

1. DEFINITIONS AND INTERPRETATION

1.1. In these Terms and Conditions of Business ("**Terms**") the following definitions apply:

"**Agency**" means the person, firm or corporate body to which the Company supplies the Personnel, which is acting as an employment business within the meaning of the Employment Agencies Act 1973.

"**Assignment Schedule**" means the particulars of the Specified Services to be supplied, subject to these Terms.

"**Client**" means the third-party person, firm, partnership, organisation, or corporate body requiring the provision of the Specified Services.

"**Company**" means Clipper Contracting Group Ltd (Registered in England & Wales No. 06631601) of 1 Widcombe Street, Poundbury, Dorchester, Dorset, DT1 3BS.

"**Conduct Regulations**" means the Conduct of Employment Agencies and Employment Businesses Regulations 2003.

"**Contract**" means any agreement which the Company makes from time to time with the Agency to supply Personnel to perform the Specified Services for a Client, whether agreed verbally or in writing.

"**Data**" means any data that is considered as personal data under the Data Protection Legislation, specifically information relating to an identified or identifiable natural person;

"**Data Protection Legislation**" means the Data Protection Act 2018 and the retained UK-GDPR and any other laws, regulations and secondary legislation, as amended or updated from time to time relating to data protection in the UK;

"**Data Regulator**" means the Information Commissioner's Office or its successor in the United Kingdom or any similar governmental body, agency or department in any other relevant jurisdiction;

"**Fees**" means the Company's fees for the supply of the Personnel, which include the remuneration or fees payable to the Personnel, the Company's commission and any statutory costs incurred by in supplying the Personnel including, where applicable and without limitation, holiday pay, employers National Insurance Contributions, pension costs and apprenticeship levy and, where applicable, any payments made to the Personnel for cancellation, movement or curtailment at short notice of a shift in accordance with Schedule 1A of the Employment Rights Act 1996.

"**IPR**" means copyright, trademarks, patents, design rights and other intellectual property rights existing anywhere in the world and whether capable of registration or not.

"**Personnel**" means the Umbrella Employees and Subcontractors of the Company who perform the Specified Services.

"**SDC**" means supervision, direction or control (or the right thereof) as to the manner in which the Specified Services are performed.

"**Specified Services**" means the work to be carried out for the Client pursuant to a Contract.

"**Subcontractor**" means a self-employed person who performs the Specified Services on behalf of the Company.

"**Tax**" means any income tax, National Insurance Contributions and other similar social security liabilities and all other statutory deductions arising upon payments which are made to Umbrella Employees or Subcontractors.

"Umbrella Employee" means an employee of the Company who performs the Specified Services on behalf of the Company.

- 1.2. Unless the context otherwise requires, references to the singular include the plural and references to the masculine include the other genders, and vice-versa.
- 1.3. A reference to a party means the Company or the Agency as applicable and a reference to the parties means both the Company and the Agency.
- 1.4. References to any statute or statutory provision shall be deemed to include such statute or statutory provision as amended, extended, re-enacted or consolidated from time to time and all statutory instruments or orders made pursuant to it.
- 1.5. The headings contained in these Terms are for convenience only and do not affect their interpretation.
- 1.6. No variation or alteration to these Terms shall be valid unless the details of such variation are agreed between the Agency and the Company and set out in writing and a copy of the varied terms is given to the Company and signed by the parties stating the date on or after which such varied terms shall apply.

2. MUTUAL OBLIGATIONS

- 2.1. The Agency shall not be obliged to offer Contracts to the Company and the Company shall not be obliged to accept any Contract which is offered by the Agency from time to time.
- 2.2. The Company may supply its services to any third party during the term of a Contract.
- 2.3. The parties acknowledge that there is no intention for any employment relationship to exist between the Personnel and the Agency or between the Personnel and the Client.
- 2.4. Both parties acknowledge that the Company is not acting in the capacity of an employment business within the meaning of the Conduct Regulations and the Company makes no representations as to the identity, suitability or qualifications of the Personnel.
- 2.5. The Company confirms that it has opted out of the Conduct Regulations in accordance with Regulation 32(9).
- 2.6. The Company shall upon request confirm to the Agency whether the Personnel have also opted out of the Conduct Regulations or if the Company believes that the Conduct Regulations are otherwise inapplicable to the relevant Personnel.

3. COMPANY OBLIGATIONS

- 3.1. The Company shall use reasonable endeavours to ensure that Personnel perform the Specified Services with reasonable skill and care.
- 3.2. The Company shall comply with any statutory or other reasonable rules or obligations notified to it by the Agency to the extent that they are reasonably applicable to the Specified Services.
- 3.3. The Company shall conduct pre-employment checks in relation to each Umbrella Employee to verify their right to work in the UK.
- 3.4. The Company shall use reasonable endeavours to ensure that the Personnel do not engage in any conduct which is detrimental to the interests of the Agency.
- 3.5. The Company's obligation to provide the Specified Services may be discharged by any Personnel that the Company may consider appropriate.

- 3.6. The Company will take all reasonable steps to safeguard the health and safety of its Personnel and any other person who may be affected by the actions of the Personnel, but nothing in this clause shall affect the Agency's responsibilities under clause 4.2.
- 3.7. The Company shall notify the Agency:
 - 3.7.1. if, either before or during the course of the Contract, the Company becomes aware of any reason why any Personnel involved in the provision of the Specified Services may not be suitable for the Contract;
 - 3.7.2. if it becomes insolvent or is subject to a winding up petition;
 - 3.7.3. if the Company is unable to provide the Personnel for any reason.
- 3.8. The Company shall be responsible for assessing whether an Umbrella Employee and/or Subcontractor is subject to SDC in the course of performing the Specified Services.
- 3.9. The Company will:
 - 3.9.1. deduct and account to HMRC for any Tax in relation to its payments to the Umbrella Employees as required by law; and
 - 3.9.2. where the nature of the Specified Services falls within the scope of the Construction Industry Scheme (CIS) and the Company is satisfied, having conducted reasonable due diligence, that CIS engagement is the appropriate and lawful basis for that Subcontractor, make payments to any Subcontractors in accordance with the Construction Industry Scheme.
- 3.10. Where applicable, the Company shall be responsible for paying any statutory sick pay, maternity pay, holiday pay and other benefits to which the Personnel may be entitled.
- 3.11. The Company shall use reasonable endeavours to ensure that its Personnel return to the Agency or the Client (as applicable) any Property referred to in clause 4.4.7 upon termination of the Contract or at any other time upon request.
- 3.12. The Company shall and will use reasonable endeavours to ensure that its Personnel protect the confidentiality and trade secrets of the Agency and its Client and without prejudice to any other duty, to keep secret all information given to it or gained in confidence.
- 3.13. The Company will not at any time whether during or after a Contract ends (unless expressly so authorised by the Agency as a necessary part of the performance of its duties) disclose to any person or to make use of any of the trade secrets or confidential information relating to the business or affairs of the Agency or its Client.
- 3.14. The Company will deliver up to the Agency at the end of each Contract all documents and other materials belonging to the Agency or the Client which are in its possession including documents and other materials created by the Personnel during the course of the Contract which belong to the Agency or the Client as applicable.
- 3.15. The Company will not at any time make any copy, abstract, summary or précis of the whole or any part of any document or other material belonging to the Agency or its Client except when required to do so in the course of its duties under the Contract in which event any such item shall belong to the Agency or its Client.
- 3.16. The Company acknowledges that all IPR arising from the Specified Services shall belong to the Agency or the Client as appropriate. The Company shall use reasonable endeavours to ensure that the Personnel execute such documents as are reasonably necessary to assign the IPR to the Agency or Client and/or to waive the Personnel's moral rights in the IPR.

4. AGENCY OBLIGATIONS

- 4.1. The Agency shall carry out all necessary checks to ensure that the Personnel have the required skills, qualifications and resources to perform the Specified Services.
- 4.2. The Agency will be responsible for ensuring the day to day health and safety of Personnel while at the Client's premises and shall establish whether the Specified Services to be provided pose any specific risks to the health and safety of Personnel. The Agency shall communicate such risks to the Company and its Personnel prior to commencement of the Specified Services.
- 4.3. The Agency shall be responsible for making all such enquiries and checks as are reasonably necessary to ensure that Subcontractors are not subject to SDC, and shall promptly notify the Company if it receives any information from the Client that suggests any Subcontractors are not subject to SDC, in the course of performing the Specified Services. The Agency acknowledges that the Company is reliant upon the Agency in this regard and, if the Agency has not been able to ensure that a Subcontractor is not subject to SDC, or provides any information to the Company to suggest the same, the Company may (i) engage the Personnel on a different basis or (ii) supply alternative Personnel for the Specified Services. In all circumstances the Agency shall remain liable for any claim or demand made by the proper authorities for all taxes, national insurance, Tax, apprenticeship levy or other training levy, pension payment obligations, or social security contributions, and other liabilities, charges and dues in respect of remuneration paid for work done by any Subcontractor where the Subcontractor has been paid on the basis that they are not subject to SDC, including but not limited to where Agency has failed to provide, or delayed providing, relevant information under this clause relating to the level of SDC applicable to the Subcontractor by the Client.
- 4.4. Prior to commencement of the Contract, the Agency shall inform the Company of:
 - 4.4.1. the date the supply of Specified Services is to commence;
 - 4.4.2. the duration or likely duration of the Specified Services;
 - 4.4.3. the type of services, location and hours during which the Company will be required to supply the Specified Services;
 - 4.4.4. the fee rate that will be paid for the Specified Services;
 - 4.4.5. any risks to health and safety known to the Agency or the Client and the steps the Agency or Client have taken to prevent or control such risks;
 - 4.4.6. the experience, training, qualifications or any authorisations required by law or a professional body which are necessary to provide the Specified Services;
 - 4.4.7. any property, tools or equipment (Property) which the Agency or the Client shall provide to the Personnel in relation to the Specified Services;
 - 4.4.8. whether the Personnel are required to perform the Specified Services outside the UK; and
 - 4.4.9. whether its agreement with the relevant Client provides that the Personnel shall be subject to SDC.
- 4.5. The Agency shall ensure that Personnel performing the Specified Services complete and, if required, sign timesheets to verify the number of hours worked each week and the Agency shall carry out appropriate checks to ensure the accuracy of such timesheets. The Agency shall provide the Company with copies of such timesheets or sufficient information upon request to enable the Company to prepare invoices, including but not limited to Client confirmation of the accuracy of such timesheets.

- 4.6. The Agency must ensure that its agreement with the Client is consistent with the respective parties' obligations under these Terms.
- 4.7. Unless the parties have agreed in writing that an Umbrella Employee is not an agency worker within the meaning of Regulation 3 of the Agency Workers Regulations 2010 (**AWR**), the Agency must ensure that an Umbrella Employee receives all relevant entitlements under Part 2 of the AWR. The Company shall not be liable for any failure to comply with AWR where the Agency has not provided information about the working and employment conditions that are applicable to comparable individuals in the client's organisation.
- 4.8. The Agency shall:
- 4.8.1. if applicable, notify the Company and the Personnel what rules (including health and safety, site and security policies, data protection policies, and other procedures and regulations) apply in respect of the relevant Client site(s);
 - 4.8.2. notify the Company immediately if it or the Client is dissatisfied with the performance by the relevant Personnel of the Specified Services, and advise the Company if it or the Client wishes to terminate the relevant Specified Services; and
 - 4.8.3. (without limitation to the above) not commit any act or omission constituting unlawful discrimination or harassment of any Personnel in connection with the performance of the Specified Services.

5. INVOICING

- 5.1. The Company shall submit invoices each week to the Agency in respect of the Specified Services. The invoice shall specify the amount due from the Agency to the Company giving a breakdown of the services performed. The Company shall take reasonable steps to provide the invoice and documentation to the Agency by no later than the Tuesday following the week to which it relates.
- 5.2. Subject to receipt of the Company's invoice in accordance with clause 5.1 above, the Agency will pay the Company in accordance with the Fees documented in the Assignment Schedule or as otherwise agreed between the parties plus expenses and VAT where appropriate. The Company may vary the Fees, by giving written notice to the Agency, to reflect any additional cost in supplying the Personnel as a result of the AWR (where applicable) or any change in legislation or relevant case law.
- 5.3. All payments will be made directly into the Company's bank account immediately on receipt of the Company's invoice unless otherwise agreed.
- 5.4. If the Company is unable for any reason to supply the Specified Services at any time, no Fees shall be payable by the Agency for the period that the Specified Services are not supplied.
- 5.5. If the Contract continues beyond the duration originally envisaged or specified, the Agency shall continue to pay Fees to the Company in the same way as previously agreed until the Contract is terminated.
- 5.6. Subject to the provisions of these Terms, the Agency shall pay the Company for the Specified Services regardless of whether the Agency has received or expects to receive payment from the Client.

6. TERM & TERMINATION

- 6.1. The Contract shall commence on the date on which the Specified Services commence and, unless otherwise agreed between the parties in writing, may be terminated at any time and without notice.
- 6.2. The Company will use reasonable endeavours to ensure that the Personnel observes the agreed notice period, if any, for terminating the Specified Services. However, the Company will not be liable if the Personnel fails to observe any notice period which had been set out in the Assignment Schedule.

- 6.3. Each party shall be entitled to terminate the Contract forthwith by notice in writing to the other party if:
- 6.3.1. the other party commits any serious and irremediable breach of the Contract;
 - 6.3.2. the other party commits any serious but remediable breach of Contract and fails to remedy such breach within the period of 14 days from the service on the party of a notice specifying the breach and requiring it to be remedied; or
 - 6.3.3. the other party becomes insolvent.
- 6.4. On termination of the Contract for any reason, the Company shall remain entitled to be paid Fees in respect of all Specified Services executed or partly executed prior to the date of termination of the Contract.
- 6.5. Termination of any Contract shall have no effect on any other agreements between the parties, which shall continue in full force and effect until terminated in accordance with these Terms.

7. DATA PROTECTION

- 7.1. Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 7.2. The parties acknowledge that their respective roles are determined by the Data Protection Legislation but each party expects to be an independent data controller in respect of any Personal Data which is shared between the parties in relation to these Terms. The parties shall therefore:
- 7.2.1. comply with their respective obligations as data controllers under the Data Protection Legislation;
 - 7.2.2. provide such information as the other party may reasonably require to demonstrate their compliance with the Data Protection Legislation;
 - 7.2.3. co-operate with each other in respect of any complaint, request or enquiry which is made by any Personnel or Data Regulator to the extent that such complaint, request or enquiry relates to any Personal Data which is shared pursuant to these Terms.

8. NOTICES

- 8.1. Any notice which must be given under these Terms shall be in writing and shall be (i) delivered or sent to the registered office from time to time of the party upon whom the notice is to be served or (ii) sent by email as set out in this clause.
- 8.2. A notice under these Terms shall be deemed to have been served:
- 8.2.1. when delivered if served by hand;
 - 8.2.2. at 9:00am on the second business day if sent by first class post; and
 - 8.2.3. upon sending if sent by email during the Company's normal business hours or at 9:00am on the next business day if sent outside of the Company's normal business hours.
- 8.3. For the purposes of this clause 8, the contact email address for the Company is contactus@clippercontracting.co.uk.
- 8.4.

9. LIABILITY

- 9.1. The Company shall not be liable for loss, damage or injury to any party resulting from the acts or omissions of the Company or its Personnel except in each case to the extent that such acts or omissions constitute and give rise to a breach of this Contract by the Company and subject to the limitations on liability below.
- 9.2. The Company shall not be liable if any acts or omissions were done or omitted to be done by Personnel in accordance with the Agency's instructions or the instructions of its Client.
- 9.3. The Company shall ensure the provision of adequate Public Liability Insurance and Employers Liability Insurance (where applicable) in respect of its Personnel sufficient to satisfy the terms of the Contract and shall make a copy of the policies available to the Agency upon request.
- 9.4. The Agency shall ensure that the Company and its Personnel are suitably and adequately covered by appropriate professional indemnity, accident and public liability insurance policies of the Agency or the Client to undertake the Specified Services. Without limiting the foregoing, the Agency shall ensure that such insurance covers Client staff that may be affected by any acts or omissions of the Personnel while they are at the Client's premises and shall make such policies available to the Company upon request and comply with the Company's reasonable requirements in respect of such policies.
- 9.5. The Company and its Personnel shall not be liable in contract, tort, negligence, breach of statutory duty or otherwise for any indirect or consequential losses, special damages or any claim for loss of profits, turnover, business or goodwill howsoever arising.
- 9.6. Save in respect of death, personal injury, fraud or any other liability which may not be limited or excluded by law, the Company's aggregate liability in respect of all claims arising out of or in connection with these Terms, the Contracts and the Specified Services, whether arising in contract, tort (including negligence) or otherwise shall be limited to £1,000,000.
- 9.7. Any claim under these Terms must be commenced within 6 months of the cause of action giving rise to the claim occurring.

10. ILLEGALITY

If any provision or term of these Terms shall become or be declared illegal, invalid or unenforceable for any reason whatsoever including, but without limitation, by reason of the provisions of any legislation or other provisions having the force of law or by reason of any decision of any Court or other body or authority having jurisdiction over the parties of these Terms, such terms or provisions shall be divisible from these Terms and shall be deemed to be deleted and the remaining terms shall continue in full force and effect, provided always that if any such deletion substantially affects or alters the commercial basis of these Terms the parties shall negotiate in good faith to amend or modify the provisions and terms of these Terms as necessary or desirable in the circumstances.

11. MISCELLANEOUS

- 11.1. These Terms constitute the entire agreement and understanding between the parties and govern the contractual agreement between the parties. For the avoidance of doubt, Personnel providing services shall have no such authority to bind the Company or vary or amend any Contract.
- 11.2. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these Terms. Each party agrees that it shall have no

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claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in these Terms.

- 11.3. In the event of any conflict or inconsistency between these Terms and any other terms and conditions now or in the future, these Terms shall prevail.
- 11.4. Except as otherwise provided herein, the Contracts (Rights of Third Parties) Act 1999 shall not apply to these Terms and no person other than the Agency and the Company shall have any rights under it.
- 11.5. These Terms replace and supersede any other terms and conditions provided by the Company or the Agency in respect of any agreement relating to the subject matter hereof now or in the future unless expressly otherwise agreed by the parties.

12. GOVERNING LAW & JURISDICTION

- 12.1. These Terms shall be construed in accordance with the laws of England & Wales.
- 12.2. All disputes, claims or proceedings between the parties relating to the validity, construction or performance of these Terms shall be subject to the exclusive jurisdiction of the Courts of England & Wales.

Signed:

Name:

Date:

Company:

Signed:

Name:

Date:

For and on behalf of Clipper Contracting Group Ltd