

# CONTRACT FOR SERVICES – AGENCY WORKER

## 1 THE AGREEMENT

- 1.1 This agreement is a contract for services between the Agency Worker and the Company and:
  - 1.1.1 Schedule 1 applies to any period when the Company is providing work-finding services to the Agency Worker; and
  - 1.1.2 Schedule 2 applies to any period in which the Agency Worker may carry out an Assignment as a directly-engaged PAYE worker.
- 1.2 This agreement, including the Schedules and any Assignment Schedule, forms the entire agreement between the Agency Worker and the Company. Any terms which the Agency Worker proposes in addition to or instead of this agreement are excluded.
- 1.3 The Agency Worker is deemed to have accepted this agreement by instructing the Company to provide work-finding services or starting an Assignment, whichever occurs first after receipt of this agreement.
- 1.4 If the Company wishes to vary this agreement, the Company will first agree the variation with the Agency Worker and then confirm this in writing within five working days, stating the date from which the variation is effective.
- 1.5 For the purposes of the Conduct Regulations, the Company is acting as an Employment Business in relation to this agreement.

## 2 DEFINITIONS & INTERPRETATION

- 2.1 In this agreement, the following definitions apply:
  - Agency Worker** means you, the individual seeking an Assignment;
  - Assignment** means a temporary role which the Agency Worker may carry out for a Client;
  - Assignment Schedule** means the document issued by the Company confirming the details of the Assignment, together with any Special Conditions;
  - Client** means the person, firm, partnership, organisation, public sector body or company to which the Agency Worker is introduced or supplied by the Company including, where relevant, any customer of the Client to which the Agency Worker is supplied or for which the Agency Worker ultimately carries out the Assignment;
  - Company** means James Lewis Limited (Registered in England & Wales No. 05194170) whose registered office is at 4 Castle Business Village, Station Road, Hampton, Middlesex, TW12 2BX;
  - Conduct Regulations** means the Conduct of Employment Agencies and Employment Businesses Regulations 2003;
  - Confidential Information** means all commercial, financial, marketing, technical and other information, trade secrets, knowhow and data relating to or belonging to the Client, in any form whatsoever, which is provided to the Agency Worker or which the Agency Worker becomes aware of during the Assignment;
  - Expected Minimum** means £10 per hour;
  - Intellectual Property** means any copyright, trade marks, patents, database rights, design rights and other intellectual property rights arising anywhere in the world together with any registration rights;
  - Intermediary** means an umbrella company or CIS intermediary company which is acceptable to the Company;
  - Location** means the place at which the Agency Worker carries out an Assignment;
  - Permitted Deductions** means a deduction for (i) any previous overpayment which the Company has made to the Agency Worker (ii) the replacement or repair cost of any property belonging to the Client or the Company which is lost, stolen or damaged whilst in the Agency Worker's possession or allocated to the Agency Worker or which is not returned by the Agency Worker in accordance with this agreement and (iii) any other deduction which the Agency Worker has agreed can be made from the Agency Worker's remuneration;
  - Qualifying Period** means the 12-week qualifying period in Regulation 7 of the Agency Workers Regulations 2010;
  - Special Conditions** means any specific conditions which are set out in the Assignment Schedule;
  - Statutory Deductions** means any deductions which the Company may be required to make by law including any deductions for PAYE, National Insurance Contributions and the Agency Worker's pension contributions; and
  - Work Type** means work with the Transport, Engineering or Construction sector or such alternative work as may be acceptable to the Agency Worker.
- 2.2 Unless the context suggests otherwise, a reference to the singular includes the plural and a reference to the masculine include the other genders and vice versa.
- 2.3 A reference to any legislation includes any amendment or replacement to that legislation.
- 2.4 Unless otherwise indicated, a reference to a clause is to a clause within the main body of this agreement and a reference to a paragraph is a paragraph in the relevant schedule.
- 2.5 The headings in this agreement are for convenience and do not affect the interpretation of any clause or paragraph.

## 3 GENERAL PROVISIONS

- 3.1 If any part of this agreement is held by a court to be unenforceable, that part shall be deemed to have been struck out from this agreement, as far as permitted by law.
- 3.2 Neither the Company nor the Agency Worker intend for this agreement to be enforced by any third party under the Contracts (Rights of Third Parties) Act 1999 except the Client, who is entitled to enforce paragraphs 7 and 8 of Schedule 2 directly against the Agency Worker.
- 3.3 This agreement shall be interpreted in accordance with the laws of England and Wales and the Courts of England and Wales shall have exclusive jurisdiction over any dispute between the parties in relation to this agreement.

## SCHEDULE 1 - WORK-FINDING SERVICES

### 1 PROVISION OF SERVICES

- 1.1 The Company will try to find Assignments for the Agency Worker to carry out which match the Work Type but the Company is not under any obligation to offer work to the Agency Worker and, if the Company offers any work to the Agency Worker, the Agency Worker is not under any obligation to accept it.
- 1.2 The Agency Worker acknowledges that the Company may not have any suitable work for the Agency Worker to carry out and therefore:
  - 1.2.1 the Company will not be liable to the Agency Worker for not arranging an Assignment; and
  - 1.2.2 the Agency Worker may register with and carry out assignments for any third party.
- 1.3 The Company is under no obligation to submit the Agency Worker's details to any particular Client provided that the Company shall not exercise its discretion in a manner which unlawfully discriminates against the Agency Worker.
- 1.4 The Agency Worker confirms that:
  - 1.4.1 the Agency Worker is legally entitled to work in the United Kingdom and will provide proof of this to the Company upon request;
  - 1.4.2 the information provided by the Agency Worker in any registration form or CV is accurate and not misleading;
  - 1.4.3 the Agency Worker has declared and shall declare to the Company any convictions, cautions, reprimands or final warnings that are not spent or otherwise "protected" as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended);
  - 1.4.4 where applicable, the Agency Worker has accurately disclosed any security clearances that the Agency Worker holds and shall update the Company if there are any relevant changes to such security clearances;
  - 1.4.5 the Agency Worker is not aware of any reason why it would be detrimental to the interests of the Client or the Agency Worker for the Agency Worker to perform an Assignment;
  - 1.4.6 the Agency Worker is not subject to any investigation or disciplinary finding by a professional body which the Agency Worker has failed to disclose or which may prevent the Agency Worker from carrying out the Assignment lawfully; and
  - 1.4.7 the Agency Worker has disclosed to the Company all information which is relevant to the Agency Worker's ability or suitability to carry out an Assignment.
- 1.5 The Agency Worker must notify the Company without delay if any of the matters confirmed in paragraph 1.4 become inaccurate or out of date.
- 1.6 Subject to paragraph 1.7, if the Company agrees that the Agency Worker will carry out an Assignment:
  - 1.6.1 the Company will issue an Assignment Schedule to the Agency Worker at the start of the Assignment or otherwise within three working days;
  - 1.6.2 the Agency Worker must comply with any Special Conditions in the Assignment Schedule or, if the Agency Worker cannot do so for any reason, the Agency Worker must notify the Company without delay upon receiving the Assignment Schedule;
  - 1.6.3 the Agency Worker will be an agency worker within the meaning of the Agency Workers Regulations 2010 (AWR); and
  - 1.6.4 the Agency Worker will be entitled to the legal rights available to workers but will not be employed by the Company at any time and therefore will not have any right to claim unfair dismissal, redundancy, guarantee payments or any other legal right which is only available to employees.
- 1.7 Prior to commencing an Assignment, the Agency Worker may elect to be engaged or the Company may request that the Agency Worker is engaged by an Intermediary for the performance of such Assignment. In such event (i) the Agency Worker shall be engaged and paid by the Intermediary (ii) the Agency Worker shall not have any contractual relationship with the Company for the performance of such Assignment and (iii) Schedule 2 shall not apply, with the exception of paragraph 7 (Intellectual Property Rights) and paragraph 8 (Confidentiality).

## SCHEDULE 2 – CARRYING OUT AN ASSIGNMENT

### 1 AGENCY WORKER'S OBLIGATIONS & WARRANTIES

- 1.1 Before commencing an Assignment, the Agency Worker must notify the Company if the Agency Worker has worked for the same Client within the last six months.
- 1.2 If the Agency Worker carries out an Assignment, the Agency Worker must:
  - 1.2.1 not commence working until the Client has carried out an appropriate induction;
  - 1.2.2 work in a professional manner and to the best of the Agency Worker's ability;
  - 1.2.3 co-operate with the Client's instructions and work under the Client's direction, supervision and control at all times;
  - 1.2.4 comply with any relevant policies and procedures at the Location;
  - 1.2.5 take all reasonable steps to safeguard the Agency Worker's own health and safety and that of anyone else who might be affected by the Agency Worker's acts or omissions;
  - 1.2.6 comply with all laws and not do anything which might place the Client or the Company in breach of any laws;
  - 1.2.7 not do anything which is detrimental to the interests of the Client or the Company;
  - 1.2.8 not discriminate against, harass or victimise any other person;
  - 1.2.9 notify the Company without delay if the Agency Worker believes that the Agency Worker has not received equal treatment under the AWR;
  - 1.2.10 not use, disclose or share any Confidential Information except as necessary for performing the Assignment; and
  - 1.2.11 return to the Client or to the Company (as applicable), at the end of the Assignment or at any other time if requested, anything which has been provided to the Agency Worker in connection with the Assignment including equipment, materials, documents, ID cards and keys, uniforms and PPE. The Agency Worker is not permitted to retain property belonging to the Client or to the Company for any reason.
- 1.3 If the Agency Worker is unable to work on any day, the Agency Worker must notify the Client and the Company at least one hour before the Agency Worker's working day is due to start.
- 1.4 If the Agency Worker is pregnant, the Agency Worker should notify the Company without delay so that the Company can arrange for the Client to carry out an appropriate risk assessment.
- 1.5 If the Client decides to employ or engage the Agency Worker, directly or through any third party, the Agency Worker acknowledges that the Company's agreement with the Client may (i) allow the Company to charge the Client a transfer fee or (ii) require the Client to extend the Assignment for a fixed period of time (typically 26 weeks) before the Client can employ or engage the Agency Worker, directly or through any third party. The Company will only do this where the Company is permitted to do so under the Conduct Regulations.

### 2 TIMESHEETS & WORKING TIME

- 2.1 At the end of each week of the Assignment, the Agency Worker must submit a timesheet in a format acceptable to the Company which accurately shows the time worked by the Agency Worker during the relevant week and which has been approved by an authorised representative of the Client. For the avoidance of doubt:
  - 2.1.1 the Agency Worker must not approve the Agency Worker's own timesheet under any circumstances. If the Agency Worker cannot arrange for the timesheet to be approved by an authorised representative of the Client, the Agency Worker must let the Company know as soon as possible;
  - 2.1.2 the Agency Worker must not amend a timesheet which has already been approved by the Client, even if the Agency Worker believes that the amendment is justified. In this situation, the Agency Worker must let the Company know as soon as possible; and
  - 2.1.3 the Company shall be under no obligation to pay any timesheet which is submitted more than three months after the end of the week to which such timesheet relates.
- 2.2 Provided that the Company receives the Agency Worker's approved timesheet no later than midday on the Tuesday after the week to which the timesheet relates, the Company will pay the Agency Worker for the hours on that timesheet on the next Friday. If the Company receive the Agency Worker's timesheet after this time, the Company will pay the Agency Worker on the Friday of the week following the week in which the Company receives the timesheet.
- 2.3 If the Agency Worker (i) does not submit a properly completed and approved timesheet or (ii) submits a timesheet which the Company believes is inaccurate, the Company will contact the Client to find out the time which the Agency Worker did work and, if relevant, the reason why the Client has not approved the timesheet. This may delay the Company's payment to the Agency Worker but the Company will (i) pay any undisputed amount without delay and (ii) take all reasonable steps to ensure that the issue is resolved within a reasonable period.
- 2.4 Unless otherwise agreed by the Company, any time which the Agency Worker spends travelling to and from the Location at the beginning and end of the working day is not working time and the Agency Worker shall not therefore be paid in respect of such time.

### 3 REMUNERATION

- 3.1 The Company will pay the Agency Worker for the Assignment at the rate set out in the Assignment Schedule. The Company reasonably expects that the rate shall not be less than the Expected Minimum and in any event shall (i) ensure that such rate is not less than the National Minimum Wage or, if applicable to the Agency Worker, the National Living Wage.

- 3.2 The Agency Worker acknowledges that the Company's payments to the Agency Worker will be subject to Statutory Deductions and the Permitted Deductions which the Agency Worker hereby authorises.
- 3.3 After the Qualifying Period, the Agency Worker may be entitled to an increase in the Agency Worker's pay rate, a bonus or other equal treatment under the AWR. If applicable, the Company will notify the Agency Worker of any additional entitlement under the AWR by sending the Agency Worker a revised Assignment Schedule.
- 3.4 The Company undertakes to pay the Agency Worker for all hours which the Agency Worker has worked, whether or not the Company is expecting to be paid by the Client for those hours.
- 3.5 If the Company make an overpayment to the Agency Worker, the Company may subsequently recover this by making a Permitted Deduction. The Company warrants that it shall comply with its obligations under national minimum wage legislation for each pay period when recovering such overpayment from the Agency Worker.
- 3.6 For the avoidance of doubt, the rate payable for the Assignment is agreed between the Company and the Agency Worker. The Client is not authorised to make any change to the pay rate or promise the Agency Worker any particular sum for the Assignment. If the Client informs the Agency Worker or suggests that the Agency Worker is entitled to any additional payment for the Assignment, such payment is subject to the Company's agreement.
- 3.7 The Company will auto-enrol the Agency Worker in the Company's pension scheme after the postponement period of three months. If the Agency Worker chooses to remain within the pension scheme, the Company will make statutory contributions in accordance with the Company's minimum legal obligations. The Company will also make the relevant Statutory Deductions in respect of the Agency Worker's contributions. The Agency Worker is entitled to increase the Agency Worker's contributions to the pension scheme at any time, but the Company shall not match any additional contributions which the Agency Worker decides to make.
- 3.8 Subject to any legal entitlement, the Agency Worker is not entitled to be paid for any period when the Agency Worker is not carrying out the Assignment.

#### **4 ANNUAL LEAVE**

- 4.1 The Agency Worker is entitled to paid holiday in accordance with the statutory minimum, which is 28 days each complete holiday year, inclusive of the public holidays in England & Wales and based upon the Agency Worker working at least five days per week. For the purposes of calculating the Agency Worker's holiday entitlement, the holiday year runs from 1 January to 31 December each year.
- 4.2 The Agency Worker is responsible for making sure that all holiday is requested and taken within the holiday year. Save as required by law, paid holiday may not be carried forward from one holiday year to the next one.
- 4.3 The Company will accrue holiday pay at a rate of 12.07% of any payment which the Company makes to the Agency Worker, excluding any expenses payments.
- 4.4 The Agency Worker is not entitled to receive payment for any holiday which has not accrued at the relevant time. If the Agency Worker wishes to take holiday which exceeds the Agency Worker's accrued entitlement, this will be unpaid.
- 4.5 If the Agency Worker wishes to take holiday during the Assignment, the Agency Worker must give advance notice of at least twice the duration of the holiday which the Agency Worker is requesting. e.g. if the Agency Worker wishes to take one week's holiday, the Agency Worker must give the Company at least two weeks' notice. In certain circumstances, the Company might ask the Agency Worker to take paid holiday on specific days, notify the Agency Worker of days when the Agency Worker may not take holiday, decline a request which the Agency Worker make for holiday or propose alternative days on which the Agency Worker may take holiday.
- 4.6 If the Agency Worker is entitled to any additional holiday days under the AWR, the Company will notify the Agency Worker. The Company may pay the additional holiday pay entitlement on a rolled-up basis with the Agency Worker's remuneration. However, even where the Company pays the additional holiday pay in this manner, the Agency Worker is still entitled to take the additional holiday days, if any, under the AWR provided that no additional payment shall be made in respect of such days.
- 4.7 Within three weeks from termination of the Assignment, the Company will make payment in lieu of any accrued holiday which the Agency Worker has not claimed during the relevant holiday year.

#### **5 SICKNESS ABSENCE**

- 5.1 The Agency Worker must notify the Company of any sickness absence by telephone in accordance with paragraph 1.3 of this schedule.
- 5.2 If the Agency Worker meets the relevant statutory criteria, the Agency Worker will be entitled to receive Statutory Sick Pay (**SSP**). The qualifying days for SSP are the days on which the Agency Worker would ordinarily perform the Assignment as specified in the Assignment Schedule. The Agency Worker is not entitled to any contractual sick pay.
- 5.3 For the first seven days of any sickness absence, the Company will ask the Agency Worker to self-certify the Agency Worker's sickness. After that, the Agency Worker must produce a doctor's Fit Note covering the full period of sickness.
- 5.4 If the Agency Worker produces a Fit Note which states that the Agency Worker is able to work subject to certain conditions, the Company will contact the Client to establish whether those conditions can be satisfied. Where applicable, the Agency Worker might need to agree to a variation to the details in the Assignment Schedule, including the Agency Worker's pay rate, to accommodate the Fit Note conditions. *e.g. The Agency Worker might need to agree to work for fewer hours or to perform a different role which involves lighter duties, if available.*

#### **6 TERMINATION OF THE ASSIGNMENT**

- 6.1 Subject to paragraph 6.2 below, the Assignment can be terminated by the Client, the Agency Worker or the Company at any time by giving the notice set out in the Assignment Schedule or, if no period of notice is specified, at any time by giving one week's notice.
- 6.2 The Company can terminate the Assignment at any time with immediate effect and without any liability to pay the Agency Worker for

the notice period if:

- 6.2.1 the Client decides to cancel the Assignment before it starts;
  - 6.2.2 the Agency Worker commits a breach of this agreement which the Company reasonably considers to be serious enough to justify termination without notice;
  - 6.2.3 the Client notifies the Company of a serious issue with the Agency Worker's performance or conduct;
  - 6.2.4 the Agency Worker refuses or fails to perform the Assignment for any reason;
  - 6.2.5 the Company considers it to be detrimental to the Agency Worker's interests or the interests of the Client for the Assignment to continue; or
  - 6.2.6 the agreement between the Client and the Company is terminated for any reason.
- 6.3 Paragraphs 1.2.10, 1.2.11, 6.6, 7 and 8 of this Schedule remain valid and enforceable after termination of the Assignment.
- 6.4 After termination of the Assignment, the Company is not under any obligation to offer the Agency Worker any further work. If the Company does offer the Agency Worker any further work, the Agency Worker is not under any obligation to accept the Company's offer.
- 6.5 If the Agency Worker does not start another Assignment within four weeks of the Agency Worker's Assignment terminating, the Company will send the Agency Worker's P45 to the last address which the Company holds on file for the Agency Worker.
- 6.6 If the Agency Worker owes any money to the Company (**Debt**), the Company may make a Permitted Deduction in respect of the Debt. However, if the Company does not recover the Debt by making a Permitted Deduction, the Company may notify the Agency Worker that it requires the Debt to be repaid in full within 14 days. If the Agency Worker does not repay the Debt to the Company within this period and has not made an acceptable proposal for repayment, the Company may take formal steps to recover the Debt from the Agency Worker.

## **7 INTELLECTUAL PROPERTY RIGHTS**

- 7.1 The Agency Worker agrees that any Intellectual Property created, invented or discovered by the Agency Worker during the Assignment or otherwise resulting from the Assignment belongs to the Client and the Agency Worker therefore (i) assigns all rights in the Intellectual Property to the Client or to any other party nominated by the Client and (ii) waives the Agency Worker's moral rights in the Intellectual Property.
- 7.2 The Agency Worker must notify the Client of all Intellectual Property creations, inventions and discoveries which are made by the Agency Worker in the course of the Assignment.
- 7.3 The Agency Worker must not use any of the Intellectual Property referred to in paragraph 7.1 for the Agency Worker's own purposes or for the benefit of any third party.
- 7.4 The Agency Worker must sign any documents and take any steps which the Client requires, without charge, to give effect to the Client's rights under paragraph 7.1.

## **8 CONFIDENTIALITY**

- 8.1 The Agency Worker acknowledges the need to protect the Client's confidentiality and therefore the Agency Worker must:
  - 8.1.1 not make any copy, image, summary or extract of anything belonging to the Client which contains Confidential Information, except when required to do so in the course of the Assignment;
  - 8.1.2 not at any time, whether during or after the Assignment disclose to any person or make use of any Confidential Information, unless it is necessary for the performance of the Assignment;
  - 8.1.3 hand over to the Client at the end of the Assignment or at any other time on demand, all documents and materials, in any format whatsoever, which contain any Confidential Information; and
  - 8.1.4 not retain any Confidential Information, in any format, after termination of the Assignment.
- 8.2 The Agency Worker must not make any statement about the Client or its business to the press or to any third party unless the Client has authorised the Agency Worker to do so.
- 8.3 Nothing in this paragraph 8 is intended to prevent the Agency Worker from taking legal advice, complying with any law or court order, making a criminal complaint or exercising the Agency Worker's right to make a public interest disclosure.