

# Non-Exclusive Contract with the client

## (Supplying Temporary Staff Services/Client Terms of Business)

### 1. Definitions

- 1.1. In these Terms of Business the following definitions apply:
- “Assignment” means the provision of the Temporary Worker supplied by the Employment Business to render services to the Client.
- “AWR 2010” means the Agency Workers Regulations 2010 (SI 2010/93).
- business.
- “Charges” shall have the meaning set out in clause 3.
- “Client” means [ ].
- “Conduct Regulations” means the Conduct of Employment Agencies and Employment Business Regulations 2003 (SI 2003/3319).
- “The Employment Business” means Chester Healthcare Limited (Company number: 07591550) trading as Jane Lewis Health & Social Care and/or any other division of 92 Bowen Court, St Asaph, LL17 0JE.
- “Engages/Engaged/Engagement” means the engagement, employment or use of the Temporary Worker on a permanent or temporary basis, whether under a contract of service or for services, other than through the Employment Business.
- “Introduction Fee” means the fee payable in accordance with clause 8.2.1.2 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; or (ii) the provision to the Client of information which identifies the Temporary Worker; and
- “Introduced” shall be construed accordingly.
- “Relevant Period” means the longer of either a) 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) and b) 8 weeks from the day after the last day the Temporary Worker worked on the Assignment.
- “Remuneration” includes base annual 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 £2,000 pa will be added to the salary.
- “Temporary Worker” means the individual, or, where the worker is a company or other legal entity including the individual worker, as the case may be including any of the Employment Business’s own employees, workers or agency staff, who is Introduced by the Employment Business to render services to the Client not as an employee of the Client, who is deemed to be an agency worker for the purposes of regulation 3 of the AWR 2010.
- “Temp to Perm Engagement” means an Engagement directly by the Client.
- “Temp to Temp Engagement” means an Engagement by the Client through an employment business other than the Employment Business.
- “Temp to Third Party Engagement” means an Engagement by a third party following an introduction by the Client.
- “Transfer Fee” means the fee calculated in accordance with clause 8.1.1.2 and Regulation 10 of the Conduct of Employment Agencies and Employment Businesses Regulations 2003.
- “Valid Opt-Out” means written notification from a company Temporary Worker and the individual provided by that company Temporary Worker in accordance with regulation 32(9) of the Conduct Regulations 2003, as amended from time to time.
- “Vulnerable Person” shall have the meaning set out in regulation 2 of the Conduct Regulations 2003.
- 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.

# Non-Exclusive Contract with the client

## (Supplying Temporary Staff Services/Client Terms of Business)

- 1.4. A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- 1.5. Any phrase introduced by the terms including, include, in particular or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.6. A reference to writing or written excludes fax and email.

## 2. The Contract

- 2.1. These Terms constitute the contract between the Employment Business and the Client for the supply of the Temporary Worker 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. 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 the Client. The hourly charges are calculated according to the number of hours worked by the Temporary Worker (to the nearest quarter hour, subject to a minimum of 4 hours) and comprise mainly the Temporary Worker's hourly rate including statutory holiday pay and other statutory payments but also include the Employment Business' commission calculated as a percentage of the Temporary Worker's hourly rate, employer's National Insurance contributions 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.
- 3.2. The Charges are invoiced to the Client on a weekly basis and are payable within 30 days.
- 3.3. If the Client fails to make any payment due to the Employment Business under this agreement by the due date for payment, then, the Client shall pay interest on the overdue amount at the rate of 8% per annum above the Bank of England base lending rate from time to time. Such interest shall accrue and compound on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Client shall pay the interest together with the overdue amount.
- 3.4. There are no rebates payable in respect of the charges of the Employment Business.
- 3.5. Where applicable, the Employment Business shall charge VAT to the Client, at the prevailing rate.

## 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:
  - 4.1.1. the identity of the Temporary Worker;
  - 4.1.2. whether the Temporary Worker will be employed by the Employment Business under a contract of service or apprenticeship or a contract for services;
  - 4.1.3. that the Temporary Worker is willing to work in the Assignment;
  - 4.1.4. the hourly rate to be charged by the Employment Business;
  - 4.1.5. any notice period to terminate the contract;
  - 4.1.6. whether the Employment Business holds a Valid Opt Out for each Temporary Worker whom it Introduces to the Client; and
  - 4.1.7. the intervals at which invoices shall be rendered to the Client by the Employment Business.

## Non-Exclusive Contract with the client (Supplying Temporary Staff Services/Client Terms of Business)

- 4.2. Where a 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 working with any Vulnerable Persons, the Employment Business will take all reasonably practicable steps to obtain, and offer to provide copies of, any relevant qualifications or authorisations and two references. The Employment Business will also take all reasonably practicable steps to confirm that the Temporary Worker is suitable for the Assignment. If the Employment Business is unable to fully comply with these requirements, it shall inform the Client of the steps it has taken to supply the necessary information.
- 4.3. 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 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. Client's obligations

- 5.1. When making a request for an Assignment, the Client will give the Employment Business details of:
  - 5.1.1. the date on which the Client requires the Temporary Worker to commence work and the duration, or likely duration, of the work;
  - 5.1.2. the position which the Client seeks to fill, including the type of work the Temporary Worker in that position would be required to do, the location at which, and the hours during which, the Temporary Worker would be required to work, and any risk to health or safety known to the Client and what steps the Client has taken to prevent or control such risks;
  - 5.1.3. the experience, training, qualifications and any authorization which the Client considers are necessary, or which are required by law, or by any professional body, for the Temporary Worker to possess in order to work in the position;
  - 5.1.4. any expenses payable by or to the Worker; and
  - 5.1.5. any information reasonably required by the Employment Business in order for the Employment Business to fulfil its obligations under the AWR 2010.
- 5.2. The Client undertakes to supervise the Temporary Worker sufficiently to ensure the Client's satisfaction with the Temporary Worker's standards of workmanship.
- 5.3. The Client shall at all times comply with its obligations under the AWR 2010, and procure the compliance of its sub-contractors or other intermediaries, including but not limited to providing any Temporary Workers with access to collective facilities and amenities and employment opportunities subject to and in accordance with regulation 12 and 13 of the AWR 2010.
- 5.4. In the event that either party receives an allegation by any Temporary Worker that there has been a breach of the AWR 2010 in relation to the supply of that person to the Client by the Employment Business (whether that allegation has been made as a request for information under regulation 16 of the AWR 2010 or otherwise), it shall provide a copy of that allegation to the other party within seven days of receipt. The parties shall co-operate with each other in relation to responding to that allegation, which shall include supplying any information which may be reasonably requested by the other party, and complying with any reasonable requests in relation to the contents of any response.
- 5.5. The Client agrees that it will not either on its own account or in partnership or association with any person, firm, company or organization, or otherwise and whether directly or indirectly during, or for a period of six months from, the end of the term of this agreement, solicit or entice away or attempt to entice away or authorize the taking of such action by any other person, any key executive of the

# Non-Exclusive Contract with the client

## (Supplying Temporary Staff Services/Client Terms of Business)

Employment Business who has worked on the services provided under this agreement at any time during the term of this agreement.

### 6. Temporary Workers

- 6.1. The Employment Business shall notify the Client immediately if it believes that any Temporary Worker is unsuitable for the Assignment or becomes aware of any matter that indicates that an Temporary Worker may be unsuitable for the Assignment or is inconsistent with any information previously provided including where a Temporary Worker ceases to have the appropriate skills, approvals or a right to work in the United Kingdom or where this agreement may be or has been breached.
- 6.2. If the Client reasonably considers that the services of the Temporary Worker are unsatisfactory (an Unsatisfactory Temporary Worker), then the Client shall:
  - 6.2.1. notify the Employment Business in writing of that fact giving the grounds for its dissatisfaction with the Unsatisfactory Temporary Worker; and
  - 6.2.2. instruct the Unsatisfactory Temporary Worker to leave the Assignment immediately, or request the Employment Business to remove the Unsatisfactory Temporary Worker.
- 6.3. If the Client notified the Employment Business of an Unsatisfactory Temporary Worker in accordance with clause 6.2:
  - 6.3.1. within 4 hours of the Temporary Worker commencing the Assignment where the Assignment is for more than seven hours; or
  - 6.3.2. Within 2 hours for Assignments of seven hours or less;Then, Provided that such notification is also confirmed in writing to the Employment Business within 48 hours of the termination of the Assignment, the Assignment will terminate immediately and no Temporary Worker Fees shall be payable, otherwise in all cases the Assignment shall terminate at the end of the day on which the Employment Business was notified, and Charges shall be payable up to the date of such termination.
- 6.4. 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's time sheet verifying the number of hours worked by the Temporary Worker during that week.
- 6.5. 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 of its obligation to pay the Charges in respect of the hours worked.
- 6.6. The Client shall not be entitled to decline to sign a time sheet on the basis that they are dissatisfied with the work performed by the Temporary Worker. In cases of unsuitable or unsatisfactory work the provisions of clause 6.2 shall apply.
- 6.7. 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 if the Temporary Worker notifies the Client that they are unable to attend work for any reason.

### 7. Payment of the temporary worker

- 7.1. 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

# Non-Exclusive Contract with the client

## (Supplying Temporary Staff Services/Client Terms of Business)

applicable to the Temporary Worker pursuant to sections 44-47 of the Income Tax (Earnings and Pensions) Act 2003.

### **8. Transfer and introduction fees**

- 8.1. Transfer Fees where a Temporary Worker has been supplied.
  - 8.1.1. In the event of a Temp to Perm Engagement or Temp to Temp Engagement of a Temporary Worker supplied by the Employment Business for an Assignment, during the Assignment or within the Relevant Period, the Client shall be liable, subject to electing upon giving 14 days' prior written notice, to either:
    - 8.1.1.1. An extended Assignment of the Temporary Worker for a further minimum period of 20 weeks on the terms advised to the Client pursuant to clause 4.1; or
    - 8.1.1.2. A Transfer Fee calculated as 15% of the first year's Remuneration or, if the actual amount of the Remuneration is not known, the hourly charges advised pursuant to clause 4.1 multiplied by 150. No refund of the Transfer Fee will be paid in the event that the Engagement subsequently terminates.
  - 8.1.2. Where the Client does not give such notice pursuant to clause 8.1.1 the parties agree that the Transfer Fee shall be due.
- 8.2. Introduction Fees where a Temporary Worker is Introduced but not supplied
  - 8.2.1. In the event that there is an Introduction of a Temporary Worker to the Client which does not result in an Assignment, but which leads to a Temp to Perm Engagement or Temp to Temp Engagement of the Temporary Worker by the Client within 6 months of the date of Introduction, the Client shall be liable, subject to electing upon giving 14 days' written notice, to either:
    - 8.2.1.1. An Assignment of the Temporary Worker for a minimum period of 20 weeks on the terms advised to the Client pursuant to clause 4.1; or
    - 8.2.1.2. An Introduction Fee calculated as 15% of the first year's Remuneration or, if the actual amount of the Remuneration is not known, the hourly charges agreed pursuant to clause 4.1 multiplied by 150. No refund of the Introduction Fee will be paid in the event that the Engagement subsequently terminates.
  - 8.2.2. Where the Client does not give such notice pursuant to clause 8.2.1 the parties agree that the Introduction Fee shall be due.
- 8.3. Transfer Fees where there has been an Introduction to a Third Party
  - 8.3.1. In the event of a Temp to Third Party Engagement during an Assignment or within the Relevant Period the Client shall be liable to pay to the Employment Business a Transfer Fee.
  - 8.3.2. 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 does result in a Temp to Third Party Engagement within 6 months from the date of Introduction the Client shall be liable to pay to the Employment Business an Introduction Fee.
- 8.4. In the event that a Temp to Perm Engagement or Temp to Temp Engagement of the Temporary Worker is for a fixed term of less than 12 months, the Transfer Fee or the Introduction Fee (as appropriate) will apply pro-rata. If such 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 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.
- 8.5. Inability to supply during the period of hire
  - 8.5.1. If the Client elects for an Assignment, as set out in clauses 8.1.1.1 or 8.2.1.1, but before the end of such Assignment the Temporary Worker is Engaged or the Temporary Worker chooses not to be available for the Assignment, the Transfer Fee or the Introduction Fee (as appropriate) may be charged, reduced by

## Non-Exclusive Contract with the client (Supplying Temporary Staff Services/Client Terms of Business)

such percentage to reflect any period of hire already undertaken by the Temporary Worker and paid for by the Client.

- 8.5.2. Where period(s) of absence due to illness or injury prevent the Temporary Worker from being employed or supplied for 4 or more days, which shall be qualifying days for the purposes of Statutory Sick Pay (SSP), during the Assignment, the Assignment shall be extended by a period equivalent to the total period of absence. Where the Employment Business pays the Temporary Worker SSP during the Assignment an equivalent amount shall be charged to and be payable by the Client in addition to the Charges.

### 9. Liability

- 9.1. 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 Assignment 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 of death or personal injury arising from its own negligence.
- 9.2. 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 7), including in particular the provision of adequate Employer's and Public Liability Insurance cover for the Temporary Worker during all Assignments.
- 9.3. 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.
- 9.4. 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.
- 9.5. The Client undertakes not to request the supply of a Temporary Worker to perform the duties normally performed by a worker who is taking part in official industrial action or duties normally performed by someone who has been transferred by the Client to perform the duties of the person on strike or taking official industrial action.
- 9.6. The Client shall indemnify and keep indemnified the Employment Business against any liability, cost, claim, award or other expense incurred by it arising out of a breach or alleged breach by the Client of this agreement or any part of it.



# Non-Exclusive Contract with the client

## (Supplying Temporary Staff Services/Client Terms of Business)

### 10. Data Protection

- 10.1. All personal data that the Employment Business may use will be collected, processed, and held in accordance with the provisions of EU Regulation 2016/679 General Data Protection Regulation ("GDPR") and the Client's rights under the GDPR.
- 10.2. For complete details of the Employment Business's collection, processing, storage, and retention of personal data including, but not limited to, the purpose(s) for which personal data is used, the legal basis or bases for using it, details of the Client's rights and how to exercise them, and personal data sharing (where applicable), please refer to the Employment Business's Data Protection Policy and Privacy Statement, available on request.

### 11. Termination

- 11.1. The Employment Business may terminate an Assignment at any time without prior notice and without liability.
- 11.2. In the event that any part of the Assignment is cancelled by the Client (or a representative of the Client) within 24 hours of the planned provision of the Assignment, the Employment Business shall be entitled to charge the Client in full for such Assignment.

### 12. Miscellaneous

- 12.1. If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement.
- 12.2. Neither party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement, if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for two weeks, the party not affected may terminate this agreement by giving seven business days' written notice to the affected party.
- 12.3. No one other than a party to this agreement, their successors and permitted assignees, shall have any right to enforce any of its terms.
- 12.4. This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 12.5. Each party acknowledges that in entering into this agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement.
- 12.6. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.
- 12.7. Nothing in this clause shall limit or exclude any liability for fraud.

## Non-Exclusive Contract with the client (Supplying Temporary Staff Services/Client Terms of Business)

### 13. Law

- 13.1. This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 13.2. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

Please sign below to confirm you have read and accept these Terms of Business

Signed for and on  
behalf of the client

Name (print)

Position

Date

Registered Company Name

Registered Company No.

Registered Address