LegalSifter

TEMPORARY STAFFING · PRE-SIGNATURE REVIEW

The Staffing Agency's Contract Checklist

When a client's staffing agreement lands on your desk, these are the terms that decide who answers for the worker, whether you get paid, and how much risk you carry. Read every one before you sign.

Who employs the worker

- ☐ **Employee status & co-employment.** Assigned workers stay your employees; the contract disclaims co-employment and joint supervision with the client.
  Watch for: Language making you and the client joint or co-employers, or that is simply silent on who employs the worker.
- ☐ **Supervision and direction.** The client directs and supervises assigned workers while they perform the client's work.
  Watch for: Silence on day-to-day control, which leaves supervision, and the liability that follows it, ambiguous.
- ☐ **Worker classification.** You classify and pay assigned workers as your own W-2 employees, or as properly documented contractors.
  Watch for: Terms that make you warrant a classification the client's control actually decides, or push misclassification liability onto you.
- ☐ **Wage, hour & overtime.** The client verifies hours worked and authorizes overtime before it is incurred; you bill for approved time.
  Watch for: Open-ended duties to absorb wage-and-hour or overtime exposure that the client's own scheduling drives.
- ☐ **Background checks & screening.** Your screening scope is defined and limited to what is agreed, and performed in line with the FCRA.
  Watch for: Open-ended screening duties, or strict liability for a worker's conduct or record you did not agree to guarantee.
- ☐ **Worksite safety.** The client provides a safe, legally compliant worksite and appropriate security for your assigned employees.
  Watch for: Safety and OSHA duties shifted onto the agency for a site it does not own or control.
- ☐ **Workers' compensation.** You carry workers' compensation for your assigned employees; the client keeps its own worksite-injury exposure.
  Watch for: Comp or bodily-injury liability pushed onto the agency for conditions on the client's premises.
- ☐ **Compliance with law.** The client complies with all applicable laws in performing its obligations under the agreement.
  Watch for: A compliance clause that binds only the agency, or says nothing about the client's own duties.

Getting paid and keeping your placements

- ☐ **Payment timing.** Undisputed invoices are due on receipt, and the payment clock starts when the client receives the invoice.
  Watch for: Long invoice-date terms, or a clock that starts on the invoice date rather than on receipt.
- ☐ **Late payment.** At least 1% monthly interest, or the maximum lawful rate, on overdue undisputed invoices.
  Watch for: Language that bars late fees or interest, or no interest term at all.
- ☐ **Disputed invoices.** The client must dispute an invoice within a fixed, stated period of time.
  Watch for: “Reasonable” or “promptly,” which let a client dispute an invoice into silence.
- ☐ **Rate adjustments.** You may pass through statutory cost increases: minimum wage, payroll taxes, and mandated benefits.
  Watch for: Bill rates frozen for the whole term while your statutory labor costs rise underneath them.
- ☐ **Conversion / temp-to-hire.** If the client hires an assigned worker, a stated conversion fee or notice period applies.
  Watch for: Silence that lets the client hire your placed workers directly, for free, once you have sourced them.
- ☐ **Non-solicitation.** Any non-solicit runs both ways; the client cannot recruit your workers or staff around you.
  Watch for: A restriction that binds only the agency, leaving the client free to poach.
- ☐ **Exclusivity & non-compete.** You stay free to serve other clients and to run a business that may compete with the client.
  Watch for: Exclusivity or non-compete language that locks the agency to one client or shuts it out of a market.

Liability and the fine print

- ☐ **Your indemnity.** Limited to third-party claims arising from your own breach, negligence, or willful misconduct.
  Watch for: Broad-form indemnity reaching past your own fault, or a standalone duty to defend the client.
- ☐ **The client's indemnity.** The client indemnifies you for claims arising from its own supervision, direction, and control of the worksite.
  Watch for: An indemnity that runs only one way, leaving the agency to answer for the client's conduct.
- ☐ **Limitation of liability.** Aggregate liability capped at the last 12 months' fees, mutual, with a consequential-damages waiver and no agency carve-outs.
  Watch for: No cap, a cap that runs one way only, or exclusions that quietly swallow it.
- ☐ **Warranties.** You make only the warranties expressly stated, with no implied merchantability, fitness, or defect-free guarantees.
  Watch for: Implied warranties that import product-style guarantees a staffing agency cannot meet.
- ☐ **Insurance.** The client carries and maintains its own coverage throughout the term of the agreement.
  Watch for: Insurance obligations that run only to the agency, or a demand to name the client on your policies.
- ☐ **Audit rights.** The client gets no right to audit your books and records unless the right is mutual.
  Watch for: A one-sided client audit right that lets it fish through unrelated records.
- ☐ **Assignment.** Prior written consent to assign, with a carve-out so you may assign to an affiliate or in a merger or sale.
  Watch for: A clause that binds only the agency, or that leaves out your own M&A carve-out.
- ☐ **Term, termination & disputes.** Auto-renewal only on notice, no client-only convenience termination, a stated governing law and forum, each side bearing its own fees, and no jury-trial waiver.
  Watch for: Silent lock-in, one-sided walk-away, a distant forum, fee-shifting, or a jury waiver buried in the boilerplate.

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