

TERMS OF BUSINESS FOR THE INTRODUCTION OF PERMANENT STAFF

These Terms and Conditions of Business apply to all transactions from [today's date] between Frankland Associates Ltd (acting as an Employment Agency, hereafter called the Agency) and [Client Name] (hereinafter called the Client).

1. DEFINITIONS

1.1 In these terms of business the following definitions apply:

"Applicant" means an individual introduced by the Agency to the Client from time to time for an Engagement as a potential Permanent Worker including any officer or employee of the Applicant if the Applicant is a limited company and members of the Agency's own staff;

"Client" means the person, firm or corporate body together with any subsidiary or associated Company as defined by the Companies Act 1985 to which the Applicant is introduced;

"Agency" means Frankland Associates Limited.

"Employment Agency" means the activity of offering Introductions to Permanent Workers for permanent Engagements;

"Engagement" means the engagement, employment or use of the Applicant by the Client or any third party on a permanent or temporary basis, whether under a contract of service or for services; under an agency, licence, franchise or partnership agreement; or any other engagement; directly or through a limited company of which the Applicant is an officer or employee;

"Gross Remuneration" means the gross annual taxable remuneration payable to the Applicant in his capacity as Permanent Worker which includes without limitation all salary, guaranteed bonus and commission payments, agreed expenses, and other taxable emoluments including car allowance or an amount agreed in respect of the provision of a car (usually £3000) payable to, or receivable by the Applicant for services rendered to or on behalf of the Client;

"Introduction" means (i) the passing to the Client of a curriculum vitae (CV) or information which identifies the Applicant and which leads to an Engagement of that Applicant, or (ii) the Client's interview of an Applicant in person, by telephone, electronic or web-based means;

"Permanent Worker" means an Applicant whose services are introduced to the Client by the Agency for which the Client agrees to engage such Applicant;

1.2 Unless the context otherwise requires, references to the singular include the plural and references to the masculine include the feminine and vice versa.

1.3 The headings contained within these terms are for convenience only and do not affect their interpretation.

2. GENERAL

2.1 These terms govern the supply of Permanent Workers to the Client and are applicable to any and all Introductions. In respect of the introduction of Permanent Workers, the Agency will be acting as an Employment Agency.

2.2 These Terms constitute the contract between the Agency and the Client and are deemed to be accepted by the Client by virtue of its request for an Introduction to, or the Engagement of an Applicant or the passing of any information about the Applicant to any third party following an Introduction.

2.3 These terms contain the entire agreement between the parties and unless otherwise agreed in writing by a Director of the Agency, these Terms of Business prevail over any other terms of business or purchase conditions put forward by the Client.

2.4 No variation or alteration to these Terms shall be valid unless the details of such variation are agreed between the Agency and the Client and are set out in writing and a copy of the varied terms is given to the Client stating the date on or after which such varied terms shall apply.

2.5 Whilst the Agency agrees to make every reasonable effort to ensure reasonable standards of skills, integrity, reliability and suitability of Applicants introduced to the Client, it is the responsibility of the Client to satisfy itself on all such matters and on the suitability of any Applicant before Engagement. To avoid doubt, unless the Agency is specifically engaged to undertake such work and such an engagement is confirmed by the Agency in writing, the Agency does not under any circumstances accept responsibility for neither a) checking references, nor b) arranging medical examinations or work permits or other similar documentation.

2.5.1 The Agency will use reasonable endeavours to introduce to the Client a suitable Candidate to carry out work for the Client of such nature as the Client shall notify to the Agency when advising the Agency of the vacancy in respect of which the Candidate has been introduced. The Agency cannot guarantee to find a suitable Candidate for each vacancy.

2.6 The Client acknowledges and agrees that the Agency may from time to time contact the Client to offer services which may be of interest to the Client.

2.7 These terms shall be subject to and interpreted in accordance with the laws of England and the Agency and the Client shall submit to the exclusive jurisdiction of the Courts of England.

2.8 A person who is not a party to this agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

2.9 In the event that the provision of the services by the Agency will require the use of or access to personal data (as that term is defined in the Data Protection Act 1998 (the "Act") or in any legislation amending or superseding the Act) supplied by the Agency, the Client will use such personal data only in accordance with the written instructions of the Agency:

- any written data, including, without limitation, any personal data so supplied by the Agency will remain the property of the Agency, and, upon expiry or termination (howsoever effected) of the agreement, the Client will forthwith procure the return of the same and any copies thereof to the Agency;
- without prejudice to the foregoing, the Client will comply with obligations equivalent to those imposed by the seventh principle of the Act. The Agency may take all reasonable steps to ensure such compliance by the Client;

3. NOTIFICATION AND FEES

3.1 Except in the circumstances set out in clause 4.1 below, no fee is incurred by the Client until the Applicant commences the Engagement when the Agency will render an invoice to the Client for its fees.

3.2 The Client agrees:

- to notify the Agency immediately in writing of any offer of an Engagement which it makes to the Applicant;
- to notify the Agency immediately in the event its offer of an Engagement is accepted;
- to pay the Agency's fee within 14 or 30 days of the date of the invoice

3.3 The fee payable to the Agency by the Client for an Introduction resulting in an Engagement is the amount equal to the following % of the Gross Remuneration applicable during the first 12 months of the Engagement as listed below. VAT will be charged on the fee if applicable.

Gross Remuneration Fees payable (Fees payable as a percentage of Gross Remuneration)

(a) To be discussed at time of booking

3.4 All payments due to the Agency pursuant to these terms shall be paid within 14 or 30 days of the date of issue of any invoice. In respect of any amount to be paid by the Client to the Agency pursuant to these terms, the Agency reserves the right to charge interest on any unpaid amounts at the rate of 8% per annum above the base rate of Bank of England from the due date until the date of payment, and to claim legal and recovery costs, where such amount remains outstanding for more than 30 days from the date of the invoice: Late Payment of Commercial Debts (Interest) Act 1998.

3.5 In the event that the Engagement is for a fixed term of less than 12 months, the fee in clause 3.3 will apply pro-rata. If the Engagement is extended beyond the initial fixed term or if the Client re-engages the Applicant within 12 calendar months from the date of termination of the first Engagement the Client shall be liable to pay a further fee based on the additional Gross Remuneration applicable for the period of Engagement following the initial fixed term up to the termination of the second Engagement or the first anniversary of its commencement, whichever is the sooner.

3.6 If the Client subsequently engages or re-engages the Applicant within the period of 12 calendar months from the date of termination of the Engagement or withdrawal of the offer, a full fee calculated in accordance with clause 3.3 above becomes payable.

4. CANCELLATION FEE

4.1 If, after an offer of Engagement has been made to the Applicant, the Client decides for any reason to withdraw it, the Client shall be liable to pay the Agency a minimum fee of £250.00 plus VAT to cover reasonable disbursements already paid out by the Agency.

5. REFUND GUARANTEE

5.1 Should the Applicant, having taken up employment as a Permanent Worker, leave such employment the Client may be eligible for a credit or refund provided always that written notification is received by the Agency within 7 days of the termination date and that the invoice issued by the Agency has been paid in full within 14 or 30 days of the commencement of employment, in which case the Client will be entitled to the following refund:

(a) Either 8 or 12 weeks depending on payment terms

5.2 In circumstances where clause 3.6 applies the full fee stated in clause 3.3 is payable and there shall be no entitlement to a refund.

5.3 In circumstances where redundancy of the Permanent Worker, or liquidation, bankruptcy, dissolution or amalgamation of the Client has occurred no refund is payable

6. INTRODUCTION

6.1 Introductions of Applicants are confidential. The disclosure by the Client to a third party of any details regarding an Applicant introduced by the Agency which results in an Engagement with that third party within 12 months of the Introduction renders the Client liable to payment of the Agency's fee as set out in clause 3.3 with no entitlement to any refund.

6.2 An introduction fee calculated in accordance with clause 3.3 will be charged in relation to any Applicant engaged as a consequence of or resulting from an introduction by or through the Agency, whether direct or indirect, within 12 months from the date of the Agency's Introduction.

6.3 Where the amount of the actual Gross Remuneration is not known the Agency will charge a fee calculated in accordance with clause 3.3 on the minimum level of remuneration applicable for the position in which the Applicant has been engaged with regard to any information supplied to the Agency by the Client and/or comparable positions in the market generally for such positions

7. LIABILITY

7.1 The Agency shall not be liable under any circumstances for any loss, expense, damage, delay, costs or compensation (whether direct, indirect or consequential) which may be suffered or incurred by the Client arising from or in any way connected with the Agency seeking an Applicant for the Client or from the Introduction to or Engagement of any Applicant by the Client or from the failure of the Agency to introduce any Applicant. For the avoidance of doubt, the Agency does not exclude liability for death or personal injury arising from its own negligence.

8. MISCELLANEOUS

8.1 The Agency reserves the right to review and to revise these Terms without prior notice.

These terms and conditions are accepted by:

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