



## Employment Services Ltd

### SUPPLYING TEMPORARY STAFF SERVICES – CLIENT TERMS OF BUSINESS

#### 1. DEFINITIONS

In these Terms of Business the following definitions apply:

**“Assignment”** means the period during which the Temporary Worker 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 1985 to whom the Temporary Worker is supplied or introduced;

**“The Employment Business”** Unique Employment Services Limited of 5 Castle Street Luton LU1 3AA

**“Engages/Engaged/Engagement”** means the engagement, employment or use of the Temporary Worker directly by the Client or any third party or through any other employment business 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; directly or through a limited company of which the Temporary Worker is an officer or employee

**“Temporary Worker”** means the individual who is introduced by the Employment Business to render services to the Client.

**“Transfer Fee”** means the fee payable in accordance with clause 7.1 below and Regulation 10 of the Conduct of Employment Agencies and Employment Businesses Regulations 2003.

**“Introduction Fee”** means the fee payable in accordance with clause 7.2 below and Regulation 10 of the Conduct of Employment Agencies and Employment Businesses Regulations 2003.

**“Introduction”** means (i) the Client’s interview of a Temporary Worker in person or by telephone, following the Client’s instruction to the Employment Business to supply a Temporary Worker; or (ii) the passing to the Client of a curriculum vitae or information which identifies the Temporary Worker; and which leads to an Engagement of that Temporary Worker.

**“Working Time”** means working time as defined under the Road Transport (Working Time) Regulations 2005, namely, time consisting of those periods during which the Temporary Worker is at their workstation at the disposal of the Client and exercising his/her functions or activities, and that such periods of time are devoted to road transport activities, such as driving, loading, and unloading, assisting passengers boarding the vehicle, cleaning and maintenance of the vehicle, and all other work intended to enhance the safety of the vehicle, cargo and passengers or to fulfil the legal or regulatory obligations directly linked to the specific transport operations.

**“Periods of Availability”** means periods of waiting time as defined under the Road Transport (Working Time) Regulations 2005, namely, periods of waiting time whose duration is known about in advance by the Temporary Worker. Such periods of time consist of time spent when the Temporary Worker is not required to remain at his/her workstation, but must be available to answer calls to start or resume driving or other work on request; and the period and the foreseeable duration is known in advance by the mobile worker, either before departure or just before the start of the period of availability in question.

**“Mobile Worker”** is any worker forming part of the travelling staff who is in the service of an undertaking which operates road transport services for passengers or the movement of goods

**“EU Drivers Hours Rules”** means Community Drivers’ Hours Regulation (EC) 561/2006

**“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 taxable (and, where applicable, non-taxable) emoluments payable to or receivable by the Temporary Worker for services rendered to or on behalf of the Client or any third party. Where a company car is provided, a notional amount of [specify] will be added to the salary in order to calculate the Employment Business’ fee.

Unless the context otherwise requires, references to the singular include the plural.

The headings contained in these Terms are for convenience only and do not affect their interpretation.

#### 2. THE CONTRACT

**2.1** These 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 about the Temporary Worker to any third party following an Introduction.

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 put forward by the Client.

No variation or alteration to these Terms shall be valid unless the details of such variation are agreed between 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.

### **3. CHARGES**

**3.1** The Client agrees to pay such hourly charges of the Employment Business as shall be 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 mainly the Temporary Worker's pay but also include the Employment Business' commission calculated as a percentage of the Temporary Worker's pay, employer's National Insurance contributions and 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. VAT, if applicable, is payable on the entirety of these charges.

The charges are invoiced to the Client on a weekly basis and are payable within 14 days.

**3.2** There are no rebates payable in respect of the charges of the Employment Business.

**3.3** The Client agrees to pay the Employment Business' charges in respect of the number of hours worked by the Temporary worker. For the avoidance of doubt, for mobile workers involved in operations subject to EU Drivers Hours Rules, the number of hours worked by the Temporary Worker during the week comprises of the total number of hours Working Time and the total number of hours spent as Periods of Availability as defined under the Road Transport (Working Time) Regulations 2005. Clients will not be charged for rest breaks during a shift taken by a Temporary Worker in line with EU Drivers Hours Rules or under the Road Transport (Working Time) Regulations 2005.

**3.4** The Employment Business assumes responsibility for keeping and maintaining records of the Temporary Worker's Working Time and night work under the Road Transport (Working Time) Regulations 2005.

### **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 of the identity of the Temporary Worker; 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; whether the Temporary Worker will be employed by the Employment Business under a contract of service or apprenticeship or a contract for services; and that the Temporary Worker is willing to work in the Assignment.

### **5. TIME SHEETS**

**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 one week or less) the Client shall sign the Employment Business' time sheet verifying the number of hours worked by the Temporary Worker 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 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 time sheet does not absolve the Client's 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 he is dissatisfied with the work performed by the Temporary Worker. In cases of unsuitable work the Client should apply the provisions of clause 10.1 below.

### **6. PAYMENT OF THE TEMPORARY WORKER**

**6.1** 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.

### **7. TRANSFER AND INTRODUCTION FEES**

**7.1** Where there has been a supply

**7.1.1** In the event of the Engagement by the Client of a Temporary Worker supplied by the Employment Business either (1) directly or (2) pursuant to being supplied by another employment business, within either The duration of the Assignment; 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 considered to be the 'first Assignment' for these purposes); or 8 weeks from the day after the last day the Temporary Worker worked on the Assignment.

The Client shall be liable, to either an extended period of hire as set out in 7.1.3 below or a Transfer Fee calculated in accordance with 7.1.2 below. The Client must give the Employment Business 7 days written notice in advance of the Engagement of whether it has elected to take the period of extended hire or to pay the Transfer Fee. However, where the client does not give such notice before the Temporary Worker is engaged the parties agree that the Transfer Fee shall be due.

#### Transfer Fee

**7.1.2** The Transfer Fee shall be such proportion of the amount calculated as follows: 15% of the Remuneration applicable during the first 12 months of the Engagement or, if the actual amount of the Remuneration is not known, the hourly charges referred to in clause 3.1 multiplied by 400 hours as set out below:

Where the Temporary Worker supplied has been directly or indirectly Engaged by the Client within 13 weeks from the commencement of the Assignment the Transfer Fee shall be 100%.

Where the Temporary Worker supplied has been directly or indirectly engaged by the Client more than 13 weeks the Transfer Fee shall be 50%.

Where the Temporary Worker supplied has been directly or indirectly Engaged by the Client more than 26 weeks after the commencement of the Assignment the Transfer Fee shall be £nil.

#### Extended Period of Hire

The Extended period of hire shall be whichever of the following is most appropriate;

Where the Assignment is for a fixed period, and that period has not expired, the period ending 6 weeks after the scheduled end date of the Assignment;

Where the Assignment is for a fixed period, and that period has expired, 12 weeks; or

Where the Assignment is of no fixed duration, 18 weeks.

If the Client elects for an extended period of hire, as set out above, but before the end of such period Engages the Temporary Worker supplied by the Employment Business either directly or pursuant to being supplied by another employment business or the Temporary Worker chooses not to be supplied for an extended period of hire, the Transfer Fee calculated in accordance with 7.1.2 may be charged, reduced by such percentage to reflect the period of extended hire already undertaken by the Temporary Worker and paid for by the Client\*.

\*Note: For example if a Worker leaves 3 weeks into an extended period of hire due to last 6 weeks the amount charged will be 50% of the Transfer Fee.

No refund of the Transfer Fee will be paid in the event that the Engagement subsequently terminates.

VAT is payable in addition to any fee due.

#### **7.2** Where there has been an Introduction but no supply

**7.2.1** 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 which leads to an Engagement of the Temporary Worker by the Client either (1) directly or (2) pursuant to being supplied by another employment business with 6 months of the date of the Introduction the Client shall be liable, to either an extended period of hire as set out in 7.2.3 or an Introduction Fee calculated in accordance with 7.2.2 below. The Client must give the Employment Business 7 days written notice in advance of the Engagement of whether it has elected to take the period of extended hire or to pay the Introduction Fee. However, where the client does not give such notice before the Temporary Worker is engaged the parties agree that the Introduction Fee shall be due.

#### Introduction Fee

**7.2.2** The Introduction Fee shall be calculated as follows: 15% of the Remuneration applicable during the first 12 months of the Engagement or, if the actual amount of the Remuneration is not known, the hourly charges multiplied by 400 No refund of the Introduction Fee will be paid in the event that the Engagement subsequently terminates. VAT is payable in addition to any fee due.

#### Extended Period of Hire

**7.2.3** The Extended period of hire will be whichever of the following is most appropriate: -

Where the Assignment is for a fixed period, the period ending 6 weeks after the scheduled end date of the Assignment; or

Where the Assignment is of no fixed duration, 18 weeks.

**7.2.4** If the Client elects for an extended period of hire, as set out above, but before the end of such period Engages the Temporary Worker supplied by the Employment Business either directly or pursuant to being supplied by another employment business or the Temporary Worker chooses not to be supplied for an extended period of hire, the Introduction Fee calculated in accordance with 7.2.2 may be charged, reduced by such percentage to reflect the period of extended hire already undertaken by the Temporary Worker and paid for by the Client.

#### **7.3** Temp to third party transfer fees where there has been a supply.

In the event that the Temporary Worker supplied to a Client is introduced by the Client to a third party that results in the Engagement of the Temporary Worker by the third party within either The duration of the Assignment; 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 considered to be the 'first Assignment' for these purposes); or 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 as follows 15% of the Remuneration applicable during the first 12 months of the Engagement or, if the actual amount of the Remuneration is not known, the hourly charges multiplied by 400 No refund of the Transfer Fee will be paid in the event that the Engagement subsequently terminates. VAT is payable in addition to any fee due.

**7.4** 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 a third party** which results in the 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 as follows: 15% of the Remuneration applicable during the first 12 months of the Engagement or, if the actual amount of the Remuneration is not known, the hourly charges agreed pursuant to clause 3.1 multiplied by 400 No refund of the Introduction Fee will be paid in the event that the Engagement subsequently terminates. VAT is payable in addition to any fee due.

## **8. LIABILITY**

**8.1** Whilst every effort is made by the Employment Business to give satisfaction to the Client by ensuring reasonable standards of skills, integrity and reliability from Temporary Workers and further to provide them in accordance with the Client's booking details, 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 period of booking or from the negligence, dishonesty, misconduct or lack of skill of the Temporary Worker. For the avoidance of doubt, the Employment Business does not exclude liability for death or personal injury arising from its own negligence.

**8.2** 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. The Client will also comply in all respects with all statutes including, for the avoidance of doubt, the Working Time Regulations, Health and Safety At Work Act etc, 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 above), including in particular the provision of adequate Employer's and Public Liability Insurance cover for the Temporary Worker during all Assignments.

**8.3** 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 by any professional body, which must be satisfied if the Temporary Worker is to fill the Assignment. For Temporary Workers who are mobile workers working in operations subject to EU Drivers Hours Rules, the Client will assist the Employment Business in complying with the Employment Business's duties under EU Drivers Hours Rules and the Road Transport (Working Time) Regulations 2005 by supplying relevant information about the Assignment requested by the Employment Business including copies of tachograph charts for Temporary Workers. Furthermore the Client agrees not do anything to cause the Employment Business to be in breach of its obligations under the EU Drivers Hours Rules and the Road Transport (Working Time) Regulations 2005.

**8.3.1** For Temporary Workers who are mobile workers working in operations not subject to EU Drivers Hours Rules and Temporary workers who are not mobile workers, 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. Where the Client requires or may require the services of a Temporary Worker for more than 48 hours in any week, the Client must notify the Employment Business of this requirement before the commencement of that week.

**8.3.2** The client undertakes that transport time schedules shall conform to the requirements of EU Drivers Hours Rules and the Road Transport (Working Time) Regulations 2005.

**8.4** 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.

**8.5** The Client shall indemnify and keep indemnified the Employment Business against any costs, claims or liabilities incurred by the Employment Business arising out of any Assignment or arising out of any non-compliance with clauses 8.2 and 8.3 and/or as a result of any breach of these Terms by the Client.

## **9. SPECIAL SITUATIONS**

**9.1** Temporary Drivers are supplied by the employment business on the sole understanding that the client holds an operator's licence under the Goods Vehicle (Licensing of Operators) Act 1995 when required.

**9.2** As far as is possible, the Employment Business will check references of drivers and will examine driving licences and permits; notwithstanding this, the client agrees to take direct responsibility for all statutory duties where applicable in respect of driving licences and permits, drivers' hours and records, the issue and collection of tachograph cards, maintenance and safety of vehicles, Health and Safety Regulations, and Road Traffic and liability insurances, including but not limited to fully comprehensive insurance for the vehicle to be driven and its contents.

**9.3** To assist clients in complying with the relevant provisions of the Goods Vehicle (Licensing of Operators) Act 1995, the Employment Business agrees to provide the Client upon request with such information as is available to the Employment Business about any driving assignments carried out by the driver in the seven days immediately preceding the commencement of an assignment with the client, provided the driver shall have worked for a client of the Employment Business during those seven days

**9.4** The client shall on request permit the Employment Business to inspect its operator's licence and policies of insurance for the vehicles to be driven by the Temporary Worker

**9.5** Where the Temporary Worker is required by law, or any professional body to have any qualifications or authorisations to work on the Assignment or the Assignment involves caring for or attending one or more persons under the age of eighteen or any person who by reason of age, infirmity or who is otherwise in need of care or attention, the Employment Business will take all reasonably practicable steps to obtain and offer to provide to the Client:

Copies of any relevant qualifications or authorisations of the Temporary Worker, and

Two references from persons not related to the Temporary Worker who have agreed that the references they provide may be disclosed to the Client

and has taken all reasonably practicable steps to confirm that the Temporary Worker is suitable for the Assignment. If the Employment Business is unable to do any of the above it shall inform the Client of the steps it has taken to obtain this information in any event.

## **10. TERMINATION**

**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 such circumstances, reduce or cancel the charges for the time worked by that Temporary Worker, provided that the Assignment terminates: -

Within four hours of the Temporary Worker commencing the Assignment where the booking is for more than seven hours; or

Within two hours for bookings of seven hours or less;

And also 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** Any of the Client, the Employment Business or the Temporary Worker may terminate an Assignment at any time 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 notifies the Client that the Temporary Worker is unable to attend work for any reason.

**10.4** The Employment Business shall notify the Client immediately if it receives or otherwise obtains information which gives it reasonable grounds to believe that a Temporary Worker supplied to the Client is unsuitable for the Assignment and shall terminate the Assignment under the provisions of clause 10.2.

## **11. LAW**

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