

## CONTRACT FOR SERVICES - PAYE AGENCY WORKER

This Agreement is made on **DATE** and is made between:

- (1) **XXXXXX** Limited (Registered in England & Wales No. **XXXXXX**) whose registered office is at **XXXXXXXXX** (**Company**); and
- (2) **NAME** of **ADDRESS** (**Agency Worker**)

### 1. DEFINITIONS AND INTERPRETATION

1.1. In this Agreement, the following definitions apply:

**Additional Payment** means any remuneration which may be payable to the Agency Worker after the Qualifying Period in addition to the Qualifying Pay Rate;

**Agreed Deductions** means a deduction in respect of (i) any previous overpayment made to the Agency Worker (ii) the replacement or repair cost of any property belonging to the Client or the Company which is lost, damaged or not returned by the Agency Worker in accordance with this Agreement and (iii) any other deduction which the Agency Worker agrees can be made from their remuneration from time to time;

**Assignment** means the temporary position or role which the Agency Worker may carry out for the Client pursuant to this Agreement;

**Assignment Schedule** means the document confirming the details of the Assignment, including any Special Conditions;

**AWR** means the Agency Workers Regulations 2010;

**Client** means the person, firm or company (together with any holding, subsidiary or associated company) to whom the Agency Worker is supplied or introduced;

**Conduct Regulations** means the Conduct of Employment Agencies and Employment Businesses Regulations 2003;

**Confidential Information** means all commercial, financial, marketing, technical or other information, trade secrets, knowhow or data of whatever nature relating to the Client or the Company and their business or affairs, in any form whatsoever, which is provided to the Agency Worker or which the Agency Worker becomes aware of during the Assignment but excluding any information which is in the public domain (unless put in the public domain by the Agency Worker in breach of confidentiality);

**Data** means personal data and special/sensitive personal data within the meaning of the Data Protection Legislation;

**Data Protection Legislation** means (i) the Data Protection Act 2018, the General Data Protection Regulation ((EU) 2016/679) (**GDPR**) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the Data Protection Act 2018 or the GDPR;

**Employment Intermediary** means an umbrella company or other third party limited company or partnership through which the Agency Worker may elect to carry out an Assignment;

**Engagement** means the engagement, employment or use of the Agency Worker by the Client or any third party to whom the Agency Worker has been introduced by the Client, on a permanent or temporary basis, whether under a contract of service or for services, through a company of which the Agency Worker is an officer, employee or other representative, through another Company or business or on any other basis whatsoever; "Engage", "Engages" and "Engaged" shall be interpreted accordingly;

**Extended Hire Period** means an extension of the Assignment following expiry of notice given by the Client to extend such Assignment;

**Initial Pay Rate** means the rate which will be paid for each hour or day worked during the Assignment prior to completion of the Qualifying Period, subject to Statutory Deductions and Agreed Deductions;

**Intellectual Property** means any copyright, trade marks, patents, database rights, design rights and other intellectual property rights arising anywhere in the world, whether registrable or not, together with any registration rights in respect of the same;

**Leave Year** means the year beginning on the day on which the Assignment commences;

**Qualifying Earnings** means payments made to the Agency Worker in respect of the Assignment which are used to calculate pension contributions;

**Qualifying Pay Rate** means the rate which will be paid to the Agency Worker upon completion of the Qualifying Period, subject to Statutory Deductions and any Agreed Deductions, as set out in any variation to the Assignment Schedule;

**Qualifying Period** means the 12-week qualifying period set out in Regulation 7 of the AWR;

**Relevant Period** means whichever of the following periods ends later, namely (i) the period of 8 weeks commencing on the day after the day on which the Agency Worker last worked for the Client pursuant to being supplied by the Company or (ii) the period of 14 weeks commencing on the first day on which the Agency Worker worked for the Client pursuant to being supplied by the Company. In determining the first day on which the Agency Worker worked for the Client, no account shall be taken of any supply that occurred prior to a period of more than 42 days during which that Agency Worker did not work for the Client pursuant to being supplied by the Company;

**Site** means the location at which the Assignment is performed by the Agency Worker;

**Special Conditions** means any conditions which are specific to the Assignment, as set out in the Assignment Schedule;

**Statutory Deductions** means any deductions which the Company may be required to make by law including, without limitation, any deductions for PAYE, National Insurance Contributions and pension contributions;

**Transfer Fee** means the fee payable by the Client to the Company in accordance with Regulation 10 of the Conduct Regulations and pursuant to clause 4.5;

**Type of Work** means a role in the TYPE sector as specified by the Agency Worker when registering with the Company or such other role as may be acceptable to the Agency Worker; and

**WTR** means the Working Time Regulations 1998.

- 1.2. Unless the context otherwise requires, references to the singular include the plural and references to the masculine include the feminine and vice versa.
- 1.3. Any phrase introduced by the words including, include, in particular or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those words.
- 1.4. A reference to any legislation shall be deemed to include any amendment or replacement to such legislation from time to time and any secondary legislation which is made thereto.
- 1.5. The headings in this Agreement are for convenience only and do not affect the interpretation of any clause.

## **2. THE AGREEMENT**

- 2.1. This Agreement constitutes a Contract for Services between the Company and the Agency Worker and shall be effective for the period in which the Company provides work-finding services to the Agency Worker and for any period in which the Agency Worker carries out the Assignment under this Agreement.
- 2.2. If the Agency Worker, or any third party acting on behalf of the Agency Worker, notifies the Company that the Agency Worker shall carry out a temporary assignment through an Employment Intermediary, this Agreement shall not apply to such temporary assignment and the Agency Worker's contract shall be with the relevant Employment Intermediary during such period.
- 2.3. This Agreement represents the entire agreement between the Company and the Agency Worker to the exclusion of any other contractual terms which are proposed by the Agency Worker.
- 2.4. The Agency Worker shall be deemed to have accepted this Agreement upon signing the Agreement or otherwise expressly indicating acceptance of the Agreement, commencing the Assignment or submitting any timesheet to the Company, whichever occurs first.
- 2.5. No variation or alteration to this Agreement shall be valid if made during the Assignment unless the details of such variation are agreed between the Company and the Agency Worker, are set out in writing and a copy of the varied agreement is given to the Agency Worker no later than 5 business days following the day on which the variation was made, stating the date on or after which such varied agreement shall apply.
- 2.6. The Agency Worker is engaged as a worker and entitled to certain statutory rights but shall not be an employee of the Company at any time.
- 2.7. For the purposes of the Conduct Regulations, the Company shall act as an employment business.

## **3. WORK-FINDING SERVICES**

- 3.1. The Company will provide work-finding services by using reasonable endeavours to identify Assignments for the Agency Worker to carry out the Type of Work but the Company shall be under no obligation to do so and the Agency Worker shall be under no obligation to accept any Assignment offered by the Company.
- 3.2. During the period in which the Company provides work-finding services, unless otherwise requested by the Agency Worker, the Company may contact the Agency Worker by telephone, email or text message to inform the Agency Worker of potentially suitable Assignments.
- 3.3. The Agency Worker acknowledges that there may be periods when no suitable work is available and agrees that:
  - 3.3.1. the Company shall not be liable to the Agency Worker for not arranging an Assignment or for not submitting the Agency Worker's details to a Client;
  - 3.3.2. the Agency Worker may register with and carry out assignments for any third party provided that such assignments do not adversely affect any Assignment which the Agency Worker is performing through the Company at that time; and
  - 3.3.3. following termination of any Assignment, the Company shall not be under any obligation to offer further Assignments to the Agency Worker and, if any further Assignments are offered by the Company, the Agency Worker shall be under no obligation to accept them.
- 3.4. Either party may terminate the Company's provision of work-finding services at any time and without notice. For the avoidance of doubt, the termination of work-finding services shall not affect the validity of any introduction of the Agency Worker which the Company has already made to a Client at the relevant time.
- 3.5. The Company shall issue an Assignment Schedule to the Agency Worker on commencement of the Assignment or as soon as practicable thereafter within three business days.

## **4. AGENCY WORKER'S OBLIGATIONS & WARRANTIES**

- 4.1. If the Agency Worker performs an Assignment, the Agency Worker must:
  - 4.1.1. notify the Company prior to commencement of the Assignment if the Agency Worker has worked for the same Client within the prior six-month period;
  - 4.1.2. notify the Company in writing and without delay if the Agency Worker believes that they have not received equal treatment under the AWR;
  - 4.1.3. perform the Assignment in a diligent and professional manner;
  - 4.1.4. co-operate with the Client's lawful instructions and work under the direction, supervision and control of any person specified by the Client;

- 4.1.5. comply with any relevant policies and procedures at the Site;
  - 4.1.6. take all reasonable steps to safeguard the Agency Worker's own health and safety and that of any third party who might be affected by the Agency Worker's acts or omissions;
  - 4.1.7. comply with all legislation when performing the Assignment and not do anything or permit there to be done anything which would place the Client or the Company in breach of any legislation;
  - 4.1.8. handle all Data to which the Agency Worker is given access during the Assignment strictly in accordance with the Data Protection Legislation, comply with the Client's policies and procedures on the usage of Data, return any Data to the Client on termination of the Assignment or at any other time on demand and do nothing which may place the Client in breach of the Data Protection Legislation;
  - 4.1.9. not engage in any conduct which may be detrimental to the interests of the Company or the Client;
  - 4.1.10. not unlawfully discriminate against, harass or victimise any third party in the course of the Assignment;
  - 4.1.11. not at any time divulge, nor use for the Agency Worker's or any other person's benefit, any Confidential Information other than for legitimate purposes in connection with the Assignment; and
  - 4.1.12. on completion of the Assignment, and at any other time if requested, return to the Client or to the Company as appropriate, any items provided to the Agency Worker in connection with the Assignment including, without limitation, all equipment, materials, documents, ID cards, uniforms and personal protective equipment. For the avoidance of doubt, the Agency Worker shall have no right to exercise any lien over any property belonging to the Client or the Company at any time.
- 4.2. The Agency Worker warrants that:
- 4.2.1. the Agency Worker is legally entitled to work in the United Kingdom or the location of the Assignment if it is outside of the United Kingdom;
  - 4.2.2. the information provided by the Agency Worker in any registration document and CV is accurate and not misleading;
  - 4.2.3. the Agency Worker has disclosed to the Company any unspent criminal convictions and, if the Assignment falls within the scope of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, any spent convictions (unless protected or disregarded under the filtering rules); and
  - 4.2.4. the Agency Worker is not aware of any reason why it would be detrimental to the interests of the Client or the Agency Worker for the Agency Worker to carry out the Assignment.
- 4.3. The Agency Worker acknowledges that the warranties given in clause 4.2 are given on a continuing basis and the Agency Worker must notify the Company without delay if the Agency Worker is unable to give such warranties at any time.
- 4.4. If the Agency Worker is unable for any reason to attend the Site during the Assignment, the Agency Worker must inform the Company and the Client within 1 hour of commencement of the working day.
- 4.5. If, before or during the Assignment or during the Relevant Period, the Client wishes to Engage the Agency Worker, the Agency Worker acknowledges that the Company may charge the Client a Transfer Fee or arrange an Extended Hire Period with the Client, at the end of which the Agency Worker may be Engaged by the Client without further charge to the Client.

## 5. **TIMESHEETS**

- 5.1. At the end of each week of the Assignment and at the end of the Assignment itself, the Agency Worker must submit a completed timesheet to the Company in a format acceptable to the Company which (i) shows the time worked during the relevant week and (ii) has been approved by an authorised representative of the Client.
- 5.2. The Agency Worker must submit the approved timesheet to the Company no later than 12:00pm on the Tuesday (**Payroll Deadline**) following the week to which the timesheet relates. Subject to receiving the approved timesheet by the Payroll Deadline, the Company shall pay the Agency Worker within three working days of the Payroll Deadline. If the timesheet is not received by the Payroll Deadline, the Company shall make payment to the Agency Worker in the following week.
- 5.3. Where the Agency Worker (i) fails to submit a properly completed and approved timesheet or (ii) submits a timesheet which the Company reasonably believes may be inaccurate, the Company shall contact the Client to establish the time which was worked by the Agency Worker and, where relevant, the reason for the Client's refusal to approve the timesheet. This may delay any payment due to the Agency Worker but the Company shall (i) pay any undisputed amount as soon as reasonably practicable and (ii) use reasonable endeavours to ensure that the matter is resolved within ten working days.
- 5.4. For the purposes of the WTR, the Agency Worker's working time shall consist of periods during which the Agency Worker carries out activities or duties for the Client as part of the Assignment. Time spent travelling to the Client's premises (apart from time spent travelling between two or more premises of the Client), lunch breaks and other rest breaks shall not count as part of the Agency Worker's working time for these purposes, unless otherwise specified in the Assignment Schedule.

## 6. **REMUNERATION**

- 6.1. The Company shall pay to the Agency Worker the Initial Pay Rate until the Agency Worker completes the Qualifying Period. The Initial Pay Rate will be set out in the Assignment Schedule and shall not be less than the National Minimum Wage or, if applicable to the Agency Worker, the National Living Wage in force from time to time.
- 6.2. Upon the Agency Worker completing the Qualifying Period:
  - 6.2.1. the Company shall, where appropriate, send a revised Assignment Schedule setting out the Qualifying Pay Rate and any Additional Payment; and

- 6.2.2. where applicable, the Agency Worker must comply with the Client's procedure for assessing the Agency Worker's entitlement, if any, to a bonus pursuant to the AWR. The Company will pay a bonus to the Agency Worker pursuant to the AWR where the Client confirms in writing that the Agency Worker is entitled to receive such a bonus.
- 6.3. The Company undertakes to pay the Agency Worker for all time actually worked by the Agency Worker, whether or not the Company is paid or expecting to be paid by the Client for such time. Nothing in this clause shall prevent the Company from making Statutory Deductions or Agreed Deductions from such payments.
- 6.4. In accordance with the Pensions Act 2008, the Agency Worker shall be auto-enrolled in the pension scheme and:
- 6.4.1. the Agency Worker acknowledges that the Company shall provide information about the Agency Worker to the Company's pension provider for this purpose;
- 6.4.2. if the Agency Worker elects to remain inside of the pension scheme, the Company shall make (i) the statutory minimum employer's pension contributions and (ii) the statutory minimum Deduction from the Qualifying Earnings in respect of the Agency Worker's pension contributions or such higher percentage Deduction as may be specified by the Agency Worker; and
- 6.4.3. the Agency Worker acknowledges that the statutory minimum percentage contributions shall vary from time to time and, where applicable, the Company shall adjust the Agency Worker's Deduction accordingly.
- 6.5. Subject to any statutory entitlement, the Agency Worker is not entitled to receive payment from the Company or the Client for time not spent on Assignment, whether in respect of holidays, illness or absence for any other reason unless otherwise agreed in writing.
- 6.6. If the Agency Worker does not commence another Assignment within 4 weeks of the Assignment terminating, the Company shall send a P45 to the last address on file for the Agency Worker.

## **7. ANNUAL LEAVE**

- 7.1. The Agency Worker is entitled to annual leave in accordance with the statutory minimum under the WTR, which is currently 5.6 weeks each Leave Year.
- 7.2. The Agency Worker's entitlement to payment for annual leave shall accrue at a rate of 12.07% of any payment made by the Company to the Agency Worker in respect of the Assignment, excluding any expense payments.
- 7.3. The Agency Worker may not take any paid annual leave which has not accrued at the relevant time.
- 7.4. The Agency Worker's paid annual leave must be taken during the Leave Year in which it accrues and the Agency Worker is responsible for ensuring that all paid annual leave is requested and taken within the Leave Year.
- 7.5. If the Agency Worker wishes to take paid annual leave during the Assignment, the Agency Worker must notify the Company of the dates of the intended absence, giving notice of at least twice the length of the period of leave that the Agency Worker wishes to take. In certain circumstances, the Company may require the Agency Worker to take paid annual leave on specific days, notify the Agency Worker of periods when paid annual leave cannot be taken or give counter-notice to the Agency Worker to postpone or reduce the leave that the Agency Worker wishes to take.
- 7.6. On completion of the Qualifying Period, the Agency Worker may be entitled to additional paid annual leave under the AWR which, if applicable, shall be confirmed in an amended Assignment Schedule and, unless otherwise requested by the Agency Worker, paid on a rolled-up basis.
- 7.7. On termination of the Assignment, the Company shall within two weeks make a payment to the Agency Worker in lieu of any accrued paid annual leave which is untaken.

## **8. SICKNESS ABSENCE**

- 8.1. The Agency Worker must notify the Company of any sickness absence by telephone in accordance with clause 4.4.
- 8.2. The Agency Worker may be eligible for Statutory Sick Pay provided that the Agency Worker meets the relevant statutory criteria.
- 8.3. For the purposes of the Statutory Sick Pay scheme, the qualifying days shall be the days on which the Agency Worker would normally work in the relevant Assignment or, if there are no such normal working days, the qualifying day shall be deemed to be the Wednesday of each week.
- 8.4. The Agency Worker must provide the Company with evidence of the Agency Worker's incapacity to work with a self-certificate for the first 7 days of incapacity and a Statement of Fitness for Work ("**Statement**") thereafter.
- 8.5. If the Agency Worker submits a Statement or similar medical evidence, which indicates that the Agency Worker may, subject to certain conditions, be fit to work, the Company will consult with the Client and the Agency Worker as appropriate to assess whether the conditions identified in the Statement or similar documentation can be satisfied for the duration of the Assignment.
- 8.6. Where clause 8.5 applies, the Agency Worker's placement in a new Assignment or continuation in an ongoing Assignment may be subject to the Agency Worker agreeing to a variation of the Agreement or the assignment details set out in the Assignment Schedule to accommodate any conditions identified in the Statement or other medical evidence as appropriate.

## **9. TERMINATION OF THE ASSIGNMENT**

- 9.1. Subject to clause 9.2, the Company, the Agency Worker or the Client may terminate the Assignment at any time by giving the notice specified in the Assignment Schedule or, if no period of notice is specified, at any time without notice.

- 9.2. Notwithstanding any notice period specified in the Assignment Schedule, the Company may terminate the Assignment at any time and without notice or any liability to make a payment to the Agency Worker in lieu of notice if:
- 9.2.1. the Client notifies the Company of a serious issue with the Agency's Worker's conduct or performance on Assignment;
  - 9.2.2. the Agency Worker refuses or fails to perform the Assignment for any reason;
  - 9.2.3. the Company considers it to be detrimental to the interests of the Client or the Agency Worker for the Assignment to continue; or
  - 9.2.4. the Company terminates the supply of the Agency Worker to the Client by reason of the Client's financial situation or any dispute with the Client.
- 9.3. The Company shall not be liable for any delay in the commencement of the Assignment or cancellation of the Assignment by the Client prior to its commencement.
- 9.4. Any provision of this agreement that expressly or by implication is intended to come into or continue in force on or after termination of the Assignment shall remain in full force and effect.

**10. INTELLECTUAL PROPERTY RIGHTS**

- 10.1. The Agency Worker agrees that any Intellectual Property created or discovered in or otherwise deriving from the Assignment shall belong to the Client and the Agency Worker unreservedly assigns all rights in such Intellectual Property to the Client and waives any moral rights in the same.
- 10.2. The Agency Worker shall execute all such documents and take all such steps as the Client shall require, without charge or compensation, to give effect to the Agency Worker's obligations under this clause 10.

**11. CONFIDENTIALITY**

- 11.1. The Agency Worker shall:
  - 11.1.1. not at any time, whether during or after the Assignment disclose to any person or to make use of any Confidential Information, save as necessary for the performance of the Assignment;
  - 11.1.2. deliver up to the Client at the end of the Assignment or at any other time on demand all documents and materials, in any format whatsoever, which belong to the Client and are in the Agency Worker's possession or under the Agency Worker's control including documents and materials created by the Agency Worker during the course of the Assignment; and
  - 11.1.3. not at any time make any copy, abstract, summary or précis of the whole or any part of any document or material belonging to the Client except when required to do so in the course of the Assignment, in which event any such item shall belong to the Client.

**12. GENERAL PROVISIONS**

- 12.1. If any provision of this Agreement is determined by any competent authority to be unenforceable to any extent, such provision shall, to that extent, be severed from the remainder of the Agreement, which shall continue to be valid to the fullest extent permitted by law.
- 12.2. Subject to clause 12.3, neither party intends for this Agreement to be enforceable by any third party under the Contracts (Rights of Third Parties) Act 1999.
- 12.3. The Client shall have the benefit of a third party right to enforce clauses 4.1.12, 9.1, 10 and 11 directly against the Agency Worker.
- 12.4. This Agreement shall be interpreted in accordance with the law of England & Wales and any dispute between the Company and the Agency Worker shall be subject to the exclusive jurisdiction of the Courts of England & Wales.

**Agreed by the Agency Worker:**

Signed:	
Print Name:	
Date:	

**TEMPORARY WORKER ASSIGNMENT SCHEDULE (PAYE AGENCY WORKER)**

**Agency Worker Details:**

Agency Worker Name:	
Opted Out of Working Time Regulations	Yes / No
Experience, training, qualifications or authorisations required by Client, law or any professional body for Agency Worker to perform the assignment:	

**Client Details:**

Client Name:	
Contact Name at Client:	
Client Address:	

**Assignment Details:**

Type of Work:	i.e. Job Title
Site Address:	
Estimated daily hours of work:	
Start date of assignment:	
Anticipated end date of assignment:	
Notice for Client to terminate assignment:	
Notice for Employment Business/Agency Worker to terminate assignment:	
Health & Safety risks disclosed by Client and steps taken to prevent or control such risks:	
Special Conditions/Other Information:	
Pay Rate:	£ per day/hour
Expenses Payable:	
Payment Frequency:	Weekly
Applicable Terms:	Contract For Services – PAYE Agency Worker