



TERMS & CONDITIONS OF BUSINESS

1. DEFINITIONS

1.1 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;

"The Business" means The Business and/or any subsidiary or associated company (as defined by the Companies Act 1985) of The Business;

"Temporary Worker" means the person (including where appropriate, a body corporate) whose services are supplied by Top-Up Solutions to the Client;

1.1 Unless the context otherwise requires, references to the singular include the plural and references to the masculine include the feminine and vice versa.

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

2. THE CONTRACT

2.1 These Terms govern the supply of the Temporary Worker's services by The Business to the Client and are deemed to be accepted by the Client by virtue of an Introduction to or the Engagement of the Temporary Worker.

2.2 No variation or alteration to these Terms shall be valid unless approved by a Director of The Business in writing. Any such variation or alteration shall refer specifically to this clause.

2.3 Unless otherwise agreed in writing by a Director of The Business, these Terms prevail over any terms of business or purchase conditions put forward by the Client, even if such terms are put forward by the Client subsequent to these Terms being brought to the Client's attention.

2.4 The Business will decline to accept any instructions to source Temporary Workers where it believes that instruction to amount to unlawful discrimination.

3 CHARGES

3.1 The Client agrees to pay the hourly charges of The Business as notified at the commencement of the Assignment and as may be varied from time to time during the Assignment. The charges are calculated according to the number of hours worked by the Temporary Worker (rounded up to the nearest quarter hour). The charges are comprised mainly of the Temporary Worker's remuneration (including Holiday Pay under the Working Time Regulations 1998) but also include The Business' fees, 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 is payable on the entirety of these charges.

3.2 The charges are invoiced to the Client on a weekly basis and are payable in full by the Client within 14 days of the date of invoice without abatement, set-off or deduction. The parties further agree that these Terms govern a contract to which the Late Payment of Commercial Debts (Interest) Act 1998 applies and that The Business is entitled to interest there under on all sums due from the Client. In the event that the Client fails to make payment in full

in accordance these Terms, the Client acknowledges that The Business will be entitled to treat the failure to make payment as evidence of the Client's insolvency for the purpose of s123 of the Insolvency Act 1986, and/or to withdraw forthwith and without liability the services of any Temporary Workers then being supplied to the Client.

3.3 The Client acknowledges the importance to The Business of cash flow considerations and that to ensure its continued operation The Business remunerates its Temporary Workers (including the Temporary Worker engaged by the Client under these Terms) by reference to the time sheets completed by the Temporary Worker. Accordingly, and subject to clause 3.4 below, the following provisions shall apply;

3.3.1 Each and every time sheet signed by an employee, officer or representative of the Client shall be conclusive evidence of the number of hours worked by the Temporary Worker and shall be conclusive evidence of the Client's satisfaction with the tasks for which he was engaged during the said number of hours, the standard of his workmanship and his competence.

3.3.2 A certificate, signed by a director or company secretary of The Business shall be conclusive evidence of the total sum due from the Client to The Business in respect of the Temporary Worker in relation the Engagement as at the date of the said certificate.

3.4 Clause 3.3.1 shall be of no effect if and only if within 6 days of an invoice being rendered by The Business to the Client, the Client makes specific complaint in writing, to The Business' registered office. The said complaint shall be effective only if it;

3.4.1 refers to the Client's rights under this clause;

3.4.2 cites the name of the Temporary Worker, if possible.

3.4.3 Sets out with reasonable and sufficient particularity the nature of the matters complained of, the date and time on which they occurred, and the names of any witnesses or other parties thereto.

3.4.4 sets out the amount which is in dispute and which the Client intends to withhold or set off as a result of the complaint particularised in compliance with clause 3.4.3 above, and indicates how that amount is made up.

3.4.5 Indicates any further steps which it reasonably requires The Business to take in order to obviate the matters complained of.

3.5 Clause 3.3.2 shall be without prejudice to either parties' right to subsequently open up, review, revise or seek redetermination of the sum in fact due from the Client to The Business in respect of the Engagement or Assignment (as the case may be) of the Temporary Worker by way of adjudication, arbitration, litigation or otherwise, save that it shall be a condition precedent to any such a reference or claim as initiated by the Client that it shall pay over in cleared funds the sum stated on the face of any certificate rendered by The Business under clause 3.3.2 prior to such reference or claim.

3.6 Time sheets under clause 3.3.1 and certificates under clause 3.3.2 shall be binding (in accordance with these Terms) as to all matters of fact, save insofar as they contain fraud or manifest error.



4. TIME SHEETS

4.1 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 or is completed before the end of a week) the Client shall sign The Business' time sheet verifying the number of hours worked by the Temporary Worker during that week. The Client acknowledges the importance to The Business of the time sheets and of the contractual nature of the time sheets.

4.2 Subject to the terms of clause 3.4 above, signature of a time sheet by the Client shall be conclusive evidence in all proceedings (including but not limited to litigation, adjudication and arbitration) of the Client's satisfaction with the services provided by the Temporary Worker and the number of hours worked. Failure to sign the time sheet does not absolve the Client's obligation to pay the charges in respect of the hours stated to be worked.

5. REMUNERATION

The Business assumes responsibility for payment of the Temporary Worker's remuneration (including Holiday Pay under the Working Time Regulations 1998) and where appropriate, for the deduction and payment of National Insurance Contributions and PAYE Income Tax applicable to the Temporary Worker. However, nothing in these Terms shall make the Temporary Worker an employee of either the Client or The Business.

6. SUITABILITY OF THE TEMPORARY WORKER AND THE LIABILITY OF THE BUSINESS

6.1 The Client must supply to The Business before any Introduction the following information in writing:-

6.1.1 the Client's identity and the nature of its business;

6.1.2 the date on which the Client requires a Temporary Worker to commence work, the duration or likely duration of the work and the length of any notice periods;

6.1.3 the position for which a Temporary Worker is sought, including the type of work the Temporary Worker would be required to do, the location at which and the hours during which he would be required to do it, and any risks to the health or safety of the Temporary Worker known to the Client and the steps which the Client has taken to prevent or control such risks;

6.1.4 the experience, training, qualifications and any authorisations which the Client considers are necessary or required by law or any professional body for a Temporary Worker to possess in order to work in the relevant position, and the ability which the Client considers is necessary for a Temporary Worker to possess in order to do so successfully;

6.1.5 any expenses payable by or to the successful Temporary Worker;

6.2 Whilst reasonable effort is made by The Business to ensure appropriate standards of skill, integrity and reliability from Temporary Workers and further to provide them in accordance with the Client's booking details, The Business is not liable for any loss, expense, damage, delay or disruption arising from any of the following;

6.2.1 provision of a Temporary Worker;

6.2.2 the failure to provide (or replace) any Temporary Worker for all or part of the period of the booking;

6.2.3 the negligence, dishonesty, misconduct or lack of skill of the Temporary Worker in the course of the Assignment;

6.2.4 any negligence or breach of duty on the part of The Business in the 6.3 Nothing in clause 6.2 shall exclude The Business' liability for death or personal injury arising from its own negligence.

6.4 The Client confirms that it is aware of any requirements imposed by law or any professional body which must be satisfied by it and/or the Temporary Worker to enable the Temporary Worker to supply services to the Client in the capacity requested.

6.5 Temporary Workers are engaged by The Business under contracts for services and are not employees of The Business. They are under the sole 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 he were employed by the Client. The Client will also comply in all respects with all statutes including for the avoidance of doubt, the Health and Safety at Work Act 1964, the Working Time Regulations 1998, the Data Protection Act 1998 and all other by-laws, codes of practice and legal requirements to which the Client is ordinarily subject in respect of the Client's own staff, including in particular the provision of adequate Employer's and Public Liability Insurance cover for the Temporary Worker during all Assignments.

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6.6 The Client will take all practicable steps to ensure that no Temporary Worker is treated unfavourably by any person under its control on the grounds of the Temporary Worker's race, sex, disability, religion/belief or sexual orientation.

6.7 The Client shall indemnify and keep indemnified The Business in respect of all claims by any third party caused by, or resulting from, or arising in connection with, the act, omission, default or negligence of the Temporary Worker, and shall further indemnify The Business in respect of all costs, charges or damages in connection therewith, howsoever arising (including but not limited to such as arise under statute, common law, court order or notice by a government department or local authority or officer.

7. LAW

These terms are governed by the law of England and Wales and are subject to the exclusive jurisdiction of the Courts of England and Wales.

8. DATA PROTECTION ACT

The client agrees that The Business may make such enquiries and searches and obtain such references as it considers necessary from any person, firm or company including any credit reference agency (which will keep a record of any search made and will share that information with other businesses). The Business may also make enquiries about the principal directors with a credit reference agency.