



**EMPLOYMENT BUSINESS TERMS AND CONDITIONS**

**BACKGROUND:**

The Employment Business provides its services as an employment business, as defined by the Conduct of Employment Agencies and Businesses Regulations 2003.

**1. Definitions and Interpretation**

1.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

<b>"Agreed Working Hours"</b>	means the working hours applicable to a particular Assignment;
<b>"Assignment"</b>	means a project or period of work for which the Temporary Worker is supplied to a Client;
<b>"Employment Business"</b>	means Seaton Rail Limited a company registered in England & Wales under number 06477340 whose registered office is at Unit B, Enterprise Way, Bessingby Industrial Estate, Bridlington, East Riding of Yorkshire, YO16 4SF;
<b>"Intellectual Property"</b>	means all vested contingent and future intellectual property rights including but not limited to copyright, trade marks, service marks, design rights (whether registered or unregistered), patents, know-how, trade secrets, inventions, get-up, database rights and any applications for the protection or registration or these rights and all renewals and extensions thereof existing in any part of the world whether now known or in the future created;
<b>"Moral Rights"</b>	means all rights arising out of Chapter IV of the Copyright, Designs and Patents Act 1988;
<b>"Representation Offer"</b>	means a Notification of Assignment (NOA) sent to the Temporary Worker as defined in Clause 3;
<b>"Services"</b>	means the temporary work finding and representation services provided by the Employment Business;
<b>"Temporary Worker"</b>	means an individual seeking temporary work assignments who wishes to use the Services of the Employment Business;
<b>"Term"</b>	means the term of the contract which shall be agreed between the Parties; and
<b>"Timesheet"</b>	means a timesheet supplied by the Employment Business for completion by the Temporary Worker and signing by the Client.

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## The Contract

- 1.2 Any and all business entered into by the Employment Business with Temporary Workers is subject to these Terms and Conditions. In the event of any conflict with any other terms and conditions, these Terms and Conditions shall prevail unless otherwise agreed in writing by the Managing Director of the Employment Business.
- 1.3 The Employment Business and the Temporary Worker shall be deemed to have entered into a contract upon the Temporary Worker's full and unconditional acceptance of the Representation Offer.
- 1.4 Nothing in these Terms and Conditions shall create a contract of employment between the Employment Business and the Temporary Worker or between the Temporary Worker and the Client.

## 2. The Representation Offer

- 2.1 The Representation Offer shall contain details of the proposed relationship between the Employment Business and the Temporary Worker and shall have a copy of these Terms and Conditions attached thereto.
- 2.2 Details of the nature of work required by the Temporary Worker shall be contained within the Representation Offer.
- 2.3 The Representation Offer shall remain open for acceptance by the Temporary Worker for a period of 24 hours. If the Temporary Worker fails to accept the Representation Offer within that time period the Representation Offer shall lapse and shall not be capable of acceptance.

## 3. The Services

- 3.1 The Employment Business shall provide the Services as an employment business in accordance with the Employment Agencies Act 1973 and the Conduct of Employment Agencies and Businesses Regulations 2003.
- 3.2 The Employment Business shall represent the Temporary Worker in all matters relating to the finding of Assignments and all negotiations and agreements relevant thereto.

## 4. Payment

- 4.1 All wages due to the Temporary Worker and the payment intervals thereof shall be calculated prior to the commencement of an Assignment. Such wages shall be based upon an hourly rate and subjected to deductions for PAYE, National Insurance contributions and any further deductions required by law.
- 4.2 Payment of wages to the Temporary Worker by the Employment Business shall be made upon the presentation by the Client to the Employment Business of a completed and signed Timesheet in accordance with Clause 8.
- 4.3 In the event that details on a Timesheet are contested by the Client, the Temporary Worker may be required to assist in the resolution of any dispute. Failure to cooperate in such matters may result in a delay in the payment of wages to the Temporary Worker.
- 4.4 The Employment Business shall not withhold, delay or in any way alter the Temporary Worker's wages as a result of any non-receipt or alteration of payments by the Client to the Employment Business.

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## 5. The Employment Business's Obligations

- 5.1 The Employment Business shall provide the Services with reasonable skill and care, commensurate with best practice in the employment business sector and in accordance with any and all codes of practice and statutory requirements including but not limited to the Agency Workers Regulations 2010.
- 5.2 The Employment Business shall use its best and reasonable endeavours to find and secure suitable Assignments for the Temporary Worker.
- 5.3 The Employment Business cannot guarantee to find a suitable Assignment for the Temporary Worker and is under no obligation to do so.
- 5.4 The Employment Business shall use its best and reasonable endeavours to ensure that Clients deal with the Temporary Worker in a reasonable and professional manner; however the Employment Business accepts no responsibility for the conduct of Clients.

## 6. The Temporary Worker's Obligations

- 6.1 Where specific experience, qualifications and authorisations are required by the Client, by law or by any professional body, the Temporary Worker shall provide up-to-date evidence of the same to the Employment Business prior to the start of an Assignment to which they apply. The Temporary Worker shall also grant permission to the Employment Business to supply any such evidence to the Client.
- 6.2 The Temporary Worker shall use their best and reasonable endeavours to perform to the best of their ability during Assignments and shall remain professional and courteous to the Client and to their fellow workers.
- 6.3 The Temporary Worker shall comply with the Agreed Working Hours subject to any variation agreed between the Temporary Worker and the Client. In the event that such working hours are to exceed 48 hours per week at any given time, the Employment Business must be notified of this by the Client.
- 6.4 The Temporary Worker shall comply with all reasonable requests, instructions or orders relating to the Assignment.
- 6.5 The Client shall make the Temporary Worker fully aware of all relevant rules and regulations pertaining to health and safety at the start of the Assignment. The Temporary Worker shall fully comply with all such rules and regulations throughout the Assignment.
- 6.6 The Client shall make the Temporary Worker fully aware of all general workplace rules, policies and procedures, including those specifically related to the Assignment at the start of the Assignment. The Temporary Worker shall fully comply with all such rules, policies and procedures throughout the Assignment.
- 6.7 If any conflict of interest or any other circumstance which would be detrimental to the Client, the Employment Business or the Temporary Worker arises during the Assignment, the Temporary Worker must inform both the Employment Business and the Client.

## 7. Timesheets

- 7.1 The Employment Business requires Timesheets to be completed by the Temporary Worker in order to verify the number of hours worked by the Temporary Worker.
- 7.2 In the absence of any agreement to the contrary, Timesheets shall cover a period of seven days.
- 7.3 Timesheets shall be completed by the Temporary Worker on a weekly basis.

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All Timesheets must be presented to the Client by the Temporary Worker for signing whereupon the Client shall submit the completed, signed Timesheet to the Employment Business.

7.4 If the Temporary Worker is required to produce any evidence relating to hours worked that is supplementary to a Timesheet, they must do so forthwith.

**8. Sickness, Absence and Leave**

8.1 In the event that the Temporary Worker is absent from an Assignment due to injury or illness for a period of 4 days or more:

8.1.1 the Employment Business shall administer Statutory Sick Pay to the Temporary Worker; and

8.2 The Temporary Worker shall be entitled to annual leave in accordance with the Working Time Regulations 1998, and, where relevant the Agency Workers Regulations 2010.

8.3 Annual leave shall be calculated pro rata in accordance with [statutory minimums.

8.4 If there is any conflict between the provisions of this clause 9 and the Agency Workers Regulations 2010, the Agency Workers Regulations 2010 shall prevail.

**9. Intellectual Property**

9.1 Any and all Intellectual Property created by the Temporary Worker during the course of any Assignment shall be deemed to be assigned to the Client. The Temporary Worker shall execute any and all necessary Assignments and any other documentation required either by law or by the Client in order to give effect to the provisions of this Clause 10.

9.2 The Temporary Worker shall unconditionally waive all Moral Rights in any work created by them.

**10. Liability**

10.1 The Employment Business shall not be liable or responsible for any loss or damages of any nature, whether direct or indirect, including any loss of profits or any consequential damages suffered or incurred by the Temporary Worker, howsoever caused, as a result of the Employment Business's negligence or breach of contract.

10.2 Nothing in this Clause shall limit the Employment Business's liability for death or personal injury.

**11. Indemnity**

11.1 The Temporary Worker shall indemnify the Employment Business against any claim, loss, damage, proceedings, settlement, costs or expenses which may be paid to a third party arising out of any matter relating to the Temporary Worker's performance or non-performance of their obligations under these Terms and Conditions.

11.2 The indemnity set out in sub-Clause 12.1 shall apply provided that in all cases the Employment Business shall:

11.2.1 Notify the Temporary Worker as soon as is reasonably possible of any claim, loss or damage;

11.2.2 Consult with the Temporary Worker as to the action to be taken in dealing with any such matters; and

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11.2.3 Make no agreement with any third party for the payment of any sum without the prior agreement of the Temporary Worker, such agreement not to be unreasonably withheld.

**12. Termination**

- 12.1 Subject to the remaining provisions of this Clause 13, the Contract shall continue for the Term which shall be agreed between the Parties prior to the commencement of the Contract.
- 12.2 The Employment Business reserves the right to terminate the Contract at any time and subject to its sole discretion and for any reason. Such termination shall take effect immediately, and the Temporary Worker shall be required to end any Assignment taking place at the time.
- 12.3 The Temporary Worker reserves the right to terminate the Contract at any time upon giving at least 24 hours written notice. Such termination shall take effect following the completion of any Assignment taking place at the time or otherwise agreed prior to the Temporary Worker giving such notice.
- 12.4 Either Party has the right to terminate the Contract immediately if the other:
  - 12.4.1 has committed a material breach of these Terms and Conditions, unless such breach is capable of remedy, in which case the right to terminate will be exercisable if the other Party has failed to remedy the breach within 14 days after a written notice to do so; or
  - 12.4.2 goes into bankruptcy or liquidation either voluntary or compulsory (save for the purposes of bona fide corporate reconstruction or amalgamation) or if a receiver is appointed in respect of the whole or any part of its assets.
- 12.5 Any and all obligations of the Parties which either expressly or by their nature continue beyond the termination, cancellation or expiration of the Contract shall survive termination under this Clause 13.

**13. Force Majeure**

Neither Party to these Terms and Conditions shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, Internet Service Provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question.

**14. Notices**

- 14.1 All notices under these Terms and Conditions shall be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice.
- 14.2 Notices shall be deemed to have been duly given:
  - 14.2.1 when delivered, if delivered by courier or other messenger (including registered mail) during the normal business hours of the recipient; or
  - 14.2.2 when sent, if transmitted by facsimile or e-mail and a successful transmission report or return receipt is generated; or
  - 14.2.3 on the fifth business day following mailing, if mailed by national ordinary mail, postage prepaid; or

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14.2.4 on the tenth business day following mailing, if mailed by airmail, postage prepaid.

14.3 All notices under this Agreement shall be addressed to the most recent address, e-mail address, or facsimile number notified to the other Party.

**15. Severance**

The Parties agree that, in the event that one or more of the provisions of these Terms and Conditions is found to be unlawful, invalid or otherwise unenforceable, that / those provisions shall be deemed severed from the remainder of these Terms and Conditions. The remainder of these Terms and Conditions shall be valid and enforceable.

**16. No Waiver**

The Parties agree that no failure by either Party to enforce the performance of any provision in this Agreement shall constitute a waiver of the right to subsequently enforce that provision or any other provision of this Agreement. Such failure shall not be deemed to be a waiver of any preceding or subsequent breach and shall not constitute a continuing waiver.

**17. Dispute Resolution (Arbitration)**

17.1 Where any dispute or difference relating to these Terms and Conditions arises between the Parties that matter shall be referred to the arbitration of a single arbitrator with appropriate qualifications and practical experience to resolve the particular dispute.

17.2 The arbitrator shall be agreed by the Parties or, in the event of failure to agree, shall be appointed by the president for the time being of the Law Society of England and Wales.

17.3 The arbitration shall take place in England or Wales and shall be in accordance with the Arbitration Act 1996 or any re-enactment or modification of that Act for the time being in force.

17.4 The Parties shall promptly furnish to the arbitrator all information reasonably requested by him relating to the particular dispute, imposing appropriate obligations of confidence.

17.5 The Parties shall require the arbitrator to use all reasonable endeavours to render his decision within 30 days following his receipt of the information requested or if this is not possible as soon thereafter as may reasonably be practicable. The Parties shall cooperate fully with the arbitrator to achieve this objective.

17.6 The Parties shall share the fees and expenses of the arbitrator equally. The decision of the arbitrator shall be final and binding upon both Parties.

**18. Law and Jurisdiction**

18.1 These Terms and Conditions (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.

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