



BRIAN DURHAM

RECRUITMENT SERVICES PERMANENT DIVISION LIMITED



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VAT Reg No. 308 6577 79 Registered in England No. 11628325

1. DEFINITIONS

1.1 In these Terms of Business the following Definitions apply:

- 'Agency'** Means Brian Durham Recruitment Services Permanent Division Limited, T7, Allen House Business Centre, The Maltings, Station Road, Sawbridgeworth, Hertfordshire, CM21 9JX
Registered number 11628325
- 'Candidate'** Means the person introduced by the Agency to the client for an Engagement including any offer, employee or other representative of the Candidate if the Candidate is a corporate body, and members of the Agency's own staff;
- Client** Means the person, firm or corporate body together with any subsidiary or associated person, firm or corporate body (as the case may be) to which the Candidate is introduced;
- 'Data protection Laws'**
Means the Data Protection Act 1998, the General Data Protection Regulation (EU 2016/679) or any applicable statutory or regulatory provisions in force from time to time relating to the protection and transfer of personal data
- Engagement'** Means the engagement, employment or use of the Candidate by the Client or by a third party to whom the Candidate has been introduced by the Client, on a permanent or temporary basis, whether under a contract of service or for services; under any agency, license, franchise or partnership agreement; or any other engagement; or through a limited company of which the Candidate is an officer, employee or other representative; and "Engages" and "Engaged" shall be construed accordingly;
- 'Introduction'** Means (i) the passing to the Client of a curriculum vitae or information which identifies the Candidate or (ii) the Client's interview of a Candidate (in person, by telephone or by any other means), following the Client's instruction to the Agency to search for a Candidate and; and, in either case, which leads to an Engagement of the Candidate; and "introduces" and "introduced" shall be construed accordingly;
- Introduction Fee'** Means the fee payable by the Client to the Agency For the introduction resulting in an Engagement

'Remuneration

Means gross base salary

- 1.2 Unless the context requires otherwise, references to the singular include the plural and references to the masculine include the feminine and vice versa
- 1.3 The headings contained in these Terms of Business are for convenience only and do not affect their interpretation

2. THE CONTRACT

- 2.1 These terms of business and any attached schedule(s) ("the Terms") constitute the contract between the Agency and the Client for the introduction of permanent or contract staff (to be engaged directly by the client) and are deemed to be accepted by the Client by virtue of an introduction or the Engagement of a Candidate, or the passing by the Client of any information about a Candidate to any third party following an introduction.
- 2.2 These terms contain the entire agreement between the parties and unless otherwise agreed in writing by a director of the Agency, these Terms prevail over any other terms of business or purchase conditions (or similar) put forward by the Client.
- 2.3 No variation or alteration to these Terms shall be valid unless the details of such variation are agreed between a director of 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.
- 2.4 The agency acts as an employment agency (as defined in Section 13(2) of the Employment Agencies Act 1973) when introducing Candidates to the Client for direct Engagement by that Client.

3. NOTIFICATION AND FEES

- 3.1 Brian Durham Recruitment Services' fee in respect of Services for a permanent position ('the Permanent Fee') shall be calculated as follows:
- 17.5% on initial annual salaries to £19,999
 - 20% on initial annual salaries between £20,000 and £29,999
 - 22.5% on initial salaries between £30,000 and £39,999
 - 25% on initial annual salaries between £40,000 and £59,000
 - 30% on initial salaries beyond £60,000
- The Client agrees to:
- (a) Notify the Agency immediately of the terms of any offer of an Engagement which it makes to the Candidate;
 - (b) Notify the Agency immediately that its offer of an Engagement to the Candidate has been accepted and to provide details to the

Agency of the Remuneration agreed with the Candidate together with any documentary evidence as requested by the Agency; and

- (c) Pay the introduction fee, to be calculated in accordance with the provisions of this clause 3, by the due date for payment in clause 3.2
- 3.2 The introduction fee calculated in accordance with clause 3.3 is payable if the Client Engages the Candidate within the period of 6 calendar months from the date of (a) the Introduction, (b) the Client's withdrawal of an offer of Engagement or (c) the Candidate's rejection of an offer of an Engagement, (whichever is the later)
 - 3.2.1 The introduction fee shall be payable within days of the date of the Agency's invoice which shall be rendered once the Candidate commences the Engagement
- 3.3 The introduction Fee is calculated in accordance with the attached fee structure schedule based on the remuneration applicable during the first 12 months of Engagement
- 3.4 Where the actual Remuneration is not known, The Agency will charge an introduction fee calculated in accordance with clause 3.3 based on its determination of the Remuneration taking into account the market rate level remuneration applicable for the position in which the candidate has been engaged and with regard to any information supplied to the agency by the client and or comparable positions in the market generally
- 3.5 In the event that the Engagement is for a fixed term of less than 12 months, the fee in clause 3.4 will apply pro-rata. If the Engagement is extended beyond the initial fixed term or if the Client re-engages the Applicant within 6 months of the termination of the first Engagement the Client shall be able to pay a further fee based on the additional Remuneration applicable for the period the 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 The Client's obligations under this clause 3 shall be performed without any right of the Client to invoke set-off, deductions, withholdings or other similar rights
- 3.7 VAT is charged at the standard rate on all fees

4. REFUNDS

- 4.1 In order to qualify for the following refund the Client must pay the Agency's fee within 10 working days of the date of invoice and must notify the Agency in writing of the termination of the Engagement within 7 days of its termination
- 4.2 If the Engagement terminates before the expiry of 12 weeks from the commencement of the Engagement (except where the Applicant is made redundant) the fee will be refunded in accordance with the accompanying Scale of Refund set out in the schedule of these Terms of Business
- 4.3 Should the Client or any subsidiary or associated Agency of the Client subsequently engage or re-engage the Applicant within the period of 6 calendar months from the date of termination of the Engagement or withdrawal of the offer, a full fee calculated in accordance with clause 3,4 above becomes payable, with no entitlement to the refund

INTRODUCTIONS TO THIRD PARTIES

a Candidate's details to a third party, that will be deemed to be a "Third Party Introduction". If that Third Party introduction results in an Engagement of the Candidate by the third party within months of the Agency's introduction of the Candidate to the Client, then the Client will be liable to the Agency for payment of an introduction Fee calculated in accordance with clause 3.3.

Neither the Client nor the third party shall be entitled to a refund of the introduction Fee under clause 4 in any circumstances

5. SUITABILITY CHECKS

- 5.1 The Agency endeavours to ensure the suitability of Candidates Introduced to the Client to work in the position which the Client Seeks to fill by taking reasonably practicable steps to:
- 5.2 Ensure that it would not be detrimental to the interests of either The Client or the Candidate
- 5.3 Ensure that both the Client and Candidate are aware of any requirements imposed by law or by an professional body;
- 5.4 Confirm that the Candidate is willing to work in the position
- 5.5 Client shall be obliged to satisfy itself as to the suitability of the Candidate for the position they are seeking to fill. The client is responsible for:
 - 5.6 Taking up references provided by the Candidate before Engaging the Candidate
 - 5.7 Checking the Candidate's right to work and obtaining permission to work as may be required by the law of the country in which the Candidate is Engaged to work
 - 5.8 The arrangement of medical examinations and/or investigations into the medical history of any Candidate; and
 - 5.9 Satisfying any medical and other requirements, qualifications or permission required for the Candidate to work in the Engagement
- 5.1.1 To enable the Agency to comply with its obligations under clause above the Client undertakes to provide to the Agency details of the position which the Client seeks to fill, including the following
 - 5.1.2 The type of work that the Candidate would be required to do;
 - 5.1.3 The location and hours of work;
 - 5.1.4 The experience, training, qualifications and any authorisation which the Client considers necessary or which are required by law or any professional body for the Candidate to possess in order to work in the position;
 - 5.1.5 any risks to health or safety known to the Client and what steps the client has taken to prevent or control such risks;
 - 5.1.6 the date the client required the Candidate to commence the Engagement;
 - 5.1.7 The duration or likely duration of the Engagement;
 - 5.1.8 The minimum rate of Remuneration, expenses and any other benefits that would be offered;
 - 5.1.9 The intervals of payment of Remuneration; and
- 5.2.1 The length of notice that the Candidate would be entitled to give and receive to terminate their employment with the Client

6. INFORMATION TO BE PROVIDED

When the Agency introduces a Candidate to the Client the Agency shall inform the Client that they have obtained confirmation of the matters set out in clause 6.1. Where such information is not given in paper form or by electronic means it

shall be confirmed by such means by the end of the third business day (excluding Saturday, Sunday and any Public or Bank Holiday) following, save where the Candidate is being introduced for an Engagement which is the same as one in which the Candidate has worked within the previous 5 business days and such information has already been given to the Client

7-8	40%
9-10	20%
11-12	10%

3. There will be no refund where the Applicant leaves during or after the 13th week of the Engagement
4. The above scale of refund does not apply to the fee set out in Clause 5 being a minimum Fee in the event of the Client cancelling the Engagement after an offer of an Engagement has been made to the Applicant

7 CONFIDENTIALITY AND DATA PROTECTION

All information relating to a Candidate is confidential and subject to the Data Protection Laws and is provided solely for the purpose of providing work-finding services to the client. Such information must not be used for any other purpose nor divulged to any third party and the Client undertakes to abide by the provisions of the Data Protection Laws in receiving and processing the data at all times. In addition information relating to the Agency's business which is capable of being confidential must be kept confidential and not divulged to any third party, except information which is in the public domain

8. LIABILITY

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 a Candidate for the Client or from the introduction to or Engagement of any Candidate by the Client or from the failure of the Agency to introduce any Candidate. For the avoidance of doubt, the Agency does not exclude liability for death or personal injury arising from its negligence or for any other loss which it is not permitted to exclude under law.

9. NOTICES

All notices which are required to be given in accordance with these Terms shall be in writing and may be delivered personally or by first class prepaid post to the registered office of the party upon whom the notice is to be served or any other address that the party has notified the other party in writing, by email or facsimile transmission. Any such notice shall be deemed to have been served; if by hand when delivered, if by first class post 48 hours following posting and if by email or facsimile transmission, when that email or facsimile is sent

10. SEVERABILITY

If any of the provisions of these Terms shall be determined by any competent authority to be unenforceable to any extent, such provision shall, to that extent, be severed from the remaining terms, which shall continue to be valid to the fullest extent permitted by applicable laws.

11. GOVERNING LAW AND JURISDICTION

These Terms are governed by the law of (England & Wales) and are subject to the exclusive jurisdiction of the courts of (England & Wales)

12. REBATE SCHEDULE

1. The following scale of refund only applies in the event that the Client complies with the provisions of Clause 3,1 of these Terms of Business
2. Where the Applicant leaves during the first 12 weeks of the Engagement a partial refund of the introduction fee shall be paid to the Client in accordance with the scale set out below, subject to the conditions in Clause 4.1

Week in which the Applicant Leaves	% of Introduction Fee Refunded
1-2	90%
3-4	80%
5-6	60%

**BRIAN DURHAM RECRUITMENT SERVICES LIMITED
SEARCH INFORMATION**

1. The fee shall be payable in the following instalments:
 - 1.1 0% of the fee upon acceptance of Client's instructions payable within 7 days of invoice
 - 1.2 25% of the fee upon delivery by the Company of a short-list of candidates, payable within 7 days of invoice and
 - 1.3 25% upon commencement of the Engagement/ the Applicant's acceptance of the offer of Engagement payable within 7 days of invoice
2. In the case of retained searches where the precise Remuneration is not known in advance, the Remuneration will be estimated for the purposes of the first two instalments of the fee. The final instalment of the fee will be based on the actual Remuneration and any necessary adjustments will be made. In addition Clause 1.3 above shall not apply to retained searches and no entitlement to refunds of any paid instalments arises, where the Client decides not to proceed with the search or appointment of the Applicant

Signed for and behalf of the client

Print Name

I confirm I am authorised to sign these Terms on behalf of the Client

Date.....