



TERMS OF BUSINESS WITH CLIENT FOR THE SUPPLY OF A LIMITED COMPANY CONTRACTOR WHO HAS OPTED OUT OF THE CONDUCT REGULATIONS (WITHIN IR35)

THE PARTIES

(1) One Way Resourcing Limited (registered company no. 5271250) of 10 Little Park Farm Road, Segensworth West, Fareham PO15 5TD (**"the Employment Business"**).

(2) **Clients name:** _____ **Limited (registered company**
No: _____ **of** _____ **Address:**

(**"the Client"**) to whom the Contractor is Introduced. For the avoidance of doubt the Client shall also include any subsidiary or associated person, firm or corporate body (as the case may be) to whom the Contractor is Introduced.

RECITALS

(A) The Employment Business carries on the business of sourcing and supplying independent contractors to provide services to clients of the Employment Business. The Client has instructed the Employment Business to supply a Contractor to provide certain services (**"the Contractor Services"**) as specified in the relevant Assignment Details Form.

(B) The Employment Business will introduce a Contractor to the Client to provide the Contractor Services on the terms and subject to the conditions of this Agreement.

IT IS AGREED as follows:

1. DEFINITIONS

1.1. In this Agreement the following definitions apply:

- "Assignment"** means the period during which the Contractor is supplied by the Employment Business to provide the Contractor Services to the Client;
- "Assignment Details Form"** means written confirmation of the Assignment details agreed with the Client prior to commencement of the Assignment;
- "Charges"** means the charges as notified to the Client at the commencement of the Assignment and which may be varied by the Employment Business from time to time during the Assignment. The charges are comprised of the Contractor's Fees, the Employment Business' commission, and any travel, hotel or other disbursements as may have been agreed with the Client or, if there is no such agreement, such expenses as are reasonable;
- "Conduct Regulations"** means the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (as amended) or the Conduct of Employment Agencies and Employment Businesses Regulations (Northern Ireland) 2005 (as amended);
- "Contractor"** means the person, firm or corporate body Introduced to the Client by the Employment Business to carry out an Assignment (and save where otherwise indicated, includes the Contractor Staff);
- "Contractor Staff"** means any officer, employee, or representative of the Contractor supplied to provide the Contractor Services;



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- “Engagement”** means the engagement, employment or use of the Contractor or the Contractor Staff, directly by the Client or by any third party to whom they have been introduced by the Client on a permanent or temporary basis whether under a contract of service or for services, or an agency, licence, franchise or partnership arrangement; or through any other employment business or any other engagement and “Engage”, “Engages” and “Engaged” shall be construed accordingly;
- “Introduction”** means (i) the passing to the Client of a curriculum vitae or information which identifies the Contractor or Contractor Staff; or (ii) the Client’s interview of a Contractor or Contractor Staff (in person, by telephone or by any other means), following the Client’s instruction to the Employment Business to supply a Contractor; or (iii) the supply of a Contractor; and in any case, which leads to an Engagement of that Contractor or Contractor Staff; and “Introduces” shall be construed accordingly; and
- “Introduction Fee”** means the fee payable by the Client in accordance with clause 7;
- “Remuneration”** includes gross 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 taxable, (and, where applicable, non-taxable) payable to or receivable by the Contractor for services provided to or on behalf of the Client. Where a company car is provided, a notional amount of £3000.00 will be added to the sums paid to the Contractor in order to calculate the Employment Business’ fee.

- 1.2. Unless the context otherwise requires, references to the singular include the plural and references to the masculine include the feminine and vice versa.
- 1.3. The headings contained in this Agreement are for convenience only and do not affect their interpretation.

2. THE CONTRACT

- 2.1. This Agreement together with the relevant Assignment Details Form (“**Agreement**”) constitutes the contract between the Employment Business and the Client for the supply of the Contractor Services by the Employment Business to the Client, and is deemed to be accepted by the Client by virtue of its request for, interview with, or Engagement of a Contractor or the passing of any information about the Contractor to any third party following an Introduction.
- 2.2. This Agreement contains the entire agreement between the Employment Business and the Client for the supply of the Contractor Services to the Client, and unless otherwise agreed in writing by a *Group Director* the Employment Business, shall prevail over any terms of business or purchase conditions (or similar) put forward by the Client.
- 2.3. Subject to clause 5.2 no variation or alteration to this Agreement shall be valid unless the details of such variation are agreed between a *Group Director* 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.
- 2.4. The Client acknowledges that the Contractor and the Contractor Staff carrying out the Assignment have opted out of the Conduct Regulations and that none of the Conduct Regulations apply to any Assignments governed by this Agreement.

3. INFORMATION TO BE PROVIDED



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- 3.1. Prior to the commencement of the Assignment, or if this is not practical, upon commencement of the Assignment, the Employment Business will send to the Client an Assignment Details Form setting out the following information:
 - 3.1.1. the identity of the Contractor and the Contractor Staff supplied by the Contractor to carry out the Assignment;
 - 3.1.2. details of the Contractor Services to be provided;
 - 3.1.3. the Charges; and
 - 3.1.4. the length of notice that the Client would be entitled to give and receive to terminate the Assignment.

4. TIMESHEETS

- 4.1. At the end of each week of the Assignment (or at the end of the Assignment where the Assignment is for a period of less than 1 week the Client shall sign the Employment Business' timesheet verifying the number of hours worked by the Contractor Staff during that week.
- 4.2. Signature of the timesheet by the Client is confirmation of the number of hours worked by the Contractor Staff. If the Client is unable to sign a timesheet produced for authentication by the Contractor 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 Contractor Staff. **Failure to sign the timesheet does not absolve the Client of its obligation to pay the Charges in respect of the hours worked.**
- 4.3. The Client shall not be entitled to decline to sign a timesheet on the basis that it is dissatisfied with the work performed by the Contractor Staff. In the event that the Client is dissatisfied with the work performed by the Contractor Staff the provisions of clause 8 shall apply.

5. CHARGES

- 5.1. The Client agrees to pay the Charges. VAT is payable at the applicable rate on the entirety of the Charges.
- 5.2. The Employment Business reserves the right to vary the Charges agreed with the Client, by giving written notice to the Client, in order to comply with any additional liability imposed by statute or other legal requirement or entitlement.
- 5.3. The Charges are invoiced to the Client on a weekly basis and are payable within the payment terms previously agreed by a Group Director .
- 5.4. The Employment Business reserves the right to charge interest under the Late Payment of Commercial Debts (Interest) Act 1998 on invoiced amounts unpaid by the due date at the rate of 8% per annum above the base rate from time to time of the Bank of England from the due date until the date of payment.
- 5.5. The Client's obligations under this clause 5 shall be performed without any right of the Client to invoke set-off, deductions, withholdings or other similar rights.

6. PAYING THE CONTRACTOR

The Employment Business is responsible for paying the Contractor.

7. INTRODUCTION FEES



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- 7.1. The Client shall be liable to pay the Employment Business an Introduction Fee where the Employment Business Introduces the Contractor to the Client and:
 - 7.1.1. the Client Engages the Contractor or any Contractor Staff either directly or through another employment business, within a period of 6 months from the termination of the Assignment in respect of which the Contractor or Contractor Staff was supplied, or if there was no supply, within 6 months of the Introduction of the Contractor by the Employment Business to the Client; or
 - 7.1.2. the Client introduces the Contractor to a third party, and such introduction results in an Engagement of the Contractor or any Contractor Staff by the third party within 6 months from the date of the introduction by the Client to the third party.
- 7.2. The Introduction Fee will be calculated in accordance with the schedule
- 7.3. No refund of the Introduction Fee will be paid in the event that the Engagement subsequently terminates.
- 7.4. VAT is payable in addition to any Introduction Fee due.

8. TERMINATION OF THE ASSIGNMENT

- 8.1. Either party may terminate the Assignment by giving to the other party in writing the period of notice specified in the Assignment Details Form.
- 8.2. Notwithstanding the provisions of clause 8.1 the Client may terminate the Assignment forthwith by notice in writing to the Employment Business where:
 - 8.2.1. the Contractor has acted in breach of any statutory or other reasonable rules and regulations applicable to it while providing the Contractor Services; or
 - 8.2.2. the Contractor is in wilful or persistent breach of its obligations; or
 - 8.2.3. the Client reasonably believes that the Contractor has not observed any condition of confidentiality applicable to the Contractor from time to time; or
 - 8.2.4. the Client is dissatisfied with the Contractor's provision of the Contractor Services.
- 8.3. The Employment Business may terminate an Assignment forthwith by notice in writing if:
 - 8.3.1. the Client is in wilful or persistent breach of its obligations under this Agreement and where the breach is capable of being remedied, fails to remedy the breach within 7 days of receiving written notice from the Employment Business to do so; or
 - 8.3.2. the Client fails to pay any amount which is due to the Employment Business in full and on the date that the payment falls due; or
 - 8.3.3. the Client is dissolved, ceases to conduct all (or substantially all) of its business, is or becomes unable to pay its debts as they fall due, is or becomes insolvent or is declared insolvent, or convenes a meeting or makes or proposes to make any arrangement or composition with its creditors; or
 - 8.3.4. an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the Client; or
 - 8.3.5. an order is made for the winding up of the Client, or where the Client passes a resolution for its winding up (other than for the purpose of a solvent company reorganisation or amalgamation where the resulting entity will assume all the obligations of the other party under this Agreement); or



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- 8.3.6. (where the Client is an individual) the Client dies, or as a result of illness or incapacity becomes incapable of managing his or her own affairs, or is the subject of a bankruptcy petition or order.

9. CONFIDENTIALITY AND DATA PROTECTION

All information relating to a Contractor and the Contractor Staff is confidential and where that information relates to an individual is also subject to the Data Protection Act 1998 ("DPA") and is provided solely for the purpose of providing Contractor Services to the Client. Such information must not be used for any other purpose nor divulged to any third party and the Client undertakes to abide by the provisions of the DPA in receiving and processing the data at all times. In addition information relating to the Employment Business' business which is capable of being confidential must be kept confidential and not divulged to any third party, except information which is in the public domain.

10. INTELLECTUAL PROPERTY RIGHTS

All copyright, trademarks, patents and other intellectual property rights deriving from the provision of the Contractor Services by the Contractor for the Client during the Assignment shall belong to the Client, save such rights as may be expressly owned or retained by the Contractor and set out in the Assignment Details Form. Accordingly the Employment Business shall use its reasonable endeavours to ensure that the Contractor shall (and any relevant member of the Contractor Staff shall) execute all such documents and do all such acts in order to give effect to the Client's rights pursuant to this clause.

11. LIABILITY

- 11.1. Whilst reasonable efforts are made by the Employment Business to give satisfaction to the Client by ensuring reasonable standards of skills, integrity and reliability from the Contractor and to provide the same in accordance with the Assignment details as provided by the Client, no liability is accepted by the Employment Business for any loss, expense, damage, costs or delay arising from the failure to provide a Contractor for all or part of the period of the Assignment or from the negligence, dishonesty, misconduct or lack of skill of the Contractor or if the Contractor terminates the Assignment for any reason. For the avoidance of doubt, the Employment Business does not exclude liability for death or personal injury arising from its own negligence or for any other loss which it is not permitted to exclude under law.
- 11.2. Contractors and Contractor Staff supplied by the Employment Business to the Client are deemed to be under the supervision, direction and control of the Client for the duration of the Assignment.
- 11.3. The Client shall advise the Employment Business of any special health and safety matters about which the Employment Business is required to inform the Contractor and about any requirements imposed by law or by any professional body, which must be satisfied if the Contractor is to fill the Assignment. The Client will comply in all respects with all relevant statutes, by-laws, codes of practice and legal requirements including the provision of adequate Public Liability insurance in respect of the Contractor.
- 11.4. The Client shall indemnify and keep indemnified the Employment Business against any costs, claims damages, expenses or liabilities incurred by the Employment Business arising out of any Assignment or arising out of any non-compliance with, and/or as a result of, any breach of this Agreement by the Client.

12. NOTICES

All notices which are required to be given in accordance with this Agreement shall be in writing and may be delivered personally or by first class prepaid post to the registered office of the party upon whom the notice is to be served or any other address that the party has notified the other party in writing, by email or facsimile transmission. Any such notice shall be deemed to have been served: if by hand when delivered; if by first class post 48 hours following posting; and if by email or facsimile transmission, when that email or facsimile is sent.

13. SEVERABILITY



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If any of the provisions of this Agreement shall be determined by any competent authority to be unenforceable to any extent, such provision shall, to that extent, be severed from the remaining provisions, which shall continue to be valid to the fullest extent permitted by applicable laws.

14. LAW AND JURISDICTION

This Agreement is governed by the law of England & Wales and is subject to the exclusive jurisdiction of the Courts of England & Wales

Signed on behalf of the Employment Business

Signed for and on behalf of the Client

Print name _____

I confirm I am authorised to sign this Agreement on behalf of the Client.

Signed on behalf of the Client

Date _____



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SCHEDULE: INTRODUCTION FEE STRUCTURE

Remuneration	Fee
£0-£20,000	15%
£20,001-£30,000	15%
£30,001-£40,000	15%
£40,001-£50,000	15%
£50,001+	15%