

Agreement for the supply of temporary workers

This Agreement is made on _____ between **Protocol National** acting as an employment business, whose registered office is at Castle Marina Road, Nottingham NG7 1TN ("Protocol National"); and (the "Client").

1. Definitions

- 1.1 "Visiting Lecturer" means the person(s), firm or body corporate (including individuals supplying services through a limited company) who is contracted by Protocol National to undertake Assignments on a temporary basis in accordance with the terms of this agreement.
- 1.2 "Assignment" means a course of education, tuition or other educational activity defined by the Client which a Visiting Lecturer is engaged to deliver.
- 1.3 "Assignment Fee" means the aggregate amount charged for an Assignment exclusive of VAT which shall be payable in addition.
- 1.4 "Basic Hourly Pay" means the hourly rate payable to the Visiting Lecturer agreed in advance by Protocol National and the Visiting Lecturer to apply to a particular Assignment.
- 1.5 "Register" means the database maintained by Protocol National of individuals who are willing to undertake Assignments.
- 1.6 "Registered Visiting Lecturer" means an individual who has met the requirements of Clause 3 of this agreement and has been accepted for registration by Protocol National.
- 1.7 "VAT" means Value Added Tax.
- 1.8 "Worker Costs" means additional costs relating to a Visiting Lecturer including, without limitation, employer's national insurance, statutory maternity sick pay, statutory sick pay and holiday pay.
- 1.9 "Worker Remuneration" means Basic Hourly Pay and Worker Costs for the Assignment..

2. The service to be provided under the Contract

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

3. Registered Visiting Lecturers

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

4. Access to the Register

Protocol National will allow the Client access to certain information from the Register to enable the Client to establish whether Protocol National has Registered Visiting Lecturers in subjects and at levels appropriate to its needs.

5. Obtaining Information from the Register

- 5.1 In response to requests for information in the form prescribed by Protocol National from time to time, Protocol National will provide the Client with current information from the Register concerning Registered Visiting Lecturers.
- 5.2 A request for information must specify the following course criteria:
- 5.2.1 a curriculum area; and
 - 5.2.2 a subject or combination of subjects according to the Client's internal structures.
- 5.3 The Client will be given the following minimum information in respect of each Registered Visiting Lecturer who has indicated an interest in fulfilling the Assignment and who could teach the course specified:
- 5.3.1 subjects and levels offered by the Registered Visiting Lecturer;
 - 5.3.2 the Registered Visiting Lecturer's academic qualifications;
 - 5.3.3 a summary of the Registered Visiting Lecturer's relevant background and experience; and
 - 5.3.4 any additional relevant details provided by the Visiting Lecturer.
- 5.4 The Client will approve Registered Visiting Lecturers appropriately on an on-going basis to build a pool of approved Registered Visiting Lecturers. The Client may withdraw its approval of a Registered Visiting Lecturer for future assignments and if so that Visiting Lecturer shall be excluded from the Client's pool of approved Registered Visiting Lecturers.

6. Specification of Assignments

The Client will specify the details of each Assignment for which it wishes to engage Protocol National. The specification will include; subject, academic level, tutor experience and qualifications, assignment start and finish dates and times, delivery location and any other relevant requirements.

7. Selection of Visiting Lecturer

- 7.1 Persons contracted to deliver Assignments by Protocol National will be selected from the Client's approved pool of Registered Visiting Lecturers.
- 7.2 The choice of an approved Registered Visiting Lecturer to carry out an Assignment shall be at the sole discretion of Protocol National subject to complying with the specification. It is a condition of this Agreement that the Client shall not be entitled to require Protocol National to supply any particular approved Registered Visiting Lecturer for any Assignment, or at all.
- 7.3 Protocol National will use its reasonable endeavours to provide an approved Registered Visiting Lecturer to carry out an Assignment and will inform the Client Account Manager as soon as possible after receiving a specification if it is not willing or able to provide an approved Registered Visiting Lecturer to carry out an Assignment.

8. Client responsibilities

8.1 In respect of each Assignment, the Client will retain sole responsibility for:

- 8.1.1 specification of the times and locations at which the Assignment will be delivered;
- 8.1.2 providing accurate information regarding the nature of the teaching or support services required;
- 8.1.3 determining what qualifications and experience are appropriate for delivery of the Assignment,

and Protocol National will not be liable for any loss arising out of a failure to correctly specify these requirements.

8.2 While Protocol National will use all reasonable endeavours to ensure the credentials of Registered Visiting Lecturers by means of taking references and checking academic qualifications, the Client will remain solely responsible for ensuring that the quality of delivery meets the Client's requirements.

8.3 If for any reason the Client is not satisfied with the quality of the service provided by a particular Visiting Lecturer, unless it is a case falling within clause 11.7 below the Client will address its concerns to Protocol National which will be responsible for taking any steps required to remedy the situation.

9. Account management

9.1 The Client and Protocol National will nominate individuals to work together to manage the operation of Assignments and payment.

9.2 The Client Account Manager shall be responsible for ensuring that an assessment is made of all Visiting Lecturers commencing the Assignment at the Client as soon as possible and if, with good cause, the Client is of the opinion that the Visiting Lecturer is not suitable for the Assignment the Client Account Manager shall notify the Protocol National Account Manager of this immediately. Such notification shall be by telephone immediately, to be followed by written confirmation to be received by the Protocol National Account Manager within 3 days, and shall include details of the unsuitability. Protocol National shall provide a suitable replacement as soon as practicable where so requested by the Client.

10. Assignment Fees and VAT

10.1 Assignment Fees payable by the Client shall be determined and invoiced in accordance with Appendix A.

10.2 Protocol National will be exclusively responsible for the payment of Worker Remuneration to the Visiting Lecturers and will deduct income tax and class 1 National Insurance before remitting the balance to the Visiting Lecturer.

10.3 VAT, if applicable, shall be payable on the entirety of the Assignment Fees at the prevailing rate.

11. Termination of Assignments

- 11.1 The Client may terminate an Assignment at any time by giving written notice to Protocol National.
- 11.2 Protocol National shall have the right to terminate any Assignments forthwith by giving notice in writing to the Client if the Client shall fail to make any payments due to Protocol National hereunder by the due date, provided that Protocol National shall not be entitled to serve such a notice earlier than 10 days after notifying the Client that payment has not been received on the due date.
- 11.3 If either party commits a material breach of this Agreement and in the case of such a breach which is capable of remedy, fails to remedy the breach within seven days of a written notice to do so (or such longer period as the injured party may agree in writing) then, without prejudice to any other rights or remedies the injured party may have, the injured party shall have the right to terminate ongoing Assignments forthwith by giving notice in writing.
- 11.4 Without prejudice to any other rights or remedies they may have, the Client and Protocol National shall have the right to terminate ongoing Assignments forthwith by giving notice in writing if:
- 11.4.1 the other party shall become insolvent or cease to trade or compound with its creditors; or
 - 11.4.2 a receiver or an administrative receiver is appointed in respect of any of the assets of the other party; or
 - 11.4.3 a petition for an administration order is presented or such an order is made in relation to the other party; or
 - 11.4.4 a resolution or petition or order to wind up either party is passed or presented or made or a liquidator is appointed in respect of the other party (otherwise than for reconstruction or amalgamation).
- 11.5 In the event of termination of ongoing Assignments under this clause by the Client, the Client will indemnify Protocol National against all claims, costs, expenses and demands made by Visiting Lecturers in respect of work done on Assignments under this Agreement during the period ending seven days after the date on which Protocol National received notice of the termination.
- 11.6 The Client agrees that in the event of termination of ongoing Assignments under this clause all outstanding payments due under this Agreement shall immediately be due and payable without the need for either Protocol National or the Client to comply with the procedure set out in Appendix A.
- 11.7 In the event that the Visiting Lecturer supplied by Protocol National to carry out an Assignment shall commit an act of gross misconduct or gross negligence in the performance of the Assignment, the Client
- 11.7.1 may exclude the Visiting Lecturer forthwith from its premises;
 - 11.7.2 must inform Protocol National immediately that this has been done; and
 - 11.7.3 may by notice in writing to Protocol National terminate the Assignment with immediate effect.

12. Indemnity

12.1 Without prejudice to any other rights or remedies available to the parties, each shall indemnify the other against:

12.1.1 all loss of, or damage to, any property to the extent it arises as a result of their respective negligence or wilful acts or omissions;

12.1.2 all claims, proceedings, damages, costs and expenses arising or incurred in respect of:

12.1.2.1 death or personal injury to any Visiting Lecturer engaged in connection with the performance of an Assignment where such death or personal injury is caused by their respective negligence or wilful act or omission; or

12.1.2.2 death or personal injury of any person to the extent arising as a result of their respective negligence, wilful act or omission; or

12.1.2.3 loss of or damage to any property to the extent it arises as a result of their respective negligence, wilful act or omission.

The liability of the parties in respect of the above indemnities shall be limited to the sum of £2,000,000 for each and every claim (unlimited in the aggregate as to the number of claims).

13. Particular obligations and duties in relation to former employees of the Client

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

14. Insurance

14.1 Protocol National and the Client shall at their own expense effect and maintain throughout the duration of all Assignments undertaken by Visiting Lecturers for the Client such insurance as they deem appropriate, but such insurance which shall be on a claim occurring basis (with the exception of Professional Indemnity Insurance which shall be on a claims made basis) shall include as a minimum:

14.1.1 third party liability insurance in respect of bodily injury and damage to property with an indemnity limit of not less than £5,000,000 for each and every claim (unlimited in aggregate as to the number of claims); and

14.1.2 professional indemnity insurance in respect of loss or damage arising as a result of the negligence or omissions of their employees with an indemnity limit of £1,000,000 in aggregate in any one year and shall be on a claims made basis.

14.2 Protocol National and the Client shall produce to each other evidence of the insurance required by this Agreement within 5 days of being requested to do so.

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

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

15. Health and Safety and Working Time Regulations

- 15.1 During the course of the Assignment the Client will ensure that it does nothing to cause Protocol National to be in breach of the Working Time Regulations 1998.
- 15.2 The Client will ensure that all necessary health, safety and security provisions are in place at each location at which Visiting Lecturers work, and that Visiting Lecturers are made fully conversant with all relevant health and safety and security policies, procedures and practices operated by the Client.

16. Quality Assurance

Protocol National tasks, processes and procedures are specified and designed within a quality assured framework. This quality assurance relies upon the Client applying and adhering to the terms and procedures specified within this Agreement.

17. Records

- 17.1 Protocol National will maintain complete and accurate accounting records of all sums paid or received under this Agreement. Protocol National will maintain these records for six years from the date of the relevant payment by the Client. Protocol National will make such records available to the Client upon reasonable demand and will allow the Client, or persons authorised by the Client to have copies of them.
- 17.2 Protocol National will maintain all necessary records required by the Working Time Regulations 1998 (as amended).
- 17.3 Protocol National will provide to the Client detailed Staff Individualised Records (SIR) in the format required by the Learning and Skills Council (LSC) upon reasonable demand.

18. Sub-Contracting

Protocol National shall not without the permission in writing of the Client sub-contract the provision of the service to anyone other than an approved Visiting Lecturer of Protocol National.

19. Confidentiality

- 19.1 Except to the extent permitted under other clauses of this Agreement, the Client shall keep confidential and shall not disclose to third parties, nor use for its own purposes confidential information without the prior written consent of Protocol National.
- 19.2 The Client will not make copies of information from the Register except for the purposes of engaging Protocol National to introduce Registered Visiting Lecturers to carry out Assignments under this Agreement.
- 19.3 The Client will not in any circumstances make available copies of information from the Register to any third party at any time (including after expiry or termination of the Contract) without the written consent of Protocol National.
- 19.4 The Client shall not be bound by clauses 19.1 to 19.3 in relation to information, which is:
- 19.4.1 published or comes into the public domain otherwise than by reason of a breach of this Agreement
 - 19.4.2 lawfully obtained by it from a third party which is free to divulge that information, or
 - 19.4.3 replicated by a third party without access to, or knowledge of the confidential information.
- 19.5 The Client shall ensure that its employees and contractors are bound to comply with the terms of this clause.

19.6 For the avoidance of doubt the provisions of this clause shall survive expiry or termination of all Assignments carried out by Visiting Lecturers for the Client.

20. Transfer Fees

20.1 Where a Visiting Lecturer has been supplied to deliver an Assignment and is subsequently engaged by either the Client directly or pursuant to being supplied by another employment business within the later of:

20.1.1 70 working days from the start of the Visiting Lecturer's first Assignment (each new Assignment where there has been a break of more than 30 working days since the end of the previous Assignment shall also be considered to be the "first Assignment" for these purposes);
or

20.1.2 40 working days from the day after the last day the Visiting Lecturer worked on any Assignment

the Client shall be liable to either an extended period of hire of 60 working days or a Transfer fee calculated in accordance with clause 20.4 below.

20.2 The Client must give Protocol National written notice in advance of its engagement of the Visiting Lecturer of whether it has elected to take the period of extended hire or to pay the Transfer Fee. However, where the Client does not give such notice before the Visiting Lecturer is engaged the parties agree that the Transfer Fee shall be due.

20.3 If the Client elects for an extended period of hire but before the end of such period engages the Visiting Lecturer supplied by Protocol National either directly or pursuant to being supplied by another employment business or the Visiting Lecturer chooses not to be supplied for an extended period of hire, the Transfer Fee calculated in accordance with clause 20.4 may be charged, reduced by such percentage to reflect the period of extended hire already undertaken by the Visiting Lecturer and paid for by the Client.

20.4 Subject to clause 20.8 the Transfer Fee will be determined in accordance with the following formula:

(the weekly average of the total Assignment Fees due for that Visiting Lecturer for the current or most recent academic term) x 12

20.5 In the event that there is an introduction of an Visiting Lecturer to the Client which does not result in the supply of that Visiting Lecturer to the Client and the Client subsequently engages the Visiting Lecturer either directly or pursuant to being supplied by another employment business within 6 months of the date of the introduction the Client shall be liable to either an extended period of hire of 60 working days or a Transfer Fee calculated in accordance with Clause 20.4. The Client must give Protocol National written notice in advance of the engagements or whether it has elected to take the period of hire or to pay the Transfer Fee. However, where the Client does not give such notice before the Visiting Lecturer is engaged the parties agree that the Transfer fee shall be due.

20.6 Where Protocol National and the College agree that an Visiting Lecturer has been entered on the Register as a direct result of the initiative or activity of the College, including, but not limited to, referrals resulting from surplus applications for a full time staff position, no Transfer Fee shall be payable should such an Visiting Lecturer be directly engaged by the College within 12 months of such a referral. Such agreement is not to be withheld by Protocol National unreasonably.

20.7 Where the Client exercises the right to an extended period of hire this shall be the same terms as the most recent period of supply by the Company. Where there has been no supply any Transfer Fee will be £500 unless clause 20.8 applies in which case the Transfer Fee shall be as set out in that clause.

20.8 Should a client wish to engage a Visiting Lecturer who has undertaken assessor work and has been paid under the payment system known as Special Contracts (i.e. payments by stage, by student, or is likely to be paid under this method) of who has been introduced to them to do assessor work of any kind but there has been no supply then the Transfer Fee will be determined solely as a minimum fee of £3,000.

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

21. Data Protection Obligations

The Client agrees to comply fully with all legal requirements in relation to personal data (as defined in the Data Protection Act 1998, as amended), supplied by Protocol National to the Client.

22. Protocol National supplied items and property

22.1 Any property of whatever kind supplied by Protocol National shall remain the property of Protocol National and the Client shall use its best endeavours to ensure its return to Protocol National upon demand in good condition, and until such return shall keep it in safe custody and good condition.

22.2 The Client shall not without the prior written consent of Protocol National use any such Protocol National supplied item for any purpose other than that for which it was supplied, or allow any other party to have or acquire any rights or lien over them.

23. Recovery of sums due to Protocol National

In the event that a sum of money falls due to Protocol National from the Client pursuant to this Agreement or otherwise and such sum is not paid by the due date, Protocol National may add such sum to the monthly payment next payable to Protocol National under Appendix A.

24. Publicity

Neither party shall engage in any publicity relating to the contract between them or this Agreement or any matters covered by their terms without the consent of the other party.

25. Authority of Protocol National

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

26. Variation

Protocol National reserves the right to vary this Agreement by giving notice of such variation in writing to the Client.

27. Headings

The headings in this Agreement are for convenience only and shall not limit, govern or otherwise affect the constitution of any provision contained in this Agreement.

28. Notices

Notices required under this Agreement to be given in writing, shall be delivered by hand, post, dedicated messaging, email or facsimile transmission, to the Account Manager of the party to whom the notice is sent at the addresses of the parties specified in this Agreement. Notices shall be deemed to be given upon receipt except that notices sent by pre-paid first class registered post in a correctly addressed envelope shall be deemed to be given within forty eight hours (excluding Saturdays, Sundays and public holidays) of posting, and notices sent by facsimile transmission (where a report confirming transmission is obtained by the sender upon transmission) shall be deemed to be given upon transmission.

29. Days

Saturdays and Sundays shall be disregarded when calculating any period specified in days or hours in this Agreement.

30. Relevant law

This Agreement shall be governed by the laws of England and the parties agree to submit to the jurisdiction of the English courts.

31. Survival

The rights which expressly, or by their nature, are intended to survive the expiry or termination of this Agreement survive and bind the parties.

32. General

32.1 The terms of this Agreement represent the entire understanding of the parties in relation to the services provided under this Agreement by Protocol National and will govern all Assignments that commence after the date that this Agreement is entered into by the parties.

32.2 If at any time any provision in this Agreement is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not be impaired.

32.3 The failure by either party at any time to enforce any provisions of this Agreement shall in no way affect its right thereafter to require complete performance by the other party. Any waiver to be effective must be in writing from the party granting the waiver and shall relate to the breach concerned and shall not constitute a waiver of any subsequent breach.

32.4 Nothing in this Agreement shall be deemed to constitute a partnership or joint venture between the parties.

SIGNED BY _____

PRINT

NAME _____

on behalf of Protocol National

Date _____

SIGNED BY _____

PRINT

NAME _____

on behalf of the Client

Title _____

Date _____

Appendix A

Fees Policy and payment

1. The Assignment Fee will be fixed at the beginning of each Assignment. Rates are reviewed annually taking into account regional variations.
2. The Assignment Fee will be initially calculated by multiplying the Protocol National Activity Band Rate (being the agreed College charge rate for the relevant academic year) by the length of the Assignment in hours. The Activity Band Rate Descriptions are:

Band	Description
Band 1	Facilitator/Invigilator - work may include helping students use equipment, explaining set work, helping solve problems and suggesting different approaches, meetings, invigilating and managing examinations.
Band 2	Limited Teaching Role - a limited teaching role that may involve some preparation and setting assignments.
Band 3	Lecturer/Teaching Role - a comprehensive teaching role encompassing the roles and responsibilities of a professional teacher.
Band 4	Specialist role - specialist provision including, for example, guidance and counselling, external liaison, consultancy, curriculum development or programme co-ordination

3. The Assignment Fee will be paid in monthly instalments, calculated by dividing the agreed Assignment Fee by the number of hours teaching that the specification for the Assignment requires and multiplied by the number of hours delivered in that month. The fee will be reduced pro-rata for any proportion of an Assignment not delivered.

4. The validation and payment timetable is as follows;

Month 1	Days 1 – 31	Assignment delivered
Month 2	Day 3	Interim billing report available for Client review
	Day 10	Client completes validation of interim billing report
	Day 11-16	Protocol National adjusts interim billing report for identified changes
	Day 16	Final billing report and final VAT invoice produced
	Day 21	Visiting Lecturer fee payment prepared
	Day 23	Invoices paid to Protocol National
	Day 24	Visiting Lecturer pay-slip dispatched
	Day 28	Protocol National payment of Worker Remuneration made to Visiting Lecturer

5. If the Client confirms the interim billing report or fails to confirm or dispute the report, the monthly instalment of the Assignment Fee shall be payable. For the avoidance of doubt no adjustment can be made of any overpayments made to Visiting Lecturers where such overpayment arises because of inaccuracies in the interim billing report.
6. If the Client disputes the interim billing report, the agreed adjusted amount will be incorporated within the final billing report.

7. All monthly amounts of Assignment Fees and VAT payable under this Agreement shall be paid by direct debit into the account of Protocol National on the due date.
8. Protocol National will repay to the Client any agreed overpayment.
9. The account management team handles all Client billing enquiries.
10. In the event that the Client has failed accurately to confirm the content of the interim billing report or the final invoice and then requests an interim payment to a Visiting Lecturer, Protocol National may levy a handling fee to the Client.
11. If at any time costs alter due to legislative change, Protocol National shall be entitled to adjust the Assignment Fee and the amounts payable under this schedule.