

CARMICHAEL SITE SERVICES LIMITED T/A CARMICHAELUK TERMS OF BUSINESS FOR THE INTRODUCTION OF PERMANENT OR CONTRACT STAFF TO BE DIRECTLY EMPLOYED BY THE CLIENT

Carmichael^{UK} Terms and Conditions will apply in all instances for delivery of our services, unless expressly agreed otherwise in writing.

1. DEFINITIONS

1.1 In these Terms of Business (“these Terms”) the following definitions apply:

- “Company” means Carmichael Site Services Limited t/a Carmichael UK, a company registered in England and Wales, Reg No 03335763, and whose registered office is at 34 Upper High Street, Thame, Oxon OX9 2DN or any of its subsidiary, associated or holding companies
- “Candidate” means the person introduced by the Company to the Client for an Engagement including any officer or employee of the Candidate if the Candidate is a limited company and members of the Company’s own staff;
- “Client” means the person, firm or corporate body together with any subsidiary or associated Company as defined by the Companies Act 1985 to which the Candidate is introduced;
- “Engagement” means the engagement, employment or use of the Candidate by the Client or any third party on a permanent or temporary basis, whether under a contract of services or for services; under an agency, licence, franchise or partnership agreement; or any other engagement; directly or through a limited company of which the Candidate is an officer or employee;
- “Introduction” means (i) the Client’s interview of a Candidate in person or by telephone, following the Client’s instruction to the Company to search for a Candidate; or (ii) the passing to the Client of a curriculum vitae or information which identifies the Candidate; and which leads to an Engagement of that Candidate;
- “Remuneration” includes annual base salary or fees, guaranteed and/or anticipated bonus and commission earnings, allowances, superannuation, pension, inducement payments, the benefit of a company car and all other payments and taxable (and, where application, non-taxable) emoluments payable to or receivable by the Candidate for services rendered to or on behalf of the Client. Where the Client provides a company car, a notional amount of £2500 will be added to the salary in order to calculate the Company’s fee;
- “The 2015 Act” means the Modern Slavery Act 2015.

1.2 Unless the context requires otherwise, references to the singular include the plural.

1.3 The headings contained in these Terms of Business are for convenience only and do not affect their interpretation.

2. THE CONTRACT

- 2.1 These Terms constitute the contract between the Company and the Client and are deemed to be accepted by the Client by virtue of an introduction to, or the Engagement of a Candidate or the passing of any information about the Candidate to any third party following an Introduction.
- 2.2 These Terms contain the entire agreement between the parties and unless otherwise agreed in writing by the Managing Director or General Manager of the Company or their nominated alternate these Terms prevail over any other terms of business or purchase conditions put forward by the Client and supersede any previous terms and conditions between the parties in respect of the supply of permanent or contract staff.
- 2.3 No variation or alteration to these Terms shall be valid unless the details of such variation are agreed between the Company 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. NOTIFICATION AND FEES

3.1 The Client agrees:

- 3.1.1 To notify the Company immediately of any offer of an Engagement which it makes to the Candidate
- 3.1.2 To notify the Company immediately that its offer of an Engagement to the Candidate has been accepted and to provide details of the Remuneration to the Company; and
- 3.1.3 To pay the Company’s fee within 7 days of the date of invoice.

Total reparation inc. all taxable recompense per annum	Payment
Up to £19,999	17%
£20,000-£29,999	21%
£30,000-£49,999	25%
£50,000+	30%

- 3.2 Except in the circumstances set out in clause 5.1 below, no fee is incurred by the Client until the Candidate commences the Engagement or the Candidate accepts the offer of the Engagement whether such an offer shall be conditional or not, whichever occurs first, when the Company will render an invoice to the Client for its fees.
- 3.3 The Company reserves the right to charge interest on invoiced amounts unpaid for more than 7 days at the rate of 4% per annum above the base rate from time to time at the Bank of England from the due date until the date of payment.
- 3.4 The fee payable to the Company by the Client for an Introduction resulting in an Engagement is calculated in accordance with the following Fee Structure on the Remuneration applicable during the first 12 months of the Engagement, whether or not the Engagement is terminated during that period. VAT will be charged on the fee if applicable.
- 3.5 In the event that the Engagement is for a fixed term of less than 12 months, the fee in clause 3.4 will apply pro-rata subject always, for the purposes of calculation of the fee, to a minimum of 6 months' Remuneration. If the Engagement is extended beyond the initial fixed term or if the Client re-engages the Candidate within 6 calendar months from the date of termination of the first Engagement the Client shall be liable to pay a further fee based on the additional 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 the sooner.
- 3.6 If the Client subsequently engages or re-engages the Candidate within the period of 6 calendar months from the date of termination of the Engagement or withdrawal of the offer, a full fee calculated in accordance with clause 3.4 above becomes payable.
- 3.7 The introduction fee calculated as per Clause 3.4 will be payable in GBP £ Sterling translated from local currency using the mid market average rate of the week the engagement commences based on the current market rates supplied by Oanda.com. If the Client elects to pay the fee in any other currency we will revise the amount invoiced and the introduction fee will be calculated at 1.5% above the rate previously applicable to the GBP £ Sterling fees to cover any fluctuations of currency value or currency conversion costs incurred by CarmichaelUK.

4. REFUNDS

- 4.1 In order to qualify for the following refund, the Client must have complied fully with clause 3.1 and must notify the Company in writing of the termination of the Engagement within 7 days of its termination.
- 4.2 If the Engagement terminates before the expiry of 12 weeks from the commencement of the Engaged (except where the Candidate is made redundant) the fee will be refunded in accordance with the Scale of Refund at Clause 4.6.
- 4.3 Where clause 3.5 applies, in respect of contracts of between 12 weeks 1 day and 6 months in duration the period referred in to in clause 4.2 shall be reduced to 6 weeks. The Client shall not be entitled to any refund where the term of the Engagement is for a fixed term of 12 weeks or less.
- 4.4 In circumstances where clause 3.6 applies the full fee stated in clause 3.4 is payable and there shall be no entitlement to refund.
- 4.5 The client shall pay all monies due under these Terms within seven (7) days of the date of invoice, if payment has not been received within that time then the Client will negate the option to invoke the refund scheme

4.6 SCALE OF REFUND

Engagements terminating during or at the end of	Refund
Weeks 1 and 2	100%
Weeks 3 to 5	50%
Weeks 6 to 8	30%
Weeks 9 and 10	20%
Weeks 11 and 12	10%

5. INTRODUCTIONS

- 5.1 Introductions of Candidates are confidential. The disclosure by the Client to a third party of any details regarding a Candidate introduced by the Company which results in an Engagement with that third party within 6 months of the Introduction renders the Client liable to payment of the Company's fee as set out in clause 3.4 with no entitlement to any refund.
- 5.2 An introduction fee calculated in accordance with clause 3.4 will be charged in relation to any Candidate engaged as a consequence of or resulting from an introduction by or through the Company, whether direct or indirect, within 6 months from the date of the Company's Introduction. Where the amount of the actual Remuneration is not known the Company will charge a fee calculated in accordance with clause 3.4 on the minimum level of Remuneration applicable for the position in which the Candidate has been engaged with regard to any information supplied to the Company by the Client and/or comparable positions in the market generally for such positions.
- 5.3 In the event that any employee of the Company with whom the Client has had personal dealings accepts an Engagement with the Client within 3 months of leaving the Company's employment, the Client shall be liable to pay an introduction fee to the Company in accordance with clause 3.4.

6. CANCELLATION FEE

- 6.1 If, after an offer of Engagement has been made to the Candidate, the Client decides for any reason to withdraw it, the Client shall be liable to pay the Company a minimum fee of 5% of the Remuneration where the annual Remuneration is £20,000 or less and 7.5% of the Remuneration where the annual Remuneration is £20,001 or more.

7. SUITABILITY AND REFERENCES

- 7.1 The Company endeavours to ensure the suitability of any Candidate introduced to the Client by obtaining confirmation:
- 7.1.1 of the Candidate's identity;
 - 7.1.2 that the Candidate has the experience, training, qualifications and any authorisation which the Client considers necessary or which may be required by law or by any professional body; and
 - 7.1.3 that the Candidate is willing to work in the position which the Client seeks to fill
- 7.2 At the same time as proposing a Candidate to the Client the Company shall inform the Client of such matters in clause 7.1 as they have obtained confirmation of. 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 (excluding Saturday, Sunday and any public or Bank holiday) following, save where the Candidate is being proposed for a position which is the same as one in which the Candidate has worked within the previous five business days and such information has already been given to the Client.
- 7.3 The Company endeavours to take all such steps as are reasonably practicable to ensure that the Client and Candidate are aware of any requirements imposed by law or any professional body to enable the Candidate to work in the position which the Client seeks to fill.
- 7.4 The Company endeavours to take all such steps as are reasonably practicable to ensure that it would not be detrimental to the interests of either the Client or the Candidate for the Candidate to work in the position which the Client seeks to fill.
- 7.5 Notwithstanding clauses 7.1, 7.2, 7.3 and 7.4 above the Client shall satisfy itself as to the suitability of the Candidate and the Client shall take up any references provided by the Candidate to it or the Company before engaging such Candidate. The Client is responsible for obtaining work permits and/or such other permission to work as may be required for the arrangement of medical examinations and/or investigations into the medical history of any Candidates, and satisfying any medical and other requirements, Qualifications or permission required by law of the country in which the Candidate is engaged to work.
- 7.6 To enable the Company to comply with its obligations under clauses 7.1, 7.2, 7.3 and 7.4 above the Client undertakes to provide to the Company:
- 7.6.1 details of the position which the Client seeks to fill, including the type of work that the Candidate would be required to do;
 - 7.6.2 the location and hours of work;
 - 7.6.3 the experience, training, qualifications and any authorisation which the Client considers necessary or which are required by law or any professional body for the Candidate to possess in order to work in the position;
 - 7.6.4 any risk to health or safety known to the Client and what steps the Client has taken to

prevent or control such risks;

7.6.5 details of the date the Client requires the Candidate to commence and the duration or likely duration of the work;

7.6.6 details of the minimum rate of Remuneration, expenses and any other benefits that would be offered; and

7.6.7 details of the intervals of payment of Remuneration and the length of notice that the Candidate would be entitled to give and receive to terminate the employment with the Client.

8. SPECIAL SITUATIONS

8.1 Where the Candidate is required by law, or any professional body to have any qualifications or authorisations to work in the position which the Client seeks to fill, or the work involves caring for or attending one or more persons under the age of eighteen, or any person who by reason of age, infirmity or who is otherwise in need of care or attention, the Company will take all reasonably practicable steps to obtain and offer to provide copies of any relevant qualifications or authorisations of the Candidate, two references from persons not related to the Candidate who have agreed that the references they provide may be disclosed to the Client and has taken all reasonably practicable steps to confirm that the Candidate is suitable for the position. If the Company is unable to do any of the above it shall inform the Client of the steps it has taken to obtain this information in any event.

9. DATA PROTECTION

9.1 The following definitions apply in this Clause 9:

“Agreed Purposes” means the performance by each party of its obligations under these Terms.

“Controller, data controller, processor, data processor, data subject, personal data, processing and appropriate technical and organisational measures” has the same meaning as set out in the Data Protection Legislation in force at the time.

“Data Protection Legislation” means:

- a. the Data Protection Act 2018;
- b. the General Data Protection Regulation ((EU) 2016/679) (GDPR) and any national implementing laws, regulations and secondary legislation, for so long as the GDPR is effective in the UK; and
- c. any successor legislation to the Data Protection Act 2018 and the GDPR.

“Permitted Recipients” means the Company and Client, the employees of each party, and third parties engaged to perform obligations in connection with these Terms subject strictly to their prior written approval by the Company.

“Shared Personal Data” means the personal data to be shared between the parties under these Terms. Shared Personal Data shall be confined to the following categories of information relevant to the following categories of data subject: name; contact information; employment details including resume; education and training details; salary and package information; references; interview summary notes and assessments (if required).

9.2 This Clause 9 sets out the framework for the sharing of personal data between the parties as data controllers. Each party acknowledges that one party (the Data Discloser) will regularly disclose to the other party (the Data Recipient) Shared Personal Data collected by the Data Discloser for the Agreed Purposes.

9.3 Each party shall comply with all the obligations imposed on a controller under the Data Protection Legislation.

9.4 Each party shall:

(a) ensure that it has all necessary consents and notices in place to enable lawful transfer of the Shared Personal Data to the Data Recipient for the Agreed Purposes;

(b) give full information to any data subject whose personal data may be processed under these Terms of the nature such processing. This includes giving notice that, on the termination of these Terms or Assignment, as applicable, personal data relating to them may be retained by or, as the case may be, transferred to one or more of the Permitted Recipients, their successors and assignees;

(c) process the Shared Personal Data only for the Agreed Purposes. The Shared Personal Data will not be used for any other purpose or in a way that does not comply with these Terms or the Data Protection Legislation;

(d) not disclose or allow access to the Shared Personal Data to anyone other than the Permitted

Recipients;

(e) ensure that all Permitted Recipients are subject to written contractual obligations concerning the Shared Personal Data (including obligations of confidentiality) which are no less demanding than those imposed by these Terms;

(f) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the other party, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data; and

(g) not transfer any personal data outside of the European Economic Area unless the transferor:

(i) complies with the provisions of Article 26 of the GDPR (in the event the third party is a joint controller); and

(ii) ensures that (i) the transfer is to a country approved by the European Commission as providing adequate protection pursuant to Article 45 of the GDPR; (ii) there are appropriate safeguards in place pursuant to Article 46 of the GDPR; or (iii) one of the derogations for specific situations in Article 49 of the GDPR applies to the transfer.

(iii) ensures that the other party is informed in advance of the intended transfer of any Shared Personal Data and that any applicable privacy notices/fair processing policies issued in accordance with Data Protection Legislation are updated accordingly and Data Subjects notified as necessary.

9.5 Each party shall assist the other in complying with all applicable requirements of the Data Protection Legislation. In particular, each party shall:

(a) consult with the other party about any notices given to data subjects in relation to the Shared Personal Data;

(b) promptly inform the other party about the receipt of any data subject access request;

(c) provide the other party with reasonable assistance in complying with any data subject access request;

(d) not disclose or release any Shared Personal Data in response to a data subject access request without first consulting the other party wherever possible;

(e) assist the other party, at the cost of the other party, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

(f) notify the other party promptly and without undue delay on becoming aware of any breach of the Data Protection Legislation;

(g) at the written direction of the Data Discloser, delete or return Shared Personal Data and copies thereof to the Data Discloser on termination of these Terms unless required by law to retain the Shared Personal Data;

(h) use compatible technology for the processing of Shared Personal Data to ensure that there is no lack of accuracy resulting from personal data transfers;

(i) maintain complete and accurate records and information to demonstrate its compliance with this Clause 9 and allow for audits by the other party or the other party's designated auditor; and

(j) provide the other party with contact details of at least one employee as point of contact and responsible manager for all issues arising out of the Data Protection Legislation, including the procedures to be followed in the event of a data security breach, and the regular review of the parties' compliance with the Data Protection Legislation.

9.6 The Client shall indemnify the Company against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Company arising out of or in connection with any breach of the Data Protection Legislation by the Client, its employees or agents.

10. LIABILITY

10.1 The Company shall not be liable under any circumstances for any loss, damage, delay costs or compensation (whether direct, indirect or consequential) which is or may be suffered or incurred by the

Client arising from or in any way connected with the Company seeking a Candidate for the Client or from the Introduction to or Engagement of any Candidate by the Client or from the failure of the Company to introduce any Candidate. For the avoidance of doubt, the Company does not exclude liability for death or personal injury arising from its own negligence.

10.2 The Company complies with the 2015 Act and expects its trading partners to do the same. The Client will do nothing to cause the Company to be in breach of its obligations under the 2015 Act. The Client agrees to adhere to the statutory requirements of the 2015 Act (where applicable) and indemnify the Company in respect of any and all liability of the Company for any loss, injury or damage suffered or incurred by the Company as a result of the Client failing to comply with and/or causing the Company to be in breach of the 2015 Act.

11. MISCELLANEOUS

11.1 These Terms are governed by the law of England & Wales and are subject to the exclusive jurisdiction of the Courts of England & Wales.

11.2 The Company reserves the right to review and to revise these Terms without prior notice.