

# Terms and Conditions of InStaff & Jobs GmbH

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## 1. Offer

InStaff & Jobs GmbH (hereinafter "InStaff") runs the online portal [www.instaff.jobs](http://www.instaff.jobs) which allows clients to enter a request for temporary workers and to book them. After the verification of the request, InStaff publishes this request as a job offer to the temporary workers registered on [www.instaff.jobs](http://www.instaff.jobs). After the temporary workers have given feedback concerning their availability, the client receives an email with a hyperlink to a selection of profiles of available temporary workers. These profiles include the individual hourly rate of the temporary worker and the estimated total costs when booking the worker. This constitutes an offer for the booking of a temporary worker from InStaff to the client. The offer is temporarily limited, the expiration date is shown in the email mentioned before.

Choosing one or more temporary workers and finishing the booking confirmation constitutes the acceptance of the offer through the client (subsequently called a "booking"). Shortly after the booking, the client receives a booking confirmation via email from InStaff.

Is the booking executed by an authorized third party (e.g. an event agency), the booking party shall be contract partner of InStaff within the meaning of the contract and the terms and conditions.

The German Law on Labour Leasing (= Arbeitnehmerüberlassungsgesetz, in short: AÜG), the employee leasing agreement and these terms and conditions constitute the legal framework. Any agreements to the contrary need to be approved by InStaff in a written form by email.

## 2. Temporary employment

Determined by a notice of the Federal Agency of Employment Kiel, InStaff received the official authorization to act as a Temporary Employment Agency on August 8, 2014. This authorization has been extended on June 27, 2017 for an unlimited term.

The client has the duty of care as an employer for the temporary workers during the temporary employment. It is mandatory for the client to enforce accident prevention regulations and health regulations at the location of employment as well as providing first aid facilities. Furthermore, the client shall observe the legally determined limits of working hours.

According to § 12 section 2 of the Labor Protection Law, the client shall inform the temporary worker beforehand of the temporary employment about the accident prevention regulations at the working place and provide protective clothing and equipment. This also applies in case of a change of the working environment.

The client is responsible for the work coordination in accordance with the BGV A1 accident regulation prevention. InStaff does not accept liability for any loss resulting from not respecting the accident regulation prevention by the client.

The client is obliged to report any accidents at work to InStaff. Moreover, any work-related accidents need to be reported immediately to the employers liability insurance association.

## 3. Duties of InStaff

InStaff trains the temporary workers for the temporary work according to the clients request and to the job offer. Among other things, this includes the briefing for clothing and general appearance during the event.

InStaff is obliged to carry out the duties of an employer, excluding the duty of care during the working time. This includes especially the correct accounting of the temporary employees and the correct payment of any taxes resulting from the employment, such as social security taxes and income taxes.

## 4. Duties of the client

The client is obligated not to forward the emails sent to him from InStaff to a Third Party or grant a Third Party access to his email account. Hyperlinks contained in these emails may give a Third Party access to an order that's liable for payment. In case the client violates this duty and a Third Party carries out a booking in the name of the client, the client is obligated to use the service booked. In case of a cancellation of this booking, § 11 of these terms is applied.

The client agrees to enter a complete and correct job description in the form "Job description" via the InStaff portal. InStaff is permitted to cancel the contract in case the client conceals any details of the work description such as:

- the religious and / or political background of an event,
- the staff needs to wear a costume during her/his work time, or
- the staff needs to wear provocative clothing during work time, or
- the staff needs to carry out tasks which have not been mentioned in the job description.

If temporary workers refuse to work because of these reasons, InStaff is permitted to cancel the contract. The client is obliged to compensate the loss of up to 80% of the total booking amount. If InStaff proves a higher loss, the client will be charged this amount.

The client is obligated to provide all information needed for the provision of the contract. This especially includes access to the place of work. The client agrees to appoint a responsible person at the place of work to ensure a successful workflow.

In case a temporary employee shall be employed on days when employment is only allowed with official permit, the client has to obtain the authorization before the work assignment. This also applies for places with restricted accessibility and for working tasks which require an official authorization. If a temporary employee gets in contact with fresh food that is at risk of getting contaminated with vermins, the client is especially obliged to carry out the instruction according to §43, paragraph 4 of German IfSG and to document it.

After the booking via the web portal [www.instaff.jobs](http://www.instaff.jobs), InStaff the client is being sent a temporary-employment contract via postal mail. The client agrees to fill out this contract correctly within 14 days after reception. The filled out and signed temporary working contract must be send back to InStaff on the postal way. In case of omission, the working relation between client and temporary worker will be feigned. The client is then obliged to compensate InStaff for the loss of profit and takes charge of the full expected salary of the temporary worker.

In accordance with § 9, section 2, § 10, section AÜG, the client agrees to note all required information for the evaluation of compliance of the equality principles for employees on the received contract for temporary work. In case of false or incomplete statements, the client is obliged to recompense the resulting losses to InStaff.

## 5. Liability

Liability is excluded in case of minor negligence of contractual obligations. Further claims are excluded. InStaff accepts no liability for loss of profit.

InStaff accepts no liability in case of interruption of performance in case of force majeure or other incidents that cause a temporary or permanent interruption or obstruction of work. As far as the liability of InStaff is excluded or limited, this shall also apply to the personal liability of employees, staff, colleagues, legal representatives and vicarious agents.

All claims of the client concerning deficiency of supply or service expire within one year starting at the legal statute of limitation. InStaff does not accept liability for consequential damage.

Claims against InStaff are to be asserted in writing within one month after finishing the contract. After expiration of this deadline, claims can only be asserted if the client was prevented without fault in the observance of the period.

Claims for damages against InStaff are not limited in case of gross negligence, breach of essential contractual duties or events causing injury to life, personal injury or injury to health.

## 6. Prohibition of hiring staff away secretly

Free of charge and unbindingly, the client is being sent a selection of available staff by InStaff for his booking request. Out of this selection, the client can book someone for his assignment or get in contact directly with the staff before the booking in order to clear questions or agree on a date for a phone interview.

Instead of using the regular service of InStaff and book a person through the platform, the client is also allowed to take over staff. When taking over the staff, the client acquires the right to employ the staff as an employee himself, commission them as sub-contractors or mediate them to a Third Party. In case the client wants to take over staff, the claim of take-over fee is constituted by InStaff against the client. The take-over fee can be calculated on the following page: [instant-hire](#). In case of a take-over, the client is obliged to obey the procedure described in "7. Long-term take over of staff".

## 7. Long-term take over of staff

Instead of using the regular service of InStaff and book a person through the platform, the client is also allowed to take over staff. When taking over the staff, the client acquires the right to employ the staff as an employee himself, commission them as sub-contractors or mediate them to a Third Party.

The client is obliged to notify InStaff before concluding an agreement, if a takeover or mediation of an Employee is planned. In case the client wants to take over staff, the claim of take-over fee is constituted by InStaff against the client. The take-over fee can be calculated on the following page: [instant-hire](#). After having been notified, InStaff will send the client an exact offer for the take-over of the employee.

If the client breaches this notification duty by stating wrong or false information about the contract details of the new employment or does not inform InStaff ahead of concluding the agreement, a contractual penalty will come into effect. The contractual penalty amounts to twice the fee regularly calculated as stated in the paragraph above - however at least 1.500 EUR per employee.

This regulation is valid until 6 months after the end of the last employment of the temporary worker with the client or 6 months after obtaining the contact details of the employee if the person has never been booked. If the staff shall be booked for an exhibition which takes place annually, an intermediation through InStaff is assumed unless the client proves the contrary.

## 8. Rejection of the temporary worker

In case of rejection of a temporary worker, the client is obliged to notify the reasons to InStaff in writing. Causes permitting an extraordinary and immediate termination of the contract are: Insult of the client, defamatory statements, fraud, theft and embezzlement, concrete suspicion of a crime, unauthorized leave taking, absenteeism, sexual harassment by colleagues, false working time reporting. In this case, only the work carried out until this point in time has to be paid.

Refusal of explanation or an insufficient explanation for an immediate dismissal leads to cancellation of the contract according to "11. Cancellation of assignment". In this case InStaff charges 80 % of the estimated total price. .

After refusal, the client has the right (not the duty) to book another temporary worker. The time limit for the supply of another temporary worker is according to „8. Supply of replacement staff“. InStaff has the duty to supply replacement staff only in case the temporary worker was not selected with due care.

If the client refrains from refusal of the temporary worker, no claims for damages may be claimed.

## 9. Supply of replacement staff

In case the booked temporary worker is ill or does not appear, InStaff supplies an equivalent replacement worker within 24 hours without charging extra costs.

## 10. Reduction of working time of a temporary worker

A reduction of the temporary workers' working time of up to 20 % is permitted. If the time reduced constitutes more than 20 % of the total working time estimated before, the client agrees to pay 80 % of the previously estimated total working

time (InStaff has to pay a minimum of 80 % of the estimated amount to the temporary worker as well).

This regulation applies to every single temporary worker and not to the total amount of working hours of all booked temporary workers combined.

### 11. Cancellation of assignment

In case of cancellation of the assignment by the client, the client will be charged 80 % of the total costs for the temporary staff estimated beforehand. This is independent of the particular date of the cancellation.

A higher amount of damage can be claimed if InStaff provides proof of a higher damage.

### 12. Accounting, Rating & Self-Promotion

After the mission, the client receives an email with a link to a list of the temporary workers booked and their stated working hours. The client agrees on confirming the working hours or in case of false information, refuse the hours within 7 days. The hours have to be paid in 15-minute-intervals whereas every interval started has to be paid completely. If the client does not react to the confirmation of hours within 7 days, InStaff will charge the working hours indicated by the temporary workers. Subsequent changes of the working hours incur a surcharge of 23,80 EUR (incl. VAT) if the payroll accounting of the employee whose hours have to be changed, has not been done yet. If the payroll accounting has already been done, the surcharge amounts to 59,50 EUR (incl. VAT) because of the increased effort to carry out the change.

During the check of the indicated working hours, the client has the option to rate the performance of the temporary workers. InStaff is entitled to publish this rating together with the clients company name, its logo and the name of the contact person publicly on [www.instaff.jobs](http://www.instaff.jobs) and its subdomains. Furthermore, InStaff is entitled to use the logo of the client and the corresponding rating in a digital and analog manner in all media suited for this usage (e.g. the usage online and in print version in any way possible) for self-promotion. This permission is valid for 8 years after the end of the last cooperation.

After the mission, the employees of InStaff have the opportunity to assign a rating to the mission itself and the employer. If not agreed upon otherwise, InStaff is entitled to create a distinct website out of these ratings about the employer as a "premium" employer.

### 13. Prices and payment terms

All prices shown on [www.instaff.jobs](http://www.instaff.jobs) and its sub pages do not include value-added tax for commercial clients. However, for private clients the prices shown are the total prices (incl. value-added tax) according to the German price regulation law § 1 PAngV (Preisangabenverordnung).

Invoices are sent to the client weekly based on the signed time sheet of the temporary worker and the hourly rate agreed upon at the time of booking and shown in the employee leasing agreement. The invoices are to be settled within 10 days of reception without discount.

Disregarding the payment deadline causes delay without further notice. In case of delay, InStaff is entitled to charge 9 percentage points on top of the current interest rate published by the European Central Bank. In case of delay, InStaff is permitted to refuse any services resulting from other contractual relationships. For damages resulting from this nonperformance, InStaff is not liable.

In case the client asks a temporary worker to advance payments, InStaff is obliged to reimburse the advanced payment at sight of the bill. InStaff is permitted to charge 43 % on the advanced payment which is taken into charge in the final bill.

### 14. Protection of personal data of employees

If necessary for the agreement and successful realization of the deployment of a temporary employee, the client is granted the privilege to forward the sedcards, phone numbers and Email addresses of booked employees to the team

lead on the site of the deployment and the other employees of this deployment. Beyond that, the client is obliged to strictly protect the personal data of the employees by not forwarding this information to unauthorized Third Parties and not saving the personal data of employees after the end of the deployment without legal foundation. For further use of personal data, the Data Protection Declaration of InStaff applies: <https://en.instaff.jobs/privacy>

### 15. Secrecy

InStaff, every employee of InStaff and the client commit to treat all sensitive information coming to be known by carrying out the contract confidential and to use it exclusively to fulfill the contract.

### 16. Final provisions

The original version of the Terms and Conditions is in German (<https://www.instaff.jobs/agb>). In case of doubt the German version shall be binding.

InStaff & Jobs GmbH does not participate in dispute settlement proceedings with any consumer conciliation offices.

In case individual provisions of these conditions are or become invalid in whole or in part, the validity of the remaining provisions and of the contract itself shall not be affected. Instead of the invalid provision, a valid provision, that is economically closest to the one actually agreed upon is presumed to be agreed upon by the parties.

Additional oral agreements have not been made. Changes and amendments of these conditions or the contract must be in writing by an InStaff representative and shall be expressly indicated as such. The temporary workers booked through InStaff are no legal representatives of InStaff and not permitted to take payments.

These terms and conditions between the contract parties are subject to the law of the Federal Republic of Germany. The exclusive legal venue for any disputes arising from or in connection with the performed services shall be Berlin, Germany.