

TERMS AND CONDITIONS OF BUSINESS

1. DEFINITIONS

1.1. In these Terms of Business "Assignment"

("Terms") the following definitions apply:

means the period during which the Temporary Worker is supplied by the Employment Business to provide services to the Client;

"Assignment Details Form"

means written confirmation of the assignment details agreed with the Client prior to commencement of the Assignment;

"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 Temporary Worker is supplied or Introduced; means the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (as amended); Robert Giles Agencies Limited (registered company no. 3778376) of 11 Argyll Street, London, W1F 7TH ("the Employment Business");

"Conduct Regulations"

"Employment Business"

"Engagement"

means the engagement, employment or use of the Temporary Worker by the Client or any third party on a permanent or temporary basis, whether under a contract of service or for services; an agency, license, franchise or partnership arrangement; or any other engagement; or through any other employment business; or through a corporate body of which the Temporary Worker is an officer, employee or other representative; and "Engage", "Engages" and "Engaged" shall be construed accordingly; means (i) the passing to the Client of a curriculum vitae or information which identifies the Temporary Worker; or (ii) the Client's interview of a Temporary Worker (in person or by telephone or by any other means), following the Client's instruction to the Employment Business to supply a Temporary Worker; and "Introduced" and "Introduced" shall be construed accordingly;

"Introduction"

"Period of Extended Hire"

means any additional period that the Client wishes the Temporary Worker to be supplied for beyond the duration of the original Assignment or series of Assignments as an alternative to paying a Transfer Fee;

"Relevant Period"

means (a) the period of 8 weeks commencing on the day after the last day on which the Temporary Worker worked for the Client having been supplied by the Employment Business; or (b) the period of 14 weeks commencing on the first day on which the Temporary Worker worked for the Client having been supplied by Employment Business provided that no account shall be taken of any supply that occurred prior to a period more than 42 days during which the Temporary Worker did not work for the Client having been supplied by the Employment Business;

"Remuneration"

includes gross base 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 provided to or on behalf of the Client or any third party. Where a company car is provided, a notional amount will be added to the salary in order to calculate the Employment Business' fee; means the individual who is Introduced by the Employment Business to provide services to the Client; means the fee payable in accordance with clause 8 and Regulation 10 of the Conduct Regulations.

"Temporary Worker"

"Transfer Fee"

- 1.2. Unless the context otherwise requires, references to the singular include the plural and references to the masculine include the feminine and vice versa.
- 1.3. The headings contained in these Terms are for convenience only and do not affect their interpretation.

2. THE CONTRACT

- 2.1. These Terms together with the attached Schedule and any applicable Assignment Details Form ("Terms") constitute the contract between the Employment Business and the Client for the supply of the Temporary Worker's services 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 by the Client about a Temporary Worker 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 a director of the Employment Business, these Terms prevail over any terms of business or purchase conditions (or similar) put forward by the Client.
- 2.3. No variation or alteration to these Terms shall be valid unless the details of such variation are agreed between a director of 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.
- 2.4. The Employment Business shall act as an employment business (as defined in Section 13(3) of the Employment Agencies Act 1973) when introducing or supplying workers for temporary Assignments with the Client.

3. CLIENT OBLIGATIONS

- 3.1. To enable the Employment Business to comply with its obligations under the Conduct Regulations the Client undertakes to provide to the Employment Business details of the position which the Client seeks to fill, including the following:
- 3.1.1. the type of work that the Temporary Worker would be required to do;
- 3.1.2. the location and hours of work;
- 3.1.3. the experience, training, qualifications and any authorisation which the Client considers necessary or which are required by law or any professional body for the Temporary Worker to possess in order to work in the position;
- 3.1.4. any risks to health or safety known to the Client and what steps the Client has taken to prevent or control such risks;
- 3.1.5. the date the Client requires the Temporary Worker to commence the Assignment;
- 3.1.6. the duration or likely duration of the Assignment;
- 3.1.7. the minimum rate of pay, expenses and any other benefits that would be offered;
- 3.2. The Client will assist the Employment Business in complying with the Employment Business' duties under the Working Time Regulations 1998 (as amended) 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. If the Client requires the services of a Temporary Worker for more than 48 hours in any week during the course of an Assignment, the Client must notify the Employment Business of this requirement before the commencement of the Assignment or at the very latest, where this is not reasonably practicable, before the commencement of the week in which the Client requires the Temporary Worker to work in excess of 48 hours.
- 3.3. 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.
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. of the identity of the Temporary Worker;
- 4.1.2. that the Temporary Worker has the necessary or required experience, training, qualifications and any authorisation required by law or a professional body to work in the Assignment;
- 4.1.3. whether the Temporary Worker will be employed by the Employment Business under a contract of service or apprenticeship or a contract for services; and
- 4.1.4. that the Temporary Worker is willing to work in the Assignment.
- 4.2. 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 Temporary Worker is Introduced for an Assignment in the same position as one in which the Temporary Worker had previously been supplied within the previous 5 business days and such information has already been given to the Client, unless the Client requests that the information be resubmitted.

5. TIMESHEETS

- 5.1. At the end of each week of an Assignment (or at the end of the Assignment where it is for a period of 1 week or less) the Client shall sign the Employment Business' timesheet verifying the number of hours worked by the Temporary Worker during that week.
- 5.2. Signature of the timesheet by the Client is confirmation of the number of hours worked. If the Client is unable to sign a timesheet 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 timesheet does not absolve the Client of its obligation to pay the charges in respect of the hours worked.
- 5.3. The Client shall not be entitled to decline to sign a timesheet on the basis that it is dissatisfied with the work performed by the Temporary Worker. In the event of the Client being dissatisfied with the Temporary Worker the provisions of clause 11.1 below shall apply.

6. CHARGES

- 6.1. The Client agrees to pay such hourly charges of the Employment Business as notified to and agreed with the Client. The hourly charges are calculated according to the number of hours worked by the Temporary Worker (to the nearest quarter hour) and comprise the following:
- 6.1.1. the Temporary Worker's hourly rate of pay;
- 6.1.2. an amount equal to any statutory leave to which the Temporary Worker is entitled and which is accrued during the course of an Assignment;
- 6.1.3. employer's National Insurance contributions;
- 6.1.4. 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; and
- 6.1.5. the Employment Business' commission.
- 6.2. The Charges are invoiced to the Client on a weekly basis and are payable within 14 days. VAT is payable at the applicable rate on the entirety of these charges.
- 6.3. The Employment Business reserves the right to vary the hourly 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 or entitlement.
- 6.4. The Employment Business reserves the right to charge interest under the Late Payment of Commercial Debts (Interest) Act 1998 on invoiced amounts unpaid by the due date at the rate of 8% per annum above the base rate from time to time of the Bank of England from the due date until the date of payment.
- 6.5. There are no refunds payable in respect of the charges of the Employment Business.
- 6.6. The Client's obligations under this clause 6 shall be performed without any right of the Client to invoke set-off, deductions, withholdings or other similar rights.
7. PAYMENT OF THE TEMPORARY WORKER
- 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 applicable to the Temporary Worker pursuant to sections 44 – 47 of the Income Tax (Earnings and Pensions) Act 2003.

8. TRANSFER FEES

- 8.1. The Client shall be liable to pay a Transfer Fee if the Client Engages the Temporary Worker either directly or through another employment business, or Introduces the Temporary Worker to a third party that subsequently Engages the Temporary Worker and in either case, such Engagement takes place within the Relevant Period. The Transfer Fee will be calculated in accordance with Schedule 1.
- 8.2. If the Client wishes to Engage the Temporary Worker either directly or through another employment business, without liability to pay a Transfer Fee the Client may, on giving one week's written notice to the Employment Business, engage the Temporary Worker for the Period of Extended Hire specified in Schedule 1.

- 8.3. During such Period of Extended Hire the Employment Business shall supply the Temporary Worker on the same terms on which s/he was supplied during the Assignment and the Client shall continue to pay the charges set out in clause 4. If the Employment Business is unable to supply the Temporary Worker for any reason outside its control for the whole or any part of the Period of Extended Hire; or the Client does not wish to hire the Temporary Worker on the same terms as the Assignment; but the Temporary Worker is Engaged by the Client, the Client shall pay the Transfer Fee, reduced pro-rata to reflect any charges paid by the Client during any part of the Period of Extended Hire worked by the Temporary Worker before being Engaged by the Client. If the Client fails to give notice of their intention to Engage the Temporary Worker before the Engagement takes place, the parties agree that the Transfer Fee shall be due in full.
- 8.4. Where prior to the commencement of the Engagement the Employment Business and the Client agree that the Engagement will be on the basis of a fixed term of less than 12 months, the Transfer Fee in Schedule 1 will apply pro-rata. If the Engagement is extended beyond the initial fixed term, or the Client re-Engages the Temporary Worker within 3 calendar months from the date of termination of the first or any subsequent Engagement, then the Client shall be liable to pay a further Transfer Fee based on the additional Remuneration applicable for:
- 8.4.1. the extended period of Engagement; or
- 8.4.2. the period of the second and any subsequent Engagement, subject to the Client not being liable to pay a greater fee than the fee which would otherwise have applied had the Candidate first been Engaged for 12 months or more.
- 8.5. No refund of the Transfer Fee will be paid in the event that the Engagement by the Client either directly or through another employment business, or by a third party subsequently terminates.
- 8.6. VAT is payable in addition to any fee due.

9. INTRODUCTION FEES

- 9.1. The Client shall be liable to pay the Employment Business an Introduction Fee in the following circumstances:
- 9.1.1. where the Temporary Worker has been Introduced but not supplied to the Client, and the Client Engages the Temporary Worker either directly or through another employment business, within 6 months of the Introduction; or
- 9.1.2. the Client Introduces the Temporary Worker to a third party and such Introduction results in an Engagement of the Temporary Worker by the third party either directly or through another employment business within 6 months from the date of Introduction by the Client to the third party.
- 9.2. The Introduction Fee will be calculated at 20% of the Remuneration payable to the Temporary Worker. Where the amount of the Remuneration payable to the Temporary Worker is not known, the Introduction Fee will be calculated by multiplying the hourly charge of the Employment Business for the Temporary Worker's Services by 300.
- 9.3. Where clause 9.1.1 applies, if the Client wishes to avoid payment of the Introduction Fee the Client must give written notice to the Employment Business as specified in Schedule 2. During such period of notice the Employment Business shall supply the Temporary Worker and the Client shall pay the charges set out in Schedule 2. If the Employment Business is unable to supply the Temporary Worker for any reason outside its' control for the whole or any part of the period of notice, but the Temporary Worker continues to work for the Client, the Client shall pay the Introduction Fee reduced pro rata to reflect any OR less any charges paid by the Client during any part of the period of notice worked by the Temporary Worker before being Engaged by the Client. If the Client fails to give such notice before the Temporary Worker is Engaged the parties agree that the Client shall pay the Introduction Fee in full.
- 9.4. No refund of the Introduction Fee will be paid in the event that the Engagement subsequently terminates.
- 9.5. VAT is payable at the applicable rate in addition to any Introduction Fee due.

10. UNSUITABILITY OF THE TEMPORARY WORKER

- 10.1. The Client undertakes to supervise the Temporary Worker sufficiently to ensure the Client's satisfaction with the Temporary Worker's standards of workmanship. If the Client reasonably considers that the services of the Temporary Worker are unsatisfactory, the Client may terminate the Assignment either by instructing the Temporary Worker to leave the Assignment immediately, or by directing the Employment Business to remove the Temporary Worker. The Employment Business may, in its absolute discretion, in such circumstances, reduce or cancel the charges for the time worked by that Temporary Worker, provided that the Client has notified the Employment Business immediately that they have asked the Temporary Worker to leave the Assignment or the Assignment terminates: 10.1.1 within 4 hours of the Temporary Worker commencing the Assignment where the booking is for more than 7 hours; or 10.1.2 within 2 hours for bookings of 7 hours or less; and provided that notification of the unsuitability of the Temporary Worker is confirmed in writing to the Employment Business within 48 hours of the termination of the Assignment.
- 10.2. The Employment Business shall notify the Client immediately if it receives or otherwise obtains information which gives the Employment Business reasonable grounds to believe that a Temporary Worker supplied to the Client is unsuitable for the Assignment and shall be entitled to terminate the Assignment forthwith without prior notice and without liability.
- 10.3. 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 has notified the Client that they are unable to attend work for any reason.

11. TERMINATION OF THE ASSIGNMENT

Any of the Client, the Employment Business or the Temporary Worker may terminate an Assignment at any time without prior notice and without liability (except in the case of termination by the Client, who shall be liable for any charges due under clause 6 above).

12. CONFIDENTIALITY AND DATA PROTECTION

All information relating to a Temporary Worker is confidential and subject to the Data Protection Act 1998 and is provided solely for the purpose of providing work-finding services to the Client. Such information must not be used for any other purpose nor divulged to any third party and the Client undertakes to abide by the provisions of the Data Protection Act 1998 in receiving and processing the data at all times. In addition information relating to the Employment Business' business which is capable of being confidential must be kept confidential and not divulged to any third party, except information which is in the public domain.

13. INTELLECTUAL PROPERTY RIGHTS

All copyright, trademarks, patents and other intellectual property rights deriving from the Assignment shall belong to the Client. Accordingly the Employment Business shall use its reasonable endeavours to ensure that the Temporary Worker shall execute all such documents and do all such acts in order to give effect to the Client's rights pursuant to this clause.

14. LIABILITY

- 14.1. Whilst reasonable efforts are made by the Employment Business to give satisfaction to the Client by ensuring reasonable standards of skill, integrity and reliability from Temporary Workers and by providing Temporary Workers with the Assignment details supplied by the Client, 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 or if the Temporary Worker terminates the Assignment for any reason. For the avoidance of doubt, the Employment Business does not exclude liability for death or personal injury arising from its own negligence or for any other loss which it is not permitted to exclude under law.
- 14.2. 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.
- 14.3. 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 also comply in all respects with all statutory provisions as are in force from time to time including, for the avoidance of doubt, but not limited to the Working Time Regulations 1998 (as amended), Health and Safety at Work etc. Act 1974, the Management of Health and Safety at Work Regulations 1999, 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 above), including in particular the provision of adequate Employer's and Public Liability Insurance cover for the Temporary Worker during all Assignments.
- 14.4. 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 a worker who has been transferred by the Client to perform the duties of a person on strike or taking official industrial action.
- 14.5. The Client shall indemnify and keep indemnified the Employment Business against any costs, claims, damages, expenses or liabilities incurred by the Employment Business arising out of any Assignment or arising out of any non-compliance with clauses 10.1 to 10.4 inclusive and/or as a result of any breach of these Terms by the Client.
- 14.6. The Client undertakes that it knows of no reason why it would be detrimental to the interests of the Consultancy for the Consultancy to fill the Assignment.

15. NOTICES

All notices which are required to be given in accordance with this Agreement shall be in writing and may be delivered personally or by first class prepaid post to the registered office of the party upon whom the notice is to be served or any other address that the party has notified the other party in writing, by email or facsimile transmission. Any such notice shall be deemed to have been served: if by hand when delivered, if by first class post 48 hours following posting and if by email or facsimile transmission, when that email or facsimile is sent.

16. SEVERABILITY

If any of the provisions of these Terms shall be determined by any competent authority to be unenforceable to any extent, such provision shall, to that extent, be severed from the remaining Terms, which shall continue to be valid to the fullest extent permitted by applicable laws.

17. GOVERNING LAW AND JURISDICTION

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

SCHEDULE 1: TRANSFER FEES

- 1.1. (a) The Transfer Fee referred to in Clause 8 shall be calculated as follows: 20% of the Remuneration payable to the Temporary Worker during the first 12 months of the Engagement or, if the actual amount of the Remuneration is not known, the hourly charges set out in clause 6.1 above multiplied by 300.
- (b) The Period of Extended Hire, referred to in Clause 8, before the Client Engages a Temporary Worker shall be: 26 weeks.

SCHEDULE 2: INTRODUCTION FEES

Remuneration	Fee
£0 – £20,000	20%
£20,001 – £30,000	20%
£30,001 – £40,000	20%
£40,001 – £50,000	20%
£50,001 +	20%

Introduction Fee and period of notice in relation to clause 9.3: (i.e. where there has been an Introduction but no supply, and the Client wishes to avoid payment of an Introduction Fee.)

- Period of notice required from the Client: 26 weeks
- Charges which will apply during the period of notice: Hourly rate as specified overleaf