

Fielder Work Limited (Fielder)**Terms & Conditions for the Supply of Temporary Staff and Volunteers****1. Definitions and Interpretation**

The following definitions and rules of interpretation apply in these terms.

1.1 Definitions

Actual Vacancies: The Client's vacant positions as the Client informs Fielder from time to time in accordance with these terms.

Assignment: the provision via the Platform of a Temporary Worker or a Volunteer to perform certain services.

Authorised Users: those employees, agents and independent contractors of the Client who are authorised by the Client to use the Platform.

AWR 2010: the Agency Workers Regulations 2010 (*SI 2010/93*).

Business Day: a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Client: the person contracting to receive services from Fielder under these terms.

Conduct Regulations 2003: the Conduct of Employment Agencies and Employment Business Regulations 2003 (*SI 2003/3319*).

Engage: the employment of a Temporary Worker or engagement directly or indirectly through any employment business other than through Fielder (whether for a definite or indefinite period) as a direct result of any Introduction or Assignment to the Client and the terms **Engaged** or **Engagement** shall be construed accordingly.

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

Introduce: the provision to the Client of information by Fielder by way of a curriculum vitae or in such format as the Client may from time to time require which identifies the Worker or Volunteer and **Introduction** and **Introduced** shall be construed accordingly.

Introduction Date: the date Fielder Introduces the Temporary Worker or a Volunteer to the Client via the Platform.

Platform: Fielder's platform at <http://app.fielder.one> (Fielder Staff Hub) or such other URL as Fielder shall notify the Client from time to time.

Qualifying Period: means the 12-week qualifying period as defined in regulation 7 of the AWR 2010, subject to regulations 8 and 9 of the AWR 2010.

Qualifying Temporary Worker: any Temporary Worker who at the relevant time is entitled to the rights conferred by regulation 5 of the AWR 2010 and in particular has been provided to the Client (whether by Fielder or any third party) for the Qualifying Period.

Relevant Period: has the meaning given in regulation 10(5) and (6) of the Conduct Regulations 2003.

Relevant Terms and Conditions: the relevant terms and conditions for any particular Qualifying Temporary Worker as defined in regulation 6 of the AWR 2010.

Screen: carry out pre-vetting checks in accordance with Fielder's policies from time to time and **Screening** shall be construed accordingly.

Temporary Worker: a Worker Introduced and supplied by Fielder to the Client to provide services to the Client not as an employee of the Client, who is deemed to be an agency worker for the purposes of regulation 3 of the AWR 2010.

Temporary Worker Fees: The Temporary Workers pay and holiday pay and include Fielder's commission and employer's National Insurance contributions and will be notified to the Client via the Platform.

Territory: the United Kingdom.

Unsatisfactory Temporary Worker: a Temporary Worker or Volunteer who is unsuitable to perform the Assignment.

Valid Opt-Out: means written notification from a Temporary Worker and the individual provided by that Temporary Worker in accordance with regulation 32(9) of the Conduct Regulations 2003, as amended from time to time.

VAT: value added tax chargeable in the UK.

Virus: any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any

programme or data (whether by rearranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

Volunteer: someone who spends time, unpaid, doing something that aims to benefit the environment or someone (individuals or groups) other than, or in addition to, close relatives. Central to this definition is the fact that volunteering must be a choice freely made by each individual.

Vulnerability: a weakness in the computational logic (for example, code) found in software and hardware components that when exploited, results in a negative impact to the confidentiality, integrity, or availability, and the term Vulnerabilities shall be construed accordingly.

Worker: an individual worker, or a worker that is a company or other legal entity, as the case may be including any of Fielder's own employees, workers or agency staff.

Interpretation

- 1.2 A **Person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns.
- 1.3 A reference to a **Company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.4 A reference to a **Holding Company** or a **Subsidiary** means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006.
- 1.5 A reference to legislation or a legislative provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.6 A reference to legislation or a legislative provision shall include all subordinate legislation made from time to time.
- 1.7 A reference to **writing** or **written** includes fax and email.
- 1.8 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.

- 1.9 A reference to these terms or to any other agreement or document is a reference to these terms or such other agreement or document, in each case as varied from time to time.
- 1.10 References to clauses are to the clauses of these terms.
- 1.11 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. Terms & Conditions for the Supply of Temporary Workers and Volunteers

2.1 Volunteers.

These terms set out the agreement between Fielder and the Client for the supply of Volunteers by Fielder to the Client.

Fielder shall Screen Volunteers before Introducing them to the Client but shall only be obliged to share the results of Screening if specifically agreed by the parties in writing.

Fielder shall Introduce only Volunteers who have the right to work in the Territory and, in particular, Fielder shall comply with the Immigration Asylum and Nationality Act 2006, the Immigration Act 2016 and other relevant UK legislation or equivalent legislation in the relevant jurisdiction as well as any regulations or relevant codes of practice regarding the reporting of labour movements, concealed employment and the employment of foreign workers.

2.2 Temporary Workers

- 2.2 These terms set out the agreement between Fielder and the Client for the supply of Temporary Workers by Fielder to the Client. For the purposes of the Conduct Regulations 2003, Fielder acts as an employment business in relation to the Introduction and supply of Temporary Workers pursuant to these terms.
- 2.3 Fielder shall Screen Workers before Introducing them to the Client but shall only be obliged to share the results of Screening if specifically agreed by the parties in writing. Fielder shall Introduce only Workers who have the right to work in the Territory and, in particular, Fielder shall comply with the Immigration Asylum and

Nationality Act 2006, the Immigration Act 2016 and other relevant UK legislation or equivalent legislation in the relevant jurisdiction as well as any regulations or relevant codes of practice regarding the reporting of labour movements, concealed employment and the employment of foreign workers.

- 2.4 Fielder shall provide its services in accordance with the service levels at <http://fielder.one/status>.

3. Use of Fielder's Platform

- 3.1 Subject to these terms, Fielder hereby grants to the Client a non-exclusive, non-transferable right, without the right to grant sublicences, to permit the Authorised Users to use the Platform for the term of this agreement solely for the Client's internal business operations.

- 3.2 The Client shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Platform that:

- (a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
- (b) facilitates illegal activity;
- (c) depicts sexually explicit images;
- (d) promotes unlawful violence;
- (e) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
- (f) is otherwise illegal or causes damage or injury to any person or property;

and Fielder reserves the right, without liability or prejudice to its other rights to the Client, to disable the Client's access to any material that breaches the provisions of this clause.

- 3.3 The Client shall not:

- (a) except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under this agreement:
 - (i) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all

- or any portion of the Platform (as applicable) in any form or media or by any means; or
 - (ii) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Platform; or
 - (b) access all or any part of the Platform in order to build a product or service which competes with the Platform; or
 - (c) use the Platform to provide services to third parties; or
 - (d) license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Platform available to any third party except the Authorised Users, or
 - (e) attempt to obtain, or assist third parties in obtaining, access to the Platform, other than as provided under this clause 3; or
 - (f) introduce or permit the introduction of any Virus or Vulnerability into Fielder's network and information systems.
- 3.4 The Client shall prevent any unauthorised access to, or use of, the Platform and, in the event of any such unauthorised access or use, promptly notify Fielder.
- 3.5 The rights provided under this clause are granted to the Client only, and shall not be considered granted to any subsidiary or holding company of the Client.
- 3.6 Fielder:
- (a) does **NOT** warrant that:
 - (i) any Temporary Worker or Volunteer is suitable for the position offered by the Client;
 - (ii) any Temporary Worker or Volunteer has the technical and/or professional competences required by the Client;
 - (iii) the Client's use of the Platform will be uninterrupted or error-free; or
 - (iv) that the Platform and/or the information obtained by the Client through the Platform will meet the Client's requirements; or
 - (v) the Platform will be free from Vulnerabilities or Viruses; and
 - (b) is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks

and facilities, including the internet, and the Client acknowledges that the Platform may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

- 3.7 These terms shall not prevent Fielder from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this agreement.

4. Client Obligations

4.1 The Client shall:

- (a) provide Fielder with:
 - (i) all necessary cooperation in relation to this agreement; and
 - (ii) all necessary access to such complete and accurate information as may be required by Fielder;in order for Fielder to provide its services;
- (b) without affecting its other obligations under this agreement, comply with all applicable laws and regulations with respect to its activities under this agreement including in relation to the supervision, direction and control of the Temporary Worker or Volunteer at all times during each Assignment;
- (c) ensure that the Authorised Users use the Platform in accordance with the terms and conditions of this agreement and shall be responsible for any Authorised User's breach of this agreement;
- (d) obtain and shall maintain all necessary licences, consents, and permissions necessary for Fielder, its contractors and agents to perform their obligations under these terms;
- (e) obtain and shall maintain appropriate employer liability and any other relevant insurance in respect of each Temporary Worker;
- (f) ensure that its network and systems comply with the relevant specifications provided by Fielder from time to time; and
- (g) be, to the extent permitted by law and except as otherwise expressly provided in this agreement, solely responsible for procuring, maintaining and securing its network connections and telecommunications links from its systems to Fielder's data centres, and all problems, conditions, delays,

delivery failures and all other loss or damage arising from or relating to the Client's network connections or telecommunications links or caused by the internet.

- 4.2 Fielder shall, where relevant, inform the Client whether it holds a Valid Opt-Out for each Temporary Worker whom it Introduces to the Client.
- 4.3 The Client acknowledges that if any Temporary Worker is provided to it for a period in excess of 12 weeks, there are additional obligations to that Temporary Worker under the AWR. On or before the date on which the Engagement has been in existence for eleven weeks, the Client shall provide to Fielder all information required by Fielder in relation to those obligations.

5. Booking Temporary Workers or Volunteers

- 5.1 The Client will use the Platform to:
- (a) notify Fielder of its requirements for Temporary Workers or Volunteers;
 - (b) enter into Assignments; and
 - (c) provide all information required by Fielder for Temporary Workers in order for Fielder to fulfil its obligations under the AWR 2010.

6. Temporary to permanent

- 6.1 If, following the supply of a Temporary Worker by Fielder to the Client within the Relevant Period, the Client Engages the Temporary Worker, Fielder's Introduction Terms at Appendix 2 will apply.

7. Cancellation of an Assignment

- 7.1 Fielder shall notify the Client immediately if it believes that any Temporary Worker or Volunteer is unsuitable for the Assignment or if it becomes aware of any matter that indicates that a Temporary Worker or Volunteer may be unsuitable for the Assignment or is inconsistent with any information previously provided including where a Temporary Worker or Volunteer ceases to have the appropriate skills, approvals or a right to work in the United Kingdom.
- 7.2 If the Client decides that a Temporary Worker or a Volunteer is an **Unsatisfactory Temporary Worker**, the Client shall notify Fielder in writing of that fact within 48 hours giving the grounds for its dissatisfaction with the Unsatisfactory Temporary

Worker or Volunteer including, using the Staff Hub, Help System or by written contact with Fielder.

- 7.3 Subject to clause 7.4, if the Client notified Fielder of an Unsatisfactory Temporary Worker in accordance with clause 7.2 the Assignment shall terminate at the end of the day on which the Client notified Fielder of the Unsatisfactory Temporary Worker, and Temporary Worker Fees shall be payable up to and including the date of such termination.
- 7.4 Fielder shall be entitled to challenge the Client's decision in relation to a Temporary Worker on the grounds that it is unlawful, unreasonable and/or unfair and the parties shall act reasonably, including where appropriate providing staff of sufficient seniority to meet and discuss the decision.
- 7.5 Fielder shall be entitled to make the Unsatisfactory Temporary Worker unavailable to the Client on the Platform.
- 7.6 The Temporary Worker or Volunteer shall be entitled to terminate an Assignment in accordance with the termination provisions specified in relation to that Assignment on the Platform.
- 7.7 Fielder or the Client may terminate an Assignment at any time on reasonable notice given via the Platform and the following payments shall be made if applicable:
 - (a) By the Client where the notice is less than 48 hours and the worker has accepted, a full single day shift will be chargeable.
- 7.8 Any change by the Client to its requirements before the commencement of the Assignment shall be treated as a cancellation by the Client unless the parties agree that the Temporary Worker is suitable for the new requirements.

8. Fees and VAT

- 8.1 No charge is made in relation to Volunteers. The Client will pay Fielder Temporary Worker Fees in respect of Temporary Workers in accordance with Appendix 1 (as varied by Fielder from time to time).
- 8.2 The Client shall on completion of the Assignment authorise timesheets in a timely manner on the Platform in accordance with Fielder's time sheet process.

- 8.3 Fielder shall invoice the Client upon approval of each timesheet. Each invoice is payable in accordance with Appendix 1.
- 8.4 The Client shall not be required to pay Temporary Worker Fees for any absences (other than absences within the control of and/or caused by the Client) of a Temporary Worker.
- 8.5 Where applicable, Fielder shall charge VAT to the Client, at the prevailing rate, after Fielder has provided the Client with a VAT invoice.
- 8.6 If the Client fails to make a payment due to Fielder under these terms by the due date, then:
- (a) Fielder shall be entitled to suspend provision of Temporary Workers until payment is made; and/or
 - (b) the Client shall pay late payment fees on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment
Late payment fees as detailed in Appendix 3 : Late Payment
- 8.7 Fielder reserves the right to complete a credit check in relation to the Client at any time and to amend the payment terms applicable to the Client to reflect the results of that check.

9. **Term**

The agreement between the parties shall commence on the date on which the Client registers on the Platform and shall continue, unless terminated earlier in accordance with Clause 10 below (Default and early termination) until the earlier of either party giving to the other party 30 Business Days' notice to terminate OR at the end of a six month period during which the Client has not logged in to the Platform.

10. **Default and early termination**

Without affecting any other right or remedy available to it, either party may terminate the agreement between the parties with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of any term of these terms and (if such a breach is remediable) fails to remedy that breach within 15 days of receipt of notice in writing to do so;
- (b) the other party repeatedly breaches any of these terms in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to these terms;
- (c) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (IA 1986) as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the IA 1986;
- (d) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;
- (e) the other party applies to court for, or obtains, a moratorium under Part A1 of the Insolvency Act 1986;
- (f) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party other than for the sole purpose of a scheme for a solvent amalgamation of the other party with one or more other companies or the solvent reconstruction of the other party;
- (g) an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed over the other party (being a company, partnership or limited liability partnership);
- (h) the holder of a qualifying floating charge over the assets of the other party (being a company or limited liability partnership) has become entitled to appoint or has appointed an administrative receiver;
- (i) a person becomes entitled to appoint a receiver over all or any of the assets of the other party or a receiver is appointed over all or any of the assets of the other party;
- (j) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or

enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;

- (k) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 10(c) to (j) (inclusive); or
- (l) the other party suspends or threatens to suspend, or ceases or threatens to cease to carry on, all or a substantial part of its business.

11. Survival

- 11.1 Any provision of these terms that expressly or by implication is intended to come into or continue in force on or after termination or expiry of these terms shall remain in full force and effect.
- 11.2 Termination or expiry of these terms shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

12. Announcements

Neither party shall make, or permit any person to make, any public announcement concerning the existence, subject matter or terms of these terms, the wider transactions contemplated by it, or the relationship between the parties, without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including any relevant securities exchange), any court or other authority of competent jurisdiction.

13. Regulatory Compliance

- 13.1 Fielder shall be responsible for deduction and payment of all tax, National Insurance contributions and other levies in respect of persons employed by Fielder or Temporary Workers.
- 13.2 Fielder shall ensure that Temporary Workers are contractually obliged to comply with:

- (a) all relevant statutes, laws, regulations and codes of practice from time to time in force applicable to the performance of an Assignment and applicable to the Client's business;
 - (b) the Client's health and safety policy whilst the Temporary Workers are on the Client's premises or any of the Client's customers' or suppliers' or agents' (direct or indirect) premises; and
 - (c) a restriction not to disclose any confidential information of the Client or of any of the Client's customers or suppliers or agents (direct or indirect), which they may acquire during the course of the Assignment.
- 13.3 Fielder shall and shall ensure that any subcontractor or other intermediary shall at all times comply with their obligations under the AWR 2010, including providing any Qualifying Temporary Worker with the Relevant Terms and Conditions in accordance with regulation 5 of the AWR 2010.
- 13.4 Subject to Clause 13.5 below, the Client shall at all times comply with its obligations under the AWR 2010, including providing any Temporary Workers with access to collective facilities and amenities and employment opportunities subject to and in accordance with regulations 12 and 13 of the AWR 2010 and shall indemnify and keep indemnified Fielder against any liability, cost, claim, award or any other expense incurred by Fielder arising out of a breach or alleged breach by the Client, its subcontractors or any other intermediaries, of the AWR 2010.
- 13.5 If either party receives an allegation that there has been a breach of the AWR 2010 in relation to the supply of a Temporary Worker to the Client by Fielder (whether that allegation has been made as a request for information under regulation 16 of the AWR 2010 or otherwise), it shall provide a copy of that allegation to the other party within seven days of receipt. The parties shall cooperate with each other in responding to that allegation, which shall include supplying any information which may be reasonably requested by the other party, and complying with any reasonable requests in relation to the contents of any response.
- 13.6 In order to ensure compliance with the AWR 2010, Fielder will within seven days of receiving a written request from the Client provide it with details of:
 - (a) the number of Temporary Workers that it is currently supplying to the Client;
 - (b) the parts of the Client's undertaking in which those Temporary Workers are working; and

- (c) the type of work those Temporary Workers are carrying out,

together with any other information which the Client may reasonably request in relation to any payments made by Fielder, its subcontractors or any other intermediaries to any Temporary Workers.

- 13.7 The provisions of this clause 13 shall survive termination of these terms.

14. **Proprietary rights**

14.1 The Client acknowledges and agrees that Fielder and/or its licensors own all intellectual property rights in the Platform. Except as expressly stated herein, this agreement does not grant the Client any rights to, under or in, any patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Platform

15. **Indemnity**

- 15.1 Without prejudice to Fielder performance of its obligations under these terms, the Client shall defend, indemnify and hold harmless Fielder against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Client's use of the Platform provided that:

- (a) the Client is given prompt notice of any such claim;
- (b) Fielder provides reasonable co-operation to the Client in the defence and settlement of such claim, at the Client's expense; and
- (c) the Client is given sole authority to defend or settle the claim.

- 15.2 Fielder shall defend the Client, its officers, directors and employees against any claim that the Client's use of the Platform in accordance with this agreement infringes any patent, copyright, trademark, database right or right of confidentiality, and shall indemnify the Client for any amounts awarded against the Client in judgment or settlement of such claims, provided that:

- (a) Fielder is given prompt notice of any such claim;
- (b) the Client does not make any admission, or otherwise attempt to compromise or settle the claim and provides reasonable co-operation to Fielder in the defence and settlement of such claim, at Fielder's expense; and

- (c) Fielder is given sole authority to defend or settle the claim.
- 15.3 In the defence or settlement of any claim, Fielder may procure the right for the Client to continue using the Platform, replace or modify the Platform so that it becomes non-infringing or, if such remedies are not reasonably available, terminate this agreement on 2 Business Days' notice to the Client without any additional liability or obligation to pay liquidated damages or other additional costs to the Client.
- 15.4 In no event shall Fielder, its employees, agents and subcontractors be liable to the Client to the extent that the alleged infringement is based on:
 - (a) a modification of the Platform by anyone other than Fielder; or
 - (b) the Client's use of the Platform in a manner contrary to the instructions given to the Client by Fielder; or
 - (c) the Client's use of the Platform after notice of the alleged or actual infringement from Fielder or any appropriate authority.
- 15.5 The foregoing and clause 15.4 below state the Client's sole and exclusive rights and remedies, and Fielder's (including Fielder's employees, agents' and subcontractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.
- 16. **Limitation of liability**
- 16.1 References to liability in this 15 include every kind of liability arising under or in connection with these terms including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 16.2 Nothing in these terms limits any liability which cannot legally be limited, including but not limited to liability for:
 - (a) death or personal injury caused by negligence;
 - (b) fraud or fraudulent misrepresentation; and
 - (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 16.3 Except as expressly and specifically provided in these terms the Client assumes sole responsibility for results obtained from the use of the Platform and Fielder shall have

no liability for any actions taken by Fielder Business at the Client's direction. The Client acknowledges that Fielder is not responsible for the consequences of any data provided by the Client being incomplete or inaccurate nor for the acts and omissions of each Temporary Worker during each Engagement.

16.4 Subject to clause 15.2, Fielder's total liability to the Customer under or in relation to these terms shall not in any period of twelve months exceed an amount equal to the amounts paid by the Client in respect of Temporary Worker Fees in that twelve month period.

16.5 Subject to 15.2, Fielder shall not be liable to the Customer for the following types of loss:

- (a) loss of profits.
- (b) loss of sales or business.
- (c) loss of agreements or contracts.
- (d) loss of anticipated savings.
- (e) loss of use or corruption of software, data or information.
- (f) loss of or damage to goodwill; and
- (g) indirect or consequential loss.

16.6 The terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

16.7 This 15 shall survive termination of the Contract.

17. **Proprietary rights**

17.1 The Client acknowledges and agrees that Fielder and/or its licensors own all intellectual property rights in the Platform. Except as expressly stated herein, this agreement does not grant the Client any rights to, under or in, any patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Platform.

18. **Confidentiality**

18.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or

suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by clause 17.2.

18.2 Each party may disclose the other party's confidential information:

- (a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with these terms. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 17; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

18.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with these terms.

19. **Data protection**

19.1 Each party shall comply with the provisions of the data processing agreement at <http://fielder.one/dpa>.

20. **Non-solicitation**

Neither party shall, either on its own account or in partnership or association with any person, firm, company or organisation, or otherwise and whether directly or indirectly during, or for a period of six months from, the end of these terms, solicit or entice away or attempt to entice away or authorise the taking of such action by any other person, any key executive of the other party who has worked on the services provided under these terms at any time during the term of the parties' agreement other than by means of a national advertising campaign open to all-comers and not specifically targeted at such executives of the other party.

21. **Assignment and other dealings**

21.1 Neither party shall assign, transfer, mortgage, charge, declare a trust over or deal in any other manner with any or all of its rights and obligations under these terms

without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed).

22. No partnership or agency

22.1 Nothing in these terms is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

22.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

23. Variation

No variation of these terms shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

24. Entire agreement

24.1 These terms and the commercial terms agreed by the parties by way of the Platform constitute the entire agreement between the parties and supersede and extinguish all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to their subject matter.

24.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these terms. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in these terms.

25. Force majeure

Neither party shall be in breach of these terms nor liable for delay in performing, or failure to perform, any of its obligations under these terms, including payment, if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations.

26. Severance

- 26.1 If any provision or part-provision of these terms is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of these terms.
- 26.2 If any provision or part-provision of these terms is deemed deleted under Clause 25.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

27. Third party rights

- 27.1 These terms do not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of these terms.

28. Notices

- 28.1 Any notice or other communication given to a party under or in connection with these terms shall be in writing and shall be:
- (a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
 - (b) provided in accordance with the requirements of the Platform.
- 28.2 Any notice or communication shall be deemed to have been received:
- (a) if delivered by hand, at the time the notice is left at the proper address;
 - (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
 - (c) if provided via the Platform, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 27.2(c), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- 28.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

29. Governing law

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

30. Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with these terms or their subject matter or formation provided that either party may enforce any judgement of the courts of England and Wales in the courts of any jurisdiction.

Appendix 1 – Fees

1. Definitions:

- 1.1. **Fielder Staff Hub:** is the cloud based software platform that the Client is granted access to, to manage their Staff - accessed at <http://app.fielder.one>
- 1.2. **Fielder Staff:** These are temporary staff who have been sourced and contracted by Fielder and are paid by Fielder under Fielder's PAYE scheme.
- 1.3. **Fielder Managed:** These are temporary staff who have been introduced to Fielder. They can be introduced through invitation as staff and upload of CVs. These include existing temporary or permanent staff the client may have. Fielder Managed Staff may be contracted directly by the Client or not. Fielder Managed Staff are paid by Fielder.
- 1.4. **Fielder Sourced:** These are staff sourced using Fielder technology and platform and then either engage in a full time contract or part time upto a 12 week limit.
- 1.5. **Client Staff:** These are temporary or permanent staff employed and contracted by the Client and are paid directly by the Client.
- 1.6. **Volunteer:** These are volunteer staff engaged by qualified Charities or Social Enterprises.

2. Free access to Fielder Staff Hub

The Client is granted access to use certain Features within Fielder Staff Hub to manage their own staff FREE of charge.

Fielder reserves the right to, remove or add features at its discretion at any time with or without notice.

3. Fielder Fees & Charges for Worker Hiring

Fielder charges a percentage fee of the Gross pay (Gross Wage, Statutory Costs (NI, Pensions etc), Holiday Pay, etc) based on whether the worker is Fielder Staff or Fielder Managed Staff. **Confirmation of Assignment and Booking of Paid Staff within the Fielder Staff Hub confers a commitment to pay as detailed in this contract.**

Worker Type	Features	Charge of Gross
Client Staff		N/A
Fielder Managed	Payroll	1.5 %
Fielder Staff		1.5 %
Fielder Sourced	12 Week Limit	3%
	Annual Equivalent	0.75%

4. Duration of Fees

Fielder will charge its Hiring Fee for a minimum of 12 weeks.

For Fielder Staff, at 12 weeks, the Client will be given an option to engage a “Temporary to Permanent Offer” as detailed in Appendix 2. Once the Temporary to Permanent fee is paid, the Worker will be contracted and engaged directly by the Client and will become Client Staff on the Fielder platform.

The Client will then have an option to either keep the Worker as “Client Staff” or engage as “Fielder Managed Staff”.

5. Features available to Clients as of 1/1/2021

Features	Volunteer	Client Staff	Fielder Managed	Fielder Staff
Time & Attendance	FREE	FREE	FREE	FREE
Geo Fenced Clock in / Out	FREE	FREE	FREE	FREE
Skills Matching	FREE	FREE	FREE	FREE
Qualification Matching	FREE	FREE	FREE	FREE
Availability Matching	FREE	FREE	FREE	FREE
Roster / Auto Scheduling	FREE	FREE	FREE	FREE

Wage Market Rate Monitor	FREE	FREE	FREE	FREE
Offer/Assign Confirmation	FREE	FREE	FREE	FREE
Contract & Compliance	FREE	N/A	INCLUDED	INCLUDED
Payroll Calculations	N/A	N/A	INCLUDED	INCLUDED
Background Checks	FREE	INCLUDED	INCLUDED	INCLUDED
Worker Hiring	FREE	See Appendix 2	1.5% of Gross Cost	3% of Gross Cost

6. Invoices from Fielder

6.1. Cost Breakdown in Invoices - the Uplift

Fielder invoices for hiring will detail a breakdown of each cost incurred by the Client. Within the Invoice an Uplift is detailed - this includes Employer NIC (13.8%), Pension Contribution (3%), Apprentice Levy (0.5%), Fielder Fee (1.5% or 3% of the Total Payment).

6.1.1. At the 3% fee level, this total Uplift comes to 24.34%.

6.1.2. At the 1.5% fee level, this total Uplift comes to 20.82%

6.2. Rebate

Due to the nature of PAYE schemes the Fielder Staff Hub shows the maximum payable. In the case the actual payment is less, a rebate will be issued to the Client.

6.3. Invoices and VAT

Fielder will charge the prevailing rate of VAT to all UK invoices.

7. Prepayment of Invoices

For Clients who need to prepay for Workers, a proforma Invoice will be raised which will need to be paid before confirmation of booking of paid Staff. This will be done in the Fielder Staff Hub.

Where the Client has made a payment on account of fees, Fielder shall be entitled to deduct each fee from that payment on or after the date on which the fee is invoiced, until the payment on account is exhausted.

8. Payment of Invoices

For Clients who have been offered credit terms with Fielder, weekly invoices will be raised and must be paid within the 28 day grace.

Assignments or Workers made within the Fielder Staff Hub are full and final, and confer a commitment to pay as detailed in this contract.

Failure to Pay within the agreed time, will incur additional fees as detailed in Appendix 3 - Late Payment.

9. Method of Payment

Fielder Will require all payments to be made to Fielder Staff Ltd as detailed in the invoices that will be issued.

Fielder prefers these funds to be paid via Direct Bank or BACS.

The Client may choose to Pay via Credit or Debit Card using the Fielder Staff Hub. In this Case, Fielder will charge an additional acquiring fee as charged by our credit/debit card service provider.

10. Exceeding Credit Limit

Fielder assigns a credit limit to each Client that it engages with. This is updated on a regular basis.

In the event that the Client orders Temporary Workers exceeding this credit limit, Fielder Staff Hub will prompt for prepayment of invoices exceeding this limit. In this case

Appendix 2 – Introduction Terms / Temp to Permanent

The Client may contract directly with the Temporary Worker after the initial mandatory 12 week period by paying an introduction Fee (detailed below). This can be requested by the Fielder platform. This fee is payable whether the Fielder platform is used or not.

1. If the Client engages a Temporary Worker during the Relevant Period (whether via the Platform or otherwise), it shall pay the applicable introduction fee from the table below (**Introduction Fee**) to Fielder:

Introduction Fee – % plus VAT	Period from start of Engagement – weeks
3% of Net Wage (excluding Statutory Costs/Holiday/etc)	12 weeks at 40 Hours a Week
Example: Net Wage = £10.00, 40 hours a week, 12 weeks $3\% * 4,800 = £144.00 + \text{VAT} = £172.80 \text{ (inc VAT)}$	

2. The Client acknowledges that even where an Introduction Fee has been paid by the Client the Temporary Worker will remain on the Platform unless he/she opts to close his/her account.

Appendix 3 – Late Payment

1. The Client confirms that in the event of delay of payment beyond agreed credit terms, Fielder will be entitled to charge late payment fees; and/or
2. Fielder reserves the right to change payment terms to proforma payments at its discretion, with any transaction fees to be charged to the Client to facilitate payment.
3. Late payment fees are calculated as follows:
 - 3.1. Fielder's margin is doubled from the day that the payment is overdue.
 - 3.2. The increased margin is subsequently doubled for each additional 28 days between the payment due date and the date the payment is made.
 - 3.3. The margin is capped at four times the original value. After which debt agency fees are payable which may be uncapped at the discretion of the debt collection agency.
 - 3.4. In the case that this capped is reached, Fielder may forward the debt on to an agency and reserves the right to charge the client for any administration fees.
 - 3.5. A breakdown of late fees can be found in the tables below.
 - 3.6. Late Fees will be invoiced separately on the first day of delinquency.
4. At 3% Fee Rate

Days Late	upto 28 days	29-56 days	57-84 days	85+ days
Fee Payable	3%	6%	12%	Debt Agency Fees