

TERMS OF BUSINESS FOR THE INTRODUCTION OF PERMANENT STAFF TO BE DIRECTLY EMPLOYED BY THE CLIENT

1. DEFINITIONS

1.1 In these Terms of Business the following definitions apply:

"Candidate" - means the person introduced by the Agency to the Client for an Engagement including any officer or employee of the Candidate if the Candidate 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 2006 to which the Candidate is introduced;

"Agency" - means Certus Sales (UK) Limited (registered company no. 7900854) of 4th Floor, 126-134 Baker St, London, W1U 6UE;

"Engagement" - means the engagement, employment or use of the Candidate by the Client or any third party or through any other employment business on a permanent or temporary basis, whether under a contract of service or for services; under an agency, license, franchise or partnership agreement; or any other engagement; directly or through a limited company of which the Candidate is an officer or employee or other representative; and "Engage", "Engages" and "Engaged" shall be construed accordingly;

"Introduction" - means (i) the Client's interview of a Candidate in person or by telephone, following the Client's instruction to the Agency to search for a Candidate; or (ii) the passing to the Client of a curriculum vitae or information which identifies the Candidate; and which leads to an Engagement of that Candidate; and "Introduces" and "Introduced" shall be construed accordingly;

"Introduction Fee" - means the fee payable by the Client to the Agency for an Introduction resulting in an Engagement;

"Cancellation Fee" - means the fee payable by the Client to the Agency when the Client withdraws an offer of Engagement made to the Candidate and which is calculated in accordance with clause 5.1;

"Remuneration" - includes base salary or fees, guaranteed bonus and commission earnings, allowances, inducement payments, the benefit of a company car and all other payments and taxable (and, where applicable, non-taxable) emoluments payable to or receivable by the Candidate for services rendered to or on behalf of the Client. Where a company car is provided by the Client, a notional amount of £6000 will be added to the salary in order to calculate the Agency's fee.

1.2 Unless the context requires otherwise, references to the singular include the plural.

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 constitute the contract between the Agency and the Client and are deemed to be accepted by the Client by virtue of an Introduction to, or the Engagement of a Candidate or the passing of any information about the 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 of Business prevail over any other terms of business or purchase conditions 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 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 The Clients agrees:

a) to notify the Agency immediately of any offer of an Engagement which it makes to the Candidate;
b) to notify the Agency immediately that its offer of an Engagement to the Candidate has been accepted and to provide details of the Remuneration to the Agency; and
c) to pay the Agency's fee within 14 days of the date of invoice.

3.2 Except in the circumstances set out in clause 5.1 below, a fee is incurred when an offer of Engagement is made to the Candidate and it is accepted by the Candidate. The Agency will render an invoice to the Client when the Candidate commences the Engagement.

3.3 The Agency reserves the right to charge interest on invoiced amounts unpaid for more than 14 days at the rate of 4% per annum above the base rate from time to time of The Bank of England from the due date until the date of actual payment.

3.4 The fee payable to the Agency by the Client for an Introduction resulting in an Engagement is calculated as follows: for annual remuneration up to £39,999 the fees payable are 25% and for over £40,000 the fees payable are 30%. VAT will be charged on the fee if applicable.

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 be pro-rata. If the Engagement is extended beyond the initial fixed term or if the Client re-engages the Candidate within 6 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 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 Candidate 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 3.4 above becomes payable.

4. REFUNDS

4.1 In order to qualify for the following refund, the Client must pay the Agency's fee within 14 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 10 weeks from the commencement of the Engagement (except where the Candidate is made redundant) a refund of 10% will be allowed against the Agency's fee for each complete week of the initial 10 week period not worked by the Candidate.

4.3 In circumstances where clause 3.6 applies the full fee stated in clause 3.4 is payable and there shall be no entitlement to a refund.

5. CANCELLATION FEE

5.1 If, after an offer of Engagement has been made to the Candidate, the Client decides for any reason to withdraw it, the Client shall be liable to pay the Agency a minimum fee of 10% of the annual remuneration.

6. INTRODUCTIONS

6.1 Introductions of Candidates are confidential. The disclosure by the Client to a third party of any details regarding a Candidate introduced by the Agency which results in an Engagement with that third party within 6 months of the Introduction renders the Client liable to payment of the Agency's fee as set out in clause 3.4 with no entitlement to any refund.

6.2 An introduction fee calculated in accordance with clause 3.4 will be charged in relation to any Candidate engaged as a consequence of or resulting from an introduction by or through the Agency, whether direct or indirect, within 6 months from the date of the Agency's introduction.

6.3 Where the amount of the actual Remuneration is not known the Agency will charge a fee calculated in accordance with clause 3.4 on the minimum level of remuneration applicable for the position in which the Candidate 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. SUITABILITY CHECKS

7.1 The Agency endeavours to ensure the suitability of the Candidate introduced to the Client to work in the position which the Client seeks to fill by taking reasonably practicable steps to ensure that it would not be detrimental to the interests of either Client or the Candidate; ensure that both the Client and Candidate are aware of any requirements imposed by law or any professional body and; confirm that the Candidate is willing to work in the position.

7.2 Notwithstanding clause 7.1 the 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: taking up any references provided by the Candidate before Engaging the Candidate; checking the Candidate's right to work and obtaining permission to work as may be required by the laws of the country in which the Candidate is Engaged to work; the arrangement of medical examination and/or investigations into the medical history of any Candidate; and satisfying any medical and other requirement, qualifications or permission required for the Candidate to work in the Engagement

7.3 To enable the Agency to comply with obligations under 7.1 above the Client undertakes to provide to the Agency details of the position which the Client seeks to fill, including the following: the type of work the Candidate would be required to do; the location and hours of work; the experience, training and qualifications and any authorisation which the Client considers necessary or which are required by laws or any professional body for the Candidate to possess in order to work in the position; any risks to health or safety known to the Client and what steps the Client has taken to prevent or control such risks; the date the Client requires the Candidate to commence the Engagement; the durations or likely duration of the Engagement; the minimum rate of Remuneration, expenses and any other benefits that would be offered; the intervals of payment of Remunerations; the length of notice the Candidate would be entitled to and receive to terminate their employment with the Candidate.

8. INFORMATION TO BE PROVIDED

8.1 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 7.1. 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 is the same as one in which the Candidate has worked within the previous five business days and such information has already been given to the Client.

9. CONFIDENTIALITY AND DATA PROTECTION

9.1 All information relating to a Candidate is confidential and subject to the Data Protection Act 1998 ("DPA") 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 DPA 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 the public domain.

10. LIABILITY

10.1 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 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 own negligence.

11. LAW

11.1 These Terms are governed by English law and are subject to the exclusive jurisdiction of the English Court.

Certus Sales (UK) Limited

4th Floor 126-134 Baker St, London, W1U 6UE

0845 230 4 230 - info@certussales.com - www.certussales.com

Incorporated in England & Wales 07900854

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