

Agency Drivers Northwest Terms of Engagement/Contract For Services September 2009

1. DEFINITIONS

- 1.1. In these Terms of Engagement 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 requiring the services of the Temporary Worker together with any subsidiary or associated company as defined by the Companies Act 1985;
“Employment Business” means Challenge Logistics Ltd T/A Agency Drivers Northwest
“Temporary Worker” means.....
“Relevant Period” means the longer period of either 14 weeks from the ¹first day on which the Temporary Worker worked for the Client, or 8 weeks from the day after the Temporary Worker was last supplied by the Employment Business to the Client.

- 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 a contract for services between the Employment Business and the Temporary Worker and they govern all Assignments undertaken by the Temporary Worker. However, no contract shall exist between the Employment Business and the Temporary Worker between Assignments.
 2.2. For the avoidance of doubt, these Terms shall not give rise to a contract of employment between the Employment Business and the Temporary Worker. The Temporary Worker is engaged as a self-employed worker, although the Employment Business is required to make statutory deductions from the Temporary Worker’s remuneration in accordance with clause 4.1.
 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 Temporary Worker and set out in writing and a copy of the varied terms is given to the Temporary Worker stating the date on or after which such varied terms shall apply.

3. ASSIGNMENTS

- 3.1 The Employment Business will endeavour to obtain suitable Assignments for the Temporary Worker to work as a driver. The Temporary Worker shall not be obliged to accept an Assignment offered by the Employment Business.
 3.2 The Temporary Worker acknowledges that the nature of temporary work means that there may be periods when no suitable work is available and agrees: that the suitability of the work to be offered shall be determined solely by the Employment Business; that the Employment Business shall incur no liability to the Temporary Worker should it fail to offer opportunities to work in the above category or in any other category; and that no contract shall exist between the Temporary Worker and the Employment Business during periods when the Temporary Worker is not working on an Assignment.
 3.3 At the same time as an Assignment is offered to the Temporary Worker the Employment Business shall inform the Temporary Worker of the identity of the Client, and if applicable the nature of their business; the date the work is to commence and the duration or likely duration of the work; the type of work, location and hours during which the Temporary Worker would be required to work; the rate of remuneration that will be paid and any expenses payable by or to the Temporary Worker; and any risks to health and safety known to the Client in relation to the Assignment and the steps the Client has taken to prevent or control such risks. In addition the Employment Business shall inform the Temporary Worker what experience, training, qualifications and any authorisation required by law or a professional body the Client considers necessary or which are required by law to work in the Assignment.
 3.4 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 offered 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 Temporary Worker.
 3.5 For the purpose of calculating the average number of weekly hours worked by the Temporary Worker on an Assignment, the start date for the relevant averaging period under the Working Time Regulations shall be the date on which the Temporary Worker commences the first Assignment.
 3.6 If, before the first Assignment, during the course of an Assignment or within the Relevant Period the Client wishes to employ the Temporary Worker direct or through another employment business, the Temporary Worker acknowledges that the Employment Business will be entitled either to charge the Client a fee or to agree an extension of the hiring period with the Client at the end of which the Temporary Worker may be engaged directly by the Client or through another employment business without further charge to the Client. In addition the Employment Business will be entitled to charge a fee to the Client if the Client introduces the Temporary Worker to a third party who subsequently engages the Temporary Worker within the Relevant Period.

4. REMUNERATION

- 4.1 The Employment Business shall pay to the Temporary Worker remuneration calculated at a minimum hourly rate of £5.85 being the minimum rate of remuneration that the Employment Business reasonably expects to achieve, for all hours worked. The actual rate will be notified on a per Assignment basis, for each hour worked during an Assignment (to the nearest quarter hour) to be paid weekly in arrears, subject to deductions in respect of PAYE pursuant to Sections 44-47 of the Income Tax (Earnings and Pensions) Act 2003 and Class 1 National Insurance Contributions and any other deductions which the Employment Business may be required by law to make.
 4.2 Subject to any statutory entitlement under the relevant legislation, the Temporary Worker is not entitled to receive payment from the Employment Business or Clients for time not spent on Assignment, whether in respect of holidays, illness or absence for any other reason unless otherwise agreed.

5. STATUTORY LEAVE

- 5.1 For the purposes of calculating entitlement to paid annual leave pursuant to Working Time Regulations 1998 under this clause, the leave year commences on the date that the Temporary Worker starts an Assignment or a series of Assignments
 5.2 The annual leave granted under these terms will always be the statutory minimum as it is from time to time. Under the Working Time Regulations 1998 (as amended) the Temporary Worker is entitled to annual leave as follows: for work carried out between 01/10/07 to 31/03/09 - 4.8 weeks; and for work carried out from 01/04/09 onwards - 5.6 weeks
 5.3 All entitlement to leave must be taken during the course of the leave year in which it accrues and none may be carried forward to the next year

- 5.4 Where a Temporary Worker wishes to take paid leave during the course of an assignment s/he should notify the Employment Business of the dates of his/her intended absence giving notice of at least twice the length of the period of leave that s/he wishes to take. In certain circumstances the Employment Business may give counter-notice to the Temporary Worker to postpone or reduce the amount of leave that the Temporary Worker wishes to take and in such circumstances the Employment Business will inform the Temporary Worker in writing giving at least the same length of notice as the period of leave that it wishes to postpone or reduce it by.

- 5.5 Entitlement to payment for leave accrues in proportion to the amount of time worked continuously by the Temporary Worker on Assignment during the leave year. The amount of payment which the Temporary Worker will receive in respect of periods of annual leave taken during the course of an Assignment will be calculated in accordance with and paid in proportion to the number of hours which the Temporary Worker has worked on Assignment. Payments for annual leave will be calculated on the basis of rates paid during the Client’s normal working hours i.e those which do not attract overtime rates of pay

- 5.6 In the course of any Assignment during the first leave year the Temporary Worker is entitled to request leave at the rate of one-twelfth of the Temporary Worker’s total holiday entitlement in each month of the leave year.

- 5.7 Where a Bank Holiday or other Public Holiday falls during an Assignment and the Temporary Worker does not work on that day then subject to the worker having accrued entitlement to payment for leave in accordance with 5.5 the Temporary Worker may, upon giving one week’s notice, take a Bank Holiday or other Public Holiday as part of his/her paid annual leave entitlement.

- 5.8 Where this contract is terminated by either party and a P45 is requested, the Temporary Worker shall be entitled to a payment in lieu of any untaken leave where the amount of leave taken is less than the amount accrued in accordance with clause 5.5 above

- 5.9 None of the provisions of this clause regarding the statutory entitlement to paid leave shall affect the Temporary Worker’s status as a self-employed worker.

6. SICKNESS ABSENCE

- 6.1 The Temporary Worker may be eligible for Statutory Sick Pay provided that s/he meets the relevant statutory criteria.
 6.2 For the purposes of the Statutory Sick Pay scheme there is one qualifying day per week during the course of an assignment and that qualifying day shall be the Wednesday in every week.

7. TIME SHEETS

- 7.1 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 or is completed before the end of a week) the Temporary Worker shall deliver to the Employment Business a time sheet duly completed to indicate the number of hours worked during the preceding week (or such lesser period) and signed by an authorised representative of the Client.
 7.2 Subject to clause 7.3 The Employment Business shall pay the Temporary Worker for all hours worked regardless of whether the Employment Business has received payment from the Client for those hours.
 7.3 Where the Temporary Worker fails to submit a properly authenticated time sheet the Employment Business shall, in a timely fashion, conduct further investigations into the hours claimed by the Temporary Worker and the reasons that the Client has refused to sign a timesheet in respect of those hours. This may delay any payment due to the Temporary Worker. The Employment Business shall make no payment to the Temporary Worker for hours not worked.
 7.4 For the avoidance of doubt and for the purposes of the Working Time Regulations, the Temporary Worker’s working time shall only consist of those periods during which s/he is carrying out activities or duties for the Client as part of the Assignment. Time spent travelling to the Client’s premises; lunch breaks and other rest breaks shall not count as part of the Temporary Worker’s working time for these purposes.

8. CONDUCT OF ASSIGNMENTS

- 8.1 The Temporary Worker is not obliged to accept any Assignment offered by the Employment Business but if s/he does so, during every Assignment and afterwards where appropriate, s/he will: –
 a) Co-operate with the Client’s reasonable instructions and accept the direction, supervision and control of any responsible person in the Client’s organisation;
 b) Observe any relevant rules and regulations of the Client’s establishment (including normal hours of work) to which attention has been drawn or which the Temporary Worker might reasonably be expected to ascertain;
 c) Take all reasonable steps to safeguard his or her own health and safety and that of any other person who may be present or be affected by his or her actions on the Assignment and comply with the Health and Safety policies and procedures of the Client;
 d) Not engage in any conduct detrimental to the interests of the Client;
 e) Not at any time divulge to any person, nor use for his or her own or any other person’s benefit, any confidential information relating to the Client’s or the Employment Business’ employees, business affairs, transactions or finances.
 8.2 If the Temporary Worker is unable for any reason to attend work during the course of an Assignment s/he should inform the Client and/or the Employment Business within one hour of the commencement of the Assignment or shift.
 8.3 If, either before or during the course of an Assignment, the Temporary Worker becomes aware of any reason why he may not be suitable for an Assignment, he shall notify the Employment Business without delay.

9. TERMINATION

- 9.1 The Employment Business or the Client may terminate the Temporary Worker’s Assignment at any time without prior notice or liability.
 9.2 The Temporary Worker may terminate an Assignment at any time without prior notice or liability.
 9.3 If the Temporary Worker does not inform the Client or the Employment Business [in accordance with clause 8.2] should they be unable to attend work during the course of an assignment this will be treated as termination of the assignment by the Temporary Worker in accordance with clause 9.2 unless the Temporary Worker can show that exceptional circumstances prevented him or her from complying with clause 8.2.
 9.4 If the Temporary Worker is absent during the course of an assignment and the contract has not been otherwise terminated under clauses 9.1, 9.2 or 9.3 above the employment business will be entitled to terminate the contract in accordance with clause 9.1 if the work to which the absent worker was assigned is no longer available for the Temporary Worker.
 9.5 If the Temporary Worker does not report to the Employment Business to notify his/her availability for work for a period of three weeks, the Employment Business will forward his/her P45 to his/her last known address.

10. LAW

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

¹ The ‘first day’ will be the first occasion on which a Temporary Worker is supplied to work for the Client or the first day of an assignment where there has been more than 42 days since the end of any previous assignment