

DATED _____ 2018

TERMS AND CONDITIONS


FOR

THE SUPPLY OF A TEMPORARY WORKER

BY

CASTLES EDUCATION LLP

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 sas daniels LLP

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TABLE OF CONTENTS

1.	Interpretation	1
2.	Castles Education's obligations	6
3.	The School's obligations	7
4.	Temporary to permanent	8
5.	Unsatisfactory Temporary Workers	9
6.	Fees and VAT	10
7.	Term.....	11
8.	Default and early termination	11
9.	Effect of early termination	13
10.	Announcements	13
11.	Audit and record-keeping.....	13
12.	Indemnities and insurance.....	14
13.	Confidentiality.....	17
14.	Data protection compliance	17
15.	Warranties and undertakings.....	20
16.	Non-solicitation.....	20
17.	Assignment and other dealings	20
18.	No partnership or agency	20
19.	Variation.....	21
20.	Entire agreement.....	21
21.	Third party rights	21
22.	Notices	21
23.	Governing law	22
24.	Jurisdiction	22
25.	Severance	22

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PARTIES

- (1) **CASTLES EDUCATION LLP**, a Limited Liability Partnership registered in England and Wales under company registration number OC415116, and whose registered office is at 294 Askern Road, Toll Bar, Doncaster United Kingdom DN5 0QN ("**Castles Education**"); and
- (2) [FULL COMPANY NAME], incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (the "**The School**").

BACKGROUND

- (A) Castles Education is a specialist recruitment business working within the education sector who source and place individuals to fill temporary vacancies within the Schools.
- (B) Castles Education supplies agency workers who are Temporary Workers (as defined below) and the School requires a Temporary.
- (C) The School wishes to appoint Castles Education to provide a Temporary Worker in the role of an agency worker and Castles Education is prepared to provide the Temporary Worker to the School on the terms and conditions of this Agreement.

OPERATIVE PROVISIONS

1. Interpretation

The following definitions and rules of interpretation apply in this Agreement.

1.1 Definitions

- Actual Vacancies** the School's vacant position(s) for a Temporary Worker as The School informs Castles Education from time to time in accordance with this Agreement.
- Assignment** has the meaning given in clause 3 (The School's obligations).
- AWR 2010** the Agency Workers Regulations 2010 (*SI 2010/93*).

Business Day	a day other than a Saturday, Sunday or public holiday, when banks in London are open for business.
Commencement Date	has the meaning given in clause 7 (Term).
Conduct Regulations 2003	the Conduct of Employment Agencies and Castles Education Regulations 2003 (<i>SI 2003/3319</i>).
Data Protection Legislation	up to but excluding 25 May 2018, the Data Protection Act 1998 and thereafter (i) unless and until the GDPR is no longer directly applicable in the UK, the GDPR and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 1998.
Engage	the employment of a Temporary Worker or engagement directly or indirectly through any Castles Education other than through Castles Education (whether for a definite or indefinite period) as a direct result of any Introduction or Assignment to The School and the terms Engaged or Engagement shall be construed accordingly.
Extended Assignment	has the meaning given in clause 4.
GDPR	General Data Protection Regulation ((EU) 2016/679).
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.
Holding Company	has the meaning given in clause 1.5.
Indemnity	has the meaning given in clause 12 and Indemnified and Indemnifies shall be construed accordingly.

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Introduce	the provision to The School of information by Castles Education by way of a curriculum vitae, summary, memorandum or in such format as The School may from time to time require which identifies the Temporary Worker and Introduction and Introduced shall be construed accordingly.
Introduction Date	the date Castles Education Introduces the Temporary Worker to The School in accordance with clause 2(Castles Education's obligations).
Introduction Fee	has the meaning given in clause 4.
Other Qualifying Payments	any remuneration payable to the Temporary Worker (other than their basic hourly rate), which is not excluded by virtue of regulation 6 of the AWR 2010, such as any overtime, shift premium, commission or any bonus, incentive or rewards which are directly attributable to the amount or quality of work done by a Temporary Worker and are not linked to a financial participation scheme (as defined by the AWR 2010).
[Permanent Contract of Employment	a permanent contract of employment between a Temporary Worker and Castles Education that complies with the requirements set out in regulation 10 of the AWR 2010, such contract to include providing the Temporary Worker with "the minimum amount" as defined in regulations 10(1)(c) and 11 of the AWR 2010.]
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 School (whether by Castles

	Education or any third party) for the Qualifying Period and in respect of whom Castles Education has complied with its obligations under clause 2 (Castles Education's obligations).
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 to the level and criteria as required by The School from time to time as more particularly defined in the Schedule and Screening shall be construed accordingly.
Subsidiary	has the meaning given in clause 1.5.
Temporary Worker	a Worker Introduced and supplied by Castles Education to The School to provide services to The School not as an employee of The School, who is deemed to be an agency worker for the purposes of regulation 3 of the AWR 2010.
Temporary Worker Fees	has the meaning given in clause 4 .
Territory	the United Kingdom.
Unsatisfactory Temporary Worker	has the meaning given in clause 5.
Valid Opt-Out	means written notification from a company Worker and the individual provided by that company Worker in accordance with regulation 32(9) of the Conduct Regulations 2003, as amended from time to time.
VAT	value added tax chargeable under the Value Added Tax Act 1994.
Vulnerable Person	has the meaning given in regulation 2 of the Conduct Regulations 2003.
Worker	an individual worker, or a worker that is a

company or other legal entity, as the case may be including any of Castles Education's own employees, workers or agency staff.

- 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 The Schedule forms part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedule.
- 1.4 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 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 and a company shall be treated, for the purposes only of the membership requirement contained in sections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (a) another person (or its nominee) by way of security or in connection with the taking of security, or (b) its nominee. In the case of a limited liability partnership which is a subsidiary of a company or another limited liability partnership, section 1159 of the Companies Act 2006 shall be amended so that: (a) references in sections 1159(1)(a) and (c) to voting rights are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and (b) the reference in section 1159(1)(b) to the right to appoint or remove a majority of its board of directors is to the right to appoint or remove members holding a majority of the voting rights.
- 1.6 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.7 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time.
- 1.8 A reference to **writing** or **written** includes fax and email.
- 1.9 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.

1.10 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. Castles Education's obligations

2.1 These terms set out the agreement between Castles Education and The School for the supply of Temporary Workers by Castles Education to The School. For the purposes of the Conduct Regulations 2003, Castles Education acts as an employment business in relation to the Introduction and supply of Temporary Workers pursuant to this Agreement.

2.2 Castles Education agrees to search, in the Territory and within such timeframe as the School may specify, for Workers for The School as Temporary Workers who meet The School's stipulated minimum criteria for the Actual Vacancies.

2.3 Castles Education shall take instructions from the Schools Head or the School's Deputy Head or such other person as authorised by either of the foregoing ("**Authorised Person**"). Castles Education shall not provide any information about Workers, by any means, to any other department or staff of The School, without the express prior written authorisation of an Authorised Person. Without prejudice to any other provision of this Agreement, Castles Education shall accurately and promptly complete and otherwise process and provide information in accordance with such ordering and other monitoring, invoicing or reporting systems (including any IT platforms or programs) which The School may from time to time designate and notify to Castles Education in writing.

2.4 Castles Education shall Screen Workers before Introducing them to The School and shall Introduce to The School only Workers who meet the minimum criteria for the position stipulated by The School in accordance with clause 3 and who have an interest in the positions for which they are Introduced. Castles Education shall Introduce only Workers who have the right to work in the Territory and, in particular, Castles Education 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.

- 2.5 Where a Worker is required by law or any professional body to have any qualifications, authorisations or certification to work on the Assignment or the Assignment involves working with any Vulnerable Persons, Castles Education shall take all reasonably practicable steps to obtain, and offer to provide copies of, any relevant qualifications or authorisations or certification and two references. Castles Education shall also take reasonable practicable steps to confirm that the Worker is suitable for the Assignment. If Castles Education is unable to fully comply with these requirements, it shall inform The School of the steps it has taken to obtain the necessary information.
- 2.6 Prior to the commencement of the Assignment, Castles Education shall send The School written confirmation of:
- 2.6.1 the identity of the Temporary Worker;
 - 2.6.2 the Temporary Worker's experience, training, qualifications and authorisations necessary for the Assignment;
 - 2.6.3 the Temporary Worker's willingness to carry out the Assignment;
 - 2.6.4 the hourly rate charged by Castles Education in accordance with clause 6.1;
 - 2.6.5 any notice period to terminate the Assignment; and
 - 2.6.6 the intervals at which invoices shall be rendered to The School by Castles Education.
- 2.7 Castles Education shall, where relevant, inform The School whether it holds a Valid Opt-Out for each Temporary Worker whom it Introduces to The School.
- 2.8 The parties shall meet regularly to review the services provided by Castles Education. Any resulting changes agreed to the services, remuneration or any other aspect of the agreement shall be of no effect unless confirmed in writing.

3. The School's obligations

- 3.1 When making a request for the provision of a Temporary Worker to perform certain services (Assignment), The School will give Castles Education details of:
- 3.1.1 the date on which The School requires the Temporary Worker to commence work and the duration, or likely duration, of the work;
 - 3.1.2 the position which The School seeks to fill, including the type of work the Temporary Worker in that position would be required to do, the location at which, and the hours during which, the Temporary Worker would be

- required to work, and any risk to health or safety known to The School and what steps The School has taken to prevent or control such risks;
- 3.1.3 the experience, training, qualifications and any authorisation which The School considers are necessary, or which are required by law, or by any professional body, for the Temporary Worker to possess in order to work in the position;
- 3.1.4 any expenses payable by or to the Worker; and
- 3.1.5 [any information reasonably required by Castles Education in order for Castles Education to fulfil its obligations under the AWR 2010.]

4. Temporary to permanent

- 4.1 If, following the supply of a Temporary Worker by Castles Education to The School within the Relevant Period, The School Engages the Temporary Worker, The School will pay Castles Education the Introduction Fee at the rate set out in the Schedule.
- 4.2 The Introduction Fee will not be payable if The School gives written notice to Castles Education that it intends to continue the hire of the Temporary Worker for a further period of three months (Extended Assignment) before it Engages the Temporary Worker other than through Castles Education.
- 4.3 Where The School decides (in accordance with clause 4.2 to have the Temporary Worker supplied by Castles Education for the Extended Assignment:
- 4.3.1 the Temporary Worker Fees payable by The School during the Extended Assignment shall be those applicable immediately before Castles Education received The School's notice of election;
- 4.3.2 at the end of the Extended Assignment, The School may Engage the Temporary Worker without paying the Introduction Fee;
- 4.3.3 if The School chooses an Extended Assignment, but engages the Temporary Worker before the end of the Extended Assignment, the Introduction Fee may be charged by Castles Education, reduced proportionately to reflect the amount of the Extended Assignment paid for by The School; and
- 4.3.4 if the Engagement of the Temporary Worker is for any reason terminated within the following period(s) from his start date of work, Castles

Education shall immediately make the following refunds of the Introduction Fee (as appropriate): [DETAILS OF ARRANGEMENTS].

5. Unsatisfactory Temporary Workers

- 5.1 Castles Education shall notify The School immediately if it believes that any Temporary Worker is unsuitable for the Assignment or if it becomes aware of any matter that indicates that an Temporary Worker may be unsuitable for the Assignment or is inconsistent with any information previously provided including where a Temporary Worker ceases to have the appropriate skills, approvals or a right to work in the United Kingdom.
- 5.2 If The School decides that a Temporary Worker is unsuitable to perform the Assignment (an Unsatisfactory Temporary Worker), then The School shall notify Castles Education in writing of that fact giving the grounds for its dissatisfaction with the Unsatisfactory Temporary Worker.
- 5.3 If The School notified Castles Education of an Unsatisfactory Temporary Worker in accordance with clause 5.2
- 5.3.1 within 48 hours of the commencement of the Assignment, then the Assignment will immediately terminate and no Temporary Worker Fees shall be payable; and
- 5.3.2 more than 48 hours after commencement of the Assignment, then the Assignment shall terminate at the end of the day on which The School notified Castles Education of the Unsatisfactory Temporary Worker, and Temporary Worker Fees shall be payable up to and including the date of such termination.
- 5.4 Castles Education or The School may terminate an Assignment at any time without prior notice and without liability on reasonable notice. The School reserves the right to change its requirements at any time before the commencement of the Assignment without any liability of the School to Castles Education whatsoever, save for the payment of Temporary Worker Fees due and payable for services already performed. Such cancellation or amendment shall be effective immediately upon the School giving notice to Castles Education (which may be given by telephone, email or in writing).

6. Fees and VAT

- 6.1 The School will pay Castles Education Temporary Worker Fees in respect of Temporary Workers as set out in the Schedule. The Temporary Worker Fees comprise the Temporary Worker's pay and holiday pay, and include Castles Education's commission and employer's National Insurance contributions. When booking a Temporary Worker for an Assignment, Castles Education shall advise The School in writing of the agreed Temporary Worker Fees for that Temporary Worker. The following conditions apply to the Temporary Worker Fees:
- 6.1.1 they are calculated according to the number of hours worked by the Temporary Worker (to the nearest hour);
 - 6.1.2 the minimum period of any Assignment shall be [seven hours];
 - 6.1.3 The School shall during the Assignment sign a time sheet verifying the number of hours worked by the Temporary Worker during a particular week. If The School is unable to sign a time sheet produced for authentication by the Temporary Worker because The School disputes the hours claimed, The School shall inform Castles Education as soon as is reasonably practicable and shall co-operate fully and in a timely fashion with Castles Education to enable Castles Education to establish what hours, if any, were worked by the Temporary Worker. Failure to sign the time sheet does not absolve The School of its obligation to pay the Temporary Worker Fees in respect of the hours actually worked;
 - 6.1.4 The School acknowledges that it shall not decline to sign a time sheet on the basis that it is dissatisfied with the work performed by the Temporary Worker. In cases of unsuitable or unsatisfactory work the provisions of clause 5.2 shall apply;
 - 6.1.5 Castles Education shall submit all invoices together with the applicable signed time sheets verifying the number of hours worked by the Temporary Worker;
 - 6.1.6 Castles Education shall invoice The School [monthly] in arrears and invoices are payable within [30] days of receipt. No fee is incurred by The School until the Temporary Worker has commenced the Assignment;
 - 6.1.7 The School shall not be required to pay Temporary Worker Fees for any absences (for whatever reason) of a Temporary Worker;

- 6.1.8 Castles Education shall not withhold any payment due to a Temporary Worker because of any failure by The School to pay Castles Education; and
- 6.1.9 no increase in the fees payable under this Agreement by The School to Castles Education may be made without The School's prior written consent.
- 6.2 Where applicable, Castles Education shall charge VAT to The School, at the prevailing rate, after Castles Education has provided The School with a VAT invoice.
- 6.3 If The School fails to make a payment due to Castles Education under this Agreement by the due date, then The School shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.

7. Term

This Agreement shall commence on [DATE] (the Commencement Date) and shall continue, unless terminated earlier in accordance with clause 8 (Default and early termination) until either party gives to the other party [30 Business Days'] notice to terminate, expiring on or after the first anniversary of the Commencement Date.

8. Default and early termination

- 8.1 Without affecting any other right or remedy available to it, The School may terminate this Agreement with immediate effect by giving written notice to Castles Education if:
- 8.1.1 Castles Education commits a material breach of any term of this Agreement and (if such a breach is remediable) fails to remedy that breach within [7] days of receipt of notice in writing to do so;
- 8.1.2 Castles Education repeatedly breaches any of the terms of this Agreement 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 the terms of this Agreement;
- 8.1.3 Castles Education suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to

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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 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;

- 8.1.4 Castles Education 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 other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of Castles Education with one or more other companies or the solvent reconstruction of Castles Education;
- 8.1.5 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 Castles Education (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of Castles Education with one or more other companies or the solvent reconstruction of Castles Education;
- 8.1.6 an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed over Castles Education (being a company);
- 8.1.7 the holder of a qualifying floating charge over the assets of Castles Education (being a company) has become entitled to appoint or has appointed an administrative receiver;
- 8.1.8 a person becomes entitled to appoint a receiver over the assets of Castles Education or a receiver is appointed over the assets of Castles Education;
- 8.1.9 Castles Education (being an individual) is the subject of a bankruptcy petition, application or order;
- 8.1.10 a creditor or encumbrancer of Castles Education 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 Castles Education's assets and such attachment or process is not discharged within [14] days;

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- 8.1.11 any event occurs, or proceeding is taken, with respect to Castles Education in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 8.1.3 to clause 8.1.8 (inclusive);
- 8.1.12 Castles Education suspends or threatens to suspend, or ceases or threatens to cease to carry on, all or a substantial part of its business; or
- 8.1.13 Castles Education (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing their own affairs or becomes a patient under any mental health legislation.

9. Effect of early termination

- 9.1 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement shall remain in full force and effect.
- 9.2 Termination or expiry of this Agreement 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.

10. Announcements

Neither party shall make, or permit any person to make, any public announcement concerning the existence, subject matter or terms of this Agreement, 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, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

11. Audit and record-keeping

- 11.1 For the duration of this Agreement and for a period of [six years] from the termination or expiry of this Agreement, Castles Education shall maintain full and accurate records of:
 - 11.1.1 the services provided by Castles Education under this Agreement including but not limited to how it has complied with its obligations under clause 2 (Castles Education's obligations);
 - 11.1.2 all expenditure reimbursed by the School;

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- 11.1.3 all payments made by The School;
 - 11.1.4 the terms on which it or any subcontractors engage any Temporary Workers;
 - 11.1.5 the Screening undertaken on any Temporary Workers; and
 - 11.1.6 the insurance certificates and details of cover referred to in clause 12.12.
- Castles Education shall promptly on request provide The School or The School's representatives with copies of such records referred to in clause 11.1 as the School may from time to time reasonably request and Castles Education shall provide the School or the School's representatives with access, on reasonable notice and within normal working hours, to any of its premises for the purposes of inspecting and/or taking copies of such records.

12. Indemnities and insurance

- 12.1 Castles Education shall indemnify the School and any successor to Castles Education, and to the extent required from time to time by The School (or any such successor), its officers, agents and employees, against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other [reasonable] professional costs and expenses) (Indemnify) suffered or incurred by The School or any successor to Castles Education arising out of or in connection with Castles Education's negligence, misrepresentation or the breach of any obligation to be performed by Castles Education under this Agreement.
- 12.2 Castles Education shall Indemnify the School and any successor to Castles Education against all liability, assessment or claim:
 - 12.2.1 for any National Insurance contributions, income tax or other liability to taxation where such liability, assessment or claim arises or is made in connection with payments made by the School in respect of any Temporary Worker while provided as such by Castles Education to the School; or
 - 12.2.2 arising from any Temporary Worker having at any time claimed, or being held or deemed, to have been an employee of the School or to have been otherwise engaged directly by the School, including without

limitation against any liability arising from or in connection with any claim for wrongful or unfair dismissal or for a redundancy payment.

- 12.3 Castles Education shall Indemnify The School and any successor to Castles Education against all liabilities arising out of or in connection with any transfer, or deemed or alleged transfer, by operation of law of any of Castles Education's employees or any Temporary Worker occurring pursuant to the termination of this Agreement.
- 12.4 Castles Education shall be responsible for deduction and payment of all tax, National Insurance contributions and other levies in respect of persons employed by Castles Education or Temporary Workers and shall Indemnify the School and any successor to Castles Education against all liability to make such statutory payments that may be suffered or incurred by the School and any successor to Castles Education.
- 12.5 Castles Education shall ensure that Temporary Workers are contractually obliged to comply with:
- 12.5.1 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 School's business;
 - 12.5.2 the School's health and safety policy whilst the Temporary Workers are on the School's premises or any of the School's customers' or suppliers' or agents' (direct or indirect) premises; and
 - 12.5.3 a restriction not to disclose any confidential information of The School or of any of The School's customers or suppliers or agents (direct or indirect), which they may acquire during the course of the Assignment.
- 12.6 Before a Temporary Worker starts an Assignment, Castles Education shall notify The School if either:
- 12.6.1 the Temporary Worker is a Qualifying Temporary Worker in relation to the Assignment; or
 - 12.6.2 the Temporary Worker will become a Qualifying Temporary Worker during the course of the Assignment, and
- Castles Education shall advise The School of the applicable Temporary Worker Fees, in accordance with the Schedule, including any Other Qualifying Payments which may be payable.

- 12.7 Castles Education shall and shall ensure that any subcontractor or other intermediary shall at all times comply with their obligations under the AWR 2010, including but not limited to providing any Qualifying Temporary Worker with the Relevant Terms and Conditions in accordance with regulation 5 of the AWR 2010.
- 12.8 Subject to clause 12.9 and clause 12.10, the School shall at all times comply with its obligations under the AWR 2010, including but not limited to 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.
- 12.9 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 School by Castles Education (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.
- 12.10 In order to ensure compliance with the AWR 2010, Castles Education will within seven days of receiving a written request from The School provide it with details of:
- 12.10.1 the number of Temporary Workers that it is currently supplying to The School;
 - 12.10.2 the parts of The School's undertaking in which those Temporary Workers are working; and
 - 12.10.3 the type of work those Temporary Workers are carrying out,
- together with any other information which The School may reasonably request in relation to any payments made by Castles Education, its subcontractors or any other intermediaries to any Temporary Workers.
- 12.11 During the term of this Agreement (and for a period of [PERIOD] thereafter), Castles Education shall maintain in force, with a reputable insurance company, professional indemnity insurance in an amount not less than £[AMOUNT] and shall on The School's request, produce both the insurance certificate giving details of the cover and the receipt for the current year's premium.
- 12.12 The provisions of this clause 12 shall survive termination of this Agreement.

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13. Confidentiality

- 13.1 Each party undertakes that it shall not at any time during this Agreement, and for a period of [five] years after termination of this Agreement, disclose to any person any confidential information concerning the business, affairs, customers, the Schools 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 13.2.
- 13.2 Each party may disclose the other party's confidential information:
- 13.2.1 to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under this Agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 13; and
- 13.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 13.3 No party shall use any other party's confidential information for any purpose other than to perform its obligations under or in connection with this Agreement.

14. Data protection compliance

- 14.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 14 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- 14.2 The parties acknowledge that for the purposes of the Data Protection Legislation, The School is the data controller and Castles Education is the data processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation. The terms Personal Data and Data Subject also have the meanings as defined in the Date Protection Legislation). [The Schedule sets out the scope, nature and purpose of processing by Castles Education, the duration of the processing and the types of Personal Data and categories of Data Subject.]
- 14.3 Without prejudice to the generality of clause 14.1 the School will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to Castles Education for the duration and purposes of this Agreement.

- 14.4 Without prejudice to the generality of clause 14.1, Castles Education shall, in relation to any Personal Data processed in connection with the performance by Castles Education of its obligations under this Agreement:
- 14.4.1 process that Personal Data only on the written instructions of The School unless Castles Education is required by the laws of any member of the European Union or by the laws of the European Union applicable to Castles Education to process Personal Data (**Applicable Laws**). Where Castles Education is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, Castles Education shall promptly notify The School of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit Castles Education from so notifying The School;
 - 14.4.2 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by The School, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
 - 14.4.3 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
 - 14.4.4 not transfer any Personal Data outside of the European Economic Area unless the prior written consent of The School has been obtained and the following conditions are fulfilled:
 - 14.4.4.1 the School or Castles Education has provided appropriate safeguards in relation to the transfer;

Bartle House, Oxford Court, Manchester M2 3WQ

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Email: info@castles.education website: www.castles.education

- 14.4.4.2 the data subject has enforceable rights and effective legal remedies;
 - 14.4.4.3 Castles Education complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - 14.4.4.4 Castles Education complies with reasonable instructions notified to it in advance by the School with respect to the processing of the Personal Data;
 - 14.4.5 assist the School, at the School's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - 14.4.6 notify the School without undue delay on becoming aware of a Personal Data breach;
 - 14.4.7 at the written direction of the School, delete or return Personal Data and copies thereof to The School on termination of the agreement unless required by Applicable Law to store the Personal Data; and
 - 14.4.8 maintain complete and accurate records and information to demonstrate its compliance with this clause 14.
- 14.5 [The School does not consent to Castles Education appointing any third party processor of Personal Data under this Agreement. **OR** The School consents to Castles Education appointing [THIRD-PARTY PROCESSOR] as a third-party processor of Personal Data under this Agreement. Castles Education confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement [substantially on that third party's standard terms of business **OR** incorporating terms which are substantially similar to those set out in this clause 14]. As between The School and Castles Education, Castles Education shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 14.
- 14.6 Either party may, at any time on not less than 30 days' notice, revise this clause 14 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this Agreement).

15. Warranties and undertakings

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

16. 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 the term of this Agreement, 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 this Agreement at any time during the term of this 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.

17. Assignment and other dealings

17.1 Subject to clause 17.2, 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 this Agreement without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed).

17.2 Castles Education shall not subcontract or delegate in any manner any or all of its obligations under this Agreement to any third party or agent without the prior written consent of the School. It shall be a condition of such consent that the subcontractor signs and observes an agreement containing terms at least as onerous as those contained in this Agreement. Without prejudice to this clause, Castles Education shall in all cases retain sole responsibility for the performance of the tasks assigned to it under this Agreement, regardless of the use of authorised or unauthorised subcontractors and Castles Education shall be liable for the acts and omissions of any subcontractor (of any tier and authorised and unauthorised) or any intermediaries whatsoever as if they were the acts and omissions of Castles Education itself.

18. No partnership or agency

18.1 Nothing in this Agreement 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.

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

19. Variation

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

20. Entire agreement

20.1 This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

20.2 Each party acknowledges that in entering into this Agreement it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement.

20.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

20.4 Nothing in this clause shall limit or exclude any liability for fraud.

21. Third party rights

21.1 This Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

21.2 The rights of the parties to rescind or vary this Agreement are not subject to the consent of any other person.

22. Notices

22.1 With the exception of notices given by The School pursuant 5.4 which may be given by telephone, any notice given to a party under or in connection with this Agreement shall be in writing and shall be:

22.1.1 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

22.1.2 sent by fax to its main fax number or sent by email to the address specified in [SPECIFY RELEVANT DOCUMENT OR PLACE].]

22.2 Any notice [or communication] shall be deemed to have been received:

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- 22.2.1 if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
 - 22.2.2 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 at the time recorded by the delivery service; and
 - 22.2.3 if sent by fax or email, at 9.00 am on the next Business Day after transmission.
- 22.3 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.

23. Governing law

This Agreement 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.

24. 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 this Agreement or its subject matter or formation.

25. Severance

- 25.1 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.
- 25.2 If any provision or part-provision of this Agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

THIS AGREEMENT HAS BEEN ENTERED INTO ON THE DATE STATED AT THE BEGINNING OF IT.

SCHEDULE

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