Robert—
—Walters

# Terms and conditions of business for temporary placements

**Scope of this Agreement**

1. These Terms and Conditions shall apply to:
   a) any Business proposed or undertaken by RW for the Client; and
   b) the Assignment, engagement or other use by the Client of a Temporary Worker.
2. In the absence of written confirmation, the use by the Client of any CV (or the details therein) provided by RW, or the engagement in any capacity, of any Temporary Worker will constitute acceptance by the Client of these Terms and Conditions.
3. These Terms and Conditions together with any documents referred to herein constitute the entire agreement between the Parties relating to the subject matter hereof and supersedes all previous discussions, correspondence, negotiations, arrangements, representations and understandings between the Parties, whether written oral.

**Temporary Workers**

4. The Client shall provide RW with comprehensive details of the particular Assignment, including the experience, training, qualifications and authorisations required to perform the services related to the temporary work, the anticipated pay rate, job description and any other information ("**Assignment Details**") reasonably necessary to enable RW to assess the suitability of a Temporary Worker for that Assignment.
5. In consideration of the Assignment Details, RW shall use reasonable skill and care in the sourcing and Introduction of any Temporary Worker to the Client. In the event any preliminary checks or tests are required by the Client to determine the suitability of a Temporary Worker, the actual cost thereof will be passed through to the Client.
6. RW shall request that a Temporary Worker has the right to work in the Province of Ontario, Canada and shall request appropriate work references and details of academic and professional qualifications where appropriate ("**Pre-Assignment Screening**"). RW disclaims warranty of any kind, whether express or implied, and shall not be liable for any Loss, including but not limited to any indirect, consequential, special, incidental or contingent damages of any nature whatsoever, including loss of revenue, profit or reputation, relating to Pre-Assignment Screening or relating to the performance of any services provided by the Temporary Worker.
7. The Client acknowledges that each Temporary Worker may be entitled to notice of termination of the Assignment, whether as agreed with the Client or as stipulated by applicable legislation, including (where applicable) the *Employment Standards Act, 2000* (Ontario) with RW (the "**Assignment Notice Period**"). Where the Client requires an Assignment to be terminated on a shorter notice period than the applicable Assignment Notice Period, the Client shall be liable for all or any Fees which are payable by RW to the Temporary Worker as a result of (i) any failure to provide the Assignment Notice Period; or (ii) as a result of the early termination of the Assignment by the Client.

**The Assignment**

1. The Parties acknowledge and agree that Temporary Workers do not fall under the supervision, direction and control of RW for the duration of an Assignment with the Client.
2. The Client will provide all Temporary Workers with a safe worksite and will provide Temporary Workers with up to date security information and safety equipment, whether or not required by law. Without limiting the generality of the foregoing, because the Client controls the facilities in which Temporary Workers perform services, it is agreed that the Client is primarily responsible for compliance with all applicable occupational health and safety legislation and regulations, to the extent those laws apply to Temporary Workers assigned to the Client's facilities.
1. The Client shall record the daily hours and activities undertaken by each Temporary Worker. Every week, unless otherwise agreed, the Temporary Worker will provide RW with a timesheet, which ought to have been pre-approved/signed by the Client. Where a timesheet has <u>not</u> been pre-approved/signed by the Client, RW will submit it to the Client for approval. The Client will have 7 days to dispute the Temporary Worker's timesheet, in writing, with reasons. If no notice of dispute has been received by RW within those 7 days, then the Temporary Worker's timesheet shall be deemed approved. Approval is irrevocable and shall entitle RW to the corresponding Fees.
2. The Client shall provide Temporary Workers with all equipment, facilities and supplies reasonably necessary to perform their duties hereunder.
3. The Client shall be responsible for ensuring that Temporary Workers are made aware of and compliant with all Client policies and procedures that are applicable to the performance of the Assignment by the Temporary Worker. This shall include but not be limited to any health and safety or information security policies relevant to the Assignment.
4. To the extent the Employment Standards Act is applicable to an Assignment performed by a Temporary Worker, the Client shall ensure Temporary Workers are afforded such Client in-service training, continuing education, mentoring and regular performance evaluations as provided by the Client for its staff performing similar work.
5. Each Party warrants that it is in full compliance with all applicable human rights legislation. In the event of any complaint by or against any Temporary Worker, including but not limited to unlawful discrimination, harassment or retaliation, the Parties agree to cooperate in the prompt investigation and resolution of such complaint. The Client shall indemnify, defend and hold harmless RW and its officers, directors and employees from any Loss arising out of or in connection with any complaint by a Temporary Worker relating to an Assignment with the Client.

**Fees**

1. The Client agrees to pay RW for its performance hereunder at the rates set forth in the Assignment Schedule, plus applicable taxes, and any other additional costs or fees set forth in these Terms and Conditions. Fees set forth in each Schedule, which form part of these Terms and Conditions, may be reviewed and adjusted by RW on an annual basis. Amounts invoiced for work performed by Temporary Workers will be calculated on the basis of hours shown on approved timesheets, saved where stipulated to the contrary in an Assignment Schedule.

2. The parties agree that the rates in the Assignment Schedule do not contemplate non-exempt Temporary Workers working overtime. In the event non-exempt Temporary Workers work in excess of 44 hours in any work week, the Client will pay RW for such additional hours at the rate of 1.5 times the Temporary Worker's regular straight-time rate referred to in the Assignment Schedule, or such greater amount as required by applicable statute. Such additional hours, if any, shall be performed only at the specific request of the Client, and shall be evidenced by the timesheets referred to above.
3. If at any time during the term of an Assignment, RW is required to increase wages as the result of any statutory amendment, determination, assessment, order, direction or proceeding by any competent governmental authority, board, adjudicator, arbitrator or court, or third-party insurer, the Client shall reimburse RW at cost for any such corresponding increase.
4. If the Client requests the removal of a Temporary Worker from the Assignment for any reason, then the Client shall provide RW prior written notice of the request equal to or greater than the period of notice of termination to which each Temporary Worker is entitled pursuant to applicable employment/labour standards legislation ("**Termination Notice**"). Save for as agreed to the contrary in the assignment schedule if the Client fails to provide such Termination Notice, then the Client shall pay to RW an amount equal to the amount which the Temporary Worker would be eligible to receive in respect of the termination pursuant to applicable employment/labour standards legislation as a result of the termination of the Temporary Worker (the "**Termination Fee**"), if any.
5. If and to the extent that Temporary Workers incur expenses in the course of their Assignment, the Client will be charged at cost for such expenses subject to the Client's prior approval.

**5. Termination of Assignments**

1 The Client may terminate an Assignment without cause provided that:

a. where the Temporary Worker is a non-exempt Temporary Worker, the Client first provides RW and the Temporary Worker with 10 days' written notice or payment in lieu of such notice; or

b. where the Temporary Worker is an exempt Temporary Worker the Client first provides RW and the Temporary Worker with 10 days' written notice.

2 Temporary Workers may terminate their Assignment without cause provided that they first provide the Client and RW with 10 days' written notice.

3 A Party may immediately terminate an Assignment upon written notice to the other Party, if a Party breaches any of its representations, warranties, confidentiality or payment obligations set out herein, or upon the provision of Termination Notice as stipulated in this Agreement.

**6 Engagement of Temporary Workers by the Client**

1. To the extent permitted by applicable legislation, if the Client Directly Engages a Temporary Worker, then the Client shall pay RW the Conversion Fee.
2. If, after a Temporary Worker is Directly Engaged by the Client on a fixed term basis (other than following an Extended Assignment), and the fixed term (or any subsequent fixed term) is extended, or the Temporary Worker accepts a permanent position with the Client, then the Client shall pay a further Conversion Fee (or Conversion Fees in the case of multiple extensions) calculated in accordance with the Conversion Fee Schedule. The Client must immediately notify RW of any extension of a fixed term and/or offer of a permanent position.
3. The Conversion Fee will not be payable if, as an alternative, the Client gives advance written notice to RW in writing that it intends to extend the Temporary Worker's existing Assignment on the same terms and conditions for a further period of 6 months (the "**Extended Assignment**") before it Directly Engages the Temporary Worker. The option of the Extended Assignment shall not be available to the Client where the Temporary Worker operates as a corporation or sole proprietorship.
4. If the Client elects for an Extended Assignment but Directly Engages the Temporary Worker before the end of that Extended Assignment, the Conversion Fee will be charged by RW in accordance with the Conversion Fee Schedule, reduced proportionately to reflect the amount of the Extended Assignment completed before Direct Engagement.
5. The Client will not offer or promise any Temporary Worker increased compensation or benefits under any Client-provided plan and the Client will exclude Temporary Workers from any Client-provided plan wherever possible.

**7 Additional Costs**

1. RW shall be entitled to any Additional Costs. Unless stated otherwise, Additional Costs will only be incurred by or with the Client's approval and be charged at rates agreed between the Parties in writing. Such Additional Costs will be payable by the Client, even if the Assignment to which such Additional Costs are attributable is not secured.

**8 Time for Payment**

1. The Client shall pay all RW invoices in full, within seven (7) days of the date of an RW invoice without any right of set off. If the Client fails to pay any invoice within that time, interest shall accrue on the gross amount of the invoice at a rate of 6% per annum, compounded weekly from the date of issuance of the invoice to the date of payment.
2. Except as otherwise agreed in writing between the Parties, all Fees shall be invoiced following the approval of the applicable timesheets. RW shall be entitled to invoice any and all Additional Costs immediately after they have been incurred by RW.
3. The Client is deemed to have accepted an RW invoice if no dispute is raised in respect of the same, within seven (7) days of the date of such invoice. All disputes shall be dealt with promptly, in good faith and escalated to the appropriate levels within each Party. For the avoidance of doubt, no disputed payment shall permit the Client any right of set off against future invoices or permit the Client to fail to discharge any other RW invoice issued pursuant to these Terms and Conditions.
4. Any third-party costs and/or expenses (including legal fees and other professional fees) incurred by RW in recovering amounts overdue pursuant to these Terms and Conditions shall be payable by the Client.

## 9 Confidentiality, Privacy and Personal Information

1. Each Party acknowledges that it may receive information that is proprietary to or confidential to the other Party, its Affiliates, clients or customers. Both Parties agree to hold such information in strict confidence and not to disclose such information to third parties or to use such information for any purpose whatsoever except as may be required for a Party to perform its obligations hereunder. For clarity, all Personal Information provided to either Party shall be treated as strictly confidential.
2. To the extent applicable, each Party represents that it is in full compliance with the *Personal Information and Protection of Electronic Documents Act* (Canada) and, if applicable, with any provincial legislation concerning privacy and the protection of personal information which may apply in the circumstances. The Client shall indemnify, defend and hold harmless RW and its officers, directors and employees from any Loss arising out of or in connection with any third-party claims (including those of Temporary Workers) related to a breach of confidentiality obligations and/or misuse of Personal Information by the Client or its Affiliates.

## 10 Law and Jurisdiction

1. These Terms and Conditions shall be governed by and construed in accordance with the Laws of the Province of Ontario and the laws of Canada applicable therein.
2. Any dispute arising out of or in connection with these Terms and Conditions, including any question regarding its existence, validity or termination, shall be subject to the exclusive jurisdiction of the Courts of the Province of Ontario.

## 11 Use of Name, Logo and Trademarks

1. Unless otherwise notified to the contrary by the Client in writing to RW, the Client hereby provides RW with its consent to use and reproduce the Client's name, logo and trademarks within advertising for the Assignment and for RW's general promotional literature (whether online or in print) provided always that RW shall not change or otherwise amend the Client's name, logo or trademark without the Client's prior written consent. Nothing in this provision shall create any rights of ownership (whether registrable or not) in favour of RW over the intellectual property of the Client.

## 12 Indemnification and Limitation of Liability

1. The Client will comply with all applicable Federal, Provincial and local laws including, but not limited to, applicable employment standards, labour relations, human rights and occupational health and safety legislation, and will indemnify, defend and hold harmless RW and its officers, directors and employees from any Loss arising out of (a) any non-compliance or alleged non-compliance by the Client of any such laws; (b) any negligent act or omission on the part of the Client, its officers, employees or agents or contractors; (c) the conduct of a Temporary Worker whilst under the supervision of the Client; (d) the misclassification of a Temporary Worker's as a result of the Clients failure to provide accurate or timely information when requested by RW regarding the Assignment performed by the Temporary Worker and (e) any Severance Fees due to any Temporary Workers.
2. IN NO EVENT WILL A PARTY BE LIABLE TO ANOTHER PARTY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES OR ANY DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, OR ANY OTHER PECUNIARY LOSS ARISING FROM OR RELATING TO THESE TERMS AND CONDITIONS. NOTWITHSTANDING THE FOREGOING, THIS SECTION SHALL NOT APPLY TO LIMIT ANY PARTY'S LIABILITY FOR ANY CLAIM ARISING FROM SUCH PARTY'S OWN FRAUD, WILFUL MISCONDUCT OR GROSS NEGLIGENCE OR BREACH OF CONFIDENTIALITY OBLIGATIONS INCLUDING OBLIGATIONS RELATING TO PERSONAL INFORMATION.
3. Subject to the extent that a liability cannot be lawfully excluded or limited, the maximum liability of each Party to the other in respect of any Assignment shall be limited to one hundred and twenty percent (120%) of the Fees which are payable.

## 13 Limited Warranty

1. RW provides staffing services and not the work product or deliverables created by its Temporary Workers. Staffing services shall be RW's sole obligation to the Client and the Client's exclusive remedy with respect to any nonconformity of or defect or deficiency in services or work furnished to the Client.
2. THE LIMITED WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES OF QUALITY AND PERFORMANCE, WRITTEN, ORAL OR IMPLIED, AND ALL OTHER WARRANTIES, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED.

## 14 Non-Solicitation

1. Subject to RW's prior written consent, the Client agrees to not, during the Assignment, and for a period of six (6) months following the termination of the Assignment, in any capacity or manner, whether directly or indirectly, solicit or attempt to solicit any Temporary Workers or any RW employees, officers, directors or consultants. If the Client employs or engages any person in breach of this provision, the Client shall pay to RW on demand the sum equivalent to fifty percent (50%) of the Remuneration Package of such person. The Parties agree that this is a genuine pre-estimate of loss.

## 15 Termination

1. A Party may immediately terminate these Terms and Conditions upon written notice to the other Party, if a Party breaches any of its representations, warranties, confidentiality or payment obligations set out herein, or upon the provision of Termination Notice as stipulated in this Agreement.
2. Upon termination, each Party shall deliver to the other Party or destroy (as directed) all confidential information.

**16 Insurance**

Each Party shall protect itself, through appropriate insurance policies that a reasonably prudent person carrying out the same or similar activities might obtain.

**17 General**

1. Any provision herein that is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance hereof, all without affecting the remaining provisions or affecting the validity or enforceability of such provision in any other jurisdiction.

2. If a Party is prevented in the performance of its obligations under these Terms and Conditions by circumstances that are beyond the control of that Party (acting reasonably) then that Party will not be liable for what would otherwise have been a breach of its obligations under these Terms and Conditions.

3. Except as specifically provided for herein, the waiver from time to time by any Party of any rights or the failure to exercise any remedy will not operate or be construed as a continuing waiver of the same right or remedy or any of the other of such Party's rights or remedies provided in these Terms and Conditions.

4. Those clauses which, by their nature and surrounding circumstances, are intended to continue to have effect following termination or expiration of these Terms and Conditions shall survive and continue to bind the Parties.

5. These Terms and Conditions are intended solely for the benefit of the Parties hereto and their successors and permitted assigns, and it is not the intention of the Parties to confer third party beneficiary rights upon any other person, including a Temporary Worker.

6. The Parties acknowledges that time is of the essence in the performance of all obligations under these Terms and Conditions.

7. The Client shall not assign or transfer these Terms and Conditions, or any of its rights or obligations hereunder, without the prior written consent of RW.

8. Any variation to these Terms and Conditions, including the attempted introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by an authorised signatory of RW (unless these Terms and Conditions expressly provide to the contrary).

**18 Definitions**

1. In these Terms and Conditions, the following words shall have the following meanings unless the context dictates otherwise.

"**Additional Costs**" shall for example mean any advertising campaign, additional pre-assignment screening requirements or the like for a specific Assignment, Fees or any other agreed supplementary charges.

"**Affiliate**" any other entity that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the Client or RW, as applicable.

"**Assignment**" means the temporary role performed (or to be performed) by a Temporary Worker for the Client.

"**Business**" means work performed by RW in relation to the sourcing of Temporary Workers including, RW providing CVs (solicited or unsolicited), RW receiving instructions from the Client for an Assignment, long/short listing of Temporary Workers, Introducing a Temporary Worker, RW's arrangement of or conducting interviews with Temporary Workers or any other act either directly or indirectly relating to the sourcing or supply of a Temporary Worker.

"**Client**" means you or your Affiliate.

"**Directly Engages**" means any Temporary Worker Introduced to the Client that is: (a) engaged directly by the Client or its Affiliate (either on a fixed term basis or on a contract of indefinite duration); (b) engaged by a third party for the benefit of the Client; or (c) engaged directly by the Client or its Affiliate on a temporary contract for service.

"**Fees**" means the fees due to RW in relation to a specific Assignment calculated in accordance with the Assignment Schedule.

"**Introduced**" means the communicating (through whatever medium) of a Temporary Worker's CV, a long or short list of Temporary Workers and/or details of a Temporary Worker by RW to the Client or any other verbal or written communication between RW and the Client that enables the Temporary Worker to be identified. "Introduction" and "Introduce" shall be construed accordingly.

"**Loss**" means any and all losses, costs, obligations, liabilities, settlement payments, awards, judgments, fines, penalties, damages, expenses, deficiencies or other charges, including costs and expenses incurred in connection with investigating, defending or asserting any claim, incident to any matter indemnified against hereunder (including court filing fees, court costs, arbitration fees or costs, witness fees, and reasonable fees and disbursements of legal counsel, investigators, expert witnesses, consultants, accountants and other professionals);

"**Parties**" means collectively RW and the Client and each individually shall be referred to as a "Party".

"**Personal Information**" means personal information as defined in the *Personal Information Protection and Electronic Documents Act* (Canada) and information about identifiable individuals that is obtained by the Client from RW or the Temporary Worker;

"**RW**" means Robert Walters Canada Inc.

"**Remuneration Package**" means the annual anticipated gross remuneration package which includes gross annual salary, applicable benefits for which there is a cash equivalent, profit share, commission, bonus, living allowances, overseas allowances and joining inducements.

"**Temporary Worker**" means a person or individual Introduced by RW to the Client to perform services related to an Assignment.

**Conversion Fee**" means a percentage of the Remuneration Package paid to the Directly Engaged Temporary Worker calculated in accordance with the Conversion Fee Schedule. Where the Directly Engaged Temporary Worker is on a fixed term basis, this Conversion Fee shall be calculated against the Remuneration Package as pro-rated to the length of the fixed term.

IN WITNESS WHEREOF, the Parties hereto have caused these Terms and Conditions to be executed and delivered as of the date by their duly authorized representatives.

| | |
|---|---|
| _____ | _____ |
| Robert Walters Canada Inc. | |
| _____ | _____ |
| Print Name | Print Name |
| _____ | _____ |
| Date | Date |

Robert—
—Walters

| NMENT SCHEDULE | |
|---|---|
| | tap here to enter text. |
| Contact: | tap here to enter text. |
| Address: | tap here to enter text. |
| of Temporary Worker: | tap here to enter text. |
| of Services: | tap here to enter text. |
| encement Date: | tap here to enter text. |
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| ation Notice Period (if any): | tap here to enter text. |
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| Contact: | |
| Equipment to be Provided (if any): | tap here to enter text. |
| nal Information: | tap here to enter text. |

For and on behalf of
**Robert Walters Canada Inc.**

_____

Date_____

Name_____

Position_____

For and on behalf of
**Client**

_____

Date_____

Name_____

Position_____

**Conversion Fee Schedule**

The table below sets out RW's standard Conversion Fee in respect of Temporary Workers, which is subject to and incorporated into the Terms and Conditions of Business for Temporary Assignments of Robert Walters Canada Inc.

Robert—
—Walters

| Annual Salary = $50,000 - $100,000 | |
|---|---|
| **n of Assignment** | **ent Fees** |
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| Annual Salary = $101,000 - $150,000 | |
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| **n of Assignment** | **ent Fees** |
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