

1. General

- 1.1. Baur Personal-Dienstleistungs GmbH (hereinafter referred to as BPD) holds an unlimited permit for the provision of temporary workers, last granted by the Labour Office of the State of Baden-Wuerttemberg in Stuttgart on 15.05.1990. The current licensing authority is the Federal Employment Agency, Nuremberg Employment Agency. BPD undertakes to provide the licence at the request of the customer (hereinafter referred to as the Client).
- 1.2. BPD shall immediately inform the Client of the revocation or other expiry of the licence in accordance with Section 5 of the German Temporary Employment Act (AÜG).
- 1.3. BPD shall provide the Client with temporary workers in line with the statutory provisions.
- 1.4. Any different general terms and conditions of the Client do not apply even if BPD does not expressly object or the Client declares that it only wishes to conclude on its terms and conditions.

2. Conclusion of contract

- 2.1. The contractual relationship becomes effective through the offer made by BPD in accordance with the Agreement on Provision of Temporary Workers and these General Terms and Conditions and the written declaration of acceptance by the Client upon signing the Agreement on Provision of Temporary Workers (hereinafter referred to as APTW). The Client is aware that BPD has no obligation to perform if the signed contractual document is not returned by the Client (Section 12 para. 1) of the German Temporary Employment Act (AÜG) (hereinafter referred to as German Temporary Employment Act).
- 2.2. If the Client intends to transfer the handling of money and/or valuables to the temporary worker, it shall make a separate agreement with BPD in advance.
- 2.3. BPD declares that the IGZ/DGB (Federation of German Trade Unions) collective agreements and the sectoral surcharge agreements are fully included in the employment agreements it has concluded with the temporary workers deployed in the Client's company as amended. BPD is a member of the Interessenverband Deutscher Zeitarbeitsunternehmen e.V. (IGZ)
- 2.4. The Client undertakes to check before each provision whether the temporary worker has left an employment relationship with the Client itself or a company affiliated with the Client as a group within the meaning of Section 18 of the German Stock Corporation Act in the last six months prior to the provision or whether the temporary worker was employed by the Client via another Personnel Service Provider in the last four months. If this is the case, the Client shall inform BPD of this fact without delay. In view of the resulting legal consequences (equal treatment), the contracting parties then have the opportunity to decide whether the provision should be carried out as planned and, if necessary, to adjust the provision agreements.

3. Labour relations

- 3.1. Concluding this Agreement does not establish an employment relationship between the temporary worker and the Client. BPD is the employer of the temporary worker. BPD assures to the Client that only workers who are in an employment relationship with the Personnel Service Provider will be provided (chain hire).
- 3.2. During the period of employment with the Client, the Client shall be responsible for exercising the right to issue work-related instructions. The Client shall only entrust the temporary worker with those activities which are subject to the scope of activities contractually agreed with the Contractor and which correspond to the educational level of the respective temporary worker. In all other respects the right of direction remains with the contractor.
- 3.3. The BPD shall ensure that the employed temporary workers, provided they are not nationals of an EEA state, are entitled to take up the activity in accordance with the Residence Act, the Work Permit Ordinance or other ordinances issued based on the aforementioned laws or laws subsequent to them. Upon request of the Client, BPD shall provide corresponding evidence.

4. Duty of care/cooperation of the Client/industrial safety measures

- 4.1. The Client assumes the duty of care in connection with industrial safety measures at the temporary worker's place of employment (Section 618 of the German Civil Code (BGB), Section 11 para. 6 of the German Temporary Employment Act). In this respect, it shall indemnify the Contractor against all claims on the part of the temporary worker and other third parties arising from the failure to fulfil this obligation or the failure to fulfil it adequately.
- 4.2. The Client shall ensure that accident prevention and safety regulations applicable at the temporary worker's place of employment (including Sections 5, 6 of the Working Conditions Act (ArbSchG)) as well as the legally permissible working time limits and breaks are complied with. In particular, the Client shall instruct the temporary worker before the beginning of his/her work and inform him/her of any particular hazards of the work to be performed as well as measures to avert them. If temporary workers of BPD reject to perform work due to the lack of or inadequate safety equipment or precautions at the Client's premises, the Client shall be liable for the resulting downtime.
- 4.3. The preventive occupational health examinations required for the employment must be carried out before the start of the provision and evidence of this must be provided to the Client. If follow-up examinations become necessary, the Client shall inform BPD in writing. Follow-up examinations shall be carried out by the company doctor responsible for the Client or, if there is no such doctor, by a company doctor appointed by BPD at BPD's expense.
- 4.4. For the performance of the monitoring and control measures for which the Contractor is responsible, the Client shall grant the Contractor a right of access to the workplaces of the temporary workers during normal working hours.
- 4.5. If official permits are or will be required for the employment of temporary workers, the Client undertakes to obtain them before the temporary worker commences employment and to submit the permit to BPD on request.
- 4.6. The client shall immediately notify BPD in writing of any occupational accident of the temporary worker provided, i.e. on the day of damage. Subsequently, the customer shall provide BPD with a written damage report within 5 working days of the occurrence of the damage or shall investigate the accident with BPD.

5. Rejection/replacement of temporary workers

- 5.1. The Client is entitled to reject a temporary worker by written notice to BPD if there is a reason that would entitle BPD to extraordinary termination of the employment relationship with the temporary worker (Section 626 of the German Civil Code (BGB)). The Client is obliged to explain in detail the reasons for the rejection. In the event of rejection, the Contractor shall be entitled to provide the Client with other temporary employees with equivalent professional qualifications.

- 5.2. If the client determines within the first four hours that a temporary employee of BPD is not suitable for the intended activity and insists on replacement, after prior consultation, up to four working hours will not be charged to him.
- 5.3. In addition, BPD is entitled at any time to replace temporary workers assigned to the Client for organisational or legal reasons and to assign temporary workers with equivalent professional skills.

6. Impediments to performance/withdrawal

- 6.1. BPD shall be released from its obligation to perform in whole or in part if and to the extent that the provision of temporary workers becomes permanently or temporarily impossible or unreasonably difficult due to extraordinary circumstances not culpably caused by BPD. Such extraordinary circumstances are in particular, but not exclusively, industrial action, whether in the company of the Client or BPD, sovereign measures, natural disasters, etc. In addition, BPD is entitled to withdraw from the Agreement on Provision of Temporary Workers in the aforementioned cases.
- 6.2. If the Client's company strikes, the Client may not allow temporary workers to work in the company, contrary to the provision in Section 11 para. 5 of the German Temporary Employment Act (AÜG). In addition, the ban on the deployment of workers for strikes initiated by member unions of the DGB collective bargaining community also applies to workers already deployed before the start of the industrial action. Accordingly, the temporary worker shall not be deployed during the call to strike in companies or parts of companies which are subject to a proper strike. The Client shall ensure that no temporary workers will be deployed as far as the deployment ban applies. In this respect, BPD is not obliged to provide employees. The parties involved in the industrial dispute may decide not to follow the above rules in individual cases and agree on the deployment of temporary workers (e.g. in emergency service agreements). Section 11 para. 5 sentence 2 of the German Temporary Employment Act applies in this respect. The Client shall inform BPD immediately of any ongoing or planned strike.
- 6.3. If, contrary to the agreement, the temporary worker does not start work or does not start work on time, the Client will inform BPD immediately. BPD will use its best efforts to provide a replacement in the short term. If this is not possible, the BPD is released from the order. If the Client fails to notify BPD without delay, the Client shall not be entitled to any claims against BPD arising from and in connection with the fact that the temporary worker did not start work or did not start work on time.

7. Billing

- 7.1. All prices quoted by BPD are net prices. BPD will issue an invoice to the customer at the end of the order - in the case of continued provision on a weekly basis - stating the statutory value added tax, unless the parties expressly agree on a different method of invoicing.
- 7.2. Changes in the location of deployment and the area of work shall entitle BPD to change the hourly rate.
- 7.3. In the event of the applicability of a sectoral surcharge agreement and the assertion of the settlement payment: In the event of a change in the settlement payment, the agreed settlement rate shall be adjusted.
- 7.4. BPD is entitled to adjust the settlement rate at its reasonable discretion if there are changes in the cost situation. The fair discretion presupposes that the adjustment only takes into account the new cost situation as it occurs due to an increase in the wages in the IGZ/DGB collective pay structure or due to an amendment or the discontinuation - with the consequence of Equal Pay - of the aforementioned sectoral surcharge agreement. The above also applies if the activity performed becomes subject to minimum wage or if the minimum wage increases.
- 7.5. BPD shall perform the payment in accordance with the time sheets signed by the temporary worker and the Client on a weekly basis. The time sheets must indicate the beginning and end of the daily working time with breaks. Unless otherwise agreed, the following surcharges shall apply for overtime, night hours, Sundays and public holidays.

Overtime bonus from the 41st week Weekly hour	25%
Night work surcharge from 22.00 to 6.00	25%
Sunday surcharge	80%
Holiday surcharge	100%

Surcharges for Sundays and public holidays are calculated from 00:00 h - 24:00 h. The start of the work week is considered to be the start of the Sunday/Monday night shift. In the event of overtime, Sunday and/or public holiday surcharges coinciding, only the higher surcharge shall be calculated in each case.

The basis for the surcharge calculation are the respective agreed prices.

In the event that time sheets are not sent to BPD for payment and this is due to conduct on the part of the Client, BPD shall be entitled, in the event of a dispute, to charge a daily working time for the temporary worker which corresponds to the maximum daily working time for employees in accordance with the Working Hours Act (Arbeitszeitgesetz) as amended (Section 3 the Working Hours Act). In such cases, the Client reserves the right to prove that the temporary worker has been employed for a shorter period.

- 7.6. The invoice amounts are due and payable immediately - without deduction - upon receipt by the Client of the invoice issued by BPD. The Client is in default if the invoice amount is not credited to the Contractor's business account within 10 calendar days of receipt of the invoice. A prior reminder is not required (Section 286 para. 3 of the German Civil Code). Section 288 of the German Civil Code (interest on arrears) applies.
- 7.7. Temporary workers provided by BPD are not authorised to receive advances or payments on settlements made by the Contractor.
- 7.8. In the event of default in payment on the part of the Client, BPD shall be entitled to charge the statutory default interest, but at least 5 % p.a. above the base rate of the Deutsche Bundesbank or the financing instrument of the European Central Bank replacing it.
- 8. Set-off/right of retention/assignment**
- 8.1. The Client is not entitled to offset claims of BPD or to assert a right of retention unless the counterclaim asserted by the Client is undisputed or established by law.
- 8.2. The Client is only entitled to transfer rights and obligations arising from this agreement to third parties with the prior written consent of the Contractor.

9. Warranty/Liability

- 9.1. The Contractor shall ensure that the temporary workers provided are generally suitable for the intended activities; however, the Contractor is not obliged to check the employment documents of the temporary worker, in particular their reference letters, for correctness or to obtain certificates of good conduct from the police.
- 9.2. BPD, its legal representatives and vicarious agents shall not be liable for any damage caused by temporary workers in during their work for the Client unless BPD, its legal representatives and vicarious agents are accused of intentional or grossly negligent selection.
- 9.3. Otherwise, the liability of BPD and its legal representatives and vicarious agents shall be limited to intent and gross negligence. This applies to both statutory and contractual liability, in particular in the event of default, impossibility, incapacity, breach of duty or in cases of tort. In the event of intent or gross negligence on the part of simple vicarious agents, BPD shall furthermore only be liable for foreseeable damage.
- 9.4. The Client undertakes to indemnify BPD against all claims asserted by third parties in connection with the performance and execution of the activities with which the temporary worker has been entrusted by the Client. BPD will notify the Client in writing of any claims made by third parties.
- 9.5. Should the Client fail to comply with its duty of inspection and notification according to 2.4, it shall indemnify BPD against all claims for equal treatment which have arisen to date and which may arise in the future on the part of the temporary worker and against all other damages resulting from the breach of duty. The Contractor undertakes to invoke relevant preclusion periods against any claimants.
- 9.6. The Client shall indemnify BPD against all claims arising from the following breach of duty: a) an incorrect classification of the industry affiliation, b) the indication of an incorrect settlement payment or the failure to notify on changes to the settlement payment, c) a missing or incorrect communication of deviating company agreements.

10. Takeover of temporary workers/placement commission

- 10.1. A placement is considered to have occurred irrefutably if the Client or an enterprise legally or economically associated with it enters into an employment relationship with the temporary worker of BPD during the term of the Agreement on Provision of Temporary Workers. A placement is also considered to have occurred if the Client or an enterprise legally or economically associated with it enters into an employment relationship with the temporary worker within six months of the end of the provision. In this case, the Client has the right to prove that the employment relationship was not concluded on the basis of the previous provision.
- 10.2. A placement is also considered to have occurred irrefutably if the Client or an enterprise legally or economically associated with it enters into an employment relationship directly after the BPD has established contact with the applicant without a prior provision.
- 10.3. The time of entering into the employment relationship between the Client and the temporary worker is not the time of the start of work, but the time of the conclusion of the employment agreement.
- 10.4. The Client is obliged to inform BPD whether and when an employment agreement has been concluded. If, in the event of a dispute, the BPD provides credible evidence suggesting an employment relationship between the Client and the temporary worker, the Client bears the burden of proving that an employment relationship was not entered into.
- 10.5. In the cases of 10.1 to 10.3 the Client has to pay a placement commission to the Contractor. Temporary employment relationships are subject to commission to the same extent as permanent employment relationships.
- 10.6. The amount of the placement commission is 2.5 gross monthly salaries if the temporary worker is hired directly without prior provision. In the event of a hire during the period of the provision, the placement commission amounts to 2 gross monthly salaries for a hire within the first three months of the provision, 1.5 gross monthly salaries for a hire within six months, 1 gross monthly salary for a hire within nine months and 0.5 gross monthly salaries for a hire within twelve months.
- 10.7. The basis for calculating the placement commission is the gross monthly salary agreed between the Client and the temporary worker, but at least the gross monthly salary agreed between the Contractor and the temporary worker. The Client submits a copy of the signed employment contract to BPD. In the event of interruptions in the provision, the start of the last provision before the establishment of the employment relationship shall be decisive. The placement commission is payable plus the statutory value added tax. The commission is payable 14 days after receipt of the invoice.
- 10.8. If the employee works for the Client on the basis of a freelance agreement or an agreement with a self-employed person, the provisions shall apply accordingly provided that instead of the gross monthly salary, the monthly remuneration agreed between the Client and the employee shall form the basis of calculation.
- 10.9. The above provisions shall apply accordingly if another temporary employment agency provides the employee to the Client.
- 10.10. The above provisions shall also apply in the event that the worker is placed in a training relationship with the Client. In this case, the basis for calculation of the placement commission is the gross training remuneration agreed between the Client and the temporary worker, but at least the gross monthly salary last agreed between BPD and the temporary worker.

11. Maximum provision period/contractual period/termination

- 11.1. The deployment of a specific named temporary worker is temporary. The Client and BPD shall ensure that the deployment does not extend beyond the end of the Agreement on Provision of Temporary Workers.
- 11.2. The Client undertakes to provide BPD, without being requested to do so, with a copy of collective agreements which may govern it in the future and which provide for a deviation from the future maximum provision period of 18 months and/or any works agreements which may apply in the future in the company referred to in the APTW Section 2 subsection 1 and which provide for a deviation from the future maximum provision period of 18 months on the basis of a collective agreement. This applies in particular if a collective agreement and/or a works agreement stipulates a shorter maximum provision period than 18 months.
- 11.3. During the first week of the temporary worker's deployment, the Client is entitled to terminate the contractual relationship with one working day's notice. In addition, both parties have the right to terminate the agreement with three working days' notice to the end of a calendar week, unless the parties agree otherwise.

- 11.4. This does not affect the right to terminate the contract without notice. In particular, the Contractor shall be entitled to terminate this Agreement without notice if a) insolvency proceedings have been applied for against the assets of the Client, insolvency proceedings have been opened or dismissed for lack of assets or such insolvency proceedings are threatened, b) the Client fails to pay an invoice due even after a reminder has been issued and a deadline has been set, c) the Client makes false statements regarding its industry affiliation, d) states an incorrect settlement payment or fails to notify the Client of a change in the settlement payment, e) fails to notify of any different company agreements or such notification is incorrect or f) there is a breach of the duty of inspection and notification pursuant to 2.4.

- 11.5. Termination of this agreement by the Client is only effective if it is made in writing to BPD. Temporary workers assigned by BPD are not authorised to receive notices of termination.

12. Nondisclosure and data protection

- 12.1. The contracting parties undertake to keep confidential any business and trade secrets that become known to them during the cooperation, both for the duration of the cooperation and after its termination. The obligation of non-disclosure does not extend to knowledge which is accessible to everyone or the disclosure of which is evidently without disadvantage for the other party to the contract. In case of doubt, however, technical, commercial and personal processes and relationships which become known to the contracting party in connection with the cooperation are to be treated as company secrets. In such cases, the other contracting party is obliged to obtain permission from the management of the contracting party concerned as to whether a particular fact is to be treated as confidential or not before disclosing it to third parties.
- 12.2. The contracting parties mutually undertake to comply with the statutory provisions of data protection. BPD ensures that an appropriate agreement is made in the employment contract with employees designated for transfer.
- 12.3. The Client shall keep the contractual terms of the cooperation, in particular the hourly rate, confidential from third parties. This does not apply to cases in which it is legally entitled or obliged to do so.

13. Final provisions – Severability clause

- 13.1. Changes and supplements to the agreement between the parties must be made in writing to be effective. This also applies to a change in the written form requirement itself. The temporary workers provided by BPD are not be entitled to agree any amendments, supplements or ancillary agreements to the Agreement on Provision of Temporary Workers with the Client.
- 13.2. The place of jurisdiction for all disputes arising from and in connection with the contractual relationship between BPD and the Client shall be the registered office of the respective BPD branch office which concluded this Agreement on Provision of Temporary Workers, provided that the Client is a merchant. BPD may also assert its claims before the courts of the customer's general place of jurisdiction.
- 13.3. The law of the Federal Republic of Germany shall apply exclusively to all legal relationships between the Contractor and the Client.
- 13.4. Supplements and amendments to these General Terms and Conditions must be made in writing to be effective. This also applies to the waiver of the written form requirement. Should a provision or part of a provision be or become invalid in whole or in part, this shall not affect the validity of the remaining provisions. The invalid provision shall be replaced by a provision that comes as close as possible to the economic purpose of the invalid provision.

Baur Personal-Dienstleistungs GmbH
Temporary Work Division