

redwigwam

Hirer Terms & Conditions of Business for the Supply of Temporary Staff Services



HIRER TERMS & CONDITIONS OF BUSINESS FOR THE SUPPLY OF TEMPORARY STAFF SERVICES

LATEST UPDATE: 01/05/2020

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 Hirer:

“Authorised Users” means those employees, agents and independent contractors of the Hirer who are authorised by the Hirer to use the On-line Solution.

“Hirer” 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 Employment Business” means RedWigWam, The Mothership Landing Pad, 49 Jamaica Street, Liverpool, L1 0AH

“Engages/Engaged/Engagement” means the engagement, employment or use of the Temporary Worker directly by the Hirer or any third party or through any other employment business on a permanent or temporary basis, whether under a contract of services; an agency, license, franchise or partnership arrangement; directly or through a limited company of which the Temporary Worker is an officer or employee.

“Intellectual Property Rights” means patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

“Transfer Fee” means the fee payable in accordance with clause 6.1 below and Regulation 10 of the Conduct of Employment Agencies and Employment Business Regulations 2003.

“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 Hirer or any third party. Where a company car is provided an agreement will be reached on the amount to be added to the salary in order to calculate the Employment Business fee.

“Temporary Worker” means any individual, firm or company whose technical and professional services are provided by the Employment Business to the Hirer.

“On-line Solution” means the RedWigWam Website and App tools used to source and recruit temporary staff for employers.

“Introduction” means the Hirer’s interview of a Temporary Worker in person or by telephone, following the Hirer’s instruction to the Employment Business to search for a Temporary Worker; or the passing to the Hirer of a curriculum vitae or other information which identifies the Temporary Worker and which leads to an Engagement of that Temporary Worker by the Hirer or the Hirer contacting a worker after being introduced via RedWigWam in any context.

“Cancellation” means the hirer has deleted, removed or cancelled a job either on the system or by writing in a letter or email or by telephone.

“Relevant Period” means the period of 52 weeks commencing on the day after the last day on which the Agency Worker worked for the Hirer having been supplied by the Employment Business.

“Virus” means any thing or device (including any software, code, file or programme) which may prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device, prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise), or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

“Vulnerability” means a weakness in the computational logic (for example, code) found in software and hardware components that when exploited, results in a negative impact to the confidentiality, integrity, or availability of the software and “Vulnerability” shall be construed accordingly.

2. GENERAL

2.1. These Terms govern the supply of the Temporary Worker’s services by the Employment Business to the Hirer and are deemed to be accepted by the Hirer by virtue of its request for, interview with or Engagement of the Temporary Worker.

2.2. No variation or alteration to these Terms shall be valid unless approved by the Employment Business in writing, and signed by a director.

2.3. Unless otherwise agreed in writing by the Employment Business, these Terms prevail over any terms of business by the Hirer.

3. THE TEMPORARY WORKERS SERVICES

3.1. Whilst every effort is made by the Employment Business to give satisfaction to the Hirer by ensuring reasonable standards of skill, integrity and reliability from Temporary Workers, and further, to provide them in accordance with the Hirers booking details, the Employment Business does not warrant the technical or professional competence of the Temporary Worker.

3.2. The Hirer shall satisfy itself as to the competence of the Temporary Worker before work is allocated.

3.3. The Employment Business is not liable for any loss, expense, damage, cost or delay in arising from any failure to provide any Temporary Worker for all or part of the period of the booking or from negligence, dishonesty, misconduct or lack of skill of the Temporary Worker.

3.4. For avoidance of doubt, the Employment Business does not exclude liability for death or personal injury arising from its own negligence.

4. CHARGES

4.1 The Hirer agrees to pay the Charges as notified to and agreed with the Hirer. The Charges are calculated according to the number of hours worked by the Agency Worker (to the 5 (FIVE) minutes) and comprise the following:

- 4.1.1 The Agency Worker’s hourly rate of pay;
- 4.1.2 an amount equal to any paid holiday leave to which the Agency Worker is entitled under the Working Time Regulations and, where applicable, the Agency Workers Regulations and which is accrued during the course of an Assignment;
- 4.1.3 any other amounts to which the Agency Worker is entitled under the Agency Workers Regulations, where applicable;
- 4.1.4 employer’s National Insurance contributions;
- 4.1.5 employer’s pension contributions;
- 4.1.6 any travel or other expenses as may have been agreed with the Hirer or, if there is no such agreement, such expenses as are reasonable;
- 4.1.7 the Employment Business’ commission, which is calculated as a percentage of the Agency Worker’s total cost of employment and expenses; and
- 4.1.8 a payroll administrative fee.

4.2 All costs are detailed and signed off at the point of posting the job

4.3 Any variation to these charges will be agreed with the Hirer and confirmed in writing stating the date such variation shall take effect.

4.4 No refunds are payable in respect of the Charges of the Employment Business except in the circumstances outlined in Clause 8.

4.5. VAT is payable on the entirety of these charges.

4.6. The Employment Business will be solely responsible for the payment of the Temporary Worker’s remuneration and where appropriate, for the deduction and payment of National Insurance Contributions, Pensioner contributions and PAYE Income Tax applicable to the Temporary Worker.

4.7. The Employment Business will submit invoices to the hirer on a daily or weekly basis, or such other basis as shall from time to time be agreed, for all fees, hourly charges and expenses payable by the Hirer in respect of the Temporary Workers services. These invoices are payable within the following terms which will therefore affect the booking fee charged – please see table below. Terms outside of the below are by agreement with a redwigwam director only We are only able to accept payment via direct debit or BACS.

		3 days		7 days		30 days	
	Payment method	DD	BACS	DD	BACS	DD	BACS
SELF-MANAGED	Booking Fee	9%	12%	13%	16%	19%	22%
SUPPORTED	Booking Fee	14%	17%	18%	21%	24%	27%
MANAGED	Booking Fee	19%	22%	23%	26%	29%	32%

Points to note

DD = direct debit, invoice due date will be 3 days prior to actual date as this is when funds are requested to ensure payment received with terms

BACS = bank transfer whereby funds must be cleared by due date

days = no. of days after date of invoice that payment is due

The Employment Business reserves the right to charge a late payment admin fee per invoice of £50 excluding VAT + daily interest charges of 8% over current bank base rate interest on any overdue amounts from the due date until the date of payment.

The Employment Business reserves the right to charge a failed direct debit admin fee of £25 per invoice excluding VAT + daily interest charges of 8% over current bank base rate interest on any overdue **amounts** from the due date until the date of payment.

5. TIME SHEETS

5.1. At the end of each Assignment, or week if an assignment splits across weeks, and within 2 hours of the assignment, or week, being completed, the Hirer shall sign-off the Employment Business' time sheet verifying the number of hours worked by the Temporary Worker during that assignment and a view on the quality of work produced and whether the Hirer would use the worker again.

5.2. Approval of the time sheet by the Hirer indicates a view of satisfaction with the services provided by the Temporary Worker and confirmation of the number of hours worked.

5.3. Failure to sign the time sheet does not absolve the Hirer's obligation to pay the charges in respect of the hours worked.

5.4. If the Hirer is unable to sign a time sheet produced for authentication by the Temporary Worker because the Hirer disputes the hours claimed, the Hirer shall inform the Employment Business as soon as is reasonably practicable and shall cooperate 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.

5.5. The system will automatically approve timesheets 3 (THREE) days after they have been submitted for review by the hirer if there are no expenses and no changes to the agreed wage. RedWigWam will pay the worker for the submitted claim, making the hirer liable to settle the invoice within the given timeframe.

6. TRANSFER AND INTRODUCTION FEES

6.1. The Hirer shall be liable to pay a Transfer Fee if the Hirer Engages an Agency Worker Introduced by the Employment Business other than via the Employment Business or introduces the Agency Worker to a third party and such introduction results in an Engagement of the Agency Worker by the third party other than via the Employment Business and:

6.1.1. where the Agency Worker has been supplied by the Employment Business, such Engagement takes place during the Assignment or within the Relevant Period; or

6.1.2. where the Agency Worker has not been supplied, such Engagement takes place within 6 months from the date of the Introduction to the Hirer. The Transfer Fee will be calculated in accordance with Schedule 1.

6.2. If the Hirer wishes to Engage the Agency Worker other than via the Employment Business without liability to pay a Transfer Fee, the Hirer may, on giving one week's written notice to the Employment Business, engage the Agency Worker for the Period of Extended Hire specified in Schedule 1.

6.3. During such Period of Extended Hire the Employment Business shall supply the Agency Worker on the same terms on which s/he has or would have been supplied during the Assignment and in any case on terms no less favourable than those terms which applied immediately before the Employment Business received the notice in clause 8; and the Hirer shall continue to pay the Charges set out in clause 6. If the Employment Business is unable to supply the Agency Worker for any reason outside its control for the whole or any part of the Period of Extended Hire; or the Hirer does not wish to hire the Agency Worker on the same terms as the Assignment; but the Agency Worker is Engaged by the Hirer, the Hirer shall pay the Transfer Fee, reduced pro-rata to reflect any Charges paid by the Hirer during any part of the Period of Extended Hire worked by

the Agency Worker before being Engaged by the Hirer. If the Hirer fails to give notice of its intention to Engage the Agency Worker other than via the Employment Business before such Engagement commences, the parties agree that the Transfer Fee shall be due in full.

6.4. Where prior to the commencement of the Hirer's Engagement other than via the Employment Business the Employment Business and the Hirer agree that such Engagement will be on the basis of a fixed term of less than 12 months, the Employment Business may, in its absolute discretion, reduce the Transfer Fee as calculated in accordance with Schedule 1 pro-rata. Such reduction is subject to the Hirer Engaging the Agency Worker for the agreed fixed term. Should the Hirer extend the Agency Worker's Engagement or re-Engage the Agency Worker within 12 months from the commencement of the initial Engagement the Employment Business reserves the right to recover the balance of the Transfer Fee.

6.5. No refund of the Transfer Fee will be paid in the event that the Engagement of the Agency Worker other than via the Employment Business by the Hirer or by a third party to which the Hirer introduces the Agency Worker terminates or terminates before the end of the fixed term referred to in clause 8.

6.6. VAT is payable in addition to any Transfer Fee due.

6.7. The transferred worker(s) will still remain on the redwigwam database, eligible for other redwigwam jobs.

7. LIABILITY

7.1. Nothing in these Terms shall exclude either party's liability:

- 7.1.1. for death or personal injury caused by negligence;
- 7.1.2. for fraud or fraudulent misrepresentation, or
- 7.1.3. for any other liability that cannot be excluded by law.

7.2. Except as expressly and specifically provided in these Terms:

- 7.2.1. the Hirer assumes sole responsibility for results obtained from the use of the On-line Solution and for conclusions drawn from such use and the Employment Business shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided by the Hirer in connection with the On-line Solution, or any actions taken by the Employment Business at the Hirer's direction;

2.10.2. all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from these Terms.

7.3. Temporary Workers are engaged by the Employment Business under contracts of employment. They are deemed to be under the supervision, direction and control of the Hirer from the time they report to take up duties and for the duration of the Assignment. The Hirer agrees to be responsible for all acts, errors or omissions of the Temporary Worker, whether wilful, negligent or otherwise as though he was on the payroll of the Hirer. The Hirer will also comply in all respects with all statutes including, for the avoidance of doubt, the Working Time Regulations, by-laws, codes of practice and legal requirements to which the Hirer is ordinarily subject in respect of the Hirer's own staff (excluding the matters specifically mentioned in Clause 4 above), including in particular the adherence to Employer's and Public Liability Insurance cover for the Temporary Worker during all Assignments (up to £5million cover). The Hirer shall also advise the Employment Business of any special Health and Safety matters about which the Employment Business is required to inform the Temporary Worker. The Hirer will assist the Employment Business in complying with the Employment Business' duties under the Working Time Regulations by supplying any relevant information about the Assignment requested by the Employment Business and the Hirer will not do anything to

cause the Employment Business to be in breach of its obligations under these Regulations. Where the Hirer requires or may require the services of a Temporary Worker for more than 48 hours in any week, the Hirer must notify the Employment Business of this requirement before the commencement of that week.

7.4. The Hirer shall indemnify and keep indemnified the Employment Business against any costs, claims or liabilities incurred by the Employment Business arising out of any Assignment and/or as a result of any breach of these Terms by the Hirer.

8. TERMINATION

8.1. If there is a Cancellation of a job by the Hirer but this Cancellation is more than 24 hours from the start of the Assignment or if the Cancellation is less than 24 hours but no Temporary Worker has been booked for that Assignment then there is no charge is applied. If the Cancellation by The Hirer is between 24 and 6 hours of the start of the Assignment then a fixed Cancellation fee of £20 or a full one day Assignment cost, whichever is the lowest, will be charged to The Hirer. If the Cancellation less than 6 hours of the Assignment and Temporary Worker(s) are booked then a full day charge will be applied.

If there is a cancellation of a MANAGED job by the hirer after the job has gone live, but 24 hours before the start of the assignment, then the booking fee & any briefing / reporting charge will be invoiced per call / location.

Standard charges as above will be applied if the cancellation is less than 24 hours of the start date of the assignment by call / location.

8.2. If a job is booked by a worker and cannot be undertaken due to lack of briefing information or relevant materials provided by the hirer 24 hours prior to the go-live date resulting in the worker being unable to complete the role then 100% of the charge will be applied and invoiced.

8.3. The Hirer undertakes to supervise the Temporary Worker sufficiently to ensure the Hirer's satisfaction with the Temporary Worker's standards of workmanship. If the Hirer reasonably considers that the services of the Temporary Worker are unsatisfactory, the Hirer 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:

a) within four hours of the Temporary Worker commencing the Assignment where the booking is for more than seven hours;

OR

b) 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.

8.4. Any of the Hirer, the Employment Business or the Temporary Worker may terminate an Assignment at any time without prior notice and without liability outside the terms noted previously.

8.5. If the Hirer provides workers with any company equipment they do so at their own liability and there is no recourse to redwigwam.

9. DATA PROTECTION & GDPR

9.1. Details of your business name, address, telephone number and other relevant data including employer history, bookings, invoice details and other related information will be kept by the company in line with DPA Regulations.

9.2 . By placing a job, I confirm my company is GDPR compliant.

9.3. By agreeing to these terms and conditions, I agree to abide by the below:

If the job requires, we will provide access to specific pieces of a worker's personal information. This information can be stored until the worker has completed their assigned job. This information may only be used for contacting the worker regarding their shift, and for shipping of any materials which are required for the role. You must delete any copies of this data once the job has been completed, and you do not have permission to contact the worker after this date. You may only process the worker's details based on the following.

- o Please ensure people processing the data are subject to a duty of confidence.
- o Please take appropriate measures to ensure the security & integrity of any data from redwigwam whilst the data is in your possession.
- any data received from redwigwam must not be passed onto any third parties.
- If a subject access request is received, any information held on the worker must be released to redwigwam as soon as possible but no longer than 28 days. The data must be in a clear, readable and useable format. Workers must be allowed to exercise their rights under GDPR.
- redwigwam must be notified in relation to personal data breaches within 5 days.
- Please delete or return all personal data to redwigwam once it is no longer required

10. CREDIT CHECKING

10.1. redwigwam reserves the right to credit check any hirer on the system at any point in time.

10.2. Credit rating results may affect the standard payment terms and may require payment to be made in advance.

11. THE ON-LINE SOLUTION

11.1. The Employment Business shall use commercially reasonable endeavours to make the On-line Solution available 24 hours a day, seven days a week, except for planned maintenance which it shall endeavour to carry out in the evenings and weekends and unscheduled maintenance which is required from time to time.

11.2. The Employment Business does not warrant that:

11.2.1. the Hirer's use of the On-line Solution will be uninterrupted or error-free;

11.2.2. that the On-line Solution or the information obtained by the Hirer through the On-line Solution will meet the Hirer's requirements; or

11.2.3. the On-line Solution will be free from Vulnerabilities.

11.3. The Employment Business shall not be responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Hirer acknowledges that the On-line Solution may be subject to limitations, delays and other problems inherent in the use of such web-based services.

12. INTELLECTUAL PROPERTY

12.1. The Employment Business and its licensors shall at all times retain ownership of all Intellectual Property Rights in the On-line Solution and any documents, literature or information relating to the On-line Solution.

12.2. The Employment Business grants to the Hirer a non-transferable, non-exclusive licence [in accordance with the On-line

Solution Terms] to permit the Authorised Users to use the On-line Solution solely for the purpose of the Hirer's internal business operations.

12.3. The Hirer shall not sub-license, assign or otherwise transfer the rights granted by clause 12.2.

12.4. The Hirer shall not access, store, distribute or transmit any Viruses, or any material or content during the course of its use of the On-line Solution that is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; facilitates illegal activity; depicts sexually explicit images; promotes unlawful violence; is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or is otherwise illegal or causes damage or injury to any person or property. The Employment Business reserves the right, without liability or prejudice to its other rights to the Hirer, to disable the Hirer's access to the On-line Solution if any material or content breaches the provisions of this clause.

12.5. The Hirer shall not:

12.5.1. attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the On-line Solution in any form or media or by any means;

12.5.2. attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the On-line Solution;

12.5.3. access all or any part of the On-line Solution in order to build a product or service which competes with it;

12.5.4. use the On-line Solution to provide services to third parties;

12.5.5. attempt to obtain, or assist third parties in obtaining, access to the On-line Solution; or

12.5.6. introduce or permit the introduction of, any Virus or Vulnerability into the Employment Business's network and information systems.

12.6. The Hirer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the On-line Solution and, in the event of any such unauthorised access or use, shall promptly notify the Employment Business.

12.7. The Hirer shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all data inputted by the Hirer and its Authorised Users when using the On-line Solution ("Hirer Data").

12.8. [The Employment Business shall, in providing the On-line Solution, comply with its [Privacy Policy] relating to the privacy and security of the Hirer Data.]

SCHEDULE 1: TRANSFER FEES

1.1. The Transfer Fee referred to in clause 6 shall be:

- £599 plus VAT if worker is transferred to the hirer after 4 weeks
- £299 plus VAT if worker is transferred to the hirer after 8 weeks
- £199 plus VAT if worker is transferred to the hirer after 12 weeks or a previously agreed fee with a redwigwam Director.

1.2. The Period of Extended Hire, referred to in clause 6, before the Hirer Engages an Agency Worker shall be 12 weeks.

redwigwam