

# General Terms and Conditions

## for the leasing and assignment of employees

Tatenwerk Frankfurt GmbH (hereinafter referred to as "Contractor").



### 1. SUBJECT MATTER

a) Tatenwerk (Contractor) declares that it has a valid licence for temporary agency work pursuant to Article 1, Section 1 para. 1 of the German Temporary Employment Act (Arbeitnehmerüberlassungsgesetz, abbr. AÜG). The current version of this license can be seen at [www.tatenwerk.de](http://www.tatenwerk.de). On the basis of the German Temporary Employment Act, the Contract for the Temporary Assignment of Employees as well as these General Terms and Conditions the Contractor temporarily places its employees at the Clients' disposal.

b) For all Contracts for the Temporary Assignment of Employees these General Terms and Conditions shall apply, excluding any supplementing or deviating terms and conditions of the Client, even if Tatenwerk did not explicitly contradict these supplementing or deviating terms and conditions. In case of doubt, the commencement of work by the Contractor's employee for the Client is to be deemed as an acknowledgement of the validity of Tatenwerk's General Terms and Conditions.

c) The Contractor is the employer of the leased employees. They have no contractual relationship with the Client. For the time of the project work, the employees are subject to the Client's job instructions and supervision. The leased employees are not entitled to enter into legally binding business transactions or to give or accept any declarations. All essential characteristics of the occupation as well as possible changes in the work to be rendered as to scope and location as well as any other changes shall exclusively be agreed upon with the Contractor. These General Terms and Conditions shall also apply for the future business relationship between the Parties in their current version, without an explicit reference to a new version of the General Terms and Conditions being necessary.

### 2. QUALIFICATION / SUBSTITUTION

The Contractor shall make available carefully examined employees selected in accordance with the agreed qualifications. The Client shall be obliged to verify the suitability of the assigned employee for the task to be conducted. The Client is entitled to reject such employees who turn up to be unsuitable, do not comply with its instructions or in the event of an important reason according to Section 623 German Civil Code at any time and request a substitute. If the employee is unsuitable, a rejection can be executed free of charge within the first 4 hours. Any complaints must be immediately communicated to the Contractor. After the expiration of one week after the complaints became known any consequential claim is excluded.

The Client may deploy the employee for the intended task assigned to him/her in the Contracts for the Temporary Assignment of Employees. Any changes with respect to job site or occupation shall be previously communicated to the Contractor in written form.

### 3. TIME SHEETS / BILLING

a) The Client is obliged to immediately examine the time sheets submitted on a weekly basis (list of hours for which the Contractor's employee was working for the Client) and to verify them by signing. If the time sheets are not verified and if there is no request for correction, the time sheets are deemed to be accepted and are invoiced accordingly.

b) The hourly rate agreed upon in the Contracts for the Temporary Assignment of Employees is net plus statutory VAT. Travel expenses and accommodation for remote job sites (>50 km from the Contractor's place of business) are borne by the Client.

c) The leased employees are not entitled to receive any payments.

d) The Client is only entitled to set off any counterclaims or to retain or reduce the Contractor's claims in the event such counterclaims are accepted in writing or have been finally determined by a court.

e) The invoices created on the basis of the time sheets are due and payable immediately upon receipt and without any deductions. After an expiry of 30 days after the due date the Client comes into default and has to pay default interest in the amount of 8% above the base interest rate plus possible reminder fees.

f) Tatenwerk is at all times entitled to assign any claims arising out of or in connection with the Contracts for the Temporary Assignment of Employees to third parties.

g) The Client employs the temporary employee at least for the weekly working hours specified in the ANÜV. Tatenwerk is entitled to calculate the weekly agreed number of hours, even if the employee has worked less due to the lack of work available. Of course, approved vacation days, sick days or public holidays do not apply.

h) Should the employee participate in business trips, training events or other travel activities as part of the assignment, the client must assume all costs incurred or reimburse the employee directly. Multi-day events with overnight stay are charged with 10 hours daily. Travel time is billed as working time. If the direct refund is not possible, Tatenwerk can reimburse the travel costs to the employee, for this a processing fee of 20%, but at least 20 € per billing process will be charged.

### 4. LIABILITY OF THE CONTRACTOR

a) The Contractor is liable for the proper selection and leasing of its employees (=essential contractual duties). The Contractor's liability is limited in its amount to the sum insured by its liability insurance, the existence of which is to be proved upon the Client's request. This limitation of liability does not apply for grossly negligent or intentional violation of duties as well as for personal injuries. This limitation of liability analogously applies in favour of the Contractor's employees.

b) With regards to the fact that the Contractor's employees will work in the Client's premises and under its instructions, supervision and performance monitoring, the Contractor shall not be liable for any damages caused by its employees to any equipment at which or with which the employees work. If any items or persons are damaged or injured by the Contractor's employees during their work for the Client, the Client will hold the Contractor harmless against any third party claims.

c) The Contractor furthermore does not assume any liability if its employees are entrusted with financial matters like the cash management, the safekeeping and managing money, bonds or other assets.

### 5. OVERHOURS / SURCHARGES

a) The basis for the calculation of the following surcharges is the regular weekly working time applicable in the Client's company. The Client guarantees that it will only accept and direct over hours in the legally permissible scope applying to its company. A necessary regulatory approval for extra work / work on Sundays and public holidays is to be obtained by the Client, a copy of which is to be submitted to the Contractor immediately and unrequested.

b) The surcharges on top of the agreed hourly rates are:

- For the 1 <sup>st</sup> through 4 <sup>th</sup> extra hour:	25%,
- As from the 5 <sup>th</sup> extra hour:	50%,
- Night work (from 08:00 p.m. through 06:00 a.m.):	25%,
- Extra hours from 08:00 p.m. through 06:00 a.m.):	50%,
- Work on Saturdays:	25%,
- Work on Sundays:	50%,
- Work on public holidays:	100%.

Contracts for the Temporary Assignment of Employees commencing on a workday during the week the calculation of overtime based on working days is carried out. The same applies for work weeks which are interrupted by a public holiday.

### 6. CONTRACTUAL TERM AND CANCELLATION

a) The Contract for the Temporary Assignment of Employees can be terminated by either Parties with a notice period of 7 days to the end of a calendar week. Termination must be communicated in written form. If the Client does not terminate the Contract in due time the Contractor can bill the agreed rate per hour under consideration of the agreed weekly working hours and the contractually agreed remaining term as if stated in due time in compensation without proof.

b) The Contractor is entitled to terminate the Contract for the Temporary Assignment of Employees for good cause. Such reason is in particular given if the Client is in default with its payments under this Contract or under previous contracts and also if the Client has allowed the period prescribed to expire, refuses to fulfil its contractual obligations under the Contracts for the Temporary Assignment of Employees or if it can be taken from the circumstances that the fulfilment of the Client's contractual obligations seem to be substantially at risk, for example payment obligations because of an essential deterioration of the Client's financial situation due to an application to open insolvency proceedings on its assets, due to enforcement actions, bill disputes or the like is at risk or if the Client does not fulfil its accident prevention and occupational safety obligations.

### 7. DATA PROTECTION / CONFIDENTIALITY

The Contractor obliged its employees to data protection in accordance with Section 5 German Federal Data Protection Act and thus to secrecy and confidentiality. They shall not process or use protected personal data in any other way than the contractually agreed purpose or to disclose or make available such protected personal data to any third parties. This obligation for confidentiality remains in full force even after termination of the employment relationship. The Contractor is analogously bound to secrecy.

### 8. OCCUPATIONAL SAFETY

a) The Client is obliged to instruct the Contractor's employees as to the workplace-related dangers as well as the accident prevention and occupational safety regulations applicable for its company and the particular workplace before the start of occupation and the Client will furthermore take care of their observance (Section 11 para. 6 German Temporary Employment Act, German Occupational Safety and Health Act in its current version). The Client is in particular obliged to provide the safety equipment and protective clothing required for the job and to make sure that the employees wear them as well as to provide of first aid measures and facilities for the Contractor's employees.

b) The Client grants the Contractor an access rights to the respective work place of the leased employee(s) so that the Contractor can convince itself that the accident prevention and occupational safety regulations are complied with.

c) The Client is obliged to immediately inform the Contractor about any changes of the operating conditions which might have an influence on occupational and health protection.

### 9. TAKEOVER / HIRING OF EMPLOYEES / RECRUITMENT FEE

a) The Contractor is at the same acting as a recruitment agent. If the Client enters into an employment relationship with one of the Contractor's employee and/or candidate before or during the Temporary Assignment of Employees, the case of a successful personnel procurement is fulfilled and the Client will invoice to the Client its recruitment fee in accordance with the following graduation plus statutory VAT.

- In case of direct takeover	28%
- As from 4 months of uninterrupted assignment	24%,
- As from 6 months of uninterrupted assignment	20%,
- As from 9 months of uninterrupted assignment	17%,
- As from 12 month of uninterrupted assignment	15%

of the annual gross salary which the Client will pay to such employee in future.

After 18 months of uninterrupted assignment by Tatenwerk the Client may take of the employee without additional costs.

b) If the Client directly employs a candidate within 12 months after presentation of such candidate to the Client by Tatenwerk or if the Client takes over an employee within 12 months after the last day of personnel leasing, the recruitment fee in the amount of 28% of the annual gross salary in accordance with these General Terms and Conditions becomes due. For that purpose it is irrelevant if the respective candidate was leased to the Client in the course of temporary assignment of employees through a third party. The Client is also obliged to pay the recruitment fee if the proposed candidate is employed at the Client's group of companies – i.e. another subsidiary or parent company – within 12 months, decisive is only the definition in Section 15 German Stock Corporation Act, irrespective of whether the candidate is employed for the originally intended position or another position.

c) If no fees were arranged between the Parties and if the Client commissions a candidate proposed by Tatenwerk without employing such candidate as an employee the Contractor is entitled to a fee in the amount of 28% of the invoices issued by the candidate to the Client plus ancillary costs. This also applies in case the candidate is placed or leased to the Client by third party. The payment obligation exists as long as the candidate works for the Client (also in case of a repeated work of the candidate for the Client, even without Tatenwerk's involvement).

### 10. SPECIAL TARIFF OBLIGATIONS

The Contractor is subject to the tariff regulations on employee leasing in Germany. Besides direct tariff obligations (pay grade) there are so-called industry-specific surcharges in some industries. For this reason, it is important to bindingly and correctly document the Customer's industry. The Client is therefore obliged to fill in the form given by the Contractor completely and correctly and to immediately inform the Contractor in written form about any changes in industry classification or the comparable industry salary. The Client will also immediately inform the Contractor if the employee leased to the Client has withdrawn from the Client's company or one of the group companies in the meaning of Section 12 German Stock Corporation Act during the last 6 months prior to the employee leasing. In this case special regulations (equal treatment) for this employee apply, also making amendments to the Contract for the Temporary Assignment of Employees necessary.

### 11. GENERAL EQUAL TREATMENT ACT

The Contractor's employees have all been properly informed about the contents of the German General Equal Treatment Act and are obliged to comply with them. The Client is also obliged to comply with the regulations of the General Equal Treatment Act (Section 6 para. 2 sentence 2 General Equal Treatment Act) vis-à-vis the Contractor's employees. Furthermore, the Client shall inform the employees about where to leave possible complaints.

### 12. FINAL PROVISIONS

a) Should a provision in these General Terms and Conditions be ineffective or void this does affect the effectiveness of the remaining provisions. Instead of the ineffective provision the Parties will agree on an effective provision coming preferably close to the intended purpose of the ineffective provision.

b) Amendments or modifications to these General Terms and Conditions as well as to any agreements between the Client and Tatenwerk need to be made in writing in order for them to become effective.

c) Place of fulfillment and place of jurisdiction for all disputes arising out of or in connection with this contractual relationship between business people is Frankfurt am Main.

d) The laws of the Federal Republic of Germany shall apply.