



Essex Recruitment Services: Terms of Engagement of Limited Company Contractors to Supply Workers to Clients (Opted Out)

1. Definitions

1.1 In these terms of engagement the following definitions apply:-

"the Assignment" means the job required to be undertaken by the Contractor to provide services to the Client.

"the Client" means the person, firm or company requiring the services of the Contractor.

"Contractor" means the company to whom these terms of engagement are addressed, engaged by the Company to provide the services of its employees, officers or representatives to the Client.

"the Company" means Essex Recruitment Services Ltd, whose registered office is at 2 Ranger Walk, Colchester, Essex, CO2, 8BY.

"the Assignment Letter" means the letter from the Company to the Contractor setting out the specific details of the Assignment.

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 these terms are for convenience only and do not affect their interpretation.

1.4 All notices to be served under this contract shall be served by first class pre-paid post, facsimile message or by e-mail at the registered office or principal trading address of the intended recipient. Notices shall be deemed served when they would ordinarily have been received in normal business hours according to the means of transmission of such notices.

1.5 These terms are governed by English Law and are subject to the exclusive jurisdiction of the English Courts.

2. The Contract

2.1 These terms constitute the contract between the Company and the Contractor and govern Assignments undertaken by the Contractor with the Client.

2.2 No variation or alteration to these terms shall be valid unless approved in writing by a Director of the Company.

2.3 It is the overall responsibility of the Contractor to obtain all necessary documentation in respect of immigration. Where necessary the Company reserves the right to access to such information upon request.

3. Assignments

3.1 The failure by the Company to obtain suitable Assignments for the Contractor shall not give rise to any liability on the part of the Company.

The Contractor recognises that there may be periods between Assignments when no work is available.

3.2 The Contractor shall not be obliged to accept an Assignment offered by the Company.

3.3 Upon acceptance by the Contractor of an Assignment, the Company shall supply the Contractor with an Assignment Letter specifying the duration of the Assignment, the identity of the Client, the hourly rate payable by the Company, any pre agreed expenses and any other relevant information. The Company agrees to make a weekly insurance deduction of £4.00 on the contractors' behalf.

3.4 The Contractor has opted out of the Conduct of Employment Agencies and Employment Businesses Regulations 2003 ("the Conduct

Regulations"). As such, the Contractor undertakes only to use Workers on Assignments who have themselves opted out of the Conduct Regulations, unless prior written notice about non-opted out Workers is served on the Company. In such circumstances, different commercial terms would apply to the Assignment.

3.5 The Contractor has the right to refuse to carry out work, if it believes the manner in which it is being requested to undertake the work to be unsafe, without fear of unwarranted disciplinary action being taken against the Contractor.

4. Fees

4.1 The Contractor shall receive payment from the Company for an Assignment at the rate specified in the Assignment Letter for each hour worked by the Contractor, plus VAT where appropriate, less deductions for payments agreed to be made for the use or purchase of personal protective equipment required by the Assignment, insurance where applicable and any other deductions agreed between the parties or as set out in the Assignment Letter.

4.2 The Contractor shall be responsible for any PAYE Income Tax and National Insurance contributions and any other taxes and deductions payable in respect of its Workers for any Assignment.

4.3 Subject to compliance by the Contractor with clause 7, all payments will be made to the Contractor one week in arrears.

4.4 The Contractor is not entitled to receive payment from the Company or the Client for time not spent on Assignments, whether in respect of travelling to the Client's premises, lunch breaks, rest breaks, holiday, illness or absence or for any other reason, unless otherwise agreed.

5. Liability

5.1 The Contractor shall be liable for any loss, damage or injury to any party resulting from the negligent acts or omissions of its Workers during an Assignment.

5.2 The Contractor shall ensure the provision of adequate Employer's Liability Insurance, Public Liability Insurance, Professional Indemnity Insurance (where appropriate) and any other suitable policies of insurance in respect of its Workers during an Assignment and shall make a copy of the policy available to the Company upon request.

6. Contractor's Obligations

The Contractor agrees on its own part and on behalf of its Workers as follows:-

6.1 not to engage in any conduct detrimental to the interests of the Company or the Client, which includes any conduct tending to bring the

Company or the Client into disrepute or which results in the loss of custom or business;

6.2 to be present during the times or for the total number of hours during each day and/or week of the Assignment as may be agreed with the Company or the Client;

6.3 to take all reasonable steps to safeguard its own safety and the safety of any other person who may be affected by its actions on the Assignment and to comply with the Client's health & safety policies;

6.4 to comply with all statutory obligations and codes of practice to which the Contractor is subject in respect of its Workers or generally, including but not limited to the Working Time Regulations 1998, the Conduct Regulations, the Companies Act 1985, the identification and compliance requirements of the Asylum and Immigration Act 1996 (as amended) and legislation relating to VAT and payment of Workers;

6.5 to comply with any rules or obligations in force at the Client's premises to the extent that they are reasonably applicable;

6.6 to co-operate with the Client's staff and accept the direction of any person in the Client's organisation to whom the Contractor is required to

report and comply with all reasonable and lawful instructions given by the Client;

6.7 to furnish the Company with any progress reports as may be requested from time to time; and

6.8 to notify the Company in writing as soon as possible after it has become insolvent, dissolved or subject to a winding up petition.

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7. Timesheets

7.1 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, or the Assignment is completed before the end of a week, the Contractor shall deliver to the Company a duly completed timesheet, indicating the number of hours

worked by the Contractor during the preceding week, signed by an authorised representative of the Client.

Such timesheets must be received

by the Company no later than 10.30am on Monday following the week to which they relate. The timesheet must be accompanied by an invoice

from the Contractor for the amount due from the Company to the Contractor for the hours worked in that week. Such invoice shall bear the

Contractor's name, company registration number, date, VAT registration number, and should state any VAT due on the invoice.

7.2 The Company shall not be obliged to pay any fees to the Contractor unless a signed timesheet and invoice have been properly submitted by the Contractor in accordance with sub-clause 7.1 of these terms.

8. Confidentiality and Intellectual Property

8.1 The Contractor agrees on its own part and on behalf of its Workers not at any time disclose to any person, nor use for its own or any other person's benefit, any information in relation to the Client's or the Company's employees, business affairs, transactions or finances.

8.2 Upon termination of each Assignment (or at any time during the relevant Assignment on request), the Contractor shall deliver to the Client or the Company (as appropriate) all books, documents, papers, materials and other property in whatever form belonging to or relating to the business of the Client or the Company (as appropriate) which may then be in its possession or under its control.

8.3 All intellectual property rights that are created pursuant to these terms shall, immediately upon creation, become the property of the Company and all moral or other rights that may exist in such material shall be waived.

9. Opt Out

9.1 The signature of this contract by the Contractor and relevant Workers constitutes an Opt Out Notification under the Conduct Regulations.

9.2 The parties have freely entered into this Opt Out Notification.

9.3 The Contractor and the Worker are aware that they are free to withdraw from this Opt Out Notification at any time, by giving not less than one month's written notice to the Company. However, where notice is given during an Assignment, it will not take effect until the Contractor stops working on the Assignment.

9.4 The Contractor and the Worker are aware that by signing this Opt Out Notification, they agree that the provisions of the Conduct Regulations shall not apply to the Assignment or to any future assignment between the parties pursuant to this contract or otherwise.

10. Termination

10.1 An Assignment may be terminated by the Company or the Contractor giving to the other party the period of notice specified in the Assignment Letter.

10.2 Notwithstanding sub-clauses 10.1 and 10.6 of these terms, where required by the Client, the Company may without notice and without liability instruct the Contractor to cease work on an assignment at any time, where for any reason the Contractor proves unsatisfactory to the Client.

10.3 Notwithstanding sub-clauses 10.1 and 10.6 of these terms, the Company may without notice and without liability terminate the Assignment should the Contractor become insolvent, dissolved or subject to a winding up petition.

10.4 Failure by the Contractor to give notice of termination as required in the Assignment Letter shall constitute a breach of contract and shall entitle the Company to claim damages from the Contractor for any resulting loss suffered by the Company.

10.5 If any Worker is unable for any reason to work on an Assignment the Contractor should inform the Company by no later than 7.00am on the first day of absence to enable alternative arrangements to be made.

10.6 The Contractor acknowledges that the continuation of an Assignment is subject to the continuation of the contract entered into between the Company and the Client. In the event that the contract between the Company and the Client is terminated for any reason, the Assignment shall cease with immediate effect and without liability to the Contractor.

11. Restriction

11.1 The Contractor shall not during the period of six months following the date of termination of any Assignment supply its services directly, or through any other person, firm or Company, to the Client for which it has carried out the relevant Assignment, save in the case of the supply of Workers to the Client through an employment business with whom the Contractor was also registered at the date of commencement of the relevant Assignment.

11.2 In the event that the Contractor is in breach of its obligations pursuant to sub-clause 11.1 above, the Client may be required to pay an additional fee, notwithstanding any breach of contract damages payable by the Contractor.



Version 2

Essex Recruitment Services Limited: Terms of Engagement of PAYE Workers

1. Definitions

1.1 In these terms of engagement the following definitions apply:-

"the Client" means the person, firm or company requiring the services of the Worker.

"the Assignment" means the job required to be undertaken by the Worker to provide services to the Client.

"the Company" means Essex Recruitment Services Limited, whose registered office is at 2 Ranger Walk, Colchester, Essex, CO2, 8BY.

"the Worker" means the worker to whom these terms of engagement are addressed.

"the Assignment Letter" means the letter from the Company to the Worker setting out the specific details of the Assignment.

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 these terms are for convenience only and do not affect their interpretation.

1.4 All notices to be served under this contract shall be served by first class pre-paid post, facsimile message or by e-mail at the registered office or principal trading address of the intended recipient. Notices shall be deemed served when they would ordinarily have been

received in normal business hours according to the means of transmission of such notices.

1.5 These terms are governed by English Law and are subject to the exclusive jurisdiction of the English Courts.

2. The Contract

2.1 These terms constitute a contract for services between the Company and the Worker and they govern all Assignments undertaken by the Worker. The Worker will be self-employed. No contract shall exist between the Company and the Worker between Assignments.

2.2 No variation or alteration of these terms shall be valid unless approved in writing by a Director of the Company. Any variation in these terms will be submitted to the Worker in writing within 5 working days of the date of the agreement to vary these terms. Any such variation if not actually agreed shall be deemed to have been accepted by the Worker unless he shall serve written notice of rejection of such variation on the Company within 14 days of the date of service of such notice of variation.

2.3 The Worker confirms that all personal information supplied to the Company, including, but not limited to, details of identity, career information, professional and academic qualifications, criminal record and eligibility to work in the UK is correct, and undertakes to inform the Company without delay of any relevant changes to such information or any additional information that may affect any Assignment (and/or his suitability to continue in it) as appropriate.

3. Assignments

3.1 The Company will endeavour to obtain suitable Assignments for the Worker as specified in the Assignment Letter.

3.2 The Worker acknowledges that the nature of temporary work means that there may be times when no suitable work is available for the Worker. The Worker agrees that suitability shall be determined solely by the Company taking into account all relevant factors, including personal information supplied by the Worker and that the Company shall incur no liability to the Worker should it fail to offer Assignments to the Worker.

3.3 The Company shall incur no liability to the Worker (save in respect of remuneration for hours already worked) if it fails to offer an Assignment; or terminates an Assignment with or without notice for any reason whatsoever regardless of any previous notification to the Worker regarding the duration or likely duration of the relevant Assignment.

3.4 The Worker agrees that, if the Client wishes to employ the Worker on a permanent basis (or where the Worker is introduced to a third party), the Company is entitled to charge a fee to the Client or offer the Client an extended period of hire for services of the Worker.

4. Remuneration

4.1 The Company shall pay to the Worker remuneration for each hour worked. The actual rate will be at the rate specified in the Assignment Letter, to be paid one week in arrears, subject to deductions in respect of PAYE, National Insurance contributions and Income Tax pursuant to sections 44-47 of the Income (Earnings and Pensions) Taxes Act 2003.

4.2 The Company shall pay the Worker whether or not the Company receives payment from the Client in respect of such work.

4.3 The Company may make any other deductions, including in respect of specific legislation governing the tax treatment of workers assigned by employment businesses, insurance deductions which the Company agrees to make on the worker's behalf, any sums owed from time to time by the Worker to the Company, any overpayment by the Company to the Worker, the recovery of any costs incurred by the Company as a result of a breach of this agreement by the Worker and payments agreed to be made for the use or purchase of personal protective equipment required by the Assignment and which the Worker has chosen to have supplied by the Company.

4.4 Subject to any statutory entitlement and as set out in these terms, the Worker is not entitled to receive payment from the Company or the Client for time not spent on Assignments, whether in respect of travelling to the Client's premises, lunch breaks, rest breaks, holiday, illness or absence or for any other reason, unless otherwise agreed.

5. Statutory Leave

5.1 Under the Working Time Regulations 1998, as amended, the Worker is entitled to 5.6 weeks' paid leave per leave year.

5.2 Entitlement to payment for leave accrues in proportion to the amount of time worked continuously by the Worker on an Assignment.

5.3 For each calendar month worked continuously by the Worker on an Assignment, 2.33 days statutory leave is banked. Paid leave cannot be taken prior to accrual.

5.4 Where the worker wishes to take any leave to which he is entitled, he should notify the company in writing of the dates of his intended absence at least one week in advance of the absence.

5.5 Any bank and public holidays taken will count as part of the Worker's holiday entitlement and his holiday entitlement will be reduced accordingly.

6. Opt Out of 48 Hour Working Week

6.1 Due to the nature of the Assignment it may be necessary for the Worker to exceed the "average 48 hour week" calculated on a 17 week reference period as defined by the Working Time Regulations 1998. The Worker agrees that the working week limit shall not apply to him unless and until he gives not less than three months' written notice to the contrary to the Company.

7. Timesheets

7.1 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, or the Assignment is completed before the end of a week, the Worker shall deliver to the Company a duly completed timesheet, indicating the number of hours worked by him during the preceding week, having had the timesheet signed by an authorised representative of the Client. Such timesheets must be received by the Company no later than 10.30am on Monday following the week to which they relate.

Failure to submit a timesheet for hours worked may delay payment of wages in respect of those hours.

7.2 For the avoidance of doubt and for the purpose of the Working Time Regulations, the Worker's working time shall only consist of those periods during which he is carrying out his activities or duties for the Company as part of the Assignment. Time spent travelling

to the Client's premises, lunch breaks and other rest breaks shall not count as part of the Worker's working time for these purposes.

8. Conduct of Assignments

8.1 The Worker is not obliged to accept any Assignments offered by the Company, but if he does so, during every Assignment and

afterwards where appropriate, he will:-

8.1.1 cooperate with the Client's staff and accept the direction, supervision and control of any responsible person in the Client's organisation;

8.1.2 observe such of the Client's relevant rules, regulations and procedures to which his attention has been drawn or which he

might reasonably be expected to ascertain and to sign any relevant documentation required by the Client;

8.1.3 unless arrangements have been made to the contrary, conform to the normal hours of work in force at the Client's

establishment;

8.1.4 take all reasonable steps to safeguard his own safety and the safety of any other person who may be present or affected by

his actions on the Assignment and to comply with the Client's health & safety policies;

8.1.5 not engage in any conduct detrimental to the interests of the Client; and

8.1.6 not at any time divulge to any person, nor use for his own or any other person's benefit, any confidential information relating

to the Client's or the Company's employees, business affairs, transactions or finances.

8.2 If the Worker is unable for any reason to attend work during an Assignment he should inform the Client or the Company by no later

than 07.00 on the first day of absence to enable alternative arrangements to be made.

8.3 The Worker has the right to refuse to carry out work, if he believes the manner in which he is being requested to undertake the work to

be unsafe without fear of unwarranted disciplinary action being taken against him.

9. Termination

9.1 The Company or the Client may, by written notice to the Worker, terminate an Assignment at any time.

9.2 If the Worker does not report to the Company to notify his availability for work for a period of six weeks, the Company will assume

that the Worker no longer wishes to provide his services to the Company and the Company will forward his P45 to his last known

address.

9.3 The Worker may terminate an Assignment at any time immediately by informing the Company.

10. Confidentiality and Intellectual Property

10.1 The Worker will not at any time disclose to any person, nor use for his own or any other person's benefit, any information in relation to

the Client's or the Company's employees, business affairs, transactions or finances.

10.2 Upon termination of each Assignment (or at any time during the relevant Assignment on request), the Worker shall deliver to the Client

or the Company (as appropriate) all books, documents, papers, materials and other property in whatever form belonging to or relating

to the business of the Client or the Company (as appropriate) which may then be in his possession or under his control.

10.3 All intellectual property rights that are created pursuant to these terms shall, immediately upon creation, become the property of the

Company and all moral or other rights that may exist in such material shall be waived.