

STAFFING SERVICES AGREEMENT

This STAFFING SERVICES AGREEMENT ("**Agreement**") is entered into on December 26, 2022 (the "**Effective Date**"), by and between **Employer Solutions Staffing Group, LLC**, a Minnesota limited liability company, with offices at 7480 Flying Cloud Drive, Suite 200, Eden Prairie, Minnesota 55344 ("**Company**"), and **Benchmark Electronics, Inc.**, a Texas corporation with offices at 56 S. Rockford Dr., Tempe, Arizona 85288 ("**Client**").

In consideration of the mutual promises and undertakings related hereunder, the parties agree to the following:

1 GENERAL GUARANTEE

Company will provide, implement and adhere to uniform and legally compliant standards of employment for all locations in which Company operates. Company will pay its employees promptly for services rendered. Company will make all required deductions and deposits for Unemployment Insurance, taxes, FICA and SDI, and other legally required deductions as they apply to its employees and will indemnify, defend and hold Client harmless from liability for all such payments. Company will provide to Client, or will require its employees to provide directly to Client, verified documentation to establish the Company employees' identity and right to work in the United States.

2 RECRUITED EMPLOYEE PERFORMANCE GUARANTEE

Company offers a 'No Charge' employee performance guarantee at the start of the assignment per the following:

- All production/manufacturing positions: 4 hours
- All short term assignments - one month or less: 4 hours
- All technical, clerical, and administrative positions: 16 hours (two 8-hour shifts)

Should a Company employee be terminated at the request of Client for performance issues during the guarantee period, the Company employee will be paid, but Client will not be charged for service provided.

3 EMPLOYEE TIME KEEPING

3.1 **Workweek.** Company employees will conform to the Client's workweek and hours.

3.2 **Client Time and Attendance System.** Client will provide Company with a weekly time sheet (by department) no later than Monday afternoon following the end of the workweek. The time sheet will contain the following information:

Company Employee's Name (First and Last) — Straight-Time Hours – Overtime Hours – Double-Time Hours, and Total Hours worked.

3.3 **Shift Differential.** Company will pay its employees the same differential compensation as Client employees, if any, and any shift differential pay provided to Company employees will be included in COMPANY's invoice to Client on a pass-through basis to Client.

3.4 **Pay Determination.** Company will pay its employees in accordance with applicable law for non-exempt employees.

4 BACKGROUND CHECKS

4.1 Company will be responsible for facilitating a seven (7) year background check on each candidate accepted for assignment. The background check will include a National Criminal History, a SSN Address Trace, Terrorist Watch List Trace, and National Sex Offender Trace. Additionally, a Criminal Check of the candidate's current county of residence will be completed.

- 4.2 **Drug Test.** COMPANY will perform a ten (10) panel drug test on all candidates accepted for assignment at a Company-approved facility as part of the hiring process.

5 **BILLING & PAYMENT**

- 5.1 **Invoicing.** Company will invoice Client weekly for all Client-approved hours worked in the previous workweek.

- 5.2 **Billing Computations For Temporary Personnel.** Straight and overtime hourly billing rates will be calculated by taking the direct labor rate plus a percentage of the rate as agreed upon between Company and Client. The straight time and overtime hourly billing rate is:

RECRUITED EMPLOYEE:

DIRECT LABOR PLUS 38% (Straight-Time)/ 25% (Overtime) = HOURLY BILLING RATE*

OFFICE/PROFESSIONAL: 32% (Straight-Time)/ 25% (Overtime) = HOURLY BILLING RATE*

SOURCED EMPLOYEE:

HOURLY LABOR PLUS 28% (Straight-Time/ 25% Overtime) = HOURLY BILLING RATE

*The week following a Company recruited employee working 520 straight-time hours through Company, the mark-up rate will decrease to the agreed upon payrolled mark-up.

Note: The above mark up(s) are subject to an adjustment for any direct labor burden cost changes that Company may incur as mandated by federal, state, or local government agencies/entities, provided that Company must inform Client with reasonable advance notice prior to the implementation of any such changes.

- 5.3 **Payment Terms.** Terms of payment are NET 30 days from the date of the invoice.

6 **CONVERSION POLICY**

- 6.1 A Company recruited employee assigned to Client can be converted to Client regular employee status after 520 straight-time hours of contract employment, without any conversion fee.
- 6.2 The conversion fee for converting a recruited employee to a regular payrolled employee prior to 520 straight-time hours is calculated as follows: Fifteen Percent (15%) of Company's hourly direct labor rate *multiplied by* 2080 hours. There is no employee performance guarantee for converted employees.

7 **INSURANCE**

During the term of this Agreement, Company will provide General Liability, Umbrella Liability, Fidelity Theft, Automobile Liability, and Worker's Compensation insurance for all Company employees. Certificates of insurance will be made available upon request by Client, and Company shall notify Client at least thirty (30) days' prior to any cancellation, termination or material change in the insurance policies or coverage.

8 **PARTIES' RESPONSIBILITIES**

- 8.1 Company is the employer of the Company employees and therefore Company has and maintains full control over its employees and has full responsibility for the negligent and intentionally wrongful actions, errors and omissions of its employees. However, while Company employees are working on-site at a Client location, Client may need to provide certain limited directions for the specific work being performed by Company employees, such as instructions on how to operate certain machinery or execute specific work orders, and Client may need to review and approve such work performed, including tangible work products, and Company hereby permits Client to provide such instructions or directions to Company employees for the purpose of the successful completion of work being performed by such Company employees.

- 8.2 Company agrees to indemnify, defend, and hold harmless Client and Client's affiliates, shareholders, directors, officers, employees, contractors, agents, and other representatives (the "Client Indemnitees") from and against any and all claims, demands, actions, causes of action, proceedings, suits, assessments, losses, damages, liabilities, settlements, judgments, fines, penalties, interest, costs and expenses (including fees and disbursements of counsel) of every kind (each a "Claim" and together "Claims") asserted against a Client Indemnitee resulting from or arising out of: (i) Company's breach of this Agreement; or (ii) the negligence or willful misconduct of Company or Company's affiliates, shareholders, directors, officers, employees, contractors, subcontractors, agents, and other representatives. Notwithstanding the above, Company will not be required to indemnify, defend and hold harmless the Client Indemnitees from and against any and all Claims to the extent that such Claims are proximately caused by Client Indemnitees' negligence, willful acts or omissions, or violations of law.
- 8.3 Client and Company agree: (a) to notify each other in writing of any asserted claim within ten (10) days of either the discovery of the occurrence upon which the claim may be based or learning of the claim, whichever occurs first, and (b) to provide reasonable assistance and cooperate fully in any investigation, defense, or settlement negotiations, and (c) in the case of an indemnification claim, to permit the indemnifying party to assume the defense of the claim with counsel reasonable acceptable to the indemnified party, and at the indemnifying party's expense.
- 8.4 Client agrees not to respond to, act upon, or investigate any claims of wrongful conduct, discrimination, or harassment involving a Company employee, without first notifying Company of the claim or complaint. Company shall participate in any investigation of such a claim or complaint.
- 8.5 Client will provide Company's employees with a safe worksite and provide appropriate information, training, and safety equipment with respect to any hazardous substances or conditions to which they may be exposed at the worksite. Client agrees that it has primary responsibility for maintaining a safe worksite in compliance with state and federal OSHA laws and regulations to the extent those laws apply to Company's employees assigned to Client's worksite. Client further agrees to provide such assigned employees the safety training and personal protective equipment required for the assigned jobs and tasks.
- 8.6 Client will not change Company's employees' job duties without Company's express prior written approval.

9 COMPANY'S RELATIONSHIP WITH ITS EMPLOYEES

- 9.1 **Non-Discrimination.** Company is an equal opportunity employer. Company does not discriminate on the basis of race color, religion, sex, national origin, disability, age, sexual orientation, gender identity, veteran status, marital status or any other characteristic protected by applicable state or federal civil rights laws.
- 9.2 **Company Employment Agreement.** Company requires its employees to execute Company's employment agreement. This agreement defines among other things:
- (a) *Company Employee Benefits the Employee Is Eligible to Receive.* The Company employment agreement contains the benefits that are available to Company employees, and includes a statement that is acknowledged by the employee that they are not eligible for any benefits the Client may offer to their direct employees.
 - (b) *Company's Prohibition of Harassment and Equal Opportunity Policies.* Because the management of Company has the highest regard for the welfare of its employees, it has developed and maintained a strict policy with respect to employee equal opportunity and harassment in the workplace. Company is committed to providing a workplace environment free of any form of discrimination or harassment. To assure that Company

maintains the high standard of its policies, it includes its written policies in all of its Employee Employment Agreements and Employee Handbooks. COMPANY IS AN EQUAL OPPORTUNITY EMPLOYER. THE COMPANY DOES NOT DISCRIMINATE ON THE BASIS OF AGE, RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, DISABILITY, GENETIC INFORMATION, VETERAN STATUS, MARITAL STATUS OR ANY OTHER CHARACTERISTIC PROTECTED BY APPLICABLE STATE OR FEDERAL CIVIL RIGHTS LAWS.

9.3 **Code of Conduct.** Because most of the Company employees work at Client facilities and are supervised by Client personnel, Company requests that Client assist with the following:

- (a) Client, including present and future managers and supervisors that supervise Company employees, will adhere to Client's company Code of Conduct policies, which include anti-discrimination and anti-harassment policies, and which are similar to Company's Prohibition of Harassment and Equal Opportunity Policies, and
- (b) If a complaint involving any form of discrimination or harassment is brought to Client's attention that involves an Company employee, Company requests that it immediately be notified to allow the matter to be reviewed with Client's representative before any investigation or corrective action is undertaken that affects its employee. Company's experience has shown that having the opportunity of working together with our Clients from the earliest possible moment results in a more thorough, prompt, and satisfactory resolution to any workplace problem.

9.4 **Confidentiality.** All Company employees working for and at Client shall sign a Confidentiality Agreement ("*Temporary Staff Confidentiality Agreement*"), attached to this Agreement as Addendum A. The Confidentiality Agreement is signed between Company employees and the Client. Company shall require its employees to read and execute the Confidentiality Agreement, and Company shall expressly inform the employees in detail of their obligations therein.

9.5 **Company Responsibility for Its Employees.** Notwithstanding anything to the contrary, it is expressly agreed that:

- (a) Company has and maintains control over Company employees assigned to work at Client locations;
- (b) Company is solely responsible for the payment of all wages and the provision of benefits, if any, to Company employees, without regard to payments made by Client to Company ;
- (c) Company has the sole right to hire, terminate, and reassign Company employees;
- (d) Company has the sole right to discipline Company employees and is responsible for undertaking any investigations into the conduct of Company employees; and
- (e) Company is solely responsible for the filing and management of any workers' compensation claims and related procedures.

10 JOB PERFORMANCE & SAFETY

10.1 Employee Job Duties.

- (a) Company will direct and instruct the Company employees assigned to work at Client locations to perform in accordance with the job duties provided by Client to Company. Client will not require that Company employees operate Client's or employee's vehicle or to perform job duties outside those provided to Company in the original job order, without the advance written approval of Company.
- (b) Client shall not entrust any Company employee with cash, valuables, or unattended

premises without obtaining prior written permission from Company. Client shall not advance cash or other valuables to Company employees for any reason, and Client waives any and all right to offset the amount or value of any such cash or valuables advanced against any money owed to Company.

- 10.2 **Employee Safety & Training.** Client will comply, as applicable to their business as a “special/dual employer”, with applicable safety and health regulations, including providing Client-site-specific training, maintaining training records, providing standard personal protection safety equipment to Company employees, and the timely reporting of injury or fatality to both Company and state or federal agencies as required by law. Notwithstanding the foregoing, Company acknowledges and understands that Company employees must provide their own steel-toed shoes and prescription safety glasses. In addition, Company agrees to deduct \$10 from Company employee’s paycheck for replacement of lost ID and/or timekeeping badge and will deduct the corresponding amount from Client’s invoice. Company will require Company employees to acknowledge and agree to comply with the foregoing requirements regarding work equipment and IDs/badges in a signed authorization (see Addendum B).
- 10.3 **Injury On The Job.** In the event of an injury, Company requires its employees to immediately notify Company. If the employee is incapacitated and unable to contact Company, Client shall notify Company immediately on such COMPANY employee’s behalf. Client agrees not to act on behalf of Company, unless the Company employee is in need of immediate aid, in which case Client agrees to render such aid as is necessary under the circumstances.

11 TERM & TERMINATION

- 11.1 **Term.** This Agreement shall continue for a period of one (1) year. Following the initial term, the Agreement shall automatically renew for successive one (1) year periods, unless terminated by either party in accordance with this Section 12.
- 11.2 **Termination for Convenience.** Company may terminate this Agreement with sixty (60) days’ prior written notice and Client may terminate this Agreement upon ten (10) business days’ prior written notice.
- 11.3 **Termination for Cause.** If either party breaches any material term of this Agreement, the other party may terminate this Agreement upon written notice, provided that the non-breaching party will give the breaching party ten (10) business days’ prior written notice to remedy any such material breach. Company shall be entitled to payment for services performed through the date of termination of the assignment of Company employee(s).
- 11.4 **Notice Of Employee Lay Off/Termination.** Any services are provided by Company to Client on an “as needed” basis. Client may terminate a temporary assignment at any time upon notice to Company. Client agrees to notify Company’s Recruiting Department or On-Site Representative (via fax or email) at least 1 day prior to lay off/termination to allow Company time to prepare a final paycheck and determine if a replacement candidate is needed. Further, Client and Company agree that, once Company has been so notified, it is Company’s responsibility to inform employee of the lay off/termination, and Client will not directly communicate this information to employee. Certain state statutes require that employees laid off without a specific rehire date or terminated be paid all final wages at the time of lay off/termination. Client shall be liable for payment of hours worked by Company employees up to the time of the actual termination of the individual assignment.

12 GENERAL

- 12.1 **Non-solicitation of Employees.** It is understood that neither party will knowingly solicit for employment or hire, or aid any third party in hiring, any employee or consultant of the other that

is directly involved in or related to the performance of this Agreement during the term of this Agreement and for a period of 120 days after termination of this Agreement or the completion of services under any Company work order, whichever is later, unless otherwise agreed upon in writing by both parties.

- 12.2 **Notices.** Any notice which either party is required or may desire to give to the other under this Agreement shall be in writing and shall be given by registered or certified mail, return receipt requested, postage prepaid, or by overnight courier service, addressed to the other party at its address shown at the beginning of this Agreement, or to such other address as such party shall designate by notice in writing. Notices mailed as aforesaid shall be deemed to have been given or served for all purposes under this Agreement on the third business day following the date on which they are deposited in the United States Mail, or when received by overnight courier service.

Company shall send copies of all notices to Client to the following addresses:

Benchmark Electronics, Inc.
Attention: Legal Department
56 S. Rockford Dr.
Tempe, AZ 85288

Client shall send copies of all notices to Company to the following address:

Corporate Management Group, Inc. (CMG)
1501 W 124th Ave, Unit 500
Westminster, CO 80234
Attention: Lauren Kenney

Corporate Management Group, Inc. (CMG) is the recruiter for Employer Solutions Staffing Group, LLC. Employer Solutions Staffing Group, LLC is the employer.

- 12.3 **Governing Law & Disputes.** The laws of the state of Texas, excluding its choice of law provisions, will govern the terms and conditions of this Agreement, and any disputes related to this Agreement. If any action of law or in equity, including an action for declaratory relief, results or is brought to enforce or interpret provisions of this Agreement, each party shall be responsible for its own attorneys' fees and the cost of enforcement of the judgment, in addition to any other relief to which the prevailing party may be entitled, provided however that Client will be responsible for the cost of collection for unpaid amounts owed to Company.
- 12.4 **Severability.** The provisions of this Agreement are severable. If any one or more such provisions shall be determined invalid, illegal, or unenforceable, in whole or in part, the validity, legality, and enforceability of any of the remaining portions thereof shall not in any way be affected or impaired thereby and shall nevertheless be binding between the parties hereto. Any such invalid, illegal, or unenforceable provision, or portion thereof, shall be interpreted so to best accomplish the objectives of such invalid provision to the fullest extent allowable by law.
- 12.5 **Amendments.** This Agreement may not be changed or modified orally, but only by a specific amendment in writing signed by both parties. Should any provision of this Agreement conflict with any other writing signed by the parties, the terms of this Agreement shall govern.
- 12.6 **Binding Effect.** All provisions of this Agreement shall be binding upon, inure to the benefit of, and be enforceable by and against the respective legal successors and assigns of Company or Client.
- 12.7 **Third Party Beneficiaries.** This Agreement is solely for the benefit of Company and Client, and no

third party shall benefit from any condition, term, or provision of this Agreement.

12.8 **Entire Agreement.** This Agreement supersedes all prior understandings and agreements of the parties and fully and completely expresses the agreement between the parties with respect to the subject matter hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date written above.

Benchmark Electronics, Inc.

By: Rhonda R. Turner
Rhonda R. Turner (Jan 5, 2023 12:21 MST)
(Signature)

Name: Rhonda Turner

Title: SVP, CHRO

Date: Jan 5, 2023

Employer Solutions Staffing Group, LLC

By: Chris Levine
(Signature)

Name: Chris Levine

Title: CEO

Date: 12-23-22