Staffing Services Fee Agreement

_____, with its principal office located at _____ ("STAFFING FIRM"), and _____, with its principal office located at _____ ("CLIENT") agree to the terms and conditions set forth in this Staffing Agreement (the "Agreement").

STAFFING FIRM's Duties and Responsibilities

1. STAFFING FIRM will
   a. Recruit, screen, interview, and assign its employees ("Assigned Employees") to perform the type of work described on Exhibit A under CLIENT's supervision at the locations specified on Exhibit A;

   b. Pay Assigned Employees' wages and provide them with the benefits that STAFFING FIRM offers to them;

   c. Pay, withhold, and transmit payroll taxes; provide unemployment insurance and workers' compensation benefits; and handle unemployment and workers' compensation claims involving Assigned Employees;

   d. Require Assigned Employees to sign agreements (in the form of Exhibit B) acknowledging that they are not entitled to holidays, vacations, disability benefits, insurance, pensions, or retirement plans, or any other benefits offered or provided by CLIENT; and

   e. Require Assigned Employees to sign confidentiality agreements (in the form of Exhibit C) before they begin their assignments to CLIENT.

CLIENT's Duties and Responsibilities

2. CLIENT will
   a. Properly supervise Assigned Employees performing its work and be responsible for its business operations, products, services, and intellectual property;

   b. Properly supervise, control, and safeguard its premises, processes, or systems, and not permit Assigned Employees to operate any vehicle or mobile equipment, or entrust them with unattended premises, cash, checks, keys, credit cards, merchandise, confidential or trade secret information, negotiable instruments, or other valuables without STAFFING FIRM's express prior written approval or as strictly required by the job description provided to STAFFING FIRM;

   c. Provide Assigned Employees with a safe work site and provide appropriate information, training, and safety equipment with respect to any hazardous substances or conditions to which they may be exposed at the work site;

d. Not change Assigned Employees' job duties without STAFFING FIRM's express prior written approval; and

e. Exclude Assigned Employees from CLIENT's benefit plans, policies, and practices, and not make any offer or promise relating to Assigned Employees' compensation or benefits.

Payment Terms, Bill Rates, and Fees

3. CLIENT will pay STAFFING FIRM for its performance at the rates set forth on Exhibit A and will also pay any additional costs or fees set forth in this Agreement. STAFFING FIRM will invoice CLIENT for services provided under this Agreement on a _____ basis. Payment is due on receipt of invoice. Invoices will be supported by the pertinent time sheets or other agreed system for documenting time worked by the Assigned Employees. CLIENT's signature or other agreed method of approval of the work time submitted for Assigned Employees certifies that the documented hours are correct and authorizes STAFFING FIRM to bill CLIENT for those hours. If a portion of any invoice is disputed, CLIENT will pay the undisputed portion.

4. Assigned Employees are presumed to be nonexempt from laws requiring premium pay for overtime, holiday work, or weekend work. STAFFING FIRM will charge CLIENT special rates for premium work time only when an Assigned Employee's work on assignment to CLIENT, viewed by itself, would legally require premium pay and CLIENT has authorized, directed, or allowed the Assigned Employee to work such premium work time. CLIENT's special billing rate for premium hours will be the same multiple of the regular billing rate as STAFFING FIRM is required to apply to the Assigned Employee's regular pay rate. (For example, when federal law requires 150% of pay for work exceeding 40 hours in a week, CLIENT will be billed at 150% of the regular bill rate.)

5. If CLIENT uses the services of any Assigned Employee as its direct employee, as an independent contractor, or through any person or firm other than STAFFING FIRM during or within ___ days after any assignment of the Assigned Employee to CLIENT from STAFFING FIRM, CLIENT must notify STAFFING FIRM and (a) continue the Assigned Employee's assignment from STAFFING FIRM for his or her next _____ consecutive work hours for CLIENT; or (b) pay STAFFING FIRM a fee in the amount of ___ times the final billing rate for that Assigned Employee, or $_____, whichever is higher.

6. In addition to the bill rates specified in Exhibit A of this Agreement, CLIENT will pay STAFFING FIRM the amount of all new or increased labor costs associated with CLIENT's Assigned Employees that STAFFING FIRM is legally required to pay—such as wages, benefits, payroll taxes, social program contributions, or charges linked to benefit levels—until the parties agree on new bill rates.

Confidential Information

7. Both parties may receive information that is proprietary to or confidential to the other party or its affiliated companies and their clients. 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 other than performing under this Agreement or as required by law. No knowledge, possession, or use of CLIENT's confidential information

will be imputed to STAFFING FIRM as a result of Assigned Employees' access to such information.

Cooperation

8. The parties agree to cooperate fully and to provide assistance to the other party in the investigation and resolution of any complaints, claims, actions, or proceedings that may be brought by or that may involve Assigned Employees.

Indemnification and Limitation of Liability

9. To the extent permitted by law, STAFFING FIRM will defend, indemnify, and hold CLIENT and its parent, subsidiaries, directors, officers, agents, representatives, and employees harmless from all claims, losses, and liabilities (including reasonable attorneys' fees) to the extent caused by STAFFING FIRM's breach of this Agreement; its failure to discharge its duties and responsibilities set forth in paragraph 1; or the negligence, gross negligence, or willful misconduct of STAFFING FIRM or STAFFING FIRM's officers, employees, or authorized agents in the discharge of those duties and responsibilities.

10. To the extent permitted by law, CLIENT will defend, indemnify, and hold STAFFING FIRM and its parent, subsidiaries, directors, officers, agents, representatives, and employees harmless from all claims, losses, and liabilities (including reasonable attorneys' fees) to the extent caused by CLIENT's breach of this Agreement; its failure to discharge its duties and responsibilities set forth in paragraph 2; or the negligence, gross negligence, or willful misconduct of CLIENT or CLIENT's officers, employees, or authorized agents in the discharge of those duties and responsibilities.

11. Neither party shall be liable for or be required to indemnify the other party for any incidental, consequential, exemplary, special, punitive, or lost profit damages that arise in connection with this Agreement, regardless of the form of action (whether in contract, tort, negligence, strict liability, or otherwise) and regardless of how characterized, even if such party has been advised of the possibility of such damages.

12. As a condition precedent to indemnification, the party seeking indemnification will inform the other party within _____ business days after it receives notice of any claim, loss, liability, or demand for which it seeks indemnification from the other party; and the party seeking indemnification will cooperate in the investigation and defense of any such matter.

13. The provisions in paragraphs 9 through 13 of this Agreement constitute the complete agreement between the parties with respect to indemnification, and each party waives its right to assert any common-law indemnification or contribution claim against the other party.

Miscellaneous

14. Provisions of this Agreement, which by their terms extend beyond the termination or nonrenewal of this Agreement, will remain effective after termination or nonrenewal.

15. No provision of this Agreement may be amended or waived unless agreed to in a writing signed by the parties.

16. Each provision of this Agreement will be considered severable, such that if any one provision or clause conflicts with existing or future applicable law or may not be given full effect because of such law, no other provision that can operate without the conflicting provision or clause will be affected.

17. This Agreement and the exhibits attached to it contain the entire understanding between the parties and supersede all prior agreements and understandings relating to the subject matter of the Agreement.

18. The provisions of this Agreement will inure to the benefit of and be binding on the parties and their respective representatives, successors, and assigns.

19. The failure of a party to enforce the provisions of this Agreement will not be a waiver of any provision or the right of such party thereafter to enforce each and every provision of this Agreement.

20. CLIENT will not transfer or assign this Agreement without STAFFING FIRM's written consent.

21. Any notice or other communication will be deemed to be properly given only when sent via the United States Postal Service or a nationally recognized courier, addressed as shown on the first page of this Agreement.

22. Neither party will be responsible for failure or delay in performance of this Agreement if the failure or delay is due to labor disputes, strikes, fire, riot, war, terrorism, acts of God, or any other causes beyond the control of the nonperforming party.

Term of Agreement

23. This Agreement will be for a term of _____ from the first date on which both parties have executed it. The Agreement may be terminated by either party upon ___ days written notice to the other party, except that, if a party becomes bankrupt or insolvent, discontinues operations, or fails to make any payments as required by the Agreement, either party may terminate the agreement upon ___ hours written notice.

Authorized representatives of the parties have executed this Agreement below to express the parties' agreement to its terms.

CLIENT	STAFFING FIRM
Signature	Signature
Printed Name	Printed Name
Title	Title

Date

Date

Exhibit A
Sample Rate Schedule

Job Title or Description	Shift	Location	Hourly Bill Rate

CLIENT	STAFFING FIRM
Signature	Signature
Printed Name	Printed Name
Title	Title
Date	Date

Exhibit B
Sample Benefits Waiver for Assigned Employees

This sample employee waiver language has been prepared to accompany the General Staffing Agreement and if used would apply to the specific staffing client that is party to the agreement. Many staffing firms use an employment agreement with assigned employees that includes a waiver of claim to the employee benefits of staffing clients. A sample of such an agreement is included in Employment Law for Staffing Professionals, *published by the American Staffing Association. Some benefits experts believe employee waivers are not enforceable unless they are consistent with, and expressly sanctioned by, the client's benefit plan, which suggests that the waivers must be tailored to particular customer situations. Staffing firms should discuss with their own legal counsel.*

Agreement and Waiver
In consideration of my assignment to CLIENT by STAFFING FIRM, I agree that I am solely an employee of STAFFING FIRM for benefits plan purposes and that I am eligible only for such benefits as STAFFING FIRM may offer to me as its employee. I further understand and agree that I am not eligible for or entitled to participate in or make any claim upon any benefit plan, policy, or practice offered by CLIENT, its parents, affiliates, subsidiaries, or successors to any of their direct employees, regardless of the length of my assignment to CLIENT by STAFFING FIRM and regardless of whether I am held to be a common-law employee of CLIENT for any purpose; and therefore, with full knowledge and understanding, I hereby expressly waive any claim or right that I may have, now or in the future, to such benefits and agree not to make any claim for such benefits.

EMPLOYEE	WITNESS
Signature	Signature
Printed Name	Printed Name
Date	Date

Exhibit C
Sample Confidentiality Agreement for Assigned Employees

This sample has been prepared to accompany the General Staffing Agreement and if used would apply to the specific staffing client that is party to the agreement. Many staffing firms use an employment agreement with assigned employees that includes a provision to protect the confidentiality of staffing client information. A sample of such an agreement is included in Employment Law for Staffing Professionals, *published by the American Staffing Association.*

Assigned Employee Confidentiality Agreement
As a condition of my assignment by STAFFING FIRM to CLIENT, I hereby agree as follows:

I will not use, disclose, or in any way reveal or disseminate to unauthorized parties any information I gain through contact with materials or documents that are made available through my assignment at CLIENT or which I learn about during such assignment.

I will not disclose or in any way reveal or disseminate any information pertaining to CLIENT or its operating methods and procedures that come to my attention as a result of this assignment.

Under no circumstances will I remove physical or electronic documents or copies of documents from the premises of CLIENT.

I understand that I will be responsible for any direct or consequential damages resulting from any violation of this Agreement.

The obligations of this Agreement will survive my employment by STAFFING FIRM.

EMPLOYEE	WITNESS
Signature	Signature
Printed Name	Printed Name
Date	Date

Optional Provisions

Reports
At no additional cost to CLIENT, STAFFING FIRM will generate and deliver to CLIENT the following reports, at the indicated intervals: _____

Background Checks
At _____'s expense, STAFFING FIRM will perform the following types of background/qualification checks for all employees which it selects for assignment to CLIENT and will not assign unqualified personnel to CLIENT:
_____

On-Site Coordinator
STAFFING FIRM will be represented at CLIENT's premises by an On-Site Coordinator. CLIENT will have the continuing right to reasonably disapprove of the person designated for this role by STAFFING FIRM and to require a suitable replacement. STAFFING FIRM will also arrange for substitutes to cover the On-Site Coordinator's material absences during CLIENT's business or other operational hours. CLIENT will provide the On-Site Coordinator with the necessary office space, furnishings, and other resources as the parties may agree on from time to time. The On-Site Coordinator's duties will be as follows:
_____
_____
_____.

Guarantee
STAFFING FIRM guarantees that the Assigned Employees that STAFFING FIRM recruits and assigns to CLIENT will have the qualifications CLIENT requests. If CLIENT finds any Assigned Employee's qualifications or general work-related behavior lacking and lets STAFFING FIRM know within ___[*time for notice*]_____, STAFFING FIRM will not charge for the first ___[*refund period*]_____ of the assignment and will make reasonable efforts to replace the Assigned Employee immediately.

Insurance
STAFFING FIRM will cover STAFFING FIRM's staffing operations for CLIENT with at least the following types and limits of insurance or other coverage:

a. Workers' compensation benefits or coverage on the Assigned Employees, in amounts no less than required by law
b. Employer's liability insurance with limits of $_____
c. Commercial general liability insurance, including personal injury, contractual liability, and property damage, with limits of $_____
d. Commercial blanket bond insurance with limits of $_____

[Plus, as necessary, per negotiation—]

e. Umbrella liability insurance with limits of $_____
f. Commercial automobile liability insurance with limits of $_____ on vehicles owned, leased, or rented by STAFFING FIRM

[*As necessary, per negotiation—*] On CLIENT's request, STAFFING FIRM will give CLIENT certificates of this insurance coverage or, with the insurer's concurrence, make CLIENT an additional insured for STAFFING FIRM's services.

CLIENT-Recruited Employees
Assigned Employees are also CLIENT-Recruited Employees when, by prior arrangement with STAFFING FIRM, CLIENT recruits or otherwise identifies personnel whose services it needs and refers them to STAFFING FIRM, there to be employed and assigned back to CLIENT. The terms of this Agreement will be modified with respect to CLIENT-Recruited Employees in the following ways: _____
_____
_____
_____.

Conversion Workout Period; Credit for Past Service
[*May be added to the end of paragraph 5.*] However, under option (a), the length of the required assignment continuation will be reduced by the Assigned Employee's prenotice work hours within the previous year for which CLIENT has paid or for which CLIENT has not yet been billed.

Minimum Hours Per Day
If CLIENT limits an Assigned Employee's work day to fewer than ____ hours, STAFFING FIRM may deem that day to include _____ hours of time worked and may bill CLIENT ____ hours if STAFFING FIRM pays the Assigned Employee for the _____ hours.

Late Payment Penalty
CLIENT agrees to pay net upon receipt of invoice and to pay interest on any unpaid balances after ___ days from the date of receipt at the compounded rate of ___ % per day (Annual Percentage Rate of ___%) or the maximum legal rate, whichever is higher, calculated from the date of receipt.

No Staff Hire-Aways; Fee
CLIENT and STAFFING FIRM agree not to directly or indirectly employ or engage as an independent contractor any staff employee of the other party during the term of this Agreement and for a period of _____ thereafter without the prior written consent of the other party. Any party violating this paragraph will pay to the other party a fee in the amount of ___% of the employee's annualized compensation with the new employer.

Financial Audit
Upon reasonable written notice, either party may, at its own expense, inspect the other party's financial records relating to this Agreement, and the audited party shall cooperate with such audit. Auditors who are not employees of the auditing party may be engaged for this purpose only with the consent of the audited party.

Nature of Relationship
The services that STAFFING FIRM will render to CLIENT under this Agreement will be as an independent contractor. Nothing contained in this Agreement will be construed to create the relationship of principal and agent, or employer and employee, between STAFFING FIRM and CLIENT.

Headings

The headings of the paragraphs of this Agreement are inserted solely for the convenience of reference. They will in no way define, limit, extend, or aid in the construction of the scope, extent, or intent of this Agreement.

Arbitration
Any controversy or dispute between the parties arising out of this Agreement will be resolved by arbitration under the Federal Arbitration Act and before the American Arbitration Association (AAA) at the AAA location closest to STAFFING FIRM's office. The costs of arbitration will be shared equally by the parties. The arbitrator will have no authority to change any of the terms of this Agreement. All decisions of the arbitrator will be final and binding upon the parties. The prevailing party will be awarded reasonable attorney's fees incurred in the arbitration in addition to any other relief awarded. Judgment upon any award rendered by the arbitrator may be entered in any court of competent jurisdiction.

Contract Interpretation
The rule of construction that ambiguities in an agreement are to be construed against the drafter will not be invoked or applied in any dispute regarding the meaning of any provision of this Agreement.

Choice of Law
This agreement will be governed by and construed in accordance with the laws of the state of _____, without reference to any conflicts of law principles thereof.

Assignment of Agreement
CLIENT shall not transfer or assign this Agreement without the written consent of STAFFING FIRM, and any attempted assignment without such consent shall immediately terminate this Agreement.