

# Aramark Contract

## SUPPLIER NON-EXCLUSIVE MASTER SERVICE AGREEMENT

**THIS SUPPLIER NON-EXCLUSIVE MASTER SERVICE AGREEMENT** (hereafter referred to as the "Agreement") is made and entered into by and between Staff Management Solutions, LLC f/k/a Seaton LLC (d/b/a Staff Management) ("Staff Management") and **Drake Staffing LLC, a Limited Liability** (the "Supplier" or "Agency"). Throughout this Agreement, Staff Management and Supplier are sometimes jointly referred to as the "Parties" or independently referred to as the "Party." This Agreement incorporates by reference all SOW(s), exhibits, attachments and schedules attached thereto, along with any other exhibits, attachments, schedules and amendment subsequently put into effect by Staff Management or the Parties.

### **1. Purpose.**

Staff Management is in the business of, among other things, providing management services to its clients with respect to the procurement of temporary labor services, including the management of Supplier's use of a related internet-based order and invoice management system (the "Vendor Management System" or "VMS," as defined below). Staff Management has been retained as the procurement manager with respect to the procurement of temporary labor services by ARAMARK Food and Support Services Group, Inc. ("Client" or "Aramark"). Staff Management has entered into an agreement with Client concerning the provision of these centralized management services in connection with Client's use of temporary personnel ("Temporary Workers" as defined below). Supplier seeks to provide the Temporary Workers to Client by entering into this Agreement with Staff Management for purposes of becoming a non-exclusive Supplier of Temporary Workers to Client as may be requested by Staff Management on the terms and conditions set forth in this Agreement, the Statement of Work ("SOW" as defined below), and any attached Exhibits, Attachments and Schedules or other Related Agreements (as defined below).

### **2. Definitions**

When used in this Agreement, the following capitalized terms shall have the following meanings:

- a) Client – Staff Management's customer purchasing Temporary Staffing Services supplied by Supplier
- b) Client Location or Client Site – Temporary Worker's physical or assigned location while providing temporary Services to Client.
- c) Convert/Conversion - a situation in which Client hires a Temporary Worker as a full-time employee and the Temporary Worker leaves the employment of Supplier to take that full-time position with Client. The date of conversion shall be the start date that the Temporary Worker becomes an employee of Client.
- d) Marks - a Party's name, corporate logo, trade name and trademarks.
- e) On/Off-Boarding - the process and procedure of assigning/removing a Temporary Worker to a position specified in a Work Order.

- f) Personnel - Supplier's employees, agencies, Subcontractors, agents, workers and any and all individuals assigned by Supplier to perform the Service(s) other than employees assigned to Client location.
- g) Related Agreements- any agreement required to be executed by a Temporary Worker prior to being on-boarded to an assignment, the Statement of Work executed by the Parties, any required confidentiality agreements, license agreements, and any other supplemental agreement(s) executed as a result of the relationship established by this Agreement.
- h) Service(s) - the staffing temporary labor services procured by Staff Management for the benefit of its Client which are detailed in this Agreement and Related Agreements, as amended from time to time in accordance with this Agreement.
- i) Single Point of Contact ("SPOC") - the employee or team designated by each respective Party as a single point of contact for purposes of the administration and operation of this Agreement, including but not limited to (a) the placement and filling of Work Orders, (b) the processes for screening and On/Off-Boarding of Temporary Workers, (c) the direction and management of the Temporary Workers, and (d) the invoicing of, and payment for, the Services of the Suppliers and Temporary Workers.
- j) Statement of Work or "SOW"- the specific terms and conditions for Supplier providing Services to Staff Management's Client to be subsequently executed, in addition to this Agreement, between Staff Management and Supplier. The Parties may execute multiple SOWs depending on the needs of the Client. Upon execution by all Parties, any SOW(s) become a part of this Agreement without the requirement of any additional amendments.
- k) Subcontractor – means independent agents, consultants or other non-employee service providers retained by Supplier to provide Services under this Agreement.
- l) Temporary Worker – Supplier's employees assigned to work at Client Location by Supplier to perform any authorized Services for Client.
- m) Vendor Management System or "VMS" - the web-based application and any related services provided by VMS to Client, Staff Management and Supplier to facilitate the management over the World Wide Web of Client's relationships with Supplier and the Temporary Workers. The Vendor Managed System will be utilized by Staff Management for the acquisition, tracking, reporting and billing of Services for Client.
- n) Work Product - all documentation, analysis, flowcharts, notes, outlines, formulas, processes, algorithms, ideas, inventions, know-how or techniques, and any other information, or materials developed by either Party and provided by one Party to the other Party in order for each Party to fulfill its obligations under this Agreement (including, without limitation, information about contractors, Temporary Workers and Permanent Placements represented by Supplier such as names of recruits, contact information, rate information, etc.).

- o) Work Order - any work requisition delivered by Staff Management to Supplier in accordance with this Agreement specifying Services to be performed by Supplier for Client at Client's Location as specified in the Agreement and any applicable SOW.
- p) Work Order Approval - Supplier's approval and acceptance of a Work Order.

### **3. Relationship Established**

- a) Supplier acknowledges and agrees that it is, and at all times shall act as, an independent contractor and not as an employee, partner, joint venture or agent of Staff Management or Client. Supplier further acknowledges and agrees that unless otherwise instructed in writing, it shall not represent itself as the agent or legal representative of Staff Management or Client for any purpose whatsoever.
- b) Supplier acknowledges and agrees that as an independent contractor, neither it nor any of its employees or the Temporary Worker(s) shall be eligible for any Client or Staff Management wages or employee benefits, including, but not limited to, vacation, medical, dental or retirement benefits. Upon request by Staff Management, Supplier shall require all of its Temporary Workers to execute an acknowledgment to that effect.
- c) It is expressly understood and agreed that for all purposes, including but not limited to workers' compensation insurance, unemployment insurance, FICA, and federal and state tax withholding, Supplier is performing services under this Agreement as an independent contractor.
- d) All Temporary Workers shall be and remain employees of the Supplier. Independent contractors, Subcontractors and consultants to Supplier are not permitted to serve as Temporary Workers. All Temporary Workers shall not be deemed to be employees of Client or any Client's client. In no event shall Client or Staff Management be required to pay any wages, provide any benefits or make any payroll tax withholdings or payments to or on behalf of any Temporary Workers. Supplier shall be responsible for ensuring that there is worker's compensation and unemployment compensation coverage as required by applicable law for all Temporary Workers supplied by Supplier to Client, and Client shall have no obligation to provide or otherwise ensure such coverage. All Temporary Workers shall be paid by Supplier, and Supplier shall be responsible for ensuring that all Temporary Workers are compensated in accordance with applicable federal, state and local law, including wage and benefit requirements. In that regard, Supplier retains exclusive control over the rate and method of payment of wages to all Temporary Workers, including regular rate of pay and classification of positions as exempt or non-exempt, and Client shall have no control over, or input into, such decisions. Supplier shall also be solely responsible for tracking hours worked by Temporary Workers, whether such hours are worked pursuant to this Agreement and/or pursuant to any other agreement Supplier has with any other entity or individual, and for paying such Temporary Workers all straight time and overtime and other wages or other compensation earned to which they are entitled under applicable federal, state and local law, including minimum wage and where applicable, living wage or other wage and/or benefit(s) as required by applicable law.

- e) Neither Supplier nor its Personnel or Temporary Workers have the authority to bind Staff Management or Client to any obligation to third parties, nor shall Supplier, its Personnel or its Temporary Workers hold themselves out as having such authority. Neither Staff Management or Client nor their employees or agents have the authority to bind Supplier to any obligation to third parties, nor shall Staff Management, Client, their employees or their agents hold themselves out as having such authority.
- f) Supplier acknowledges and agrees that in entering into this Agreement, Supplier shall be providing Services for the benefit of Client. Accordingly, Supplier agrees that Client is an intended third party beneficiary of all of Supplier's obligations under this Agreement.
- g) Neither Party can use the other Party's nor Client's Marks except as provided herein. Neither Party may use the other Party's Marks, nor may Supplier use Client's Marks unless Supplier has received prior written approval of the other Party or Client. Any such approval must be obtained on an item-by-item basis. Any use of a Party or Client's Marks by the other shall inure solely to the benefit of the owner of the Marks. Neither Party shall acquire any ownership rights or interest in the other Party or Client's Marks by such pre-authorized use, and neither Party shall at any time, dispute the other Party's or the Client's ownership rights to its Marks.
- h) Neither Party will do anything which would tend to discredit, dishonor, reflect adversely upon, or in any manner injure the reputation of the other Party, Client, or Client's clients.
- i) Nothing herein requires Staff Management to utilize Supplier for any Services, nor does it preclude Client or Staff Management from obtaining competitive Services from any other person, supplier or other entity, and Staff Management does not commit to any minimum volume or fee.
- j) Upon execution of this Agreement, the Parties shall execute any other Related Agreements as necessary to fulfill the obligations of this Agreement. During the term of this Agreement, the Parties may execute multiple SOWs depending on the needs of the business and the Client.
- k) Employment of Temporary Workers by Staff Management. Neither Staff Management nor Client shall have any liability or other obligation to Supplier if a Temporary Worker applies for a position with Staff Management or Client, whether via Client's web-based recruiting activities, such as [www.aramark.com/careers](http://www.aramark.com/careers), job fairs, or other job advertising, or otherwise. Before Client will employ a current or former Temporary Worker, the Temporary Worker is required to complete a Client employment application and successfully complete the hiring process, including passing any pre-employment screenings that are required. Any Temporary Worker who is offered employment with Client will receive an offer that is conditional on passing all required pre-employment screenings. If a Temporary Worker does not pass one or more of these screenings, as determined by Client in its sole discretion, then the Temporary Worker may be precluded from any further assignments by the Supplier to a Client Location.
- l) Unless required by law or otherwise approved by Staff Management, Supplier will communicate directly and exclusively with Staff Management with respect to any Services provided under this Agreement or in relation to the Temporary Workers and will not communicate directly or indirectly through a third party with Client regarding such matters.

#### **4. Term of Agreement & Termination**

- a) This Agreement shall commence on January 10, 2015 (the "Effective Date") and continue until terminated by either Party as set forth below.
- b) Notwithstanding the foregoing, this Agreement may be terminated forthwith by either Party upon the occurrence of any of the following, effective immediately upon receipt of written notice:
  - i. The other Party commits any act of fraud, gross negligence or willful misconduct in connection with the Services rendered hereunder;
  - ii. If any proceeding in bankruptcy or in reorganization or for the appointment of a receiver or trustee or any other proceedings for the relief of debtors shall be instituted by the other Party, or if such a proceeding is brought involuntarily against the other Party and is not dismissed within a period of 30 days from the date filed, or if the other Party shall make an assignment for the benefit of creditors;
  - iii. A material breach of the terms of this Agreement which breach is not remedied by the other Party to the terminating Party's reasonable satisfaction within 15 days of the other Party's receipt of notice of such breach from the terminating Party;
  - iv. Termination (or other cancellation) of the Agreement between Staff Management and Client.
- c) Staff Management shall have the right, in its discretion and for any or no reason, to terminate this Agreement upon 30 days' notice to Supplier. Any such termination shall be without any further liability hereunder, except for payments for Services rendered by Supplier prior to the date of termination. Supplier shall have the right to terminate this Agreement upon 90 days notice to Staff Management. In the event Supplier terminates this Agreement or Staff Management terminates this Agreement in accordance with Section 4(b), Supplier will: (i) waive any conversion or buyout fees for Temporary Workers on assignment with Client if Staff Management or Client choose to transition such Temporary Workers to work directly for Client or through a different supplier, and (ii) not remove any Temporary Worker assigned to a Client Location.

Any Related Agreement(s) shall terminate upon the termination of this Agreement except as to terms that are intended to survive such termination as noted in the relevant Related Agreements.

- d) All books, records, papers, catalogs, compilations of information, drawings, correspondence, recordings, software, stored data, tools, instruments, equipment and the like, including copies and duplicates, that Supplier and Supplier's Personnel and Temporary Workers develop or which comes into Supplier's, Supplier's Personnel or Temporary Worker's possession during the term of this Agreement, which relate to any aspect of Staff Management or Client's business, whether of a public nature or not, whether including confidential information or not, and not merely a personal item of a general professional nature, is and shall remain the property of Staff Management or Client and shall not be removed from Staff Management or Client's premises by

Supplier, Temporary Workers or Supplier's Personnel unless required in the course of rendering Services on behalf of Staff Management and Client or unless expressly authorized to do so in writing. Supplier shall promptly deliver all such materials to Staff Management upon termination of their assignment to Client, or at any time as Staff Management requests.

- e) In the event of a termination of this Agreement, Supplier will allow for a smooth and successful transition and assist in the transition to any third party of Staff Management's choosing. Supplier will immediately provide such assistance as necessary transition support, which shall include, without limitation: (i) transfer of all Client related information including without limitation, data, reports, and process maps, (ii) transfer of all documentation and Staff Management Work Product to Staff Management or its designated parties. Failure by Supplier under this Section shall be material breach of this Agreement.
- f) Termination or expiration of this Agreement will not affect any of the Parties' rights or obligations that are intended by the parties to survive such termination or expiration.

## **5. VMS Licenses and Software Applications**

- a) Client has contracted with a third party provider ("Software Provider") to provide Staff Management, Client, and Supplier a Vendor Management System (as defined in Section 2) and related services (such technology and services, individually and collectively are referred to as "VMS") to fulfill staffing requisitions pursuant to SOWs and Work Orders. Client desires to provide access and use of the VMS to Supplier to assist Supplier in (i) responding to contingent labor and/or permanent placement requests from Staff Management's Client (ii) contracting with Staff Management for the provision of Temporary Workers or Permanent Placement workers, (iii) using the VMS for on-line time, expense and project milestone entries (as applicable) for Temporary Workers providing Services for Staff Management's Client, (iv) using the VMS for on-line Permanent Placement fee agreements, (v) receiving various reports related to Supplier's performance and financial information at Staff Management Client Location and (vi) for any other future uses that may be developed and required to perform under this Agreement.
- b) With respect to Temporary Workers, once a Supplier has executed all required Related Agreements, and the Client desires to engage a particular Temporary Worker represented by Supplier, Staff Management and Client will utilize the VMS to generate Work Order Approvals and agree upon a Work Order between them, which will set forth the detailed information regarding the Temporary Worker's name, work/project assignment (including job description or project deliverable and duration), bill rate or milestone payment structure, and any other information relevant to the assignment of the particular Temporary Worker for the given assignment or Work Order.
- c) Subject to the terms and conditions of this Agreement (including, without limitation, the payment of any applicable VMS fee as set forth in any SOW or fee schedule agreed to by the Parties, and the agreement of Supplier to provide the VMS with certain information), the VMS will provide Supplier with access to the VMS system during the Term of this Agreement to access and use

the VMS, solely in connection with the purposes described in this Agreement and any applicable SOW.

- d) In addition to and without limiting the foregoing, Supplier grants Staff Management and Client a limited, non-exclusive, non-sub-licensable, non-transferable license to use any and all aggregated, non-personally identifiable data collected by Staff Management or Client with respect to metrics of Temporary Worker performance in connection with this Agreement.
- e) Supplier shall enter into any additional licensing agreement that may be required by Software Provider, Staff Management or Client with respect to Supplier's use of the VMS. Upon termination of this Agreement for any reason, Supplier's license to access and use the VMS will cease and it shall be used only for the completion, if necessary, of any then outstanding invoices and reports.
- f) Supplier acknowledges that the VMS and its structure, organization, and source code constitute confidential, proprietary, or valuable trade secrets of Client and/or Software Provider. Unless otherwise expressly permitted in writing, Supplier shall not itself attempt, and shall not permit or encourage any third party, to: (i) modify, adapt, alter, translate, or create derivative works of or from the VMS or accompanying documentation; (ii) merge the VMS with other software; (iii) sub-license, distribute, sell, use for service bureau use, lease, rent, loan, or otherwise transfer the VMS or accompanying documentation to any third party; (iv) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code for or other proprietary information or trade secrets from the VMS; or (v) otherwise use or copy the VMS or the accompanying documentation. Supplier must not remove, alter, or obscure in any way any proprietary rights notices (including copyright notices) of Client or Software Provider and its licensors and Supplier on or within the copies of the VMS and the accompanying documentation furnished by Staff Management, Software Provider or Client to Supplier.

## **6. Supplier Duties**

- a) Supplier will appoint a Single Point of Contact ("SPOC") to be available seven days per week and twenty-four hours per day (with a cell phone during non-office hours) to handle any concerns or issues regarding Supplier and the Temporary Worker(s). The SPOC will make a good faith effort to provide a minimum of a one-hour response to voice messages. Supplier and/or Staff Management's respective account managers will contact each other on an as needed basis to discuss any open issues.
- b) Client requires a local representative for locations that have 20 or more workers. Supplier will designate a group lead or an on-site liaison to manage their workforce at no cost to Client.

- c) Supplier will respond to all inquiries related to business operations within a timely manner and urgent issues within one (1) business day of notification. Except as may otherwise be required in event of emergency, all contacts and communications arising out of or related to this Agreement and the provision of Services at Client Location shall be addressed exclusively to Staff Management and not to Client directly.
- d) Prior to being placed at Client's Location, Temporary Workers are required to submit various documents to Supplier, undergo certain screening such as background check and drug screening, sign separate agreements, show proof of certain certifications (if required, e.g. TIPS, Servsafe), and pass certain test(s) per the requirements of Staff Management and/or Client's process and procedures for on-boarding Supplier's Temporary Workers. Supplier is to maintain all employment records, including but not limited to Temporary Worker applications, I9 forms, W4 forms, background check results forms and drug test compliance and results forms, signed Client Confidentiality agreement (if necessary), and, when applicable, signed confirmation of safety training as provided by Supplier and approved by Staff Management on behalf of the Client.
- e) If required by Client, Supplier shall cause Temporary Workers to execute the NDA and Assignment of Intellectual Property Agreement attached hereto as Exhibit D. From time to time, Supplier may be required to cause its Temporary Workers to sign additional agreements depending on the Work Order, such as confidentiality agreements and/or other Related Agreements.
- f) Supplier shall comply with and shall cause its Personnel and Temporary Workers to comply with the Client Standards set forth in the SOW, Exhibit A and with Clients' Data Security Requirements set forth on SOW, Exhibit B, which Staff Management may update or otherwise modify from time to time upon written notice to Supplier. Supplier shall also comply (to the extent applicable) and cause its Personnel and Temporary Workers to comply, with any of Client's clients' standards and policies relevant to the Temporary Worker's assignment at a Client Location.
- g) Supplier, at its own expense, shall be required to conduct, a background check and drug screening of each of its Temporary Workers prior to placing such working at Client Location and per the requirements of Client and its clients. Supplier shall perform all such screening per the terms of the SOW, Exhibit A to this Agreement. Staff Management may from time-to-time amend the SOW, Exhibit A by giving written notice to Supplier pursuant to this Agreement. The Parties acknowledge and agree that any such notice shall become part of this Agreement and shall amend this Agreement without a written amendment. Neither Staff Management nor Client will pay Supplier for any services provided by a Temporary Worker who had not undergone the requisite background check or drug screening consistent with the terms of SOW, Exhibit A.

- h) Supplier will be solely responsible for interviewing and hiring all of its employees who will be considered for assignments under this Agreement. Supplier will utilize any skills testing program as may be required or defined by Staff Management or Client, as part of its recruitment and selection process of Temporary Workers. In order to qualify for placement with Client, candidates may be required to achieve a score determined by Staff Management in its sole discretion.
- i) Supplier will provide any prospective Temporary Worker with training and informational materials addressing, among other things, (i) workplace harassment and anti-discrimination policies, (ii) making or receiving requests for disability accommodation, (iii) health and safety issues and (iv) general orientation and task training; (v) Client's policies and procedures to the extent provided in writing, and (vi) any relevant policies of Client's client(s) to the extent provided in writing. All Temporary Workers must comply with such policies and Supplier shall have procedures in place to ensure that Temporary Workers comply with such policies. Supplier and Staff Management will jointly determine the timing, duration, subject matter, materials and logistics for such training.
- j) As of the Effective Date of this Agreement, Supplier shall submit the Temporary Workers' documents and follow the process and procedures outlined in the SOW of this Agreement. Staff Management, from time-to-time, may require Supplier to submit additional or amended documentation by giving written notice to Supplier pursuant to this Agreement. The Parties agree that any such notice will be adequate to require Supplier to agree to the amended documentation including policies, procedures, temporary worker agreements and related documents and such amended documentation shall become part of this Agreement. Supplier shall fully cooperate with Staff Management in providing any documentation requested by Staff Management. All documentation will be provided within three business days of Supplier's receipt of such request unless otherwise stated on such request.
- k) Supplier and not Client or Staff Management, shall maintain all employment, personnel, wage/time/break records and other records required by applicable law, for the Temporary Workers. During the term of this Agreement and for a period of three (3) years after termination, Staff Management, Client, or their designated representatives shall have the right, at reasonable times and upon reasonable notice, to inspect Supplier's books and records, including all records pertaining to this Agreement and the provision of Temporary Workers to Client to verify compliance with this Agreement to the extent permitted by law. Supplier shall retain all such records for a period of three (3) years following the termination of this Agreement, except where a longer retention period is required by law in which case Supplier shall comply with its legal obligation.

## **7. Staff Management Duties**

- a) As permitted by law, Staff Management and/or Client shall have the right to reject any Temporary Worker that does not meet Client and Staff Management's criteria. In addition, Supplier shall remove any Temporary Worker whom Staff Management, Client or any Client's client requests be removed for any legal reason, with or without cause, and with or without prior notice. Staff Management's Client' or Client's client's rejection or removal of a Temporary Worker, and Staff Management's termination of its relationship with any Temporary Worker, shall have no effect

on the Temporary Worker's relationship with Supplier and shall not be construed as Staff Management, Client or Client's client requiring or encouraging Supplier to terminate its relationship with the Temporary Worker. Rather, the Temporary Worker may continue to perform work for other Supplier clients or for Supplier, and the Supplier retains exclusive control over all disciplinary and termination decisions pertaining to Temporary Workers. Staff Management, Client and Client's client shall have no control over, or input into, any such decisions.

- b) Staff Management and Client shall have the right to review some or all of the Temporary Worker employment documentation, including without limitation, background check information and drug screenings, at any time, with reasonable notice, in order to validate Supplier's compliance with the terms of this Agreement and Supplier shall have obtained the required consent from its Temporary Workers to allow for the sharing of such information.
- c) Compliance with Staff Management and Client's requirements under this Agreement are an integral part to the safety of all workers affected by the relationship created by this Agreement, and an integral part to the success of the Party's business relationship. Staff Management may perform compliance reviews to determine Supplier's compliance with one or more of the terms of this Agreement and any Related Agreements. Staff Management and/or Client may require Supplier to meet certain minimum standards for purposes of compliance with this Agreement depending on the nature of the work and the terms of the applicable SOW. Therefore, upon the execution of any applicable SOW, Staff Management shall, in writing, communicate to Supplier all compliance requirements. In the event that Supplier fails any compliance requirements, Staff Management and/or Client may seek to enforce certain consequence to either remedy the non-compliance or compensate Staff Management and/or Client. Neither the performance nor closure of a compliance review shall be deemed to be a waiver by Staff Management or Supplier of other rights they may have under this Agreement.
- d) Neither Staff Management's nor Client's inspection, failure to inspect, payment, failure to pay, or acceptance of any Services provided by Supplier shall preclude Staff Management or Client's right to reject nonconforming or inadequate Services provided by Supplier, to revoke acceptance of the same, or to exercise any other right or remedy granted herein or by law. Such rights will inure to Staff Management or Client notwithstanding Staff Management or Client's knowledge of the defect, the substantiality of the defect, and the ease of the discovery of the defect, or Staff Management or Client's failure to earlier reject the Services or revoke its acceptance. Supplier warrants that the Temporary Worker will meet Client's requested requirements and qualifications. If Client or Staff Management is not satisfied with a Temporary Worker, for any reason, within the first two days of such Temporary Worker's assignment, Supplier will not charge for the first two (2) hours of the unsatisfactory Temporary Worker's assignment and will replace the Temporary Worker immediately.

## **8. Hourly Rates and Overtime, Invoices and Payment, Conversion of Temporary Workers**

- a) Supplier shall be responsible to comply with all applicable Federal, state and local laws and regulations, including wage/hour and wage payment laws and regulations, Wage Orders, living

wage ordinances, prevailing wage laws and the Federal Service Contract Act. Notwithstanding the foregoing, Client shall notify Supplier and Staff Management of the applicability of any prevailing wages that are contractual in nature or Federal Service Contract Act.

- b) No Temporary Worker shall work overtime or holidays unless approval has been granted by Client as set forth herein.
- c) Subject to Client's payment to Staff Management for Supplier's Services, Staff Management shall pay to Supplier, the applicable hourly rate set forth on the SOW, **Exhibit E** (the "Pricing Schedule & invoicing") (or such other rate as may have otherwise been agreed upon in writing by an authorized representative of Client), multiplied by, the number of the total number of labor hours worked by the Temporary Worker at that Client Location less the MSP Fee as defined in the SOW, Exhibit E.

If Supplier determines that a Temporary Worker has incurred daily or weekly overtime based on time worked solely at one or more Client Locations in Supplier's work week, and such overtime was approved in advance by the Client Location where the overtime was incurred, then Staff Management shall pay the amount calculated under Section 8.c above, plus a premium attributable to such overtime. The premium attributable to such overtime shall be equal to: (a) the labor hours worked by the Temporary Worker in excess of 40 (and/or in excess of any daily overtime requirement, if applicable), multiplied by, (b) the Temporary Worker's actual hourly wage, multiplied further by, (c) 0.5 (i.e. one-half the straight-time rate).

- d) Supplier agrees to bill Staff Management in accordance with the applicable SOW between the Parties and per Exhibit E of this Agreement. Supplier shall be solely responsible for the accuracy of all invoices submitted to Staff Management, including clear identification of the inclusive dates of the work week to which the applicable invoice relates, and clear designation of the basis any overtime charges.
- e) Supplier agrees that, absent fraud, invoices shall be deemed final and not subject to further adjustment by the Supplier thirty (30) days after the ending date for Services rendered under the invoice.
- f) If, pursuant to the United States bankruptcy laws or similar state laws, Staff Management is ordered to repay to Client (or its successors in interest) money that was paid by Client to Staff Management, which Staff Management in turn paid to Supplier for Services delivered to Client, then Supplier shall, upon Staff Management's demand, refund that amount of money to Staff Management. These amounts include, without limitation, amounts deemed "preferential payments."

- g) All invoicing processes terms and conditions shall be set forth in the SOW and shall survive the termination of the SOW.

## **9. Taxes & Compliance**

- a) Supplier assumes all responsibility for all contributions, taxes and assessments with respect to its Temporary Worker(s) under all applicable federal, state and local laws (including withholding from wages of Temporary Workers where required). Supplier warrants that it will comply with all applicable federal, state or local laws or regulations applicable to Supplier as an employer, including those laws or regulations regarding compensation, hours of work or other conditions of employment. Supplier shall fully comply with Immigration and Naturalization requirements concerning verification of eligibility to work in the United States, and all employment eligibility verification through Department of Homeland Security e-Verify/Basic Pilot Program will be conducted and records held on file prior to placement of any Temporary Worker. Supplier represents and warrants that it has complied, and will comply, with all applicable federal, state, and local laws, rules, regulations and requirements, including but not limited to: wage and hour, Foreign Corrupt Practices Act, OSHA and all other labor laws. Supplier also represents and warrants that it shall be solely responsible for the payment of all wages, fringe benefits, social security, unemployment and other taxes applicable to the performance of Services under this Agreement by its Temporary Workers.

Supplier shall be solely responsible for ensuring the provision of health plan coverage for its employees, including Temporary Workers, providing services to Client or its subsidiaries, affiliates, or Client's clients, to the extent required by, and in accordance with any applicable laws and regulations, including the Patient Protection and Affordable Care Act ("ACA"). In no event shall Client or Staff Management be considered the common law employer or a joint employer of Personnel for purposes of the ACA. Suppliers agrees to be liable for and indemnify and hold harmless the Client, Client's clients, and Staff Management and their respective affiliates, subsidiaries, and agents from and against any damages, administrative costs, regulatory fees and charges, taxes, and/or penalties arising out of or relating to Supplier's failure to comply with the laws governing the provision of health coverage, including the ACA.

- b) Notwithstanding any other provisions of this Agreement, if it should be determined that Staff Management is legally required to make deductions from any amounts owed to Supplier under this Agreement (e.g., withholding taxes, social security contributions, etc.), Staff Management shall have the right to do so.
- c) This Agreement and the Parties' actions under this Agreement shall comply with all applicable federal, state and local laws, rules, regulations, and court orders, and governmental agency orders. If a court or governmental agency with proper jurisdiction determines that this Agreement or a provision of this Agreement is unlawful, or if Staff Management determines in good faith that this Agreement or a provision of this Agreement is inconsistent with, or contradictory to any law, court order, rule or regulatory requirement, this Agreement or that provision of this Agreement shall terminate. If a provision of this Agreement is so terminated and the Parties mutually agree that they legally, commercially, and practicably can continue this Agreement without the terminated provision, the remainder of this Agreement will continue in

effect, otherwise this Agreement shall terminate upon the effective date of the termination of the provision.

## **10. Representations and Warranties**

Supplier represents and warrants on an ongoing basis that:

- a) Supplier will comply with, and will implement measures to require compliance by all Temporary Workers, with all Client and Staff Management policies and procedures, including but not limited to observing and abiding by the working hours, working rules, safety and security procedures established by Client.
- b) Services provided by Supplier will be performed in a good and workmanlike manner by skilled and qualified Temporary Workers in accordance with the highest industry standards.
- c) Supplier will comply with, and will implement measures to require compliance by all Temporary Workers with requirements set forth in any Related Agreements.
- d) To the fullest extent permitted by law, Supplier warrants that it shall grant Staff Management access to Supplier's records related to this Agreement in order to permit Staff Management to regularly review and assess Supplier's compliance with this Agreement. Failure by Supplier to cooperate fully, to maintain complete records, or to provide accurate and complete documentation to Staff Management shall constitute a material breach of this Agreement and may result, in Staff Management's discretion, termination of this Agreement. Supplier acknowledges and agrees that Staff Management shall:
  - i. have the right to conduct regular (no more than quarterly) quality control checks of Supplier's records;
  - ii. receive confirmation from Supplier within no more than 48 hours that newly hired Temporary Workers have been processed using E-Verify to ensure – prior to assignment to Client -- their legal capacity to work in the United States.

## **11. Indemnification**

- a) The obligations set forth in this Section 11 shall survive the termination or expiration of this Agreement.
- b) To the fullest extent permitted by law, Supplier shall defend, indemnify and hold harmless, Client, Client's clients, Staff Management, all of their respective parents, affiliates and subsidiaries, and all of such entities' respective directors, officers, employees and agents, from and against any and all claims, demands, suits, investigations, administrative proceedings, losses, settlements, damages, liabilities, fines, penalties, costs, attorneys' fees and expenses to the extent related to or arising out of: (a) the performance of this Agreement in effect at the time of signing of this Agreement or hereinafter adopted, (b) any act or omission of Supplier and/or Supplier's employees, Personnel, or the Temporary Workers and (c) any injury or death to the Temporary Workers while such employees are providing services for Client, except with respect to Client's gross negligence or willful misconduct.

Without limiting the foregoing, Supplier's obligations shall include all losses, settlements, damages, liabilities, fines, penalties, costs, attorneys' fees, and expenses in connection with any claim, demand, suit, investigation, administrative proceeding, or settlement by, on behalf of, or related to any prospective, current or former Temporary Worker or independent contractor including any claim, demand, suit, investigation, administrative proceeding, or settlement to the extent arising out of or related, in whole or in part, (i) to the assertion by any current or former Temporary Worker or independent contractor that he or she was employed, jointly or otherwise, by Client, and Client's client or any of the other indemnified parties, or (ii) the employment relationship between Supplier and any Temporary Worker or the termination of such relationship, including claims relating to Supplier's hiring policies and decisions, claims for payment of wages or benefits, claims relating to meal or rest periods, claims relating to wage statements or the timely payment of wages, claims for penalties, claims asserted under a Wage Order, workers' compensation except with respect to Client's gross negligence or willful misconduct, ERISA, unemployment compensation, or other applicable law, rule or regulation, claims relating to the handling and processing of any and all immigration issues and requirements, and claims for Supplier's harassment, discrimination, disability accommodation, retaliation, or wrongful termination of any kind. Supplier acknowledges that Client retains the exclusive right to select its own counsel to defend it in connection with any proceeding or dispute subject to this paragraph and that Supplier shall reasonably cooperate with Client in the defense of such proceeding or dispute. Supplier further agrees that if Client is named as a defendant in any action or proceeding relating to Temporary Workers, Supplier shall use its best efforts to immediately seek dismissal of Client from the matter consistent with applicable law and regulation; and if Client is not a defendant in such action or proceeding, Supplier shall use its best efforts to ensure that Client is not brought into such action or proceeding, consistent with applicable law and regulation.

- c) Each party shall promptly notify the other of the assertion of any claim potentially subject to a claim for indemnification under this Agreement. Failure to so notify shall not relieve Supplier of its obligations hereunder except to the extent such failure actually and materially caused prejudice. Consent of the indemnified party shall be required for any settlement that (i) imposes any executory obligations on the indemnified party; (ii) does not unconditionally release the indemnified party; or (iii) constitutes any form of a binding admission by or on behalf of the indemnified party.

## **12. Insurance**

- a) Prior to the performance of any service hereunder by Supplier, Supplier shall at its own expense procure the following insurance coverage for the benefit and protection of Staff Management and Client, which insurance coverage shall be maintained in full force and effect until all of the Services are completed and accepted for final payment:
  - i. Workers' compensation insurance as required by law or regulation for statutory limits, as well as employers' liability insurance, with minimum limits of \$1,000,000 per accident for bodily injury, \$1,000,000 policy limit by disease, and \$1,000,000 per employee for bodily injury. If there is an exposure of injury to the Supplier's employees under the U.S. Longshore and Harbor Workers' Compensation Act, the Jones Act, or under laws,

regulations or statutes applicable to maritime employees, coverage shall be included for such injuries or claims;

- ii. Commercial General Liability- Minimum limits of \$1,000,000 per occurrence, \$2,000,000 in the general aggregate, and \$2,000,000 in the aggregate for products/completed operations. Products/completed operations coverage shall be maintained for a minimum of three (3) years after completion of the services. General Liability shall be written on an occurrence basis, including premises and operations, products and completed operations, blanket contractual liability, broad form property (including completed operations), explosion, collapse and underground hazards, liquor liability (either in the General Liability or on a separate policy) and independent contractors.
- iii. Automobile liability insurance which shall include bodily injury, property damage and automobile contractual liability coverage for all owned, non-owned, operated, leased, rented, or hired vehicles, with a combined single limit of liability for each accident of not less than \$1,000,000.
- iv. Employment Practices Liability insurance with minimum limits of \$2,000,000 per claim and in the aggregate.
- v. Employee dishonesty/ Blanket Crime Insurance covering loss or damage to ARAMARK's or ARAMARK Client's property caused by Temporary Workers, with minimum limits of \$1,000,000 per occurrence.
- vi. Errors and Omissions/Professional Liability insurance in an amount not less than \$1,000,000 per claim and in the aggregate.
- vii. Excess or Umbrella liability insurance with limits not less than \$5,000,000 per occurrence excess over the Commercial General Liability, Liquor Liability (where applicable) Automobile Liability and Employers' Liability requirements set forth in this Section.
- viii. Pollution (Environmental) Liability - Where applicable, covering any supplier who works with or uses a material, produces a product or waste considered to be a "hazardous material or waste" under the local, state or federal law/regulation (which includes but is not limited to: flammable explosives, radioactive materials, known carcinogenic materials, volatile chemicals and biological contaminants) in the amount of \$3,000,000 per occurrence and in the aggregate. If coverage is on a "claims made" basis, it must be maintained during the term of the contract/lease and at least three years following its completion/termination;

b) Supplier shall obtain the aforementioned insurance from insurance companies that have and maintain an AM Best rating of A- or better. The policies referenced in the foregoing clauses shall name Staff Management, Client and Client's Clients and each of their direct and indirect parents, subsidiaries and affiliates (collectively, the "Affiliated Companies") as an additional insured by endorsement. The policies referenced in the foregoing clauses shall contain a severability of interest clause, provide a Waiver of Subrogation on behalf of the Affiliated Companies, and shall be primary insurance in place and stead of any insurance maintained by

Staff Management, Client and Client's clients with respect to Supplier's liability under this Agreement. No insurance of Supplier shall be coinsurance, contributing insurance or primary insurance with Staff Management and Client insurance. Supplier shall maintain such insurance in effect until all of the services hereunder are completed and accepted for final payment. If "claims made" policies are provided, Supplier shall maintain such policies without endangering aggregate limits at the minimums stated above in this Section for at least three (3) years after the expiration of this Agreement. All insurance companies, the form of all policies and the provisions thereof shall be subject to Staff Management's prior approval.

- c) Supplier agrees to deliver to Staff Management upon execution of this Agreement original Certificates of Insurance evidencing the insurance coverage herein required. Each such Certificate of Insurance shall be signed by an authorized agent of the applicable insurance company, and shall provide that Supplier or insurance company shall provide not less than thirty (30) days prior written notice of cancellation is to be given to Staff Management prior to cancellation or nonrenewal, shall evidence additional insured status as required herein, and shall state that such insurance policies are primary and non-contributing to any insurance maintained by Staff Management, Client or Client's client. Upon request by Staff Management, Supplier shall provide a copy of each of the above insurance policies to Staff Management. Staff Management shall have the right to designate its own legal counsel to defend its interests under said insurance coverage at the usual rates for said insurance companies in the community in which any litigation is brought.
- d) Supplier hereby releases Staff Management Client and Client's clients, as well as their respective employees, agents, officers, invitees and insurance companies from all liabilities, claims, losses and expenses sustained as a result of injury or death to Temporary Workers while such employees are providing services for Client unless caused by Client's gross negligence or willful misconduct.
- e) Notwithstanding any other provision of this Agreement, the parties acknowledge and agree that, in the course of providing Services, Temporary Workers may be assigned to use vehicles that are owned and solely maintained by Client.
  - i. It is the mutual intent and expectation of the Parties that Client shall maintain insurance on, those Client-owned vehicles used by any Temporary Worker.
  - ii. Such insurance shall provide customary coverage with respect to any claims of injury, death or property damage suffered by any third party or client (such as, but not limited to, traffic accidents or damage to the Client-owned or third party property).
  - iii. In no event shall Staff Management, Client, or their insurers be responsible for: (a) claims of injury or death by any Temporary Worker, whose sole remedy shall be worker's compensation claims against the Supplier; (b) claims arising out of the intentional misconduct of any Temporary Worker; (c) failure by the Supplier to abide by the terms and conditions of the Agreement (including pre-assignment drug tests and background investigation); or (e) the assignment of a unqualified Temporary Worker to operate a Client-owned vehicle. Supplier shall be solely responsible for all such non-covered claims.

### **13. Confidentiality**

Supplier acknowledges that, for purposes of or as a result of performing Services for Staff Management and Client, Supplier, Temporary Workers and/or Supplier's Personnel may be provided or otherwise be exposed to Staff Management or Client Confidential Information (defined below).

- a) As used in this Agreement, "Confidential Information" means all written, visual and oral information and property provided to or made accessible to Supplier, Temporary Workers or Supplier's Personnel by Staff Management or Client, or to which Supplier, Temporary Workers or Supplier's Personnel are otherwise exposed, irrespective of the form of media, that are identified or reasonably regarded as proprietary or confidential by Staff Management or Client or that, under the circumstances surrounding the disclosure or considering the nature of the information, ought in good faith be treated as proprietary or confidential. Staff Management and Client Confidential Information includes, without limitation, trade secrets, strategic plans, prototypes, databases, and information relating to such aspects of Clients' business as products, product designs, recipes, methodologies, inventions, acquisition and divestiture information, equipment information, computer systems and capabilities, financial reports, tolerances, manufacturing methods, processes, techniques, treatment, or composition of materials, plant layout, tooling, marketing and Client data, know-how, and research and development efforts. Staff Management and Client Confidential Information also includes any and all material, information, data, prototypes, products and devices, and all project specific designs, procedures, systems, processes, tooling, equipment, software, firmware, specifications and other items, as are analyzed, developed or improved through the Services and connected with Staff Management's or Client's business (including business that may result from research and development efforts undertaken), together with all supporting documentation, test and survey results, written materials and any copyrightable material resulting from the performance of the Services. Further, Client Confidential Information includes any information that is confidential or proprietary to Client's clients, affiliates or business partners.
- b) The term "Confidential Information" shall not include information which (a) is or becomes publicly available through no fault of Supplier, Temporary Workers or any of Supplier's Personnel; (b) can be demonstrated as evidenced by business records to have been lawfully known to or developed by Supplier or Supplier's Personnel independently of any disclosure of Clients Confidential Information; or (c) is disclosed to Supplier or Supplier's Personnel by a third party who is lawfully in possession of the same and has the right to make such disclosure.
- c) Supplier agrees, on behalf of itself, its Temporary Workers and its Personnel to treat Confidential Information with the same degree of care as Supplier employs with respect to Supplier's information of like importance, provided that Supplier, the Temporary Workers and its Personnel shall use at least a reasonable degree of care. Supplier further agrees, on behalf of itself, the Temporary Workers and its Personnel, to use Client Confidential Information only for purposes of performing the Services under this Agreement. All Client Confidential Information shall remain the property of Client. Client has not granted a license to Supplier, Temporary Workers or its Personnel to use or exploit Client Confidential Information for the benefit of themselves or any third party.

- d) The restrictions and other terms of this Section will continue for as long as the information remains Client Confidential Information, and will survive termination of this Agreement. Upon the written request of Staff Management or Client, Supplier will immediately deliver to Staff Management or Client the Confidential Information and all copies thereof.
- e) The existence and substance of this Agreement constitute Confidential Information. Supplier will not make any press release regarding the existence of this Agreement without the prior written consent of Staff Management.
- f) Supplier agrees to restrict access to all of the Confidential Information within its company to only such limited group of authorized employees, independent contractors or subcontractors who (i) require such information in connection with their activities as contemplated by this Agreement, and (ii) have agreed in writing with Supplier to maintain the confidential nature of all proprietary information - including that of third parties - received by them in the course of their employment or engagement.
- g) All written materials relating to or containing the Confidential Information shall be maintained in a restricted access area and plainly marked to indicate the secret and confidential nature thereof and to prevent unauthorized use or reproduction thereof.
- h) Disclosure of Confidential Information to Supplier hereunder shall not constitute any option, grant or license to Supplier under any patent or other rights now or hereafter held by Staff Management or Client, their subsidiaries, or any of their affiliated companies.
- i) Upon termination of this Agreement, or earlier upon request, Supplier shall deliver all items containing any Confidential Information to Staff Management and Client or make such other disposition thereof as Temporary Supplier may be directed.
- j) Confidential Information does not include information to the extent that Supplier can clearly demonstrate falls within any of the following categories: (a) Confidential Information that as of the time of disclosure to Supplier, was already known to Supplier without obligation of confidentiality, as demonstrated by appropriate documentary evidence antedating the relationship between Supplier and Client; or (b) Confidential Information obtained after the date hereof by Supplier from a third party which is lawfully in possession of such information and not in violation of any contractual or legal obligation *to* Client with respect to such information; or (c) Confidential Information which is or becomes part of the public domain through no fault of Supplier or its employees.
- k) This Section shall survive termination or expiration of this Agreement.

#### **14. Ownership of Work Product**

- a) Supplier acknowledges and agrees that any and all work product of Supplier, Temporary Workers or Personnel under this Agreement, whether tangible or intangible, written or unwritten, including, without limitation, text, computer software, program, photograph, video, multi-media item, or other work of authorship, and instrumentation, inventions, ideas, discoveries,

improvements, enhancements, whether or not shown or depicted in writing or reduced to practice, whether or not patentable and including those which may be subject to copyright protection (collectively, "Work Product"), shall belong solely to Client and that neither Supplier nor any Temporary Worker or Personnel shall hold or retain any rights or interests in or to any Work Product.

- b) Copyrights. Supplier acknowledges that any written text, computer software, program, photograph, video, multi-media item, or other Work Product or work of authorship (collectively, "Work of Authorship") prepared by Personnel or Temporary Worker within the scope of Supplier's Services to Client is a "work made for hire" under U.S. copyright laws and that, accordingly, Client exclusively owns all copyright rights in such Works of Authorship. To the extent that any Work of Authorship may not properly be considered a work made for hire, Supplier hereby agrees to assign and will assign to Client all right, title and interest, including the right to secure copyright registration, in and to such Work of Authorship. Supplier agrees to execute such documents as Client may deem necessary from time to time to perfect its rights hereunder. For purposes of this Agreement, "scope of Supplier's Services" means that the Works of Authorship (i) relates to any subject matter pertaining to Supplier's Services to Client, (ii) relates to or is directly or indirectly connected with the business, products, projects or Confidential Information of Client, or (iii) involves the use of any time, material or facility of Client.
- c) Invention. "Invention" means instrumentation, inventions, Work Product, ideas, designs, prototypes, samples, discoveries, enhancements and improvements, whether or not shown or described in writing or reduced to practice (whether or not patentable and including those which may be subject to copyright protection), relating to any of Client's (i) present or prospective research and development, sales or other business activities, (ii) investigations, or (iii) reasonably foreseeable business interests.
- d) Assignment. Supplier shall promptly and fully disclose to Client, and will hold in trust for Client's sole right and benefit, any Invention that Supplier's Personnel or Temporary Worker, during the term of this Agreement, makes, conceives or reduces to practice, or causes to be made, conceived or reduced to practice, either alone or in conjunction with others, that (i) pertains to Supplier's Services to Client or is delivered as Work Product; (ii) relates to or is directly or indirectly connected with the business, products, projects, or Confidential Information of Client; or (iii) involves the use of any time, material or facility of Client. Supplier hereby agrees to assign and will assign to Client all of Supplier's right, title and interest in and to all such Inventions and, upon Client's request, Supplier shall execute, verify and deliver to Client such documents including, without limitation, assignments and applications for Letters Patent, and shall perform such other acts including, without limitation, appearing as a witness in any action brought in connection with this Agreement that is necessary to enable Client to obtain the sole right, title and interest in all such inventions.
- e) No Misappropriation. To the extent that any Work Product may not properly be considered works made for hire, Supplier represents and warrants that Supplier is the owner of the Work Product. Supplier further represents and warrants that, whether or not the Work Product may properly be considered a work made for hire, all Work Product delivered under this Agreement is original to Supplier, the Temporary Workers and Supplier's Personnel, and that the Work

Product does not infringe upon any third party rights including, but not limited to, copyright, trademark, patent, trade secret, privacy, publicity, and any other intellectual property rights or legally protectable property rights.

- f) **Restriction on Disclosure and License.** Supplier, the Temporary Workers and Supplier's Personnel shall not disclose to Client any Work of Authorship or Invention not arising or created pursuant to Supplier's performance under this Agreement, unless such disclosure is specifically described in a Statement of Work. In the event Supplier, a Temporary Worker or Supplier's Personnel disclose any such Work of Authorship or Invention, Supplier hereby grants to Client an unlimited, exclusive, worldwide, transferable, perpetual, irrevocable, and royalty-free license to make, have made, use, exploit, reproduce, distribute copy, display, prepare and have prepared derivative works of, and sell such Work of Authorship or Invention.
- g) **Proper Assignment by Personnel/Temporary Workers.** Supplier represents and warrants that it has full power and authority to grant Client the rights granted hereunder. Without limiting the foregoing, Supplier further represents and warrants that, , Supplier will provide any notices to and, before any Services are provided, obtain any additional agreements of its Temporary Workers as may be required by state or local law to effect a valid assignment of Works of Authorship and Inventions by the Temporary Workers or Personnel.

## **15. Compliance with Laws and Affirmative Action/Equal Employment Opportunity**

- a) **Employment Law Compliance.** Without limiting any other provision of this Agreement, Supplier shall comply with all applicable federal, state and local laws, including all common law, statutes, regulations, ordinances, wage orders and executive orders applicable to employers, including those relating to wages and pay, meal breaks and rest periods, the handling of food items, equal employment opportunity, discrimination, harassment, disability accommodation, retaliation, whistleblowing, leaves of absence, the payment of social security, unemployment and similar taxes, workers' compensation, government contractor and subcontractor obligations, background checks, drug testing, and the hiring and retention of employees with a right to work in the United States. Supplier acknowledges and agrees that it is solely responsible for ensuring that Temporary Workers are paid for all time worked – including time worked at Client Locations as well as at other locations – consistent with applicable federal, state and local law, including providing accurate wage statements compliant with applicable law, payment for minimum wage, and living wage or other wage specified by applicable law, payment for straight time, overtime, tips, commissions, vacation/paid time off (if applicable) and travel time, and timely payment of the foregoing. All Temporary Workers assigned by Supplier shall be treated as employees of Supplier for all purposes under applicable law and regulation, and shall not be treated as independent contractors. No dispute with respect to payment or other performance by Client or Staff Management shall excuse Supplier from its obligations under this Section or other provisions of this Agreement. Supplier shall provide Staff Management and Client with any information or data necessary for Supplier and Client to comply with applicable laws.
- b) **Supplier Compliance with Immigration Laws.** Without limiting any other provision of this Agreement, Supplier shall comply with the provisions of all immigration-related laws and regulations, including the Immigration Reform and Control Act of 1986 (the "IRCA") with respect to all Temporary Workers supplied to Client Locations, including by confirming the

identity of such Temporary Workers and their eligibility to work in the United States within the time periods required by law. Supplier agrees that a Form I-9 has been or will be, as appropriate, completed for each Temporary Worker supplied to perform services for Staff Management within the time periods required by law, and Supplier will not supply any Temporary Worker who has not had a Form I-9 completed, unless the Temporary Worker is supplied less than three (3) business days from his or her first day of employment with the Supplier, in which case Supplier agrees that the Form I-9 will be completed for this Temporary Worker within the time periods required by law. Upon request and to the extent permitted by law, Staff Management and Client shall have the right to review some or all of the Temporary Worker employment documentation to the extent permitted by law at any time, with reasonable notice, in order to validate Supplier's compliance with the terms of this Agreement. Supplier shall indemnify Client and Staff Management for any claims, fines or other liabilities resulting from Supplier's failure to comply.

- c) Reports of Complaints. Supplier agrees to provide Staff Management with written notice of any formal or informal complaint made by any Temporary Worker assigned to a Client location alleging harassment, discrimination, retaliation or other unlawful conduct in conjunction with his or her assignment at Client's location. This written notice shall be provided immediately but in no event more than one (1) business day after Supplier becomes aware of the complaint. Nothing in this section shall be construed to alter the fact that the Temporary Workers provided by Supplier to Staff Management are employed solely by Supplier and not by Staff Management or Client. Supplier shall retain exclusive control over the investigation of any complaints by Temporary Workers and any related disciplinary action for Temporary Workers; provided, however, that where the allegations include any reference to Staff Management Client or Client's client, then Supplier shall notify Staff Management, so that Staff Management may have an opportunity to conduct its own investigation or to cooperate with Supplier in the investigation, as Staff Management determines in its and Client's sole discretion.
- d) Certification. From time to time, Staff Management may request that Supplier sign a certification of Supplier's compliance with applicable law and regulation, and all other provisions of this Agreement, in a form acceptable to Staff Management. Promptly upon receipt of such request, Supplier shall sign such certification, and if applicable, shall disclose any area of non-compliance and the steps Supplier has taken and shall in the future take, to become compliant. In addition, from time to time, Staff Management may request that Supplier provide Staff Management with copies of Supplier's wage/compensation/pay policies and other employment-related policies, and promptly upon receipt of such request, Supplier shall provide such policies.
- e) Equal Employment Opportunity/Affirmative Action. Staff Management and Client are equal employment opportunity employers and all of their employment decisions, policies and practices are made and administered in accordance with applicable federal, state and local equal employment opportunity laws. Supplier affirms that it is an equal employment opportunity employer, that all of its employment decisions, policies and practices are made and administered in accordance with applicable federal, state and local equal employment opportunity law and that all Temporary Workers and candidates for Temporary Worker positions are considered, interviewed, tested, hired and referred to Staff Management on the basis of their individual capabilities and qualifications, consistent with applicable law and without regard to race, color,

religion, national origin, age, sex, gender, pregnancy, disability, sexual orientation, gender identity, genetic information, military status, protected veteran status or any other status protected by applicable federal, state or local law. Client is a contractor of the federal government and this Agreement incorporates by reference and is issued pursuant to all applicable Federally-required terms, conditions and clauses.

- f) It is the policy of Staff Management to practice equal employment and career development opportunities in recruitment, recruitment advertising, selection and placement, testing, training programs, promotion, transfer, compensation, facilities, social and recreational programs, layoff, recall and disciplinary actions including terminations. This policy is carried out for all Temporary Workers regardless of race, sex, gender, age, color, religion, creed, marital status, sexual orientation, gender identity or expression, disability, genetic information, national origin or ancestry, protected veteran status, status with regard to public assistance or other applicable legally protected status. Accordingly, Staff Management strongly encourages the referral of qualified Temporary Workers who are female, minority, veterans and/or individuals with disabilities.
- g) Supplier agrees to make a good faith effort to practice equal employment and career development opportunities in recruitment, recruitment advertising, selection and placement, testing, training programs, promotion, transfer, compensation, facilities, social and recreational programs, layoff, recall and disciplinary actions including terminations. This policy is carried out for all workers regardless of race, sex, gender, age, color, religion, creed, marital status, sexual orientation, gender identity or expression, disability, genetic information national origin or ancestry, citizenship status, protected veteran status, status with regard to public assistance or other legally protected status. Supplier agrees to strongly encourage the referral of qualified workers who are female, minority, veterans and/or individuals with disabilities. Supplier agrees to document its policy as such and provide reports as needed on all such related activities.
- h) Supplier agrees to post its open work positions with the applicable state job services agency or state employment office.
- i) This agreement is subject to the requirements of 41 CFR 60-1.4 and 29 CFR part 471, Appendix A to Subpart A, which are incorporated into this contract/order by reference, as applicable. In addition, this contract/order is subject to the requirements of 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a), which are incorporated herein by reference, as applicable. The latter two regulations prohibit discrimination against qualified individuals on the basis of protected veteran status or disability, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.
- j) Supplier agrees to report to Staff Management in a timely manner information regarding feeder sources for applicant flow.
- k) Supplier agrees to make representation available for full participation in adverse impact compliance reviews and/or any related litigation in the event of a government audit or litigation related to EEO/AA matters, as well as any internal audits related to EEO/AA matters, to the extent that any such internal audits are conducted.

- i) EEO reporting and compliance in accordance with all of the above listed Agreement points may be subject to compliance reviews. Compliance Reviews will include recruiting and hiring practices by specific job position. Compliance reviews will also include all information relating to promotional opportunities and direct hire opportunities.
- m) Before Supplier may assign Temporary Workers to a Client location where services are provided pursuant to a federal contract with E-Verify obligations, Supplier will be required to certify that it participates in E-Verify in compliance with the employment eligibility requirements for federal contractors and subcontractors (FAR Subpart 22.18 and FAR 52.222-54). Upon request by Staff Management or Client, Supplier will provide proof of Supplier's enrollment in E-Verify. The parties agree that this obligation can be satisfied by providing a copy of Supplier's Edit Company Profile page in E-Verify, which can be printed directly from E-Verify.
- n) **CHILD LABOR AND FORCED LABOR.** Without limiting any other provision hereof, Supplier hereby represents, warrants and covenants that it does not and shall not employ children, prison, slave, forced or indentured labor, bonded labor or use corporal punishment or other forms of mental and physical coercion as a form of discipline. In the absence of any national or local law, CLIENT and SUPPLIER agree to define "child" as a person of less than sixteen (16) years of age. IF LOCAL MINIMUM AGE LAW IS SET BELOW SIXTEEN (16) YEARS OF AGE, BUT IS IN ACCORDANCE WITH EXCEPTIONS UNDER INTERNATIONAL LABOR ORGANIZATION ("ILO") CONVENTION 138, THE LOWER AGE SHALL APPLY. CLIENT has the right to make unannounced inspections, and conduct appropriate compliance reviews of books and records (only as the information relates to this paragraph), of all of SUPPLIER's owned or leased premises to ensure compliance with this Section. SUPPLIER shall comply with any code of conduct or similar policy statement promulgated by CLIENT which shall be incorporated herein by reference.

## **16. Quality Control Checks**

Quality Control Checks Do Not Affect or Transfer Liability. Nothing herein, including but not limited to the right (but not the obligation) to conduct audits or quality checks or, conversely, the actual or alleged failure of Client or Staff Management to take or demand corrective actions based upon such quality checks, does, or shall be construed to make Client or Staff Management responsible for the actions or inactions of Supplier. Supplier acknowledges that, despite such audit or quality checks, Supplier shall be solely responsible for ensuring compliance with all of its contractual and legal responsibilities. Nor, in any event, shall the conduct of, or failure to conduct, a quality check of compliance hereunder, constitute a waiver of, an estoppel with respect to, or any other basis to delay or excuse Supplier from compliance with its obligations under this Agreement. Supplier's obligations shall survive any audit or quality check or the failure of Client or Staff Management to do so.

## **17. Modification**

No modification of this Agreement shall be binding on Staff Management unless agreed to in writing and signed by an authorized Staff Management executive. This Agreement may be amended only by a written agreement between the Parties that expressly amends, terminates or supersedes this Agreement, except as to otherwise stated in this Agreement and its Exhibits.

#### **18. Assignment**

This Agreement may not be assigned by Supplier in whole or in part, even by operation of law, in a merger or stock or asset sale, without the express written permission of Staff Management. Any attempt to do so will be null and void. Notwithstanding the foregoing, in the event that Staff Management or Client terminate the Master Services Agreement for any reason, Supplier agrees to an assignment of this Agreement by Staff Management to Staff Management's successor or to Client, in Client's and Staff Management's sole discretion.

#### **19. Successors and Assigns**

This Agreement shall be binding upon, and shall inure to the benefit of, the Parties and their respective successors and permitted assigns.

#### **20. Waiver**

No failure or delay on the part of either Party to exercise any right, power or remedy under this Agreement shall operate as a waiver of such right, power or remedy, nor shall any single or partial exercise of any right, power or remedy by any Party preclude the exercise of any other right, power or remedy. No express waiver or assent by any Party to any breach or default in performance of any provision of this Agreement shall constitute a waiver of or assent to any succeeding breach or default in performance of the same or any other provision of this Agreement.

#### **21. Remedies Cumulative**

All remedies provided herein are cumulative and not exclusive of any remedies provided by law or equity.

#### **22. Severability**

If any term(s) or provision(s) of this Agreement is/are held void, illegal, unenforceable or in conflict with any law of a federal, state or local government having jurisdiction over this Agreement, then such term(s) and/or provision(s) shall be stricken from this Agreement with the remaining portion(s) or provision(s) hereof being unaffected and this Agreement, as modified, shall remain in full force and effect with the parties being bound by the remaining provisions. In case any term of this Agreement shall be held invalid, illegal or unenforceable in whole or in part, neither the validity of the remaining part of such term nor the validity of any other term shall be in any way affected thereby.

#### **23. Entire Agreement**

This Agreement contains the entire agreement between the Parties with respect to its subject matter. This Agreement (including all the attached Exhibits, Attachments and Schedules) supersedes all prior discussions, whether written or oral, and agreements between the Parties with respect to the subject matter of this Agreement. In the event of any conflict between the provisions of this Agreement and the

provisions of any contract, service order or other document used by Staff Management or submitted by the Supplier, the provisions of this Agreement shall control.

#### **24. Multiple Counterparts**

The original and one or more copies of this Agreement may be executed by the Parties. This Agreement may also be executed electronically and captured in the form of a PDF file. All such executed copies shall have the same force and effect as the executed original, and all such counterparts, taken together, shall have the effect of a fully executed original.

#### **25. Preparation of Agreement**

This Agreement shall not be construed more strongly against either Party, regardless who is responsible for its preparation of drafting.

#### **26. Key Performance Indicators**

Immediately upon execution of this Agreement, the Parties shall enter into a service level agreement (“SLA”) through which the Parties shall: list categories, including but not limited to Staff Management and Client satisfaction, identify key performance indicators; and, define methods and frequency of measuring performance of the services provided under this Agreement. A form of such Related Agreement is attached hereto as SOW, EXHIBIT C, but the actual SLA will be based on the Client’s needs, the SOW, other Related Agreements and any measurable indicators of performance that are relevant to the Agreement and Related Agreements. Staff Management and Client, in either party’s discretion, shall have the right to remove Supplier from the program based on Supplier performance.

#### **27. Force Majeure**

Each Party’s performance under this Agreement shall be excused if such non-performance is due to circumstances beyond the Party’s reasonable control, including labor difficulties, governmental orders, equipment failure, inability or delay in securing equipment, civil commotion, acts of nature, weather disturbances or weather conditions. Immediately upon such an occurrence, the parties shall begin discussions as to mutually acceptable adjustments to or alternate methods of proceeding with the affected Services, and the impact, if any, on project schedules. If any such delay continues for a period beyond 30 days, and the Parties are unable to agree to acceptable adjustments to or alternate methods of proceeding with the affected Services, then either Party may request that the other Party participate in discussions to establish mutually acceptable terms for the termination of any or all of the affected Services and/or this Agreement.

#### **28. Headings**

The headings and captions used throughout this Agreement are for reference and convenience only and shall neither be deemed a part of this Agreement nor affect the meaning or construction of any provision of this Agreement.

#### **29. Governing Law and Choice of Forum**

This Agreement is made and delivered in the State of Illinois, and shall be governed by, construed and enforced in accordance with Illinois law. Any lawsuit related to this Agreement or the activities contemplated by this Agreement may only be brought in, and the Parties consent to the jurisdiction of, the United States District Court for the Northern District of Illinois (if Federal jurisdiction applies) or in the Circuit Court of Cook County, Illinois.

### **30. Dispute Resolution**

The Parties desire to resolve disputes, controversies and claims arising out of this Agreement without litigation. In the event of a dispute, and at the written request of a Party, each Party shall appoint a knowledgeable representative to meet and negotiate in good faith to resolve any dispute arising under this Agreement. If the negotiations do not resolve the dispute within 30 days of the initial written request, the Parties may pursue available remedies in law or equity.

### **31. Survival**

The Parties' obligations under this Agreement which by their nature are intended to continue beyond the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement.

### **32. Notice**

All notices required or permitted under this Agreement shall be given by registered or certified mail, postage prepaid, or by a nationally recognized overnight courier service, by facsimile followed by an original sent by mail in accordance herewith, by hand delivery, or by e-mail directed as follows:

**Staff Management Solutions, LLC:**

Staff Management  
860 W. Evergreen  
Chicago, IL 60642-2634  
Phone: 312-397-3413  
Email: aramark-supplier@staffmanagement.com

**Drake Staffing**

Attention: Greg Price  
Phone: 404.806.7722  
E-mail: gprice@drakestaffing.net  
Address: 2033 Monroe Dr. Atlanta Ga 30324

### **33. Conflict of Terms.** In the event of a conflict between the terms of this Agreement and any attachments or other documents incorporated herein that cannot be effectively reconciled, the conflict will be resolved in the following order of precedence: (a) the terms of the Agreement, (b) the terms of the Statement of Work, and (c) the terms of any other applicable attachment or document.

**EACH PARTY HAS FULL POWER AND AUTHORITY TO ENTER INTO, PERFORM, AND EXECUTE THIS AGREEMENT, AND EACH PERSON SIGNING THIS AGREEMENT ON BEHALF OF EITHER PARTY HAS BEEN PROPERLY AUTHORIZED AND EMPOWERED TO ENTER INTO AND EXECUTE THIS AGREEMENT.**

IN WITNESS WHEREOF, Staff Management Solutions, LLC f/k/a Seaton LLC (d/b/a Staff Management) and Drake Staffing **INSERT Supplier Name** have caused this Agreement to be executed by duly authorized corporate officers on the date written below.

Staff Management

By: Janice Weiner

Janice Weiner  
PRINTED NAME

TITLE VP, Global MSP Operations

DATE: 12/23/14 *gw*

EFFECTIVE DATE: 10/16/14 1/10/15 TERM

Supplier Name

By: Greg Price

Greg Price  
PRINTED NAME

TITLE: C.E.O.

DATE: 12/23/14