

1. Definitions

In these Terms of Business, the following definitions apply:

“**Applicant**” means the temp or Contractor or Consultancy Introduced to provide services to the Client;

“**Assignment**” means the period during which the Applicant is supplied to the Client to provide services;

“**Client**” means the person, firm or corporate body together with any subsidiary or associated person, firm or corporate body (as the case may be) to whom the Applicant is introduced;

“**Consultancy**” means the Limited Company introduced to the Client by the Employment Business for an assignment in the provision of consultancy services (and save as otherwise indicated, includes any officer, employee or representative of that company introduced or supplied to the client);

“**Contractor**” means the limited company contractor Introduced for an Assignment for work other than a Consultancy by the Employment Business (and save as otherwise indicated, includes any officer, employee or representative of that company introduced or supplied to the client);

“**Employment Business**” means Anderselite Limited;

“**Engagement**” means the engagement, employment or use of the Applicant directly by the Client, or any third party to whom the Applicant has been introduced by the Client, or through any other Employment Business/Agency on a permanent or temporary basis, whether under a contract of service or contract for services;

“**Introduction**” means where the Client interviews the Applicant in person or by telephone following the Client’s instruction to the Employment Business or the Employment Business passes the curriculum vitae of the Applicant or other information that would identify the Applicant; or the supply of an Applicant to the Client;

“**Regulations**” means the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (as may be amended from time to time);

“**Relevant Period**” means the later of 14 weeks from the first day of the first Assignment (the “First Assignment” being each new Assignment where there has been a break of more than 6 weeks since the end of the previous Assignment) or 8 weeks commencing on the day after the day in which the Assignment ended;

“**Remuneration**” includes fees, guaranteed and/or bonus and commission earnings, allowances, inducement payments, and all other payments taxable, (and, where applicable non taxable) payable to or receivable by the Applicant for services provided to or on behalf of a Client;

“**Temp**” means an individual who is introduced to the client for an assignment.

“**Transfer Fee**” means the hourly rate chargeable to the Client by the Employment Business multiplied by 225 plus VAT or where no hourly rate has been agreed the fee of £5,000.

2. The Terms

- 2.1 These Terms shall apply to the Introduction and the supply of Applicants to the Client and shall be deemed to be accepted by the Client by virtue of a request for, an introduction of, and or the engagement of an Applicant, or the passing by the Client of any information about an Applicant to any third party following an introduction.
- 2.2 No variation or alterations to these Terms shall be valid unless agreed in writing between the parties.
- 2.3 These terms will prevail over any terms of business or purchase conditions (or similar) put forward by the client.
- 2.4 The Employment Business acts in the capacity of an Employment Business as defined in Section 13(3) of the Employment Agencies Act 1973 when introducing Applicants for assignments with the Client.
- 2.5 Where the Applicant is a Contractor or Consultancy, the assignment shall be performed by such member or members of the Contractors Representative or Consultancy Representative as notified to the Client (the “Named Representative”). Subject to the consent of the Client (such consent not to be unreasonably withheld or delayed) the Contractor or consultancy may at any time substitute the Named Representative for another Representative who has the required skills and qualifications to carry out the assignment. The Contractor or Consultancy shall be entitled to assign or sub-contract the performance of the services provided that the Employment Business and the Client are satisfied that the assignee or sub-contractor has the required skills, qualifications, resources and personnel to perform the services to the required standard and that the terms of any such assignment or sub contract contain the same obligations imposed by this Agreement.
- 2.6 The Consultancy shall be entitled to provide services to any third party throughout the duration of the assignment as long as this does not compromise or is detrimental to the performance of the assignment for the Client.

3. Charges In Relation to the Applicants

- 3.1 The Client agrees to pay the Charges. The Charges are calculated according to a number of hours or days worked by the Applicant (to the nearest quarter). The Charges include the Employment Business’ commission calculated as a percentage of the Remuneration 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 VAT, if applicable, is payable on the entirety of the Charges. In the event that the Employment Business is providing Applicants to a Client which is supplying a VAT exempt service, the Employment Business may choose to act as an agent for the purposes of VAT and charge VAT on its commission only.
- 3.3 The Charges and VAT, where applicable, shall be invoiced to the Client on a weekly basis and shall be payable within 7 days.
- 3.4 The Employment Business reserves the right to vary the hourly/daily 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.
- 3.5 There are no rebates payable in respect of the Charges.

4. Timesheets in Relation to the Applicants

- 4.1 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’ timesheet verifying the number of hours worked by the Applicant during that week.
- 4.2 Signature of the timesheet by the Client is confirmation of the number of hours worked and that the services have been provided satisfactorily. If the Client is unable to sign a timesheet produced for authentication by the Applicant 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 in a timely fashion with the Employment Business to enable it to establish what hours were worked by the Applicant. Failure to sign the timesheet does not absolve the Client’s obligations to pay the Charges in respect of the hours worked.

5. Payment Of Contractors and Temps

- 5.1 The Employment Business shall engage the Temp under a contract for services and shall assume the responsibility for paying the Temp’s Remuneration and, where appropriate, for the deduction of payment of National Insurance Contributions and PAYE income tax applicable to the Temp pursuant to sections 44 to 47 of the Income Tax (Earnings and Pensions) Act 2003.
- 5.2 The Employment Business shall engage the Contractor and Consultancy under a contract for services and shall be responsible for paying the Contractor’s/Consultancy’s Remuneration and for deducting any sums as may be required by law. For the avoidance of doubt, the Client acknowledges and agrees that the Contractor/Consultancy shall be responsible for the payment of any PAYE income tax, National Insurance and other taxes in respect of any of its employees.

6. Transfer Fee in Relation to Applicants who are covered by the Regulations

- 6.1 Where there has been an introduction and supply of an Applicant leading to a permanent position with the client or the client requires a Temp to transfer to another Employment Business or where the Client engages a Temp directly on a temporary basis within the Relevant Period or where there has been an Introduction but no supply of an Applicant leading to a permanent position or to a Temporary arrangement through another Employment Business within six months of the Introduction, the Client shall be liable to either:-
 - 6.1.1 Hire the Temp for a 22 week period (Extended period of hire); or
 - 6.1.2 Pay the Transfer Fee.
- 6.2 The Client shall give the Employment Business 14 days’ notice in advance of the period during which they intend to hire an Applicant for the Extended Period of hire.
- 6.3 Where there has been an introduction and supply of an Applicant to the Client and the client introduces that Applicant to a third party within the Relevant Period, and the third party subsequently hires that Applicant on a temporary or permanent basis, the client shall pay the transfer fee.
- 6.4 Where there has been an Introduction, but no supply and the client introduces the Applicant to a third party within 6 months from the day of introduction by the Employment Business leading to the third party hiring that Applicant on a temporary or permanent basis, the Client shall pay the Transfer Fee.
- 6.5 There are no refunds payable in respect of the Transfer Fee.

7. Transfer Fee in Relation to Contractors who have opted out of the Regulations

- 7.1 This clause will apply where a Contractor and Consultancy and a Contractors/Consultancies Representative have opted out of the Regulations in accordance with Regulation 32 (9) prior to commencement of an assignment.
- 7.2 Where an introduction leads to an Engagement, or where there is an introduction by the Client of a Contractor or Consultancy to any third party resulting in an engagement, the Client shall pay the Employment Business a transfer fee provided that the engagement takes place within the period of six months from the termination of the assignment under which the Contractor or Consultancy was supplied, or if there was no assignment, within six months of the introduction.
- 7.3 There are no refunds payable in respect of the Transfer Fee.

8. Interest on Late Payment

- 8.1 The Employment Business will charge interest on any overdue amounts at the rate of 4% per annum above the base rate from time to time of the Bank of England from the due date until the date of payment.

9. Suitability and References of Applicants

- 9.1 The Client undertakes to provide the Employment Business with details of the position which the Client seeks to fill, including the type of work; location, hours of work; the experience, training, qualifications, and any authorisations which the Client considers necessary or which are required by law or any professional body; any risks to health & safety known to the Client and what steps the Client has taken to prevent or control such risks; the date the Client requires the Applicant to commence work, the duration or likely duration of the work, the minimum rate of Remuneration, expenses, and any other benefits that would be offered; and the length of notice that the Applicant would be entitled to give and receive to terminate the Engagement or Assignment.
- 9.2 The Employment Business shall use reasonable endeavours to ensure the suitability of any Applicant introduced by obtaining information of the Applicant’s identity; the Applicant’s experience, training, qualifications, and any authorisations 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 in which the Client seeks to fill.

- 9.3 The Employment Business endeavours to take all such steps as are reasonably practicable to ensure that it will not be detrimental to the interests of the Client or the Applicant for the Applicant to work in the position the Client seeks to fill. Notwithstanding this, the Client shall satisfy itself as to the suitability of the Applicant and shall take up any references provided by the Applicant, or by the Employment Business before engaging the 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 examination and/or investigations into the medical history of the Applicant and satisfying any medical and other requirements, qualifications, or permissions required by law of the country in which the Applicant is engaged to work. For unskilled workers only, the Employment Business will check a workers suitability by obtaining an Applicant's right to work and by validating qualifications wherever possible. If the Client requires further checks, they must inform the Employment Business of their requirements at the start of the hiring process.
- 9.4 The Employment Business does not provide Applicants to work with, care for or attend one or more vulnerable persons (any person by reason of age, infirmity, illness, disability or any other circumstance is in need of care or attention and includes any person under the age of 18) or engage in any activity or otherwise be working in a position covered by the Safeguarding of Vulnerable Groups Act 2006. The Client will ensure it advises the Employment Business if the position to be filled is a regulated activity or a controlled activity as defined by the Act at the time of instruction so the Employment Business can determine whether it can supply suitable Applicants and comply with its statutory obligations.
- 9.5 Where the Employment Business has been unable to obtain the information required in clause 9.2 it shall inform the Client of the steps it has taken to obtain this information.
- 9.6 For Applicants that have been sourced by the Client, the Employment Business will not be responsible for checking the suitability of the Applicant and will act as a payroll entity only. The Client must satisfy itself as to the suitability of the Applicant prior to passing the Applicant to the Employment Business for pay rolling. The Client agrees to indemnify and hold harmless the Employment Business for any losses that it suffers due to the Client not adequately checking the suitability of an Applicant.
- 10. Unsatisfactory Applicant Procedure for Applicants opted into the Regulations**
- 10.1 If the Client, acting reasonably, decides that an Applicant is unsatisfactory to do the work required by the Client (an "Unsuitable Applicant"), then the Client shall notify the Employment Business in writing within 24 hours of becoming aware that the Applicant is unsatisfactory giving the full grounds for its dissatisfaction with the Unsuitable Applicant (a "Dissatisfaction Notice").
- 10.2 Within 5 working days of receipt by the Employment Business of a Dissatisfaction Notice, the Employment Business shall:
- 10.2.1 provide a suitable replacement for the Unsuitable Applicant, in which case Clause 4 shall continue; or
- 10.2.2 if no such suitable replacement is available, inform the Client in writing of that fact, in which case Clause 4 shall cease to apply in respect of the Unsuitable Applicant with effect from the date on which the Employment Business receives the Dissatisfaction Notice; or
- 10.2.3 if the Employment Business disagrees with the grounds as set out in the Dissatisfaction Notice, inform the Client, in which case the Assignment shall be terminated by the Employment Business forthwith.
- 10.3 The Client shall give the Employment Business such co-operation as the Employment Business may reasonably request at the Client's expense in any internal disciplinary proceedings, employment tribunal proceedings or other legal proceedings in relation to any Unsuitable Applicant's performance or conduct.
- 11. Liability**
- 11.1 The Employment Business 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 introduction to or Engagement of any Applicant by the Client or from the failure of the Employment Business to Introduce any Applicant.
- 11.2 The Employment Business shall not be liable for any loss, expense, damage or delay arising from any failure to provide an Applicant for all or any part of an Assignment or from the acts, omissions, errors, negligence, dishonesty, or misconduct of an Applicant. Liability for death or personal injury arising from the negligence of the Employment Business is not excluded.
- 11.3 The Client will satisfy itself to the quality of a sub-contractor and the sub contractor's suitability to meet the client's requirements.
- 11.3.1 The contractor will establish, based on information provided by the client or the sub-contractor, whether the assignment is subject to supervision direction or control Unless specifically instructed (otherwise notified) by the client it will be assumed that supervision, direction or control, or the right of supervision, direction or control does not apply to this contract.
- 11.3.2 For the avoidance of doubt the client will not supervise, direct or control the sub-contractor without informing the contractor, as this may alter the employment status of the sub-contractor.
- 11.3.3 Should the need for supervision, direction or control change during the assignment the client will inform the contractor immediately
- 11.3.4 The contractor reserves the right in any case, to ensure the sub-contractor is paid and taxed as an employee where the job title, pay rate and/or information from the sub-contractor or client make the need for supervision, direction or control apparent or most likely.
- 11.4 For the avoidance of doubt, no Consultancy or its representatives shall be under the direction, control or supervision of the Employment Business and the Client accepts that the Consultancy shall have reasonable discretion in how the services are to be provided subject to the Employment Business requiring the consultancy to comply with the reasonable and lawful instructions of the Client.
- 11.5 The Client shall comply with all statutes, by-laws, codes of practice, and legal requirements relating to Health & Safety at work, The Equality Act 2006 and other legal requirements in respect of the Applicants that provide services to the Client and which the Client is ordinarily subject to in respect of their own employees. This includes the provision of adequate Public Liability Insurance in respect of the Applicants.
- 11.6 The Client shall not by notice or otherwise purport to exclude its liability for death or injury to the Applicants whilst working for the Client.
- 12. Termination of Assignments**
- 12.1 The Client or the Employment Business may terminate the Assignment by giving to the other party such written notice as may be agreed between the parties prior to the commencement of an Assignment.
- 12.2 The Employment Business may terminate an Assignment immediately by notice in writing in the event that the Client is in unlawful or persistent breach of these Terms, or if it becomes bankrupt or has a receiving order or an administrative order made against it, or is put into liquidation (save for the purposes of solvent reconstruction or amalgamation).
- 13. Third Party Rights**
- 13.1 A person who is not a party to these Terms shall not derive the right to enforce any of the Clauses of these Terms by virtue of the Contractors (Rights of Third Parties) Act 1999.
- 14. Entire Agreement**
- 14.1 This Agreement constitute the entire agreement and understanding between the parties in relation to its subject matter and supersedes any and all other previous agreements, arrangements and or understandings (whether written or oral) between the parties in relation to its subject matter.
- 15. Law**
- 15.1 These Terms are governed by English law and shall be subject to the non-exclusive jurisdiction of the English courts.

Authorised Signatory:



Print Name: COLIN EDGE

For and on behalf of: Anderselite Limited

Date:

Authorised Signatory

Print Name:

For and on behalf of:

Date: