

## Terms and Conditions of Business (2008) relating to the supply of Temporary Staff

### 1. Definitions & Interpretation

In these Conditions the following words shall have the following meanings:-

"we"/ "us"/ "ours" means or refers to us, Principal Resourcing Limited, registered number 5159515 whose registered office is at Lazenby Cottage, Burgate, North Newbald, York, East Yorkshire YO43 4SG;

"you"/ "your" means or refers to you, the person to whom we supply a member of Temporary Staff;

"Appointment" means employment, use or engagement of the Temporary Staff member directly by you or any third party or through any other employment business on a temporary or permanent basis, whether under a contract for services or contract of service, a license, franchise or partnership agreement,, whether as employee, agent, consultant, partner or director or in any other capacity, and whether directly or through a limited company of which the Temporary Staff member is an officer or employee, following an Introduction by us (other than as a Temporary Staff member) (and "Appoint" and "Appointed" shall be interpreted accordingly);

"Assignment" means or refers to the assignment, service(s) or job(s) which the Temporary Staff member is to perform for you for which fees are payable under Condition 4;

"Client Group company" means any company which is your holding company or subsidiary (both as defined in Section 736 Companies Act 1985) or is a subsidiary of such holding company;

"Daily Rate" means the daily rate for the relevant Temporary Staff member, as notified to you upon commencement of the Assignment (as may be varied by us from time to time during the Assignment by notice to you), or if no rate is notified, our standard daily rate for Temporary Staff from time to time with the qualifications and experience of the relevant Temporary Staff member;

"Half Daily Rate" means the half daily rate for the relevant Temporary Staff member, as notified to you upon commencement of the Assignment (as may be varied by us from time to time during the Assignment by notice to you), or if no rate is notified, our standard half daily rate for Temporary Staff from time to time with the qualifications and experience of the relevant Temporary Staff member;

"Introduction" means or refers to the introduction to you of a Temporary Staff member by us, which shall be deemed to have taken place where (at your request) we have:-

(a) introduced the Temporary Staff member to you in person or by telephone; or

(b) made arrangements to facilitate such an introduction with you and/or the Temporary Staff member; or

(c) provided you and/or the Temporary Staff member with sufficient information (for example, in your case, a Curriculum Vitae) to enable either of them to arrange such an introduction;

(and "Introduced" shall be interpreted accordingly);

"Introduction Fee" means the Introduction Fee payable in accordance with Condition 8.1 below and Regulation 10 of the Conduct of Employment Agencies and Employment Businesses Regulations 2003;

"Services" means the services we supply comprising the supply of Temporary Staff members to you;

"Temporary Staff" means or refers to the temporary member of teaching staff, teaching support staff or nursery nursing staff who will perform an Assignment for you;

"Week" means the days Monday to Sunday (inclusive) in any calendar week.

1.2 In these Conditions, unless the context otherwise requires:

(i) the singular includes the plural and vice versa and words importing a gender shall include all genders;

(iii) the headings are for convenience of reference only and shall not affect the construction or interpretation of these Conditions;

(iv) references to any person include references to any human being, company, firm, body corporate, association, joint venture, partnership, trust, local authority, charity, body and/or any other legal entity capable of suing and being sued;

(v) references to any statute, enactment, order, regulation or other similar instrument shall be construed as references to the statute, enactment, order, regulation or instrument as amended by any subsequent statute, enactment, order, regulation or instrument or as contained in any subsequent re-enactment, modification or statutory extension of any of the above.

### 2. Formation of the Contract

2.1 These Terms and Conditions of Business ("Conditions") shall apply in respect of any and all Temporary Staff supplied to you by us, and you are deemed to accept them if you request (whether in writing, verbally or electronically) that we find and/or supply a Temporary Staff member in accordance with your requirements, if you interview or Appoint a Temporary Staff member, or if you pass any information about the Temporary Staff member to any third party following an Introduction.

2.2 Subject to any variation under Condition 2.3, these Conditions shall apply to the exclusion of all other terms and conditions (including any terms and conditions which you purport to incorporate or apply under any written order or instructions, or confirmation of order or instructions, specification or other document).

2.3 Any variation or alteration to these Conditions shall have no effect unless the details of such variation are expressly agreed in writing between you and us, and a copy of the varied Conditions is given to you stating the date on or after which the varied Conditions apply.

### 3. Supply of the Services

3.1 You shall at your own expense supply us with all necessary documents or materials, and all necessary data or other information within sufficient time to enable us to put forward appropriate Temporary Staff members. This will include a detailed description of the Assignment(s), including without limitation details of the position(s) you wish to fill, the type(s) of work a person in that position would be required to do, the relevant commencement dates, hours and duration of the work, the location(s) at which the work must be performed, any risks to health or safety known to you and what steps you have taken to prevent or control such risks, and the experience, training, qualifications and any authorisations which you consider necessary, or which are required by law, or by any professional body, to possess for the Assignment and/or work concerned.

3.2 We shall take all reasonably practicable steps to verify and confirm to you the identity of Temporary Staff members, to ensure that they have the necessary qualifications, training and work or other permits or authorisations required by law, to establish their previous employment history and experience, to check their references, and to ensure that all necessary legal (including criminal history checks) and medical requirements are satisfied which are necessary for the Assignment referred to in Condition 3.1.

3.3 Where the Assignment will involve the Temporary Staff member teaching, 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, we will (in addition to the matters referred to in Condition 3.2) also take all reasonably practicable steps to obtain (and offer to provide to you) two references from persons not related to the Temporary Staff member who have agreed that the references they provide may be disclosed, and that we have taken all reasonably practicable steps to confirm that the Temporary Staff member is suitable for the Assignment. If we are unable to do any of the above we shall inform you of the steps we have taken to obtain this information in any event.

3.4 We do not give any warranty or guarantee of being able to meet your requirements for Temporary Staff members from time to time.

3.5 The Services shall be provided in accordance with our current brochure or other published literature relating to the Services from time to time, subject to these Conditions. Further details about the Services, and associated advice or recommendations which are not given in our brochure or other promotional literature may be made available from us upon written request. We may correct any typographical or other errors or omissions in any brochure or promotional literature relating to the provision of the Services without any liability to you.

3.6 We may at any time without notifying you make any changes to the Services which are necessary to comply with any applicable safety or other statutory requirements, or which do not materially affect the nature or quality of the Services.

### 4. Charges for supply of Temporary Staff members

4.1 You shall pay to us the following in relation to Temporary Staff members supplied by us (together with VAT (where applicable) and any other appropriate taxes and without set-off or any other deduction):

(a) (where you pay a Daily Rate and Half Daily Rate for the Temporary Staff members) charges calculated by reference to the number of days or half days worked by the Temporary Staff member on the Assignment (subject to Condition 4.4; or

(b) (where you pay an Hourly Rate for the Temporary Staff members) charges calculated by reference to the number of hours worked by the Temporary Staff member on the Assignment (subject to Condition 4.4).

4.2 Our Daily Rate, Half Daily Rate and Hourly Rates charged for Temporary Staff members comprise mainly the Temporary Staff member's hourly rate but also include our commission, employers' National Insurance Contributions, paid holiday contributions (where applicable) and any travel, hotel and other expenses which we have agreed with you which are incurred by the Temporary Staff member in the course of the Assignment.

4.3 We shall make all payments to the Temporary Staff member (including paid holiday contributions where applicable), and will deduct such payments and pay to the Inland Revenue income tax

(PAYE) and National Insurance Contributions as required by law.

4.4 You must notify us immediately and without delay if you no longer require the services of a Temporary Staff member on any day which you have already booked with us to supply a Temporary Staff member, so we can try to reassign the person concerned for an alternative assignment with another client. If you do not notify us by 4pm on the working day before the day on which the Temporary Staff member is due to work for you, you will be responsible for paying us the full rate for that day. You also acknowledge and agree that (without prejudice to the foregoing):

(a) (where you pay a Daily Rate and Half Daily Rate for the Temporary Staff members) the full Half Daily Rate will be charged to you where on any day the Temporary Staff member is engaged in the performance of the Assignment for a period less than or equal to the full period covered by the Half Daily Rate, and the full Daily Rate will be charged to you where on any day the Temporary Staff member is engaged in the performance of the Assignment for a period less than or equal to the full period covered by the Daily Rate, but greater than the period covered by the Half Daily Rate; and

(b) (where you pay an Hourly Rate for the Temporary Staff members) the total number of hours worked by the Temporary Staff member on any day in the performance of the Assignment shall be rounded up (so that a full hour shall be charged at the Hourly Rate where a fraction of an hour only is worked).

4.5 We shall submit weekly invoices to you in respect of the charges payable referred to in Condition 4.1. You shall pay such charges (and any Introduction Fees applicable) on or before the date 14 days after the date of our invoice.

4.6 If you fail to make any payment on the due date then, without prejudice to any other right or remedy available to us, we shall be entitled to charge you interest on the amount unpaid from the due date for payment, at the annual rate of 4% above the base lending rate from time to time of HSBC Bank plc from time to time, accruing on a daily basis until payment is made in full, whether before or after any judgement.

### 5. Confirmation of hours worked

5.1 Our standard procedure is to contact you by telephone at the end of an Assignment, and/or periodically during an Assignment, to confirm both the amount of time worked by the Temporary Staff member and that you are satisfied with services of the Temporary Staff member.

5.2 In addition to contacting you by telephone as referred to in Condition 5.1, at the end of each week of an Assignment we will send to you by facsimile a schedule containing details of the amount of time worked by the Temporary Staff member in the course of the Assignment on each day during that week (a "weekly schedule"). You should confirm that the weekly schedule is correct by signing and returning the weekly schedule to us not later than midday on Monday in the following week. If you believe there are any errors or discrepancies in the weekly schedule, it is your responsibility to notify us at the time the schedule is returned to us. In circumstances where it is not reasonably practicable for you to notify us of any errors or discrepancies at the time the schedule is returned to us, however, you must notify us as soon as reasonably practicable, and not later than 5 working days after you receive the schedule.

5.3 The signing and return by you of the weekly schedule referred to in Condition 5.2 shall be deemed to be confirmation by you of the time worked by the Temporary Staff member in the course of the Assignment on each day during the week covered by the schedule, and that you are satisfied with all work done by the Temporary Staff member during that week (subject to any errors or discrepancies notified to us at that time or, where appropriate, within the 5 working day period after you receive the schedule as referred to in Condition 5.2).

5.4 If you do not sign and return the weekly schedule to us and do not notify us of any discrepancies within the periods referred to in Condition 5.2 above, you will be deemed to have confirmed that you agree with the contents of the schedule concerning the time worked by the Temporary Staff member on each day during the week covered by the schedule, and that you are satisfied with all work done by the Temporary Staff member during that week. You will be obliged to pay all our charges relating to work undertaken by the Temporary Staff member during that week in accordance with our invoice and these Conditions.

### 6. Relationship and control of Temporary Staff members

6.1 In relation to our Services putting forward Temporary Staff members to you, we are acting as an "employment business" (as that expression is defined in the Employment Agencies Act 1973). This means that our business involves supplying Temporary Staff members to act for you under your control. These Temporary Staff members are engaged by us under contracts for services, and you acknowledge therefore that Temporary Staff members are not our employees.

6.2 Temporary Staff members are deemed to be under your supervision, control and direction for the entire duration of an Assignment, and you agree that you shall:

(a) be responsible for the acts and omissions of the Temporary Staff member during the period of each Assignment (including the wilful default and/or negligence of the Temporary Staff member) as if he was your employee;

(b) be responsible for determining the manner in which each Assignment is carried out by the Temporary Staff member, and for ensuring the Temporary Staff member's health, safety and welfare during the period of each Assignment;

(c) comply in all respects with all relevant laws, including without limitation the Working Time Regulations 1998 (as amended), the Data Protection Act 1998 and all Health and Safety laws, bye-laws, codes of practice and other legal requirements from time to time which apply to your own employees. You are responsible for ensuring that you have and maintain during each Assignment adequate Employer's Liability Insurance cover and Public Liability Insurance cover for Temporary Staff members;

(d) supply to us all relevant information relating to each Assignment which is requested by us from time to time to enable us to comply with our obligations under the Working Time Regulations 1998 and will not do anything which causes us to be in breach of such obligations, (including without limitation notifying us in writing in advance if you will require any Temporary Staff member to work for more than 48 hours in any week); and

(e) advise us of any special health and safety matters about which we are required to inform the Temporary Staff member and about any requirements imposed by law or by any professional body which must be satisfied if the Temporary Staff member is to undertake an Assignment.

6.3 You agree to assist us to comply with our duties under the Working Time Regulations by supplying us with any relevant information about an Assignment which we request from you, and you must not do anything to cause us to be in breach of our obligations under those Regulations. Where you require or may require the services of a Temporary Staff member for more than 48 hours in any week, you must notify us of this requirement before commencement of the week concerned.

6.4 You warrant and undertake to us that you know of no reason why it would be detrimental to the interests of the Temporary Staff member to undertake an Assignment.

6.5 You agree not to request the supply of a Temporary Staff member to perform the duties normally performed by a worker who is taking part in official industrial action, or the duties normally performed by someone who has been transferred by you to perform the duties of the person on strike or taking official industrial action.

6.6 You, we or the Temporary Staff member shall be entitled to terminate an Assignment immediately at any time, and (without prejudice to any rights any of the foregoing persons may have arising from any circumstances relating to such termination), none of the foregoing persons shall be liable to any of the others arising out of such termination.

## 7. Appointment of Temporary Staff members

7.1 Introduction Fees where a Temporary Staff member has been supplied

In the event of the Appointment by you of a Temporary Staff member supplied by us for an Assignment either directly or pursuant to being supplied by another employment business, during the Assignment or within whichever is the longer of either:

(a) 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 a previous Assignment shall also be considered to be the 'first Assignment' for these purposes); or

(b) 8 weeks from the day after the last day the Temporary Staff member worked on the Assignment;

you shall be liable, subject to electing by giving us 7 days' prior notice, to either:

(i) an extended period of hire of the Temporary Staff member for a further period of 15 chargeable weeks at the same Daily Rate, Half Daily Rate or Hourly Rate as that which applied during the Temporary Staff member's last Assignment. At the end of such extended period, subject to all our charges in relation to such period having been paid in full when due, no Introduction Fee shall be payable by you to us in respect of the Appointment; or

(ii) pay us an Introduction Fee calculated in accordance with Condition 8.1.

However, where you do not give us such prior notice before the Temporary Staff member is Appointed you must pay us the Introduction Fee.

7.2 Introduction Fees where a Temporary Staff member is Introduced but not supplied

In the event that there is an Introduction of a Temporary Staff member to you which does not result in the supply of that Temporary Staff member by us to you, but which leads to an Appointment of the Temporary Staff member by you either directly or pursuant to being supplied by another employment business within 6 months from the date of Introduction, you shall be liable, subject to giving us 7 days' notice, to either:

(a) a period of hire of the Temporary Staff member for a period of 15 chargeable weeks at the same Daily Rate, Half Daily Rate or Hourly Rate which would have applied if we had supplied the Temporary Staff member to you for an Assignment. At the end of such period, subject to all our charges in relation to such period having been paid in full when due, no Introduction Fee shall be payable by you to us in respect of the Appointment; or

(b) pay us an Introduction Fee calculated in accordance with Condition 8.1.

However, where you do not give us such prior notice before the Temporary Staff member is Appointed you must pay us the Introduction Fee.

7.3 In the event that the Appointment of the Temporary Staff member is for a fixed term of less than 12 months, the Introduction Fee referred to in Condition 7.1(ii) or 7.2(b), calculated in accordance with Clause 8.1, will apply pro-rata. If the Appointment is extended beyond the initial fixed term or if you re-engage the Temporary Staff member within 3 months of the termination of the first Appointment you shall be liable to pay a further fee based on the additional remuneration applicable for the period of Appointment following the initial fixed term up to the termination of the second Appointment or the first anniversary of its commencement, whichever is sooner.

7.4 Inability to supply during the period of hire

(a) If you elect for a period of hire, as set out in Condition 7.1(i) or 7.2(a), but before the end of such period Appoint the Temporary Worker supplied by us either directly or pursuant to being supplied by another employment business or the Temporary Staff member chooses not to be supplied for the period of hire, the Introduction Fee calculated in accordance with either Condition 7.1(ii) or 7.2(b) may be charged, reduced by such percentage to reflect any period of hire already undertaken by the Temporary Staff member and paid for by you.

(a) Where period(s) of absence due to illness or injury prevent the Temporary Staff member from being employed or supplied for 4 or more days, which shall be qualifying days for the purposes of Statutory Sick Pay ("SSP"), during the period of hire as set out above, the period of hire shall be extended by a period equivalent to the total period of absence. Where we pay the Temporary Staff member SSP during the period of hire an equivalent amount shall be charged to and be payable by you in addition to our Daily Rate, Half Daily Rate or Hourly Rate (as applicable).

7.5 Introduction Fees where there has been an Introduction to and Appointment by a Third Party

In the event that a Temporary Staff member supplied to you is introduced by you to a third party which results in the Appointment of the Temporary Staff member by the third party during the Assignment or within whichever is the longer of either:

(a) 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

(b) 8 weeks from the day after the last day the Temporary Staff member worked on the Assignment;

then you shall be liable to pay an Introduction Fee calculated in accordance with Condition 8.1.

7.6 Introduction Fees where there has been an Introduction but no Supply resulting in an Appointment by a Third Party

In the event that there is an Introduction of a Temporary Staff member to you which does not result in the supply of that Temporary Staff member by us to you, but the Temporary Staff member is introduced by you to a third party which results in the Appointment of the Temporary Staff member by the third party within 6 months from the date of Introduction you shall be liable to pay an Introduction Fee calculated in accordance with Condition 8.1.

## 8. Calculation of Introduction Fees

8.1 The Introduction Fee payable to us by you upon the Appointment of a Temporary Staff member are calculated at a rate of 15% of the Temporary Staff member's first year's total gross remuneration from you (or the Client Group company or relevant third party as appropriate). In addition, VAT at the standard rate will be chargeable on all Introduction Fees calculated in accordance with the above. We reserve the right to charge an additional fee based upon actual total remuneration in the first year when actual remuneration is materially different from the projected remuneration used in the calculating the initial Introduction Fee ("the Additional Fee"). You undertake to supply us in writing with such information as may be necessary to calculate the Introduction Fee and any Additional Fee within a reasonable time of such information being available.

8.2 For the avoidance of doubt, the Introduction Fee referred to in Condition 8.1 is payable by you to us whether the Appointment of the Temporary Staff member is on a permanent or temporary basis, and/or conditional upon the successful completion of any probationary period. No refund of the Introduction Fee will be paid in the event that the Appointment subsequently terminates.

8.3 You must notify us immediately in the event that any of the circumstances in Condition 8.1 arise.

## 9. Limit of Liability & Indemnity

9.1 Whilst we make every effort to give satisfaction to our clients by ensuring reasonable standards of skill, integrity and reliability from our Temporary Staff members, we shall not be liable for any loss, expense, damage or delay arising from any failure to provide any Temporary Staff member for all or part of the period of booking or from the negligence, dishonesty, misconduct or lack of skill of the Temporary Staff member. For the avoidance of doubt, we do not exclude liability for death or personal injury arising from our negligence.

9.2 Except in respect of death or personal injury caused by our negligence, or as expressly provided in these Conditions, we shall not be liable to you by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of these Conditions, for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by our negligence or that of our servants or agents or otherwise) which arise out of or in connection with the provision of the Services or their use by you.

9.3 We shall not be liable to you or be deemed to be in breach of these Conditions by reason of any delay in performing, or any failure to perform, any of our obligations in relation to the Services, if the delay or failure was due to any cause beyond our reasonable control.

9.4 You shall indemnify us in respect of any and all costs, claims liabilities and losses suffered or incurred by us as a result of or in connection with any breach of these Conditions by you.

## 10. Rebate Scheme

No rebates are payable in respect of our charges other than in accordance with Condition 11.1 below.

## 11. Unsatisfactory Staff & Complaints

11.1 You undertake to supervise the Temporary Staff member sufficiently to ensure your satisfaction with the Temporary Staff member's standards of workmanship. If you reasonably consider that the services of the Temporary Staff member are unsatisfactory, you may terminate the Assignment either by instructing the Temporary Staff member to leave the Assignment immediately, or by directing us to remove the Temporary Staff member. We may, in such circumstances, reduce or cancel the charges for the time worked by that Temporary Staff member, provided that the Assignment terminates: -

(a) (in relation to Temporary Staff members engaged in an Assignment in a school) before the end of the morning break on the first day of the Assignment commencing; or

(b) (in relation to other Temporary Staff members) within four hours of the Temporary Staff member commencing the Assignment;

and also provided that notification of the unsuitability of the Temporary Staff member is given to us by telephone on the same day as termination of the Assignment, and confirmed in writing to us within 48 hours of the termination of the Assignment.

11.2 You must notify us immediately and without delay if the Temporary Staff member fails to attend work or if the Temporary Staff member notifies you that he/she is unable to attend work for any reason.

11.3 We will notify you immediately if we receive or otherwise obtain information which gives us reasonable grounds to believe that a Temporary Staff member supplied to you is unsuitable for the Assignment, and in these circumstances you are entitled to terminate the Assignment forthwith by notice in writing to us without prior notice and without liability.

11.4 We operate a Complaints Policy and Procedure details of which we will supply to you upon request.

## 12. General

12.1 These Conditions constitute the entire agreement between the parties, supersede any previous agreement or understanding. All other terms and conditions, express or implied by statute or otherwise, are excluded to the fullest extent permitted by law.

12.2 Any notice required or permitted to be given by either you or us to the other under these Conditions shall be in writing addressed to the other at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

12.3 No failure or delay by either you or us in exercising any of its rights under these Conditions shall be deemed to be a waiver of that right, and no waiver by either you or us of any breach of these Conditions by the other shall be considered as a waiver of any subsequent breach of the same or any other provision.

12.4 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.

12.5 You and we do not intend that any of these Conditions will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any other person.

12.6 English law shall apply to these Conditions, and both you and we agree to submit to the exclusive jurisdiction of the English courts.