

**TERMS OF BUSINESS FOR THE INTRODUCTION OF PERMANENT OR FIXED TERM CONTRACT
EMPLOYEES
(TO BE DIRECTLY ENGAGED BY THE CLIENT)**

1 DEFINITIONS

In these Terms the following definitions apply:

- “Candidate”** the person Introduced by the Company to the Client for an Engagement, including where applicable any members of the Company’s own staff;
- “Client”** **CLIENT NAME** (registered company no. **XXXXXXXXXX** in England and Wales) of **CLIENT ADDRESS** together with any subsidiary or associated person, firm or corporate body;
- “Company”** **CLAREMONT CONSULTING Ltd** (registered in England and Wales under company no. 4578798) of The White Chapel Building, 10 Whitechapel High Street, London, E1 8QS;
- “Data Protection Legislation”** the EU’s GDPR (2016/679), the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426) and all applicable laws and regulations relating to the Processing of Personal Data
- “Engagement”** the employment, hire or other use, directly or indirectly, whether under a contract of service or contract for services or otherwise, on a permanent, temporary or other basis, of a Candidate by or on behalf of the Client in any site, office or location of the Client whether for the position for which the Candidate is introduced or any other position (and “Engage”, “Engages” and “Engaged” shall be construed accordingly);
- “Introduction”** (i) the passing of a curriculum vitae, or information which identifies the Candidate, to the Client or (ii) the Client’s interview of a Candidate (in person, by telephone or by any other means), following the Client’s instruction to the Company to search for a Candidate; and, in either case, which leads to an Engagement of the Candidate;
- “Introduction Fee”** the fee payable by the Client to the Company for an Introduction resulting in an Engagement;
- “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 and taxable (and, where applicable, non-taxable) emoluments payable to or receivable by the Candidate in the first year of an Engagement;
- “Regulations”** the Conduct of Employment Agencies and Employment Business Regulations 2003 as amended (and any reference in the Terms to a ‘Regulation’ shall be interpreted accordingly).

2 THE TERMS

- 2.1 These terms of business (“the Terms”) constitute the contract between the Company and the Client for the supply of permanent or contract staff to be engaged directly by the Client. They are deemed to be accepted by the Client by virtue of the Introduction or Engagement of a Candidate (whichever occurs first); regardless of whether or not the Terms have been signed by the Parties.
- 2.2 In the Terms words importing the singular shall include the plural and vice versa; words importing the masculine gender shall include the feminine gender and vice versa; and, any reference to a Person includes an individual, a firm, or a company.
- 2.3 The Company acts as an Employment Agency under the Regulations when Introducing Candidates to the Client for direct Engagement.

3 OBLIGATIONS OF THE COMPANY

- 3.1 The Company will use its reasonable endeavours to Introduce a suitable Candidate to the Client to carry out the role for which the Company has been advised there is a vacancy.
- 3.2 Unless otherwise agreed in writing, the Company shall be entitled (but not obliged) to advertise vacancies in such manner as it shall in its discretion deem fit in any and all media.
- 3.3 Notwithstanding the Company’s obligations under the Regulations, no warranty as to the suitability of any Candidate, or of the validity of any qualification or experience which the Candidate may have or purport to have, can be given by the Company.
- 3.4 If the Company, on behalf of the Client, reimburses a Candidate his travelling and out of pocket expenses in connection with attending an interview with the Client, such costs shall be invoiced to, and payable by, the Client in accordance with the payment terms set out in clause 5.4 below.

4 OBLIGATIONS OF THE CLIENT

- 4.1 If and whenever the Client Engages a Candidate Introduced by the Company, the Client shall pay an Introduction fee in accordance with clause 5 below, unless the Engagement occurs more than 12 months after the Introduction of the Candidate. An Introduction fee will not apply where a Candidate has applied directly for a role with the Client in the 6 months prior to the Company introducing a Candidate.
- 4.2 The Client will notify the Company immediately an offer of Engagement is made to, or accepted by, a Candidate.
- 4.3 The Client warrants and undertakes to the Company that in the event that another Employment Agency (as defined by the Regulations) provides the Client with a CV or other relevant information relating to a Candidate Introduced by the Company, the Client will reject the same unless such other Employment Agency can show that it has complied with the Regulations; or the Company provides the Client with a declaration from the Candidate that it is the sole agency appointed to act on the Candidate’s behalf.

- 4.4 To enable the Company to comply with its obligations to the Candidate under the Regulations, the Client undertakes to provide full details of the role which it seeks to fill, including: the type of work; the location and hours of work; the experience training and qualifications which the Client considers necessary or which are required by law or any professional body for the role; and, any risks to health or safety known to the Client
- 4.5 The Client shall satisfy itself as to the suitability of any Candidate. It is for the Client to take up references, to check the validity of qualifications and to ensure that the Candidate has the necessary experience and expertise required to undertake the role. The Client shall be responsible for obtaining any work or other permits, and for ensuring that the Candidate satisfies any medical requirements or other qualifications that may be appropriate or required by law.
- 4.6 The Client undertakes that in the event of it effectively Introducing (directly or indirectly) any Candidate to another Person, resulting in an Engagement by that Person (which the Client shall immediately notify to the Company) within 12 calendar months of the Company's Introduction of the Candidate to the Client, then the Client will be liable to the Company for payment of an Introduction Fee in accordance with the Terms. Neither the Client nor the Person shall be entitled to a refund of the Introduction Fee in any circumstances. The Client acknowledges that this is not a penalty clause, and that this fee recognises the additional management costs incurred by the Company in this situation.
- 4.7 The Client consents to the disclosure of information relating to it by the Company to Candidates.
- 4.8 The Client undertakes not to employ or seek to employ any member of the Company's staff. If any member of the Company's staff nevertheless accepts an Engagement during their employment with the Company or within three months of leaving the Company's employment, the Client will pay an Introduction Fee to the Company as if that member of staff had been Introduced to the Client by the Company, calculated at 50% of the member of staff's Remuneration as at the date of leaving the Company. The Client acknowledges that this is not a penalty clause, and that this fee recognises the additional management costs incurred by the Company in this situation.
- 4.9 The Client confirms that it is not aware of anything which will cause a detriment to the interests of the Candidate or the Client if it Engages that Candidate to fill a vacancy; and will inform the Company immediately if it becomes aware of any circumstances which would render such Engagement detrimental to the interests of the Candidate or the Client.

5 INTRODUCTION FEES

- 5.1 The Client agrees to:
- 5.1.1 notify the Company immediately an Engagement is offered to and accepted by the Candidate, and to provide documentary evidence if required;
- 5.1.2 pay the Introduction Fee as calculated in Clause 5.2, by the due date for payment in clause 5.4, if the Client engages the Candidate within 12 calendar months of the date of Introduction, whether or not the Client knew of the Candidate previously.
- 5.2 The Introduction Fee is calculated by applying 30% (thirty percent) to the Remuneration applicable:

- 5.3 Where the Engagement will be on a fixed term basis of less than 12 months, the Introduction fee will apply pro-rata. If the Client a) extends the fixed term or b) re-engages the Candidate within 12 calendar months of termination, the Client shall be liable for any further Introduction fees (up to a maximum of 12 months) calculated in accordance with clause 5.2.
- 5.4 The Introduction Fee shall be payable within 14 days of the date of the Company's invoice which shall be rendered on the Candidate's acceptance of an Engagement, together with VAT at the standard rate. The Company reserves the right to charge interest under the Late Payment of Commercial Debts (Interest) Act 1998 on invoiced amounts unpaid by the due date.
- 5.5 If the Client fails to provide the Company with full details of the Candidate's Remuneration on or before the date upon which the Introduction Fee becomes due, the Company may at its absolute discretion give notice to the Client as to its assessment of the value of the Candidate's Remuneration; and unless the Client provides the Company with full details of the Remuneration within one week, the Company's assessment of the Remuneration shall be binding upon the Client for the purposes of determining the Introduction Fee payable by the Client pursuant to this clause 5.
- 5.6 If the Client withdraws an offer of Engagement which has been accepted by the Candidate for any reason other than poor references, failed security clearance or background checks the Client will pay the Company an administration fee of £1,500.

6 REFUNDS

- 6.1 If an Engagement is terminated by either the Candidate or the Client (except where the Candidate is made redundant) subject to the terms of clause 6.2 below, the following refund of the Introduction Fee for each complete week not worked by the Candidate will be due from the Company to the Client:
- 0-4 weeks - 50% refund
5-8 weeks - 25% refund
- 6.2 In order to qualify for the refund set out in clause 6.1 above, the Client must comply with the provisions of clause 5.1 and clause 5.4 above, and must notify the Company in writing of the termination or non-commencement of the Engagement, within 7 days of the event.
- 6.3 In circumstances where clause 5.3 applies, the full Introduction Fee is payable and there shall be no entitlement to a refund.
- 6.4 If subsequent to the Client receiving a refund the Candidate is re-Engaged within a period of 12 calendar months from the date of termination, then the refund shall be repaid to the Company. The Client shall not be entitled to any further refunds in relation to the re-Engagement of this Candidate.

7 TERMINATION

- 7.1 Without prejudice to the other remedies or rights a Party may have, either Party may terminate this Agreement, immediately at any time, on written notice to the other Party:

- 7.1.1 if the other Party is in material breach of its obligations under this Agreement and, if the breach is capable of remedy, the breach is not remedied within 14 days of the other Party receiving notice which specifies the breach and requiring the breach to be remedied; or,
- 7.1.2 if the other Party becomes insolvent or if an order is made or a resolution is passed for the winding up of the other Party (other than voluntarily for the purpose of solvent amalgamation or re-construction), or if an administrator, administrative receiver or receiver is appointed in respect of the whole or any part of the other Party's assets or business, or if the other Party makes any composition with its creditors or takes or suffers any similar or analogous action in consequence of debt.

8 DATA PROTECTION

- 8.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Company is the Data Controller and the Client is the Data Processor. The clauses below set out the relevant particulars of the Processing as required by the Data Protection Legislation.
- 8.2 The subject matter of Data Processing is to Process Candidate Personal Data as is necessary to receive the Services pursuant to the Agreement and as further instructed by the Company in the performance of the Agreement.
- 8.3 The category of Data Subjects is Candidates and any other individuals Engaged pursuant to the Agreement.
- 8.4 The type of Personal Data will include a Candidate's first and last name, contact information (email, phone, address), ID data, professional life data, and personal life data (including residency and immigration status).
- 8.5 The Client shall, in relation to any Personal Data processed in connection with the performance by the Client of its obligations under this Agreement:
- 8.5.1 process that Personal Data only on the written instructions of the Company unless required to do otherwise by applicable law. In that event, the Client shall inform the Company of such legal requirement before Processing the Personal Data other than in accordance with the Company's documented instructions, unless that same law prohibits the Client from doing so on important grounds of public interest;
- 8.5.2 ensure that it has in place industry leading security for the Personal Data, including protection against unauthorised or unlawful Processing and against accidental loss, destruction or damage;
- 8.5.3 not transfer any Personal Data outside of the European Economic Area or any other territory.
- 8.5.4 notify the Company without undue delay on becoming aware of a Personal Data breach,
- 8.6 The Client shall indemnify the Company against all loss, liability, damages, costs, third party claims, fees and reasonable incurred expenses which the Company

and/or any of its Candidates may incur or suffer by reason of any breach of this Clause 87 or the Data Protection Legislation by the Client, save where the Client is acting at the direct instruction of the Company.

9 LIABILITY

9.1 Neither the Company nor any of its staff shall be liable to the Client for any loss, injury, damage, expense or delay incurred or suffered by the Client arising directly or indirectly from or in any way connected with an Engagement and, in particular, but without limitation to the foregoing, any such loss, injury, damage, expense or delay arising from or in any way connected with:

9.1.1 failure of the Candidate to meet the requirements of the Client for all or any of the purposes for which he is required by the Client;

9.1.2 any act or omission of a Candidate, whether wilful, negligent, fraudulent, dishonest, reckless or otherwise;

9.1.3 any loss, injury, damage, expense or delay incurred or suffered by a Candidate; (PROVIDED THAT nothing in this clause 9 shall be construed as purporting to exclude or restrict liability of the Company to the Client for personal injury or death resulting from negligence (as defined in the Unfair Contract Terms Act 1977) nor any statutory liability or any exclusion or limitation which is prohibited by law.

9.2 In consideration of the Company entering into an agreement with the Client into which the Terms are incorporated, the Client hereby undertakes to indemnify the Company in respect of any and all liability of the Company for any loss, injury, damage, expense or delay suffered or incurred by any one arising directly or indirectly from or in any way connected with the acts and omissions of a Candidate, whether wilful, negligent, fraudulent, dishonest, reckless or otherwise; (PROVIDED THAT this indemnity is given only in respect of any such loss, injury, damage, expense or delay caused during or arising directly or indirectly out of or in any way connected with an Engagement).

9.3 Each of the Parties acknowledges that, in agreeing to the Terms, it does not do so in reliance on any representation, warranty or other provision except as expressly provided in the Terms; and any conditions, warranties or other terms implied by statute or common law are excluded from the Terms to the fullest extent permitted by law. Nothing in the Terms excludes liability for fraud.

10 MISCELLANEOUS

10.1 The Company reserves the right to review and to revise the Terms with prior notice to the Client.

10.2 A notice required or permitted to be given by either party to the other under the Terms shall be in Writing addressed to that other party at its registered office or principal place of business.

10.3 No waiver by the Company of any breach of the Terms by the Client shall be considered as a waiver of any subsequent breach of the same or any other provision.

- 10.4 Except as expressly provided in these Terms a person who is not a party to the Terms shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract. This clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.
- 10.6 These Terms shall be governed by and construed in accordance with the laws of England and Wales.
- 10.7 The Terms contain the entire agreement between the parties, and unless otherwise agreed in writing by a Director of the Company the Terms shall prevail over any other terms of business previously agreed with the Client. No variations or alterations shall be valid unless agreed in writing by a Director of the Company.
- 10.8 The complete or partial invalidity or unenforceability of any provision in the Terms for any purpose shall in no way affect the validity or enforceability of such a provision for any other purpose or the remaining provisions. Any such provisions shall be deemed to be severed for that purpose subject to such consequential modification as may be necessary for the purpose of such severance.

Mark Baker

Signed on behalf of the Company

Mark Baker

Name

Director

Title

Date

Signed on behalf of the Client

Name

Title

Date