



# TERMS & CONDITIONS OF BUSINESS AUGUST 2018

full circle care  
nursing & care agency

T: 01623 404224  
www.fullcirclecareagency.co.uk

full circle catering  
relief chef service

T: 01623 404311  
www.fullcirclecatering.co.uk

## 1 DEFINITIONS

1.1 In these Terms of Business 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 together with any subsidiary or associated company as defined by the Companies Act 1985 to whom the Temporary Worker is supplied; whether they be Limited Company, LLP, Sole Trader or Partnership.
- "The Employment Business" means Full Circle Employment Agency Limited and/or any subsidiary or associated company (as defined by the Companies Act 1985);
- "Engagement" means any use of the Temporary Worker on a temporary basis, whether under any contract, agency, license, franchise or partnership arrangement; or any other engagement, but not such use as entails the Temporary Worker becoming an employee of the Client;
- "Temporary Worker" means the person (including where appropriate, a body corporate) whose services are supplied by the Employment Business to the Client, whether they be retained by the Employment Business on a PAYE scheme;
- "Introduction" means the Client's interview of a Temporary Worker in person or by telephone following the Client's instruction to the Employment Business to search for a Temporary Worker or following the passing to the Client of a curriculum vitae or other information which identifies the Temporary Worker, and which leads in either case to an Engagement of that Temporary Worker by the Client.

1.2 Unless the context otherwise requires, references to the singular include the plural and references to the masculine include the feminine and vice versa.

1.2.1 The headings contained in these Terms are for convenience only and do not affect their interpretation.

1.3 The Employment Business acts as an employment business (as defined by the Conduct of Employment Agencies and Employment Business Regulations 2003) for the purposes of this contract.

1.4 These Terms shall apply as between the Client and the Employment Business in relation to each and every Temporary Worker engaged by the Client. In the event that the Terms set out herein are in conflict with other terms upon which the Client and the Employment Business have agreed for the engagement of a Temporary Worker, these Terms shall prevail.

## 2 THE CONTRACT

2.1 These Terms govern the supply of the Temporary Worker's services by the Employment Business to the Client and are deemed to be accepted by the Client by virtue of an introduction to, or the Engagement of, the Temporary Worker.

2.2 No variation or alteration to these Terms shall be valid unless approved by a Director of the Employment Business in writing. Any such variation or alteration shall refer specifically to this clause.

2.3 Unless otherwise agreed in writing by a Director of the Employment Business, these Terms prevail over any terms of business or purchase conditions put forward by the Client, even if such terms are put forward by the Client subsequent to these Terms being brought to the Client's attention.

2.4 The Employment Business will decline to accept any instructions to source Temporary Workers where it believes that said instruction amounts to unlawful discrimination.

## 3 CHARGES

3.1 The Client agrees to pay the hourly charges of the Employment Business as notified at the commencement of the Assignment and as may be varied from time to time during the Assignment. The charges are calculated according to the number of hours worked by the Temporary Worker (rounded up to the nearest quarter hour). The minimum hours to be charged shall be 6 hours for a Chef working a straight shift or 8 hours for a chef working on a split shift (minimum 4+4), 4 hours for a General Catering Assistant, 6 hours for a Nurse, Senior and Healthcare Assistant shift. The charges are comprised mainly of the Temporary Worker's remuneration (including Holiday Pay under the Working Time Regulations 1998) but also include the Employment Business' fees, Employer's National Insurance Contributions and additionally, any travel or other expenses as may have been agreed with the Client. VAT is payable on the entirety of these charges but not payable for Healthcare Units that employ Nursing Staff.

3.2 The charges are invoiced to the Client on a weekly basis and are payable in full by the Client within 14 days of the date of invoice without abatement, set-off or deduction. The parties further agree that these Terms govern a contract to which the Late Payment of Commercial Debts (Interest) Act 1998 applies and that the Employment Business is entitled to interest at 5% on all sums due from the Client. In the event that the Client fails to make payment in full in accordance with these Terms, the Client acknowledges that the Employment Business shall be entitled to pass the sum of the debt to our nominated Collections Agency who shall add their fees of 15% on to the balance due, together with any legal costs which may be incurred additional to the fees mentioned previously and the full debt shall be payable in its entirety to the Collections Agency. Should this action be taken, no further correspondence shall be permissible between the Client and the Employment Business until the matter is resolved to the satisfaction of the Employment Business. The Employment Business reserves the right to withdraw forthwith and without liability the services of any Temporary Workers then being supplied to the Client. In the event of default in the payment of any of the said invoices when due as herein provided, time being of the essence hereof, the holder of this note may, without notice or demand, declare the entire principal sum then unpaid immediately due and payable.

3.3 Where we are acting on behalf of a Limited Company, invoices will be addressed to the Limited Company. By signing to accept the receipt and the content of this document in your capacity as Director you agree a personal guarantee for the payment of all outstanding invoices to our Company, including all legal costs, disbursements and to cover all debt recovery charges, in the event that the Company defaults on any payment, you agree that this Company reserves the right to take action against the Directors for all or part of the sums outstanding. This personal guarantee will also apply in the event that an appropriate signatory signs to accept these terms as per the declaration below on behalf of the company and all its Directors. Full Circle Employment Agency Limited accepts no responsibility in establishing who has the right to sign. This burden is borne solely by the limited company.

3.4 The Client acknowledges the importance to the Employment Business of cash flow considerations and that to ensure its continued operation the Employment Business remunerates its Temporary Workers (including the Temporary Worker engaged by the Client under these Terms) by reference to the time sheets completed by the Temporary Worker. Accordingly, and subject to clause 3.5 below, the following provisions shall apply:

3.4.1 Each and every time sheet signed by an employee, officer or representative of the Client shall be conclusive evidence at the number of hours worked by the Temporary Worker and shall be conclusive evidence of the Client's satisfaction with the tasks for which he was engaged during the said number of hours, the standard of his workmanship and

3.4.2 A certificate, signed by a director or company secretary of the Employment Business shall be conclusive evidence of the total sum due from the Client to the Employment Business in respect of the Temporary Worker in relation to the Engagement as at the date of the said certificate.

3.5 Clause 3.4.1 shall be of no effect if and only if within 7 days of an Invoice being rendered by the Employment Business to the Client, the Client makes specific complaint in writing, to the Employment Business' registered office. The said complaint shall be effective only if it;

3.5.1 Refers to the Client's rights under this clause;

3.5.2 Cites the name of the Temporary Worker, if possible.

3.5.3 Sets out with reasonable and sufficient particularity the nature of the matters complained of, the date and time on which they occurred, and the names of any witnesses or other parties thereto.

- 3.5.4 Sets out the amount which is in dispute and which the Client intends to withhold or set off as a result of the complaint particularised in compliance with clause 3.4.3 above, and indicates how that amount is made up.
- 3.5.5 Indicates any further steps which it reasonably requires the Employment Business to take in order to obviate the matters complained of.
- 3.6 Clause 3.4.2 shall be without prejudice to either parties' right to subsequently open up, review, revise or seek redetermination of the sum in fact due from the Client to the Employment Business in respect of the Engagement or Assignment (as the case may be) of the Temporary Worker by way of adjudication, arbitration, litigation or otherwise, save that it shall be a condition precedent to any such a reference or claim as initiated by the Client that it shall pay over in cleared funds the sum stated on the face of any certificate rendered by the Employment Business under clause 3.4.2 prior to such reference or claim.
- 3.7 Time sheets under clause 3.4.1 and certificates under clause 3.4.2 shall be binding (in accordance with these Terms) as to all matters of fact, save insofar as they contain fraud or manifest error.
- 3.8 Should a Temporary Worker arrive on site for work and find that the client does not require their assistance, or has failed to cancel the booking; the Client shall be charged the minimum shift for each booking.
- 3.9 Christmas Day, Boxing Day and all Public Holidays will be charged at double time, with the exception for the Clients of Full Circle Catering who will be charged at triple time on Christmas Day. If a shift starts on a bank holiday and finishes the following day, then the full shift will be charged at the bank holiday rate.
- 4 TIMESHEETS**
- 4.1 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 Client shall sign the Employment Business' time sheet verifying the number of hours worked by the Temporary Worker during that week. The Client acknowledges the importance to the Employment Business of the time sheets and of the contractual nature of the time sheets.
- 4.2 Subject to the terms of clause 3.4 above, signature of a time sheet by the Client shall be conclusive evidence in all proceedings (including but not limited to litigation, adjudication and arbitration) of the Client's satisfaction with the services provided by the Temporary Worker and the number of hours worked. Failure to sign the time sheet does not absolve the Client's obligation to pay the charges in respect of the hours stated to be worked.
- 5 REMUNERATION**
- The Employment Business assumes responsibility for payment of the Temporary Worker's remuneration (including Holiday Pay under the Working Time Regulations 1998) and where appropriate, for the deduction and payment of National Insurance Contributions and PAYE Income Tax applicable to the Temporary Worker. However, nothing in these Terms shall make the Temporary Worker an employee of either the Client or the Employment Business.
- 6 INTRODUCTION CHARGES**
- 6.1 In the event that the Client engages on a full-time, part-time or casual basis, be it only for one day, any Temporary Worker supplied within the previous 3 months by the Agency to the Client for any position appointed without informing or gaining consent of the Agency prior to the engagement of the Temporary Worker and the Agency subsequently discovers this fact, the Client agrees that the introduction has been effected by the Agency irrespective of any other circumstances surrounding recruitment of that Temporary Worker by the Client, and the Agency reserves the right to charge the Client a fee of 300 times the Temporary Workers' hourly charge rate.
- 6.2 **'Temp-to-Perm'** In the event that the client engages a temporary worker on a 'Temp to Perm' basis, then this will be for a period of 10 weeks, from agreed start date. The client will be charged per hour and invoiced weekly. The charge rate will be the rate that the position is recruited at and will be agreed prior to the 'temp to perm' booking. The worker shall be required to work a minimum of 38.5 hours per week over the 10 week period. A separate 'Confirmation of Assignment' will need to be signed prior to commencement of any 'Temp to Perm' placements. In the event that a client engages a worker on the 'Temp to Perm' scheme on a part time basis it must be mutually agreed in writing between the Client and the Employment Business. If the worker then goes full time after the start of and during the duration of the 'Temp to Perm' period the Employment Business will charge the Client the minimum charge of 38.5 hours per week for the period previously agreed in writing between the Client and the Employment Business.
- 'Temp-to-Third Party'** 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 during the Assignment or within whichever is the longer of either:
- 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
  - 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 the amount of which is to be agreed between the Employment Business and the Client.
- 6.3 **'Temp-to-Temp'** where the temporary worker is supplied to the same client by a different employment business. The client will be charged a fee of 12% of salary by Full Circle Employment Agency Limited. The fee will be applicable up to 3 months from the first date that the temporary worker was supplied by a different Employment Business. Or the client may engage the temporary worker from Full Circle Employment Agency Limited for an extended period of up to 8 weeks instead of paying a transfer fee of 12% of salary. If a transfer fee is charged it must be within the relevant period (14 weeks from the start of the assignment or within 8 weeks of the end of the last assignment).
- 7 SUITABILITY OF THE TEMPORARY WORKER AND THE LIABILITY OF THE EMPLOYMENT BUSINESS**
- 7.1 The Client must supply to the Employment Business before any Introduction the following information:
- 7.1.1 the Client's identity and the nature of its business;
- 7.1.2 the date on which the Client requires a Temporary Worker to commence work, the duration or likely duration of the work and the length of any notice periods;
- 7.1.3 the position for which a Temporary Worker is sought, including the type of work the Temporary Worker would be required to do, the location at which and the hours during which he would be required to do it, and any risks to the health or safety of the Temporary Worker known to the Client and the steps which the Client has taken to prevent or control such risks;
- 7.1.4 the experience, training, qualifications and any authorisations which the Client considers are necessary or required by law or any professional body for a Temporary Worker to possess in order to work in the relevant position, and the ability which the Client considers is necessary for a Temporary Worker to possess in order to do so successfully;
- 7.1.5 any expenses payable by or to the successful Temporary Worker;
- 7.2 Whilst reasonable effort is made by the Employment Business to ensure appropriate standards of skill, integrity and reliability from Temporary Workers and further to provide them in accordance with the Client's booking details, the Employment Business is not liable for any loss, expense, damage, delay or disruption arising from any of the following:
- 7.2.1 provision of a Temporary Worker;
- 7.2.2 the failure to provide (or replace) any Temporary Worker for all or part of the period of the booking;
- 7.2.3 the negligence, dishonesty, misconduct or lack of skill of the Temporary Worker in the course of the Assignment;
- 7.2.4 any negligence or breach of duty on the part at the Employment Business in the selection of the Temporary Worker.
- 7.3 Nothing in clause 6.2 shall exclude the Employment Business' liability for death or personal injury arising from its own negligence.
- 7.4 The Client confirms that it is aware of any requirements imposed by law or any professional body which must be satisfied by it and/or the Temporary Worker to enable the Temporary Worker to supply services to the Client in the capacity requested.
- 7.5 Temporary Workers are engaged by the Employment Business under contracts for services and are not employees of the Employment Business. They are under the sole supervision, direction and control of the Client from the time they report to take up duties and for the duration of the Assignment. The Client agrees to be responsible for all acts, errors or omissions of the Temporary Worker, whether wilful, negligent or otherwise as though he were employed by the Client. The Client will also comply in all respects with all statutes including for the avoidance of doubt, the Health and Safety at Work Act 1974, the Working Time Regulations 1998, the Data Protection Act 1998 and all other 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 5 above), including in particular

the provision of adequate Employer's and Public Liability Insurance cover for the Temporary Worker during all Assignments. The Employment Business is not liable for the Health and Safety of the Temporary Worker whilst on the Clients' premises. The Client will assist the Employment Business to comply with its duties under the Working Time Regulations by supplying any relevant information about the Assignment which may reasonably be requested by it and the Client will not do anything to cause the Employment Business 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 the Employment Business of this requirement before the commencement of that week.

7.6 The Client will take all practicable steps to ensure that no Temporary Worker is treated unfavourably by any person under its control on the grounds of the Temporary Worker's race, sex, disability, religion/belief, sexual orientation or age.

7.7 The Client shall indemnify and keep indemnified the Employment Business in respect of all claims by any third party caused by, or resulting from, or arising in connection with, the act, omission, default or negligence of the Temporary Worker, and shall further indemnify the Employment Business in respect of all costs, charges or damages in connection therewith, howsoever arising (including, but not limited to, such as arise under statute, common law, court order or notice by a government department or local authority or officer).

**8. LIVE-IN CHEFS SUPPLY**

Assignments for Live-In Chefs are also subject to the following additional conditions:

8.1.1 Temporary Worker to work no less than 40 hours per week, and in conjunction with clause 3.1

8.1.2 Clean, single (where available) accommodation must be provided at no cost to the Employment Business or Temporary Worker.

8.1.3 The Client must pay for all agreed travelling expenses, on production of receipts, including the return journey, directly to the worker.

8.1.4 If a Temporary Worker travels to a Client for work and the Client has failed to advise the Employment Business that the Temporary Worker is no longer required, the Client shall be liable for a charge of the minimum shift allowance, as stated in Clause 3.1, as well as all travelling expenses incurred for the journey to and from the Client.

**8. TERMINATION**

8.1 The Client undertakes to supervise the Temporary Worker sufficiently to ensure the Client's satisfaction with the Temporary Worker's standards 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 the Employment Business to remove the Temporary Worker. The Employment Business may in such circumstances reduce or cancel the charges for the time worked by that Temporary Worker, provided that the Assignment terminates:

(a) within four hours of the Temporary Worker commencing the Assignment where the booking is for more than seven hours; or

(b) within two hours for bookings of seven hours or less and also provided that notification of the unsuitability of the Temporary Worker and of the requirement to remove him is confirmed in writing to the Employment Business within 48 hours of the termination of the Assignment.

8.2 Any of the Client, the Employment Business or the Temporary Worker may terminate an Assignment at any time without prior notice and without liability save for sums accrued up to the point of such termination, in conjunction with Clause 3.1

8.3 The Client shall notify the Employment Business immediately and without delay and in any event in writing within 24 hours if the Temporary Worker fails to attend work or notifies the Client direct that he is unable to attend work for any reason.

**9. LAW**

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

**10. VARIATION OF TERMS**

In the event that the Employment Business and the Client agree to a variation of the terms herein the Employment Business shall, as soon as is reasonably practicable, provide the Client with a document detailing the variation and stating the date on or after which it is agreed that the reviewed terms are to take effect.

**11. DATA PROTECTION ACT**

The client agrees that the Employment Business may make such enquiries and searches and obtain such references as it considers necessary from any person, firm or company including any credit reference agency (which will keep a record of any search made and will share that information with other businesses). The Employment Business may also make enquiries about the principal directors with a credit reference agency.

The Employment Business has a Privacy Policy which can be viewed on our website or a copy can be requested in writing to the address below

I, the undersigned, declare that I have read and fully understood these terms and conditions of business and have had full sight of all clauses contained therein. I confirm that I am signing this on behalf of the Client and/or Company Directors(s) and that I have the appropriate level of authorisation to bind the Client and or Company Director(s) to the Terms and Conditions contained in this form and any other applicable documentation to which it refers.

Signed..... Print Name..... Position.....

Date..... Business Name ..... Co Registration Number.....

Full Circle Employment Agency Limited, Mansfield Business Centre, Ashfield Avenue, Mansfield, Nottinghamshire NG18 2AE

T: Care: 01623 404224

Catering: 01623 404311

Fax: 01623 404272

W:www.fullcirclecareagency.co.uk

www.fullcirclecatering.co.uk

E: info@fullcirclecareagency.co.uk

info@fullcirclecatering.co.uk

Company Registration: 07574001