

Terms and Conditions of Business for Temporary Recruitment Services

ROBERT WALTERS

These terms and conditions of business apply where **Robert Walters (Hong Kong) Limited** ("RW") introduces a Candidate to the Client to be engaged as Temporary Contractor ("**Agreement**").

1. All Temporary Contractors introduced by RW to the Client are intended by RW and the Client to be self employed contractors and are introduced and supplied by RW for the Client.
 2. Where relevant, RW shall, pay the fees of the Temporary Contractor and shall make statutory deductions in accordance with the laws of Hong Kong.
 3. The Client shall pay RW for the service provided by RW and the Temporary Contractor (the "**Assignment Charges**"). Such Assignment Charges shall be agreed at the time of the booking of the Temporary Contractor in accordance with the Assignment Schedule. Assignment Charges shall be invoiced monthly.
 4. Where the rate RW pays the Temporary Contractor increases, RW may request a corresponding increase in the rate payable by the Client. If the Client refuses such increase, RW may serve notice terminating this agreement immediately by giving written notice.
 5. The Temporary Contractor will carry out the agreed services for the Client for an agreed period in the Assignment Schedule, ("**the Assignment**") during which the Temporary Contractor will be subject to the instructions, direction, supervision and control of the Client.
 6. Where a candidate as prospective Temporary Contractor has been introduced by RW to the Client and,
 - a. the Client initially rejects such candidate but such candidate is subsequently employed or engaged by the Client either as permanent or fixed term employee, temporary contractor or in any capacity within twelve months of the initial introduction date; or
 - b. Whether or not engaged by the Client, if such candidate is subsequently introduced by the Client to a third party within twelve months of the initial introduction or within twelve months of the end of the Assignment (whichever is the later) resulting in employment or engagement of the Temporary Contractor by the third party;
- The Client in such cases will inform RW and will pay a fee equivalent to 30% of this candidate's latest annual remuneration package offered by the Client or any third party. Should the candidate leaves for any reason subsequently, no rebate will be given.
- Under this Agreement, "**Annual Remuneration Package**" shall mean the total of all monies payable and benefits that an employed person may be entitled to: including without limitation on gross salary, guaranteed bonuses, commissions, stock options, profit sharing or other identifiable financial benefits. Employer provided motor vehicles will be deemed as having a value of USD\$20,000 per annum. Joining inducements, housing allowances and expatriate benefits will be deemed to be part of the remuneration package. Where bonuses or commission are not guaranteed, the highest bonus or commission amount quoted by the Client will be included in the calculation of the package.
7. If the Client offers a permanent employment or fixed term employment to the Temporary Contractor at any time, or the Client transfers the Temporary Worker to be a third party provider's payroll to continue the services in any capacity to the Client, the Client in such cases will inform RW and shall pay to RW a fee equivalent to 30% of the Temporary Contractor's latest Annual Remuneration Package offered by the Client or a third party. In the event that the Temporary Worker is converted into a fixed term employee of the Client, the fee equivalent to 30% of the Temporary Contractor's latest Annual Remuneration Package shall be pro rated according to the fixed term of the employment. Should the candidate leaves for any reason subsequently, no rebate will be given.
 8. RW will make every reasonable endeavour to give satisfaction to the Client by ensuring reasonable standards of skills, integrity and reliability from Temporary Contractors introduced and further to provide them in accordance with the details agreed at the time of the placement. However, no liability will be accepted by RW for any loss, expense, damage, delay, costs or compensation (whether direct, indirect or consequential) arising from failure to provide any particular Temporary Contractor for all or part of the period of the booking or from negligence, dishonesty, misconduct or lack of skill, qualifications or experience of the Temporary Contractor provided.
 9. Temporary Contractors provided by RW are deemed to be under the direction and control of the Client from the time the Temporary Contractor reports to take up duties with the Client and for the duration of the Assignment. The Client shall be solely liable for all acts, errors or omissions of the Temporary Contractor be they wilful, negligent or otherwise. The Client will in all respects comply with the statutes, bylaws and legal requirements to which the Client is ordinarily subject in respect of the Client's own staff, but excluding the matters specifically mentioned in clause 2 above.
 10. The Client shall treat all the personal information of the Applicant as strictly private and confidential and shall take all reasonable steps to preserve such confidentiality,
 - a. Without the prior consent of RW, the Client shall not disclose any personal information of the Applicant to

- any third party, or use such information for any purpose other than the purpose of recruitment and employment hereunder.
- b. The Client shall indemnify and hold RW harmless from and against any costs, expenses, loss, damage, action, claims or liabilities suffered or incurred as a result of the unauthorised disclosure by the Client of the personal information of the Applicant.
11. The Client shall be solely liable for any claims made by third parties arising from the performance of the duties of the Temporary Contractors.
12. In the event a claim is made against RW by a third party in respect of the performance of the Temporary Contractor, the Client hereby undertakes to indemnify RW against all proceedings, claims, expenses and liabilities whatsoever which may be taken or made against or incurred by RW.
13. The Client will supervise the Temporary Contractor sufficiently to ensure the Client's satisfaction with the Temporary Contractor's ability. If the Temporary Contractor's service is unsatisfactory, the Client may terminate the Assignment by giving notice no later than it is required as provided in the Assignment Schedule and RW shall endeavour to seek for a replacement within a reasonable period at no additional cost to the Client.
14. The Client will sign the Temporary Contractor's time sheet at the Temporary Contractor's request. Signature of a time sheet by a Client is conclusive evidence of satisfaction with the Temporary Contractor (unless otherwise indicated in writing on the time sheet) and constitutes agreement to pay for the service provided.
15. RW gives no representation or warranty that any Temporary Contractor is or will be available to accept any Assignment. RW is not responsible for obtaining work or other permits, references or medical reports or for the verification of professional, visas, academic or other qualifications.
16. Both parties acknowledge that they and their employees may acquire information that is confidential to the other party. Both parties agree to hold such information, including the details of this contract, in strict confidence and not to disclose such information other than in one party's normal course of business.
17. Should the Temporary Contractor terminate the Assignment (by giving the notice per the Assignment Schedule) RW may give the Client the same notice terminating the agreement between RW and the Client to provide services.
18. The Client shall not solicit RW employees. In the event that the Client places a RW employee in a role with the Client or any other person or body to whom the Client has introduced the employee, the Client will be charged a fee equivalent to 30% of this RW employee's annual remuneration package offered by RW before separation.
19. Neither Party shall be liable to the other under or in connection with these Terms and Conditions or any contract made upon them for any indirect or consequential loss including but not limited to loss of profits, loss of business, loss of revenue loss of anticipated savings, loss of reputation or regulatory fines. Nothing in these Terms and Conditions limits any warranty, exclusion or limitation of liability or right imposed by statute or regulation to the extent that it cannot lawfully be excluded or limited.
20. Subject to the extent that a liability cannot be lawfully excluded or limited, the maximum liability of RW to the Client in respect of any Assignment shall be limited to one hundred and twenty percent (120%) of 12 months of the monthly Assignment Charges which are payable.
21. Either party may terminate this Agreement or any Assignment Schedule immediately by written notice if,
- a. the other party commits any material breach of this agreement that is incapable of being remedied
- b. or the other party commits any other breach that is not remedied within 5 days of written notice of the breach having been given to the other party or
- c. the other party becomes insolvent, is adjudicated bankrupt, has a receiver appointed, has a resolution passed or order made for its liquidation.
22. If any of these terms are held by a Court to be illegal or unenforceable, that term will be severed from all other terms without affecting the validity or enforceability of all other terms.
23. If either party is prevented in the performance of this Agreement by an Act of God or by or in consequence of war, riot, storm or any other such circumstances that are completely beyond the control of that party then that party will not be liable for such breach of that party's obligations under this Agreement.
24. RW charges the Client a one-time set up fee per Temporary Contractor engaged. In additions, margin, monthly administration fee, and applicable additional charges for providing Introduction and/or Payroll Services to the Client on a monthly basis. The Client shall reimburse RW (i) all the expenses incurred by RW with the approval of the Client; (ii) the Temporary Contractor's

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Gross Monthly Pay, (iii) MPF, and (iv) all of benefits and leave entitlements offered to Temporary Contractor which shall in no event be lower than benefits and statutory entitlements provided under the laws of Hong Kong. The margin payable by the Client for a Temporary Worker and the statutory benefits offered to the Temporary Worker will be provided in the Assignment Schedule.

- a. One-time set up fee HK\$5,000 per each Temporary Contractor will be included in the first month invoice.
- b. Monthly margin on the Temporary Contractor's Gross Monthly Pay in no event such margin shall be lower than HK\$2,500:

Recruitment and Payroll Services	25%
Payroll Services	15%

- c. Monthly administration Fee \$1,500 per payroll per each Temporary Contractor
- d. Additional Charges per Temporary Worker (where applicable):
 - Standard medical plan HK\$1,000 per month
 - Basic medical plan HK\$500 per month
 - Work visa application HK\$6,500 per application
 - Credit and criminal check HK\$3,000 per application

"Gross Monthly Pay" means the Temporary Contractor's basic salary, overtime pay, bonuses, accrued annual leave, other additional benefits and statutory entitlements offered to the Temporary Contractor, before any MPF employee contribution. For the avoidance of doubt, in the event that a Temporary Worker's Assignment commences later than 1st day of a month, the daily rate calculation shall be based on the number of calendar days within the month.

"Recruitment and Payroll Services" means the sourcing, recruitment and payroll services to be provided by RW to the Client in relation to Temporary Contractor.

"Payroll Services" means the payroll services to be provided by RW to the Client in relation to Temporary Contractor.

Example (base on a typical monthly payroll case):

Margin %	Temporary Contractor Pay	RW Margin	Employer MPF	Admin Fee	Standard medical	RW Charge
25%	\$30,000	\$10,000	\$1,500	\$1,500	\$1,000	\$44,000

25. All RW charges are payable immediately on receipt of an invoice for such charge. Overdue accounts will be subject to a surcharge of 10% of the sums overdue per month or part thereof.
26. If the Client wishes to dispute any charges invoiced it will do so within 14 days of receipt of the invoice. The Client will be deemed to have accepted the invoice if no specific dispute is raised. Any dispute will not affect payment of any non-disputed charges appearing on the same invoice or the payment of any other invoices due under these terms and conditions. RW may send Client statements from time to time. If the Client wishes to request any copy invoices which it believes it has not received in the normal course of business, it will do so within 7 days of receipt of the statement. The Client will be deemed to agree the completeness of the invoices scheduled in the statement unless any copies are requested.
27. Should RW incur any costs in recovering amounts overdue under these terms and conditions, the costs may be charged to the Client in addition to the underlying value of invoices due. Costs in this clause include, but are not limited to: interest charged, legal fees incurred or any other third party debt recovery fees.
28. No failure or delay in exercising any right or remedy will constitute a waiver of that right and no waiver will be effective unless it is in writing and signed by that party.
29. Alterations to these terms and conditions of business can only be accepted if confirmed in writing by a Director of RW.
30. These terms and conditions shall be governed by and construed in accordance with the laws of Hong Kong.

Signature with Company's Stamp on behalf of
Client:
Name:
Title:
Date:

Signature with Company's Stamp on behalf of
Robert Walters (Hong Kong) Limited
Name:
Title:
Date: