

General Terms and Conditions of EPOS Personaldienstleistungen GmbH

1. General

(1) Our services and offers in connection with the supply or procurement of personnel shall only be based on these General Terms and Conditions. The Client's general terms and conditions are hereby expressly objected to. All of our offers shall be non-binding and without obligation.

(2) Our General Terms and Conditions shall also apply to all follow-up transactions, even if they are not referred to expressly again when such transactions are concluded.

(3) Pursuant to Art. 12.1, Sentence 1, of the German Temporary Employment Act (AÜG) and Art. 126.2 of the German Civil Code (BGB), all agreements for the supply of temporary employees (German: Arbeitnehmerüberlassungsverträge, each hereinafter referred to as "AÜV"), must be in writing to be legally effective; in particular, they must be signed by us and by the Client.

(4) The conclusion of an AÜV shall not create any relationship under labour law between the Temporary Employee and the Client. The Contractor shall be the employer of the Temporary Employee. The Contractor hereby assures the Client that only employees who have an employment relationship with the Personnel Service Provider will be supplied (no supply across multiple temporary employment agencies).

2. Licence for the Supply of Temporary Employees; Employers' Liability Insurance Association; iGZ Membership; Main Construction Trades

(1) We hold a licence for the supply of temporary employees pursuant to Art. 1 of the AÜG, granted by the Federal Employment Agency, Düsseldorf Employment Office, on 13 June 2007. We are a member of the Employers' Liability Insurance Association for the Administrative Sector, membership number: 07/2063/2349. Each Employee supplied by us is insured against accidents through the Employers' Liability Insurance Association.

(2) We are a member of "Interessenverband Deutscher Zeitarbeitsunternehmen e.V. (iGZ)" (German association of temporary employment agencies). The collective agreements concluded between iGZ and the member unions of the German Federation of Trade Unions (DGB), as amended from time to time, shall apply to the Temporary Employee.

(3) The Client may not assign an Employee supplied by us any activities at a business belonging to the construction trade within the meaning of Art. 1b, Sentence 1, of the AÜG which are usually performed by workers. If such an assignment takes place nevertheless, the Client shall be liable to us for all resulting damages and expenses.

3. Rights and Obligations of the Parties

(1) The Client shall be entitled and obliged to accept our Employee's performance of work during the agreed contract term and with the agreed working time. Unless otherwise agreed in the AÜV, a working time of 40 hours per calendar week and 8 hours per calendar day shall be considered agreed for our Employee. If the Client's acceptance of the Employee's performance of work, or part thereof, is delayed, or if he is in breach of any other duties to cooperate, we may, in addition to the remuneration for the working hours of our Employee which have not been accepted, claim compensation for the damage suffered by us, including any additional expenses.

(2) The Client shall be authorised to give the Employee activity-specific instructions in connection with the agreed activities and to supervise compliance with such instructions. The right to give instructions under labour law or to grant the Employee paid/unpaid time off shall be exclusively reserved to us. No contractual relationship between our Employee and the Client shall be created.

(3) The type and scope of the activities to be performed as well as the time of such activities may only be agreed with us. The Client may only assign activities to the Employee which are mentioned in the AÜV. The Employee may only be handed over machines, tools and other equipment which is/are compliant with the applicable occupational safety regulations. The Employee may not be entrusted with handling money, securities or other valuable objects unless this has been agreed expressly in the applicable AÜV.

(4) The Client shall be obliged to inform us in writing immediately if the Employee is assigned activities other than those mentioned in the AÜV. If this is the case, we shall be entitled to increase the hourly charge rate reasonably if qualifications in addition to those mentioned in the AÜV are required for such activities assigned to the Client subsequently.

(5) The place of assignment mentioned in the AÜV shall form the calculation base for the hourly charge rate. If the Client changes such place of assignment and, as a result, additional expenses are incurred by us or the Employee, we shall be entitled to increase the hourly charge rate appropriately or claim the reimbursement of the additional expenses.

(6) We may recall any supplied Employee at any time and, if appropriate, replace him by another Employee who has the qualifications necessary for the assignment with the Client. Likewise, we may also assign another Employee from the commencement of the assignment.

(7) If official permits are necessary, or will be necessary at a later date, for the Employee's work at the Client's business, the Client shall be obliged to obtain such permits at his own expense and provide us with a copy of

them. We shall ensure that the Employee holds a residence and work permit, insofar as such permit is required by law.

4. Principle of Equal Treatment, Maximum Period of Assignment

(1) The Client shall inform us immediately if an Employee is to be assigned to him, or is assigned to him, who has had a contract of employment with the Client during the last six months before the commencement of the assignment. The obligation to inform pursuant to Sentence 1 shall also exist if in the last six months before the commencement of the assignment, the Client has had a contract of employment with a company that forms an affiliated group within the meaning of Art. 18 of the German Companies Act (AktG) with the Client (so-called "revolving door clause"). If, in the last six months before the commencement of the assignment, a contract of employment has existed with the Client or with a company forming an affiliated group within the meaning of Art. 18 of the AktG with the Client, the Client shall immediately inform us of the substantial employment and payment conditions of a comparable regular employee in writing. Art. 12.1, Sentence 4, of the AÜG in connection with Art. 8 of the AÜG shall apply.

(2) Likewise, the Client shall inform us immediately if an Employee is to be assigned to him, or is assigned to him, who has already been assigned to the hiring business by a different temporary employment agency during the period before the commencement of the assignment which is mentioned in Art. 8.4, Sentence 4, of the AÜG (3 months and one day). In such a case, the Client shall inform us thereof immediately. If, as a result of the determined total period of assignment, the equal treatment obligation under Art. 8.4 of the AÜG exists, the Client shall immediately provide us all relevant information concerning the substantial employment conditions – including the pay – of comparable regular employees in writing. Art. 12.1, Sentence 4, of the AÜG in connection with Art. 8 of the AÜG shall apply. On the basis of said written documentation, a reasonable adjustment of the applicable hourly charge rate shall be performed.

(3) Our Employee's assignment to the Client's business shall be temporary. The AÜV shall end upon the expiry of the maximum period of assignment (18 months), provided that no deviating agreements in the form of a collective agreement or a company agreement pursuant to Art. 1.1b of the AÜG (regulations in the hirer's business) exist. In order to ensure compliance with the maximum period of assignment pursuant to Art. 1.1b of the AÜG, the Client shall, for each named Temporary Employee, immediately check whether such employee has been assigned to him by a different temporary employment agency previously during the period pursuant to Art. 1.1b, Sentence 2, of the AÜG (3 months and one day). In such a case, the Client shall inform us thereof immediately. Furthermore, he shall inform us in text form immediately and completely of all regulations applicable at his company which permit a maximum period of assignment of more than 18 months and which are relevant to any business to which a Temporary Employee may be assigned on the basis of the AÜV.

Both Parties shall supervise compliance with the applicable maximum period of assignment. If either Party has reasonable doubt about the compliance with the maximum period of assignment, such Party may immediately end the assignment of the Temporary Employee concerned. If the maximum period of assignment is exceeded, the Parties shall waive any damage claims against each other which may result from said period being exceeded.

(4) The statutory equal pay obligation shall come into existence after 9 months of assignment to the hirer's business. If a sectoral collective agreement is applied at the hirer's business, said period shall be extended to a maximum of 15 months.

For each named Temporary Employee, the Client shall immediately check whether such employee has been assigned to him by a different temporary employment agency previously during the period pursuant to Art. 8.4, Sentence 4, of the AÜG (3 months and one day). In such a case, the Client shall inform us thereof immediately. If, as a result of the determined total period of assignment, the equal treatment obligation under Art. 8.4 of the AÜG exists, the Client shall immediately provide us all relevant information concerning the substantial employment conditions – including the pay – of comparable regular employees in writing. Art. 12.1, Sentence 4, of the AÜG in connection with Art. 8 of the AÜG shall apply. On the basis of said written documentation, a reasonable adjustment of the applicable hourly charge rate shall be performed.

5. Client's Duty of Care; Occupational Safety

(1) The Client undertakes to adhere to the duties of care and protective measures which are defined by Art. 618 of the BGB in relation to the Employee. This shall also cover the adherence to the German Working Time Act, and only the Client shall be responsible for supervising the adherence. To the extent necessary, the Client undertakes to obtain permission from the competent supervisory authority if the Employee is to perform work on a Sunday or public holiday or otherwise beyond the working time permitted pursuant to the Working Time Act.

(2) The Client shall allow our Employee to use his social facilities (canteen, changing room, locker, toilets etc.) to the same extent to which his own employees may use them.

(3) The Client shall bear in mind that during his assignment, the public-law regulations of occupational safety law applicable to the Client's business shall apply to the Employee during his assignment; pursuant to Art. 11.6 of the AÜG, the Client shall have the employer's obligations resulting from such regulations during the assignment. The Employee shall be integrated into the Client's business organisationally. He shall therefore be entitled to use all occupational safety facilities of the Client's business. The Client shall ensure organisationally that the Employee will be able to use said facilities of the business without hindrance. Pursuant to Art. 11.6 of the AÜG, the Client shall, before the commencement of the Employee's work and in the case of changes in the Employee's working area, instruct the Employee on health and safety risks to which he may be exposed during his work and on the measures and facilities for preventing such risks. The Client shall prepare a record of said

instruction, which shall be signed by the Employee. The Client shall provide a copy of said record to us on request.

(4) The personal protective equipment necessary for the work performed by the Employee shall be provided by the Client free of charge, insofar as this is necessary for the workplace concerned and unless otherwise stipulated in the AÜV. First-aid facilities and measures as well as any occupational health checks, if applicable, shall only be ensured by the Client. Furthermore, only the Client shall, free of charge, provide any motor vehicle, tools or other work equipment which may be necessary for the Employee's activities. If this is done, only the Client shall ensure that such items will be returned properly by the Employee.

(5) The Client undertakes to inform us in writing immediately of any accident of our Employee at work or on the way to or from work and to send us a detailed accident report within three days after the accident comes to his knowledge; such report shall fulfil the requirements of Art. 193 of the German Social Security Code, Book VII (SGB VII). Likewise, the Client shall be obliged to inform his Employers' Liability Insurance Association of the accident at work or on the way to or from work immediately in accordance with Art. 193 of the SGB VII. Furthermore, the Client shall, within the same period, send a copy of the accident report to the Employers' Liability Insurance Association mentioned in Section 2.1 without specific request and provide the insurance association with all information necessary for resolving the case of the accident at work or on the way to or from work. On our Employee's request, he shall also be delivered a copy of the accident report.

(6) Before the commencement of our Employee's activities, the Client shall inform us about all major characteristics of said activities, about the qualifications necessary for performing them, about any necessary personal protective equipment and about any required occupational health checks. The Client shall grant us and our agents the right to visit the Employee's workplace during the Employee's working hours and after prior agreement with the Client for the purpose of performing our duties as an employer.

(7) The Client shall, upon our first request, indemnify us against any claims that are made by our Employee or third parties in connection with the breach of the Client's duties of protection for ensuring our Employee's occupational health and safety; this shall also include any claims for damages which are made by a third party because, at a later date, the Employee who has had an accident at the Client's business could not be assigned to such third party or could only be assigned to it late. Insofar as expenses are incurred by us in connection with the claims of our Employee or third parties which are mentioned in Sentences 1 and 2, the Client shall be obliged to reimburse them.

(8) If our Employee refuses to perform an activity at the Client's business due to insufficient safety devices or insufficient instruction on occupational safety, the Client shall pay us the remuneration for the resulting inactive periods.

6. Secrecy; Data Secrecy

(1) The supplied Employee has an obligation under his contract of employment to maintain absolute confidentiality about all business matters of the Client which come to his knowledge. The Client shall inform us immediately and before the commencement of the Employee's activities if data secrecy within the meaning of Art. 5 of the Federal Data Protection Act (BDSG) applies to the Employee due to his activities at the Client's business. In such case, we shall oblige the Contractor in writing in accordance with Art. 5 of the BDSG to maintain such data secrecy and prove this to the Client on request.

(2) The Client, for his part, undertakes to treat as confidential the Employee's personal data which comes to his knowledge as intended or incidentally in connection with the supply of our Employee and to ensure that said data will not come to the knowledge of third parties.

(3) The Client agrees that we will use his data mentioned in the AÜV in order to request a credit check.

7. Remuneration; Withholding Right; Offset; Assignment

(1) For each hour worked by the supplied Employee, we may charge a remuneration in the amount of the hourly charge rate mentioned in the AÜV, plus extra payments (if any).

(2) All amounts of prices and remuneration which are indicated in our offers, letters of confirmation and AÜVs are net amounts. The Client shall be obliged to pay the value added tax that is due on the payment amount, insofar as it is payable pursuant to the provisions of the law.

(3) The Contractor hereby declares that the collective agreements between iGZ and DGB, as amended from time to time, are incorporated completely into the contracts of employment which he has concluded with the Temporary Employees assigned to the Client's business. The Contractor is a member of "Interessenverband Deutscher Zeitarbeitsunternehmen e.V. (iGZ)" (German association of temporary employment agencies).

If, during the term of the AÜV,

(a) an increase of the wages payable to the Employee pursuant to the applicable collective agreements (including Christmas or holiday bonus or any other bonuses) or of expense allowances pursuant to the collective agreements occurs, or

(b) an increase of the wages pursuant to the collective agreements (including Christmas or holiday bonus or any other bonuses) or of expense allowances pursuant to the collective agreements occurs due to a change of the applicable collective agreement, or

(c) a statutory minimum wage which is higher than the wage agreed with us when the AÜV was concluded becomes effective for the Employee, or

(d) sector-specific extra payments are payable to the Employee for the first time, or higher sector-specific extra payments than those calculated by us when the AÜV was concluded are payable to him, and (i) according to the information provided by the Client in this respect, we were unable to determine that they are payable, or (ii) they

are payable due to the fact that the actual circumstances at the Client's hiring business which the Client communicated to us have changed and as a result, the Employee is entitled to the above wage increases and/or higher claims for wages or expense allowances than those agreed with us in the contract of employment, we may, retroactively for the period commencing on the date on which the above wage increase becomes effective and/or the (higher) sector-specific extra payments are payable, increase the hourly charge rate or any agreed expense allowances according to the original calculation of the hourly charge rate agreed with the Client. For this purpose, the share of the wages pursuant to the collective agreements in the hourly charge rate shall be assessed at 90% of our total expenses on which the calculation of the hourly charge rate is based, and the share of the expense allowances payable to the Employee shall be assessed at 5%. The Client reserves the right to prove that the increases of the wages of the Employee supplied to him and/or of the expense allowances payable to the Employee which are mentioned in Items (a) to (e) above do not lead to any increase, or only lead to a prorated increase, of the Employee's wage costs or ancillary wage costs payable by us. If this is the case, we shall only be entitled to include the wage costs or ancillary wage costs which have increased accordingly in the Employee's original calculation and to claim a higher charge rate which has been calculated in this manner.

(4) We may charge the following percentages of the hourly charge rate as extra payments: 25% for each hour worked between 8 p.m. and 6 a.m. (night work), 25% for each hour of overtime worked (from the 41st working hour per calendar week), 25% for each hour worked on a Saturday, 50% for each hour worked on a Sunday, 100% for each hour worked on a public holiday. If the prerequisites for more than one of these extra payments are fulfilled at the same time, only the extra payment of the highest amount shall be due.

(5) The billing of the hours worked by the Employee to the Client shall be performed on the basis of the performance records kept by the Employee. The Client shall be obliged to verify the performance records, which are presented by the Employee at the end of each calendar week and at the end of the assignment, within two working days after their presentation and have them signed and confirmed with a company stamp by an authorised person having power of representation. If the Client does not fulfil said obligation and if he is not responsible for it, the Employee's records shall be considered approved; this shall not apply if, within one week after receiving the invoice with which the Employee's hours worked are billed, the Client makes substantiated written objections against the information which our Employee has included in the performance record.

(6) The remuneration shall be invoiced by us on a weekly or monthly basis. The invoice amount shall be due for payment upon the receipt of the invoice and shall be payable without any discount. If the Client does not pay the current invoice, he shall be in default of payment 10 days after the receipt of the invoice, without any reminder by us being necessary.

(7) A payment shall not be considered made until we can dispose of the amount. The Client undertakes not to make any payments directly to the Employee.

(8) If a strike takes place at the Client's business, the Client may, contrary to the provisions of Art. 11.5 of the AÜG, not assign any Temporary Workers with work at the business. In addition, the prohibition of assignment shall apply to strikes which were initiated by the member unions of DGB, also for Employees who were already assigned to the business before the commencement of the industrial action. Accordingly, to the extent of the strike call, the Temporary Employee shall not be assigned to businesses or parts of businesses in which a proper strike takes place. The Client shall ensure that to the extent of the prohibition of assignment, no Temporary Employees will be assigned. To this extent, the Personnel Service Provider shall not be obliged to supply any employees. In individual cases, the parties of the industrial action may deviate from the aforesaid provisions and agree the assignment of temporary employees (e.g. in agreements on emergency service). Art. 11.5, Sentence 2, of the AÜG shall apply in this respect. The Client shall immediately inform the Personnel Service Provider of any ongoing or planned strike.

8. Personnel Procurement; Procurement Fee

(1) The purpose of the contractual relationship between the Client and us, in addition to the commercial supply of temporary workers, is to procure a permanent employment of the Employee assigned to the Client's business with the Client. The Client expressly acknowledges that such a procurement is the purpose of the contractual relationship with us.

(2) If the Client or a company belonging to the same affiliated group within the meaning of Art. 18 of the AktG concludes a contract of employment with an Employee who has been assigned by us or has been offered for such assignment and said contract is concluded before or during said assignment or within six months after the end of the assignment, the Employee shall be considered procured by us unless the Client proves that we have not caused the conclusion of the contract with the Employee who has been assigned to him or has been offered for such assignment. In such case, the Client shall pay us a procurement fee, the amount of which shall be 3 times the average gross monthly salary that the Client has agreed with the Employee taken over. Said average gross monthly salary shall be calculated as follows: the total of the monthly salaries agreed with the Employee for one calendar year, including any special annual payments (e.g. Christmas or holiday bonus) or any other ex-gratia payments of the Client, divided by 12 months. The Client shall pay the statutory value added tax on said procurement fee if such tax is due.

(3) For each full month during which the Employee was assigned to the Client by us immediately before the Employee is taken over by the Client, the procurement fee under Paragraph 2 of this Section shall be reduced by 25% of the gross monthly salary agreed with the Employee by the Client.

(4) The procurement fee shall become due for payment upon the conclusion of the contract of employment between the Client or the company belonging to the same affiliated group within the meaning of Art. 18 of the AktG and the Employee previously assigned by us. The Client undertakes to inform us of the conclusion of a

contract of employment with the Employee in writing immediately and without specific request, providing the information necessary for the calculation of the procurement fee under Paragraph 2 of this Section. If the Client does not provide the necessary information or provides incorrect information, we shall be entitled to use an average monthly salary of 4000 € as the calculation base for the procurement fee.

9. Liability; Warranty; Delay; Withdrawal from the Contract

(1) During his assignment, the Employee shall perform his activities under the direction and supervision of the Client only. Therefore, we shall not be liable for any damage which the Employee causes during the performance of, or in connection with, his work; this shall apply mutatis mutandis if the Employee does not perform his activities. In particular, we shall not be liable for the results of our Employee's work.

(2) We shall only be liable for the supply and proper selection of an Employee who is suitable and qualified for the activities (liability for selection) and warrant that we have given the Employee adequate instruction in order to prevent unequal treatment within the meaning of the German General Act on Equal Treatment (AGG). We shall only be liable for any breach of said duties if we have committed it culpably; any no-fault liability shall be excluded.

(3) Our liability shall only cover breaches of our duties that have occurred with wilful intent or gross negligence; in the case of any breach of major contractual obligations or of injury to life, body or health, we shall also be liable in cases of slight negligence. Our liability shall be restricted to damage which is foreseeable or typical of such contracts. Said restriction shall not apply if our executives or legal representatives have caused the damage with wilful intent or gross negligence or the damage has resulted from the breach of major contractual obligations or from injury to life, body or health. Our liability shall be excluded if the supplied Employee is entrusted with financial matters or any other task not agreed in the AÜV.

(4) Any claims for the reimbursement of expenses by us shall be excluded if the prerequisites for damage claims mentioned in Paragraphs 1 to 3 of this Section are fulfilled.

(5) On our first request, the Client shall indemnify us against any claims made by third parties in connection with the performance of the activities that the Employee is assigned by the Client. Insofar as expenses are incurred by us in connection with the claims of third parties which are mentioned in Sentence 1, the Client shall be obliged to reimburse them. The obligations of the Client under Sentences 1 and 2 shall not exist if the cause of the claims made by the third party can be attributed to our fault or if, at the time at which the third party suffered the damage, the Employee only acted in our interest or according to our instructions.

(6) Immediately after the commencement of the Employee's activities, the Client shall check whether the Employee is suitable for every activity that he is to perform. If the Client is of the opinion that the professional qualification of the supplied Employee is insufficient for the activities that he is to perform, he shall submit a written complaint about this to us no later than one working day after the commencement of the Employee's activities. If a timely complaint pursuant to Sentence 1 has not been made, the Client may no longer make any claims based on the fact that the professional qualification of the supplied employee is insufficient for the activities mentioned in the AÜV.

(7) If the Contractor does not commence his activities or ceases them at a later date, we shall only be liable for any resulting damage if we are responsible for the non-commencement or cessation of the activities. We shall not be responsible for any circumstances resulting from force majeure or from events which, permanently or temporarily, make it considerably more difficult or impossible for us to supply a suitable employee – including, but not limited to, strike, lockout, sickness, epidemics, orders of public authorities – even in the case of bindingly agreed periods and dates. They shall entitle us to postpone the supply for the duration of the obstruction, plus a reasonable starting time, or to withdraw from the AÜV completely or partly for the portion of it which has not been fulfilled.

(8) If our Employee does not commence his activities at the Client's business or ceases them at a later date, the Client shall inform us thereof immediately. We shall make an effort to provide an equivalent replacement as soon as possible. If the Client's information under Sentence 1 is not provided in a timely manner, the Client shall not be entitled to any claims for damages or the reimbursement of expenses for the period in which our Employee does not commence his activities, or does not commence them in a timely manner.

(9) If the Client rejects the Employee provided by us and no equivalent replacement is available to us, we shall be entitled to withdraw from the applicable AÜV by making a written declaration to the Client immediately, without the Client being entitled to any claims for damages due to the withdrawal. This shall apply mutatis mutandis if the Employee mentioned in the AÜV cannot commence his activities at the Client's business for any other reason or must end them at a later date.

(10) A change of the burden of proof to the disadvantage of the Client shall not be connected to the above provision.

10. Contract Term; Termination of the AÜV

(1) Both Parties may terminate the AÜV for convenience with five calendar days' notice as of the end of each calendar week. If the Client ends the assignment of the Employee before the expiry of the period of notice mentioned in Sentence 1, he shall be obliged to pay us the hourly charge rate, including any extra payments, per diem or any other reimbursement of expenses, for each working hour not accepted until the expiry of the period of notice mentioned in Sentence 1 (deficiency compensation).

(2) Both Parties' right to terminate this Contract for cause without notice at any time shall remain unaffected.

(3) Any termination of the AÜV, regardless of the cause, must be in writing and may only be declared to us effectively.

11. Place of Performance; Place of Jurisdiction; Applicable Law; Severability

(1) The place of performance for every performance of the Parties shall be our company's place of business in Düsseldorf.

(2) If the Client is a trader within the meaning of Art. 38.1 of the German Code of Civil Procedure (ZPO), the place of jurisdiction for all mutual claims and liabilities arising from the business relationship with the Client, including any claims in connection with bills of exchange or cheques or any disputes concerning the creation and effectiveness of the contractual relationship, shall be the competent Local or Regional Court of our company's place of business in Düsseldorf; any legal provisions concerning a deviating exclusive place of jurisdiction shall remain unaffected. However, we may also sue the Client at his general place of jurisdiction.

(3) Only the law of the Federal Republic of Germany shall apply to the contractual relationship between the Client and us and to all other legal relationships. Insofar as it is required by compelling European Union law, also the provisions of such law shall apply.

(4) Should individual provisions of the AÜV be or become ineffective or the AÜV contain a regulatory gap, the effectiveness of the other provisions of the AÜV shall remain unaffected. In such case, instead of the ineffective provision, the Parties shall agree a provision which corresponds to the purpose of the original provision as much as possible. Any regulatory gap shall be closed by an additional provision agreed by the Parties which corresponds to the purpose of the AÜV as much as possible.

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