

# Term of Business for temporary worker



## Definitions

1.1 In these terms of business, the following apply:

- 1.1.1 "Assignment" refers to the period during which a Temporary Worker is supplied by the Employment Business to render services to the client.
- 1.1.2 "AWR" refers to the Agency Workers Regulations 2010.
- 1.1.3 "Client" refers to the person, firm or corporate body together with any subsidiary or associated company as defined by the Companies Act 1985 to whom a Temporary Worker is supplied or introduced.
- 1.1.4 "The Employment Business" refers to: Operational Chef Consultant
- 1.1.5 "Engages/Engaged/Engagement" can refer to either:
  - (i) The Engagement, employment or use of the Temporary Worker directly by the client or any third party or through any other Employment Business in a permanent or temporary basis, whether under a contract or service or of services.
  - (ii) An agency, licence, franchise, partnership arrangement, or any other Engagement; directly or through a limited company of which the Temporary Worker is an officer or employee.
- 1.1.6 "Information Request" refers to a request made by a Temporary Worker to the Employment Business or the Client, in accordance with the AWR.
- 1.1.7 "Introduction/Introduced/Introducing" can refer to either:
  - (i) The Client's interview of a Temporary Worker in person or by telephone or online via social media or other communication, following the Client's instruction to the Employment Business to supply the Temporary Worker.
  - (ii) The passing of the Employment Business to the client of the curriculum vitae or information which identifies the Temporary Worker.
- 1.1.8 "Qualifying Rights" means rights acquired by a Temporary Worker after a 12-week period as defined under the AWR.
- 1.1.9 "Temporary Worker" refers to an individual who is introduced by the Employment Agency to render services.

## 2 – The Contract

- 2.1 These terms and conditions of business regulate the agreement between the Employment Business and the Client.
- 2.2 These terms and conditions are deemed to be accepted upon the introduction to the Client of a Temporary Worker through either:
  - 2.2.1 The Client requesting an interview with a Temporary Worker introduced by the Employment Business.
  - 2.2.2 The Client Engaging a Temporary Worker introduced by the Employment Business.

## 3 – Charges

- 3.1 The Client agrees to pay the hourly charge of the Employment Business advised at the time of the booking or otherwise current.
- 3.2 The Client agrees to verify and sign the Employment Business time sheets each week. Signature of each such time sheets by the Client constitutes acceptance to the Temporary Workers service has been provided for the hours indicated on the time sheets and that such service has been provided satisfactory. Travelling, hotel or other expenses as may be agreed shall be itemised by the Employment Business' invoice in addition to this charge. These charges will be those in force at the time of the Assignment and may be varied from time to time for the Assignment with immediate effect. Details of charges are available on application and are calculated on an hourly basis at rates varying according to the number of hours required in any one week.
- 3.1 Charges are invoiced weekly and are payable within 3 days of the date of the Employment Business' invoice. The Employment Business reserves the right to charge interest on fees unpaid within 3 days of the invoice date. A rate of 10% above the Employment Business bank's base lending rate will be applied daily from the date of the invoice until the day of payment.

## 4 – Payment of the Temporary Worker

- 4.1 The Employment Business assumes responsibility for the payment of the Temporary Workers remuneration, and where appropriate, for the deduction and payment of National Insurance contributions, PAYE income tax and pension contributions applicable to the Temporary Worker.
- 5 – Transfer and Introduction Fees
- 5.1 In the event of the Engagement by the Client of a Temporary Worker supplied by the Employment Business either directly or pursuant to being supplied by another employment business, with either the duration of the assignment, or 14 weeks from the start of the first Assignment (the first Assignment being each new Assignment where there has been a break of more than 42 days (6 weeks) since the end of the previous Assignment), or 8 weeks from the day after the last the Temporary Worker worked on that Assignment, the Client shall be liable, subject to electing by providing the Employment Business with 3 days written notice prior to engagement, to either an extended period of hire or transfer fee which, unless current hourly charge agreed pursuant to Section 3 for each hour the Temporary Worker is so employed or supplied, or during the first 12 months of the Engagement, or if the actual amount of the remuneration is not known, the current hourly charge rate multiplied by 275. For the avoidance of doubt, where the client does not give the notice as required in 5.1, the transfer fee will be due by default.
- 5.2 In the event that there is an Introduction of a Temporary Workers to the Client which does not result in the supply of the Temporary Worker by the Employment Business to the Client, but which leads to the Engagement by Client of Temporary Worker either directly or pursuant to be supplied by another employment business within 12 months of the date of the introduction the Client shall be liable, subject to electing by providing the Employment Business with 3 days written notice prior to the Engagement, to either an extended period of hire of 16 weeks during which the Client shall pay the current hourly charge agreed pursuant to Section 3 for each hour the Temporary Worker is so employed or supplied, or an introduction fee which shall be calculated as follows:
  - 17.5% of the remuneration applicable during the first 12 months of the Engagement, or if the actual amount of the remuneration is not known the current multiplied by 250.
  - If the Client does not give notice as required in the parties that the introduction fee will be due by default.
- 5.3 In the event of the Engagement referred to above of a Temporary Worker is for a term of less than 12 months, the fee provided in 5.1 and 5.2 will apply pro rata, although if that initial term is extended (or if the Temporary Worker is re-engaged within 3 months of the termination of the initial Engagement), the Client shall be liable to pay a further fee based on the remuneration applicable for the period of the second Engagement up to either termination or the first anniversary of the commencement, whichever is sooner.
- 5.4 In the event that a Temporary Worker is Engaged by a Client following the introduction of a Temporary Worker by a third party which results in the Engagement of the Temporary Worker by the third party during the Assignment or within whichever is period of time is longer:
  - (i) 14 weeks from the start of the first Assignment (each new Assignment where there has been a break of more than 42 days (6 weeks) since the end of the previous Assignment shall also be "first Assignment" for these purposes)
  - (ii) 8 weeks from the day after the last day the Temporary Worker worked on the Assignment. The Client shall be liable to pay a transfer fee calculated in accordance with clause 5.1.
- 5.5 In the event that there is an Introduction of a Temporary Worker to the Client which does not result in the supply of that Temporary Worker by the Employment Business to the Client but the Temporary Worker is introduced by the Client to the third party which results in Engagement of the Temporary Worker by the third party within 6 months from the date of introduction the Client shall be liable to an introduction fee calculated in accordance with clause 5.2.

## 6 – Liability

- 6.1 Whichever effort is made by the Agent to give satisfaction to the Client by ensuring reasonable standards of skills, integrity and reliability from the Temporary Worker introduced, and to provide Workers in accordance with the Client's booking details, the Agent is not liable for any loss, expense, damage or delay arising from any failure to provide any Temporary Workers for all or part of the period of the assignment, or from the negligence, dishonesty, misconduct or lack of skill of a Worker.
- 6.2 For the avoidance of doubt, the Agent does not exclude liability for death or personal injury arising from its own negligence, but all other warranties whether statutory or otherwise are excluded to the full extent allowed by law.
- 6.2 Temporary Workers are Engaged by the Employment Business under contracts for services. They 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 willful, negligent or otherwise as though they were on the payroll of the Client. The Client will also comply in all respects with all the statuses including the provision of adequate Employers and Public Liability Insurance cover for the Temporary Worker during all Assignments. The Client will assist the Employment Business in complying with the Employment Business' duties under the working time regulations by supplying relevant information about the Assignment requested by the Employment Business and the Client will not do anything to cause the Employment Business this requirement before the commencement of that assignment.
- 6.3 The Client shall indemnify and keep indemnified the Employment Business against any cost, claims or liabilities incurred by the Employment Business arising out of any Assignment or Engagement of a Temporary Worker and/or as a result of any breach of these terms by the Client.

## 7 – Termination

- 7.1 The Client undertakes the responsibility to supervise the Temporary Worker sufficiently to ensure the Client's satisfaction with the Temporary Worker's standard 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 in such circumstances reduce or cancel the charges for the time worked by the Temporary Worker, provided that notification of the unsuitability of the Temporary Worker is confirmed in writing to the Employment Business with 48 hours of the termination of Assignment, and that the Assignment terminates:
  - 7.1.1 Within six hours of the Temporary/Freelance/Full-time Worker commencing the Assignment where the booking is for more than six hours
  - 7.1.2 Within 24 hours for bookings of six hours.

## 8 – Variation

- 8.1 No variation can be made to these terms without the written consent of a director of the Employment Business.
- 9 – Engagement of Operational Chef Consultant
- 9.1 In the event that a Client should wish to offer full time employment to the employee of Operational Chef Consultant who they have been introduced to as a result of working with the company, and in the event that an offer should be made within a six month period of working with that employee, a fee will be charged equivalent to 10% of that employee's gross annual remuneration with Operational Chef Consultant.

## 10 – Agency Worker Regulations

- 10.1 Before the commencement of an Engagement the Client will notify the Employment Business if the Temporary Worker has previously carried out work for the Client at any time after 10 October 2011, whether as a Temporary Worker supplied to the Client by the Employment Business or by any other temporary work agency or third party, and will provide details of the dates of any and all previous Engagements the duties performed by the Temporary Worker, the rate of pay paid to the Temporary Worker in respect of each Assignment and any benefits provided to the worker and the location at which the Temporary Worker worked.
- 10.2 The Client, upon request of the Employment Business, will provide the Employment Business with reasonable assistance (including providing the Employment Business with all the relevant information etc) to enable the Employment Business to verify that the rights of the Temporary Worker under the AWR are complied with, and that any Temporary Worker that has acquired Qualifying Rights receives basic pay, shift pay, overtime, rest breaks and any bonuses to which they are entitled under the AWR.
- 10.3 Before the Temporary Worker commences a placement for the Client, the Client shall provide the Temporary Worker with a copy of the relevant sections of the Client's Handbook (or equivalent) or details of the Client's facilities available to the Temporary Worker and details of how to access information about vacancies and any other documents or policies notified by the Client from time to time. The Client shall ensure that the Temporary Worker has access to the same facilities and vacancy information as any comparable permanent workers from the first day of Engagement;
- 10.4 The Client shall, as soon as reasonably practicable (and within seven days in each and every case), inform the Employment Business if it is reasonably believes any Temporary Worker supplied by it may not be receiving any equal rights that they are entitled to, or provision has not been made for any Temporary Worker to receive such rights, under the AWR.

## 11 – Information Requests by Candidates

- 11.1 The Employment Business will throughout the duration of this agreement notify the Client as soon as reasonably practicable (and in any event no later than 5 working days after the receipt) that the Temporary Worker has made an Information Request.
- 11.2 The Client will be responsible for responding to an Information Request, or any part of an Information Request that relates to a Temporary Worker's access to information or facilities at the Client's premises, or access to collective facilities or amenities provided by the Client and will respond to the request within 7 days and will also send a copy of the response to the Employment Business at the same time that the reply is sent to the Temporary Worker.
- 11.3 The Employment Business will be responsible for responding to an Information Request, or any part of an Information Request that they receive that relates to the Temporary Worker's pay and working conditions; subject always to the Client's obligations under this Section 11 to provide such assistance and information as is necessary to enable the Employment Business to comply with Information Request requirements.
- 11.4 The Client agrees that it will provide such assistance as is reasonably necessary to enable the Employment Business to respond to an Information Request and will provide comments on the terms of any draft response prepared by the Employment Business within 5 working days of being requested to do so. The Client will provide the Employment Business with all relevant information required to clarify the basis on which the Client considers a Temporary Worker and a permanent employee comparable or not comparable.
- 11.5 If the Client receives an Information Request from a Temporary Worker, it will notify the Employment Business as soon as practicable and, in any event, no later than 5 days after the receipt and will not respond directly to any such request without consent of the Employment Business. The Employment Business reserves the right to respond on the Client's behalf in relation to any request made by the Temporary worker concerning the Temporary Worker's pay and conditions.

## 12 – Pregnant Workers

- 12.1 The Employment Business will notify the Client if it becomes aware that the Temporary Worker on Placement with the Client (or being considered for placement) is pregnant, has given birth within the last six months, or is breastfeeding, subject to the Temporary Worker giving her consent to this.
- 12.2 The Client will conduct a health and safety risk assessment of the work undertaken by the Temporary Worker. If there is a health and safety risk the Client will notify the Employment Business.
- 12.3 If it is reasonable to do so, the Client will make an adjustment to remove the risk. If it is not reasonable for the Client to make an adjustment, the Employment Business will offer the Temporary Worker alternative work, or if that is not possible, pay her in accordance with its obligations under the AWR 2010.
- 12.4 The Employment Business will pay any Temporary Worker who has acquired Qualifying Rights paid time off to attend pre-natal appointments, but the Employment Business shall recharge the cost of such time to the Client.
- 12.5 All Temporary Workers, relief chefs and freelance chefs are not employees of Operational Chef Consultant.
- 12.6 Operational Chef Consultant (Agent) will charge the Client) the Negotiated Hourly Fee each hour the Temp works, the Hourly Fee will be doubled between the hours of 12 AM to 6 AM and also Bank Holidays and tripled on Christmas Day and New Years Day. More senior roles command different rates, these are available on request.
- 12.7 Minimum contracted Daily hours for an assignment will be 6 hours and no less.
- 12.8 Minimum contracted hours per day/shift will be 6 hours.
- 12.9 A minimum total of 40 hours is required when 5 days are to be worked within a week, this is in addition to the 6 hour minimum daily hours outlined by clause 12.8.
- 12.10 If the client was to cancel any assigned work arrangement with the employment Business, the client would need to give at least 12 hours notice, anything under 12 hours notice the client would need to provide a 6 hour fee on the rate of booking to compensate for the changes.
- 12.11 If a Worker is not located in the geographical area of a job, the client will be willing to cover the cost of the Temporary Worker's travel expenses to the job site on a one way basis.
- 12.12 If the Temp is from Outside his normal working area suitable Accommodation must be provided.
- 12.13 The charges are invoiced to the Client weekly and are to be paid within 3 days (CREDIT) from receipt of invoice.
- 12.14 COMMENCEMENT OF CONTRACT is by signing this document. Payments must be sent to Operational Chef Consultant with a cash Bacs payment.
- 12.15 The Employment Business reserves the right to charge interest on any overdue amounts, which you will be notified prior to interest being charged. Any overdue payment not paid within the credit period will be forwarded to our debt collection agency, further action will be taken and further charges will be incurred.

TEMP/PERM CHEFS—PRIVATE EVENTS—BUSINESS CONSULTANCY



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