

# Terms of Business for the Introduction of Permanent Staff

## 1. Definitions

- 1.1. These definitions and rules of interpretation apply in these Terms of Business.

**"Applicant"** means the person introduced by the Agency to the Client for an Engagement including any members of the Agency's own staff.

**"Agency"** means the employment agency that Introduced the Applicant to the Hirer as confirmed in the Introduction, which is either:

- Vision for Education Ltd, Registered Number 6433086, Registered Office First Floor (South), Cathedral Buildings, Dean Street, Newcastle upon Tyne NE1 1PG, or
- ABC Teachers Ltd, Registered Number 05480764, Registered Office First Floor (South), Cathedral Buildings, Dean Street, Newcastle upon Tyne NE1 1PG, or
- Smart Teachers Ltd, Registered Number 05497433, Registered Office First Floor (South), Cathedral Buildings, Dean Street, Newcastle upon Tyne NE1 1PG.

**"Business Day"** a day other than a Saturday, Sunday or public holiday when banks in London are open for business.

**"Client"** the person, firm or corporate body to whom the Applicant is Introduced/and or Engaged and any reference to the Client shall include a reference to the Client's Group.

**"Data Protection Laws"** means the Data Protection Act 2018, the General Data Protection Regulation (EU 2016/679) and 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 Applicant on a temporary or permanent basis, whether under a contract of service or for services, an agency, licence, franchise or partnership arrangement or any other effective engagement, or through a limited company of which the Applicant is an officer, employee or other representative, and "Engage", "Engages" and "Engaged" shall be construed accordingly.

**"Engagement Confirmation"** means the Client's written confirmation of the Terms of Engagement of an Applicant, which shall include the date of commencement of the engagement agreed with the Applicant and the Remuneration.

**"Introduction"** means the Client's interview of an Applicant in person or by telephone, following the Client's instruction to the Agency to search for an Applicant, or the passing to the Client of a curriculum vitae or other information which identifies the Applicant, or any other effective introduction of an Applicant by the Agency to the Client which leads directly or indirectly to an Engagement.

**"Introduction Fee"** means the fee payable in accordance with clause 5.

**"Registration Particulars"** means the Agency's standard registration form to be completed by the Client on placing a vacancy with the Agency.

**"Remuneration"** means the gross annual salary, fees or remuneration in any other form payable to the Applicant or to a third party in respect of the Applicant's services under an Engagement.

- 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 in these Terms of Business are for convenience only and do not affect their interpretation.
- 1.4. If the Client consists of more than one person, corporation or entity, then their obligations hereunder shall be joint and several.

## 2. The Contract

- 2.1. These Terms of Business govern the Introduction of the

Applicant by the Agency to the Client through the Search and Select Service and are deemed to be accepted by the Client by virtue of its instruction to the Agency to search for an Applicant, its request for an Introduction or interview of an Applicant, its interview with an Applicant or its Engagement of the Applicant.

- 2.2. No variation or alteration to these Terms of Business shall be valid unless approved by a director of the Agency in writing stating the date from which such variation shall take effect.

## 3. Advertising permanent vacancies

- 3.1. Where appropriate, the Company will advertise permanent vacancies on behalf of the Client on our website and external job boards at no extra cost to the Client other than what is specified in clause 5.

## 4. Engagement Confirmation and fees

- 4.1. The Client using the Search and Select Service agrees to:

4.1.1. notify the Agency within 7 Business Days of any offer of an Engagement which it makes to the Applicant, and

4.1.2. provide Engagement Confirmation to the Agency immediately that its offer of an Engagement to the Applicant has been accepted.

4.2. The Client using the Search and Select Service agrees to pay the Introduction Fee for the Search and Select Service within 14 Business Days of the commencement of the Engagement.

4.3. The Agency reserves the right to charge interest under the Late Payment of Commercial Debts (Interest) Act 1998 on invoiced amounts unpaid by the due date. The interest rate will be 8% per annum above the base rate from time to time of the Bank of England from the due date until the date of payment.

## 5. Fees

### Search and Select Service Introduction Fees

- 5.1. The Engagement by a Client of an Applicant Introduced by the Agency, or the introduction by the Client of an Applicant to a third party resulting in an Engagement by that or any other third party renders the Client liable to the payment of an introduction fee calculated as 12.5% (for teacher/ support roles) and 20% (for leadership roles) of the Remuneration, or such other amount agreed with the Agency.
- 5.2. Where the Client fails to inform the Agency of the Remuneration, the Agency may calculate the Introduction Fee based on either of the following as the Agency may reasonably elect:
- 5.2.1. (a) the maximum salary the Client had indicated to the Agency that it was willing to pay an Applicant for the Engagement plus 5% thereof to reflect any guaranteed and/or anticipated bonus and commission, earnings, allowances, inducement payments and other benefits such as company car which the Client may reasonably be expected to pay to the Applicant, or
- 5.2.2. (b) the Agency's estimation of the Remuneration.
- 5.3. The Introduction Fee will be charged in relation to any Applicant Engaged, whether by the Client or a third party, as a consequence of or resulting from an Introduction by or through the Agency, whether directly or indirectly, within 6 months of the date of the Introduction by the Agency.
- 5.4. If the Engagement terminates before the expiry of 6 weeks from the commencement of the Engagement (except where the Applicant is made redundant) and provided that the Client has paid the Introduction Fee within the time limits specified in clause 4.2, then a free replacement Applicant will be identified. If we are unable to find a suitable replacement Applicant, we will issue a credit voucher which the Client can use as full or part payment for any permanent recruitment within 12 months of issue.
- 5.5. This clause 5.5 shall apply if a withdrawal of an offer results in a reduced fee being payable by the Client under clause 5.6. In such case, should the Applicant be Engaged or re-Engaged by

- the Client, any subsidiary or associated company of the Client, or any third party to whom the Applicant was Introduced by the Client, within 6 calendar months from the date of such termination, or withdrawal, the balance of the full Introduction Fee will immediately become due to the Agency from the Client.
- 5.6. If after the Agency's receipt of Engagement Confirmation, the Client decides for any reason to withdraw the offer of Engagement prior to its commencement, then the Client shall be liable to pay the Agency a fee equal to 25% of the full Introduction Fee which would have become payable under clause 5.1 had the offer not been withdrawn.
- 6. Suitability**
- Search and Select Service**
- 6.1. 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. The Agency will also verify their right to work status, complete an enhanced DBS check including Barred List check and obtain at least one reference from senior leadership. From 1st April 2021, agencies are unable to conduct standalone Barred List checks, so this requirement must be satisfied by the school directly.
- 6.2. 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.
- 6.3. 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.
- 6.4. Notwithstanding clauses 6.1, 6.2 and 6.3, the Client shall satisfy itself as to the suitability of the Applicant and shall take up references provided by the Applicant and/or the Agency before engaging such Applicant.
- 6.5. The Client shall be responsible for obtaining work and other permits if required and to satisfy itself as to and/or make arrangements for medical examinations, investigations or other enquiries into the personal circumstances, medical history or qualifications of the Applicant, including (but not limited to) any specific requirements or qualifications required in the country in which, and for the tasks on which, the Applicant is Engaged to work.
- 6.6. To enable the Company to comply with its obligations under clauses 6.1, 6.2 and 6.3, the Client warrants that the information provided in the Registration Particulars is complete, accurate and correct and that it will promptly notify the Company of any changes to that information.
- 7. Post-engagement**
- 7.1. The Agency will not contact the Engaged Applicant directly for a period of 12 months from the commencement of the Engagement to discuss other opportunities (except where the Applicant is made redundant. This excludes the Applicant directly approaching the Agency in relation to a vacancy.
- 8. Liability**
- 8.1. Nothing in this clause 8 shall exclude or restrict the liability of the Agency for death or personal injuries resulting from the negligence of the Agency.
- 8.2. The Agency and the Client agree that the provisions of this clause 8 shall constitute a reasonable division of any liabilities that may arise between them and they agree that the maximum aggregate liability of the Agency, as referred to in clause 8.4 below, is reasonable.
- 8.3. The Agency shall not be liable for any loss of profits, loss of contracts, waste of staff time or consequential loss of any sort whatsoever and howsoever caused.
- 8.4. The aggregate liability of the Agency to the Client in relation to the subject matter hereof, whether arising under contract, tort, statute or otherwise howsoever, shall not exceed the amount of the Introduction Fee,
- 8.5. The Agency shall not be liable for any loss, expense, damage or delay arising from any failure to offer any suitable Applicants or from the negligence, dishonesty, misconduct or lack of skill of an Applicant.
- 8.6. The Agency does not warrant the accuracy of any information contained in an Applicant's CV (whether or not the Agency has assisted in its preparation) or the accuracy of any other information provided by the Applicant. In the absence of negligence on the part of the Agency, it shall not be liable if evidence of qualification, authorisation, membership of a professional body or any reference provided to the Agency proves to be forged, fraudulent or otherwise invalid.
- 8.7. The Client shall indemnify and keep indemnified the Agency against any losses incurred by the Agency arising out of any non-compliance with the Data Protection Laws, and/or as a result of any breach of these Terms of Business by the Client.
- 9. Confidentiality and data protection**
- 9.1. Each party undertakes that it shall not at any time disclose to any person any confidential information (or personal data) concerning the business, affairs, customers, clients, workers or suppliers of the other party, except as permitted by these Terms of Business.
- 9.2. Each party may disclose the other party's confidential information as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority, or to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under this agreement. All information relating to an Agency Worker 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 comply with the Data Protection Laws at all times.
- 10. Miscellaneous**
- 10.1. The Registration Particulars and these Terms of Business shall form the entire agreement between the parties and supersede any previous agreement and representations oral or otherwise made by either of the parties. The parties warrant that they have not relied on any representations made by the other party in entering into this agreement.
- 10.2. Failure by either party at any time to enforce any right claim or provision of this agreement or arising thereunder shall not be construed as a waiver of such right, claim or provision.
- 10.3. The Agency may perform any of its obligations hereunder by sub-contractors and may assign the benefit of this agreement
- 10.4. These Terms of Business are governed by English law. The Client irrevocably agrees for the exclusive benefit of the Agency to submit any dispute hereunder to the jurisdiction of the courts of England, but nothing herein shall prevent the Agency from taking proceedings to enforce any contract governed by these Terms of Business in any other court of competent jurisdiction.