

- 1 DEFINITIONS** - The following expressions shall have the following meanings:
- 1.1 “Agent” means Expert Register™ of 32 Enterprise Avenue, Tiverton, Devon, UK;
- 1.2 “Client” means any person who purchases Services from the Agent;
- 1.3 “Applicant” means any person introduced to the Client by the Agent for an Engagement;
- 1.4 “Engagement” means the employment or use of the Applicant by the Client, or any third party to whom the Client has introduced the Applicant, on a permanent or short-term basis under any form of contract or relevant agreement;
- 1.5 “Registration Form” means a booking document, letter of Engagement, application form, quotation or other written instruction describing the Services;
- 1.6 “Services” means the agency services as described in the Registration Form;
- 1.7 “Terms and Conditions” means the terms and conditions of supply of Services as set out in this document and any subsequent terms and conditions agreed in writing by the Agent;
- 1.8 “Agreement” means the contract between the Agent and the Client for the provision of the Services incorporating these Terms and Conditions;
- 1.9 “Arbitrator” is the party nominated to resolve a dispute between the Agent and the Client.

**2 GENERAL**

- 2.1 These Terms and Conditions shall apply to the Agreement for the supply of Services by the Agent to the Client and shall supersede any other documentation or communication between parties.
- 2.2 Any variation to these Terms and Conditions must be agreed in writing by the Agent.
- 2.3 These Terms and Conditions shall be attached to any Registration Form and signed and returned to the Agent by the Client.
- 2.4 Nothing in these Terms and Conditions shall prejudice any condition or warranty, express or implied, or any legal remedy to which the Agent may be entitled in relation to the Services, by virtue of any statute, law or regulation.

**3 REGISTRATION FORM**

- 3.1 The Registration Form refers to these terms and conditions, and submission of the registration form will be taken as acceptance of these terms and conditions, and these terms and conditions shall apply to all registration forms unless updated or replaced.
- 3.2 The Registration Form shall remain valid for acceptance for a period of 365 days
- 3.3 The Registration Form must be accepted by the Client in its entirety.
- 3.4 The Agreement between the Agent and the Client, incorporating these Terms and Conditions, shall only come into force when the Agent confirms acceptance in writing to the Client.

**4 SERVICES**

- 4.1 The Services are as described in the Registration Form.
- 4.2 Any variation to the Services must be agreed by the Agent in writing.
- 4.3 The Services shall commence and finish on the dates specified on the Registration Form unless terminated according to the terms of this Agreement.

OR

- 4.3 The Services shall commence on the date specified on the Registration Form and continue until terminated by either party giving not less than 28 days' notice in writing or unless terminated according to the terms of this Agreement.
- 4.4 Dates given for the commencement of the Services are estimates only and not guaranteed. Time for commencement shall not be of the essence of the Agreement and the Agent shall not be held liable for any loss, costs, damages, charges or expenses caused directly or indirectly by any delay in the Services.

**5 RATES AND PAYMENT**

- 5.1 The rate for Services is as specified in the Registration Form and is exclusive of VAT which is chargeable at the prevailing rate.
- 5.2 If the fees paid relate to a short-term placement of an Applicant who then becomes engaged on a long-term or permanent placement with the Client within 3 months from the date of the initial introduction the Client shall pay the difference between the placement fees, at the time of the change in status.
- 5.3 The terms for payment are as specified in the Registration Form.
- 5.4 Fees relating to the cancellation of any bookings are as specified in the Registration Form.
- 5.5 The Client must settle all payments for Services within 30 days from the invoice date in order for rebate terms to come into force.
- 5.6 The Client will pay interest on all late payments at a rate of 3% per annum above the base lending rate of Barclays.
- 5.7 The Agent is also entitled to recover all reasonable expenses incurred in obtaining payment from the Client where any payment due to the Agent is late.
- 5.8 The Client is not entitled to withhold any monies due to the Agent.
- 5.9 The Agent is entitled to vary the price to take account of:
  - 5.9.1 any additional services requested by the Client which were not included in the original Registration Form;
  - 5.9.2 any reasonable increase in fee rates, if applicable; and any variation must be intimated to the Client in writing by the Agent.

**6 CLIENT OBLIGATIONS**

- 6.1 The Client agrees to cooperate with the Agent as may be required.
- 6.2 The Client shall provide full details to the Agent as to the type of Applicant required and the precise nature of the work the Applicant shall be involved in.
- 6.3 The Client shall notify the Agent immediately on Engagement of any Applicant introduced by the Agent.
- 6.4 The Client agrees to pay the appropriate fee as described in the Registration Form on the placement of a requested Applicant.
- 6.5 If the Client or a member of the Client's staff or any acquaintance or associate of the Client, passes on an introduction to any other person or persons within six months of the Applicant's introduction to the Client by the Agent, resulting in the Engagement of the Applicant, the Client shall be liable for payment of the appropriate fee in accordance with the fees described in the Registration Form.
- 6.6 The Client is responsible for complying with all legal obligations connected with the Engagement of the Applicant including providing a suitable contract of employment.
- 6.7 The Client shall provide the Agent with a copy of the employment offer between the Applicant and the Client.
- 6.8 The Client is responsible for any deductions of Income Tax, National Insurance or other charges from the Applicant.
- 6.9 The Client is responsible for obtaining any medical certificates, work permits or other approvals for the Applicant prior to the commencement of employment.

**7 AGENT OBLIGATIONS**

- 7.1 The Agent shall supply the Services as specified in the Registration Form.
- 7.2 The Agent shall perform the Services with reasonable skill and care and to a reasonable standard and in accordance with recognized codes of practice and statutory obligations.
- 7.3 The Agent will take all reasonable steps to introduce Applicants who are of sound character, honest and reliable but cannot be held responsible for the conduct of Applicants at any time.
- 7.4 The Agent shall keep a copy of the employment contract between the Client and the Applicant on file.
- 7.5 The Agent shall obtain references from Applicants but the Client must take ultimate responsibility as to suitability of an Applicant, including obtaining further references and medical information if required.

**8 REFUNDS**

- 8.1 If an Applicant engaged in permanent employment by the Client does not remain in the Client's employment for 3 calendar months or has their employment terminated by the Client within 3 calendar months of the initial date of employment, the Agent will provide a refund of any placement fee, on a sliding scale (see additional/special terms on Registration document) if the following conditions are met:-
- 8.1.1 The Client notifies the Agent within 2 working days of the Applicant's termination;
  - 8.1.2 The Client has paid the appropriate placement fee;
  - 8.1.3 The Client has not changed any of the original requirements for the Applicant as specified in the Registration Form;
  - 8.1.4 The Applicant did not resign due to unreasonable demands placed upon them by the Client;
  - 8.1.5 The Client still intends to employ an Applicant;
  - 8.1.6 The Client has given the Agent a reasonable period to recruit a suitable replacement Applicant to be engaged by the Client for the same requirements as specified in the original Registration Form.
- 8.2 If the Client has not met the conditions as stated in Condition 8.1 of these Terms and Conditions they remain responsible for full payment of the initial placement fee.
- 8.3 All refunds are subject to an administration fee of 10%

**9 TERMINATION**

- 9.1 The Agreement shall continue until the Services have been provided in terms of the Registration Form or any subsequent date as mutually agreed in writing by both parties or until terminated by either party in accordance with these Terms and Conditions.
- 9.2 The Client may terminate the Agreement if the Agent fails to comply with any aspect of these Terms and Conditions and this failure continues for a period of 28 days after notification of non-compliance is given.
- 9.3 The Agent may terminate the Agreement if the Client has failed to make over any payment due within 30 days of the sum being requested.
- 9.4 Either party may terminate the Agreement by notice in writing to the other if the other party:
- 9.4.1 commits a material breach of these Terms and Conditions and, in the case of a breach capable of being remedied, fails to remedy it within a reasonable time of being given written notice from the other party to do so; or
  - 9.4.2 commits a material breach of these Terms and Conditions which cannot be remedied under any circumstances; or
  - 9.4.3 passes a resolution for winding up (other than for the purpose of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect; or

- 9.4.4 ceases to carry on its business or substantially the whole of its business; or
- 9.4.5 is declared insolvent or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or a liquidator, receiver, administrative receiver, manager, trustee or similar officer is appointed over any of its assets.

9.5 In the event of termination the Client must make over to the Agent any payment for work done and expenses incurred up to the date of termination.

9.6 Any rights to terminate the Agreement shall be without prejudice to any other accrued rights and liabilities of the parties arising in any way out of the Agreement as at the date of termination.

## **10 ARBITRATION**

10.1 Any dispute arising under this Agreement will be referred to and decided by an independent Arbitrator.

10.2 A party wishing to refer a dispute to the Arbitrator shall advise the other party of this intention in writing at any time during the term of this Agreement. The dispute must then be referred to the Arbitrator within seven (7) days of this intention being intimated.

10.3 The Arbitrator shall act impartially and be free to take the initiative in ascertaining the facts and the law. The Arbitrator must reach a decision within twenty eight (28) days of referral or such longer period as the parties may agree.

10.4 During the period of arbitration both parties must continue with their obligations as stated in this Agreement.

10.5 The decision of the Arbitrator is binding on both parties unless and until revised by legal proceedings or agreement by both parties.

## **11 WARRANTY**

Both parties warrant their authority to enter into this Agreement and have obtained all necessary approvals to do so.

## **12 LIMITATION OF LIABILITY**

12.1 Nothing in these Terms and Conditions shall exclude or limit the liability of the Agent for death or personal injury, however the Agent shall not be liable for any direct loss or damage suffered by the Client or any third party howsoever caused, as a result of any negligence, breach of contract or otherwise in excess of the sum insured under the professional indemnity insurance policy held by the Agent in the insurance year in which the Client's claim is first notified.

12.2 The Agent accepts no liability for any loss, damage, expense or compensation suffered or incurred of any nature by the Client, arising directly or indirectly from an act or omission by any Applicant introduced to the Client by the Agent.

## **13 INDEMNITY**

The Client shall indemnify the Agent against all claims, costs and expenses which the Agent may incur and which arise directly or indirectly from the Client's breach of any of its obligations under these Terms and Conditions.

**14 FORCE MAJEURE**

Neither party shall be liable for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to acts of God, strikes, lock outs, accidents, war, fire, breakdown of plant or machinery or shortage or unavailability of raw materials from a natural source of supply, and the party shall be entitled to a reasonable extension of its obligations.

**15 ASSIGNMENT**

The Client shall not be entitled to assign its rights or obligations or delegate its duties under this Agreement without the prior written consent of the Agent.

**16 THIRD PARTY RIGHTS**

Nothing in these Terms and Conditions intend to or confer any rights on a third party.

**17 SEVERANCE**

If any term or provision of these Terms and Conditions is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if these Terms and Conditions had been agreed with the invalid, illegal or unenforceable provision eliminated.

**18 WAIVER**

The failure by either party to enforce at any time or for any period any one or more of the Terms and Conditions herein shall not be a waiver of them or of the right at any time subsequently to enforce all Terms and Conditions.

**19 NOTICES**

Any notice to be given by either party to the other may be served by email, fax, personal service or by post to the address of the other party given in the Registration Form or such other address as such party may from time to time have communicated to the other in writing, and if sent by email shall unless the contrary is proved be deemed to be received on the day it was sent, if sent by fax shall be deemed to be served on receipt of an error free transmission report, if given by letter shall be deemed to have been served at the time at which the letter was delivered personally or if sent by post shall be deemed to have been delivered in the ordinary course of post.

**20 ENTIRE AGREEMENT**

These Terms and Conditions supersede any previous agreements, arrangements, documents or other undertakings either written or oral.

**21 GOVERNING LAW**

These Terms and Conditions shall be governed by and construed in accordance with the law of England and the parties hereby submit to the exclusive jurisdiction of the English courts.