



## CUSTOMER SERVICES AGREEMENT

1. **Kelly Guarantee.** Kelly guarantees that the Kelly employee(s) assigned to the Customer location will satisfactorily perform the services requested by the Customer. If such services are not performed as expected by the Customer, Kelly will cancel all charges for the unsatisfactory services, provided Kelly is notified of dissatisfaction within two (2) business days following the start of the order.
  2. **Placement of Assigned Employees.** Customer will place orders with Kelly describing the type of work requested, specific duties to be performed, skills required, and any other requirements. Kelly will place its Assigned Employees with Customer to perform services at the location(s) and for the pricing, all as described in Business Summary Agreement. The pricing structure provided in Business Summary Agreement is confidential and proprietary to Kelly and Customer. Neither party will disclose the contents of Business Summary Agreement without the other party's written permission. This non-disclosure obligation will survive any termination of this Agreement.
  3. **Employment Relationship with Assigned Employees.** As the provider of staffing services, Kelly will be the employer of Assigned Employees, and will be responsible for the staffing services listed below. As the recipient of such staffing services, Customer will be responsible for controlling the environment in which Assigned Employees perform their work, the details of their work, and their work product, and for the business-related responsibilities listed below. Customer acknowledges that it is the responsibility of Kelly to attend to any disciplinary or performance management concerns affecting its Assigned Employees and Customer shall assume all liability in the event Customer takes actions that are Kelly responsibilities as defined in this Section 3.
- A. **Kelly's Responsibilities.** Kelly will:
1. Recruit, select, and hire Assigned Employees;
  2. Place Assigned Employees according to Customer's requirements;
  3. Pay Assigned Employees the wages and provide the benefits that Kelly offers to them as its employees (e.g., vacations and holidays);
  4. Pay or withhold all applicable statutory deductions including income tax, CPP, and employment insurance;
  5. Provide workers' compensation coverage for Assigned Employees;
  6. Maintain Assigned Employees' personnel and payroll records related to their employment by Kelly;
  7. Comply with duties imposed on providers of staffing services by law, rule, or regulation, including data privacy and protection laws;
  8. Require Assigned Employees to agree in writing to protect the confidentiality of Customer's proprietary information;
  9. Require Assigned Employees to execute any agreements that Customer requests with regard to intellectual property developed by them in performance of their work for Customer;
  10. Require Assigned Employees to acknowledge in writing that they have no right to participate in Customer's employee benefit plans;
  11. Require Assigned Employees to comply with all rules and policies of Customer (e.g., those relating to premises access and security);
  12. Make legally required employment law disclosures to Assigned Employees; and
  13. Protect its intellectual property (e.g., trade secrets) and personal information according to its policies and processes and applicable privacy laws.

B. **Customer's Responsibilities.** Customer will:

1. Provide competent supervisors as defined by the Occupation Health and Safety Act to supervise Kelly employees at all times;
  2. Provide Assigned Employees with a safe and suitable workplace that complies with all applicable safety and health standards, statutes, and ordinances, including all necessary information, training (including all site-specific training related to the chemical, physical, and biological hazards in the workplace) and safety equipment as required by the Occupational Health and Safety Act and Workplace Hazardous Materials Information System and provide Kelly with prompt notice of:
    - i. any injury suffered by an Assigned Employee including a proper accident report and, whenever possible, extend a return to work/limited duty position to Assigned Employees who have job-related restrictions resulting from occupational injuries or illnesses occurring on Customer's premises at a potentially, mutually agreeable discounted rate;
    - ii. if Customer wishes to hire an Assigned Employee.
  3. Use Assigned Employees only in assignments that match the job descriptions for which Kelly places them;
  4. Provide adequate internal controls, supervision, and instructions for Assigned Employees, and be responsible for their conduct when they are required to handle cash, confidential information, valuables, or similar property;
  5. Be responsible for the use of any vehicle or powered mobile equipment or Customer issued property by Assigned Employees in connection with an assignment, except for workers' compensation claims of Assigned Employees;
  6. Be responsible for equipment and supplies loaned to the Assigned Employees by the Customer in connection with an assignment;
  7. Be responsible for the conduct of its own officers, employees, and agents;
  8. Comply with duties imposed on it by law, rule, or regulation including, but not limited to, all applicable data privacy and protection laws;
  9. Extend its return to work/limited duty program (or, if no program exists, establishing one) to Assigned Employees who have job related restrictions resulting from occupational injuries or illnesses occurring on Customer's premises; and
  10. Promptly notify Kelly of any known labour union organization activity or labour or employment disputes/applications involving Assigned Employees.
4. **Workers' Compensation and Liability Insurance.** Kelly will, at its own expense, provide and keep in full force and effect during the term of this Agreement the following kinds and minimum amounts of insurance:
- A. **Workers' Compensation.** Workers' compensation statutory coverage as required by the laws of the jurisdiction in which the services are performed;
  - B. **Employer's Liability.** Employer's liability insurance with a limit of \$1,000,000;
  - C. **Non-Owned Automobile.** Non-owned automobile liability insurance with a \$1,000,000 combined single limit;
  - D. **General Liability.** General liability insurance, including personal injury blanket contractual liability and property damage, with a \$1,000,000 combined single limit per occurrence; and
  - E. **Bond.** Commercial blanket bond insurance with limits of \$3,000,000 per occurrence.

Kelly will furnish Customer with certificates evidencing such insurance coverage, upon request.

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### 5. Billing.

- A. **Invoices.** Kelly will invoice Customer each week for hours worked by Assigned Employees at agreed-upon hourly bill rates. Business Summary Agreement lists rates Kelly will invoice Customer (and any reimbursable expenses). If the Customer's rates are not set out in Business Summary Agreement, Kelly and Customer will agree on rates (in writing) at the time of an order, which Kelly will record electronically in its systems.
  - B. **Taxes.** Unless otherwise provided by law, any sales tax, goods and services tax or like tax on the services provided under this Agreement or prices set forth in Business Summary Agreement will be added to the invoiced amount as a separate item and paid by Customer to Kelly.
  - C. **Adjustments.** Customer agrees that Kelly will adjust pricing, at a minimum, annually and, additionally, to reflect government-mandated increases in wages (including, without limitation, minimum wage rates, vacation pay and public holiday pay) and related tax, benefit and other costs. Adjustments will be applied as of the effective date (and apply retroactively, if necessary) of the increased wages, tax, benefit or cost. Additionally, pricing will be adjusted to reflect the impact of inflation upon our costs by an amount not to exceed the year over year change in the Consumer Price Index for the preceding twelve (12) months.
  - D. **Overtime.** Assigned Employees are presumed to be non-exempt from overtime laws. Kelly will charge Customer overtime rates only when an Assigned Employee's assignment for Customer would legally require overtime pay and Customer has approved or knowingly allowed the overtime. Overtime rates will be calculated by applying to Kelly's bill rate at the same multiple as Kelly is required to apply to the Assigned Employee's pay rate.
  - E. **Record of Time Worked.** Customer agrees to review and approve (by signature or electronically), a record of time worked by Assigned Employees. If a Customer representative is unavailable, Kelly's representative responsible for the Customer placement (or other Kelly representative authorized by Customer) may approve the record on Customer's behalf. Customer will be responsible for the full invoiced amounts that Customer approves. If Customer has unique job classifications/ titles, Kelly will connect such classifications/titles to Kelly's job titles, which will be conclusive as to the pricing for Assigned Employees placed with Customer. Customer may review the results of the connections upon request.
6. **Payment Terms.** Payment terms will be net due upon Customer's receipt of the Kelly invoice. (Kelly acknowledges that Customer's processing of the invoice may take up to five (5) days).
  7. **Conversion and Transition of Assigned Employees.** Customer acknowledges that Kelly incurs substantial expenses for recruiting, testing, training and retaining its Assigned Employees and Customer agrees to obtain the services of each Assigned Employee only through an order with Kelly. If Customer wishes to obtain the services of an Assigned Employee by hiring them (known as a "conversion"), or by placement, arrangement, or contract from another source (known as a "transition"), Customer agrees to compensate Kelly at the conversion rates schedule set forth in Business Summary Agreement.
  8. **Supplemental Services.** In addition to the services described in Business Summary Agreement, Kelly will, at Customer's request, provide the supplemental services described below:
    1. **Direct Placement.** Kelly will provide candidates to be considered for immediate hire by Customer on a full or part-time basis. Upon employment of a Kelly furnished candidate, Customer agrees to pay Kelly a placement fee as provided in Business Summary Agreement.

2. **Payroll Service.** At Customer's request, Kelly may agree to place an individual recruited by Customer on Kelly's payroll as an Assigned Employee (known as "payroll service") and assign the individual to perform services for Customer. Customer will provide all information and documentation necessary to complete the required personnel and payroll records. The Kelly guarantee in Section 1 and Kelly's indemnification obligations in Section 10 will not apply. Pricing for payroll service will be as provided in Business Summary Agreement.

9. **Work Product.** Kelly and Customer mean for Customer to own work performed or prepared for Customer by Assigned Employees. To the fullest extent permitted by law, Kelly and Customer intend to achieve that objective through the following statement:

Customer owns all right, title and interest, including copyright, trademark, patent, and all other intellectual property rights, in all work performed by and work product developed by Assigned Employees who perform work for Customer. All such work will be conclusively deemed to be "work made for hire" and ownership of all copyrights in such work will vest in Customer. To the extent that such work does not qualify as "work made for hire", Kelly irrevocably transfers, assigns, and conveys exclusive copyright ownership to Customer.

Kelly will furnish, or cause to be furnished, to Customer, upon its request and at no additional cost, documents reasonably requested to assign to it any and all right, title and interest Kelly or Assigned Employees may have in such work.

10. **Issue Resolution and Indemnification.** In support of an efficient and cost-effective staffing relationship, Kelly and Customer expect to resolve any other issues that arise with respect to performance of this Agreement through business discussion and conciliation. In the unlikely event that resolution efforts are unsuccessful, each party agrees to indemnify the other party (and its officers, directors, and employees) for claims, losses, penalties, and damages (and reasonable legal fees) to the extent they arise from the indemnifying party's violation of law, or its material breach of this Agreement, including the obligations listed in Section 3.
11. **Indemnification Process.** To obtain indemnification, a party must promptly notify the other party, cooperate in resolving the claim including but not limited to providing access to its records as is reasonably required for the defence of the claim, and (when liability to third parties is involved) yield reasonable control of the claim's resolution to the other party. Neither party is obligated to provide or commit itself to indemnity while the underlying matter is still pending.
12. **Limitation of Liability.**
  - A. **No Consequential or Indirect Damages.** In no event shall either party be liable under this Agreement to the other party or any third party for any consequential, incidental, indirect, exemplary, special or punitive damages. This includes damages for business interruption, loss of use, data, revenue or profit, whether in contract or tort (in the case of the Province of Quebec, the term "tort" shall be replaced with "extra-contractual") (including negligence), regardless of whether such damages were foreseeable or whether party was advised in advance of the possibility of such damages.
  - B. **Maximum Liability.** Kelly's aggregate liability arising out of or related to this Agreement, whether arising out of or related to breach of contract, tort (in the case of the Province of Quebec, the term "tort" shall be replaced with "extra-contractual") (including negligence) shall be limited to proven direct damages up to a maximum of ten thousand dollars (\$10,000) per occurrence.
  - C. **Third Party Claims.** In addition to the limitation of liability in Section 12 A, Kelly's aggregate liability to Customer for third party claims, whether arising out of or related to breach of

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contract, tort (in the case of the Province of Quebec, the term “tort” shall be replaced with “extra-contractual”) (including negligence) shall be limited to the extent of Kelly’s indemnification obligations in Section 10.

### 13. Term, Termination and Notice Obligations.

#### A. Term and Termination.

1. Except where the Customer fails to pay Kelly (see Section 13.A. (2) below) and subject to Section 13 B, this Agreement will continue until one party gives the other party at least thirty (30) days’ written notice of termination.
2. Kelly may terminate this Agreement immediately in the event of non-payment for services rendered.
3. Termination of this Agreement will end the staffing relationship, but this Agreement will continue to govern the parties’ rights and obligations with respect to the business done before termination, including but not limited to conversion or transition of Assigned Employees.

#### B. Notice Obligations.

1. Customer shall provide Kelly with sufficient advance, written notice of any termination of any assignment under this Agreement in order for Kelly to comply with applicable labour and employment laws and regulations, or, alternatively, the payment of compensation in lieu of notice.
2. Customer is not obligated to provide termination notice where an assignment is less than three (3) months or thirty (30) days for assignments in Manitoba.
3. If requested, Kelly will provide Customer a list of Assigned Employees currently assigned to Customer, their length of service, and the required termination notice or compensation in lieu of notice under the applicable provincial law or regulation, which in Ontario shall include any obligations in relation to notice of termination of assignment.

#### C. Provisions Applicable to Ontario Only.

1. Customer will ensure that any notice, or payment of compensation in lieu of notice, provided under Section 13.B. (1) is sufficient to cover both Kelly’s notice of termination of employment and notice of termination of assignment obligations.
2. Customer will provide Kelly with at least ten (10) weeks’ written notice of termination where (i) Kelly has placed fifty (50) or more Assigned Employees at a Customer location, or (ii) where Customer’s entire population of Assigned Employees in Ontario has their assignment terminated within a four (4) week period.
3. In Ontario, an employee with five or more years of service will be entitled to severance pay. As such, Customer agrees to be responsible for the payment of severance pay to Assigned Employees who have tenure five (5) years or longer on Customer’s assignment.

#### D. Provisions Applicable to Quebec Only.

1. If Kelly notifies Customer that it has received a request to review the rate of pay of an Assigned Employee under the provisions of Bill 176 and the employment laws of Quebec, Customer shall provide all information that Kelly requests to conduct its review, including job descriptions and summaries of actual duties performed by Customer’s employees in any identified positions. If Kelly determines that the work performed by the Assigned Employees and Customer’s employees is substantially the same, Customer shall disclose to Kelly the rate of pay that is paid to its employees.

2. If, following a rate of pay review under the prior paragraph, Kelly determines that it is required by law to increase the rate of pay paid to an Assigned Employee, Customer agrees that Kelly will adjust the pricing for the services of such Assigned Employee by an amount equal to the increase in rate of pay and any associated government obligations. Adjustments to Customer invoices will be applied retroactively to reflect the date on which the increase in pay for Assigned Employee must be made.

Customer will defend and indemnify Kelly for costs Kelly may incur under the applicable employment labour and employment laws (including wages in lieu of notice of termination of assignment, termination pay or severance pay) with respect to the termination of Kelly employees assigned to Customer arising from (a) Customer’s failure to provide the requisite written advance notice under Section 13 (A)(2), or 13 (B); or, (b) Customer failed to abide by Kelly’s recommended end date for Assigned Employees assigned to Customer for five (5) years or longer; or (c) Kelly terminated the Agreement early because of Customer’s non-payment for services rendered.

14. **Notices.** Any notices, consents or other communications required or permitted under this Agreement must be in writing (including telecommunications) and delivered personally or sent by fax or sent by customary commercial electronic transmission, overnight air courier (postage prepaid), registered or certified mail (postage prepaid with return receipt requested), addressed as shown on the first page of this Agreement.

Unless otherwise stated in this Agreement, notices, consents or other communications will be deemed received (a) on the date delivered, if delivered personally or by wire transmission; (b) on the next business day after mailing or deposit with an overnight air courier; or (c) three business days after being sent, if sent by registered or certified mail.

15. **Labour Organizations.** Customer will immediately advise Kelly upon receipt of any information that a trade union or similar organization is attempting to organize any Assigned Employees or has applied under applicable legislation to represent Kelly Assigned Employees placed with Customer. In the event that an application for certification has been served upon the Customer, Customer shall notify Kelly of such application prior to filing any response to said application. Under no circumstances will Customer enter into any collective bargaining agreement or understanding with any labour organization affecting any of the Assigned employees placed with Customer. In the event Kelly enters into any collective bargaining agreement covering its Assigned Employees placed with Customer, it is understood and agreed that Kelly will have sole control and responsibility for and will be the sole signatory on behalf of Kelly in connection with, any labour negotiations, grievances, collective bargaining agreements and related labour matters. Customer agrees not to violate the terms of any collective bargaining agreement to which Kelly is a party with respect to Assigned Employees placed under this Agreement. Customer will indemnify Kelly for any costs Kelly may incur as a result of any determination or settlement of a claim arising out of any collective agreement Kelly may have covering its Assigned Employees placed with Customer.

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16. **Cross Border Assignments.** In the event an Assignment in one country is filled by a Kelly employee or applicant from another country, or where an applicant is not qualified under applicable immigration law and Customer requests that Kelly obtain necessary visas and work permits so such applicant be assigned to Customer, or if an existing Assigned employee's immigration status changes or expires and Customer requests that such Assigned employee continue to be placed (a "Cross-Border Assignment"), Customer will be responsible for and will either directly pay or reimburse Kelly for all expenses, including but not limited to administrative and coordination costs related to such Cross-Border Assignment, including but not limited to: legal fees and costs related to visas, work permits and tax issues, travel costs, housing, schooling, moving costs for the Assigned Employees placed with Customer and such Assigned Employee's family, home leave, and relocation expenses at the end of the Assignment. In the event an assignment is terminated early, Customer shall be responsible for all relocation costs, including without limitation, lease termination fees, moving and travel costs.
17. **Independent Contractor.** In its performance of this Agreement, Kelly will at all times act in its own capacity and right as an independent contractor, and nothing contained herein may be construed to make Kelly an agent, partner or joint venture of Customer. Neither Kelly nor its employees will have any claim to Customer's revenues from their work. Customer will remain responsible for meeting its goals for profits, costs, production, and scheduling.
18. **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.
19. **Entire Agreement.** This Agreement (including any attachments) contains all of the terms between Customer and Kelly temporary staffing services for the jobs and locations specified and replaces all prior agreements and representations on the subject. This Agreement may be modified or supplemented only by a signed and dated written amendment referring to it. Forms that may be used by the parties in their staffing relationship such as purchase orders, time cards, and invoice recitals will not supersede, supplement, modify, or control this Agreement.
20. **Severability; Waiver.** The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement and such invalid or unenforceable provision shall be severable from this Agreement. Any delay or waiver by a party to declare a breach or seek any remedy available to it under this Agreement or by law will not constitute a waiver as to any past or future breaches or remedies.
21. **Permits and Licenses.** Each party will maintain in effect during the term of this Agreement any and all Federal, provincial and/or local licenses and permits which may be required with respect to the respective business in which each party is engaged. Customer will maintain, at its expense, the licenses and permits required by applicable authorities in order to engage in Customer's business.
22. **Force Majeure.** Kelly will not be responsible for failure or delay in assigning its employees to Customer if the failure or delay is due to labour disputes and strikes, fire, riot, war, acts of terrorism, acts of God or any other causes beyond the control of Kelly.
23. **Section Headings.** The Section headings of this Agreement are for the convenience of the parties only and in no way alter, modify, amend, limit, or restrict the contractual obligations of the parties.
24. **Assignment.** Neither Kelly nor Customer may assign this Agreement without the prior written consent of the other party; provided that Kelly may use secondary vendors to fulfill any or all of its obligations hereunder without securing Customer's consent. This Agreement will be binding upon the parties hereto, and their successors, heirs and assigns, as permitted.
25. **Language.** The Parties declare that they have requested, and hereby confirm their request, that this Agreement be drafted in the English language. Les parties déclarent qu'elles ont exigé, et par les présentes, confirment leur demande que ce contrat soit rédigé en anglais.