to such terms and conditions where appropriate;
- (d) Co-operating with the Agency in responding to or assisting the Agency with responding to any question or complaint made under the AWR 2010 in a timely manner;
- (e) Permitting a pregnant Agency Worker to attend ante-natal appointments, with pay, during working time after the 12-week qualifying period;
- (f) Carrying out a risk assessment in respect of any pregnant Agency Worker and making such adjustments to the Assignment as are necessary to protect the Agency Worker's health and wellbeing or, where necessary, identifying a suitable alternative Assignment within the Client's organisation for the Agency Worker to perform; and
- (g) Agreeing to a proportional increase in the Fees where necessary to ensure that the Agency Worker receives equal treatment in respect of all relevant terms and conditions after the 12-week qualifying period.

6.4 When requesting the Agency to Introduce Temporary Workers to the Client for a vacancy, the Client will:

- (a) provide the following information to the Agency:
 - (i) the Client's full corporate name, address and registered number, or (if it is not incorporated) its full business and trading name and address, and the nature of its business;
 - (ii) the nature of the vacancy, including the type of work involved, its location, the hours of work, the commencement date and the likely duration;
 - (iii) any risks to health and safety known to the Client and the steps taken by the Client to prevent or control such risks;
 - (iv) the experience, training, qualifications and any authorisations which are required by the Client, including any qualifications or authorisations required by law or any applicable professional body, including whether the Temporary Worker requires a DBS disclosure to carry out the Assignment;
 - (v) any expenses payable by or to the Temporary Worker;
 - (vi) the minimum rate of remuneration, the intervals of payment and any other benefits;
 - (vii) the length of notice to which the Temporary Worker would be entitled to receive or be required to give for termination of employment;
 - (viii) whether there are any reasons why it may be detrimental to the interests of the Temporary worker to carry out the Assignment;
 - (ix) whether the vacancy entails caring for or attending one or more vulnerable persons, including persons under the age of 18 and/or any person who by reason of age, infirmity, illness, disability or any other circumstance is in need of care or attention.
- (b) satisfy itself as to the suitability of any Temporary Worker for the vacancy for which the Temporary Worker has been Introduced. Without prejudice to the generality of the foregoing, the Client acknowledges and agrees that it is the Client's responsibility to:
 - (i) ensure, where appropriate, that the Temporary Worker is capable of operating any equipment or machinery to the necessary level;

- (ii) obtain any certificate of sponsorship or permit needed to enable the Temporary Worker to work in the United Kingdom; and
- (iii) ensure that the Temporary Worker satisfies any medical requirements or other qualifications that may be appropriate or required by law.
- (c) notify the Agency immediately on the occurrence of the first of the following events:
 - (i) a Temporary Worker accepts an offer of employment from the Client; or
 - (ii) the commencement of an Engagement by a Temporary Worker.

6.5 The Client will:

- (a) comply with all other obligations, duties and regulations, whether statutory or otherwise including those relating to the place, nature or system of work, in any way arising from or directly or indirectly connected with the services rendered by a Temporary Worker;
- (b) assist the Agency in complying with the Agency's duties under the Working Time Regulations 1998 by supplying any relevant information about the Assignment requested by the Agency; and
- (c) do nothing to cause the Agency to be in breach of its obligations under the Working Time Regulations 1998, and where the services of a Temporary Worker are required or may be required for more than 48 hours in any week, notify the Agency of this requirement before the commencement of that week.

6.6 The Client:

- (a) confirms that it is not aware of anything which will cause a detriment to the interests of the Temporary Worker or the Client if it Engages that Temporary Worker to fill a vacancy or in any Assignment; and
- (b) will inform the Agency immediately if it becomes aware of any circumstances which would render any Engagement or Assignment detrimental to the interests of the Temporary Worker or the Client.

7. **IR35**

7.1 This clause 7 only applies in circumstances where the Temporary Worker supplied by the Agency to the Client performs the Assignment as a Consultancy.

7.2 The Client acknowledges and agrees that where the Agency supplies a Consultancy to the Client, the Consultancy shall use its own initiative in how to carry out an Assignment and shall have full autonomy over how to carry out work of such nature as the Client notifies to the Agency and the Consultancy shall have the flexibility to arrange how said work is carried out.

7.3 The Client acknowledges and agrees that where the Agency supplies a Consultancy to the Client, the Client agrees that the Consultancy is free to use its own employees, operatives, substitutes, hired assistants, agents, or subcontractors (**Consultancy Staff**) to carry out an Assignment and the parties agree that the Client may only reject the Consultancy Staff where in the reasonable opinion of the Client such Consultancy Staff does not possess the necessary skills or qualifications to carry out work of such nature as the Client notifies to the Agency.

7.4 Where the Client issues a Status Determination Statement under Section 61NA ITEPA 2003, the Client agrees to notify [Prajval Colaco] ("the Nominated Person") and provide a copy of the Status Determination Statement to the Nominated Person by email to [SDS@nationmedical.co.uk]. The Client accepts that unless notification and a copy of the Status Determination Statement is given to the Nominated Person by email, the Client will not have given a Status Determination Statement to the Agency in accordance with Section 61N(8)(za) ITEPA 2003.

7.5 The Client agrees to provide the following information within 7 days of request by the Agency:

- (a) Whether or not any Status Determination Statements have been given to the Consultant
- (b) The dates on which any Status Determination Statements were given to the Consultant
- (c) Copies of any Status Determination Statements that were given to the Consultant

7.6 If any party makes representations to the Client that the conclusion mentioned in any Status Determination Statement is incorrect, the Client agrees to notify the Agency within 7 days of receipt of such representations. The Client agrees to provide the Agency with a copy of any response to such representations together with details of the date such representations were received, and the date of the response to such representations.

7.7 If HM Revenue & Customs notify the Client (whether verbally or in writing) that they intend to conduct any enquiries which may include matters relating to whether the IR35 Legislation applies to an Assignment, the Client agrees to notify the Agency without delay and in any case within 10 working days.

7.8 Where the IR35 Legislation applies to an Assignment and as a consequence the Agency is liable for Employer's Class 1 National Insurance and/or Apprenticeship Levy on a deemed direct payment to the Consultant, the Agency shall be entitled to increase the fee payable for the Assignment by an amount corresponding to the Agency's liability for Employer's Class 1 National Insurance Contributions and Apprenticeship Levy payable by the Agency to HM Revenue & Customs in relation to the Assignment.

- 7.9 The Client acknowledges and agrees that any Temporary Worker supplied by the Agency to the Client may, in accordance with clause 6.2(b), include a Consultancy engaged by a Supplier. It is the responsibility of the Client to enquire if the Temporary Worker supplied by the Agency is a Consultancy and, if so, issue a Status Determination Statement in accordance with clause 7.4. For the avoidance of doubt, unless and until a Status Determination Statement has been issued by the Client in relation to a Consultancy which instructs otherwise, the Client acknowledges and accepts that the Consultancy shall be paid on the basis that the IR35 Legislation does not apply to the Consultancy. The parties agree that any enquiry with regard to whether a Temporary Worker is engaged by a Supplier as a Consultancy must be made in accordance with clauses 6.2(c) and 6.2(d).
- 7.10 The Client warrants that all information provided to the Agency shall be, to the best of the Client's belief, accurate and complete.
8. **Timesheets**
- 8.1 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 Client shall approve and sign the Agency's time sheet for each Temporary Worker verifying the number of hours worked by that Temporary Worker during that week. Time sheets may be approved by email or online.
- 8.2 Unless specific signatories of time sheets are notified to the Agency, in advance in writing, the person signing the time sheets on the Client's behalf shall be deemed duly authorised to do so. The Client undertakes to check the time sheet before the Client signs it and in the event that any lunch breaks or bank holidays are signed for, the Fees in respect of this must be paid.
- 8.3 The Client's signature on the time sheet will be confirmation of the number of hours worked. If the Client does not sign the time sheet because it disputes the number of hours claimed, the Client will inform the Agency as soon as reasonably practicable and will co-operate fully and promptly with the Agency to establish what hours, if any, were worked by the Temporary Worker. Any failure by the Client to sign the time sheet will not absolve the Client's obligation to pay the Fees in respect of the hours worked by the Temporary Worker.
- 8.4 The parties agree that the receipt of a time sheet signed by the Client shall be deemed conclusive evidence that the Client:
- (a) is satisfied with the work done by the Temporary Worker;
 - (b) agrees to and accepts these Terms and Conditions; and
 - (c) agrees to pay the Fees in accordance with clause 4 in full and without dispute or deduction.
- 8.5 The Client will not be entitled to decline to sign a time sheet on the grounds that it is dissatisfied with the Temporary Worker's work. Where the Client is dissatisfied with the work, the Client agrees it will not absolve the Client's obligation to pay the Fees in respect of the hours worked by the Temporary Worker.
9. **Termination of an Assignment**
- 9.1 Subject to clauses 9.2, 9.3 and 9.4, either party may terminate an Assignment at any time by giving the notice specified in the Assignment Schedule or, if no period or notice is specified, at any time without notice.
- 9.2 Irrespective of any notice period specified in the Assignment Schedule, either party may terminate an Assignment without notice if the other party has committed a serious or persistent breach of its obligations under these Terms, if the other party undergoes a change of control or becomes insolvent.
- 9.3 The Agency may terminate an Assignment without notice if it becomes aware of any reason why the Temporary Worker is unsuitable to carry out the Assignment.
- 9.4 The Agency shall not be liable if the Temporary Worker fails to give the agreed notice, if any, upon terminating the Assignment.
- 9.5 If the Client terminates an Assignment in circumstances which would require the Agency to provide information to the Disclosure and Barring Service (or the equivalent authority) under the Safeguarding Vulnerable Groups Act 2006 or the Protecting Vulnerable Groups (Scotland) Act 2007, the Client will provide sufficient information to the Agency to allow the Agency to discharge any statutory obligations to which it may be subject.
10. **Confidentiality**
- 10.1 All Introductions are confidential. All work undertaken by the Agency for the Client in respect of the Introduction of a Temporary Worker to the Client will be for the private and confidential use of the Client only and should not be reproduced in whole or in part or relied upon by third parties for any use whatsoever, without the express written authority of the Agency.
- 10.2 Each Party ('Receiving Party') will keep the confidential information of the other Party ('Supplying Party') confidential and secret, whether disclosed to or received by the Receiving Party. The Receiving Party will only use the confidential information of the Supplying Party for the purpose of and for performing the Receiving Party's obligations under this Agreement. The Receiving Party will inform its officers, employees, and agents of the Receiving Party's obligations under the provisions of this clause 10.2, and ensure that the Receiving Party's officers, employees, and agents meet the obligations.
- 10.3 The obligations of clause 10.2 will not apply to any information which:

- (a) was known to or in the possession of the Receiving Party before it was provided to the Receiving Party by the Supplying Party;
- (b) is, or becomes, publicly available through no fault of the Receiving Party;
- (c) is provided to the Receiving Party without restriction or disclosure by a third party, who did not breach any confidentiality obligations by making such a disclosure;
- (d) was developed by the Receiving Party, or on its behalf by a third party who had no direct access to, or use or knowledge of the confidential information supplied by the Supplying Party; or
- (e) is required to be disclosed by order of a court of competent jurisdiction.

10.4 The obligations set out in this clause will survive termination of this Agreement.

11. **Data protection**

11.1 The parties will comply with their respective obligations under the UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018 or other applicable data protection legislation.

12. **Warranties, liability and indemnities**

12.1 While the Agency will make reasonable efforts to ensure reasonable standards of skills, integrity, and reliability in Temporary Workers and to comply with the Client's requirements, the Client accepts and agrees that the Agency gives no warranty as to the suitability of any Temporary Worker for any Assignment or vacancy.

12.2 The Client acknowledges that Assignments are agreed in good faith by the Agency, but the arrival of Temporary Workers at the Client's premises (or location where the work is to be carried out under an Assignment) cannot be guaranteed by the Agency. The Agency accepts no liability for any Losses, damage, expense, or costs incurred or suffered by the Client through the delay or failure of any Temporary Worker in attending the Client's premises (or location where the work is to be carried out under an Assignment).

12.3 The Agency confirms that, in supplying any Temporary Worker to the Client, it is not aware of anything which will cause any detriment to the interests of that Temporary Worker or the Client if the Temporary Worker fulfils the Assignment.

12.4 Neither the Agency nor any of its staff will be liable to the Client for any Losses, injury, damage, expense or delay incurred or suffered by the Client arising directly or indirectly from or in any way connected with the Introduction or supply of a Temporary Worker to the Client or with any failure by the Agency to introduce or supply a Temporary Worker for all or part of any period booked by the Client (except that in the latter case the Client may be entitled to a reduction or cancellation of the Fee payable), unless such Losses, damages, costs or expenses are the direct result of the negligent acts or omissions of the Agency. In particular, but without limitation, the Agency will not be liable for any Losses, injury, damage, expense or delay arising from, or in any way connected with:

- (a) any failure of the Temporary Worker to meet the Client's requirements for all or any of the purposes for which the Temporary Worker is required by the Client; or
- (b) any act or omission of a Temporary Worker, whether willful, negligent, fraudulent, dishonest, reckless or otherwise;
- (c) any Losses, injury, damage, expense or delay suffered by a Temporary Worker.

12.5 Except in the case of death or personal injury caused by the Agency's negligence, the liability of the Agency under or in connection with this Agreement whether arising in contract, tort, negligence, breach of statutory duty or otherwise shall be limited to 10% of the Fee(s) paid or due to be paid by the Client to the Agency under this Agreement in relation to the relevant Temporary Worker in the three-month period immediately prior to such claim arising or, if there was no supply of a Temporary Worker or if the claim does not relate directly to the supply of Temporary Worker, the sum of £5,000.

12.6 Neither Party will be liable to the other Party in contract, tort, negligence, breach of statutory duty or otherwise for any Losses, damage, costs or expenses of any nature whatsoever incurred or suffered by that other Party of an indirect or consequential nature including any economic loss or other loss of turnover, profits, business or goodwill howsoever arising.

12.7 The Client will indemnify and keep indemnified and hold harmless the Agency from and against all Claims and Losses arising from loss, damage, liability, injury to the Agency, its employees and third parties, by reason of or arising out of:

- (a) any Losses, injury, expense or delay suffered or incurred by a Temporary Worker, however caused; and/or
- (b) any Losses, injury, damage, expense or delay suffered or incurred by anyone arising directly or indirectly from or in any way connected with the acts and omissions of a Temporary Worker, whether willful, negligent, fraudulent, dishonest, reckless or otherwise; and

- (c) any Losses, injury or delay suffered or incurred by the Agency as a result of any act or omission of the Client that arises directly or indirectly out of or is in any way connected with the relevant Assignment or Introduction, any information supplied by the Client to the Agency or the Client's breach of these Terms and Conditions.

12.8 Each of the Parties acknowledges that, in entering into this Agreement, it does not do so in reliance on any representation, warranty or other provision except as expressly provided in this Agreement, and any conditions, warranties or other terms implied by statute or common law are excluded from this Agreement to the fullest extent permitted by law. Nothing in this Agreement excludes liability for fraud.

13. **Termination of this Agreement**

13.1 Without prejudice to the other remedies or rights a Party may have, either Party may terminate this Agreement, at any time, by giving the other Party 3 months' written notice.

13.2 On termination of this Agreement, the Client will pay for all Recruitment Services provided up to the date of termination, and for all expenditure falling due for payment after the date of termination from commitments reasonably and necessarily incurred by the Agency for the performance of the Recruitment Services prior to the date of termination.

14. **Non-Solicitation**

14.1 If the Client makes an offer of employment or engagement to any employee of the Agency and the employee commences such employment or engagement within 3 months of leaving the Agency's employment, the Client shall pay to the Agency a fee, which shall be a sum equivalent to 20% of the employee's gross annualised remuneration in the last year of the employee's employment with the Agency.

15. **General**

15.1 **Force majeure:** Neither Party will have any liability under or be deemed to be in breach of this Agreement for any delays or failures in the performance of this Agreement which result from circumstances beyond the reasonable control of that Party. The Party affected by such circumstances will promptly notify the other Party in writing when such circumstances cause a delay or failure in the performance of this Agreement. If such circumstances continue for a continuous period of more than six months, either Party may terminate this Agreement by written notice to the other Party.

15.2 **Third Party:** The Agency may assign any monies owing from the Client to a third party including, without limitation, a recruitment finance or factoring company and, if relevant, the right to receive payment under this Agreement may be enforced by such third party.

15.3 **Amendments:** No amendment or variation of this Agreement will be valid unless confirmed as agreed, in writing, by an authorised signatory of each Party.

15.4 **Assignment and subcontracting:** Subject to the right set out in this clause, the Client may not assign, delegate, sub-contract, mortgage, charge or otherwise transfer any or all of its rights and obligations under this Agreement without the prior written agreement of the Agency. The Parties may, however, assign and transfer all its rights and obligations under this Agreement to any person to which it transfers all of its business, provided that the assignee undertakes in writing to the other Party to be bound by the obligations of the assignor under this Agreement. The Agency may sub-contract or delegate any of its obligations under this Agreement to any third party, agent or Supplier without the prior written consent of the Client.

15.5 **Entire agreement:** This Agreement contains the whole agreement between the Parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them. The Parties confirm that they have not entered into this Agreement on the basis of any representation that is not expressly incorporated into this Agreement. Nothing in this Agreement excludes liability for fraud.

15.6 **Waiver:** No failure or delay by the Agency in exercising any right, power or privilege under this Agreement will impair the same or operate as a waiver of the same nor will any single or partial exercise of any right, power or privilege preclude any further exercise of the same or the exercise of any other right, power or privilege. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights and remedies provided by law.

15.7 **Agency, partnership, etc:** This Agreement will not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in this Agreement. Neither Party will have, nor represent that it has, any authority to make any commitments on the other Party's behalf.

15.8 **Severance:** If any provision of this Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision will, to the extent required, be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement and will not in any way affect any other circumstances of or the validity or enforcement of this Agreement.

- 15.9 **Announcements:** No Party will issue or make any public announcement or disclose any information regarding this Agreement unless prior to such public announcement or disclosure it furnishes all the Parties with a copy of such announcement or information and obtains the approval of such persons to its terms. However, no Party will be prohibited from issuing or making any such public announcement or disclosing such information if it is necessary to do so to comply with any applicable law or the regulations of a recognised stock exchange.
- 15.10 **Interpretation:** In this Agreement unless the context otherwise requires:
- (a) words importing any gender include every gender;
 - (b) words importing the singular number include the plural number and vice versa;
 - (c) words importing persons include firms, companies and corporations and vice versa;
 - (d) references to numbered clauses and schedules are references to the relevant clause in or schedule to this Agreement;
 - (e) reference in any schedule to this Agreement to numbered paragraphs relate to the numbered paragraphs of that schedule;
 - (f) any obligation on any Party not to do or omit to do anything is to include an obligation not to allow that thing to be done or omitted to be done;
 - (g) the headings to the clauses and paragraphs of, and schedules to, this Agreement are not to affect the interpretation;
 - (h) any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment;
 - (i) any reference to 'writing' or 'written' includes faxes and e-mails; and
 - (j) where the word 'including' is used in this Agreement, it will be understood as meaning 'including without limitation'.
- 15.11 **Notices:** Any notice to be given under this Agreement must be in writing and sent by first class mail to the address of the relevant Party.
- 15.12 **Law and jurisdiction:** The validity, construction and performance of this Agreement is governed by English and Welsh law and will be subject to the exclusive jurisdiction of the English and Welsh courts to which the Parties submit.
- 15.13 **Third parties:** For the purposes of the Contracts (Rights of Third Parties) Act 1999 this Agreement is not intended to, and does not, give any person who is not a party to it any right to enforce any of its provisions.

SIGNED: DATE.....

FOR AND ON BEHALF OF NATION MEDICAL LTD

PRINT NAME:

CAPACITY:

SIGNED: DATE.....

FOR AND ON BEHALF OF THE CLIENT

PRINT NAME:

CAPACITY: