

# **GENERAL TERMS AND CONDITIONS OF BUSINESS for part-time work for employees and placement of employees**

## **§ 1 Scope of application**

I. K. Hofmann GmbH, with its brand eXperts consulting center (hereinafter referred to as "ECC"), is the owner of the business licenses for personnel leasing, personnel placement and recruitment consulting.

These general terms and conditions of business (general terms and conditions) apply to all contracts that are concluded by ECC with its customers (the Client) within the scope of the provision of employees and placement of employees. Contractual relationships exist only between ECC and the Client. Agreements between ECC and the Client must be in writing. Email and fax shall be deemed equivalent to the written form if ECC and the Client expressly agree this.

These general terms and conditions apply not only to the first legal transaction, but expressly also to all further transactions, such as follow-up and additional orders. These general terms and conditions shall continue to apply even if ECC provides workers beyond an original end date or if workers are requested verbally.

Alternative provisions and supplementary agreements must be made in writing. The ineffectiveness of individual provisions of these general terms and conditions shall not affect the other provisions.

ECC declares that it only wishes to conclude contracts on the basis of these general terms and conditions. Any conditions of contract of the Client are expressly contradicted. These shall only apply if they are agreed expressly and in writing.

The contract shall enter into force either by signing the offer or through the order confirmation by the Client or the sending of a written order confirmation by ECC or – without a signature – when the workers provided start their employment.

## **§ 2 Temporary Employment Act (Arbeitskräfteüberlassungsgesetz)**

ECC and the Client are committed to compliance with the provisions of the Temporary Employment Act (Federal Law Gazette 1988/196, as amended).

## **§ 3 Workers provided**

ECC shall provide the Client with workers, which it is entitled to provide.

The object of the provision of workers is to supply workers, not to render certain services. In particular, ECC does not owe any work success of any kind.

If a worker is absent for any reason permanently or for an extended period and does not appear at the agreed place of work, the Client is to inform ECC of this immediately in writing.

The type and scope of work to be performed and the organisation of the work of the workers provided are to be agreed exclusively with ECC.

The Client may only commission the workers provided with work agreed in the order. For this work, the Client has the right to issue instructions and a duty of supervision and the duty of care within the meaning of the Temporary Employment Act.

For the duration of the provision, the Client is to comply with all employee protection regulations and the provisions of the Working Hours Act (Arbeitszeitgesetz), as well as the Rest Periods Act (Arbeitsruhegesetz). The Client is obliged to implement the necessary measures regarding instructions, clarifications and risk prevention and provide the workers provided with the necessary protective equipment, etc.

The workers provided by ECC are neither entitled to issue declarations of intent and confirmations of actual notice for the Client nor authorised

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to collect receivables. The Client may also not make any payments and advances to the workers provided by ECC.

The workers provided may be hired by the Client after an assignment of 12 months, without a recruitment fee.

Hiring after a shorter period requires a written agreement between the Client and ECC; § 9 "Placement of employees" of these general terms and conditions shall be decisive for the amount of the recruitment fee.

If the Client hires candidates suggested by ECC for assignments without having previously deployed them within the scope of temporary employment (within 12 months) or if it deploys them within this period via other providers of temporary workers, ECC is entitled to charge the recruitment fee as outlined in § 9 "Placement of employees".

Unless otherwise agreed, the workers provided may only be placed back by the Client on the 15th or at the end of each calendar month and there is a probationary notice period in the extent of the notice periods according to the Employees Act (Angestelltengesetz), plus one working week.

If the Client's operation is immediately affected by a labour dispute / strike, the worker provided has a right to refuse service. If the worker makes use of its right and the worker is not used by the Client due to a labour dispute / strike, the hours not worked are to be paid by the Client to ECC. The probationary notice periods as outlined above shall apply to the end of the assignment.

## **§ 4 Order confirmation and recording of hours**

After the order is issued, ECC shall send the Client a written order confirmation, which bindingly sets out the contractual obligations for both parties, unless the Client immediately objects to it in writing.

The workers provided shall keep written records of hours worked and performances, which the Client is to check and sign; these shall form the basis for the invoicing and payroll accounting. If the Client does not sign the records of hours worked and performances, despite being prompted in writing to do so once, these records shall form the basis for invoicing and payroll accounting even if they are not signed by the Client.

Records of hours worked and performances from the Client's time recording systems may replace the records of the workers provided if both contracting parties are in agreement with this.

The Client shall state the persons entitled to check and sign the records of hours worked and performances in writing. If the Client fails to do so, all of the Client's employees shall be entitled to do this.

## **§ 5 Invoicing and payment**

In principle, ECC shall bill for services on a weekly basis, but monthly invoicing can be agreed. The invoice amounts are due and payable by bank transfer immediately and without deduction upon receipt of the invoice.

The agreed cost rates include all wage and ancillary costs for the workers provided.

If the salaries or other personnel costs according to the collective labour agreement increase after the order is issued, ECC is entitled to choose to either increase the cost rates by the same percentage as the adjustments or increase the cost rates absolutely by the additional costs. One-off or non-periodic payments (including ancillary costs) shall be charged in addition.

In the event of default of payment, ECC is entitled to charge interest on arrears in the amount of the costs of borrowing, but at

least 10% p.a.

Furthermore, the Client is committed to bear all dunning costs, collection costs, lawyers' costs and information costs in connection with the collection of outstanding invoice amounts. In the case of default of payment, ECC is entitled to suspend the provision of service and to withdraw the workers provided.

The Client is not entitled to deduct receivables or claims against ECC from the fee for the provision of the workers. There is no right of retention to the fee owed for the provision of workers.

## **§ 6 Premature termination of the contract**

ECC is entitled to dissolve the contract even prematurely and without observing periods of notice and deadlines if just cause exists.

Just cause exists in particular if

- there is negative or unsatisfactory information from credit agencies regarding the Client or ECC's credit insurance provider refuses to provide insurance coverage
- in the event of default of payment by the Client of 8 calendar days or if there is information about payment difficulties
- restructuring and bankruptcy proceedings are initiated regarding the Client's assets or the initiation of such proceedings is rejected
- the services of ECC remain undone due to force majeure, illness or accident on the part of one or more workers.

## **§ 7 Warranty**

ECC provides warranty for the fact that the workers provided have granted their consent to being assigned to third parties and are ready to work. ECC owes the formal qualification of the workers, but only a specific qualification if such a qualification has been expressly agreed.

ECC shall only provide warranty for any qualification of the workers that can be reviewed by inspecting the certificates.

The Client is obliged to review the workers and to report a missing formal qualification in writing before the start of work, and to report any defects immediately, but in any case within 48 hours; otherwise, warranty claims and claims for compensation are excluded.

If there is a defect for which ECC is responsible and the Client demands that it is improved in a timely manner, this shall be done by replacing the worker in question within a reasonable period.

Warranty claims or claims for damage on the part the Client are to be asserted in court within six weeks; otherwise they shall be forfeited.

## **§ 8 Liability**

ECC shall not be liable for any damages to the Client or third parties caused by workers provided. ECC shall not be liable for loss, theft or damage of work materials provided, such as tools, drawings and other items provided.

ECC shall not be liable for the omission or delay of work and services, in particular in the case of force majeure or an accident or illness suffered by the worker provided. There is no liability for subsequent damages and financial losses, production losses and obligations of the Client to pay penalties to its customers. In addition, liability is limited to poor selection, gross liability or intention on the part of ECC.

## **§ 9 Placement of employees**

ECC shall suggest suitable candidates from the pool of applicants based on the Client's profile of requirements. These shall be recruited immediately or after an assignment period agreed between ECC and the Client.

The recruitment fee shall be 18% of the gross annual salary, including special payments, commissions, premiums, additional allowances and bonuses in accordance with the collective labour agreement for the candidate hired and shall be reduced by 1/12 for

each full month of the assignment.

The entitlement to a fee arises upon conclusion of an employment contract between the Client and a candidate suggested by ECC or the suggested candidate is deployed by the Client without consultation with ECC via another provider of temporary workers.

Special services, such as special selection procedures, suitability tests, ancillary costs, travel costs of the candidates or postage costs shall be charged to the Client separately.

If the search for personnel is supported by an advertisement, the scope of services shall be defined individually before the order is issued and after execution in accordance with the agreements reached.

The agency agreement may be terminated in writing by either party at any time.

If the employment relationship is dissolved during the trial month, ECC is obliged to present additional applicants free of charge within a reasonable period.

The Client is obliged to review the suitability of the candidates suggested by ECC. Upon conclusion of the employment contract with the worker, the Client shall bear sole responsibility for the selection decision. ECC shall not be liable for damage suffered by the Client resulting from a possible unsuitability of the candidate. ECC shall only be liable for damage suffered by the Client that is demonstrably and directly attributable to the lack of formal qualifications of the candidates suggested in comparison to the Client's profile of requirements.

## **§ 10 General agreements**

If an applicant suggested by ECC has already applied to the Client independently of the order issued, the Client is obliged to inform ECC of this immediately after it receives the application documents. In this case, ECC shall not render any further services in relation to that applicant.

It is agreed that the Client shall respond to ECC within 7 days (maximum of 14 days) following the provision of suitable application documents by ECC in order to prevent the candidates from being guided elsewhere.

## **§ 11 Note on language used**

For the purposes of readability, these general terms and conditions make no distinction between male and female forms. The words used refer to both genders equally.

## **§ 12 Applicable law and place of jurisdiction**

Austrian law shall apply. The place of performance and place of jurisdiction for both contracting parties is Linz.