

## Terms and Conditions of Business

Effective from: 1st January 2015

### PREAMBLE

The Company and the Client agree to be bound by these Terms in all circumstances where the Company agrees to provide Permanent Recruitment Services to the Client, and the Client agrees to acquire those Permanent Recruitment Services from the Company.

### DEFINITIONS

|                       |   |
|-----------------------|---|
| “Applicant”           | refers to any person introduced by the Company to the Client. It includes someone who may have been known or referred to that Client before Instructions are given or the Introduction is made, and also includes any members of the Company’s recruitment staff assigned to the Client’s recruitment project.  |
| “the Client”          | means the person, business or company to whom an Introduction is made. It includes anyone who asks the Company for an Introduction, gives Instructions or interviews an Applicant on behalf of a Client (“Client Intermediary”).  |
| “the Company”         | means Entire Recruitment Solutions Ltd. located at Weston Homes Community Stadium, United Way, Colchester CO4 5UP. Company Registration Number: 7401527.  |
| “Force Majeure Event” | includes any act, event, non-happening, omission or accident beyond the reasonable control of the Company and includes in particular (without limitation) the following: <ol style="list-style-type: none"><li>1. Strikes, lock-outs or other industrial action.</li><li>2. Civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war.</li><li>3. Fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster.</li><li>4. Impossibility of the use of public or private telecommunications networks</li><li>5. The acts, decrees, legislation, regulations or restrictions of any government.</li></ol> |
| “Recruit”             | refers to an applicant who is subsequently engaged by the Client either as an employee or under a Contract of Service or as an agent.   |
| “Remuneration”        | is deemed to be the total amount of the following in respect of the first year of the Engagement before the deduction of any tax: <ol style="list-style-type: none"><li>1. The annual salary.</li><li>2. Fees.</li><li>3. Profit share or equivalent remuneration.</li><li>4. All guaranteed commissions, bonuses and allowances (including company car allowances).</li><li>5. Benefits of any kind.</li><li>6. In the event that the Applicant is provided with a company car, the sum of £5,000 shall be added to the Remuneration.</li></ol> <p>If the Recruit is not engaged as an employee of the Client, Remuneration is deemed to be made to the Recruit for the services provided for the first year.</p>          |
| “Fee”                 | means the fee specified in the Fee Schedule (exclusive of VAT) or such other service fee that is agreed by the Company and the Client by accepting these terms and conditions.  |
| “Services”            | means the service of providing Permanent Recruitment Services to the Client.  |
| “Terms”               | means these Permanent Recruitment Services Terms and Conditions of Business.  |
| “VAT”                 | means Value Added Tax chargeable under UK Law for the time being and any similar additional tax.  |

## GENERAL

1. These Terms are between the Company and the Client, and govern the obligations of both parties under any contract for the provision of the Services.
2. These Terms shall take immediate effect in substitution of all previous terms relating to the contents hereof, whether written, oral or implied between the Company and the Client.
3. These Terms are deemed to be accepted by the Client if the Client or any of the Client's employees or representatives either interviews or engages an Applicant or requests the Company to perform one of its recruitment services.
4. No variation or alteration to these Terms shall be valid unless expressly agreed and confirmed in writing by a Director of the Company. No-one else acting for the company has authority to agree to any variation or waiver.
5. If a specific fee or payment arrangement has been made between the Company and the Client, which includes a variation of any of these terms and the Client breaches any term of that arrangement, then all of these terms shall be substituted for and form part of that arrangement with immediate effect.
6. In addition to and without prejudicing any of its other remedies, the Company may terminate the agreement with the Client with immediate effect if the Client breaches any of its terms or (in the Company's view) materially alters the Instructions. If the agreement is cancelled or terminated because of a material alteration to the Instructions, the Client agrees to indemnify the Company against Losses incurred by it to that date resulting from the cancellation or termination.
7. The Company shall not incur any liability to the Client for any Losses if the performance of the Company's obligations is prevented or delayed by the acts or omissions of others or other events, which are beyond its reasonable control.
8. If any of these provisions or terms (or part thereof) is judged to be invalid or unenforceable for any reason, but such provision or term would be held to be valid if part of the wording were either amended or deleted, then such provision shall apply with such amendments/deletions as may be necessary to make it valid. Any provision or term that cannot be made valid in such way shall be deemed to be severed from these terms and the rest of the terms shall continue in full force and effect, provided always that if such amendment or deletion substantially alters the commercial basis of these terms the parties shall negotiate in good faith to modify these terms as necessary.

## COMPANY'S OBLIGATIONS

9. Subject to the Client's proper and timely performance of its obligations, the Company will use its reasonable endeavours to supply the Services in accordance with these Terms.
10. The Company shall:
  - a) have the right to suspend, temporarily or permanently, or to cease to provide the Services in any circumstances beyond its control (as reasonably determined by the Company, including but not limited to unavailability of or interruption to electrical or other power supplies, unavailability of any communication system, computer hardware or software whether through malfunction of hardware or software, damage or for any other reason); and
  - b) have no liability or responsibility for any failure to perform, or delay in performance of, any of its obligations to provide the Services that is caused by a Force Majeure Event and any contract between the Company and the Client is deemed to be suspended for the period that the Force Majeure Event continues, and the Company will have an extension of time for performance for the duration of that period. The Company will use reasonable endeavours to find a solution by which its obligations under these Terms may be performed despite the Force Majeure Event.

## CLIENT OBLIGATION

11. The Client agrees to inform the Company in writing of the engagement of an Applicant immediately upon such engagement and shall pay the Fee (as calculated in accordance with Clause 16 of the terms and conditions).
12. Introductions of Applicants by the Company are confidential. If within six months of the introduction the Client or one of its employees introduces an Applicant to any third party who subsequently engages the Applicant the Client will pay the Fee (as calculated in accordance with Clause 16 of these terms and conditions).
13. The Client shall be responsible for the direct and indirect costs of any additional services provided at the Client's request. For example advertisements and psychometric assessment services where applicable.
14. The Client shall be responsible for:
  - a) Taking up all necessary references and confirming any professional and academic qualifications of the Applicant prior to his/her commencing work and for obtaining work permits and satisfying any medical requirements.
  - b) Verifying the applicant's skills, qualifications, experience, integrity, references and suitability prior to his/her commencing work.

c) Verifying the accuracy and completeness of the information referred to at (b) hereof.

15. The Company shall bear no responsibility for any loss, damage, expense, delay, loss of profits or liability suffered or incurred by the Client by any reason of the lack of skills, qualifications, experience, integrity or suitability of the Applicant or by reason of the inaccuracy or incompleteness of the information referred to in Clause 14 (b) hereof or any references of the Applicant or by reason of the selection of the Applicant by the Client.

**FEES**

16. The Fee payable to the Company upon engagement of an Applicant (the “Fee”) is calculated in accordance with the following scale:

| Remuneration       | Percentage of Remuneration |
|--------------------|----------------------------|
| Up to £24,999      | 15%                        |
| £25,000 to £39,999 | 20%                        |
| £40,000 to £59,999 | 25%                        |
| £60,000 to £74,999 | 30%                        |
| £75,000+           | 35%                        |

**CLIENT PAYMENT**

- 17. The Fee will be invoiced on the day the Recruit commences for the Client.
- 18. The Company shall invoice the Client for all additional charges mentioned in these terms and conditions as soon as the associated costs have been charged to the Company.
- 19. All Fees and charges are subject to Value Added Tax and other applicable Government taxes.
- 20. The Company shall give the Client at least 30 days’ notice in writing of any amendment to the fee structure for Services which the amended fee structure shall apply after expiry of the 30 day notice period.
- 21. The Client agrees to pay all invoices from the Company within 28 days of the invoice date shown on the invoice.

**GUARANTEES AND REBATES**

- 22. Once a candidate has been placed the Company will not solicit the candidate directly with regards to new opportunities.
- 23. If, within three months of engagement, a Recruit either resigns or whose employment is terminated for unsatisfactory performance and the Client has complied with the terms as to Notification of the Engagement as specified in Clause 21 above, and the Company receives written advice of the termination of the engagement within seven days, the following shall apply:
  - a) No additional Fee will be charged if the Client recruits a replacement Recruit within 28 days of notification of the termination of the agreement or
  - b) If the Company is unable to propose further Applicants within the 28 days the Client will receive a rebate in accordance with the scale set out below. An administration fee of £250 will be applicable on 100% rebates.

| Period of Employment | Rebate (% of Fee) |
|----------------------|-------------------|
| Up to 2 weeks        | 100%              |
| Up to 4 weeks        | 80%               |
| Up to 6 weeks        | 60%               |
| Up to 8 weeks        | 40%               |
| Up to 12 weeks       | 20%               |

**LIABILITIES**

- 24. The Company shall not in any circumstances whatsoever be liable for any injury, loss (whether direct or indirect or consequential), expense, damage, delay or loss of profits suffered or incurred by the Client or for any liability to third parties of whatever nature suffered or incurred by the Client arising out of or connected with or caused by any refusal or failure by the Applicant to work or by any breach of contract, negligence, breach of statutory duty, omission, default, wilful or reckless action on the part of the Applicant, save insofar as any personal injury to the Client or anybody else has been caused by the negligence of the Company.
- 25. The Client shall indemnify the Company against all claims, demands, actions, proceedings and liabilities of whatever nature brought by any third party against the Company which arise out of or are connected with or have been caused by in any manner whatsoever

by the failure or refusal by the Applicant to work or by the breach of contract or the negligence, breach of statutory duty, omissions, default, wilful or reckless action on the part of the Applicant or by any dishonesty or fraud on the part of the Applicant.

26. The Client shall arrange appropriate insurance cover in respect of the matters set out in Clauses 24 and 25 above.
27. The Company shall make all enquiries as are reasonably practicable for the purpose of ascertaining that the Applicant has such qualifications as persons doing work as described in the booking details supplied by the Client are required by law to have and that the doing of such work by the Applicant would not be in contravention of any requirement or prohibition imposed by law.
28. The Company gives no warranties as to the Applicant's skill, qualifications, experience, general integrity, references or suitability or as to the accuracy or completeness of any information about the Applicant or his/her skills, qualifications, experience, integrity, references or suitability whether the information is supplied by the Company or direct by the Applicant.
29. The Client shall indemnify the Company against all claims, demands, proceedings and liabilities of whatever nature brought by a third party against the Company which arise out of or are connected with or have been caused in any manner whatsoever by any information supplied by the Company as to the skills, qualifications, experience, integrity or suitability of the Applicant or otherwise howsoever arising out of the performance or purported performance of the contract by the Company whether or not such information be given negligently by the Company, its servants or agents.
30. The Client shall be responsible for providing to the Company in a timely manner and in a form acceptable to the Company, all materials, including content and/or copy, as the Company shall in its sole opinion required to enable the Company to provide the Services.

#### **ENFORCEABILITY**

31. Any contract for the supply of Services and these Terms shall be governed and enforceable by English Law and the parties agree to submit to the exclusive jurisdiction of the English Courts.
32. The invalidity or unenforceability for any reason of any part of these Terms shall not prejudice or affect the validity or enforceability of the remainder.

#### **SEVERANCE**

33. If any provision (or part of a provision) of these Terms is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions will remain in force.
34. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, that provision will apply with whatever modification is necessary to make it valid, enforceable and legal.

#### **GOVERNING LAW AND JURISDICTION**

35. These Terms and any dispute or claim arising out of or in connection with them or their subject matter, shall be governed by, and construed in accordance with, the law of England and Wales. The Company and the Client irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with these Terms or their subject matter.