

**TERMS AND CONDITIONS OF BUSINESS FOR THE INTRODUCTION AND SUPPLY OF THE CONTRACTOR WORKERS, TEMPORARY AND/OR PERMANENT WORKERS TO THE CLIENT.**

**THIS AGREEMENT IS DATED**..... (THE COMMENCEMENT DATE)

**PARTIES**

(1) ..... of  
 ..... (Client)

(2) Solutions24 Ltd trading as CareService24 (Company Registration No: 7840106), of Beacon House, 15 Christchurch Road, Bournemouth, Dorset BH1 3LB (**Agent**)

**AGREED TERMS**

**1. INTERPRETATION**

1.1 The definitions and rules of interpretation in this clause apply to this Agreement.

- Actual Vacancies:** the Client's vacant positions.
- Agreement:** this contract between the Agent and the Client for the provision of the services and which incorporates each Notice of Fees and the Service User Guide supplied to the Client.
- Assignment:** shall have the meaning set out in clause 2.6
- Business Day:** a day other than a Saturday, Sunday or public holiday when banks in London are open for business.
- Commencement Date:** the date shown above.
- Contractor Worker:** a Worker Introduced and supplied by the Agent to the Client, who shall provide services to the Client as an independent contractor under a contract for services and not as an employee of the Client.
- Extended Assignment:** shall have the meaning set out in clause 5.3.
- Introduce:** the provision to the Client of information by the Agent which identifies the Worker.
- Introduction Date:** the date the Agent Introduces the Worker to the Client in accordance with clause 2.
- Introduction Fee:** shall have the meaning set out in clause 3.
- Notice of Fees:** the document supplied to the Client setting out the Fees payable for the Services, as amended from time to time.
- Permanent Worker:** a Worker Introduced and supplied by the Agent to the Client as an employee of the Client.
- Retained Search:** the Agent supplies a Contractor Worker or Permanent Worker by undertaking a specific search for a Contractor Worker or Permanent Worker who is not already on the Agent's database, for example, by headhunting or by advertising.
- Screen:** carry out pre-vetting checks required by the Client.

<b>Service User Guide :</b>	the document supplied to the Client setting out general provisions governing the provision of the Services, as amended from time to time.
<b>Speculative Application:</b>	has the meaning set out in clause 2.4.
<b>Temporary Worker:</b>	a Worker Introduced and supplied by the Agent to the Client as an employee of the Client on a temporary or fixed-term basis.
<b>Temporary Worker Fees:</b>	shall have the meaning set out in clause 4.3
<b>Valid Opt-Out:</b>	means written notification from a company Worker and the individual provided by that company Worker in accordance with regulation 32(9) of the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (SI 2003/3319) as amended from time to time.
<b>Worker:</b>	an individual, or, where the worker is a company or other legal entity including the individual worker, as the case may be including any of the Agent's own employees, workers or Agent staff.

1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this agreement.

1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.

1.4 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established. A reference to **writing** or **written** includes faxes but not e-mail.

1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular. Unless the context otherwise requires, a reference to one gender shall include a reference to the other gender.

1.6 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

## 2. SERVICES

2.1 The Agent acts as an employment Agent for Permanent Workers and as an employment business for other Workers.

2.2 The Agent agrees to search for Workers for the Client as Contractor Workers, Temporary and/or Permanent Workers who meet the Client's minimum qualifications and other criteria for the Actual Vacancies. Dates given for the commencement of the services are estimates only and not guaranteed. Time for commencement shall not be of the essence of the Agreement and the Agent shall not be held liable for any loss, costs, damages, charges or expenses caused directly or indirectly by any delay in the services.

2.3 The Agent agrees to Screen all Workers and Introduce to the Client only Workers who meet the minimum criteria for the position as set out by the Client in accordance with clause 2.6, have an interest in the positions for which they are introduced and have the right to work in the United Kingdom. In particular, the Agent shall comply with the Immigration Asylum and Nationality Act 2006 as amended from time to time and other relevant UK legislation or equivalent legislation in the relevant territory as well as any regulations regarding the reporting of labour movements, concealed employment and the employment of foreign workers.

2.4 After receiving notification of Actual Vacancies, the Agent may contact the Client by telephone, in writing or by e-mail if the Agent believes it has a Worker who would be of interest (a **Speculative Application**). If the Agent introduces to the Client a Contractor Worker or Permanent Worker for a position which is an Actual Vacancy and the Client appoints the Contractor Worker or Permanent Worker to a different position, the Introduction Fee shall be charged as a Speculative Application.

2.5 If the Client requests the Agent to provide services beyond the scope of the services set out in this agreement, the Agent shall promptly provide a written quotation for its fees for that work before it undertakes such work. The Agent shall not start such additional work without the prior written consent of the Client. The Agent shall be entitled to vary the fees initially quoted for the provision of Workers to take account of any additional services provided to the Client and any reasonable increase in fee rates, provided that any such increase in fee rates shall be notified to the Client in writing by the Agent.

2.6 When making a request for the provision of a Contractor Worker or Permanent Worker, or a Temporary Worker to perform certain services (**Assignment**), the Client will give the Agent details of:

- a) the date on which the Client requires the Worker to commence work and the duration, or likely duration, of the work;
- b) the position which the Client seeks to fill, including the type of work the Worker in that position would be required to do, the location at which, and the hours during which, the Worker would be required to work, and any risk to health or safety known to the Client and what steps the Client has taken to prevent or control such risks;
- c) the experience, training, qualifications and any authorisation which the Client considers are necessary, or which are required by law, or by any professional body, for the Worker to possess in order to work in the position;
- d) any expenses payable by or to the Worker;
- e) where relevant, details of the working and employment conditions of other workers performing the same role for the Client, to enable the Agent to comply with any obligations imposed upon it by the Agency Workers Regulations 2010 (when in force);
- f) in the case of a Contractor Worker or Permanent Worker, or where necessary to secure compliance by the Agent with the above regulations:
  - (i) the fees or rate of remuneration and any other benefits which the Client would offer to a Worker in the position which it seeks to fill, and the intervals at which the Worker would be paid; and
  - (ii) the terms of the contract or where applicable, the length of notice which a Worker in such a position would be required to give, and entitled to receive, to terminate the engagement or employment with the Client.

2.7 The Agent shall, where relevant, inform the Client whether it holds a Valid Opt Out for each Worker whom it Introduces to the Client.

2.8 The parties shall conduct meetings regularly to review the services provided by the Agent. Any resulting changes agreed to the services, remuneration or any other aspect of the agreement shall be confirmed in writing. Otherwise, the previous arrangements shall apply.

### 3. INTRODUCTION FEE FOR CONTRACTORS AND PERMANENT WORKERS

3.1 The Client shall pay the Agent an Introduction Fee in respect of Contractor Workers or Permanent Workers, calculated on the following basis, as a fixed percentage of 12,5% of the Basic Remuneration as defined below in clause 3.2.

3.2 All Introduction Fees are, in the case of a Contractor Worker or Permanent Worker, a percentage of the first year's annual base fee or salary (or if the contract is for a fixed period of less than one year, the base fee or salary for that period, for example, six months) agreed with the Contractor Worker or Permanent Worker on his engagement or employment, exclusive of any overtime, bonuses, incentives, stocks or other payments or benefits (**Basic Remuneration**).

3.3 The Introduction Fee will be payable if, within 12 months of the Introduction Date in the case of an Actual Vacancy and six months of the Introduction Date in the case of a Speculative Application, the Client engages the Contractor Worker or employs the Permanent Worker. This clause shall apply in all circumstances, including where, after the Introduction Date, the Worker who has been introduced to the Client

by the Agent applies directly to the Client for employment or otherwise directly offers his services to the Client where such application or offer is in response to a general advertisement or other form of recruitment media placed on the Client's behalf or otherwise.

3.4 If the engagement of a Contractor Worker or employment of a Permanent Worker is for any reason terminated within the following period(s) from his start date of work, the Agent shall make immediately the following refunds of the Introduction Fee:

Weeks 0-2	75% refund
Weeks 3-4	50% refund
Weeks 5-8	25% refund
Weeks 9-12	10% refund

3.5 The Agent may invoice the Client an Introduction Fee for any Contractor Worker or Permanent Worker at any time after that Worker's start date for the Client, or at such times and portions as may be agreed by the parties in the case of Retained Search Introduction Fees, and the Client will pay each invoice in cleared funds no later than 10 Business Days following its receipt by the client.

#### 4. TEMPORARY WORKERS

4.1 The Agent shall notify the Client immediately if it believes that a Temporary Worker is unsuitable for the Assignment. If the Client reasonably considers that the services of the Temporary Worker are unsatisfactory, the Client may terminate the Assignment immediately either by instructing the Temporary Worker to leave the Assignment immediately, or by directing the Agent to remove the Temporary Worker immediately. The Agent may, in such circumstances, reduce or cancel the charges for the time worked by that Temporary Worker, provided that the Assignment terminates:-

- a) within four hours of the Temporary Worker commencing the Assignment where the booking is for more than seven hours; or
- b) within two hours for bookings of seven hours or less;

and also provided that the notification of the unsuitability of the Temporary Worker is confirmed in writing to the Agent within 48 hours of the termination of the Assignment duties and that, the Client provides evidence, if required, of the unacceptable work standards.

4.2 The Client shall notify the Agent immediately and without delay if the Temporary Worker fails to attend work or notifies the Client that the Temporary Worker is unable to attend work for any reason.

4.3 The Client will pay the Agent fees in respect of Temporary Workers as agreed by the parties in writing (**Temporary Worker Fees**).

4.4 When booking a Temporary Worker for an Assignment, the Agent shall advise the Client of the agreed Temporary Worker Fees for that Temporary Worker. The hours worked will be stated on a weekly time sheet completed by the Temporary Worker and signed or duly authorised by the Client. Failure to sign the time sheet does not absolve the Client from its obligation to pay the Temporary Worker Fees in respect of the hours actually worked.

4.5 If the Client disputes the hours claimed by the Temporary Worker the Client shall inform the Agent as soon as is reasonably practicable and shall provide all co-operation required to enable the Agent to establish the correct number of hours worked.

4.6 The Temporary Worker Fees comprise the Temporary Worker's pay and holiday pay, and include the Agent's commission and employer's National Insurance Contributions. The Client shall not be required to pay Temporary Worker Fees for any absences of a Temporary Worker.

4.7 The Client undertakes to supervise the Temporary Worker sufficiently to ensure the Client's satisfaction with the Temporary Worker's standards of workmanship. The Client will comply in all respects with all statutes including, for the avoidance of doubt, the Working Time Regulations, Health and Safety At Work Act, Data Protection Act 1998, by-laws, codes of practice and legal requirements to which the Client is ordinarily subject in respect of the Client's own staff (excluding the matters specifically mentioned in these Terms and

Conditions), including in particular the provision of adequate Employer's and Public Liability Insurance cover for the Temporary Worker during all Assignments.

## 5. INTRODUCTIONS AND TEMPORARY TO PERMANENT TRANSFERS

5.1 The Agent's most valuable asset is its Workers, in whom the Agent has invested heavily in respect of recruitment, Screening, training and development. As such it is necessary for the Agent to protect its investment, and therefore the Agent reserves the right to raise charges where it has Introduced and supplied a Worker and this leads to an engagement of that Worker in permanent, full-time or part-time work by the Client.

5.2 If the Agent supplies a Temporary Worker to the Client and within the Relevant Period (as defined in clause 5.4(a) below) the Client employs the Temporary Worker on either a full-time or part-time basis, the Client will pay the Agent the Introduction Fee for a Permanent Worker at the rate set out in clause 3.1.

5.3 The Introduction Fee will not be payable if the Client gives written notice to the Agent that it intends to continue the hire of the Temporary Worker for a further period of three months (**Extended Assignment**) before it employs the Temporary Worker.

5.4 For the purposes of this clause:

a) Relevant Period means the later of:

- ( i ) the period of eight weeks after the last working day of the Assignment; or
- ( ii ) the period of 14 weeks after the first working day of the Assignment;

b) When determining the first working day of the Assignment, any previous supply of the Temporary Worker to the Client which occurred more than 42 calendar days before the current Assignment shall be not be taken into account;

5.5 Where the Client decides to have the Temporary Worker supplied by the Agent for the Extended Assignment:

a) The Temporary Worker Fees payable by the Client during the Extended Assignment shall be those applicable immediately before the Agent received the Client's notice of election.

b) At the end of the Extended Assignment, the Client may employ the Temporary Worker without paying the Introduction Fee.

c) If the Client chooses an Extended Assignment, but employs the Temporary Worker before the end of the Extended Assignment, the Introduction Fee may be charged by the Agent, reduced proportionately to reflect the amount of the Extended Assignment paid for by the Client.

## 6. FEES AND VAT

6.1 The Client agrees to pay such hourly charges of the Agent as shall be notified to the Client and specified in the Notice of Fees, or as otherwise agreed. The hourly charges are calculated according to the number of hours worked by the Temporary Worker (to the nearest quarter hour) and comprise the Temporary Worker's hourly rate and also include the Agent's commission calculated as a percentage of the Temporary Worker's hourly rate, employer's National Insurance contributions and any travel, hotel or other expenses as may have been agreed with the Client or, if there is no such agreement, such expenses as are reasonable. VAT, if applicable, is payable at the prevailing rate on the entirety of these charges.

6.2 The charges are invoiced to the Client on a weekly basis and are payable within 10 Business Days from the invoice date.

6.3 The Agency reserves the right to charge interest on invoiced amounts unpaid for more than 10 days at the rate of 8% per annum for each month (or part thereof) for which the debt remains unpaid beyond the due date.

6.4 The Agent is also entitled to recover all reasonable expenses (including without limitation legal fees and costs, on an indemnity basis) incurred in obtaining payment from the Client where any payment due to the Agent is late.

6.5 The Client is not entitled to withhold any monies due to the Agent.

6.6 The Agent is entitled to vary the price to take account of:

- a) any additional Services requested by the Client which were not included in the original Notice of Fees;
- b) any reasonable increase in fee rates, if applicable;

and any variation must be notified to the Client in writing by the Agent.

## **7. TERM**

7.1 This Agreement shall commence on the Commencement Date and it shall continue until terminated in accordance with its terms.

7.2 Either party may terminate this agreement at any time by providing the other with 30 Business Days' prior written notice. The notice shall expire no earlier than one year after the Commencement Date.

## **8. DEFAULT AND EARLY TERMINATION**

8.1 The Client may terminate the Agreement if the Agent fails to comply with any aspect of these Terms and Conditions and this failure continues for a period of 2 weeks after notification of non-compliance is given.

8.2 The Agent may terminate the Agreement if the Client has failed to pay any payment due within 8 weeks of the sum being requested.

8.3 Either party may terminate the Agreement by notice in writing to the other if:

- a) the other party commits a material breach of these Terms and Conditions and, in the case of a breach capable of being remedied, fails to remedy it within a reasonable time of being given written notice from the other party to do so; or
- b) the other party commits a material breach of these Terms and Conditions which cannot be remedied under any circumstances; or
- c) the other party passes a resolution for winding up (other than for the purpose of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect; or
- d) the other party ceases to carry on its business or substantially the whole of its business; or
- e) the other party is declared insolvent or bankrupt, or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or a liquidator, receiver, administrator, administrative receiver, manager, trustee or similar officer is appointed over any of its assets or any step is taken towards any of these events.

8.4 In the event of termination the Client must pay to the Agent any sums due for work done and expenses incurred up to the date of termination.

8.5 Any rights to terminate the Agreement shall be without prejudice to any other accrued rights and liabilities of the parties arising in any way out of the Agreement as at the date of termination or the continuance in force of any provision of this Agreement which expressly or by implication is intended to come into or continue in force after termination.

## 9. ANNOUNCEMENTS

Each party shall ensure that, except as may be required by law or any regulatory authority, neither it nor any of its employees, agents or contractors shall make, or cause to be made, (whether to the employees, customers, suppliers, public, press or otherwise) any communication, media statement, announcement or other disclosure whatsoever, whether written or oral, about the other party to this agreement, the existence of this agreement or any matter referred to in this agreement without the other party's prior written consent to its contents.

## 10. AUDIT AND RECORD-KEEPING

The Agent shall keep and maintain until six years after the agreement has been completed, or as long a period as may be agreed between the parties, full and accurate records of the agreement including, in particular:

- a) the services provided by the Agent under this agreement;
- b) all expenditure reimbursed by the Client; and
- c) all payments made by the Client.

The Agent shall on request provide the Client or the Client's representatives such access, on reasonable notice and within normal working hours, to those records as may be reasonably required in connection with this agreement.

## 11. LIMITATION OF LIABILITY

11.1 Whilst every effort is made by the Agent to give satisfaction to the Client by ensuring reasonable standards from the Temporary Worker the Agent is not liable for any loss, expense, damage or delay arising from any failure to provide any Temporary Worker for all or part of the period of booking or from the negligence, dishonesty, misconduct or lack of skill of the Temporary Worker. For the avoidance of doubt, the Agent does not exclude liability for death or personal injury arising from its own negligence.

11.2 Temporary Workers supplied by the Agent are engaged under contracts for services. They are not the employees of the Agent but are deemed to be under the supervision, direction and control of the Client from the time they report to take up duties and for the duration of the Assignment. The Client agrees to be responsible for all acts, errors or omissions of the Temporary Worker, whether wilful, negligent or otherwise as though the Temporary Worker was an employee of the Client.

## 12. INDEMNITY

12.1 The Client shall indemnify the Agent against all claims, costs and expenses which the Agent may incur and which arise directly or indirectly from the Client's breach of any of its obligations under these Terms and Conditions.

12.2 The Agency shall indemnify the Client against all liability, assessment or claim:

- a) for National Insurance Contributions, income tax or other taxation obligations where such liability, assessment, or claim arises or is made in connection with payments made by the Client in respect of the Temporary Workers or Contractor Workers while provided as such by the Agency to the Client; or
- b) arising from any such Temporary Worker or Contractor Worker having at any time claimed to have been an employee of the Client or been otherwise engaged directly by the Client including any claim for wrongful or unfair dismissal.

12.3 The provisions of this clause shall survive termination of this agreement.

## 13. CONFIDENTIALITY

13.1 Neither party shall during and after termination of this agreement, without the prior written consent of the other party, use or disclose to any other person any information of the other party which is identified as confidential or which is confidential by its nature.

13.2 Each party shall on demand and on termination of this agreement surrender to the Client all materials relating to such confidential information in its or its personnel's agent or representatives' possession.

#### **14. DATA PROTECTION COMPLIANCE**

To the extent that any data or information belonging to the Client is personal data within the meaning of the Data Protection Act 1998 or equivalent legislation in the relevant territory:

- a) the Agent will process such data and information only in accordance with the Client's instructions;
- b) the Agent will not transmit such data and information to a country or territory outside the European Economic Area without the Client's prior express written consent; and
- c) the Agent will take such technical and organisational measures against unauthorised or unlawful processing of such data and information and against accidental loss or destruction of, or damage to, such data and information as are appropriate to the Client as data controller.

#### **15. WARRANTIES AND UNDERTAKINGS**

15.1 The Agent warrants that it has the necessary expertise to provide the services contemplated in this agreement and will perform them in keeping with the highest professional business standards by using appropriately qualified, experienced and trained personnel.

15.2 The Agent will comply with all relevant statutory requirements and regulations which apply in respect of the introduction and supply of Workers and any other services which the Agent provides to the Client under this agreement.

15.3 Each party warrants that it has full capacity and authority to enter into and perform this agreement.

#### **16. ASSIGNMENT AND SUB-CONTRACTING**

16.1 Neither party shall, with the prior written consent of the other party, assign, transfer, mortgage, charge, declare a trust of or deal in any other manner with this agreement or any of its rights and obligations under or arising out of this agreement (or any document referred to in it), or purport to do any of the same.

16.2 Each party that has rights under this agreement is acting on its own behalf and not for the benefit of another person.

#### **17. NOTICES**

Any notice to be given by either party to the other may be served by email, fax, personal service or by post to the address of the other party given in the Registration Form or such other address as such party may from time to time have communicated to the other in writing, and if sent by email shall unless the contrary is proved be deemed to be received on the day it was sent, if sent by fax shall be deemed to be served on receipt of an error free transmission report, if given by letter shall be deemed to have been served at the time at which the letter was delivered personally or if sent by post shall be deemed to have been delivered in the ordinary course of post on the second business day after posting.

#### **18. ENTIRE AGREEMENT**

18.1 This agreement constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter.

18.2 Each party acknowledges that, in entering into this agreement, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than as expressly set out in this agreement.

18.3 Nothing in this clause shall limit or exclude any liability for fraud or for fraudulent misrepresentation.



**19. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

19.1 A person who is not a party to this agreement shall not have any rights under or in connection with it by virtue of the Contracts (Rights of Third Parties) Act 1999 but this does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

19.2 The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this agreement is not subject to the consent of any person that is not a party to this agreement.

**20. GOVERNING LAW AND JURISDICTION**

20.1 This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

20.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

**21. FORCE MAJEURE**

Either party may defer the date for performance of, or payment for, the Services, or terminate this agreement, if it is prevented from, or delayed in, carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including strikes, lockouts or other industrial disputes, failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

**This Agreement has been entered into on the date stated at the beginning of it.**

Signed for and on behalf of Careservice24

by \_\_\_\_\_, a duly authorised signatory .....

Signed for and on behalf of the Client

by \_\_\_\_\_ a duly authorised signatory .....