



TRUSTED CLEANING EXPERT

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CLIENT'S TERMS OF BUSINESS'S ENGAGEMENT FOR THE INTRODUCTION OF NURSES, CARE WORKERS, HOUSE KEEPERS, AND CHEFS

1. DEFINITIONS

1.1 In these Terms of Business Engagement with the Client, the following definitions apply:

"Agency" means ***Abbey House, 25 Clarendon Road, Redhill RH1 1QZ*** an employment agency and an Agency as defined by section 13 of the Employment Agencies Act 1973;

"Applicant" means the person introduced by the Agency to the Client for an Engagement or for an Assignment.

"Assignment" means a period of engagement, employment or use of an Applicant by the Client (or any third party to whom the Applicant is introduced by the Client) on a temporary basis where the supply of the Applicant is governed by this agreement and a contract for services between the Applicant and the Agency;

"Client" means the person, firm, or corporate body together with any subsidiary or associated company to whom the Applicant is introduced.

"Engagement" means the engagement, employment or use of an Applicant by the Client (or any third party to whom the Applicant is introduced by the Client) on a permanent or temporary, one off basis, whether under a contract of service or for services; under an agency, licensee, franchise or partnership agreement; or any other contract where that contract is between the Client (or any third party to whom the Applicant is introduced by the Client) and the Applicant;

"Introduction" means 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 the passing to the Client of a curriculum vitae or other information which identifies the Applicant, and which leads to an Engagement or an Assignment of that Applicant.

“Relevant Period” means either 14 weeks from the commencement of an Assignment, or 8 weeks from the last day of an Assignment, whichever period ends the later. For the purposes of this definition, a new Assignment begins where there has been a break of 42 days since the end of the last Assignment, or no previous Assignment.

1.2 References to the singular include the plural and references to the masculine include the feminine and vice versa where the context requires it.

2. THE CONTRACT

2.1 These Terms of Business constitute a contract between the Client and the Agency and are deemed to be accepted by the Client by virtue of an Introduction to, the Engagement of, or the acceptance of an Assignment of an Applicant, or the passing of any information about the Applicant to any third party by the Client.

2.2 Unless otherwise agreed in writing by the Company, 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 shall be valid unless approved in writing by the Company 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. PERMANENT AND FIXED TERM BUSINESS ENGAGEMENTS

3.1 Notification and Fees

3.1.1 a) The client agrees to notify the Agency immediately of any offer of an Engagement which it makes to the Applicant.

b) The client agrees to notify the Agency immediately that its offer of an Engagement to the Applicant has been accepted and where applicable to provide details of the gross annual salary payable to the Applicant; and

c) The client agrees to pay the Agency's fee within 14 days of the date of invoice.

3.1.2 Where the Client wishes to cancel a short or fixed term Engagement of one month or less either during or prior to commencement of the Engagement the Client must give the Agency at least one working days' notice, failing which the Agency shall be entitled to charge the full fee for the Engagement.

3.1.3 The fee payable to the Agency by the Client for an Introduction resulting in an Engagement is calculated in accordance with the Scale of Fees attached as Schedule 1b hereto. VAT will be charged on the fee if applicable.

3.1.4 The Re-Engagement by a Client of an Applicant introduced by the Agency within a period of 12 months from the end of the last Engagement of the Applicant through the Agency or the introduction by the Client of an Applicant to any third party resulting in an Engagement (or, where applicable, if the Applicant has become incorporated under a limited company, the Engagement of that limited company) renders the Client subject to the payment of an introduction fee as follows: -

a) where the Engagement is for one month or more, the fee shall be in accordance with the Agency's fees for permanent introductions.

b) where the Engagement is for less than one month, the Agency shall charge the Client an amount equivalent to the fee that the Agency would charge the Client for an Assignment of the Applicant of the same length as the Engagement.

3.1.5 Subject for clause 3.16, where a permanent Engagement terminates before the completion of one month, the Agency will refund the introduction fee paid by the Client less an amount equivalent to the fee that the Agency would have charged the Client for an Assignment of the Applicant for the actual period of the Engagement. **To qualify for this refund, the Client must have paid the Company'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.

3.1.6 Where the Client fails to inform the Agency of the Applicant's annual remuneration, the fee will be calculated by multiplying the last hourly rate agreed between the Client and the Agency by a figure not exceeding 150 or if no hourly rate has previously been agreed, then the fee shall be determined by the Agency based on the minimum level of remuneration applicable for the position in which the Applicant has been engaged having regard to any information supplied to the Agency by the Client and/or comparable positions in the market generally for such positions. No refund of the introduction fee will be paid in the event that the Engagement subsequently terminates.

3.2 Cancellation

3.2.1 Where the Client wishes to cancel a short or fixed term Engagement of one month or less either during or prior to commencement of the Engagement the Client must give the Agency at least one working days' notice, failing which the Agency shall be entitled to charge the full fee for the Engagement.

3.3 Client's responsibilities in connection with Engagements

3.3.1 For the avoidance of doubt, in respect of any Engagement, terms regarding pay, duties, hours, holidays, length of notice or any other terms of employment are to be agreed between the Client and the Applicant prior to commencement of the Engagement in accordance with prevailing employment law.

3.3.2 The Client is responsible for PAYE, income tax and national insurance contributions on behalf of the Applicant as an employee in respect of any Engagement in addition to all other liabilities as the employer of the Applicant.

3.3.3 In order to for the Agency to perform its services, the Client undertakes to provide to the Agency with details of the position which the Client seeks to fill, including the type of work that the Applicant would be required to do; the location and hours of work; the experience, training, qualifications and any authorization which the Client considers necessary or which are required by law or any professional body for the Applicant to possess in order to work in the position; and any risks to health or safety known to the Client and what steps the Client has taken to prevent or control such risks. In addition, the Client shall provide details of the date the Client requires the Applicant to commence, the duration or likely duration of the work; the minimum rate of remuneration, expenses and any other benefits that would be offered; the intervals of payment of remuneration and the length of notice that the Applicant would be entitled to give and receive to terminate the employment with the Client.

4. TEMPORARY ASSIGNMENTS

4.1 Charges

4.1.1 In respect of Assignments, the Client agrees to pay such hourly charges of the Agency as are set out in the Scale of Fees attached as Schedule 1b. The hourly charges are calculated per the number of hours worked by the Applicant (to the nearest quarter hour) and comprise mainly the Applicant's pay but also the Agency's commission calculated as a percentage of the Applicant's pay, employer's national insurance contributions and any travel, hotel or other expenses as may have been agreed with the Client, or if there is no such agreement, such expenses as are reasonable. VAT, if applicable, is payable entirety of these charges.

4.1.2 The charges are invoiced to the Client on a weekly basis and are payable within 14 days. There are no rebates or refunds payable in respect of these charges.

4.1.3 The client agrees to pay any other amounts to which the Applicant is entitled under the AWR, where applicable.

4.1.4 Where the Applicant is absent during normal working hours of an assignment to attend ante-natal appointments the Client agrees to pay the Agency's charges in accordance with clause (4) for such periods. The Client agrees to allow the father-to-be of an unborn child (or partner of an expectant mother) to attend up to two unpaid ante-natal appointments (up to 6.5 hours each) with the expectant mother during normal working hours.

4.1.5 The Agency assumes responsibility for paying the Applicant and where appropriate, for the deduction and payment of National Insurance Contributions and PAYE Income Tax applicable to the Agency Worker pursuant to prevailing legislation at the time.

4.2 Timesheets/Invoice

4.2.1 At the end of each week of an Assignment (or at the end of an Assignment where it is for a period of one week or less) the Client shall sign the Agency's timesheet verifying the number of hours worked by the Applicant during that week.

4.2.2 Signature of the timesheet by the Client is confirmation of the number of hours worked. If the Client is unable to sign a timesheet produced for authentication by the Applicant because the Client disputes the hours claimed, the Client shall inform the Agency as soon as is reasonably practicable and shall co-operate fully and in a timely fashion with the Agency to enable the Agency to establish what hours, if any, were worked by the Applicant. Failure to sign the timesheet does not absolve the Client's obligations to pay the charges in respect of the hours worked.

4.2.3 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 Applicant. In cases of unsuitable work, the Client should apply the provisions of clause 4.5.2.

4.3 Payment of an Applicant on Assignment

4.3.1 In respect of Assignments, the Agency assumes responsibility for paying the Applicant and where appropriate for the deduction and payment of national insurance contributions and PAYE income tax applicable to the Applicant pursuant to section 44-47 of the Income Tax (Earnings and Pensions) Act 2003.

4.4 Transfer fees

4.4.1 In the event that the Client wishes to enter into an Engagement of an Applicant who was introduced for an Assignment, either (1) directly or (2) pursuant to an agreement with an alternative

Agency, either after introduction of the Applicant (but before commencement of an Assignment) or during an Assignment or within the Relevant Period the Client shall notify The Agency of its intention to engage and the Agency will require the Client to choose from the following options:

a) the Client shall either pay a fee upon commencement of the Engagement equivalent to 16% of the gross annual salary payable to the Applicant for the Engagement or if the actual salary is not known, the charges referred to in clause 4.1.1 multiplied by 150; or

b) the Client shall extend the existing Assignment of the Applicant, or if no Assignment has taken place or the Assignment has already ended, enter into a new extended period of hire of 26 weeks during which the Agency shall be entitled to the charges set out in clause 4.1.1 above for each hour the Applicant is supplied, and at the end of the extended period of hire, the Client may engage the Applicant without payment of any further fee to the Agency.

4.4.2 The Client shall give written notice of its choice under sub clause 4.4.1 and if it has elected for the option set out in sub-clause 4.4.1(b), the extended period of hire shall begin on the date of receipt by the Agency of the Client's written notice. If the Client fails to specify whether the payment of a fee (pursuant to sub-clause 4.4.1(a)) or an extended period of hire (pursuant to sub-clause 4.4.1(b)) is preferred, the fee shall be payable by the Client to the Agency upon commencement of the Engagement of the Applicant. No refund or rebate of the engagement fee shall be paid in any event. VAT, if applicable, is payable in addition to any fee due.

4.4.3 In the event that the Client introduces the Applicant who was introduced for an Assignment to a third party with whom the Applicant enters into an Engagement either after introduction of the Applicant (but before commencement of an Assignment) or during an Assignment or within the Relevant Period the Client shall be liable to pay a fee to the Agency equivalent to 16% of the gross annual salary of the Applicant upon commencement of the Engagement or, if the actual salary is not known, the charges referred to in clause 4.1.1 multiplied by 150. No refund or rebate of the fee will be paid in any event. VAT, if applicable, is payable in addition to any fee due.

4.5 Client's responsibilities in connection with Assignments

4.5.1 When informing the Agency of a temporary recruitment requirement, the Client shall inform the Agency of its full name and address, the nature of its business, the date on which it requires an Applicant to commence work and the likely duration of any Assignment, a description of the position which the Client seeks to fill including location, hours of work, any risks to health and safety known to the Client and the steps the Client has taken to prevent or control such risks, details of the experience, training, qualifications and any authorisation which the Client considers are necessary or which are required by law or by any professional body to allow an Applicant to work in the position that the Client seeks to fill, and details of any expenses payable to the Applicant.

4.5.2 In respect of Assignments, the Applicants supplied by the Agency are engaged under contracts for services with the Agency and as such, are not the employees of the Agency. They are deemed to be under the supervision, direction and control of the Client. The Client agrees to be responsible for all acts, errors or omissions of the Applicant as though the Applicant was on the payroll of the Client. The Client will also comply in all respects with all statutes, bylaws, codes of practice and legal requirements to which the Client is ordinarily subject in respect of its own employees, (except as stated in clause 4.3 above) including provision of adequate Employers and Public Liability Insurance cover in respect of the Applicant during all Assignments.

4.5.3 The Client undertakes to supervise the Applicant sufficiently to ensure the Client's satisfaction with the Applicant's standard of workmanship. If the Client reasonably considers that the services of the Applicant are unsatisfactory, the Client may terminate the Assignment either by instructing the Applicant to leave the Assignment immediately or by directing the Agency to remove the Applicant.

4.5.4 The Client shall notify the Agency immediately and without delay if the Applicant fails to attend work or notifies the Client that he/she is unable to attend work for any reason.

4.6 Termination of Assignment

Any of the Client, the Agency or the Applicant may terminate an Assignment at any time without notice and without liability.

5. SUITABILITY

5.1 The Agency endeavours to ensure the suitability of any Applicant introduced to the Client by obtaining confirmation of the Applicant's identity, that the Applicant has the experience, training, qualification, pin number (Nurses), DBS Certificate and any authorisations which the Client considers are necessary or which may be required by law of my any professional body; and that the Applicant is willing to work in the position which the Client seeks to fill.

5.2 Notwithstanding the provisions of clause 5.1, the Client shall satisfy itself as to the suitability of the Applicant and shall take up any references provided by the Applicant and/or the Agency before engaging such Applicant. Unless otherwise agreed between the parties in writing, the Client shall be responsible for obtaining work and other permits if required and satisfying any other requirements or qualifications required by law of the country in which the Applicant is engaged to work.

6. AGENCY WORKER REGULATIONS (AWR)

6.1 The Client agrees that it shall remain up to date with the provisions of the Agency Workers Regulations (AWR) and other relevant legislation regarding temporary workers.

6.2 To enable the Agency to satisfy its obligations under the AWR the Client shall provide the Agency with the following information regarding each role it seeks to fill as soon as possible and certainly before, and Assignment begins and will notify the Agency of any changes thereto before such change occurs or where this is not possible immediately after such change occurs during any Engagement of an Applicant:

a) details of whether or not the Applicant to be supplied by the Agency has since the 1st August 2015 worked for the Client or any hirer connected to the Client and including details of when and in what role(s) for any such work undertaken in the calendar year prior to the expected start date of the most recent Assignment.

b) details of any and all comparable employees or directly recruited workers of the Client, including their basic working and employment conditions (as defined by Regulation 4.1.3 and Regulation 4.1.4 of the AWR), or where no comparable employee/worker is identified, details of the basic working and employment conditions (as defined by Regulation 3.3.3) and regulation 4.1.4 that the Applicant would be provided with had they been recruited directly by the Client, including the source of such basic working and employment conditions;

c) any other relevant information required by the Agency to allow it to discharge its obligations under the AWR.

6.3 The Client agrees that it shall, upon request from the Agency and without delay, provide accurate details relating to the working and employment conditions of workers and/or employees who undertake the same or broadly similar work as that of the Applicant during the Assignment.

6.4 Where applicable pursuant to information obtained under clause 6.1, the Client shall, apply to the Applicant a process to allow the assessment of performance-related pay.

6.5 The Client warrants and undertakes that it shall not seek to deny the Applicant's entitlement to rights under the AWR by virtue of avoiding the Applicant's completion of the Qualifying Period due to the structure of an assignment or series of assignments.

6.6 The Client warrants that information provided to the Agency is true and accurate in all material respects.

6.7 The Client undertakes that it knows of no reason why it would be detrimental to the interests of the Applicant for the Applicant to fill the Assignment.

6.8 The Client acknowledges and agrees that where the Applicant is unable to continue work in the Assignment on maternity grounds due to reasons of health and safety, following the Qualifying Period, the Client undertakes to make such reasonable adjustments as are necessary to allow the Applicant to continue providing services for the duration of the Assignment. For the avoidance of doubt, such reasonable adjustments shall include provision of alternative work on terms no less favourable than those applicable to the assignment.

6.9 The Client shall indemnify and keep indemnified the Agency against any cost, claims or liabilities incurred by the Agency arising out of any Assignment or arising out of any non-compliance as a result of any breach of these terms by the Client.

6.10 Where the Agency Worker is required by law, or any professional body to have any qualifications or authorizations to work or the Assignment involves caring for or attending one or more persons, who by reason of age, infirmity or who is otherwise in need of care or attention, the Agency will take all reasonably practicable steps to obtain and offer to provide the Client:

a) copies of any relevant qualifications or authorizations of the Agency Worker, and

b) One references at least from persons not related to the Applicant 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 Applicant is suitable for the Assignment. If the Agency 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.

6.11 The Client undertakes to supervise the Applicant sufficiently to ensure the Client's satisfaction with the Applicant sufficiently to ensure the Client's satisfaction with the Applicant's standards of workmanship. If the Client reasonably considers that the services of the Applicant are unsatisfactory, the Client may terminate the Assignment either by instructing the Applicant to leave the Assignment immediately or by directing the Agency to remove the Applicant. The Agency may, in such certain circumstances, and provided the notification of the unsuitability of the Applicant is confirmed in writing to the Agency within 48 hours of the termination of the Assignment, reduce or cancel the charges for the time worked by the Applicant, provided that the Assignment terminates.

(a) Within four hours of the Applicant commencing the Assignment where the booking is for more than seven hours; or

(b) Within two hours for bookings of seven hours or less;

6.12 The Client shall notify the Agency immediately and without delay and in any event within 24 hours if the Applicant fails to attend work or notifies the Client that the Applicant is unable to attend work for any reason.

6.13 The Client acknowledges and agrees that where the Applicant is pregnant, following completion of the Qualifying Period, the Client shall allow the Applicant time off to attend antenatal appointments.

6.14 The Agency shall notify the Client immediately if it receives or otherwise obtains information which gives it reasonable grounds to believe that an Applicant supplied to the Client is unsuitable for the Assignment and shall terminate the Assignment under the provisions of clause 26.

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, Assignment of 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.

7.2 The Client shall indemnify and keep indemnified the Agency against any costs, claims, or liabilities incurred by the Agency arising out of any Assignment or arising out of any non-compliance or as a result of any breach of these Terms by the Client.

8. INTEREST ON FEES

8.1 The Agency reserves the right to charge interest on invoiced amounts unpaid for more than 14 days at the rate of 2% per month charged on a daily basis from the due date until the date of actual payment.

9. LAW

9.1 These Terms are governed by English law and are subject to the exclusive jurisdiction of the English Courts. In the event of dispute, the Agency shall try to resolve it through Dispute Resolution. Court shall be the last resort.

Signed:	
Date:	
Name:	
Authorised signatory for and on behalf of CLIENT	
Signed:	
Date:	
Name:	
Authorised signatory for and on behalf of AGENCY	