



3 The Library, St Philips Courtyard, Church Hill, Coleshill, B46 3AD
Tel: 01675 624500 www.tmrgroup.co.uk

TERMS OF BUSINESS FOR THE INTRODUCTION AND SUPPLY OF TEMPORARY WORKERS (PAYE)

1. DEFINITIONS

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

"Temporary Worker" or "TW"	means the person or persons introduced by the Employment Business to render services to the Client;
"Assignment"	means the period during which the TW is supplied to render services to the Client;
"Client"	means the person, firm or corporate body together with any subsidiary or associated company as defined by the Companies Act 2006 to whom the TW is supplied or introduced;
"Data Protection Legislation"	means the Data Protection Act 2018, the General Data Protection Regulation (2016/679), the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive (2002/58/EC), the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003) and all applicable laws and regulations relating to the processing of personal data and privacy and also including where applicable the guidance and codes of practice issued by the Information Commissioner or any other supervisory authority, and the equivalent of any of the foregoing in any relevant jurisdiction;
"Employment Business" or "EB"	means TMR Group of 3 The Library, St Philips Courtyard, Coleshill, B46 3AD acting as an employment business;
"Engagement"	means any engagement, employment or use of the TW in any capacity by the Client on a permanent or temporary basis, whether direct or otherwise;
"Introduction"	means (i) the Client's interview of a TW in person or by telephone, following its instruction to the EB to search for a TW; or (ii) the EB passing to the Client a curriculum vitae or other information which identifies the TW; and which leads to an Engagement of that TW;
"Introduction Fee"	means the fee payable in accordance with clause 7 below and Regulation 10 of the Conduct of Employment Agencies and Employment Businesses Regulations 2003;
"Public or Bank Holidays"	means Christmas Day or Good Friday or a day which is a bank holiday under or by virtue of the Banking and Financial Dealings Act 1971 in that part of Great Britain;



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"Remuneration"	includes 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 other taxable (and where applicable, non-taxable) emoluments payable to or receivable by the TW for services rendered to or on behalf of the Client or any third party (including in relation to any employer pension contributions made to the TW by the EB by virtue of Part 1 of the Pensions Act 2008).
"Transfer Fee"	means the fee payable in accordance with clause 7 below and Regulation 10 of the Conduct of Employment Agencies and Employment Businesses Regulations 2003;
"AWR"	means the Agency Workers' Regulations 2010.

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

2. THE CONTRACT

- 2.1 These Terms and any addenda or addendum constitute the contract between the EB and the Client for the supply of TW services by the EB to the Client and are deemed to be accepted by the Client by virtue of its request for, interview with, or Engagement of, a TW or the passing of any information about a TW to any third party following an Introduction.
- 2.2 These Terms and any addenda or addendum contain the entire agreement between the EB and the Client and unless otherwise agreed in writing by one of the EB's directors, these Terms and any addenda or addendum prevail over any terms of business or purchase conditions put forward by the Client.
- 2.3 No variation or alteration of these Terms and any addenda or addendum will be valid unless details of such variation are agreed between the EB and the Client and are set out in writing and a copy of the varied terms given to the Client stating the date on or after which such varied terms will apply.
- 2.4 The Client agrees that it will not request the EB to supply a TW in a way which could cause the EB to breach Regulation 9 of the AWR.

3. CHARGES

- 3.1 The Client agrees to pay the EB's hourly charges as notified to and agreed with the Client. Charges are calculated according to the number of hours worked by a TW (to the nearest quarter hour). Charges comprise mainly Remuneration but also include, without limitation, the EB's commission, employer National Insurance contributions and statutory holiday pay calculated as a percentage of Remuneration. Other reasonable expenses as may be agreed will be itemised on the EB's invoice in addition to hourly charges. VAT is payable on the entirety of these charges and on any fees payable under these Terms.
- 3.2 If the Client reduces or cancels bookings less than eight working hours before the commencement of an Assignment, the EB reserves the right to make a charge equivalent to 50% of the hours being worked by each TW booked for an Engagement, at the hourly charge rate agreed for the booking.



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- 3.3 Charges are invoiced weekly and are payable immediately on receipt of the EB's invoice. The Client accepts the EB's reserved statutory right to charge interest and compensation under the Late Payment of Commercial Debts (Interest) Act 1998 (together with any and all additions and/or amendments thereto) and the Late Payment of Commercial Debts Regulations 2002 (together with any and all additions and/or amendments thereto) if the EB is not paid according to its agreed credit terms. Payment must be made without deduction or set off.
- 3.4 There are no rebates payable in respect of the EB charges.

4. INFORMATION TO BE PROVIDED

- 4.1 The Client will advise the EB of any special health and safety matters about which the EB is required to inform TWs and about any requirements imposed by law or by any professional body or that the Client considers is necessary, which must be satisfied by the TWs accepting the Assignment (including for example any experience, training, qualifications and authorisations required). The Client will assist the EB in complying with its duties under (without limitation) the Working Time Regulations 1998 and the AWR by supplying any relevant information about the Assignment requested by it and the Client will not do anything to cause the EB to be in breach of its obligations under these regulations. Where the Client requires or may require the services of a TW for more than 48 hours in any week, it must notify the EB of this requirement before the commencement of that week. For the avoidance of doubt, a normal working week will commence on Monday.
- 4.2 In respect of each Assignment the Client will give the EB full details of the following and hereby warrants that the said information is true and accurate in all material respects:
- 4.2.1 any and all information which the EB requires to enable the EB to discharge its obligations to the TW under the AWR including (but without limitation):-
- 4.2.1.1 whether or not the TW to be supplied by the EB has ever worked for the Client or for any connected hirer of the Client (as defined in Regulation 9 of the AWR) and, if so, details of when and in what role;
 - 4.2.1.2 details of any and all comparable employees of the Client's (as defined in Regulation 5 of the AWR) including their basic working and employment conditions and any and all other information which is necessary in order for the EB to comply with the AWR;
 - 4.2.1.3 details of any and all collective facilities and amenities to which the TW to be supplied should have access pursuant to Regulation 12 of the AWR; and
 - 4.2.1.4 notification of any and all requests made to the Client by a TW pursuant to Regulation 16 of the AWR and the Client agrees to provide copies of the same to the EB.
- 4.3 The Client confirms that it knows of no reason why it would be detrimental to the interests of the TW to fill the Assignment.
- 4.4 The Client confirms that the TW will not undertake any duties normally performed by a worker who is taking part in official strike action or by any other worker assigned to replace the worker taking such action.



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- 4.5 When making an Introduction of a TW to the Client, the EB will inform the Client of the TW's identity, that they have the necessary or required experience, training, qualifications and any authorisation required by law or any professional body or the Client to work in the Assignment; whether they will be engaged under a contract of service or apprenticeship or a contract for services; and that they are willing to work in the Assignment.
- 4.6 Where the information referred to at clause 4.5 above, is not given in paper form or by electronic means it will be confirmed by such means by the end of the third business day (excluding Saturday, Sunday and Public or Bank Holidays) following, save where the TW is being introduced for an Assignment in the same position as one in which the TW had previously been supplied within the previous five business days and such information has already been given to the Client.
- 4.7 During an Assignment the EB will notify the Client immediately if it receives or otherwise obtains information which indicates that a TW supplied to the Client may be unsuitable for an Assignment; the EB will make further enquiries as are reasonably practicable and inform the Client of the outcome of those enquiries.

5. TIME SHEETS

- 5.1 At the end of each week of an Assignment (or at the end of an Assignment where it is for a period of one week or less or is completed before the end of a week) the Client will sign the EB's time sheet verifying the number of hours worked by the TW during that week.
- 5.2 Signature of the time sheet by the Client is confirmation of the number of hours worked. If the Client is unable to sign a time sheet produced for authentication because it disputes the hours claimed, it will inform the EB as soon as is reasonably practicable and co-operate with the EB to establish what hours, if any, were worked. Failure to sign the time sheet does not absolve the Client's obligation to pay charges in respect of the hours worked.
- 5.3 The Client is not entitled to decline to sign a time sheet on the basis that it is dissatisfied with the work performed by a TW. In cases of unsuitable work the Client should apply the provisions of clause 10.1 below.

6. PAYMENT OF TEMPORARY WORKERS

- 6.1 The EB assumes responsibility for paying TWs and, where appropriate, for the deduction and payment of National Insurance Contributions and PAYE Income Tax applicable to the TW's pursuant to sections 44-47 of the Income Tax (Earnings and Pensions) Act 2003. For the avoidance of doubt, the EB also assumes responsibility for the payment of paid leave required under the Working Time Regulations 1998.

7. TRANSFER AND INTRODUCTION FEES

- 7.1 In the event of an Engagement (or Introduction) of a TW supplied by the EB either (1) directly by the Client or (2) by the Client pursuant to being supplied by another employment business, within the Relevant Period, the Client will become liable to pay a Transfer Fee (or Introduction Fee) calculated as a percentage of Remuneration at the commencement of the Engagement in accordance with the EB accompanying **Scale of Fees**.
- 7.2 If a TW is introduced by the Client to a third party which results in the Engagement of a TW by the third party within the Relevant Period the Client will be liable to pay a Transfer Fee (or Introduction Fee) as detailed in clause 7.1 above.



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8. LIABILITY

- 8.1 Whilst the EB makes every effort to give satisfaction by ensuring reasonable standards of skills, integrity and reliability from TWs and further to provide them in accordance with booking details, it is not liable for any loss, expense, damage or delay arising from any failure to provide any TW for all or part of the period of booking or from the negligence, dishonesty, misconduct or lack of skill of the TW. For the avoidance of doubt, the EB does not exclude liability for death or personal injury arising from its own negligence.
- 8.2 The TWs the EB supplies are engaged by the EB under contracts for services. They are not the EB's employees, and are deemed to be under the Client's supervision, direction and control 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 TWs whether willful, negligent or otherwise as if the TWs were on its own payroll. The Client will also comply in all respects with all statutes including, for the avoidance of doubt, the Working Time Regulations 1998, the AWR, Health and Safety At Work Act etc, bye-laws, codes of practice and legal requirements to which the Client is ordinarily subject in respect of its own staff (excluding the matters specifically mentioned in Clause 6 above), including in particular the provision of adequate Employer's and Public Liability Insurance cover for TWs during all Assignments.
- 8.3. The Client will indemnify the EB and keep it indemnified against any costs, claims and liabilities incurred by the EB arising out of any Assignment or arising out of non-compliance with clauses 8.2 and/or as a result of any breach of these Terms and/or any addenda or addendum by the Client.

9. SPECIAL SITUATIONS

- 9.1 Where a TW is to be supplied or Introduced with a view to taking up an Assignment which involves working with, caring for or attending one or more persons under the age of 18 or any person who by reason or age, infirmity or otherwise is in need of care or attention, the EB will take all reasonably practicable steps to obtain and offer to provide copies of any relevant qualifications or authorisations, two references from persons not related to the TW who have agreed that the references they provide may be disclosed to the Client and all other reasonably practicable steps to confirm that the TW is suitable for the Assignment. If the EB is unable to do any of the above it will comply with the steps to the extent it is able to do so and inform the Client it has taken all reasonably practicable steps to comply with those requirements but has been unable to do so and inform the Client of the steps taken to obtain this information in any event.

10. TERMINATION

- 10.1 The Client undertakes to supervise the TW sufficiently to ensure its satisfaction with the TW's standards of workmanship. If the Client reasonably considers that the services of the TW are unsatisfactory, it may terminate the Assignment either by instructing the TW to leave the Assignment immediately, or by directing the EB to remove the TW. In such circumstances the EB may reduce or cancel the charge for the time worked by that TW, provided that the Assignment terminates within four hours from the commencement and the Client tells the EB within one working day.
- 10.2 The TW or the Client or the EB may terminate an Assignment at any time without prior notice and without liability.



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- 10.3 The Client will notify the EB immediately and without delay and in any event within four hours if the TW fails to attend work or notifies the Client that they are unable to attend work for any reason.
- 10.4 The EB will notify the Client immediately if it receives or otherwise obtains information which gives it reasonable grounds to believe the TW supplied to the Client is unsuitable for Assignment and will terminate the Assignment under the provisions of clause 10.2.

11. DATA PROTECTION

- 11.1 The parties shall comply with the provisions of Data Protection Legislation which is in force and you shall provide us with such reasonable and timely assistance as we may require in relation to any exercise of a data subject's rights. The parties shall be data controllers (as defined in the Data Protection Legislation) in common and each party shall be responsible for their own compliance with the Data Protection Legislation. If we share any personal data with you about the TW, or otherwise, you will only use that personal data for the purposes of this agreement or the recruitment.

12. LAW

- 12.1 These Terms and any addenda or addendum are governed by the laws of England & Wales and are subject to the exclusive jurisdiction of the Courts of England & Wales.

Signed
For and on behalf of the Client

Name.....

Position.....

Company Name.....

Date