



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

1. DEFINITIONS

1.1. In these Terms of Business the following definitions apply:

“Applicant”	means the person introduced by the Agency to the Client for an Engagement including any 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 whom the Applicant is introduced;
“Agency”	means Commercial Minds Ltd or any of its subsidiaries, associated or holding companies;
“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 he is an officer or employee
“Introduction”,	means the Client’s interview of an Applicant in person or by telephone
“Introduces”	means the instruction to the Agency to search for an Applicant; or the passing to a Client of a Curriculum Vitæ / Resume.
“Introduced”	means other information whether written or oral which identifies the Applicant; and which leads to an Engagement of that Applicant by the Client;
“Remuneration”	includes base salary (including London Weighting or any other similar such allowance), or Fees, guaranteed and/or anticipated 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 Applicant for services rendered to or on behalf of the Client. In order to calculate the Agency’s Fee, where (i) a company car is provided by the Client, a notional amount of £6,000 will be added to the salary; (ii) the Client offers the availability (even if subject to the Clients’ discretion) of subsidised mortgages a notional amount of £3,000 will be added to the salary; (iii) accommodation or a monetary allowance is given a notional amount of £5,000 will be added to the salary. For the avoidance of doubt, any car or housing allowance shall be treated as part of the Applicant’s taxable salary in order to calculate the Agency’s Fee.



“Fee” means the sum due to the Company plus VAT calculated at the relevant percentage rate in relation to the Remuneration:

£0 - £19,999	15%	+ VAT
£20,000 - £26,999	20%	+ VAT
£27,000 - £39,999	22%	+ VAT
£40,000 +	25%	+ VAT

“Terms” means this document and any other document varying these terms as provided for in this document.

- 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 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 an Applicant or the passing of any information about the Applicant 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. No variation in these Terms shall be valid if made without the written consent of a Director.
- 2.4 The complete or partial validity or unenforceability of any provision herein for any purpose shall in no way affect the validity or enforceability of such a provision for any other purpose or the remaining provisions. Any such provisions shall be deemed to be severed for that purpose subject to such consequential modifications as may be necessary for the purpose of such severance.



3. NOTIFICATION AND FEES

3.1. The Client agrees:

- a) To notify the Agency immediately of any offer of an Engagement which it makes to the Applicant;
- b) To notify the Agency immediately that its offer of an Engagement to the Applicant 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, no Fee is incurred by the Client until the Applicant accepts the offer of the Engagement whether such an offer shall be conditional or not when the Agency will render an invoice to the Client for its Fees.

3.3. Where the Agency is instructed on a retained or search basis the Fee shall be payable in the following instalments:

3.3.1 One half of the Fee upon acceptance of Client's instructions, payable within 7 days of invoice;

3.3.3 The final half upon the Applicant's acceptance of the offer of Engagement payable within 7 days of invoice.

3.3.4 Where the precise Remuneration is not known in advance, the Remuneration will be estimated for the purposes of the instalment of the Fee. The final instalment of the Fee will be based on the actual Remuneration and any necessary adjustments will be made 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.

3.4 The Agency reserves the right to charge interest on invoiced amounts unpaid for more than 14 days at the rate of 8% per annum above the base rate of the Bank of England (for which interest is compounded quarterly) from the due date until the date of payment.

3.5 In the event that the Engagement is for a fixed term of less than 12 months, the Fee in clause 1.1 will apply pro-rata save that in all cases a minimum 3 month pro-rata Fee shall be charged and all part months shall be charged as a full month. If the Engagement is extended beyond the initial fixed term or if the Client re-engages the Applicant 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 Where a Client does engage an Applicant for a fixed term the Fee must be received within 7 days of the date of the sooner of the Engagement and the invoicing of the client; and in the event of the Fee not having been received in accordance within 7 days the rate of interest set out in Clause 3.4 shall accrue to the Fee.
- 3.7 Where a Client engages an Applicant on a part-time basis the Remuneration offered will be grossed up as if the Applicant had been Engaged on a full-time basis and the percentage Fee applicable will be in accordance with the Fees set out in Clause 1.1 and charged on a pro-rata basis for each day of the week or part thereof that the Applicant is Engaged for.
- 3.8 There is a minimum Fee of £1,500.
- 3.9 The Fees will be invoiced and are payable in Sterling. Where the Remuneration is expressed in a different currency, the Fee will be based on the Sterling equivalent, calculated according to the mid-point price for such currencies published in the Financial Times on the day after the Client makes the offer in writing to the Applicant.

4. REFUNDS

- 4.1. In order to qualify for the following refund, which relates to the Engagement of permanent staff only, 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 12 weeks from the commencement of the Engagement (except where the Applicant is made redundant or has previously been Engaged on a temporary or fixed term basis) the Fee will be refunded as follows:

Week in which the Applicant leaves	% of introduction Fee refunded
1 to 2	100 %
3 to 4	50 %
5 to 6	20 %
7 to 8	10 %

- 4.3. There will be no refund where the Applicant leaves during or after the 9th week of the Engagement.
- 4.4. In circumstances where clause 3.5 applies the full Fee stated in clause 1.1 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 Applicant, 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 Total Remuneration where the annual Remuneration is £20,000 or less or 5% of the Remuneration where the annual Remuneration exceeds £20,000.
- 5.2 If the Engagement terminates within two weeks of the commencement of the Engagement for any reason, the Client shall be liable to pay an administrative charge of £250 + VAT, payable within 7 days of the date of the invoice.

6. INTRODUCTIONS

- 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 6 months of the Introduction renders the Client liable to payment of the Agency's Fee as set out in clause 1.1 with no entitlement to any refund.
- 6.2. An introduction Fee calculated in accordance with clause 1.1 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 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 1.1 on the maximum 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. Where no figures are available, a set Fee of £10,000 will be payable.
- 6.4. In the event that any employee of the Agency with whom the Client has had personal dealings accepts an Engagement with the Client within 3 months of leaving the Agency's employment, the Client shall be liable to pay an introduction Fee to the Agency in accordance with clause 1.1.

7. SUITABILITY AND REFERENCES

- 7.1. The Agency endeavours to ensure the suitability of any Applicant introduced to the Client by obtaining confirmation of the Applicant's identity; that the Applicant has the experience, training, qualifications and any authorisation which the Client considers necessary or which may be required by law or by any professional body; and that the Applicant is willing to work in the position which the Client seeks to fill. In these Terms confirmation of experience shall mean confirmation by way of an interview with a Consultant or receipt of a reference (either written or verbal) that the Applicant has the number of year's experience stated in their curriculum vitae.



- 7.2. At the same time as proposing an Applicant to the Client the Agency shall inform the Client of such matters in clause 7.1 as they have obtained confirmation of. 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 Applicant is being proposed for a position which is the same as one in which the Applicant has worked within the previous five business days and such information has already been given to the Client.
- 7.3. The Agency endeavours to take all such steps as are reasonably practicable to ensure that the Client and Applicant are aware of any requirements imposed by law or any professional body to enable the Applicant to work in the position which the Client seeks to fill.
- 7.4. The Agency endeavours to take all such steps as are reasonably practicable to ensure that it would not be detrimental to the interests of either the Client or the Applicant for the Applicant to work in the position which the Client seeks to fill.
- 7.5. Notwithstanding clauses 7.1, 7.2, 7.3 and 7.4 above the Client shall satisfy itself as to the suitability of the Applicant and the Client shall take up any references provided by the Applicant to it or the Agency before engaging such Applicant. The Client is responsible for obtaining work permits and/or such other permission to work as may be required, for the arrangement of medical examinations and/or investigations into the medical history of any Applicant, and satisfying any medical and other requirements, qualifications or permission required by law of the country in which the Applicant is engaged to work.
- 7.6. To enable the Agency to comply with its obligations under clauses 7.1, 7.2, 7.3 and 7.4 above the Client undertakes to provide to the Agency details of the position which the Client seeks to fill, including the type of work that the Applicant would be required to do; the location and hours of work; the experience, training, qualifications and any authorisation which the Client considers necessary or which are required by law or any professional body for the Applicant to possess in order to work in the position; and any risks to health or safety known to the Client and what steps the Client has taken to prevent or control such risks. In addition the Client shall provide details of the date the Client requires the Applicant to commence, the duration or likely duration of the work; the minimum rate of remuneration, expenses and any other benefits that would be offered; the intervals of payment of remuneration and the length of notice that the Applicant would be entitled to give and receive to terminate the employment with the Client.

8. LIABILITY

- 8.1 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.



8.2 In consideration of the Agency entering into an agreement with the Client into which these Terms are incorporated, the Client hereby undertakes to indemnify the Agency in respect of any and all liability of the Agency for:

8.2.1 any loss, injury, expense, delay suffered or incurred by any Applicant, howsoever caused;

8.2.2 any loss, injury, expense, delay suffered or incurred by anyone arising directly or indirectly from or in any way connected with the acts and omissions of any Applicant, whether wilful, reckless, fraudulent, negligent, dishonest or otherwise;

PROVIDED THAT this indemnity is given only in respect any such loss, injury, damage, expense or delay caused during or arising directly out of or in any way connected with the relevant Engagement.

8.3 The Client acknowledges that the limitations and exclusions of the obligations and liabilities of the Agency set out herein are reasonable and reflect in the Fees payable to the Agency hereunder and shall accept and/or insure accordingly.

9. GENERAL

9.1 Only the Company is entitled to assign charge or otherwise deal with the benefit and/or the burden of the agreement with the Client and in case of the assignment notice in writing will be given to the Client.

9.2 Where the Agency is instructed on a contingency basis, the Client agrees that the Agency shall advertise the vacancy on the Client's behalf and, unless otherwise agreed at no cost to the Client, in any media deemed to be relevant by the Agency (including but not exclusively national or local newspapers, trade magazines and internet job sites). If the Agency does provide an agreed chargeable advertising service to the Client, the Client will be liable to pay within seven (7) days of the invoice date, agreed artwork and space costs. If a chargeable advertising service has been supplied, an advertisement may only be cancelled on sufficient notice to enable the Agency or the Agency's agency to withdraw the advertisement.

9.3 Agreed expenses such as research, travelling expenses, interview expenses and other exceptional expenses shall be invoiced in addition to the Fee and are payable within 7 days of the date of invoice.

9.4 All charges and Fees are subject to Value Added Tax.

9.5 The Agency reserves the right to review these Terms without prior notice



10. LAW

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

Signed for and on behalf of the Client

Print Name and Company

Whilst we would request that you sign and return a copy of our Terms or confirm in writing that you agree to them, the absence of such signature or written confirmation will not be taken as meaning that you have not accepted our Terms of Business if a Candidate has been Introduced to you in accordance with the above Terms.

Dated