

Terms and Conditions for The Supply of Temporary Staff

HIRER DETAILS

COMPANY NAME _____

COMPANY REG No. _____

CONTACT NAME _____

POSITION _____

ADDRESS _____

P/CODE _____

TEL _____ FAX _____

ARE PURCHASE ORDERS REQUIRED YES / NO
(Delete as applicable)

Employment Business Name & Address:-

Tel: _____

AGENT I.D. _____

Category	Hourly Charge Rate	Overtime Charge Rate

ARE EXPENSES PAYABLE / CHARGEABLE YES / NO (Delete as applicable)
(If Yes give details here)

NAME OF THE COMPANY TO BE INVOICED _____

INVOICE ADDRESS IF DIFFERENT FROM ABOVE _____

SPECIAL INSTRUCTIONS

Introduction/Transfer fee (clause 3.5.1)

_____ % Annual Commencing gross Pay

Multiple of _____ times Hourly rate

Rehire Period (clause 3.5.2)

Length _____

Rate _____

ON BEHALF OF THE
EMPLOYMENT BUSINESS

ON BEHALF OF THE HIRER

Signed _____

Signed _____

Print name _____

Print Name _____

DATED _____

DATED _____

***PLEASE READ THE TERMS & CONDITIONS ON REVERSE BEFORE SIGNING**

TERMS AND CONDITIONS FOR THE SUPPLY OF TEMPORARY STAFF

1 Interpretation

1.1 In these terms of business ('the Terms') the following expressions shall be given the following meanings:

"Act" means the Data Protection Act 1998 (and the Data Protection Act 1984 where applicable).

"Assignment" means the period during which a Temporary performs services or carries out work for or on behalf of the Client as agreed between the Client and the Company, commencing at the time the Temporary first reports to the Client to take up duties (or, if earlier, the commencement by the Temporary of such work or services) and ending upon the cessation by the Temporary of all such work and services.

"The Client" means any person, firm or corporation who approaches the Company with a view to placing an order with the Company for the introduction or supply of a Temporary.

"The Company" means the recruitment company, agency or employment business identified as such in the Contract.

"Contract" means the contract formed between the Company and the Client for the supply of a Temporary which incorporates these Terms.

"Month" means a calendar month.

"NM" means New Millennia [Contracts] [Payroll Services] Limited or any of its subsidiary, associated or holding companies, on whose behalf the Company acts as duly authorised agent for the purpose of binding NM to the Terms below numbered 5, 6, 7 and 8 which are the only Terms applicable to NM.

"Personal Data" means such data as defined in section 1(1) of the Data Protection Act 1998 (and the Data Protection Act 1984 where applicable);

"Temporary" means any person who is introduced or supplied by the Company to the Client with a view to carrying out work for the Client.

"Regulations" means the Conduct of Employment Agencies and Employment Businesses Regulations 2003 SI No. 3319 and "Regulation" followed by a number shall mean that regulation in the Regulations;

"Week" means 7 consecutive days commencing at 0.01 hours on a Monday and ending at midnight on the next following Sunday.

1.2 In these Terms words importing the singular shall include the plural and vice versa and words importing the masculine gender shall include the feminine gender and vice versa.

1.3 All and any business undertaken by the Company is transacted subject to these Terms, all of which shall be incorporated in the Contract. In the event of any conflict between these Terms and any other terms and conditions, these Terms shall prevail unless expressly otherwise agreed in writing by a Director or other authorised officer of the Company and NM. No variation in these Terms shall be valid if made without the written consent of a Director or other authorised officer of the Company and NM.

1.4 The interviewing or acceptance by or on behalf of the Client or the commencement of work (whichever first occurs) by or passing of information to a third party about, any Temporary shall be deemed introduction of the Temporary to the Client and acceptance of and agreement to these Terms.

1.5 The complete or partial invalidity or unenforceability of any provision herein for any purpose shall in no way affect the validity or enforceability of such a provision for any other purpose or the remaining provisions. Any such provision shall be deemed to be severed for that purpose subject to such consequential modification as may be necessary for the purpose of such severance.

1.6 The Company introduces or supplies a Temporary to the Client acting as an employment business for the purpose of the Employment Agencies Act 1973 and the Temporary may in some cases be employed under a contract of service with the Company and in others be self-employed under a contract for services. The capacity of the Temporary for each Assignment will be agreed in conformity with Regulation 21.

1.7 These Terms supersede all previous terms of business issued to the Client by the Company and/or by NM and contains the entire agreement between the parties.

2 Obligations of the Company

2.1 The Company will use reasonable endeavours to introduce to the Client a suitable Temporary to carry out work for the Client of such nature as the Client shall notify to the Company when placing its order for a Temporary. The Client accepts however that no warranty as to the suitability of the Temporary can be given by the Company and no liability will be accepted by the Company for any loss, expense, damage or delay arising from any failure to provide any particular Temporary for all or part of an Assignment or from any act or omission of the Temporary whether negligent, dishonest, wilful, fraudulent, reckless or otherwise amounting to misconduct or lack of skill.

2.2 The Company shall in the conduct of its business and dealings with the Client and the Temporary have regard to the provisions of all laws and regulations regulating the conduct of employment businesses and ensure insofar as is within the Company's reasonable control that such laws and regulations are complied with.

2.3 The Company will at the time of introducing a Temporary to the Client confirm to the Client in relation to the Temporary his or her identity; possession of any necessary or requisite training, qualifications and experience including authorisations required by law or any regulatory body; the capacity in which the Temporary will be engaged by the Company and that the Temporary is willing to work in the Assignment.

2.4 Where the information in clause 2.3 is not given in the form of electronic communication or paper copy it will be conveyed in such manner by the end of the third business day following unless Regulation 21(3) applies.

3 Obligations of the Client

3.1 The Client warrants and represents to the Company that it

3.1.1 has given the Company all relevant information available to the Client to enable the Company to select a suitable Temporary for the work to be performed by the Temporary; and

3.1.2 has advised all known risks to health and safety and the steps taken by the Client to control them; and

3.1.3 has given full details of any experience, training, qualifications and authorisations considered necessary or required by law for the Temporary to have; and

3.1.4 knows of no reason why it would damage the interests of the Temporary to fulfil the Assignment.

3.2 The Client shall not allow any Temporary to undertake any work other than that which has, in accordance with clause 3.1, been notified by the Client to the Company when placing its order for such Temporary.

3.3 The Client shall verify at the time that the Temporary begins to render services for or on behalf of the Client that the Temporary is suitable for the purposes for which he is required and that he has the capability to carry out the duties required, including the operation of any machinery or vehicles.

3.4 Each Temporary carrying out work for the Client is throughout the duration of the Assignment deemed to be under the supervision, direction and control of the Client who agrees to be responsible for all acts, errors or omissions whether wilful, negligent, reckless or otherwise as though the Temporary were on the payroll of the Client. The Client will in all respects comply with all statutes, 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 6 but including in particular (but not limited to) the provision of adequate Employers' and Public Liability insurance cover for the Temporary during the Assignment.

Signed..... Print Name..... Dated.....

- 3.5.1 The engagement, employment or use of a Temporary or former Temporary introduced or supplied by the Company directly, by the Client or any third party or by the Client through any other employment business on a permanent or temporary basis, whether under a contract of service or for services; an agency, licence, franchise or partnership arrangement; or any other engagement, directly or through a limited company of which the Temporary is an officer or employee, renders the Client (subject to clause 3.5.2) liable to the payment of an introduction or transfer fee (plus VAT) calculated at the percentage of the annual commencing gross taxable remuneration and taxable emoluments payable by the Client (or other employer) to the Temporary concerned stated on page 1. Where the amount of the annual commencing remuneration is not readily ascertainable the introduction fee will be calculated as a multiple of the number stated on page 1 times the hourly charge at which the Temporary was last supplied to the Client by the Company.
- 3.5.2 Instead of paying any introduction or transfer fee calculated as stated in clause 3.5.1, the Client may by written notice to the Company, given before the direct engagement of the Temporary, elect for a further re-hire period of such length and at such rate as is specified on page 1 but otherwise on the same terms. Subject to the Temporary and the Client completing or the Client paying the Company for such further re-hire period there will be no introduction or transfer fee payable in respect of any employment after that of the Temporary by the Client. Clause 3.5.2 does not apply where, following a supply of the Temporary to the Client the Temporary becomes engaged by a third party introduced by the Client.
- 3.5.3 The introduction or transfer fee shall become due if the engagement of the Temporary starts either after introduction but prior to the supply of the Temporary having been supplied to the Client or where the Temporary has been supplied to the Client within a period (determined in accordance with Regulation 10(5) and (6)) of 8 weeks from the termination of any Assignment or within 14 weeks of the initial introduction of the Temporary to the Client under the Assignment whichever is later. The Company will make no refund of the introduction fee to the Client in the event of the subsequent termination of such engagement.
- 3.6 The Client hereby indemnifies and shall keep indemnified the Company against all losses, costs, claims and liabilities incurred by the Company arising out of any non-compliance by the Client of its obligations or these Terms or any Assignment.

4 Time sheets

- 4.1 The Client agrees to verify and sign the Company’s time sheets each week. Signature of such time sheets by the Client constitutes acceptance that the Temporary has worked satisfactorily for the hours indicated on the time sheet, that the Client agrees and accepts these Terms and that the Client will pay all charges in accordance with clause 5 in full without dispute or deduction.
- 4.2 Failure to sign the time sheet does not alter the Client’s liability to pay NM the amount due for all hours actually worked by the Temporary.
- 4.3 If the Client disputes the hours claimed on a particular timesheet the Client shall inform the Company promptly and co-operate with the Company to establish the number of hours worked by the Temporary. The Client shall not be entitled to refuse signing a timesheet because the Temporary is unsatisfactory and this is dealt with in clause 7.

5 Fees

- 5.1 The Client shall, as the Company hereby directs, pay directly to NM for the Company’s supply of each Temporary against invoices raised weekly by NM and sent to the Client with a copy of the Company’s timesheet, the hourly or daily charge (calculated by reference to period worked) for all work done by each Temporary as stated in the Contract and notified to the Client at the time of booking and such additional travel, hotel and other expenses as may be agreed between the Client and the Company. VAT shall be paid in addition at the prevailing rate where and to the extent applicable.
- 5.2 All moneys due to be paid to NM hereunder shall be paid by the Client within 30 days of the date of each weekly invoice raised by NM. Any breach of this clause 5.2 shall entitle the Company to terminate without prior notice each and every Assignment concluded under these Terms between the Company and the Client.
- 5.3 NM shall have the right to charge the Client interest in respect of any amount outstanding after the period for payment set out in clause 5.2 (both before and after any judgment) from the date of invoice up to and including the day of payment at the rate of 3% above the Bank of England base rate from time to time per month. All collection costs incurred by NM and/or the Company will be payable by the Client.
- 5.4 The Client acknowledges that NM holds a CIS5 Certificate and therefore agrees in relation to any Temporary supplied in the construction industry to pay all NM invoices (gross) in line with the certifying document method. The Client acknowledges that no C.I.T.B. levy will be deducted from any NM invoices.
- 5.5 Invoices are payable in full and are not conditional on tachograph readings. The Client must check tachographs and keep a copy of readouts prior to signing timesheets.
- 5.6 Except as stated in clause 7.1 there are no circumstances in which any refund or rebate is payable to the Client.

6 Payment of Temporary and Statutory deductions

- 6.1 NM shall, subject to clause 4 being complied with, assume responsibility for payment of all fees or hourly/daily rates of remuneration due from the Company to the Temporary together with any expenses and other payments due, deduction and payment of all statutory contributions in respect of earnings related National Insurance Contributions and the administration of Schedule E income tax (PAYE) applicable to the Temporary as required by law.

7 Unsatisfactory Temporary procedure; Termination

- 7.1 The Client undertakes to supervise the Temporary sufficiently to ensure the Client’s satisfaction with reasonable standards of workmanship. If the Client, acting reasonably decides the Temporary is unsatisfactory to do the work required by the Client then (subject to the Client having complied in all respects with his obligations in clauses 3.1 to 3.5 and 10.2 the Client may terminate the Assignment either by telling the Temporary to leave the Assignment immediately or by asking the Company to remove and NM to cease to pay the Temporary. NM may (but shall not be obliged to) in such circumstances reduce or cancel any relevant invoice for charges raised for the time worked by the Temporary in question provided that the Assignment in respect of which the Temporary is deemed unsatisfactory ends :-
 - (a) within two hours of the Temporary commencing duties where the booking is for more than seven hours; or
 - (b) within one hour for bookings of seven hours or less;
 and also provided that verbal notification of the unsuitability of the Temporary is confirmed in writing to the Company and NM within 48 hours.
- 7.2 The Client shall give the Company and if relevant NM such co-operation as the Company or NM may reasonably request (including but not limited to the production of relevant documents and the attendance of witnesses) at the Client’s expense in any internal disciplinary proceedings, employment tribunal proceedings or other legal proceedings in relation to the performance or conduct of any Temporary the Client decides is unsuitable.
- 7.3 The Client, Temporary and the Company may terminate an Assignment at any time without prior notice or liability.

8 Liability and indemnity

8.1 Neither the Company nor NM nor any of their respective staff shall be liable to the Client for any loss, injury, damage, expense or delay incurred or suffered by the Client arising directly or indirectly from or in any way connected with :

8.1.1 failure of the Temporary to meet the requirements of the Client for all or any of the purposes for which he is required by the Client (subject to clause 7);

8.1.2 any loss, injury, damage, expense or delay incurred or suffered by failure to provide a Temporary;

8.1.3 any claim by or on behalf of any Temporary that there existed during the term of this Agreement a contract of employment between the Client and such Temporary; or

8.1.4 any income tax, National Insurance contributions, interest and/or penalties thereon arising in respect of the Temporary for which the Client may be called upon to account to the Inland Revenue (other than as a result of the failure of NM to comply with its obligations in clause 6);

PROVIDED THAT nothing in this clause 8 shall be construed as purporting to exclude or restrict any liability of the Company to the Client for personal injury or death resulting from negligence of the Company (as defined in the Unfair Contract Terms Act 1977) nor any statutory liability or any exclusion or limitation which is prohibited by law.

8.2 In consideration of the Company and NM entering into the Contract with the Client, the Client hereby undertakes to indemnify each of the Company and NM in respect of any and all liability of the Company and NM for:

8.2.1 any loss, injury, expense or delay suffered or incurred by a Temporary, howsoever caused;

8.2.2 any loss, injury, damage, expense or delay suffered or incurred by anyone arising directly or indirectly from or in any way connected with the acts and omissions of a Temporary, whether wilful, reckless, fraudulent, negligent, dishonest or otherwise; and

8.2.3 any loss, injury or delay suffered or incurred by the Company or by NM as a result of any act or omission of the Client;

PROVIDED THAT this indemnity is given only in respect of any such loss, injury, damage, expense or delay caused during or arising directly out of or in any way connected with the relevant Assignment.

8.3 The Client acknowledges that the limitations and exclusions of the obligations and liabilities of the Company and NM set out herein are reasonable and reflected in the charges payable under this Agreement and shall accept risk and/or insure accordingly.

9 Law

9.1 These Terms shall be governed by and construed in accordance with the laws of England and Wales.

10 Miscellaneous

10.1 Where the Client has required the Company to introduce or supply a Temporary for purposes which include the operation of motor vehicles, the Company shall take all reasonable steps to enquire whether the Temporary is the holder of a current licence to drive a vehicle of the class or description notified to the Company by the Client.

10.2 The Client acknowledges that each Temporary introduced or supplied to the Client for purposes which include the driving of vehicles is introduced or supplied to the Client on the Client’s express warranty:

10.2.1 that it is the holder of a valid operator’s licence under the Transport Act 1968 where this is required and will permit the Company to inspect the same;

10.2.2 that it will take all necessary steps to ensure that any Temporary complies with the provisions of the Transport Act 1968 and all other road transport legislation;

10.2.3 that it will take all steps that may be required by law in relation to the insurance, maintenance and safety of vehicles, and will in particular satisfy itself that such vehicles are road worthy and properly maintained and shall under no circumstances require the Temporary to check such matters; and

10.2.4 that it will control the driving duties of each Temporary, their journeys and hours of work and comply with all statutory duties in that regard and in respect of driving licences, tachographs and logbooks.

10.2.5 that hours worked by the Temporary will be calculated by reference to actual hours worked and not hours driven as measured by tachograph readings.

10.3 To assist the Client in complying with the relevant provisions of the Transport Act, the Company agrees to provide the Client upon request with such information as is available to the Company about any driving assignments carried out by the Temporary in the seven days immediately preceding the commencement of an Assignment with the Client, provided the Temporary shall have worked for a client of the Company during those seven days.

11. Data Protection

11.1 The Client warrants to the Company that the Client has given notification under the Act and will maintain such notification for the duration of the Contract.

11.2 The Client warrants that it shall process Personal Data in accordance with the provisions and principles of the Act.

11.3 The Client indemnifies the Company against all claims and proceedings and all liability, loss, costs and expenses incurred in connection with any claims and proceedings made or brought by any person in respect of any loss damage or distress caused to that person by breach of the provisions of this clause or the Act by the Client, its staff or agents.

11.4 All Personal Data supplied to the Client by the Company is proprietary to the Company and shall not be used by the Client for any purposes other than for the performance of the Contract and Assignment

12. Third Party Rights

12.1 The Contract and these Terms do not create any right enforceable by any person who is not a party, except that:

12.1.1 the terms of this Contract and the rights under paragraphs 1.3;1.7; 4;5;6;7;8 and this paragraph 12 may be enforced by NM subject to and in accordance with the terms of this Contract and those paragraphs and the Contracts (Rights of Third Parties) Act 1999; and

12.1.2 a person who is the permitted successor to or assignee of the rights of a party is deemed to be a party to this Contract and the rights of such successor or assignee shall, subject to and upon any succession or assignment permitted by this Contract, be regulated by the terms of this Contract.

12.2 Notwithstanding that any term of this Contract may be or become enforceable by a person who is not a party to it, the terms of this Contract or any of them may be varied, amended or modified or this Contract may be suspended, cancelled or terminated by agreement in writing between the parties or this Contract may be rescinded (in each case), without the consent of any such third party.

Signed..... Print Name..... Dated.....