

CALL OFF CONTRACT FOR THE SUPPLY OF EMPLOYMENT AGENCY SERVICES, AND EMPLOYMENT BUSINESS SERVICES

THIS CALL-OFF CONTRACT is made on _____ 2017 and is issued subject to, and entered under, the provisions of the Framework Agreement relating to the provision of Employment Services entered between HEU and the Service Provider on _____ 2017.

BETWEEN

1. **HITACHI EUROPE LIMITED**, a company registered in England & Wales and having its registered office at Whitebrook Park, Lower Cookham Road, Maidenhead, Berkshire SL6 8YA (“HEU”); and
2. [_____], a company registered under the laws of England and Wales with its registered office at [_____] (the “Service Provider”).

BACKGROUND

- A HEU placed a contract notice [Insert contract notice/advert number if applicable] on [insert date] in **Contracts Finder** seeking expressions of interest from providers of Employment Services to enter into a framework arrangement for the supply of these services to HEU.
- B The Service Provider represented to HEU that it is capable of delivering the Employment Services in accordance with HEU's requirements as set out in the Invitation to Tender and, in particular, the Service Provider made representations to HEU in the Tender in relation to its competence, professionalism and ability to provide the Services in an efficient and cost effective manner.
- C On the basis of the Tender, HEU selected the Service Provider to enter into a Framework Agreement whereby the Service Provider is to provide i) the Employment Agency Services to HEU or ii) the Employment Business Services to HEU from time to time on a call off basis, in accordance with this Framework Agreement.
- D This Call Off Contract sets out the terms applicable to the Employment Agency Services and Employment Business Services which may be required by HEU and the obligations of the Service Provider during and after the Term of this Call Off Contract.

1. DEFINITIONS AND AGREED TERMS

- 1.1 Please refer to the Definitions and Agreed Terms document for the interpretations and meanings of the terms contained in this Call Off Contract.

2. SCOPE OF SERVICES

- 2.1 **Lot A – Employment Agency Services** - The Service Provider shall provide the Employment Agency Services relating to Lot A of this Employment Services Framework as set out in Schedule A on a non-exclusive basis in accordance with the terms and conditions of this Call-Off Contract.
- 2.2 **Lot B – Employment Business Services** - The Service Provider shall provide the Employment Business Services relating to Lot B of this Employment Services Framework as set out in Schedule B on a non-exclusive basis in accordance with the terms and conditions of this Call-Off Contract.
- 2.3 The Service Provider shall only present Candidates or Temporary Workers to HEU Representatives, or to such other personnel as may be nominated by an HEU Representative.
- 2.4 This Call Off Contract shall constitute all the provisions relating to the Services to the exclusion of any other terms and conditions relating to such Services on any Service Provider documentation including purchase order confirmation, invoice, payment slip or any other related document.
- 2.5 For the avoidance of doubt, the Service Provider acknowledges that HEU has no obligation under this Call Off Contract to source any minimum number of Candidates or Temporary Workers from the Service Provider. The signing of this Call of Contract does not constitute a commitment to trade, it is not exclusive and does not guarantee any specific level of expenditure.

3. TERM, DEFAULT AND EARLY TERMINATION

- 3.1 This Call-Off Contract shall take effect on the Commencement Date and shall terminate no less than 12 months after the expiry of the Ordering Period, unless terminated earlier in accordance with Clause 3.
- 3.2 Without affecting any other right or remedy available to it, HEU may terminate this Call-Off Contract with immediate effect by giving written notice to the Service Provider if:
- a) the Service Provider commits a material breach of any term of this Call-Off Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of receipt of notice in writing to do so;
 - b) the Service Provider repeatedly breaches any of the terms of this Call-Off Contract 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 Call-Off Contract;
 - c) the Service Provider 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 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;
- d) the Service Provider 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) 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 Service Provider (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Service Provider with one or more other companies or the solvent reconstruction of the Service Provider;
 - f) 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 the Service Provider (being a company);
 - g) the holder of a qualifying floating charge over the assets of the Service Provider (being a company) has become entitled to appoint or has appointed an administrative receiver;
 - h) a person becomes entitled to appoint a receiver over the assets of the Service Provider or a receiver is appointed over the assets of the Service Provider;
 - i) a creditor or encumbrancer of the Service Provider 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 Service Provider's assets and such attachment or process is not discharged within 14 days;
 - j) any event occurs, or proceeding is taken, with respect to the Service Provider in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in Clause 3.2(c) to Clause 3.2(i) (inclusive); or
 - k) the Service Provider suspends or threatens to suspend, or ceases or threatens to cease to carry on, all or a substantial part of its business.

4 EFFECT OF EARLY TERMINATION

- 4.1 Any provision of this Call-Off Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Call-Off Contract shall remain in full force and effect.
- 4.2 Termination or expiry of this Call-Off Contract 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 Call-Off Contract which existed at or before the date of termination or expiry.

5 ANNOUNCEMENTS

5.1 Neither party shall make, or permit any person to make, any public announcement concerning the existence, subject matter or terms of this Call-Off Contract, 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.

6 AUDIT AND RECORD-KEEPING

6.1 For the duration of this Call-Off Contract and for a period of six years from the termination or expiry of this Call-Off Contract, the Service Provider shall maintain full and accurate records of:

- a) the services provided by the Service Provider under this Call-Off Contract including but not limited to how it has complied with the Service Provider's obligations under Schedule A1 (Employment Agency Services) or Schedule B1 (Employment Business Services);
- b) all expenditure reimbursed by HEU;
- c) all payments made by HEU;
- d) the terms on which it or any subcontractors engage any Temporary Workers;
- e) the Screening undertaken on any Temporary Workers; and
- f) the insurance certificates and details of cover referred to in Clause 7.11.

6.2 The Service Provider shall promptly on request provide HEU or HEU's representatives with copies of such records referred to in Clause 6.10 as HEU may from time to time reasonably request and the Service Provider shall provide HEU or HEU's representatives with access, on reasonable notice and within normal working hours, to any of its premises for the purposes of inspecting or taking copies of such records.

7 INDEMNITIES AND INSURANCE

7.1 The Service Provider shall Indemnify HEU and any successor to the Service Provider against all liability, assessment or claim 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 HEU in respect of any Temporary Worker while provided as such by the Service Provider to HEU; or

7.2 [Removed]

7.3 The Service Provider shall be responsible for deduction and payment of all tax, National Insurance contributions and other levies in respect of persons employed by the Service Provider and shall Indemnify HEU and any successor to the Service Provider against all liability to make

such statutory payments that may be suffered or incurred by HEU and any successor to the Service Provider.

- 7.4 The Service Provider 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 HEU's business;
 - b) HEU's health and safety policy whilst the Temporary Workers are on HEU's premises or any of HEU's customers' or Service Providers' or agents' (direct or indirect) premises.
 - c) a restriction not to disclose any confidential information of HEU or of any of HEU's customers or Service Providers or agents (direct or indirect), which they may acquire during the course of the Assignment; and
 - d) all relevant guidance and regulations applicable the European Regional Development Fund Operational Programme 2014 to 2020.

- 7.5 Before a Temporary Worker starts an Assignment, the Service Provider shall notify HEU if either:
- a) the Temporary Worker is a Qualifying Temporary Worker in relation to the Assignment; or
 - b) the Temporary Worker will become a Qualifying Temporary Worker during the course of the Assignment, and

the Service Provider shall advise HEU of the applicable Temporary Worker Fees, in accordance with Schedule 1, including any Other Qualifying Payments which may be payable.

- 7.6 The Service Provider 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.
- 7.7 Subject to Clause 7.8 and Clause 7.9, HEU 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.
- 7.8 The Service Provider shall Indemnify HEU against any liability, cost, claim, award or any other expense incurred by HEU arising out of a breach or alleged breach by the Service Provider, its subcontractors or any other intermediaries, of the AWR 2010 except to the extent caused or contributed to by HEU.
- 7.9 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 HEU by the Service Provider (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 co-operate 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.

7.10 In order to ensure compliance with the AWR 2010, the Service Provider will within seven days of receiving a written request from HEU provide it with details of:

- a) the number of Temporary Workers that it is currently supplying to HEU;
- b) the parts of HEU'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 HEU may reasonably request in relation to any payments made by the Service Provider, its subcontractors or any other intermediaries to any Temporary Workers.

7.11 During the term of this Call-Off Contract, the Service Provider shall maintain in force, with a reputable insurance company, employers' liability insurance in an amount not less than £5,000,000 (or other as required by law from time to time), professional indemnity insurance in an amount not less than £1,000,000 and public liability insurance in an amount not less than £1,000,000, and shall on HEU's request produce both the insurance certificates giving details of the cover and the receipt for the current year's premium.

7.12 The provisions of this Clause 7 shall survive termination of this Call-Off Contract.

8 PAY BETWEEN ASSIGNMENTS CONTRACTS

8.1 [Removed]

8.2 [Removed]

9 INTELLECTUAL PROPERTY RIGHTS

All copyright, trademarks, patents and other intellectual property rights deriving from the Assignment shall belong to HEU. Accordingly the Service Provider shall use its reasonable endeavours to ensure that the Worker shall execute all such documents and do all such acts in order to give effect to HEU's rights pursuant to this clause.

10 CONFIDENTIALITY

10.1 Each party undertakes that it shall not at any time during this Call-Off Contract, and for a period of five years after termination of this Call-Off Contract, disclose to any person any confidential information concerning the business, affairs, customers of the other party or of any member of

the group of companies to which the other party belongs, except as permitted by Clause 10.2 below.

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

- a) 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 Call-Off Contract. 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 10; and
- b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority. In particular HEU reserves the right to disclose the Service Providers confidential information as required to fulfil HEU's obligations in any audit or request for information by the Department for Communities and Local Government in its administration of the European Regional Development Fund.

10.3 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 Call-Off Contract, subject to Clause 10.2 above

10.4 Notwithstanding the foregoing, Confidential Information shall not include any information that:

- a) is in the public domain at the time of its communication other than through a breach of the terms of this Agreement;
- b) is developed independently by the receiving party without use of any confidential information;
- c) enters the public domain through no fault of the receiving party subsequent to the time of the disclosing party's communication to the receiving party; or
- d) is in the receiving party's possession free of any obligation of confidence at the time of the disclosing party's communication other than through a breach of the terms of this Agreement.

11 WARRANTIES AND UNDERTAKINGS

11.1 The Service Provider warrants that it has the necessary expertise to provide the services contemplated in this Call-Off Contract and will perform them with the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced service provider engaged in activities of a similar scope and complexity to those that are the subject of this Agreement.

11.2 The Service Provider warrants that it does and it shall comply with the all relevant statutes, laws, regulations and codes of practice from time to time in force in the relevant Territory.

11.3 Each party warrants that it has full capacity and authority to enter into and perform this Call-Off Contract.

12 ASSIGNMENT AND OTHER DEALINGS

12.1 Subject to Clause 12.2, 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 Call-Off Contract without the prior written consent of the other party.

12.2 The Service Provider shall not subcontract or delegate in any manner any or all of its obligations under this Call-Off Contract to any third party or agent without the prior written consent of HEU. 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 Call-Off Contract. Without prejudice to this clause, the Service Provider shall in all cases retain sole responsibility for the performance of the tasks assigned to it under this Call-Off Contract, regardless of the use of authorised or unauthorised subcontractors and the Service Provider 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 the Service Provider itself.

13 NO PARTNERSHIP OR AGENCY

13.1 Nothing in this Call-Off Contract 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.

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

14 VARIATION

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

15 ENTIRE CALL-OFF CONTRACT

15.1 This Call-Off Contract in conjunction with the Framework Agreement and the Completed Candidate Request or Mini Competition Specification 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.

15.2 Each party acknowledges that in entering into this Call-Off Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the documents described in Clause 15.1.

16 THIRD PARTY RIGHTS

16.1 This Call-Off Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Call-Off Contract.

17 NOTICES

17.1 Any notice or other communication given to a party under or in connection with this Call-Off Contract 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) sent by email to the following addresses:
 - i. HEU: []
 - ii. Service Provider: []

17.2 Any notice or communication shall be deemed to have been received:

- a) if delivered by hand, on signature of a delivery receipt or 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 at the time recorded by the delivery service.
- c) if sent by email, at 9.00 am on the next Business Day after transmission.

17.3 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.

18 GOVERNING LAW

This Call-Off Contract 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.

19 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 Call-Off Contract or its subject matter or formation.

20 FORCE MAJEURE

Neither party shall be in breach of this Call-Off Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Call-Off Contract, including payment, if such

delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed. If the period of delay or non-performance continues for 180 days, the party not affected may terminate this Call-Off Contract by giving written notice to the affected party.

21 SEVERANCE

21.1 If any provision or part-provision of this Call-Off Contract 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 Call-Off Contract.

22 LIABILITY

22.1 The provisions of clause 16 of the Framework Agreement shall apply to this Agreement.

This Call-Off Contract has been entered into on the date stated at the beginning of it.

Signed by

for and on behalf of HITACHI
EUROPE LIMITED
Director

Signed by [NAME OF
DIRECTOR] for and on behalf of
[NAME OF SERVICE
PROVIDER] Director

SCHEDULE A1

EMPLOYMENT AGENCY OBLIGATIONS

Relating to Lot A

1 EMPLOYMENT AGENCY OBLIGATIONS

- 1.1 The Service Provider warrants and undertakes to HEU that, in performance of the Services, it shall:
- 1.1.1 exercise best practice applicable in the employment services industry;
 - 1.1.2 perform the Employment Services in accordance with [Schedule A and/or Schedule B] and will meet or exceed any agreed service levels;
 - 1.1.3 search for and within such timeframes present the Candidates in such locations as may be required by HEU;
 - 1.1.4 provide the Employment Services in a timely and efficient manner;
 - 1.1.5 having exercised all due diligence, source and present the Candidates that possess the necessary competence, capability, qualifications and expertise required to conform with the Candidate Request or Mini Competition Specification;
 - 1.1.6 maintain full and accurate records relating to the provision of the Services and provide access to such records upon reasonable notice during normal business hours;
 - 1.1.7 comply with all relevant laws, regulations and codes applicable to the provision of the Services, in particular the code of practice of the Recruitment and Employment Confederation, and the Employment Agencies Act 1973, the Conduct of Employment Agencies and Employment Businesses Regulations 2003, the Data Protection Act 1998, and statutory requirements in respect of discrimination and disability;
 - 1.1.8 ensure that on request, oral references are obtained from two former clients or peers;
 - 1.1.9 in respect of each of the Candidates, investigate the accuracy of the details specified in the CV and the information given in a reference where major inconsistencies appear in either the CV or a reference;
 - 1.1.10 ensure that dedicated and trained Service Provider personnel are available at all times to HEU to ensure that a consistently high level of service is provided in accordance with this Agreement; and
 - 1.1.11 not use HEU's name nor the name of any client of HEU in any promotional materials or other communications with third parties without HEU or the client's, as the case may be, prior written consent.
- 1.2 The Service Provider shall have in force and maintain, at its own cost appropriate policies of insurance with an authorised and reputable insurer, to cover the provision of the Services by the Service Provider.

SCHEDULE A2
EMPLOYMENT AGENCY SERVICES
(Relating to Lot A)

1. Introduction of Personnel; Sourcing and Supplying CVs

HEU's Representatives must be kept informed **at all times** of any recruitment activity.

- 1.1 Upon receipt of a Candidate Request or Mini Competition Specification, the Service Provider shall supply the full CVs of appropriate Candidates accompanied by any additional information deemed appropriate by the Representative or Service Provider. The number of candidates to be submitted for each position will be advised by HEU for each Candidate Request or Mini Competition Specification.
- 1.2 CVs and additional information should be submitted within the time period specified by HEU in each Candidate Request or Mini Competition Specification. If this is not possible, the appropriate Representative should be informed and alternative timescales agreed by HEU.
- 1.3 Should the Service Provider be unable to source such Candidates, the Service Provider shall inform the Representative immediately, by telephone and by email.
- 1.4 HEU's candidate profile (a copy of which is attached as Schedule B3) should be completed for all Candidates, attached to their CVs and submitted electronically as directed by HEU in the Candidate Request or Mini Competition.
- 1.5 Any Candidates submitted to HEU by the Service Provider as part of the Services must:
 - 1.5.1 closely match the profile and details specified in the Candidate Request or Mini Competition Specification;
 - 1.5.2 have given their permission for their CV to be submitted for the particular vacancy;
 - 1.5.3 be willing to work at the location specified;
 - 1.5.4 understand the nature of the work and the responsibilities involved;
- 1.6 The Representative shall review and then approve or reject any proposed Candidates and the Service Provider shall be informed which (if any) Candidates the Representative wishes to interview.

2. Interview and Selection Process

- 2.1 All Candidates must be telephone interviewed and where possible met face-to-face for the position they are being put forward for.
- 2.2 The Service Provider shall make all reasonable enquires to determine whether the Candidate has been interviewed by HEU on a prior occasion. Should the Service Provider have knowledge of any previous interview(s) that a Candidate has undergone with HEU, the Service Provider shall submit details of such interview(s) to HEU including the date of the interview, position interviewed for, the HEU contact and interview results.
- 2.3 The Service Provider shall promptly liaise with the Representative to arrange interviews with the Candidates.
- 2.4 The Service Provider shall provide Candidates with a full briefing (including company culture and benefits) prior to attendance at interview.
- 2.5 The Service Provider shall provide the Candidates with sufficient information to enable the Candidates to arrive promptly at the interview, including maps, contacts and telephone numbers together with background information on HEU and the vacant role.
- 2.6 The Service Provider shall provide such assistance (including contact details) as may be deemed necessary by the Representative for HEU to liaise directly with the Candidates. HEU and the Service Provider shall provide each other with timely and comprehensive feedback. The Service Provider shall obtain feedback from, and shall communicate HEU's feedback to, Candidates within the same timescale.

3. Offer Stage

- 3.1 The Representative shall confirm to the Service Provider which Candidates (if any) shall be made offers of permanent employment. In the event of a Candidate becoming unable to continue the recruitment process at any stage during the said process, the Service Provider shall inform the Representative as soon as possible.
- 3.2 The Service Provider shall only communicate verbal offers to Candidates where the details come from, or are confirmed by, HEU's representative. Subject to internal approval procedure, written offers will be issued by HEU within five working days of the verbal.
- 3.3 HEU reserves the right to amend the recruitment process as is appropriate to deal with specific positions or market conditions.

SCHEDULE A3

FEES

Relating to Lot A

1. FEES

1.1 In consideration of the provision of Services by the Service Provider, HEU shall pay the Fees in accordance with the terms and at the rates set out in Clause 3 below.

1.2 The Fees exclude VAT, which shall be payable in addition to the Fees.

1.3 The Fees are inclusive of all costs, charges and other expenses of whatever nature, incurred by the Service Provider, pursuant to or arising from the performance of the Services. For the avoidance of doubt, any travel, subsistence, or other expenses incurred by the Service Provider in excess of the Fees will not be reimbursed, unless they have been specifically authorised in writing by a Representative before they were incurred.

1.4 HEU agrees that in the event that it employs a Candidate, on a permanent or contract basis, as a direct result of the Service Provider's presentation of the Candidate, within a period of 12 weeks immediately following the Presentation Date of the Candidate's CV, it shall:

1.4.1 inform the Service Provider by submitting a Success Notification; and

1.4.2 pay the Fees in accordance with Clause 3 below.

1.5 For the avoidance of doubt, the Service Provider acknowledges that no Fees whatsoever shall be payable to the Service Provider by HEU if a Candidate is appointed into the same position for which the Candidate was initially presented, or any other position, as a result of HEU becoming aware or being introduced to the Candidate through another channel (including but not limited to direct advertising, job boards, direct applications, competitors of the Service Provider or other employment agencies or employment businesses).

1.6 The Service Provider acknowledges that HEU may be subject to certain contractual Candidate ownership provisions (and related fees) in relation to individuals previously introduced to HEU by third party service providers. The Service Provider agrees that if it knowingly supplies Candidates that are subject to such provisions, the Service Provider shall indemnify HEU, its employees, agents and clients from and against any claims, demands, losses, damage, expenses, proceedings or actions which HEU may sustain or incur or which may be brought or established against HEU by any service provider arising from the contravention of any such contractual Candidate ownership provisions that may apply.

1.7 HEU shall pay an invoice within 30 days from the end of the month in which the invoice was received provided that the invoice is accurate in all respects, in accordance with Paragraph 3 of Schedule C.

2. GENERAL

2.1 All Fees shall remain fixed for the duration of the Agreement, unless agreed otherwise by the parties.

2.2 In the event of a claim by two or more Service Providers (including the Service Provider) that fees or charges are payable in respect of a particular Candidate, HEU shall only pay Fees to the Service Provider if the Service Provider was the first Service Provider to present the Candidate to HEU. HEU will establish by reference to the Presentation Date which Service Provider presented the Candidate to HEU first.

3 EMPLOYMENT – FEE

3.1 As of the Commencement Date, the Fees for employment of a Candidate shall be calculated as a single payment of a percentage of the Employee’s gross annual base starting salary excluding any bonuses, overtime, car allowance, signing on bonus and the value of any other benefits in kind.

3.1.1 The percentages to be applied to the Employee’s gross annual base starting salary are set out in the Service Provider’s fees as submitted in their completed “Employment Services Framework Answer Templates and Pricing Matrixes” and are as follows.

[Please insert the Service Provider’s fees as submitted in their completed “Employment Services Framework Answer Templates and Pricing Matrixes”]

3.2 For employment contracts of a fixed term (“Fixed Term Contracts”) the Fee will be calculated in accordance with Clause 2.1 above and then adjusted in proportion to the length of the Fixed Term Contract in accordance with the example below:

Example

Salary: £45,000

Standard Fee: 20%

Duration of Fixed Term Contract: 6 months

$(£45,000 * 20%) * 6/12 = \text{Fee}$

$£9,000 * 50\% = £4,500$

In instances where the term of the Fixed Term Contract is extended, the Service Provider will invoice the additional fee pro-rated by the number of additional months to be worked up to a maximum of 12 months.

- 3.3 For the avoidance of doubt, the parties acknowledge that no fees shall be payable by HEU in respect of Candidates employed permanently by HEU, except those due under Clause 3.1 or 3.2 above and only one Fee shall be payable in respect of each Candidate employed. Further that, no fees other than those payable pursuant to Clause 3.2 above shall be payable to the Service Provider in respect of independent contractors.
- 3.4 Should the employment of a Permanent Employee placed by the Service Provider terminate within the first three months of beginning employment by reason of dismissal or resignation (save on grounds of redundancy), the Service Provider shall refund 100% of the Fees paid, or source a suitable replacement Candidate free of charge as directed by the Representative. Any refunds shall be paid to HEU within 30 days of HEU notifying the Service Provider of the date on which a placed Candidate left or is to leave HEU.

4. Invoices

- 4.1 Following the Commencement Date, the Service Provider shall invoice HEU any Fees due. Invoices must be received by the last working day of the month to be paid at the end of the following month. Any invoices not received by this cut-off date will be carried over to the next month.
- 4.2 All invoices should be supported by a spreadsheet listing each placed candidate's name, effective date, base salary, fee % and fee value.
- 4.3 Invoices received which contain inaccurate information (including addressing the invoice to the incorrect HEU legal entity) shall not be payable until the invoice is resubmitted correctly.
- 4.4 HEU will only be invoiced for Fees relating to Candidates who have begun work.

SCHEDULE B1

EMPLOYMENT BUSINESS OBLIGATIONS

(Relating to Lot B)

1 EMPLOYMENT BUSINESS OBLIGATIONS

- 1.1 These terms set out the Call-Off Contract between the Employment Business and HEU for the supply of Temporary Workers by the Service Provider to HEU. For the purposes of the Conduct of Employment Agencies and Employment Businesses Regulations 2003, the Service Provider acts as a supplier in relation to the Introduction and supply of Temporary Workers pursuant to this Call Off Contract.
- 1.2 The Service Provider agrees to search, in the Territory and within such timeframe as HEU may specify, for Workers for HEU as Temporary Workers who meet HEU's stipulated minimum criteria for the Actual Vacancies.
- 1.3 The Service Provider shall not provide any information about Workers, by any means, to any other department or staff of HEU, without the express prior written authorisation of a representative of HEU's Digital Solutions Group or HR Department. Without prejudice to any other provision of this Call-Off Contract, the Service Provider 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 HEU may from time to time designate. If the Service Provider breaches the requirements of this clause, HEU shall not be liable to pay any fees relating to any appointment by HEU arising from the unauthorised contact or referral.
- 1.4 The Service Provider shall Screen Workers before Introducing them to HEU and shall Introduce to HEU only Workers who meet the minimum criteria for the position stipulated by HEU and who have an interest in the positions for which they are Introduced. The Service Provider shall Introduce only Workers who have the right to work in the Territory and, in particular, the Service Provider 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.
- 1.5 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, the Service Provider shall take all reasonably practicable steps to obtain, and offer to provide copies of, any relevant qualifications or authorisations or

certification and two references. The Service Provider shall also take all reasonably practicable steps to confirm that the Temporary Worker is suitable for the Assignment. If the Service Provider is unable to fully comply with these requirements, it shall inform HEU of the steps it has taken to obtain the necessary information.

- 1.6 Prior to the commencement of the Assignment, the Service Provider shall send HEU written confirmation of:
 - a) the identity of the Temporary Worker;
 - b) the Temporary Worker's experience, training, qualifications and authorisations necessary for the Assignment;
 - c) the Temporary Worker's willingness to carry out the Assignment;
 - d) the hourly rate charged by the Service Provider in accordance with Clause 1.1 of Schedule B4;
 - e) any notice period to terminate the Assignment; and
 - f) the intervals at which invoices shall be rendered to HEU by the Service Provider.

- 1.7 Prior to the commencement of the Assignment, the Service Provider shall send HEU evidence of the temporary workers remuneration, verified by a payslip or equivalent document. Where this information is not yet available, the Service Provider will make all efforts to submit this information as soon as it becomes available.

- 1.8 The Service Provider shall, where relevant, inform HEU whether it holds a Valid Opt-Out for each Temporary Worker whom it Introduces to HEU.

- 1.9 The parties shall meet regularly to review the services provided by the Service Provider. Any resulting changes agreed to the services, remuneration or any other aspect of the Call-Off Contract shall be of no effect unless confirmed in writing.

- 1.10 The Service Provider shall not provide any Temporary Worker for a period in excess of 11 weeks without the prior written consent of HEU.

2 HEU'S OBLIGATIONS

When making a Candidate Request or Mini Competition Specification for the provision of a Temporary Worker to perform certain services (Assignment), HEU will give the Service Provider details of:

- a) the date on which HEU requires the Temporary Worker to commence work and the duration, or likely duration, of the work;

- b) the position which HEU 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 HEU and what steps HEU has taken to prevent or control such risks;
- c) the experience, training, qualifications and any authorisation which HEU 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;
- d) any expenses payable by or to the Worker; and
- e) any information reasonably required by the Service Provider in order for the Service Provider to fulfil its obligations under the Agency Worker Regulations 2010.

3 TEMPORARY TO PERMANENT

- 3.1 If, following the supply of a Temporary Worker by the Service Provider to HEU within the Relevant Period, HEU Engages the Temporary Worker, HEU will pay the Service Provider the Temporary to Permanent Fee. This Fee shall be determined by taking the Employment Agency Fee submitted by the Service Provider and applying that to the Employee's gross annual base starting salary excluding any bonuses, overtime, car allowance, signing on bonus and the value of any other benefits in kind. Then the amount that HEU have paid the Service Provider for the delivery of the Employment Business Services will be subtracted from the Employment Agency Fee and the residual amount will be the Temporary to Permanent Fee.
- 3.2 Where the Service Provider has not submitted a qualifying Fee for Employment Agency Services the Fee used to determine the Employment Agency Fee will be the maximum Fee as set out by HEU in the Invitation to Tender Documentation.
- 3.3 HEU at their discretion, may extend the relevant Temporary Worker's assignment for a further 26 weeks after which no fee will be applicable

4 UNSATISFACTORY TEMPORARY WORKERS

- 4.1 The Service Provider shall notify HEU immediately if it believes that any Temporary Worker is unsuitable for the Assignment or if it becomes aware of any matter that indicates that a 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.
- 4.2 If HEU decides that a Temporary Worker is unsuitable to perform the Assignment (an Unsatisfactory Temporary Worker), then HEU shall notify the Service Provider in writing of that fact giving the grounds for its dissatisfaction with the Unsatisfactory Temporary Worker.
- 4.3 If HEU notified the Service Provider of an Unsatisfactory Temporary Worker in accordance with Clause 4.2 above:

- a) within 48 hours of the commencement of the Assignment, then the Assignment will immediately terminate and no Temporary Worker Fees shall be payable; and
 - b) more than 48 hours after commencement of the Assignment, then the Assignment shall terminate at the end of the day on which HEU notified the Service Provider of the Unsatisfactory Temporary Worker, and Temporary Worker Fees shall be payable up to and including the date of such termination.
- 4.4 The Service Provider or HEU may terminate an Assignment at any time on reasonable notice of no less than 30 days. HEU reserves the right to change its requirements at any time before the commencement of the Assignment without any liability of HEU to the Service Provider 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 HEU giving notice to the Service Provider (which may be given by email or in writing).

5 SUPERVISION AND CONTROL

- 5.1 HEU is responsible for the supervision, direction and control of all Temporary Workers supplied by the Service Provider at all times whilst the Temporary Workers are on HEU premises. For the avoidance of doubt the Service Provider remains responsible for administrative and HR functions in respect of the Temporary Workers.

6 HEALTH AND SAFETY

- 6.1 HEU undertakes to the Service Provider that it will assume responsibility for the health and safety of all Temporary Workers from the start of any Assignment as if those Temporary Workers were employees of HEU.

SCHEDULE B2

EMPLOYMENT BUSINESS SERVICES

(Relating to Lot B)

1. Introduction of Personnel; Sourcing and Supplying CVs

HEU's Representatives must be kept informed **at all times** of any recruitment activity.

- 1.1 Upon receipt of a Candidate Request or Mini Competition Specification, the Service Provider shall supply the full CVs of appropriate Candidates accompanied by any additional information deemed appropriate by the Representative or Service Provider. The number of candidates to be submitted for each position will be advised by HEU for each Candidate Request or Mini Competition Specification.
- 1.2 CVs and additional information should be submitted within the time period specified by HEU in each Candidate Request or Mini Competition Specification. If this is not possible, the appropriate Representative should be informed and alternative timescales agreed by HEU.
- 1.3 Should the Service Provider be unable to source such Candidates, the Service Provider shall inform the Representative immediately, by telephone and by email.
- 1.4 HEU's candidate profile (a copy of which is attached as Schedule B3) should be completed for all Candidates, attached to their CVs and submitted electronically via the Hitachi's recruitment portal.
- 1.5 Any Candidates submitted to HEU by the Service Provider as part of the Services must:
 - 1.5.1 closely match the profile and details specified in the Candidate Request or Mini Competition Specification;
 - 1.5.2 have given their permission for their CV to be submitted for the Temporary Worker role;
 - 1.5.3 be willing to work at the location specified;
 - 1.5.4 understand the nature of the work and the responsibilities involved;
- 1.6 The Representative shall review and then approve or reject any proposed Candidates and the Service Provider shall be informed which (if any) Candidates the Representative wishes to interview.

2. Interview and Selection Process

- 2.1 All Candidates must be telephone interviewed and where possible met face-to-face for the position they are being put forward for.
- 2.2 The Service Provider shall make all reasonable enquires to determine whether the Candidate has been interviewed by HEU on a prior occasion. Should the Service Provider have knowledge of any previous interview(s) that a Candidate has undergone with HEU, the Service Provider shall submit details of such interview(s) to HEU including the date of the interview, position interviewed for, the HEU contact and interview results.
- 2.3 The Service Provider shall promptly liaise with the Representative to arrange interviews with the Candidates.
- 2.4 The Service Provider shall provide Candidates with a full briefing (including company culture and benefits) prior to attendance at interview.
- 2.5 The Service Provider shall provide the Candidates with sufficient information to enable the Candidates to arrive promptly at the interview, including maps, contacts and telephone numbers together with background information on HEU and the vacant role.
- 2.6 The Service Provider shall provide such assistance (including contact details) as may be deemed necessary by the Representative for HEU to liaise directly with the Candidates.
- 2.7 HEU and the Service Provider shall provide each other with timely and comprehensive feedback. The Service Provider shall obtain feedback from, and shall communicate HEU's feedback to, Candidates in a timely manner.

3. Offer Stage

- 3.1 The Representative shall confirm to the Service Provider which Candidates (if any) shall be taken on as Temporary Workers under the supervision of HEU by issuing a Success Notification. In the event of a Candidate becoming unable to continue at any stage during the process, the Service Provider shall inform HEU as soon as possible.
- 3.2 Service Provider shall only communicate verbal offers to Candidates where the details come from, or are confirmed by, HEU's representative.
- 3.3 HEU reserves the right to amend the recruitment process as is appropriate to deal with specific positions or market conditions.

**SCHEDULE B3
CANDIDATE PROFILE FORM
(Relating to Lot B)**

Employment Business Name		Agent's Name Agent's Contact Number Agent's Email	
Candidate Name		Position Submitting Candidate For	
Date first discussed Hitachi role with candidate		Date interviewed candidate for this Hitachi role	
Current home location			
Professional Qualifications of candidate			
Proficiency in foreign languages			

<p>Eligibility to work in the UK? (please note if they have or require any type of work visa or work permit)</p>			
<p>Previous/Current Employer</p>		<p>Job Title</p>	
<p>Reasons considering leaving or have left</p>			
<p>Current / Previous Basic Salary and Package</p>		<p>Expected Package</p>	
<p>Date available to start</p>			
<p>How would the candidate commute to work?</p>			
<p>Additional Comments</p>			

SCHEDULE B4

FEES

(Relating to Lot B)

1. FEES

- 1.1 Employers National Insurance: The employers national insurance (“NI”) percentage charged to HEU will be the statutory rate (currently 13.8%) and will be varied in accordance with any changes to that statutory rate from time to time. The parties have agreed that the statutory rate will be applied to the pay rate for all hours worked by the PAYE Temporary Workers, including any accrual for holiday pay under the Working Time Regulations, and (for the avoidance of doubt) will not be subject to any deduction in respect of the secondary earnings threshold.
- 1.2 Pension: The auto enrolment pension costs charged to HEU will be the statutory rate (currently 1%) and will be varied in accordance with any changes to that statutory rate from time to time. The parties have agreed that the statutory rate will be applied to the pay rate for all hours worked by the PAYE Temporary Workers, including any accrual for holiday pay under the Working Time Regulations, and (for the avoidance of doubt) will not be subject to any deduction based on any Temporary Worker status whatsoever and howsoever arising
- 1.3 Apprenticeship Levy: The apprenticeship levy charge to HEU will be calculated at 0.5% of the Temporary Workers pay rate including Working Time Directive.
- 1.4 HEU will pay the Service Provider Temporary Worker Fees in respect of Temporary Workers as agreed by the parties in writing (Temporary Worker Fees). The Temporary Worker Fees comprise the Temporary Worker's pay and holiday pay, and include the Service Provider's commission and employer's National Insurance contributions. When booking a Temporary Worker for an Assignment, the Service Provider shall advise HEU in writing of the agreed Temporary Worker Fees for that Temporary Worker. The following conditions apply to the Temporary Worker Fees:
- a) they are calculated according to the number of hours worked by the Temporary Worker (to the nearest quarter hour);
 - b) HEU shall during the Assignment sign a time sheet verifying the number of hours worked by the Temporary Worker during a particular week. If HEU is unable to sign a time sheet produced for authentication by the Temporary Worker because HEU disputes the hours claimed, HEU shall inform the Service Provider as soon as is reasonably practicable and shall co-operate fully and in a timely fashion with the Service Provider to enable the Service Provider to establish what hours, if any, were worked by the Temporary Worker. Failure to sign the time sheet does not absolve HEU of its obligation to pay the Temporary Worker Fees in respect of the hours actually worked;

- c) the Service Provider shall submit all invoices together with the applicable signed time sheets verifying the number of hours worked by the Temporary Worker;
 - d) the Service Provider shall invoice HEU monthly in arrears and invoices are payable within [30] days of receipt. No fee is incurred by HEU until the Temporary Worker has commenced the Assignment;
 - e) HEU shall not be required to pay Temporary Worker Fees for any absences (for whatever reason) of a Temporary Worker; and
 - f) subject to clause 1.5 no increase in the fees payable under this Call-Off Contract by HEU to the Service Provider may be made without HEU's prior written consent.
- 1.5 Notwithstanding the above the Service Provider shall be entitled to vary the charges in line with any statutory, regulatory or legislative change including, but not limited, to changes in National Insurance and National Minimum Wage.

2. VAT

- 2.1 All amounts payable by HEU under this Agreement are quoted exclusive of any value added tax ("VAT") which, where applicable, shall be payable by the HEU in addition thereto.
- 2.2 Where as a result of any change or clarification of law, interpretation or HMRC practice, an amount payable for any supply made by the Service Provider is deemed, as a result of such change or clarification, to have borne an amount in respect of VAT which was not VAT properly due thereon ("Overpaid VAT") and HEU requests in writing that the Employment Business seeks a refund of the overpaid VAT from HMRC, the Employment Business shall take the necessary action to claim a refund of the Overpaid VAT to the extent permitted by law and will remit to HEU the amount actually received from HMRC in respect of such claim, less any costs and expenses incurred in relation to the claim.
- 2.3 The Employment Business shall not be required to take any action referred to in clause 3.2 which involves engaging in any litigation or dispute with HMRC or any other tax authority or any third party, and shall not be obliged to take, or omit to take, any action which it, in its sole discretion, believes is or could be contrary to the interests of its business
- 2.4 For the avoidance of doubt, save in accordance with clause 2.2 of this schedule, the Employment Business shall have no liability (howsoever caused or arising) to pay any amount to HEU in respect of any Overpaid VAT.
- 2.5 Where applicable, the Employment Business shall charge VAT to HEU, at the prevailing rate, after the Employment Business has provided HEU with a VAT invoice.

3. [Please insert the Service Provider’s fees as submitted in their completed “Employment Services Framework Answer Templates and Pricing Matrixes”.]