

## Standard Terms of Business

### FOR THE SUPPLY OF THE SERVICES OF TEMPORARY WORKERS

#### 1 Definitions

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

“Devonshire”	means Devonshire Appointments Limited whose registered office is at 85 Gracechurch St, London, EC3A 0AA.
“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.
“Assignment”	means the period during which the Temporary Worker is supplied by Devonshire to render services to the Client.
“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 for either a permanent, fixed term 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 the Temporary Worker is an officer employee or representative.
“Introduction”	means (i) the interview of a Temporary Worker in person or by telephone by the Client following their instruction to Devonshire to supply a Temporary Worker or (ii) the passing to the Client of a curriculum vitae or other information which identifies the Temporary Worker and which leads to an Engagement of that Temporary Worker.
“Remuneration”	means the gross taxable (and where applicable non-taxable) fees or emoluments payable to or receivable by the Temporary Worker for services rendered to or on behalf of the Client or any third party. This sum includes base salary or fees inducement payment guaranteed bonus and/or profit sharing commission earnings and regional allowances car and/or transportation allowances or overseas premiums. £5,000 is added to the basic salary where a company car is provided in order to calculate Devonshire's fee.
“Temporary Worker”	means the self-employed individual introduced to the Client by Devonshire to carry out an Assignment.
“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.

1.2 Unless the content so requires references to the singular include the plural and vice versa.

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

#### 2 The Contract

2.1 These Terms of Business constitute the contract between Devonshire and the Client for the supply of the Temporary Worker's services by Devonshire to the Client and are deemed to be accepted by the Client by virtue of its request for, interview with or the Engagement of a Temporary Worker or the passing of any information about the Temporary Worker to any third party following an Introduction.

2.2 These Terms of Business contain the entire agreement between the parties and unless otherwise agreed in writing by a director of Devonshire

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 a director of Devonshire and the Client and are set out in writing and a copy of the varied terms as given to the Client stating the date on or after which such varied terms shall apply.

2.4 Value Added Tax or its equivalent will be added to all invoices if applicable.

2.5 All monies due to Devonshire shall be paid by the Client within 14 days of the date of invoice.

2.6 Devonshire reserves the right to charge interest on invoiced amounts unpaid for more than 14 days at the rate of 4% per annum above the base rate from time to time of Barclays Bank from the due date until the date of actual payment

2.7 In the event any of these Terms of Business are invalid this shall have no effect upon the validity of the remainder of the Terms of Business. In such event Devonshire and the Client will replace the invalid term by one which is permissible in law and which meets the intended commercial and legal purpose of the invalid clause as closely as possible.

2.8 These Terms of Business are governed by English Law and are subject to the exclusive jurisdiction of the English Courts.

#### 3. Charges

3.1 The Client agrees to pay such hourly charges of Devonshire as shall be notified to and agreed with the Client. The charges are calculated according to the number of hours worked by the Temporary Worker (to the nearest quarter hour).

3.2 The hourly charges comprise mainly the pay of the Temporary Worker but also include Devonshire's commission together with 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..

3.3 Devonshire's commission is calculated as a percentage of the Temporary Worker's pay and employer's National Insurance Contributions.

3.4 The charges are invoiced to the Client on a weekly basis and are immediately payable.

3.5 There are no rebates payables in respect of the charges of Devonshire

3.6 Subject to Clause 9.1 Devonshire will charge the Client a minimum of four hours in respect of the Engagement of the Temporary Worker where the Assignment is for less than seven hours.

3.7 Where an Assignment continues beyond an initial period of 12 months the Employment Business may review the hourly charge payable by the Client to the Employment Business in respect of that Assignment. Any change to the hourly charge will be notified in writing to the Client prior to its implementation.

#### 4. Information to be provided

4.1 When making an Introduction of a Temporary Worker to the Client Devonshire shall inform the Client of the identity of the Temporary Worker supplied to carry out the Assignment; that the Temporary Worker is willing to work in the Assignment; 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 Devonshire under a contract of service or apprenticeship or a contract for services.

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 Devonshire's time sheet to verify 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 Devonshire as soon as is reasonably practicable and shall co-operate fully and in a timely fashion with Devonshire 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 Devonshire's charges in respect of the hours worked by the Temporary Worker.

5.3 The Client shall not be entitled to decline to sign a timesheet on the basis that the Client is dissatisfied with the work performed by the Temporary Worker. In cases of unsuitable work the Client should apply the provisions of clause 9.1 below.

## 6. Payment of the Temporary Worker

6.1 Devonshire is responsible for paying the Temporary Worker and where appropriate assumes responsibility 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 Devonshire either (1) directly or (2) pursuant to being supplied by another employment business, within either

- The duration of the Assignment;
- 14 weeks from the start of the first Assignment (each new assignment where there has been a break of more than 42 days (6 weeks) since the end of the previous Assignment shall also be considered to be the 'first Assignment' for these purposes); or
- 8 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 as set out in 7.1.3 below or a Transfer Fee calculated in accordance with 7.1.2 below. The Client must give Devonshire two 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. However, where the Client does not give such notice before the Temporary Worker is Engaged the parties agree that the Transfer Fee shall be due.

7.1.2 The Transfer Fee shall be such proportion of the amount calculated as follows: 25% 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 375 as set out below:

7.1.2.1 Where the Temporary Worker supplied has been directly or indirectly Engaged by the Client within 13 weeks from the commencement of the Assignment the Transfer Fee shall be 100%.

7.1.2.2 Where the Temporary Worker supplied has been directly or indirectly Engaged by the Client more than 13 weeks but less than 26 weeks from the commencement of the Assignment the Transfer Fee shall be 90%.

7.1.2.3 Where the Temporary Worker supplied has been directly or indirectly Engaged by the Client more than 26 weeks but less than 39 weeks from the commencement of the Assignment the Transfer Fee shall be 75%.

7.1.2.4 Where the Temporary Worker supplied has been directly or indirectly Engaged by the Client more than 39 weeks but less than 52 weeks from the commencement of the Assignment the Transfer Fee shall be 50%.

7.1.2.5 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 25%.

7.1.3 The Extended period of hire shall be whichever of the following is most appropriate;

- Where the Assignment is for a fixed period, and that period has not expired, the period ending 12 weeks after the scheduled end date of the Assignment;
- Where the Assignment is for a fixed period, and that period has expired, 12 weeks; or
- Where the Assignment is of no fixed duration, 12 weeks.

7.1.4 If the Client elects for an extended period of hire, as set out above, but before the end of such period Engages the Temporary Worker supplied by Devonshire either directly or pursuant to being supplied by another employment business or the Temporary Worker chooses not to be supplied for an extended period of hire, the Transfer Fee calculated in accordance with 7.1.2 may be charged, reduced by such percentage to reflect the period of extended hire already undertaken by the Temporary Worker and paid for by the Client.

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

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 Devonshire to the Client, but which leads to an Engagement of the Temporary Worker by the Client either (1) directly or (2) pursuant to being supplied by another employment business with 6 months of the date of the Introduction the Client shall be liable, to either an extended period of hire as set out in 7.2.3 or an Introduction Fee calculated in accordance with 7.2.2 below. The Client must give Devonshire two 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. However, where the client does not give such notice before the Temporary Worker is Engaged the parties agree that the Introduction Fee shall be due.

7.2.2 The Introduction Fee shall be calculated as follows: 25% 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 375. No refund of the Introduction Fee will be paid in the event that the Engagement subsequently terminates.

7.2.3 The Extended period of hire will be whichever of the following is most appropriate;

- Where the Assignment is for a fixed period, the period ending 12 weeks after the scheduled end date of the Assignment; or
- Where the Assignment is of no fixed duration, 12 weeks.

7.2.4 If the Client elects for an extended period of hire, as set out above, but before the end of such period Engages the Temporary Worker supplied by Devonshire either directly or pursuant to being supplied by another employment business or the Temporary Worker chooses not to be supplied for an extended period of hire, the Introduction Fee calculated in accordance with 7.2.2 may be charged, reduced by such percentage to reflect the period of extended hire already undertaken by the Temporary Worker and paid for by the Client.

7.3 Temporary Worker to third party transfer fees where there has been a supply.

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 (each new assignment where there has been a break of more than 42 days (6 weeks) since the end of the previous Assignment shall also be considered to be the 'first Assignment' for these purposes); 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 calculated as follows: 25% 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 375. No refund of the Transfer Fee will be paid in the event that the Engagement subsequently terminates.

7.4 Contractor or Temporary Worker to third party transfer fees where there has been an Introduction but no supply.

7.4.1 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 Devonshire to the Client, but the Temporary Worker is introduced by the Client to a third party which results in the Engagement of that Temporary Worker by the third party within 6 months from the date of Introduction the Client shall be liable to an Introduction Fee calculated as follows: 25% 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 agreed pursuant to clause 3.1 multiplied by 375. No refund of the Introduction Fee will be paid in the event that the Engagement subsequently terminates.

**8 Special Situations**

8.1 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, Devonshire will take all reasonably practicable steps to obtain and offer to provide to the Client:

- Where the Assignment is for a fixed period, and that period has not expired, the period ending 12 weeks after the scheduled end date of the Assignment;
- 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 Devonshire 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.

**9 Termination**

9.1 The Client undertakes to give sufficient direction to the Temporary Worker to ensure the Client's satisfaction with the Temporary Worker's standard 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 Devonshire to remove the Temporary Worker. Devonshire may in such circumstances reduce or cancel the charges for the time worked by that Temporary Worker provided that the Assignment terminates:-

- i) within four hours of the Temporary Worker commencing duties where the Assignment is for more than seven hours, or
- ii) within two hours for Assignments of seven hours or less.

and also provided that notification of the unsuitability of the Temporary Worker is confirmed in writing to Devonshire within 48 hours of the termination of the Assignment.

9.2 Any of the Client Devonshire or the Temporary Worker may terminate an Assignment at any time without prior notice and without liability.

9.3 The Client shall notify Devonshire immediately and without delay and in any event within 24 hours in the event the Temporary Worker fails to attend at the Client's workplace or notifies the Client that they are unable to render their services for any reason.

9.4 Devonshire 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 9.2.

**10 Liability**

10.1 Whilst every effort is made by Devonshire to give satisfaction to the Client by ensuring reasonable standards of skill, integrity and reliability from the Temporary Worker and further to provide the Temporary Worker in accordance with the booking details for the Assignment provided by the Client no liability is accepted by Devonshire for any loss expense damage or delay arising from any failure to provide any Temporary Worker for all or part of the period of the Assignment or from the negligence dishonesty misconduct or lack of skill of the Temporary Worker or in the event that the Temporary Worker terminates the Assignment for any reason. For the avoidance of doubt Devonshire does not exclude liability for death or personal injury arising from its own negligence.

10.2 Temporary Workers provided by Devonshire to the Client are deemed to be under the direction and control of the Client from the time they report to take up duties and for the duration of the Assignment.

10.3 Temporary Workers supplied by Devonshire to the Client are engaged under contracts for services. They are not employees of Devonshire. 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 were on the payroll of the Client.

10.4 The Client will comply in all respects with all relevant statutes including for the avoidance of doubt the Working Time Regulations, Health & 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 in respect of the Temporary Worker during all Assignments.

10.5 The Client shall advise Devonshire of any special health and safety matters about which Devonshire is required to inform the Temporary Worker and about any requirements imposed by law or any professional body which must be satisfied if the Temporary Worker is to fill the Assignment. The Client will assist Devonshire in complying with Devonshire's duties under the Working Time Regulations by supplying any relevant information about the Assignment requested by Devonshire and the Client will not do anything to cause Devonshire 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 Devonshire of this requirement before the commencement of that week.

10.6 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.

10.7 The Client shall indemnify and keep indemnified Devonshire against any costs claims damages expenses or liabilities incurred by Devonshire arising out of any Assignment of the Temporary Worker or arising out of any non-compliance with Clauses 10.2 to 10.5 and/or as a result of any breach of these Terms by the Client.

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Signed on behalf of Devonshire Date

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Signed on behalf of the Client Date

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Name of Authorised Signatory (Please print)

.....  
Company Name

*Revised April 2008*