

EMPLOYMENT AGENCY SELF-CERTIFICATION OF CONTRACT COMPLIANCE

Employment Agency Business Name: _____

Name of License Applicant

The Classes below indicate types of employment. Please check all Classes for which your agency will place or attempt to place employees.

- Class A** – domestics; household employees; unskilled or untrained manual workers and laborers, including agricultural workers
- Class A*** – domestic or household employees recruited from other states
- Class A**** – domestic or household employees recruited from outside the continental United States
- Class A***** – domestic dayworkers who are transported to the place of employment by the agency at no charge to the employee, and where agency supplies employee with at least one meal
- Class A1** – non-professional trained or skilled industrial workers or mechanics
- Class B** – commercial, clerical, executive, administrative, and professional employment; all employment outside the continental United States; and all other employment not included in classes A, A1, C, and D
- Class C** – theatrical engagements (e.g., actors, singers, models)
- Class D** – nursing engagements

The checklists on the following pages track New York State laws governing the fees allowed for each Class. Please read the corresponding checklist for the Class(es) you selected above. Check each box in the relevant checklist to affirm you understand the requirement. Sign the affirmation on page 9 to certify that you will comply with the requirements and that your contract does not violate the requirements.

Note: The following checklists are not an exhaustive treatment of the employment agency law. You are responsible for following ALL applicable laws.

ALL applicants must check the following two requirements regardless of Class selected.

- NO REQUIRED INCIDENTAL SERVICES.

 - Unless otherwise noted, an employment agency shall not require an applicant employed in the continental United States and paid weekly to pay any fee at a rate greater than the following:
 - 10 equal weekly installments payable at the end of each of the first 10 weeks of employment OR
 - (*if paid less frequently*) five (5) equal installments payable at the end of the first five pay periods OR
 - within a period of 10 weeks, whichever period is longer
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Checklist for Class A – domestics; household employees; unskilled or untrained manual workers and laborers, including agricultural workers

Check each box below to affirm you understand the requirement.

- No registration fee.

- Fees may only be charged after a written contract is signed by both parties.

Advance Fees:

- The advance fee will be counted toward the fee that is due when the employee gets work.
- Any amount above the maximum fee will be returned immediately.
- The advance fee must be returned upon demand if no employment is obtained.

Gross Fee:

- The gross fee, including any deposit, shall not exceed the following as a percentage of the first full month's salary or wages,:
 - where no meals or lodging are provided 10%
 - where one meal per workday is provided 12%
 - where two meals per workday are provided 14%
 - where three meals and lodging per workday are provided 18%

- When the placement is for a period shorter than one month, the gross fee shall not exceed 10%, 12%, 14%, or 18%, respectively of the salary or wages actually paid.

Checklist for Class A* – domestic or household employees recruited from other states

Check each box below to affirm you understand the requirement.

- No registration fee.

- Fees may only be charged after a written contract is signed by both parties.

- No advance fee.

- The agency shall not require an applicant to pay the agency fees or charges at a rate greater than in four (4) equal installments payable at the end of the first, second, third, and fourth weeks of employment. The agency fee shall not be greater than the following as a percentage of the first full month's salary:
 - where no meals or lodging are provided 15%
 - where one meal per workday is provided 18%
 - where two meals per workday are provided 21%
 - where three meals and lodging per workday are provided and where the first full month's salary or wages is:
 - less than \$130 26%
 - at least \$130 but less than \$150 28%
 - at least \$150 or more 30%

Checklist for Class A** – domestic or household employees recruited from outside continental United States

Check each box below to affirm you understand the requirement.

- Fees must be in the contract.

- The total maximum fee that the agency may charge for any placement shall not exceed 11% of the employee's agreed or anticipated first full year's wages. The agency cannot charge the employee more than 25% of the total maximum fee.

- If an employee is provided meals or lodging, the value of such meals or lodging shall not be included in determining the employee's first full year's wages.

- The agency fee charged to the employee and any advances made to the employee to pay for transportation, visa fee, medical examination, and any other advance specifically authorized by the commissioner shall be payable at a rate not greater than six (6) equal installments at the end of each of the first six months of employment.

Checklist for Class A*** – domestic dayworkers who are transported to the place of employment by the agency at no charge to the employee, and where agency supplies employee with at least one meal

Check each box below to affirm you understand the requirement.

- No registration fee.

Advance Fees:

- The advance fee will be counted toward the fee that is due when the employee gets work.
- Any amount above the maximum fee will be returned immediately.
- The advance fee must be returned upon demand if no employment is obtained.

- The maximum fee for this type of employment shall be charged to the employer only, and shall not exceed an amount based on the daily wage paid to the employee. See the chart below.

Daily Wage	Maximum Fee
at least \$11.00 but less than \$12.00	\$4.00
at least \$12.00 but less than \$13.00	\$4.25
at least \$13.00 but less than \$14.00	\$4.50
at least \$14.00 but less than \$15.00	\$4.75
at least \$15.00 but less than \$16.00	\$5.00

For each additional dollar of daily wage beginning at \$16.00, an additional fee of 25 cents may be charged; for each dollar of daily wage less than \$11.00 the fee shall be reduced by 25 cents. The value of meals shall not be included in determining the employee’s wages.

Checklist for Class A1 – non-professional trained or skilled industrial workers or mechanics

Check each box below to affirm you understand the requirement.

- No registration fee.

- If the fee is not in the contract, it can only be charged AFTER the employee starts employment at a job that the agency procured.

Advance Fees:

- The advance fee will be counted toward the fee that is due when the employee gets work.
- Any amount above the maximum fee will be returned immediately.
- The advance fee must be returned upon demand if no employment is obtained.

Gross Fee:

- When the placement is for a period of 10 weeks or more, the gross fee shall not exceed one week’s wages.
- When the placement is for a period shorter than 10 weeks, the gross fee shall not exceed 10% of the wages or salary actually received.

Checklist for Class B – commercial, clerical, executive, administrative, and professional employment; all employment outside the continental United States; and all other employment not included in classes A, A1, C, and D

Check each box below to affirm you understand the requirement.

No registration fee.

No advance fee.

Gross Fee:

The gross fee shall not exceed the following as a percentage of the first full month’s salary or wages:

First Full Month's Salary or Wages:	Maximum Gross Fee
less than \$750	25%
at least \$750 but less than \$950	35%
at least \$950 but less than \$1150	40%
at least \$1150 but less than \$1350	45%
at least \$1350 but less than \$1500	50%
at least \$1500 but less than \$1650	55%
at least \$1650 or more	60%

For placements in which the applicant will be paid on a straight commission basis or on the basis of a drawing account plus commissions, the gross fee shall be based on the percentages in the chart above applied to one-twelfth of the estimated first year’s earnings amount, as estimated by the employer.

When the placement is for a period shorter than four months the gross fee shall not exceed 50% of the fee prescribed in the chart or 10% of the wages or salary actually received, whichever is less.

Checklist for Class C – theatrical engagements (e.g., actors, singers, models)

Check each box below to affirm you understand the requirement.

No registration fee.

No advance fee.

Gross Fee:

The gross fee shall not exceed, for a single engagement, 10% of the compensation payable to the applicant. Exception: For employment or engagements for orchestras and for employment or engagements in the opera and concert fields the gross fee shall not exceed 20% of the compensation payable to the applicant.

Checklist for Class D – nursing engagements

Check each box below to affirm you understand the requirement.

No registration fee.

No advance fee.

Gross Fee:

The gross fee shall not exceed, for a single engagement, the following:

- *(for private nursing duty)* 5% of the salary or wages received each week. The fee shall be due at the end of the week for the first 10 weeks of the engagement only.
- *(for any other nursing duty)* the amount of the first week's salary or wages unless the first year's computed salary or wages (to be derived for at least one year's employment) is \$2500 or more in which case the gross fee shall not exceed the following as a percentage of salary or wages:

First Year's Salary or Wages:	Maximum Gross Fee
at least \$2500 but less than \$3000	2 ½ %
at least \$3000 but less than \$3500	3%
at least \$3500 but less than \$4000	3 ½ %
at least \$4000 but less than \$4500	4%
at least \$4500 but less than \$5000	4 ½ %
\$5000 or more	5%

ALL applicants must check the following requirement regardless of Class selected.

- All contracts must set forth in a clear and concise manner the following terms included in Section 185 and 186 of Article 11 of New York State General Business Law:

§ 185. FEES

1. Circumstances permitting fee. An employment agency shall not charge or accept a fee or other consideration unless in accordance with the terms of a written contract with a job applicant, except for class “A” and “A1” employment, and except after such agency has been responsible for referring such job applicant to an employer or such employer to a job applicant and where as a result thereof such job applicant has been employed by such employer. The maximum fees provided for herein for all types of placements or employment may be charged to the job applicant and a similar fee may be charged to the employer provided, however, that with regard to placements in class “B” employment, a fee of up to one and one-half times the fee charged to the job applicant may be charged to the employer. By agreement with an employment agency, the employer may voluntarily assume payment of the job applicant’s fee. The fees charged to employers by any licensed person conducting an employment agency for rendering services in connection with, or for providing employment in classes “A”, “A1” and “B”, as hereinafter defined in subdivision four of this section where the applicant is not charged a fee shall be determined by agreement between the employer and the employment agency. No fee shall be charged or accepted for the registration of applicants for employees or employment.
2. Size of fee; payment schedule. The gross fee charged to the job applicant and the gross fee charged to the employer each shall not exceed the amounts enumerated in the schedules set forth in this section, for any single employment or engagement, except as hereinabove provided; and such fees shall be subject to the provisions of section one hundred eighty-six of this article. Except as otherwise provided herein, an employment agency shall not require an applicant while employed in the continental United States, and paid weekly to pay any fee at a rate greater than in ten equal weekly installments each of which shall be payable at the end of each of the first ten weeks of employment, or if paid less frequently, in five equal installments, each of which shall be payable at the end of the first five pay periods following his employment, or within a period of ten weeks, whichever period is longer. An employer’s fee shall be due and payable at the time the applicant begins employment, unless otherwise determined by agreement between the employer and the agency.
3. Deposits, advance fees. Notwithstanding any other provisions of this section, an employment agency may not require a deposit or advance fee from any applicant except an applicant for class “A” or class “A1” employment, and only to the extent of the maximum fees hereinafter provided. Such deposit or advance fee shall be offset against any fee charged or accepted when such employment is obtained. Any excess above the lawful fee shall be returned without demand therefor, immediately after the employment agency has been notified that such employment has been obtained; and all of such deposit or advance fee shall be returned immediately upon demand therefor, if at the time of the demand such employment has not been obtained.

4. Types of employment. For the purpose of placing a ceiling over the fees charged by persons conducting employment agencies, types of employment shall be classified as follows:

Class "A"--domestics, household employees, unskilled or untrained manual workers and laborers, including agricultural workers;

Class "A1"--non-professional trained or skilled industrial workers or mechanics;

Class "B"--commercial, clerical, executive, administrative and professional employment, all employment outside the continental United States, and all other employment not included in classes "A", "A1", "C" and "D";

Class "C"--theatrical engagements;

Class "D"--nursing engagements as defined in article one hundred thirty-nine of the education law.

§ 186. RETURN OF FEES

1. Excessive fee: Any employment agency which collects, receives or retains a fee or other payment contrary to or in excess of the provisions of this article, shall return the fee or the excess portion thereof within seven days after receiving a demand therefor.
2. Failure to report: If a job applicant accepts employment and thereafter fails to report for work, the gross fee charged to such applicant shall not exceed twenty-five per cent of the maximum fee allowed by section one hundred eighty-five of this article, provided however, if the applicant remains with his same employer, the fee shall not exceed fifty per cent. If a job applicant accepts employment and fails to report for work, no fee shall be charged to the employer.
3. Termination without employee's fault. If a job applicant accepts employment and reports for work, and thereafter such employment is terminated without fault of the employee, the gross fee charged to such employee and to the employer each shall not exceed ten percent of the salary or wages received by such employee, and in no event shall such fee exceed the maximum fee allowed by section one hundred eighty-five of this article. However, if such employee is a domestic or household employee recruited from a state outside of this state the fee of the employer shall not exceed thirty-three and one-third percent of the wages or salary actually earned.
4. Termination under all other circumstances: If a job applicant accepts employment and reports for work, and thereafter such employment is terminated under any other circumstances, the gross fee charged to such employee and the employer each shall not exceed fifty per cent of the salary or wages received by such employee, and in no event shall such fee exceed the maximum fee allowed by section one hundred eighty-five of this article.

Note: All laws and rules of the City of New York, including the Consumer Protection Law and Rules, are accessible via www.nyc.gov/consumers. For convenience, sections of relevant New York State Law and/or New York City Licensing Law and Rules are available. You can obtain sections in the following ways:

- Visit DCA’s Business Toolbox at www.nyc.gov/consumers
- Visit the DCA Licensing Center located at 42 Broadway, 5th Floor, in lower Manhattan
- Call 311 and ask for the Employment Agency license application packet

AFFIRMATION – Please read and sign below.

I am authorized to complete and submit this self-certification. I have reviewed the entire self-certification. To the best of my knowledge, this self-certification is true, correct and complete.

If any of the information in this self-certification changes, the applicant must inform the Department of Consumer Affairs of those changes. I also understand that the applicant must comply with all relevant laws and rules if granted a license, permit or certification to operate.

I further understand that nothing in this affirmation or self-certification waives or alters any rights or remedies the Department or consumers may have against the license applicant with regard to the contract.

I understand that Department of Consumer Affairs has not yet considered this Application. The applicant will not operate the business until receipt of an actual license, permit or certification document from Department of Consumer Affairs, or until/unless the Department of Consumer Affairs has given written permission to operate while this Application is pending. This affirmation shall be deemed executed in the City and State of New York and shall be governed by and construed in accordance with the laws of the State of New York (notwithstanding New York choice of law or conflict of law principles) and the laws of the United States.

I affirm that these statements are true and correct.

PENALTY FOR FALSE STATEMENTS: It is against the law to make a statement in this Application that you know is false. If you make a statement that you know is false, you may be punished.

Under Sections 210.45 and 175.30 of the New York Penal Law, you may be:

- fined up to \$1000 and/or
- sent to jail for up to one year

Under Section 175.35 of the New York Penal Law, you may be punished if you:

- make a statement that you know is false and/or
- make the statement because you intend to mislead the issuing Agency

Under Section 175.35 of the New York Penal Law, you may be:

- fined up to \$5000 or
- fined an amount that is twice the amount of money you received by making the false statement and/or
- sent to jail for up to 4 years

The Department of Consumer Affairs may also punish you for making a false statement on this self-certification. These punishments may include:

- fines or penalties of up to \$500 for each false statement
- permanent loss (revocation) of your license, permit or certification

By signing below, I am swearing or affirming that I have told the truth on this self-certification.

Signature

Print Name

Title (if any)

Date