

ARV SOLUTIONS: CLIENT TERMS OF BUSINESS

A: FOR THE INTRODUCTION OF PERMANENT STAFF TO BE DIRECTLY EMPLOYED BY THE CLIENT

B: SUPPLYING TEMPORARY STAFF SERVICES

1. DEFINITIONS

1.1. In these Terms of Business the following definitions apply:

“**Applicant**” means the person introduced by the Agency to the Client for an Engagement including any members of the Agency’s own staff;

“**Client**” means the person, firm or corporate body together with any subsidiary or associated Company as defined by the Companies Act 1985 to which the Applicant is introduced;

“**Agency**” means *ARV Solutions Contracts Ltd* of The Old Bakery, 11a Canford Lane, Westbury on Trym, Bristol BS9 3DB

“**Engagement**” means the engagement, employment or use of the Applicant by the Client or any third party on a permanent or temporary basis, whether under a contract of service or for services; under an agency, licence, franchise or partnership agreement; or any other engagement; directly or through a limited company of which he is an officer or employee

“**Introduction**” means (i) the Client’s interview of an Applicant in person or by telephone, following the Client’s instruction to the Agency to search for an Applicant; or (ii) the passing to the Client of a curriculum vitae or other information which identifies the Applicant; and which leads to an Engagement of that Applicant by the Client;

“**Remuneration**” includes base salary, guaranteed 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 Applicant for services rendered to or on behalf of the Client. Where a company car is provided by the Client, a notional amount of £4000 will be added to the salary in order to calculate the Agency’s fee.

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

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

2. THE CONTRACT

2.1. These Terms of Business are deemed to be accepted by the Client by virtue of an Introduction to, or the Engagement of an Applicant.

2.2. Unless otherwise agreed in writing by a director of the Agency, these Terms of Business shall prevail over any other terms of business or purchase conditions put forward by the Client.

2.3. No variation or alteration of these Terms of Business is valid unless approved in writing by a Director of the Agency.

3. NOTIFICATION AND FEES

3.1. The Client agrees:

- a) to notify the Agency immediately of any offer of an Engagement which it makes to the Applicant;
- b) to notify the Agency immediately that its offer of an Engagement to the Applicant has been accepted and to provide details of the Remuneration to the Agency; and
- c) To pay the Agency’s fee within 14 days of the date of invoice.**

3.2. Except for pre-agreed advertising, advertising administration costs, and Managed Campaigns no fee is incurred by the Client until the Applicant commences the Engagement when the Agency will render an invoice to the Client for its fees.

3.3. The Agency reserves the right to charge interest on invoiced amounts unpaid for more than 14 days at the rate of 8% per annum above the base rate from time to time of the Bank of England from the due date until the date of actual payment.

3.4. The fee payable to the Agency by the Client for an Introduction resulting in an Engagement is calculated in accordance with the accompanying Fee Structure on the Remuneration applicable during the first 12 months of the Engagement. VAT will be charged on the fee if applicable.

Remuneration of:

Up to £30,000	-	15%
£30,001 to £40,000	-	20%
£40,001 to £60,000	-	22.5%
£60,001 plus	-	25%

Retained: Managed Campaigns – Executive Advertising and Selection

One third of fee based on estimated remuneration payable on agreement of assignment

Final two thirds of fee – adjusted for actual remuneration - payable on start date

3.5. In the event that the Engagement is for a fixed term of less than 12 months, the fee in clause 3.4 will apply pro-rata. If the Engagement is extended beyond the initial fixed term or if the Client re-engages the Applicant within 3 months of the termination of the first Engagement the Client shall be liable to pay a further fee based on the additional Remuneration applicable for the period of Engagement following the initial fixed term up to the termination of the second Engagement or the first anniversary of its commencement, whichever is the sooner.

4. REFUNDS

- 4.1. In order to qualify for the following refund, the Client must pay the Agency's fee within 14 days of the date of invoice and must notify the Agency in writing of the termination of the Engagement within 7 days of its termination.
- 4.2. If the Engagement terminates before the expiry of 14 weeks from the commencement of the Engagement (except where the Applicant is made redundant) a refund will be allowed against the Agency's fee as follows. For the first 4 weeks a full refund. After 4 weeks a reduction of 10% of the remaining fee for each complete week of the 10-week period not worked by the Applicant.
- 4.3. Should the Client or any subsidiary or associated Agency of the Client subsequently engage or re-engage the Applicant within the period of 6 calendar months from the date of termination of the Engagement or withdrawal of the offer, a full fee calculated in accordance with clause 3.4 above becomes payable, with no entitlement to the refund.

5. INTRODUCTIONS

- 5.1. Introductions of Applicants are confidential. The disclosure by the Client to a third party of any details regarding an Applicant introduced by the Agency which results in an Engagement with that third party within 6 months of the Introduction renders the Client liable to payment of the Agency's fee as set out in clause 3.4 with no entitlement to any refund.
- 5.2. An introduction fee calculated in accordance with clause 3.4 will be charged in relation to any Applicant engaged as a consequence of or resulting from an introduction by or through the Agency, whether direct or indirect, within 6 months from the date of the Agency's Introduction.
- 5.3. Where the amount of the actual Remuneration charge is not known the Agency will charge a fee calculated in accordance with clause 3.4 on the minimum level of remuneration applicable for the position in which the Applicant has been engaged with regard to any information supplied to the Agency by the Client and/or comparable positions in the market generally for such positions.

6. SUITABILITY AND REFERENCES

- 6.1. The Agency endeavours to ensure the suitability of any Applicant introduced to the Client. Notwithstanding this the Client shall satisfy itself as to the suitability of the Applicant and the Client shall take up any references provided by the Applicant to it or the Agency before engaging such Applicant. The Client shall be responsible for obtaining work and other permits if required, for the arrangement of medical examinations and/or investigations into the medical history of any Applicant, and satisfying any medical and other requirements or qualifications required by law of the country in which the Applicant is engaged to work.

7. LIABILITY

- 7.1. The Agency shall not be liable under any circumstances for any loss, expense, damage, delay, costs or compensation (whether direct, indirect or consequential) which may be suffered or incurred by the Client arising from or in any way connected with the Agency seeking an Applicant for the Client or from the Introduction to or Engagement of any Applicant by the Client or from the failure of the Agency to introduce any Applicant. For the avoidance of doubt, the Agency does not exclude liability for death or personal injury arising from its own negligence.

8. LAW

- 8.1. These Terms are governed by the law of England & Wales and are subject to the exclusive jurisdiction of the Courts of England & Wales

Signed for and on behalf ARV Solutions

Date _____

Signed for and on behalf of:

Date _____



B. SUPPLYING TEMPORARY STAFF SERVICES – CLIENT TERMS 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 or introduced;

“**The Employment Business**” means ARV Solutions Contracts Ltd of 11a Canford Lane, Westbury on Trym, Bristol BS9 3DB;

“**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.

“**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 £4000 will be added to the salary in order to calculate the Employment Business’ fee.

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

1.3. 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.

2.2. These Terms contain the entire agreement between the parties and unless otherwise agreed in writing by the principal of the Employment Business, these Terms prevail over any terms of business or purchase conditions put forward by the Client.

2.3. 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, daily or weekly charges of the Employment Business as shall be notified to and agreed with the Client. These charges are calculated according to the number of hours/days/weeks 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 at the same rate of commission. VAT, if applicable, is payable on the entirety of these charges.

3.1. The charges are invoiced to the Client on a weekly basis and are payable within 14 days. The Employment Business reserves the right to charge interest on any overdue amounts at the rate of 8% per annum above the base rate from time to time of the Bank of England from the due date until the date of payment.

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

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.

- 4.2. Where such information is not given in paper form or by electronic means it shall be confirmed by such means by the end of the third business day (excluding Saturday, Sunday and any public or Bank holiday) following, save where the Temporary Worker is being Introduced for an Assignment in the same position as one in which the Temporary Worker had previously been supplied within the previous five business days and such information has already been given to the Client, unless the Client requests that the information be resubmitted.

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; or
 - 14 weeks from the start of the first Assignment (the first Assignment being each new assignment where there has been a break of more than 42 days (6 weeks) since the end of the previous Assignment); or
 - 14 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 or a Transfer Fee the length or amount of which is to be agreed between the Employment Business and the Client.
- 7.1.2 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.
- 7.1.3 If the client does not give such notice before the Temporary Worker is engaged the parties agree that the Transfer Fee shall be due.
- 7.1.4 If the parties do not agree a period of extended hire or a Transfer Fee in accordance with 7.1.1 then
- a) The length of the extended period of hire shall be 36 weeks during which the Client shall pay the current hourly charge agreed pursuant to clause 3.1 for each hour the Temporary Worker is so employed or supplied; **or**
 - b) The amount of the Transfer fee shall be such proportion of the amount calculated as follows: 10% 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 225 as set out below:
 - Less one twelfth for each complete month worked from the commencement of the Assignment
 - Where the Temporary Worker supplied has been directly or indirectly Engaged by the Client more than 52 weeks after the commencement of the Assignment the Transfer Fee shall be 0%.

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 by the Client of the Temporary Worker by the Client either (1) directly or (2) pursuant to being supplied by another employment business within 6 months of the date of the Introduction the Client shall be liable, to either an extended period of hire or an Introduction Fee the length or amount of which is to be agreed between the Employment Business and the Client.
- 7.2.2 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.

7.2.3 If the client does not give such notice before the Temporary Worker is engaged the parties agree that the Introduction Fee shall be due.

7.2.4 If the parties do not agree a period of extended hire or an Introduction Fee in accordance with 7.2.1 then

- a) The length of the extended period of hire shall be 36 weeks during which the Client shall pay the current hourly charge agreed pursuant to clause 3.1 for each hour the Temporary Worker is so employed or supplied; or
- b) The amount of the Transfer fee shall be calculated as follows: 10% 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 225. 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.

7.3 Where there has been Introduction to and Engagement by a Third Party

7.3.1 In the event that the **Temporary Worker supplied to a Client is introduced by the Client to a third party which 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 (the first Assignment being each new assignment where there has been a break of more than 42 days (6 weeks) since the end of the previous Assignment); 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 the length of which is to be agreed between the Employment Business and the Client.

7.3.2 If the parties do not agree a Transfer Fee in accordance with 7.3.1 then the Client will be liable to pay a Transfer Fee calculated as follows: 10% 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 225.

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

7.3.4 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 in line with our permanent fee scales based on 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 225. 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 or by any professional body, which must be satisfied if the Temporary Worker is to fill the Assignment. The Client 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 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.

8.4 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 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: -

- 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.

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

AGENCY WORKER REGULATIONS (AWR) – APPENDIX

INFORMATION TO BE PROVIDED

You shall advise us of any special health and safety matters about which we are required to inform agency workers and about any requirements imposed by law or by any professional body, which must be satisfied by agency workers accepting the Assignment. You will assist us in complying with our duties under the Working Time Regulations and Agency Workers Regulations by supplying any relevant information about the Assignment requested by us and you will not do anything to cause us to be in breach of our obligations under these Regulations. Where you require or may require the services of an agency worker for more than 48 hours in any week, you must notify us of this requirement before the commencement of that week. For avoidance of doubt, a normal working week shall commence Monday.

LIABILITY

Agency workers we supply are engaged by us under contracts for services. They are not our employees, and are deemed to be under your supervision, direction and control from the time they report to take up duties and for duration of the Assignment. You agree to be responsible for all acts, errors or omissions of the agency workers whether wilful, negligent or otherwise as if the agency workers were on your payroll. You will also comply in all respects with all statutes including, for avoidance of doubt, the Working Time Regulations, Agency Workers Regulations, Health and Safety At Work Act etc, bye-laws, codes of practice and legal requirements to which you are ordinarily subject in respect of your own staff, including in particular the provision of adequate Employer's and Public Liability Insurance cover for agency workers during all Assignments.

Signed for and on behalf of the Client

Dated



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