

General Terms and Conditions for Hiring Agency Personnel of the SMB Group

Group of companies:

SMB Holding GmbH

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FN 519639a

SMB Industrieanlagenbau GmbH

AT-8075 Hart bei Graz, Gewerbepark 25
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SMB Pure Systems GmbH

AT-9400 Wolfsberg, Alois-Huth-Straße 7
FN 387865s

SMB Manufacturing Service s.r.o.

SK-03601 Martin, Čsl. Armády 3
IČO 51 400 871

SMB Construction Services s.r.o.

SK-04001 Košice, Letná 11/45
IČO 50 712 811

SMB Houdek GmbH

DE-97497 Wertach, Igelsbach 15
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SMB Pure Systems Kft.

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Cg. 13-09-204756

RAB Pure Systems GmbH

AT-9500 Villach, Behringstraße 23
FN 381828m

1. Territory

- 1.1. The present General Terms and Conditions for Hiring Agency Personnel (hereinafter referred to as "TCAP") are a major component of any legal transaction concluded with the company (hereinafter referred to as "Agency") and the SMB Group (hereinafter referred to as "Requesting Party") that deal with hiring agency personnel.
- 1.2. By accepting these TCAP without any objections, the Agency agrees to their exclusive application for any order and any subsequent transactions. Where special provisions that deviate from these TCAP are agreed for individual projects, these TCAP shall be subordinate and provide supplementary provisions.
- 1.3. We reject any terms and conditions of the Agency that deviate from these TCAP, also in cases where these are sent to the Requesting Party together with the confirmation or in any other way.

2. Minimum requirements for agency staff

- 2.1. The qualifications of the agency staff, the number of employees required and the duration of their employment will be agreed in writing in the respective call order. Any necessary increase or reduction of the number of staff provided by the Agency during the project in accordance with progress on the construction site and the workload will be agreed by the Requesting Party and the Agency; the agreed remuneration rates remain in effect. By giving two

calendar days' notice, the Requesting Party can terminate the call orders for individual agency staff or projects early.

- 2.2 The agency staff must be able to speak German.

3. Obligations of the Agency

- 3.1. The Agency agrees to only send their own personnel and to pay the personnel in accordance with labour law provisions and to calculate, collect and pay any associated taxes, duties and social security contributions. The Agency shall fully indemnify and hold the Requesting Party harmless in regard to any liability arising from incorrect pay and/or faulty calculation, collection or payment of taxes, duties and social security contributions.
- 3.2. The Agency must, prior to the start of the project and at the end of each quarter while the project is under way (i.e. 30 March, 30 June, 30 September and 31 December), prove the correct payment of taxes, duties and social security contributions by way of the most recent bank account statement or by tax clearance certificate of the responsible social security authority or tax authority. Where such certificates are not provided, the Requesting Party shall have the right to deduct security deposits from their current payments.
- 3.3. Additionally and in the event of the social security provider or the tax authority or any other authority submitting a request concerning an order, the Agency authorises the Requesting Party to provide the information requested and to surrender the documents.
- 3.4. The Agency acknowledges and agrees that the Agency is responsible for compliance with all pertinent regulations in connection with their staff. The Agency will, at its own costs, obtain any and all official permits required for hiring out agency staff. Where the Agency utilises foreign staff, the staff has to hold valid work and residence permits. Individuals with fixed-term work permits may only be employed if their permit ends no sooner than one month after the end of the project in question. Prior to the start of work, the Requesting Party will verify which documents the staff needs at the respective workplaces (such as passport, work permit, residence permit, exemption certificate). The Agency will submit copies of the necessary documents to the offices of the Requesting Party by no later than three working days before the temporary employment starts. The originals must be taken to the workplace by the staff that was assigned to the project. Where the required documents are not submitted, the Agency personnel will always be rejected.
- 3.5. The Agency will nominate any additional personnel it wishes to assign to the project in question in good time so that access to the construction site can be arranged; similarly, any changes will be communicated to the Requesting Party in advance. The individuals in question will be subject to the standard checks of the Requesting Party. Any special ID cards issued by the Requesting Party or their client will be charged to the Agency and must be returned after the project was completed.

- 3.6. Costs caused by failure to comply with the agreed provisions will not be paid by the Requesting Party and are payable in full by the Agency.
- 3.7. The Agency instructs its personnel to comply with the safety and accident prevention regulations in force on the construction site as well as with any further codes of conduct adopted by the Requesting Party. Furthermore, the Agency is certified in accordance with SCC (Safety Certificate Contractors) or SCP (Safety Certificate Personnel Leasing) or the Agency will have to submit to a corresponding audit.
- 3.8. The Agency agrees to ensure that their entire personnel will have the complete project-specific work apparel as specified by the Requesting Party, including neutral blue work clothing and protective equipment (e.g. helmet, safety boots and, where required, noise protection etc.). The Requesting Party reserves the right to order any equipment needed, to set off the price against the remuneration owed and to deduct this amount from the invoices of the Agency.
- 3.9. The legal provisions and regulations regarding the personal protective equipment applicable on the construction site in question must be complied with to their full extent. Furthermore, the Agency and the Agency's personnel are required to thoroughly familiarise themselves with the applicable safety regulations prior to starting work and to take appropriate measures to ensure compliance with these. The Agency acknowledges that workplace safety is of paramount importance for the Requesting Party and that the Agency has to afford the same importance to safety. Any and all costs incurred in the event of non-compliance with the safety regulations shall be paid in full by the Agency, who will also accept liability for any such. In the event of an accident, an accident report and accident record must be prepared together with the Requesting Party without undue delay.
- 3.10. The Agency agrees to provide skilled personnel with the agreed qualifications; the suitability of the personnel for their prospective tasks on the construction site must be proven by submission of corresponding verifications (e.g. welding certificates). These verifications of suitability must be submitted to our offices 3 working days prior to the start of work for review. After the start of work, the probationary period that will be agreed separately will serve as an observation period during which the Requesting Party will assess suitability of the personnel on site. Should it become apparent during the observation period that the qualifications of one or more members of staff do not meet the requirements, the Requesting Party shall have the right to expel the members of staff in question from the construction site and to demand immediate replacement. In this case, no remuneration will be paid by the Requesting Party for either the agreed probationary period or any travel costs.
- 3.11. In the event of negligent work, severe personal misconduct or longer periods of inability to work, the Requesting Party shall have the right to expel the agency personnel from the construction site early and

with immediate effect. In this case, the Agency shall provide a suitable replacement immediately; the travel costs of the member of staff who did not perform according to standards will have to be paid in full by the Agency.

- 3.12. Should the Agency fail to send an agreed replacement within 3 working days, the work that needs to be completed will be done by the Requesting Party. Any damages and additional costs incurred in connection with such substitute work will be invoiced in full to the Agency, at actual costs plus a 10% SMB administration fee. This provision also applies if the requested personnel is not available on the agreed date or if the personnel is withdrawn before the agreed project time has ended.

4. Remuneration

- 4.1. For the completion of call orders the Agency shall receive the hourly rates and surcharges plus statutory value added tax as set out in the negotiation record as remuneration. The hourly rates and surcharges set out therein are fixed prices until the agreed date. If no new price agreement is concluded on that date, the previous prices shall apply until the end of the subsequent quarter, irrespective of any negotiations in the meantime.
- 4.2. All hourly rates that were agreed are "all inclusive" and cover, unless agreed otherwise, any and all wages and non-wage labour costs, travel time, release, accommodation, surcharges – but excluding value added tax. Unless expressly agreed in writing between the Requesting Party and the Agency, special tasks and/or difficulties caused by weather conditions will not be remunerated separately.

5. Payment conditions

- 5.1. The remuneration will always be paid after completion of the order and after submission of an auditable invoice.
- 5.2. Any and all invoices must comply with the respective applicable regulations regarding invoices, in particular VAT Act regulations; a single copy of the invoice will suffice. Invoices will only be accepted if accompanied by the original SMB working time records that must be attached – under no circumstances are copies thereof acceptable. The working time records will also include the project number, the project site, the qualification of the personnel used and the signature of the client's site manager. Where the invoice of the Agency does not meet these formal requirements, the Requesting Party shall have the right to reject that invoice within the time limit set for payment; the time limit for payment will start anew once the complete documents are submitted. The invoice forms provided by the Requesting Party must be submitted to the Requesting Party as a paper copy and in digital form together with the invoice; otherwise, the Requesting Party may charge a handling fee of EUR 30.00 per invoice.
- 5.3. The Requesting Party will pay the services duly

invoiced by the Agency in accordance with the terms and conditions that the parties agreed.

6. Legal remedies

- 6.1. The Agency is obliged to comply with the work equipment regulations as well as the generally accepted occupational health and safety regulations (completion of all medical examinations required for personnel qualification, etc.). This obligation is part of the contractually agreed provisions. Substitute performance and claims for damages for any resulting consequences are reserved.

Costs resulting from the loss of and damage to tools or material where the responsible party can no longer be determined will be split between and invoiced to the parties working for the Requesting Party in accordance with the personnel employed for the project at that time.

- 6.2. Furthermore, the Agency accepts unlimited liability for grossly negligent or intentional damage of any kind caused by the Agency or its vicarious agents to the Requesting Party or third parties. Any damage caused by the Agency must be reported to the Requesting Party immediately. Any damage caused by the personnel of the Agency will be invoiced to the Agency.
- 6.3. The Agency has to conclude insurance contracts in accordance with the damage potential in question that provide for an appropriate sum insured. Proof for such insurances must be submitted to the Requesting Party when asked to do so.
- 6.4. Any and all plans, documents, construction drawings, devices and other items made available to the Agency or the Agency's vicarious agents in connection with the call orders shall remain the property of the Requesting Party. They must be treated with care and must be returned immediately after use. No retention rights may be asserted. In the event of loss of or damage to the items made available, the Agency shall compensate the damage.
- 6.5. Any work results of the Agency are created for and on behalf of the Requesting Party and are also the unrestricted property of the Requesting Party.

7. Confidentiality / non-competition clause

- 7.1. In their relationship with third parties, the Agency and Agency's employees will maintain strict confidentiality regarding all processes, facilities, operating equipment, technical documentation etc. that they gain access to while working for the Requesting Party, also after the projects have been completed. The same shall apply to the vicarious agents of the Agency. In case of a violation of the confidentiality obligations, the contractual penalties set out in the separate confidentiality agreement shall become payable.
- 7.2. The Agency agrees to not enter into any direct contractual relationships with the companies that are

the direct or indirect clients of the Requesting Party in the call orders. This non-competition clause applies during the period of this agreement and in the subsequent five calendar years to both the Agency itself and to any of its personnel.

- 7.3. The Agency must not utilise personnel to complete the contractually agreed tasks that is employed by the Requesting Party or was employed by the Requesting Party in the past 12 months.
- 7.4. If the Agency violates the above conditions, the Agency will pay to the Requesting Party a contractual penalty of EUR 10,000.00 per violation. The contractual penalty is not dependent on proof of the damage being brought and does not exclude any further claims for damages based on the same violation.

8. Place of jurisdiction, applicable law

- 8.1. The legal relationship between the parties is exclusively subject to the laws of the Republic of Austria; the CISG provisions do not apply.
- 8.2. The place of jurisdiction for all kinds of disputes is the court with jurisdiction *ratione materiae* in Graz.

9. Final provisions

- 9.1. Should any of the provisions of these TCAP become void, challengeable or unenforceable, either in part or as a whole, this shall not affect the validity of the agreement and the remaining terms and conditions. The fully or partially void provision shall be replaced by that provision that comes as close to the economic goal of the void provision as possible.
- 9.2. Verbal supplementary agreements as well as any exclusion, amendment and/or supplement to these TCAP must be expressly confirmed in writing by SMB. Any waiver of the written form requirement must be declared in writing.

Last amended on 01/03/2021