

TEMPORARY WORKER AGREEMENT

This Temporary Worker Agreement (the "Agreement") is made this ____ day of _____, 20__ by and among _____, an individual ("Temporary Worker") and _____ a _____, Temporary Worker's employer ("Employer").

WHEREAS, Employer has contracted with Guidant Group, Inc., a Delaware corporation ("Guidant Group"), for Employer to provide certain services, including work performed on a temporary basis by Temporary Worker, to Guidant Group's Customer (defined below); and

WHEREAS, Guidant Group has contracted with _____ ("Customer"), for Guidant Group to provide certain services related to Customer's temporary workforce under a program managed by Guidant Group (the "Program"); and

WHEREAS, Temporary Worker may be assigned by Employer, at Guidant Group's direction, to work for Customer on a temporary basis.

NOW, THEREFORE, for good and valuable consideration, the parties agree as follows:

1. Temporary Worker.

- 1.1 Temporary Worker may, in Guidant Group's sole discretion, be engaged to provide services to Customer through the Program as an employee of Employer and not as an employee of Customer. Temporary Worker shall perform all services or work under the Program to the satisfaction of Customer.
- 1.2 Temporary Worker acknowledges and agrees that no employment relationship between Temporary Worker and Customer or between Temporary Worker and Guidant Group is created by this Agreement, the agreement between Guidant Group and Customer, or by Employer's agreement with Guidant Group. Temporary Worker acknowledges and agrees that he or she is not a third party beneficiary of the agreement between Guidant Group and Customer and hereby waives any such rights, which may arise under such agreement between Guidant Group and Customer.
- 1.3 Temporary Worker acknowledges and agrees that Employer shall be solely responsible for all payments to Temporary Worker including payment of compensation, premium payments for overtime, bonuses, and other incentive payments, if any, and payments for vacation, holiday, sick days or other personal days, if any. Temporary Worker acknowledges and agrees that Temporary Worker is not eligible to participate in or receive any benefits under the terms of either Guidant Group's or Customer's pension plans, savings plans, health plans, vision plans, disability plans, life insurance plans, stock option plans, or any other employee benefit plan sponsored by Guidant Group or by Customer.
- 1.4 Temporary Worker acknowledges and agrees that the cash payments and benefits which Temporary Worker receives from Employer shall represent the sole compensation to which Temporary Worker is entitled, and that Employer will be solely responsible for all matters relating to compliance with all employer tax obligations arising from the performance of services in connection with this Agreement. These tax obligations include the obligation to withhold employee taxes under local, state and federal income

tax laws, unemployment compensation insurance tax laws, state disability insurance tax laws, social security and Medicare tax laws, and all other payroll tax or similar laws, and in no event shall either Guidant Group or Customer be liable for any such obligations.

- 1.5 Temporary Worker acknowledges and agrees that Customer and Guidant Group shall have no liability of any kind to the Temporary Worker related to payment for the time worked, if any, for Customer pursuant to this Agreement, the agreement between Employer and Guidant Group, or the agreement between Customer and Guidant Group. Temporary Worker hereby waives any claim he or she may have against Customer or Guidant Group related to such payment.

2. Customer Work Policies and Rules.

- 2.1 Temporary Worker acknowledges and agrees that during the performance of Temporary Worker's job duties for Customer, Temporary Worker will not violate any of Customer's work rules and policies, including those specified in any code of conduct of Customer or other Customer workplace manual. Temporary Worker shall at all times comply with all rules, policies and procedures of Guidant Group and/or Customer as provided to Temporary Worker by Employer, Guidant Group and/or Customer. Temporary Worker agrees that Temporary Worker shall not harm Customer's equipment, property or inventory (other than ordinary wear and tear), and shall not interfere with Customer's business operations.
- 2.2 Temporary Worker agrees that he or she enters onto Customer's premises at his or her own risk and, to the fullest extent possible under applicable laws, waives any claims he or she may have now or in the future against Customer or Guidant Group for personal injury or property damage arising out of or connected in any way with Temporary Worker's presence on Customer's premises or his or her assignment to Customer.

3. Confidentiality and Non-Disclosure.

- 3.1 For purposes of this Section, "Confidential Information" shall include all business or technical information, including proprietary information about costs, customers, pricing, profits, markets, sales, lists of customers, employees, potential customers, potential employees, methods of doing business, plans for future development, information regarding matters of a technical nature, such as scientific, trade and engineering secrets, all "know-how", formulas, designs, secret processes, machines, inventions, computer programs (including documentation of such programs) and research projects, information obtained by examination of any product, design, production equipment or drawings thereof and any other information of a similar nature that is marked "Confidential" or that the Temporary Worker knows or has reason to know is the confidential or proprietary information of Customer or Guidant Group, as the case may be. Notwithstanding the forgoing, Confidential Information shall not include any information that:
 - 3.1.1 is hereafter lawfully disclosed to the Temporary Worker under conditions which do not restrict further disclosure or by a third party which did not acquire the Confidential Information under an obligation of confidentiality to Customer or Guidant Group, as the case may be;

- 3.1.2 properly came into the Temporary Worker's possession from a third party which is not under any obligation to maintain the confidentiality of such Confidential Information; or
 - 3.1.3 has become part of the public domain through no act or fault of the part of the Temporary Worker.
- 3.2 Confidentiality. The Temporary Worker agrees that he or she will:
- 3.2.1 Maintain in strict confidence all Confidential Information of Customer or Guidant Group, as the case may be;
 - 3.2.2 Use or reproduce the Confidential Information solely as necessary for purposes of providing services as an independent contractor to Customer;
 - 3.2.3 Not remove any copyright notices, trademark notices, or other proprietary legends or indications of confidentiality set forth on or contained in any of the Confidential Information;
 - 3.2.4 Immediately notify Guidant Group or Customer, as the case may be, in writing of any known unauthorized use or disclosure of the Confidential Information, providing a detailed description of the circumstances of the disclosure and the parties involved.
- 3.3 Injunctive Relief. Temporary Worker acknowledges that it is likely to be difficult to value the damages sustained by Guidant Group or Customer, as the case may be, due to any breach of Section 3 herein and that such damages are likely to be substantial or irreparable and the damaged party's remedy at law would be inadequate. Therefore, in the event of a breach of Section 3 herein, in addition to any other relief, Guidant Group or Customer, as the case may be, shall be entitled to temporary and permanent injunctive relief without the necessity of proving actual damages.
- 3.4 Work Product. Temporary Worker acknowledges and agrees that during and incident to Temporary Worker's work for Customer, Temporary Worker may create inventions, discoveries, improvements, computer or other apparatus programs, and related documentation and other works of authorship ("Work Product"), whether or not patentable, copyrightable, or subject to other forms of legal protection. Temporary Worker agrees to assign to Customer all of Temporary Worker's right, title and interest (including rights in copyright) in and to all Work Product Temporary Worker makes, creates or develops, either solely or jointly with others, during Temporary Worker's assignment to Customer. Temporary Worker agrees that the above assignment is binding upon Temporary Worker's estate, administrators, or other legal representatives or assigns.
- 3.5 Excluded Inventions. Temporary Worker shall not be required to assign to Customer any idea, invention, discovery, innovation or improvement which Temporary Worker developed entirely on his or her own time and without the use of any of Customer's equipment, supplies, facility or Confidential Information (as defined above), and which (i) does not relate to Customer's business or to Customer's actual or anticipated research or development, and (ii) does not result from any work performed by Temporary Worker

specifically for Customer (the "Excluded Inventions"). In any dispute with respect to these exclusions, the burden of proof shall be on Temporary Worker to show that the exclusion applies.

- 3.6 Work Made for Hire. Any and all Work Product prepared by Temporary Worker for Customer that is eligible for copyright protection shall be a work made for hire on behalf of Customer as that term is used under the United States Copyright Act and ownership of all copyrights in such work shall vest in Customer. If for any reason, any such work shall not be deemed a work made for hire or ownership of such copyrights would not vest in Customer, then Temporary Worker shall transfer all right, title and interest in such work, including all copyrights therein to Customer. In those jurisdictions that deem any work performed on a "Work Made for Hire" basis as giving rise to an employee/employer relationship, the parties specifically agree that this provision shall not apply in such jurisdiction and that Temporary Worker shall continue to be deemed an independent contractor of Customer.
- 3.7 Term. This Agreement shall be effective as of the date first written above, and shall remain in effect notwithstanding Temporary Worker's termination of employment with Employer or termination of Temporary Worker's assignment to Customer.
- 3.8 Severability. In the event that any provision of this Agreement is held to be invalid or unenforceable, then such invalid or enforceable provisions shall be severed, and the remaining provisions shall remain in full force and effect to the fullest extent permitted by law.
- 3.9 Waiver. This Agreement may be amended, or its requirements waived, only by a writing signed by the party against whom enforcement of the waiver or amendment is sought.
- 3.10 Governing Law; Jurisdiction. This agreement shall be governed by the law of the State of _____. Any litigation under this Agreement shall be filed and pursued in a court of proper venue in the State of _____. All parties expressly consent to the jurisdiction of such courts.
- 3.11 Assignment. Neither party's rights or obligations under this Agreement can be assigned without the express prior written consent of (i) the other party hereto, and (ii) Guidant Group. Any attempted or purported assignment of this Agreement without such consent shall be void.
- 3.12 No Inducements. Temporary Worker warrants and represents that he or she has neither provided nor offered to provide any gifts, payments, or other inducements to any officer, employee or agent of Guidant Group or Customer for any purpose. Temporary Worker shall not provide or offer any gifts, payments, or other inducements to any officer, employee or agent of Guidant Group or Customer for any purpose.
- 3.13 Entire Agreement. This Agreement constitutes the entire Agreement and understanding between the parties with respect to the subject matter hereof, and this Agreement supersedes all prior and contemporaneous negotiations, discussions and understanding of the parties with respect to the subject matter hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Temporary Worker Agreement as of the date first written above.

Employer

By: _____

Name:

Title:

Temporary Worker

Name:

ATTACHMENT 2

Staffing Company Performance Metrics.

There are 3 key topics that will be measured:

1. Participation, measured by response time and submittal to placement ratio.
2. Quality, measured by performance evaluations and replacement ratio.
3. Program compliance, measured by Staffing Company audits.

The table below summarizes the metrics to be used and what they measure:

Metric	Measure	Purpose	Minimum Acceptable Standard
Participation	1. Response Time = Time to respond to system generated acceptance notifications. Expectation = 24 – 72 hours	Validation Staffing Company is monitoring system activity and responding in a timely fashion.	90 %
	2. Submittal to Placement Ratio = % of resumes Submitted vs. total orders filled – based on Quality	To track whether rejections are due to Quality; also check if Staffing Company is “resume flooding”	12 to 1
Quality	1. Quality of Service Assessment = Average quality of service assessment rating for all Temporary Workers based on Hiring Manager's returned responses	Higher quality ensures more productivity and potentially shorter engagements, knowledge of department needs	3 out of 5 Less than 5% Clerical/IT/ Professional
	2. Replacement Ratio = percent of Temporary Workers terminated for cause.	Decreases repeat training, shows knowledge of departments needs	Light Industrial – 10%
Program Compliance	1. AP/Administrative Audit	Ensure record keeping compliance	95%
	2. Onboarding/Offboarding		100%
	3. SP Management & Issue Resolution.	To ensure Staffing Company is maintaining employee documentation and other information based on terms of the MSP program	100%

ATTACHMENT 3

STANDARD STAFFING COMPANY EMPLOYEE ACKNOWLEDGEMENT

I, the undersigned, am an employee of _____ (“**Staffing Company**”), and am being assigned to provide services to _____ d/b/a/ _____ (“**Property**”) at the following address _____ (the “**Facility**”) under a services agreement between Staffing Company and Guidant Group, Inc. (“**Guidant Group**”). I hereby acknowledge and agree that:

1. I am not an employee of Property, Starwood Hotels & Resorts Worldwide, Inc. (“**Starwood**”), or of any of their respective affiliates, and am therefore not entitled to participate in any of the various employee benefit programs offered by them to their employees, such as medical and dental insurance, 401K, short and long term disability insurance programs and other benefit plans, whether under ERISA or not, and I expressly waive any rights to participate in any such plans or programs.
2. I will perform my duties in a professional manner, and in compliance with all laws and all workplace rules applicable to persons performing services at the Facility.
3. I understand that there is a “zero tolerance” policy regarding discrimination, harassment or retaliation occurring at the Facility. Although I am not an employee of Property, Starwood, or any of their respective Affiliates, I will promptly report any inappropriate behavior to _____ and/or make a report at www.hotethics.com.
4. During my assignment at the Facility, I may receive confidential or proprietary information of Property, Starwood, or any of their respective Affiliates, including without limitation customer lists, promotions, rate plans, and business, financial and personnel information. Both during and after the time I provide services to Property I will not disclose such information to any third party.

Name:

Date:

ATTACHMENT 4

NON-DISCLOSURE AND ASSIGNMENT AGREEMENT

This Agreement is made as of _____ between _____ (“**Staffing Company**”), and _____, an employee of Staffing Company (“**Temporary Worker**”), who is being assigned to provide services to _____ d/b/a _____ (“**Property**”) at the following address _____ (the “**Facility**”) under a services agreement between Staffing Company and Guidant Group, Inc. (“**Guidant Group**”).

1. **Confidentiality.**

1.1 **Definition of Confidential Information.** Staffing Company and Temporary Worker acknowledge that to perform the services they may have access to and acquire, proprietary, private and/or otherwise confidential information of Property (“**Confidential Information**”). Confidential Information shall mean all non-public information of Client or its affiliates, subsidiaries, licensees, franchisees, joint venturers, clients or any other person or entity with whom or which the Client transacted business, whether or not created or maintained in written form, which constitutes, relates or refers to any and all of the following: database content and schema; promotions; rate plans; financial data; strategic business plans; product development information (or other proprietary product data); marketing plans; processes; discoveries, developments, inventions; devices; personnel information; guest information; know-how, techniques, methods, configurations, designs, programs, computer code (including source code and object code), code listings, data structures, data compilations, business methods, formulas and algorithms and the like, and improvements thereof and information relating to product and service planning, customer, contact, or prospect lists(s) or compilation(s), business methods, pricing, profits, sales, management, finances and contracts which is not common knowledge among competitors or other companies which may like to possess such Confidential Information or may find it useful.

1.2 **Restriction on Use and Disclosure.** Staffing Company and Temporary Worker agree that except as may be required by law, they will not disclose and will cause each of their employees or agents not to disclose, to any third party, any Confidential Information. Staffing Company and Temporary Worker will not, directly or indirectly, use for themselves or another, the Confidential Information for their own business purposes without the prior written consent of Property both during and after the term of this Agreement.

1.3 **Return of Confidential Information.** Upon termination of this Agreement, or at any time requested by Property, Staffing Company and Temporary Worker will return to Property, all records, data, notes, reports, sketches, material, equipment and other documentation and other property, and all reproductions of the same, furnished by Property or developed or prepared pursuant to the relationship hereunder, without retaining any copies.

2. **Publicity.** Staffing Company and Temporary Worker shall not create, publish, distribute or permit any written material which makes reference to Property in relation or pertaining in any way to this Agreement or to the relationship created between the parties hereunder without first submitting such material to Property and receiving its prior written consent.

3. Intellectual Property.

3.1 Works of Authorship. Staffing Company and Temporary Worker acknowledge and agree that the results and proceeds of the services (“**Works of Authorship**”) are all specially ordered or commissioned by Property as a “work made for hire” (as that term is defined in the United States Copyright Act) and that Property and its assigns shall own all right, title and interest thereto immediately upon creation without payment of additional consideration. Staffing Company and Temporary Worker further acknowledge that Property shall be considered the author of the Works of Authorship for purposes of copyright, shall own all rights in and to the copyright thereof, shall have the right to register and renew the copyright therein in its name or the name of its nominee(s), and have the sole and exclusive right to license, with rights to sublicense through multiple levels of sublicenses, to use, publish, sell, administer, reproduce, create derivative works of and otherwise exploit by all means now known or later developed, the Works of Authorship, and to retain any and all benefits, revenue, money, and income accruing therefrom. To the extent that the Works of Authorship do not vest in Property as a work made-for-hire, or if any Works of Authorship are deemed for any reason not to be works made-for-hire, Staffing Company and Temporary Worker grant, assign and transfer all of their right, title and interest in and to the copyright in the Works of Authorship and all extensions and renewals thereof to Property, and each agrees to provide all assistance reasonably requested by Property in the establishment, preservation and enforcement of its copyrights in such works.

3.2 Inventions. Staffing Company and Temporary Worker assign and transfer to Property their entire right, title and interest in and to all inventions, ideas, improvements, discoveries, trade secrets, processes, data, programs, knowledge, know-how, designs, techniques, formulas, test data, computer code, and other designs and creations contained in the Works of Authorship, whether or not patentable, copyrightable, or otherwise protected by law, and whether or not reduced to practice, made, learned or conceived by Staffing Company or Temporary Worker (collectively, the “**Inventions**”), which were created in connection with, result from, or are suggested by any task assigned to Staffing Company and Temporary Worker or any of the services performed by them for Property. Staffing Company and Temporary Worker agree that all such Inventions shall be the sole and exclusive property of Property and its assigns, and Property and its assigns shall be the sole owners of all such Inventions and any and all patents, copyrights and other proprietary rights related thereto. If Staffing Company and Temporary Worker has any right or rights to such Inventions that cannot be assigned to Property or waived by Staffing Company and Temporary Worker, Staffing Company and Temporary Worker unconditionally grant to Property, during the term of such rights, an exclusive, irrevocable, perpetual, worldwide, fully paid and royalty-free license, with rights to sublicense through multiple levels of sublicenses, to use, publish, sell, administer, reproduce, create derivative works of and otherwise exploit by all means now known or later developed, such Inventions and to retain any and all benefits, revenue, money, and income accruing therefrom.

3.3 Additional Documents. Staffing Company and Temporary Worker agree to promptly disclose all Works of Authorship (including, but not limited to, the Inventions) to Property. Upon request, Staffing Company and Temporary Worker agree to assist Property or its nominee (at Property’s expense) and to execute any documents and perform any lawful acts as Property deems necessary to allow it to exercise all rights and interest it is entitled to pursuant to this Agreement. As requested by Property, Staffing Company and Temporary Worker shall execute all documents for registering, obtaining, and enforcing its rights under any patent, trademark, service mark, copyright and other rights pertaining to the Works of Authorship and the Inventions. If Property is unable, after reasonable efforts, to secure Staffing Company’s and Temporary Worker’s signature on any documents it deems necessary to effectuate the intent and purpose of this Agreement, whether because of Staffing Company’s or Temporary Worker’s physical or mental incapacity or for any other reason whatsoever, Staffing Company and Temporary Worker irrevocably designate and appoint Property and its duly authorized officers and agents as their

agent and attorney-in-fact, to act for and on Staffing Company's and Temporary Worker's behalf to execute and file any such documents and to do all other lawfully permitted acts in furtherance thereof with the same legal force and effect as if executed by Staffing Company and Temporary Worker; it being expressly understood and intended by Staffing Company and Temporary Worker that the grant of the foregoing irrevocable power of attorney is coupled with an interest.

3.4 **Restriction on Recruitment of Personnel.** During the term of the services and for a period of six months afterwards, Temporary Worker shall not solicit or attempt to persuade or induce any employee or independent contractor of Property to terminate their employment or contractual relationship with Property.

3.5 **Restriction on Similar Assignments.** Temporary Worker agrees that during the term of the services and for 6 months afterwards, it will not assign perform similar services for a competitor of Property, whether as an agent of Staffing Company or otherwise.

4. **Compensation for Services.** Staffing Company acknowledges that Guidant will compensate it for the services as set forth in the Agreement between Staffing Company and Guidant. Temporary Worker acknowledges that it is not an employee of Property, and that Staffing Company will compensate it for the work it performs on the services as set forth in the Agreements between Staffing Company and Temporary Worker. Temporary Worker acknowledges that it has no right, and waives any right it may have, to compensation and/or other benefits from Property.

5. **Miscellaneous.**

5.1 **Entire Agreement/Modifications.** This Agreement supersedes all agreements, oral or written, between the parties with respect to the subject matter. Any modification of this Agreement will be effective only if it is in writing signed by all parties. Staffing Company and Temporary Worker agree that this Agreement shall govern any inconsistency between this Agreement and any other agreement signed by both Staffing Company and Temporary Worker.

5.2 **Equitable Relief.** Staffing Company and Temporary Worker acknowledge that their breach of any of the provisions of this Agreement may result in irreparable harm to Property, and agree that Property may enforce this Agreement by injunction, specific performance or other equitable relief in a court of competent jurisdiction, without prejudice to any other rights and remedies Property may have.

5.3 **Governing Law.** This Agreement shall be governed by, construed and enforced in accordance with the laws of the state of New York.

5.4 **Notices.** Any notice required or permitted under this Agreement shall be in writing and sent by hand delivery, courier or certified mail, return receipts requested, to the other party's address set forth in the introductory section. Notices shall be effective upon receipt. A party may change its address by giving written notice to the other party in accordance with this section.

5.5 **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

ACCEPTED AND AGREED:

STAFFING COMPANY:

TEMPORARY WORKER:

By: _____

By: _____

Title _____

Title _____

:

:

Date _____

Date _____

:

:

ATTACHMENT 5

WAIVER OF RIGHTS

The undersigned hereby acknowledges that he/she has been informed that various employee benefit programs are offered by _____ (“**Customer**”), Starwood Hotels & Resorts Worldwide, Inc. (“**Starwood**”), and their respective affiliates, to their employees, including medical and dental insurance, life insurance, long term disability insurance, a flexible benefits plan, matching contributions to a 401(k) plan, a Long Term Incentive Plan which could include awards of stock options, and other benefit plans. The undersigned agrees that he/she is waiving all rights he/she may otherwise have, if any, to participate in any employee benefit plan of Customer, Starwood or any of their respective affiliates that currently exists; that he/she has had the opportunity to become informed about the terms of the plans and any rights under those plans and the Employee Retirement Income Security Act (“**ERISA**”) to become a participant and receive plan benefits, and to seek legal advice concerning those benefits and rights; and that he/she voluntarily and knowingly has waived those rights in consideration of the compensation he/she will receive from _____ (“**Staffing Company**”) for performing services for Staffing Company at or on behalf of Customer.

ACCEPTED AND AGREED:

By:

Date: _____, 20__