

business, within either

- The duration of the Assignment;
- 14 weeks from the start of the first Assignment (each new assignment where there has been a break of more than 42 days (6 weeks) since the end of a previous Assignment shall also be considered to be the 'first Assignment' for these purposes); or
- 8 weeks from the day after the last day the Temporary Worker worked on the Assignment

the Client shall be liable, to either:

- a) Subject to electing upon giving 2 days notice, an **extended period of hire** of the Temporary Worker being 26 weeks during which the Client shall pay the current hourly charge agreed pursuant to clause 3.1 for each hour the Temporary Worker is so employed or supplied; or
- b) A **Transfer Fee** calculated as follows: 17.5% of the Remuneration applicable during the first 12 months of the Engagement or, if the actual amount of the Remuneration is not known, the hourly charges agreed pursuant to clause 3.1 multiplied by 250. No refund of the Transfer Fee will be paid in the event that the Engagement subsequently terminates. VAT is payable in addition to any fee due. However, where the client does not give such notice before the Temporary Worker is Engaged the parties agree that the Transfer Fee shall be due.

7.3 In the event that the Engagement of the Temporary Worker is for a fixed term of less than 12 months, the fee in clause 7.1(b) or 7.2(b), calculated as a percentage of the Remuneration, will apply pro-rata. If the Engagement is extended beyond the initial fixed term or if the Client re-engages the Temporary Worker within 3 months of the termination of the first Engagement the Client shall be liable to pay a further fee based on the additional Remuneration applicable for the period of Engagement following the initial fixed term up to the termination of the second Engagement or the first anniversary of its commencement, whichever is sooner.

7.4 If the Client elects for an extended period of hire, as set out above, but before the end of such period Engages the Temporary Worker supplied by the Employment Business either directly or pursuant to being supplied by another employment business or the Temporary Worker chooses not to be supplied for an extended period of hire, the Introduction Fee calculated in accordance with either 7.1(b) or 7.2(b) may be charged, reduced by such percentage to reflect the period of extended hire already undertaken by the Temporary Worker and paid for by the Client.

7.5 In the event that a Temporary Worker supplied to a Client is **introduced by the Client to a third party** which results in the Engagement of the Temporary Worker by the third party within either

- The duration of the Assignment;
- 14 weeks from the start of the first Assignment (each new assignment where there has been a break of more than 42 days (6 weeks) since the end of the previous Assignment shall also be considered to be the 'first Assignment' for these purposes); or
- 8 weeks from the day after the last day the Temporary Worker worked on the the Client shall be liable to pay a Transfer Fee calculated as follows: 17.5% of the Remuneration applicable during the first 12 months of the Engagement or, if the actual amount of the Remuneration is not known, the hourly charges agreed pursuant to clause 3.1 multiplied by 250 No refund of the Transfer Fee will be paid in the event that the Engagement subsequently terminates. VAT is payable in addition to any fee due.

7.6 In the event that there is an Introduction of a Temporary Worker to the Client which does not result in the supply of that Temporary Worker by the Employment Business to the Client, **but the Temporary Worker is introduced by the Client to a third party** which results in the Engagement of the Temporary Worker by the third party within 6 months from the date of Introduction the Client shall be liable, to **an Introduction Fee** calculated as follows: 17.5% of the Remuneration applicable during the first 12 months of the Engagement or, if the actual amount of the Remuneration is not known, the hourly charges agreed pursuant to clause 3.1 multiplied by 250. No refund of the Introduction Fee will be paid in the event that the Engagement subsequently terminates. VAT is payable in addition to any fee due.

## 8 LIABILITY

8.1 Whilst every effort is made by the Employment Business to give satisfaction to the Client by ensuring reasonable standards of skills, integrity and reliability from Temporary Workers and further to provide them in accordance with the Client's booking details, the Employment Business is not liable for any loss, expense, damage or delay arising from any failure to provide any Temporary Worker for all or part of the period of booking or from the negligence, dishonesty, misconduct or lack of skill of the Temporary Worker. For the avoidance of doubt, the Employment Business does not exclude liability for death or personal injury arising from its own negligence.

8.2 Temporary Workers supplied by the Employment Business are engaged under contracts for services. They are not the employees of the Employment Business but are deemed to be under the supervision, direction and control of the Client from the time they report to take up duties and for the duration of the Assignment. The Client agrees to be

responsible for all acts, errors or omissions of the Temporary Worker, whether wilful, negligent or otherwise as though the Temporary Worker was on the payroll of the Client. The Client will also comply in all respects with all statutes including, for the avoidance of doubt, the Working Time Regulations, Health and Safety At Work Act etc, by-laws, codes of practice and legal requirements to which the Client is ordinarily subject in respect of the Client's own staff (excluding the matters specifically mentioned in Clause 6 above), including in particular the provision of adequate Employer's and Public Liability Insurance cover for the Temporary Worker during all Assignments.

8.3 The Client shall advise the Employment Business of any special health and safety matters about which the Employment Business is required to inform the Temporary Worker and about any requirements imposed by law or by any professional body, which must be satisfied if the Temporary Worker is to fill the Assignment. The Client will assist the Employment Business in complying with the Employment Business' duties under the Working Time Regulations by supplying any relevant information about the Assignment requested by the Employment Business and the Client will not do anything to cause the Employment Business to be in breach of its obligations under these Regulations. Where the Client requires or may require the services of a Temporary Worker for more than 48 hours in any week, the Client must notify the Employment Business of this requirement before the commencement of that week.

8.4 The Client undertakes that it knows of no reason why it would be detrimental to the interests of the Temporary Worker for the Temporary Worker to fill the Assignment.

8.5 The Client shall indemnify and keep indemnified the Employment Business against any costs, claims or liabilities incurred by the Employment Business arising out of any Assignment or arising out of any non-compliance with clauses 8.2 and 8.3 and/or as a result of any breach of these Terms by the Client.

## 9 SPECIAL SITUATIONS

9.1 Where the Temporary Worker is required by law, or any professional body to have any qualifications or authorisations to work on the Assignment or the Assignment involves caring for or attending one or more persons under the age of eighteen or any person who by reason of age, infirmity or who is otherwise in need of care or attention, the Employment Business will take all reasonably practicable steps to obtain and offer to provide to the Client:

- Copies of any relevant qualifications or authorisations of the Temporary Worker, and
- Two references from persons not related to the Temporary Worker who have agreed that the references they provide may be disclosed to the Client and has taken all reasonably practicable steps to confirm that the Temporary Worker is suitable for the Assignment. If the Employment Business is unable to do any of the above it shall inform the Client of the steps it has taken to obtain this information in any event.

## 10 TERMINATION

10.1 The Client undertakes to supervise the Temporary Worker sufficiently to ensure the Client's satisfaction with the Temporary Worker's standards of workmanship. If the Client reasonably considers that the services of the Temporary Worker are unsatisfactory, the Client may terminate the Assignment either by instructing the Temporary Worker to leave the Assignment immediately, or by directing the Employment Business to remove the Temporary Worker. The Employment Business may, in such circumstances, reduce or cancel the charges for the time worked by that Temporary Worker, provided that the Assignment terminates: -

- a) Within four hours of the Temporary Worker commencing the Assignment where the booking is for more than seven hours; or
  - b) Within two hours for bookings of seven hours or less;
- And also provided that notification of the unsuitability of the Temporary Worker is confirmed in writing to the Employment Business within 48 hours of the termination of the Assignment.

10.2 Any of the Client, the Employment Business or the Temporary Worker may terminate an Assignment at any time without prior notice and without liability.

10.3 The Client shall notify the Employment Business immediately and without delay and in any event within 24 hours if the Temporary Worker fails to attend work or notifies the Client that the Temporary Worker is unable to attend work for any reason.

10.4 The Employment Business shall notify the Client immediately if it receives or otherwise obtains information which gives it reasonable grounds to believe that a Temporary Worker supplied to the Client is unsuitable for the Assignment and shall terminate the Assignment under the provisions of clause 10.2.

## 11 LAW

11.1 These Terms are governed by the law of England & Wales and are subject to the exclusive jurisdiction of the Courts of England & Wales

Signed for and on behalf of the Client

Dated

# TERMS AND CONDITIONS



**CLARKERECRUITMENTSOLUTIONS**

**35 - 37 Clarence Street, Staines,**

**Middlesex, TW18 4SY**

**Tel: 01784 465341**

**Fax: 01784 465349**

**solutions@clarkerecruitment.co.uk**

**www.clarkerecruitment.co.uk**

**Registered in England No. 4566376**

**Registered Address: 43-45 Devizes Road, Old Town, Swindon SN1 4BG**

**CLARKE RECRUITMENT SOLUTIONS ARE AN EQUAL OPPORTUNITIES EMPLOYER**

## CLIENT TERMS OF BUSINESS FOR THE INTRODUCTION OF PERMANENT OR CONTRACT STAFF TO BE DIRECTLY EMPLOYED BY THE CLIENT

### 1 DEFINITIONS

- 1.1 In these Terms of Business the following definitions apply:
- “Applicant”** means the person introduced by the Agency to the Client for an Engagement including any officer or employee of the Applicant if the Applicant is a limited company and members of the Agency’s own staff;
- “Client”** means the person: firm or corporate body together with any subsidiary or associated Company as defined by the Companies Act 1985 to which the Applicant is introduced;
- “Agency”** means Clarke Recruitment Solutions of 35-37 Clarence Street, Staines, Middlesex TW18 4SY.
- “Engagement”** means the engagement, employment or use of the Applicant by the Client or any third party on a permanent or temporary basis, whether under a contract of service or for services; under an agency, licence, franchise or partnership agreement; or any other engagement; directly or through a limited company of which the Applicant is an officer or employee
- “Introduction”** means (i) the Client’s interview of an Applicant in person or by telephone, following the Client’s instruction to the Agency to search for an Applicant; or (ii) the passing to the Client of a curriculum vitae or information which identifies the Applicant; and which leads to an Engagement of any sort whether the client has instructed the Agency or not.
- “Remuneration”** includes base salary or fees, guaranteed and/or anticipated bonus and commission earnings, allowances, inducement payments, the benefit of a company car and all other payments and taxable (and, where applicable, non-taxable) emoluments payable to or receivable by the Applicant for services rendered to or on behalf of the Client. Where the Client provides a company car, a notional amount of £3000 will be added to the salary in order to calculate the Agency’s fee.
- 1.2 Unless the context requires otherwise, references to the singular include the plural.
- 1.3 The headings contained in these Terms of Business are for convenience only and do not affect their interpretation.

### 3 THE CONTRACT

- 2.1 These Terms constitute the contract between the Agency and the Client and are deemed to be accepted by the Client by virtue of an Introduction to, or the Engagement of an Applicant or the passing of any information about the Applicant to any third party following an Introduction.
- 2.2 These terms contain the entire agreement between the parties and unless otherwise agreed in writing by A Director of the Agency, these Terms of Business prevail over any other terms of business or purchase conditions put forward by the Client.
- 2.3 No variation or alteration to these Terms shall be valid unless the details of such variation are agreed between the Agency and the Client and are set out in writing and a copy of the varied terms is given to the Client stating the date on or after which such varied terms shall apply.

### 3 NOTIFICATION AND FEES

- 3.1 The Client agrees:
- a) To notify the Agency immediately of any offer of an Engagement which it makes to the Applicant;
- b) To notify the Agency immediately that its offer of an Engagement to the Applicant has been accepted and to provide details of the Remuneration to the Agency; and
- c) To pay the Agency’s fee within 30 days of the date of invoice.
- 3.2 Except in the circumstances set out in clause 5.1 below, no fee is incurred by the Client until the Applicant commences the Engagement when the Agency will render an invoice to the Client for its fees.
- 3.3 The Agency reserves the right to charge interest on invoiced amounts unpaid for more than 30 days at the rate of 0.5% per annum above the base rate from time to time of the Bank of England or NatWest Bank from the due date until the date of payment.
- 3.4 The fee payable to the Agency by the Client for an Introduction resulting in an Engagement is the amount equal to 17.5%, VAT will be charged in an Engagement is the amount equal to:

Annual Salary	Percentage Fee
Up to £18,000	17.5%
£18,001 to £19,999	18%
£20,000 and over	20%

VAT will be charged on the fee if applicable.

- 3.5 In the event that the Engagement is for a fixed term of less than 12 months, the fee in clause 3.4 will apply pro-rata. If the Engagement is extended beyond the initial fixed term or if the Client re-engages the Applicant within 6 calendar months from the date of termination of the first Engagement the Client shall be liable to pay a further fee based on the additional Remuneration applicable for the period of Engagement following the initial fixed term up to the termination of the second Engagement or the first anniversary of its commencement, whichever is the sooner.
- 3.6 If the Client subsequently engages or re-engages the Applicant within

the period of 6 calendar months from the date of termination of the Engagement or withdrawal of the offer, a full fee calculated in accordance with clause 3.4 above becomes payable.

### 4 REFUNDS

- 4.1 In order to qualify for the following refund, the Client must pay the Agency’s fee within 14 days of the date of invoice and must notify the Agency in writing of the termination of the Engagement within 7 days of its termination. If the Engagement terminates before the expiry of 10 weeks from the commencement of the Engagement (except where the Applicant is made redundant) the fee will be refunded in accordance with the Scale of Refund set out below

Employment terminating At the end of	% of introduction fee refunded
2 Weeks	90% rebate
4 Weeks	65% rebate
6 Weeks	60% rebate
8 Weeks	45% rebate
10 Weeks	25% rebate

- 4.2 In circumstances where clause 3.6 applies the full fee stated in clause 3.4 is payable and there shall be no entitlement to a refund.

### 5 CANCELLATION FEE

- 5.1 If, after an offer of Engagement has been made to the Applicant, the Client decides for any reason to withdraw it, the Client shall be liable to pay the Agency a minimum fee of 5% of the annual Remuneration

### 6 INTRODUCTIONS

- 6.1 Introductions of Applicants are confidential. The disclosure by the Client to a third party of any details regarding an Applicant introduced by the Agency which results in an Engagement with that third party within 6 months of the Introduction renders the Client liable to payment of the Agency’s fee as set out in clause 3.4 with no entitlement to any refund.
- 6.2 An introduction fee calculated in accordance with clause 3.4 will be charged in relation to any Applicant engaged as a consequence of or resulting from an introduction by or through the Agency, whether direct or indirect, within 6 months from the date of the Agency’s Introduction.
- 6.3 Where the amount of the actual Remuneration is not known the Agency will charge a fee calculated in accordance with clause 3.4 on the minimum level of remuneration applicable for the position in which the Applicant has been engaged with regard to any information supplied to the Agency by the Client and/or comparable positions in the market generally for such positions.
- 6.4 In the event that any employee of the Agency with whom the Client has had personal dealings accepts an Engagement with the Client within 6 months of leaving the Agency’s employment, the Client shall be liable to pay an introduction fee to the Agency in accordance with clause 3.4.

### 7 SUITABILITY AND REFERENCES

- 7.1 The Agency endeavours to ensure the suitability of any Applicant introduced to the Client by obtaining confirmation of the Applicant’s identity; that the Applicant has the experience, training, qualifications and any authorisation which the Client considers necessary or which may be required by law or by any professional body; and that the Applicant is willing to work in the position which the Client seeks to fill.
- 7.2 At the same time as proposing an Applicant to the Client the Agency shall inform the Client of such matters in clause 7.1 as they have obtained confirmation of. Where such information is not given in paper form or by electronic means it shall be confirmed by such means by the end of the third business day (excluding Saturday, Sunday and any Public or Bank Holiday) following save where the Applicant is being proposed for a position which is the same as the one in which the Applicant has worked within the previous five business days and such information has already been given to the client.
- 7.3 The Agency endeavours to take all such steps as are reasonably practicable to ensure that the Client and Applicant are aware of any requirements imposed by law or any professional body to enable the Applicant to work in the position which the Client seeks to fill.
- 7.4 The Agency endeavours to take all such steps as are reasonably practicable to ensure that it would not be detrimental to the interests of either the Client or the Applicant for the Applicant to work in the position which the Client seeks to fill.
- 7.5 Notwithstanding clauses 7.1, 7.2, 7.3 and 7.4 above the Client shall satisfy itself as to the suitability of the Applicant and the Client shall take up any references provided by the Applicant to it or the Agency before engaging such Applicant. The Client is responsible for obtaining work permits and/or such other permission to work as may be required, for the arrangement of medical examinations and/or investigations into the medical history of any Applicant, and satisfying any medical and other requirements, qualifications or permission required by law of the country in which the Applicant is engaged to work.

- 7.6 To enable the Agency to comply with its obligations under clauses 7.1, 7.2, 7.3 and 7.4 above the Client undertakes to provide to the Agency details of the position which the Client seeks to fill, including the type of work that the Applicant would be required to do; the location and hours of work; the experience, training, qualifications and any authorisation which the Client considers necessary or which are required by law or any professional body for the Applicant to possess in order to work in the position; and any risks to health or safety known to the Client and what steps the Client has taken to prevent or control such risks. In addition the Client shall provide details of the date the Client requires the Applicant to commence, the duration or likely duration of the work; the minimum rate of remuneration, expenses and any other benefits that would be offered; the intervals of payment of remuneration and the length of notice that the Applicant would be entitled to give and receive to terminate the employment with the Client.

### 8 SPECIAL SITUATIONS

- 8.1 Where the Applicant is required by law, or any professional body to have any qualifications or authorisations to work in the position which the Client seeks to fill; or the work involves caring for or attending one or more persons under the age of eighteen, or any person who by reason of age, infirmity or who is otherwise in need of care or attention, the

Agency will take all reasonably practicable steps to obtain and offer to provide copies of any relevant qualifications or authorisations of the Applicant, two references from persons not related to the Applicant who have agreed that the references they provide may be disclosed to the Client and has taken all reasonably practicable steps to confirm that the Applicant is suitable for the position. If the Agency is unable to do any of the above it shall inform the Client of the steps it has taken to obtain this information in any event.

### 9 LIABILITY

- 9.1 The Agency shall not be liable under any circumstances for any loss, expense, damage, delay, costs or compensation (whether direct, indirect or consequential) which may be suffered or incurred by the Client arising from or in any way connected with the Agency seeking an Applicant for the Client or from the Introduction to or Engagement of any Applicant by the Client or from the failure of the Agency to introduce any Applicant. For the avoidance of doubt, the Agency does not exclude liability for death or personal injury arising from its own negligence.

### 10 LAW

- 10.1 These Terms are governed by the law of England & Wales and are subject to the exclusive jurisdiction of the Courts of England & Wales

## SUPPLYING TEMPORARY STAFF SERVICES - CLIENT TERMS OF BUSINESS

### 1 DEFINITIONS

- 1.1 In these Terms of Business the following definitions apply:
- “Assignment”** means the period during which the Temporary Worker is supplied to render services to the Client;
- “Client”** means the person, firm or corporate body together with any subsidiary or associated company as defined by the Companies Act 1985 to whom the Temporary Worker is supplied or introduced;
- “The Employment Business”** means Clarke Recruitment Solutions of 35-37 Clarence Street, Staines, Middlesex TW18 4SY.
- “Engages/Engaged/Engagement”** means the engagement, employment or use of the Temporary Worker directly by the Client or any third party or through any other employment business on a permanent or temporary basis, whether under a contract of service or for services; an agency, license, franchise or partnership arrangement; or any other engagement; directly or through a limited company of which the Temporary Worker is an officer or employee
- “Temporary Worker”** means the individual who is introduced by the Employment Business to render services to the Client.
- “Transfer Fee”** means the fee payable in accordance with clause 7.1 below and Regulation 10 of the Conduct of Employment Agencies and Employment Businesses Regulations 2003.
- “Introduction Fee”** means the fee payable in accordance with clause 7.2 below and Regulation 10 of the Conduct of Employment Agencies and Employment Businesses Regulations 2003.
- “Introduction”** means (i) the Client’s interview of a Temporary Worker in person or by telephone, following the Client’s instruction to the Employment Business to supply a Temporary Worker; or (ii) the passing to the Client of a curriculum vitae or information which identifies the Temporary Worker; and which leads to an Engagement of any type of that Temporary Worker in any position, instructed or not to the Employment Business.
- “Remuneration”** includes base salary or fees, guaranteed and/or anticipated bonus and commission earnings, allowances, inducement payments, the benefit of a company car and all other payments and taxable (and, where applicable, non-taxable) emoluments payable to or receivable by the Temporary Worker for services rendered to or on behalf of the Client or any third party. Where a company car is provided, a notional amount of £3000 will be added to the salary in order to calculate the Employment Business’ fee.
- 1.2 Unless the context otherwise requires, references to the singular include the plural.
- 1.3 The headings contained in these Terms are for convenience only and do not affect their interpretation.

### 2 THE CONTRACT

- 2.1 These Terms constitute the contract between the Employment Business and the Client for the supply of the Temporary Worker’s services by the Employment Business to the Client and are deemed to be accepted by the Client by virtue of its request for, interview with or Engagement of the Temporary Worker or the passing of any information about the Temporary Worker to any third party following an Introduction.
- 2.2 These Terms contain the entire agreement between the parties and unless otherwise agreed in writing by a Director of the Employment Business, these Terms prevail over any terms of business or purchase conditions put forward by the Client.
- 2.3 No variation or alteration to these Terms shall be valid unless the details of such variation are agreed between the Employment Business and the Client and are set out in writing and a copy of the varied terms is given to the Client stating the date on or after which such varied terms shall apply.

### 3 CHARGES

- 3.1 The Client agrees to pay such hourly charges\* of the Employment

Business as shall be notified to and agreed with the client. The hourly charges are calculated according to the number of hours worked by the Temporary Worker (to the nearest quarter hour) and comprise mainly the Temporary Worker’s pay but also include the Employment Business’ commission calculated as a percentage of the Temporary Worker’s pay, employer’s National Insurance contributions, working time directive and any travel, hotel or other expenses as may have been agreed with the Client or, if there is no such agreement, such expenses as are reasonable. VAT, if applicable, is payable on the entirety of these charges.

3.2 The charges are invoiced to the Client on a weekly basis and are payable within 30 days. The Employment Business reserves the right to charge interest on any overdue amounts at the rate of 0.5% per annum above the base rate from time to time of the Bank of England or Natwest Bank from the due date until the date of payment.

3.3 There are no rebates payable in respect of the charges of the Employment Business.

### 4 INFORMATION TO BE PROVIDED

- 4.1 When making an Introduction of a Temporary Worker to the Client the Employment Business shall inform the Client of the identity of the Temporary Worker; that the Temporary Worker has the necessary or required experience, training, qualifications and any authorisation required by law or a professional body to work in the Assignment; whether the Temporary Worker will be employed by the Employment Business under a contract of service or apprenticeship or a contract for services; and that the Temporary Worker is willing to work in the Assignment.
- 4.2 Where such information is not given in paper form or by electronic means it shall be confirmed by such means by the end of the third business day (excluding Saturday, Sunday and any public or Bank holiday) following, save where the Temporary Worker is being Introduced for an Assignment in the same position as one in which the Temporary Worker had previously been supplied within the previous five business days and such information has already been given to the Client, unless the Client requests that the information be resubmitted.

### 5 TIME SHEETS

- 5.1 At the end of each week of an Assignment (or at the end of the Assignment where it is for a period of one week or less) the Client shall sign the Employment Business’ time sheet verifying the number of hours worked by the Temporary Worker during that week.
- 5.2 Signature of the time sheet by the Client is confirmation of the number of hours worked. If the Client is unable to sign a time sheet produced for authentication by the Temporary Worker because the Client disputes the hours claimed, the Client shall inform the Employment Business as soon as is reasonably practicable and shall co-operate fully and in a timely fashion with the Employment Business to enable the Employment Business to establish what hours, if any, were worked by the Temporary Worker. Failure to sign the time sheet does not absolve the Client’s obligation to pay the charges in respect of the hours worked.
- 5.3 The Client shall not be entitled to decline to sign a timesheet on the basis that he is dissatisfied with the work performed by the Temporary Worker. In cases of unsuitable work the Client should apply the provisions of clause 10.1 below.

### 6 PAYMENT OF THE TEMPORARY WORKER

- 6.1 The Employment Business assumes responsibility for paying the Temporary Worker and where appropriate, for the deduction and payment of National Insurance Contributions and PAYE Income Tax applicable to the Temporary Worker pursuant to sections 44-47 of the Income Tax (Earnings and Pensions) Act 2003.

### 7 TRANSFER AND INTRODUCTION FEES

- 7.1 In the event of the Engagement by the Client of a Temporary Worker supplied by the Employment Business for an Assignment either (1) directly or (2) pursuant to being supplied by another employment