

Terms and Conditions Relating to the Introduction and/or Supply of Temporary Workers

The following terms and conditions apply to the Introduction and/or supply for Assignments of workers by AWS Education Limited (company number 16524659), registered office 33 Soho Square, London W1D 3QU (trading as "Protocol").

These terms and conditions apply to all Introductions made and Contracts agreed after the date on which the Client receives a copy of them. Subject to clause 24.1 below, no variation of these terms and conditions shall be valid unless agreed in writing by authorised officers of both Protocol and the Client.

1. DEFINITIONS

- In these terms the following words and phrases shall have the following meanings:
- 1.1. **"Assignment"** means a course of education, tuition or other activity defined by the Client which a Candidate is engaged to deliver under a contract for services;
 - 1.2. **"Assignment Fee"** means the aggregate amount charged for an Assignment which is expressed exclusive of VAT which shall be payable in addition;
 - 1.3. **"AWR"** means the Agency Workers Regulations 2010;
 - 1.4. **"AWR Claim"** means any complaint or claim to a tribunal or court made by or on behalf of the Candidate against the Client and/or the Employment Business for any breach of the AWR;
 - 1.5. **"Candidate"** means the person(s), firm or body corporate (including individuals supplying services through a limited company) who is made available by Protocol to undertake Assignments in accordance with the terms of any Contract;
 - 1.6. **"Client"** means the person, firm, body corporate or other legal entity to whom Introductions or supplies of Candidates are made;
 - 1.7. **"Confidential Information"** means information that is not readily available in the public domain, including but not limited to Assignment Fees and data extracted from the Register;
 - 1.8. **"Contract"** means the arrangement between Protocol and the Client in relation to an Assignment which shall include and have incorporated into it these terms and conditions;
 - 1.9. **"Data Protection Laws"** means the Data Protection Act 2018, the General Data Protection Regulation (EU 2016/679) and any applicable statutory or regulatory provisions in force from time to time relating to the protection and transfer of personal data;
 - 1.10. **"Engagement"** means the engagement (including the Candidate's acceptance of the Client's offer), employment or use of the Candidate by the Client or by any third party to whom the Candidate has been introduced by the Client, 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; or through a limited company of which the Candidate is an officer, employee or other representative; and "Engage", "Engages" and "Engaged" shall be construed accordingly;
 - 1.11. **"Introduction"** means the supply, whether orally or in writing, by Protocol of the curriculum vitae or other personal details of any one or more Registered Candidates with a view to their supply to the Client to perform an Assignment, whether or not any supply takes place, and the terms "Introduce(d)" shall be interpreted accordingly.
 - 1.12. **"Register"** means the database maintained by Protocol of individuals who are willing to undertake Assignments.
 - 1.13. **"Registered Candidate"** means an individual who has met the requirements of clause 3 below and has been accepted for registration by Protocol.
 - 1.14. **"Successor"** means anybody to which the activities and/or assets of the Client are transferred or if different the entity that is the product of the merger of the Client and one or more educational establishments.
 - 1.15. **"VAT"** means Value Added Tax.
 - 1.16. **"Worker Remuneration"** means the aggregate of the hourly/daily rate payable to the Candidate agreed in advance by Protocol and the Candidate to apply to a particular Assignment and the additional costs relating to a Candidate including, without limitation, employer's national insurance, mandatory employer pension contributions, payments due to pregnant workers under s57ZA or 68C Employment Rights Act 1996 statutory maternity sick pay, statutory sick pay, and holiday pay.

2. THE SERVICE TO BE PROVIDED

- 2.1. Protocol is an employment business, within the meaning of the Conduct of Employment Agencies and Employment Businesses Regulations 2003. Protocol will introduce and supply Candidates to the Client to deliver Assignments in accordance with the provisions of these terms and conditions.
- 2.2. The Candidates are engaged by Protocol under contracts for services. Nothing in these terms and conditions will give rise to the presumption that the Candidate is at any time an employee of Protocol or the Client.

3. REGISTERED CANDIDATES

- 3.1. To be a Registered Candidate, a Candidate must agree to comply with Protocol's terms and conditions of membership and must supply Protocol with all information required to satisfy the requirements for checks on staff as specified in the Further Education (Providers of Education) (England) Regulations 2006 as amended.

4. SELECTION OF CANDIDATE(S)

- 4.1. Protocol will select the persons contracted to deliver Assignments.
- 4.2. The choice of a Registered Candidate to carry out an Assignment shall be at the sole discretion of Protocol subject to complying with the specification. The Client shall not be entitled to require Protocol to supply any particular approved Registered Candidate for any Assignment, or at all.
- 4.3. Protocol will use its reasonable endeavours to provide a Registered Candidate to carry out an Assignment and will inform the Client as soon as possible after receiving a specification if it is not willing or able to provide an approved Registered Candidate to carry out an Assignment.
- 4.4. Any position the Client seeks Protocol to fill may be advertised if no suitable candidate can be found in Protocol's existing database.

5. CLIENT RESPONSIBILITIES

- 5.1. To enable Protocol to comply with its obligations under the Conduct of Employment Agencies and Employment Businesses Regulations 2003, in respect of each Assignment, the Client will retain sole responsibility for:
 - 5.1.1. specification of the dates, times, and locations at which the Assignment will be delivered;
 - 5.1.2. providing accurate information regarding the nature of the teaching or support services required;
 - 5.1.3. determining what qualifications and experience are appropriate for delivery of the Assignment,
 - 5.1.4. any risks to health or safety known to the Client and the steps taken by the Client to prevent or control such risks; and Protocol will not be liable for any loss arising out of a failure to correctly specify these requirements.
- 5.2. While Protocol will use all reasonable endeavours to ensure the credentials of Registered Candidates by means of taking references and checking academic qualifications, the Client will remain solely responsible for ensuring that the quality of delivery meets the Client's requirements.
- 5.3. The Client 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 and is responsible for providing Protocol with all information reasonably necessary to enable Protocol to comply with its obligations under AWR including but not limited to:
 - 5.3.1. immediately informing Protocol if any Candidate Introduced or supplied by Protocol has previously been supplied to the Client by another employment business, together with dates of that previous supply and the nature of the work carried out;
 - 5.3.2. providing Protocol with written details of basic working and employment conditions the Candidate would be entitled to for doing the same job if the Candidate had been recruited directly by the Client as an employee or worker or with those of a Comparable Employee, such basic working and employment conditions being the Relevant Terms and Conditions;
 - 5.3.3. promptly notifying Protocol of any changes in Relevant Terms and Conditions (as defined by regulation 6 of the AWR) for staff engaged directly by the Client;
 - 5.3.4. promptly notifying Protocol in the event of the Client declaring a performance-related bonus for the Client's directly engaged staff, with details of eligibility and the method of calculating bonus entitlement for directly engaged staff; and
 - 5.3.5. informing Protocol in writing as soon as possible but no later than 7 calendar days from the day on which it receives:
 - 5.3.5.1. any oral or written complaint from a Candidate which is or may be a complaint connected with rights under AWR; or
 - 5.3.5.2. any written request from a Candidate for information relating to Relevant Terms and Conditions; and
 - 5.3.6. responding promptly to all reasonable requests for information to enable Protocol to meet its obligation under AWR to establish equal treatment.
- 5.4. The Client will immediately inform Protocol if a Candidate requests time off during hours contracted under an Assignment for the purposes of ante natal care and on confirmation from Protocol that the request is valid will permit the Candidate to take such time off.
- 5.5. The Client will co-operate fully with Protocol in the assessment of any particular risks to health and safety that may arise on the pregnancy of a Candidate and will take all reasonable measures to mitigate such risks, including if necessary, agreeing alterations to the specification of an Assignment.
- 5.6. The Client undertakes that it knows of no reason why it would be detrimental to the interests of the Candidate for the Candidate to fill the Assignment.

6. SUITABILITY CHECKS AND INFORMATION TO BE PROVIDED IN SPECIAL SITUATIONS

- 6.1. Where:
 - 6.1.1. the Candidate is required by law, or any professional body to have any qualifications or authorisations to work on the Assignment, Protocol will take all reasonably practicable steps to obtain and offer to provide to the Client copies of any relevant qualifications or authorisations of the Candidate; and
 - 6.1.2. in addition, where the Assignment involves working with, caring for or attending one or more Vulnerable Persons, Protocol will take all reasonably practicable steps to obtain and offer to provide copies to the Client of two references from persons who are not relatives of the Candidate and who have agreed that the references they provide may be disclosed to the Client; and
- 6.1.3. Protocol shall ensure that the Candidate has the necessary level of Disclosure in accordance with Part V of the Police Act 1997 from the Disclosure Barring Service (the DBS).
and such other reasonably practicable steps as are required to confirm that the Candidate is suitable for the Assignment. If Protocol has taken all reasonably practicable steps to obtain the information above and has been unable to do so fully it shall inform the Client of the steps it has taken to obtain this information in any event.
- 6.2. The Client shall advise Protocol at the time of instructing to supply a Candidate whether during the course of the Assignment, the Candidate will be required to work with, care for or attend one or more Vulnerable Persons or engage in regulated activity as defined in the Safeguarding Legislation.
- 6.3. The Client shall assist Protocol by providing any information required to allow Protocol to comply with its statutory obligations under the Safeguarding Legislation and to allow Protocol to select a suitable Candidate for the Assignment.
- 6.4. In particular in the event that the Client removes a Candidate from an Assignment in circumstances which would require Protocol to provide information to the Disclosure and Barring Service (or the equivalent authority) under the Safeguarding Legislation, the Client will provide sufficient information to Protocol to allow it to discharge its statutory obligations.

7. ASSIGNMENT FEES AND VAT

- 7.1. The Assignment Fees will be fixed and recorded in writing at the beginning of each Contract, subject to changes required from time to time by AWR. Worker Remuneration and Assignment Fees are reviewed annually taking into account regional variations.
- 7.2. The Client will pay the Assignment Fees in monthly or weekly instalments (depending on the Candidate payment method). The Assignment Fees are calculated according to the number of hours worked, based on the specification for the Assignment, by the Candidate and comprise the following:
 - 7.2.1. the Candidate's hourly/daily rate of pay;
 - 7.2.2. an amount equal to any paid holiday leave to which the Candidate is entitled in connection with the WTR and, where applicable, the AWR and which is accrued during the course of an Assignment;
 - 7.2.3. any other amounts to which the Candidate is entitled under the AWR, where applicable;
 - 7.2.4. employer's National Insurance contributions;
 - 7.2.5. 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; and
- 7.2.6. Protocol's management costs, which is calculated as a percentage of the Candidate's hourly/daily rate.
- 7.3. Protocol reserves the right to vary the Fees agreed with the Client, by giving written notice to the Client:
 - 7.3.1. in order to comply with any additional liability imposed by statute or other legal requirement or entitlement, including but not limited to the AWR, the WTR and the Pensions Act 2008; and/or
 - 7.3.2. if there is any variation in the Relevant Terms and Conditions.
- 7.4. In addition to the Assignment Fees, the Client will pay Protocol an amount equal to any bonus that the Client awards to the Candidate in accordance with clause 5.3.4 immediately following any such award and Protocol will pay any such bonus to the Candidate. For the avoidance of doubt, the Client will also pay any employer's National Insurance Contributions and Protocol's management costs on the bonus (calculated using the same percentage rate as that used under clause 7.2.6) in addition to any bonus payable to the Candidate.
- 7.5. Where non-delivery results from a Candidate's rights to paid time off for antenatal care or remuneration whilst suspended on maternity grounds, in which event the Client shall be liable for Worker Remuneration only for the relevant hours and the Assignment Fee adjusted accordingly.
- 7.6. Protocol will invoice the Client in accordance with Appendix A.
- 7.7. All amounts are stated exclusive of VAT which shall, if applicable, be added and paid at the prevailing rate.

- 7.8. Protocol will be exclusively responsible for the payment of Worker Remuneration and where appropriate, for the deduction and payment of National Insurance Contributions and PAYE Income Tax applicable to the Candidate pursuant to sections 44-47 of the Income Tax (Earnings and Pensions) Act 2003.
- 7.9. If the Client wishes to cancel an Assignment (or any day(s) making up an Assignment), the Client must notify Protocol in writing by no later than 4pm on the day before the Assignment (or day making up an Assignment) is due to commence. For any cancellations received after such 4pm deadline, the Assignment shall continue until close of business on the day following the Client's notification, and the Client agrees to pay for any time worked up to the point of termination.
- 7.10. The Client will continue to be liable for the Assignment Fees in circumstances where the Client may be closed or have reduced staffing requirements for any reason including industrial action, snow days or government-mandated shutdowns.

8. TERMINATION OF CONTRACTS

- 8.1. The Client may terminate or amend a Contract at any time by giving written notice to Protocol.
- 8.2. Protocol shall have the right to terminate any Contract forthwith by giving written notice to the Client if the Client shall fail to make any payment due to Protocol under the Contract by the due date, provided that Protocol has notified the Client that payment has not been received on the due date.
- 8.3. If either party commits a material breach of these terms and conditions and in the case of such a breach which is capable of remedy, fails to remedy the breach within seven days of a written notice to do so (or such longer period as the injured party may agree in writing) then, without prejudice to any other rights or remedies the injured party may have, the injured party shall have the right to terminate any and all Contracts forthwith by giving notice in writing.
- 8.4. Without prejudice to any other rights or remedies they may have; the Client and Protocol shall have the right to terminate any and all Contracts forthwith by giving notice in writing if:
 - 8.4.1. the other party shall become insolvent or cease to trade or compound with its creditors; or
 - 8.4.2. a receiver or an administrative receiver is appointed in respect of any of the assets of the other party; or
 - 8.4.3. a petition for an administration order is presented or such an order is made in relation to the other party; or
 - 8.4.4. a resolution or petition or order to wind up either party is passed or presented or made or a liquidator is appointed in respect of the other party (otherwise than for reconstruction or amalgamation); or
 - 8.4.5. the Client gives notice of intention to dissolve in accordance with the Dissolution of Further Education Corporation and Sixth Form College Corporations (Prescribed Bodies) Regulations 2012 or the Higher Education and Research Act 2017 or any successor legislation.
- 8.5. The Client agrees that in the event of termination of Contracts for ongoing Assignments under this clause all outstanding payments and all amounts due under such Contracts shall immediately be due and payable without the need for either Protocol or the Client to comply with the procedure set out in Appendix A.

9. UNSUITABILITY OF A CANDIDATE

- 9.1. The Client undertakes to supervise the Candidate sufficiently to ensure the Client's satisfaction with the Candidate's standards of work. If the Client reasonably considers that the services of the Candidate are unsatisfactory, the Client may terminate the Contract by directing Protocol to remove or replace the Candidate.
- 9.2. Protocol shall notify the Client immediately if it receives or otherwise obtains information which gives Protocol reasonable grounds to believe that any Candidate supplied to the Client is unsuitable for the Assignment and shall be entitled to terminate the Assignment forthwith without prior notice and without liability. Notwithstanding, the Client shall remain liable for all Charges incurred prior to the termination of the Assignment.
- 9.3. Should a session or Contract be cancelled with little or no notice in which the Candidate has travelled to the Contract location, the fee for one hour will be charged.
- 9.4. The Client shall notify Protocol immediately and without delay and in any event within 2 hours if the Candidate fails to attend work or has notified the Client that they are unable to attend work for any reason.
- 9.5. In the event that the Candidate supplied by Protocol to carry out an Assignment shall commit an act of gross misconduct or gross negligence in the performance of the Assignment, the Client:
 - 9.5.1. may exclude the Candidate forthwith from its premises;
 - 9.5.2. must inform Protocol immediately that this has been done; and
 - 9.5.3. may by notice in writing to Protocol terminate the Contract with immediate effect.

10. LIABILITY

- 10.1. Whilst reasonable efforts are made by Protocol to give satisfaction to the Client by ensuring reasonable standards of skill, integrity and reliability from the Candidate and to provide the same in accordance with the Contract details as provided by the Client, no liability is accepted by Protocol for any loss, expense, damage or delay arising from any failure to provide any Candidate for all or part of the Contract or from the negligence, dishonesty, misconduct or lack of skill of the Candidate or if the Candidate terminates the Contract for any reason. For the avoidance of doubt, Protocol does not exclude liability for death or personal injury arising from its own negligence or for any other loss which it is not permitted to exclude under law.
- 10.2. Candidates supplied by Protocol pursuant to these Terms are engaged under contracts for services. They are not the employees of Protocol but are deemed to be under the supervision and direction of the Client from the time they report to take up duties and for the duration of the Contract. The Client agrees to be responsible for all acts, errors or omissions of the Candidate, whether wilful, negligent or otherwise as though the Candidate was on the payroll of the Client.
- 10.3. The Client shall advise Protocol of any special health and safety matters about which Protocol is required to inform the Candidate and about any requirements imposed by law or by any professional body, which must be satisfied if the Candidate is to fill the Contract.
- 10.4. The Client will also comply in all respects with all statutory provisions as are in force from time to time including, for the avoidance of doubt, but not limited to the WTR, the Data Protection Laws, Health and Safety At Work etc. Act 1974, the Management of Health and Safety at Work Regulations 1999), 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 clause 7.8 above), including in particular the provision of adequate Employer's and Public Liability Insurance cover for the Candidate during all Assignments.
- 10.5. The Client undertakes not to request the supply of a Candidate to perform the duties normally performed by a worker who is taking part in official industrial action or duties normally performed by a worker who has been transferred by the Client to perform the duties of a person on strike or taking official industrial action.
- 10.6. The Client shall indemnify and keep indemnified Protocol against any Losses incurred by Protocol arising out of any Contract or arising out of any non-compliance with, and/or as a result of any breach of, these Terms by the Client.
- 10.7. The Client shall inform Protocol in writing of any AWR Claim which comes to the notice of the Client as soon as possible but no later than 7 calendar days from the day on which any such AWR Claim comes to the notice of the Client.
- 10.8. If the Candidate brings, or threatens to bring, any AWR Claim, the Client undertakes to take such action and give such information and assistance as Protocol may request, and within any timeframe requested by Protocol and at the Client's own cost, to avoid, dispute, resist, mitigate, compromise or defend any such AWR Claim and to appeal against any judgment given in respect thereof.

11. PARTICULAR OBLIGATIONS AND DUTIES IN RELATION TO FORMER EMPLOYEES OF THE CLIENT

- 11.1. The Client will indemnify Protocol against any cost or expense that Protocol incurs in meeting, satisfying, or defending any claim, or negotiating the settlement of any claim, made by any Candidate registered on the Register, which relates to or arises out of the Candidate's former employment by the Client, or the termination of such employment.

12. INSURANCE

- 12.1. Protocol and the Client shall each at their own expense effect and maintain throughout the duration of all Contracts such insurance as they deem appropriate, but such insurance which shall be on a claim occurring basis (with the exception of Professional Indemnity Insurance which shall be on a claims made basis) shall include as a minimum:
 - 12.1.1. third party liability insurance in respect of bodily injury and damage to property with an indemnity limit of not less than £5,000,000 for each and every claim (unlimited in aggregate as to the number of claims); and
 - 12.1.2. professional indemnity insurance in respect of loss or damage arising as a result of negligence or omissions of their employees with an indemnity limit of £5,000,000 in aggregate in any one year and shall be on a claims made basis.
- 12.2. Protocol and the Client shall produce to each other evidence of the insurance required by these terms and conditions within 5 days of being requested to do so.

- 12.3. Protocol and the Client shall each notify the other as soon as it knows or becomes aware of any event which it believes may give rise to an obligation to indemnify the other in accordance with these terms and conditions or to a claim under any insurance policy falling within the scope of this clause.

- 12.4. Should either Protocol or the Client fail to provide satisfactory evidence of insurance in accordance with the requirements of this clause then the other may arrange that insurance. Any premiums paid by one party pursuant to this sub-clause shall be recoverable from the other as an addition to the monthly payment next due (in the case of sums due to Protocol) and as a deduction from the next monthly payment or payments (in the case of sums due to the Client).

13. HEALTH AND SAFETY AND WORKING TIME REGULATIONS

- 13.1. During the course of each Contract the Client will ensure that it does nothing to cause Protocol to be in breach of the Working Time Regulations 1998.
- 13.2. The Client will ensure that all necessary health, safety, and security provisions are in place at each location at which Candidates work, and that Candidates are provided with all necessary personal protective equipment and are made fully conversant with all relevant health and safety and security policies, procedures and practices operated by the Client.

14. QUALITY ASSURANCE

- 14.1. Protocol tasks, processes and procedures are specified and designed within a quality assured framework. This quality assurance relies upon the Client applying and adhering to the terms and procedures specified in these terms and conditions.

15. RECORDS

- 15.1. Protocol will maintain complete and accurate accounting records of all sums paid or received under each Contract. Protocol will maintain these records for six years from the date of the relevant payment by the Client. Protocol will make such records available to the Client upon reasonable demand and will allow the Client, or persons authorised by the Client to have copies of them.
- 15.2. Protocol will maintain all necessary records required by the Working Time Regulations 1998 (as amended).

16. SUB-CONTRACTING

- 16.1. Protocol shall not without the permission in writing of the Client sub-contract its obligations under any Contract (provided that this shall not apply in respect of Candidates).

17. CONFIDENTIALITY AND DATA PROTECTION

- 17.1. Except to the extent permitted under other clauses of these terms and conditions, the Client shall keep confidential and shall not disclose to third parties, nor use for its own purposes Confidential Information without the prior written consent of Protocol.
- 17.2. All information relating to a Candidate is confidential and subject to the Data Protection Laws and is provided solely for the purpose of providing work-finding services to the Client. Such information must not be used for any other purpose nor divulged to any third party and the Client undertakes to comply with Data Protection Laws at all times.
- 17.3. The Client will not make copies of information from the Register except for the purposes of engaging Protocol to introduce Registered Candidates to carry out Assignments under these terms and conditions.
- 17.4. The Client will not in any circumstances make available copies of information from the Register to any third party at any time without the written consent of Protocol.
- 17.5. The Client shall not be bound by clauses 17.1 to 17.4 in relation to information, which is:
 - 17.5.1. published or comes into the public domain otherwise than by reason of a breach of these terms and conditions;
 - 17.5.2. lawfully obtained by it from a third party which is free to divulge that information; or;
 - 17.5.3. replicated by a third party without access to, or knowledge of the Confidential Information.
- 17.6. The Client shall ensure that its employees and contractors are bound to comply with the terms of this clause.
- 17.7. Protocol undertakes to keep confidential all Relevant Terms and Conditions that the Client discloses to Protocol and not to use such information except for the purposes of compliance with the AWR (including, for the avoidance of doubt and without limitation, when dealing with any request for information or complaint made by any Candidate or any AWR Claim).

- 17.8. For the avoidance of doubt the provisions of this clause shall survive expiry or termination of all Contracts.

18. TRANSFER FEES

- 18.1. The Client or Successor (as applicable) shall be liable to either an extended period of hire of 420 worked hours or a Transfer Fee calculated in accordance with clause 18.4 below where a Candidate who has been supplied by Protocol to deliver an Assignment is engaged or used by the Client or by any Successor, whether under direct contract with the Client or Successor (as applicable), or pursuant to being supplied by another employment business within the later of:
- 18.1.1. 14 weeks from the start of the Candidate's first Assignment for the Client (each new Assignment where there has been a break of more than 42 days since the end of the previous Assignment shall also be considered to be the "first Assignment" for these purposes); or
- 18.1.2. 8 weeks from the day after the last day the Candidate worked on any Assignment for the Client (the "Relevant Period").
- 18.2. The Client must give Protocol written notice of whether it has elected to take the period of extended hire or to pay the Transfer Fee prior to its engagement of the Candidate under direct contract or receipt of supply of the Candidate from another employment business. Where the Client does not give such notice in accordance with this clause the parties agree that the Transfer Fee shall be due in full.
- 18.3. If the Client elects for an extended period of hire but before the end of such period engages the Candidate supplied by Protocol either directly or pursuant to being supplied by another employment business or the Candidate chooses not to be supplied or continue to be supplied for an extended period of hire, the Transfer Fee calculated in accordance with clause 18.4 will be charged, reduced by such percentage as reflects the proportion of the period of extended hire already undertaken by the Candidate and paid for by the Client.
- 18.4. The Transfer Fee will be determined in accordance with the following:

The Candidate has worked on Assignment:	
a)	up to 26 weeks = 25% of agreed annual full-time salary
b)	more than 26 weeks = 17.5% of agreed annual full-time salary
Where there has been no supply or where the Candidate has been paid under the payment system known as 'Special Contracts' (i.e., payments by stage or by student), £6,000.	

Where the salary is not known, Protocol will charge a Transfer Fee based on Protocol's determination of such salary taking into account the market rate level of salary applicable for the position in which the Candidate has been employed to do and with regard to any information supplied to Protocol by the Client and/or comparable positions in the market generally.

- 18.5. Once a Transfer Fee has become payable no rebate or refund will be due in the event that the Client ceases for any reason to use the services of the Candidate who is the subject of the Transfer Fee.
- 18.6. In the event that there is an Introduction of a Candidate to the Client which does not result in the supply of that Candidate to the Client and the Client or Successor subsequently engages the Candidate either directly or pursuant to being supplied by another employment business within 12 months of the date of the Introduction the Client/Successor shall be liable to either a period of hire of 420 worked hours or a Transfer Fee calculated in accordance with clause 18.4. The Client must give Protocol written notice in accordance with clause 18.2 if it elects for a period of hire.
- 18.7. Where the Client exercises the right to an extended period of hire this shall be on the same terms as the most recent period of supply by Protocol for the type of work which the Candidate is engaged to deliver. Where there has been no supply of the Candidate the current rates agreed by the parties in respect of Assignment Fees will apply.
- 18.8. In the event that Protocol Introduces a Candidate to the Client and the Client introduces that Candidate to any third party:
- 18.8.1. where there has been a supply of the Candidate to the Client and the Client makes the introduction to the third party within the Relevant Period, a Transfer Fee in accordance with clause 18.4 is payable by the Client.
- 18.8.2. where there has been no supply of the Candidate by Protocol and the Client makes the introduction to the third party within 12 months of the date of Introduction, a fee of £6,000 or 25% of the agreed full time equivalent salary is payable (whichever is greater) by the Client. Where the salary is not known, Protocol will charge a Transfer Fee based on Protocol's determination of such salary taking into account the market rate level of salary

applicable for the position in which the Supply Worker has been employed to do and with regard to any information supplied to Protocol by the Client and/or comparable positions in the market generally. No refund or replacement guarantee shall apply in the event of an Engagement by a third party.

- 18.9. Transfer Fees shall be exclusive of VAT which shall be payable in addition. Transfer Fees will be invoiced separately from Assignment Fees.

19. BRIBERY ACT

- 19.1. Protocol is committed to ethical business practice and has adopted an Anti-Bribery policy which applies to employees and Candidates. Protocol expects Client co-operation in the enforcement of its Anti-Bribery policy and requires the Client to report to it any act or omission by a Protocol employee, officer, or Candidate which the Client reasonably believes constitutes a breach of the policy. Protocol will adhere to any additional safeguards requested by the Client which are reasonably necessary to achieve compliance with the Bribery Act 2010.

20. ITEMS AND PROPERTY SUPPLIED BY PROTOCOL

- 20.1. Any property of whatever kind supplied by Protocol shall remain the property of Protocol and the Client shall use its best endeavours to ensure its return to Protocol upon demand in good condition, and until such return shall keep it in safe custody and good condition.
- 20.2. The Client shall not without the prior written consent of Protocol use any such Protocol supplied item for any purpose other than that for which it was supplied or allow any other party to have or acquire any rights or lien over it.

21. DISSOLUTION AND MERGER

- 21.1. The Client shall notify Protocol as soon as reasonably practicable and in any event by no later than the commencement of public consultation if the Client enters discussions to merge with another college or another Further or Higher Education institution and/or is contemplating dissolution under the Dissolution of Further Education Corporations and Sixth Form Colleges (Prescribed Bodies) Regulations 2012 or any successor legislation or dissolution under the Higher Education and Research Act 2017 or any successor legislation.
- 21.2. The Client shall make all reasonable efforts to ensure that Protocol continues to provide services to the Successor or surviving institution in the event of merger and/or dissolution on the same terms that applied prior to such merger/dissolution, including facilitating novation of contracts where required.
- 21.3. If it is determined that Protocol's services will not continue in accordance with clause 21.2 above or Protocol will continue to provide services but no longer as sole or preferred supplier (where applicable) then the Client shall ensure that the Successor accepts liability for any Transfer Fees in accordance with clause 18 above.
- 21.4. Unless written agreement has already been reached that Protocol's agreement with the Client will survive dissolution of the Client, immediately on publication of formal notice of dissolution the Client shall be liable to pay Protocol on presentation a sum equivalent to the value of the balance of the total Assignment Fees due under all Assignments in force at the date of notice of dissolution/merger, including for the avoidance of doubt Assignment Fees due for hours already worked but not yet invoiced to the Client and Assignment Fees due for the agreed hours under each Assignment that have not yet been delivered.
- 21.5. Protocol will refund pro rata any payment made in accordance with clause 21.4 above which relates to Contracts that are terminated prior to completion.

22. RECOVERY OF SUMS DUE TO PROTOCOL

- 22.1. In the event that a sum of money falls due to Protocol from the Client pursuant to these terms and conditions or otherwise and such sum is not paid by the due date, Protocol may, without prejudice to any other rights or remedies available to it, add such sum to the monthly payment next payable to Protocol under Appendix A.
- 22.2. Protocol shall be entitled to charge, and the Client shall pay interest at the rate of 5% over the base lending rate of Lloyds Bank Plc on any sums that are not paid on their due date. This interest will accrue from the due date until the date such sums are received by Protocol in cleared funds.

23. AUTHORITY OF PROTOCOL

- 23.1. Protocol shall not have any authority to make any contract on behalf of the Client or bind the Client to any obligations to any third party.

24. VARIATION

- 24.1. Protocol reserves the right to vary these terms and conditions by giving notice of such variation in writing to the Client, provided that such variations will not apply to existing Contracts (unless the changes reflect changes in legal requirements, or the parties agree otherwise) but only to Introductions made and Contracts agreed after the date of such notice.

25. NOTICES

- 25.1. Notices required under these terms and conditions to be given in writing, shall be delivered by hand, post, dedicated messaging, or email, to the party to whom the notice is to be given at the addresses of the parties specified in the Contract or such other address as may be given by such party. Notices shall be deemed to be given upon receipt except that notices sent by pre-paid first class registered post in a correctly addressed envelope shall be deemed to be given forty-eight hours (excluding Saturdays, Sundays and public holidays) after posting, and notices sent by email shall be deemed to be given upon transmission.

26. SURVIVAL

- 26.1. The rights which expressly, or by their nature, are intended to survive the expiry or termination of all Contracts survive and bind the parties.

27. GENERAL

- 27.1. These terms and conditions shall be governed by the laws of England and the parties agree to submit to the jurisdiction of the English courts.
- 27.2. The Contract between the parties shall consist of these terms and conditions and any specific terms agreed and recorded in writing between the parties and shall represent the entire understanding of the parties in relation to the services provided under them by Protocol. These terms and conditions will, subject to clause 24, be incorporated into all Contracts that are agreed between Protocol and the Client.
- 27.3. If at any time any provision in these terms and conditions is or becomes invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions shall not be impaired.
- 27.4. The failure by either party at any time to enforce any provisions of these terms and conditions shall in no way affect its right thereafter to require complete performance by the other party. Any waiver to be effective must be in writing from the party granting the waiver and shall relate to the breach concerned and shall not constitute a waiver of any subsequent breach.
- 27.5. Nothing in these terms and conditions shall be deemed to constitute a partnership or joint venture between the parties.
- 27.6. Saturdays and Sundays shall be disregarded when calculating any period specified in days or hours in these terms and conditions.
- 27.7. The headings in these terms and conditions are for convenience only and shall not limit, govern, or otherwise affect the construction of any provision contained in these terms and conditions.
- 27.8. Neither party shall engage in any publicity relating to the contract between them or these terms and conditions or any matters covered by their terms without the consent of the other party.
- 27.9. Protocol and the Client do not intend any other person to have any rights under any Contract whether by virtue of the Contracts (Rights of Third Parties) Act 1999 or otherwise.

Appendix A: Invoice and Payment

Relating to the Introduction and/or Supply of Temporary Workers

The validation, invoice and payment timetable is as follows:

Monthly Processing Table

Month 1	
Days 1 – 31	Assignment delivered
Days 1 – 31	Daily timesheet produced and made available to Candidate for submission
Month 2	
Day 3	Deadline for Candidates to submit timesheets
Day 6	Client completes authorisation of online timesheets**
Day 11	Final billing report and final VAT invoice produced*

Weekly Processing Table

Week 1	
Days 1 – 7	Assignment delivered
Days 1 – 7	Daily timesheet produced and made available to Candidate for submission
Day 7	Deadline for Candidates to submit timesheets
Week 2	
Day 1	Client completes authorisation of online timesheets
Day 3	Final billing report and final VAT invoice produced*

*Our standard payment terms are 7 days from date of invoice.

** If Day 6 falls on a weekend, please authorise online timesheets on the preceding Friday.

- Any disputed invoices need to be raised with Protocol within 7 days of receipt of invoice.
- If you require a purchase order to be in place for an invoice to be paid then this is to be supplied at the time an Assignment is requested.
- If the Client confirms the Candidate timesheet, the relevant instalment of the Assignment Fee shall be payable. For the avoidance of doubt no adjustment can be made for any overpayments made to Candidates where such overpayment arises because of inaccuracies in the timesheets authorised by the Client. Protocol will repay to the Client any agreed overpayment once the fees from the Candidate have been returned.
- If the Client disputes the submitted timesheet, the agreed adjusted amount will be incorporated within the final billing report.
- The Client shall not be entitled to decline to sign a timesheet on the basis that it is dissatisfied with the work performed by the Candidate.
- In the event that the Client neither confirms nor disputes a timesheet by the day 7 deadline, Protocol will make reasonable enquiries to determine whether on the balance of probabilities the hours claimed by the Candidate are correct. If Protocol is satisfied that the hours claimed were worked, it will process the submitted timesheet, pay the Candidate, and add the Assignment Fee to the next available invoice. Failure to sign the timesheet does not absolve the Client of its obligation to pay the Fees in respect of the hours worked.
- In the event that the Client has failed accurately to confirm the work undertaken for a Candidate or the final invoice and then requests an interim payment to a Candidate, Protocol may levy a handling fee to the Client.
- All Assignment Fees and VAT payable under any Contract shall be paid by direct debit into the account of Protocol on the due date.
- If at any time costs alter due to legislative change, Protocol shall be entitled to adjust the Assignment Fee and the amounts payable under this schedule.

Terms and Conditions for the Permanent Placement of Workers

The following terms and conditions apply to the Permanent Placement of workers by AWS Education Limited (company number 16524659, registered office 33 Soho Square, London W1D 3QU (trading as "Protocol").

1. DEFINITIONS

- In these terms the following words and phrases shall have the following meanings:
- 1.1. **"Cancellation Fee"** means the fee payable by the Client to Protocol when the Client withdraws an offer of Engagement made to the Candidate before the Candidate commences the Engagement and which is calculated in accordance with Clause 4.7;
 - 1.2. **"Candidate"** means the person Introduced by Protocol to the Client for an Engagement including any officer, employee or other representative of the Candidate if the Candidate is a corporate body, and members of Protocol's own staff;
 - 1.3. **"Client"** means the person, firm, body corporate or other legal entity to whom the Candidate or Replacement Candidate is Introduced.
 - 1.4. **"Data Protection Laws"** means the Data Protection Act 2018, the General Data Protection Regulation (EU 2016/679) and any applicable statutory or regulatory provisions in force from time to time relating to the protection and transfer of personal data;
 - 1.5. **"Engagement"** means the engagement (including the Candidate's acceptance of the Client's offer), employment or use of the Candidate by the Client or by any third party to whom the Candidate has been introduced by the Client, 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; or through a limited company of which the Candidate is an officer, employee or other representative; and "Engage", "Engages" and "Engaged" shall be construed accordingly;
 - 1.6. **"Fee(s)"** means the fee payable by the Client as set out in clause 4;
 - 1.7. **"Introduction"** means (i) the passing to the Client of a curriculum vitae or information which identifies the Candidate or (ii) the Client's interview of a Candidate (in person, by telephone or by any other means), following the Client's instruction to Protocol to search for a Candidate; and, in either case, which leads to an Engagement of the Candidate; and "Introduces" and "Introduced" shall be construed accordingly;
 - 1.8. **"Losses"** means all losses, liabilities, damages, costs, expenses, fines, penalties or interest, whether direct, indirect, special or consequential (including, without limitation, any economic loss or other loss of profits, business or goodwill, management time and reasonable legal fees) and charges, including such items arising out of or resulting from actions, proceedings, claims and demands;
 - 1.9. **"Remuneration"** includes gross 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 Candidate for services rendered to or on behalf of the Client or any third party.
 - 1.10. **"Replacement Candidate"** means any Candidate Introduced by Protocol to the Client to fill the Engagement following the Introduction of another Candidate whose Engagement either did not commence or was terminated during the first [12] weeks of the Engagement;
- The headings contained in these Terms are for convenience only and do not affect their interpretation.

2. TERMS

- 2.1. These Terms and Conditions of Business (the "Terms") shall form the entire agreement made between AWS Education Limited (trading as "Protocol") and the client (the "Client") to whom Protocol shall supply the services.
- 2.2. Protocol acts as an employment agency (as defined in Section 13(2) of the Employment Agencies Act 1973) in the recruitment of permanent staff. Protocol has no authority to act for the Client.
- 2.3. These Terms shall be deemed to be accepted by the Client by virtue of the interview or engagement of a Candidate (which includes the employment or use, whether under a contract of service or for services, or under an agency, franchise, partnership, or other agreement) introduced by Protocol.
- 2.4. These Terms shall supersede any previous terms for the recruitment of permanent staff.
- 2.5. These Terms represent the entire agreement between the parties and shall prevail over any terms of business or purchase conditions proffered by the Client. These Terms shall not change, alter, or supersede any other agreement for other services provided by Protocol which may be the subject of a separate agreement between Protocol and the Client.

3. GENERAL OBLIGATIONS

- 3.1. Protocol will use all reasonable endeavours to ensure the suitability of the Candidate to meet the Client's stated requirements. By taking reasonably practicable steps to:
 - 3.1.1. ensure that it would not be detrimental to the interests of either the Client or the Candidate;
 - 3.1.2. ensure that both the Client and Candidate are aware of any requirements imposed by law or by any professional body;

- 3.1.3. confirm that the Candidate is willing to work in the position; and obtain confirmation of the Candidate's identity; and that the Candidate has the experience, training, qualifications and any authorisation which the Client considers necessary or which may be required by law or by any professional body.
- 3.1.4. Unless otherwise agreed, notwithstanding this, the Client shall satisfy himself as to the suitability of the Candidate before engaging the Candidate, including references provided either by the Candidate or Protocol.
- 3.2. The Client shall be responsible for:
 - 3.3. obtaining work or other permits;
 - 3.3.1. checking the Candidate's right to work;
 - 3.3.2. for the arrangement of any medical examination or screening of the Candidate's medical history;
 - 3.3.3. satisfying any medical and other requirements, qualifications or permission required for the Candidate to work in the Engagement; and
 - 3.3.4. shall ensure that the Candidate has the necessary level of Disclosure in accordance with Part V of the Police Act 1997 from the Disclosure Barring Service (the DBS).
- 3.4. To enable Protocol to comply with its obligations under clause 3.1 above the Client undertakes to provide to Protocol details of the position which the Client seeks to fill, including the following:
 - 3.4.1. the type of work that the Candidate would be required to do;
 - 3.4.2. the location and hours of work;
 - 3.4.3. the experience, training, qualifications and any authorisation which the Client considers necessary or which are required by law or any professional body for the Candidate to possess in order to work in the position;
 - 3.4.4. any risks to health or safety known to the Client and what steps the Client has taken to prevent or control such risks;
 - 3.4.5. the date the Client requires the Candidate to commence the Engagement;
 - 3.4.6. the duration or likely duration of the Engagement;
 - 3.4.7. the minimum rate of Remuneration, expenses and any other benefits that would be offered;
 - 3.4.8. the intervals of payment of Remuneration; and
 - 3.4.9. the length of notice that the Candidate would be entitled to give and receive to terminate their employment with the Client.
- 3.5. Protocol shall not be liable under any circumstances for any loss, expense, damage delay, costs or compensation suffered or incurred by the Client arising from or in any way connected with the provision of the services by Protocol, save to the extent that Protocol has been negligent.
- 3.6. The Client shall indemnify and keep indemnified Protocol against any Losses incurred by Protocol arising out of any non-compliance with the Data Protection Laws, and/or as a result of any breach of, these Terms by the Client.
- 3.7. Any position the Client seeks Protocol to fill may be advertised if no suitable candidate can be found in Protocol's existing database.

4. FEES AND PAYMENT TERMS

- 4.1. The Client shall notify Protocol immediately upon acceptance of an offer of employment or engagement by the Candidate and confirm:
 - 4.1.1. the date the Candidate will commence work (the "Start Date");
 - 4.1.2. the Remuneration agreed with the Candidate together with any documentary evidence as requested by Protocol;
- 4.2. Protocol shall then render an invoice for its services (the "Fees") and any other expenses. The Client shall pay the invoice, which shall become due within 7 days of receipt.
- 4.3. The Fees will be charged in relation to any Candidate employed or engaged as a consequence of or resulting from an introduction by or through Protocol, even though the introduction may be made indirectly by another party. The term Candidate may include a member of Protocol's own staff. Unless otherwise agreed in writing, the following Fees shall be payable:

Permanent Recruitment Fees
25% of the Candidate's total first-year Remuneration package.

- 4.4. All fees above are subject to a minimum charge of £4,000. All invoices will be issued in British pounds (GBP). Where currency conversion is required the Bank of England spot rate on the date of the invoice will be applied. Protocol may apply an admin fee where payment is not in GBP.
- 4.5. Where the actual Remuneration is not known, Protocol will charge Fees calculated in accordance with clause 4.3 based on its determination of the Remuneration taking into account the market rate level of Remuneration applicable for the position in which the Candidate has been Engaged and with regard to any information supplied to Protocol by the Client and/or comparable positions in the market generally.
- 4.6. Where prior to the commencement of the Engagement Protocol and the Client agree that the Engagement will be on the basis of a fixed term of less than 12 months, the Fees will apply pro-rata. If the Client:

- 4.5.1. extends the Engagement beyond the initial fixed term; or
- 4.5.2. re-Engages the Candidate within 12 calendar months from the date of termination of the agreed period of the fixed term Engagement, then the Client shall be liable to pay a further fee based on the additional Remuneration applicable for:
 - 4.5.2.1. the extended period of Engagement; or
 - 4.5.2.2. the period of the second and any subsequent Engagement, subject to the Client not being liable to pay a greater sum in Fees than the Client would have been liable for under clause 4.3 had the Candidate first been Engaged for 12 months or more.
- 4.6. Introductions are confidential and personal. A placement fee calculated in accordance with clause 4.1 above, shall be payable by the Client to Protocol (with no entitlement to a refund) where:
 - 4.6.1. the Client or any subsidiary or associated company of the Client subsequently reengages the Candidate within the period of 12 calendar months from the date of termination of employment, or
 - 4.6.2. the introduction is passed to a third party, which results in an engagement of the Candidate.
- 4.7. If, after an offer of Engagement has been made to the Candidate, the Client decides for any reason to withdraw it prior to the Candidate commencing the Engagement, the Client shall be liable to pay Protocol a Cancellation Fee of £2,000.
- 4.8. Additional charges including, but not limited to, advertising and production costs, travel and interview expenses, medical screening and personality profiling/psychometric testing shall, provided agreed in advance and in writing, be invoiced to and paid by the Client in addition.
- 4.9. If any payment is more than 30 days overdue, Protocol shall be entitled to:
 - 4.9.1. cancel the Client's entitlements detailed in clauses 5 and 6 below; and/or
 - 4.9.2. charge interest on any overdue payments at the rate of interest of 5% over the base lending rate of Lloyds Bank Plc and/or charge on an indemnity basis for all collection costs incurred as a result of instructing a solicitor or collection agency to recover the outstanding payment.
- 4.10. VAT is charged at the standard rate on all fees.

5. REPLACEMENT GUARANTEE

- 5.1. 5.1. If, after an offer of Engagement has been made and accepted, the Engagement (a) does not commence because the Candidate withdraws their acceptance or (b) once it has commenced, is terminated by either the Candidate or the Client (except in circumstances where the Candidate is made redundant or released due to reasons of ill health) before the expiry of 8 weeks from the date of commencement of the Engagement, then:
 - 5.1.1. Protocol shall have sole discretion to provide a Replacement Candidate to the Client (but shall be under no obligation to do so) and clause 5.2 shall apply, or
 - 5.1.2. Subject to the terms of clauses 5.3 to 5.6 inclusive, Protocol shall refund a proportion of the Placement Fee in accordance with the scale of refunds set out in clause 6 ("Refund"). A similar replacement guarantee will apply in respect of the second Candidate.
- 5.2. If Protocol exercises its right to provide a Replacement Candidate in accordance with clause 5.1, the Client shall exclusively grant Protocol a period of 4 weeks from the date of the notice of non-commencement or termination in which to find a Replacement Candidate. If, after 4 weeks from the date of the notice, no Replacement Candidate has been provided, or if the Replacement Candidate's Engagement is terminated before the expiry of 8 weeks from the date of commencement of the Replacement Candidate's Engagement, then the Client shall be eligible for a Refund subject to the remaining provisions of this clause 5.
- 5.3. In order to qualify for a Refund in accordance with clause 5.1, the Client must have complied with the provisions of clause 4.1 (including having paid the Placement Fee in full and on time) and must notify Protocol in writing of the termination of the Engagement or the non-commencement of the Engagement, providing complete and accurate reasons for such termination or non-commencement, within 7 days of such termination or non-commencement.
- 5.4. For the purposes of this clause 5 the date of termination of the Engagement shall be the later of: (i) the date on which the Candidate ceases working on the Engagement; or (ii) the date on which the Candidate would have ceased working on the Engagement, but for any period of garden leave or payment in lieu of notice, whichever is the later.
- 5.5. If, subsequent to the Client receiving a Refund, the Candidate is re-Engaged within a period of 12 calendar months from the date of termination, then the Refund shall be repaid to Protocol in full. The Client shall not be entitled to any further Refunds in relation to the re-Engagement of this Candidate.
- 5.6. If an Engagement is terminated for any reason by the Client or by the Candidate and the Candidate nevertheless continues to work with the Client in any capacity, the Client shall not be entitled to a Replacement Candidate and no Refund shall be due or payable.

6. REFUNDS

- 6.1. Subject to the provisions of clause 6.2 below, if the Client does not want a replacement Candidate, then a rebate of the Fees paid will be given in accordance with the following scale, based upon the elapse of time between the Start Date and the date the Candidate had left the Client's employ or the date Protocol was notified that the Candidate had left the Client's employ (whichever is greater):

Period Rebate
0 – 2 weeks 80%
3 – 4 weeks – 60%
5 – 6 weeks – 40%
7 – 8 weeks – 20%
Over 8 weeks – Nil

- 6.2. The refund entitlement is conditional upon:
 - 6.2.1. outstanding invoices having been paid within 7 days of receipt in accordance with clause 4.1 above; and
 - 6.2.2. the Client notifying Protocol within 7 days of the Candidate leaving the Client's employ.
- 6.3. Failure to make payment within 7 days of receipt of invoice in accordance with clause 4.1 will result in the Client forfeiting any entitlement to a rebate or replacement under this agreement.

7. CONFIDENTIALITY AND DATA PROTECTION

- 7.1. All information relating to a Candidate is confidential and subject to the Data Protection Laws and is provided solely for the purpose of providing work-finding services to the Client. Such information must not be used for any other purpose nor divulged to any third party and the Client undertakes to abide by the provisions of the Data Protection Laws in receiving and processing the data at all times. In addition, information relating to Protocol's business which is capable of being confidential must be kept confidential and not divulged to any third party, except information which is in the public domain.

8. LAW AND JURISDICTION

- 8.1. These terms between the parties are governed by the Laws of England and Wales and subject to the exclusive jurisdiction of the Courts of England & Wales.
- 8.2. If at any time any provision in this contract is or becomes invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions shall not be impaired.