

Terms of business

- (1) (the "**Client**"); and
- (2) Listique Limited incorporated and registered in England and Wales with company number 08398552 whose registered office is at 5 Elstree Gate, Elstree Way, Borehamwood, Hertfordshire, WD6 1JD (the "**Agency**").

Agreed Terms:

1. INTERPRETATION

1.1. The definitions and rules of interpretation in this clause apply in this Agreement.

Agency: means Listique Limited, a recruitment agency.

Candidate: means any person that is registered with the Agency in the interest of seeking employment.

Credit Note: means the Introduction Fee paid will be deducted from further introductions made through the Agency.

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 any other information relating to the Candidate which leads to the Engagement of that Candidate by the Client.

Engagement: means the engagement, employment or use of the Candidate following an Introduction to the Client on a Permanent or Short Term/trial basis, whether under a contract of service or services; under an agency, licence, franchise or partnership agreement; or any other engagement.

Extended Period: means 26 weeks or any such period as agreed in writing.

Introduction Fee or Fees: means the fee that becomes due to the Agency based on the Fee Structure attached at Schedule 1 following the successful Engagement of a Candidate.

Overseas Placement: means the Engagement of a Candidate that is to be employed on a Permanent or Short Term basis anywhere that is outside the borders of the United Kingdom & Northern Ireland. For the avoidance of doubt, this includes Candidate's employed in the UK that will be required to spend any amount of time working outside the United Kingdom & Northern Ireland.

Permanent Placement: means the Engagement of any Candidate by a Client either on a part time or full time basis for an indefinite period of time or any term intended to last longer than 6 weeks.

Short Term Placement: means the Engagement of any Candidate by a Client for any fixed period of time not exceeding 6 weeks with an agreed date of termination for the employment inside of this time limit, such period of time can be extended at the discretion of the Agency's Managing Director.

Trial Basis: at the request of the Client the first 5 days of the Engagement will be on a trial period basis.

Trial Basis Fee: charged at a daily rate of £25 per day or £125 per week (5 day week) and payable within 7 days of the expiration of the Trial Basis.

VAT: is payable on all and any fees charged by the Agency.

2. AGREEMENT

2.1. This Agreement is between the Agency and the Client and is deemed to be accepted by the Client if:

2.1.1. The Client receives an Introduction of a Candidate from the Agency and/or contacts the Candidate and/or interviews the Candidate and/or thereafter Engages the Candidate;

2.1.2. The Client introduces a Candidate or passes on an Introduction to any 3rd party.

3. GENERAL

- 3.1. The Agency is acting as an Employment Agency as defined in Section 13 (2) Employment Agencies Act 1973 and regulated by the Conduct Regulations 2003.
- 3.2. The Client will notify the Agency if the Candidate becomes unsuitable in the first 3 months of the Engagement.
- 3.3. When registering a job vacancy with the Agency, the Client agrees to provide the following details of the position being offered in accordance with the Conduct Regulations 2003:
 - 3.3.1. type of work;
 - 3.3.2. duties;
 - 3.3.3. hours of work;
 - 3.3.4. duration of employment,
 - 3.3.5. salary offered,
 - 3.3.6. the requirements as to experience and qualifications required to fulfil the role; and
 - 3.3.7. any authorisation required by law or any professional body and any risks known to health and safety.

3.4. The Agency will endeavour to ensure the suitability of the Candidate Introduced to the Client by obtaining confirmation of the Candidate's:

3.4.1. identity;

3.4.2. experience; and

3.4.3. any training qualification which the Client considers necessary or which may be required by law or by any professional body to perform the role.

3.5. The Agency only acts as a means of Introduction for Permanent and Short Term staff to be directly employed by the Client.

3.6. The Agency endeavours to ensure the suitability of any Candidate Introduced to the Client.

- 3.7. The Client shall satisfy itself as to the suitability of the Candidate by taking up any references provided by the Candidate or the Agency before Engaging said Candidate.
- 3.8. The final responsibility and final decision as to whether such a Candidate should be Engaged for a Permanent or Short-Term position is that of the Client.
- 3.9. If required, the Client shall be responsible for obtaining work and other permits, for the arrangement of medical examinations and/or investigations into the medical history of any Candidate, and satisfying any medical and other requirements or qualifications required by law of the country in which the Candidate is Engaged to work.
- 3.10. The Agency shall not be liable under any circumstances for any loss, expense, damages, delay, costs or compensations (whether direct, indirect or consequential) which may be suffered or incurred by the Client arising from or in any way connected with the Introduction to or Engagement of any Candidate by the Client or from the failure of the Agency to Introduce any Candidate. No liability shall attach to the Agency either in contract or in tort for loss, injury or damage sustained as a result of the act or omission of a Candidate, however so arising, even if such act or omission is fraudulent or negligent.
- 3.11. The Client acknowledges that it should consider taking out appropriate insurance in order to cover against any losses.
- 3.12. For the avoidance of doubt, the Agency does not exclude liability for death or personal injury arising from its own negligence.

4. CLIENT

- 4.1. The Client agrees to provide a contract of employment to the Candidate and is responsible for the Candidates tax and National Insurance contributions (and any other relevant liabilities), where applicable, in the country where the Candidate is employed.
- 4.2. The Agency reserves the right to advertise any vacancy registered by the Client using any means it deems necessary to source a suitable Candidate. The Client's identity and information will be kept strictly confidential during this process. In the interest of increasing the number of responses, vacancies will be advertised on 3rd party websites as well as the Agency's own internet job board unless the Client advises otherwise.
- 4.3. The Client acknowledges that on entering into this Agreement it had the opportunity of taking independent legal advice when deciding whether to enter into this Agreement and to the effect of its terms.
- 4.4. Where any term of this Agreement is made unenforceable, the Agreement shall continue to bind the parties to it if it is capable of continuing without that term.
- 4.5. Unless otherwise agreed in writing by the Managing Director of the Agency, this Agreement shall prevail over any other terms of business or purchase conditions put forward by the Client.
- 4.6. Any delay in the Agency enforcing or seeking to enforce any of the Agency's rights arising from this Agreement is not a waiver of such rights which remain fully enforceable by the Agency at all times.

- 4.7. The Agency operates a complaints and disputes procedure. Should the Client wish to pursue a complaint or dispute, details of the issue must be submitted to the Agency in writing.

5. EMPLOYING CANDIDATES

- 5.1. The Client agrees to provide written notification to the Agency of any job offer made to the Candidate including details of:

5.1.1. the agreed salary,

5.1.2. candidate's name; and

5.1.3. the agreed start date.

- 5.2. All notifications of Short Term Placements must include the date that the employment will end.

5.3. All notifications provided to the Agency by the Client in accordance with clause 5.1 will be deemed by the Agency to be a successful placement of a Candidate.

5.4. The Fee for Permanent Placements becomes payable on the agreed start date.

5.5. The Fee for Short Term Placements becomes payable upon receiving notification of the job offer.

5.6. Any Client that wishes to engage a Candidate on a Trial Basis will be charged the Trial Basis Fee which shall be deducted from the final invoice if the Candidate is then placed with the Client.

5.7. The Client agrees to notify the Agency if any Candidate for a Short Term Placement remains permanently in the Client's employment and in such an event the full Introduction Fee for a Permanent Placement shall become payable following the expiration of the Short Term Placement. Any Introduction Fees already paid for the Short Term Placement, up to a maximum of 4 weeks' temp fees, will be deducted from the final Permanent Placement invoice.

The Client can, instead of paying the Introduction Fee, elect to extend the period of hire for the Extended Period by giving the Agency 7 days' prior written notice. On expiration of the Extended Period the Client can engage the Candidate directly without liability for the payment of the Fees.

5.8. If the Client fails to give 7 days' prior written notice and directly engages the Candidate the Fees are automatically payable in accordance with Clause 6 and Schedule 1.

5.9. **The Agency's entitlement to the Introduction Fee shall not be affected if the Agency provides details on a Candidate to a Client and the Client later receives details of the same Candidate from any third party, including another agency or the Candidate themselves.**

5.10. If a Candidate Introduced by the Agency rejects an offer of employment or the Client chooses not to Engage the Candidate, a full Introduction Fee will be payable if the Candidate is later Engaged by the Client at any time.

5.11. If after Engaging the Candidate on a Permanent basis, the Client finds them to be unsuitable for the role in any way but still keeps the Candidate in their employment either on a Permanent or Short Term basis, the original Introduction Fee remains payable and no Service Guarantee will be available.

6. FEES AND INVOICES

- 6.1. The Agency Fees for Permanent Placements are calculated using a percentage of the Candidate's first year's agreed gross annual salary as confirmed in the Client's job offer (and as set out in Schedule 1). If the Candidate is employed on a part time basis (less than 25 hours per week), the agreed average weekly salary will be used to calculate the Introduction Fee.
- 6.2. The Client must notify the Agency within the first twelve months of employment if the agreed salary and/or hours of a Candidate increases as a new invoice will need to be raised by the Agency to reflect the increased salary in according with its Fee structure.
- 6.3. Invoices for Short Term Placements are calculated based on the length of contract as confirmed by the Client.
- 6.4. Invoices for UK Permanent Placements are sent one working day before the Candidate starts and they are post dated to match the Candidate's start date wherever possible. The Client agrees to pay the Introduction Fee for UK Permanent Placements within seven (7) working days of the date of invoice.
- 6.5. Invoices for Overseas Placements are sent upon receiving notification of the Candidate's Engagement and must be settled prior to the Candidate leaving the United Kingdom or commencement of duties. Clients should not confirm any travel plans with the Candidate until the full Introduction Fee has been paid.
- 6.6. Invoices for Short Term Placements are sent upon receiving confirmation of the job offer.
- 6.7. Introduction Fees must be paid in full prior to the commencement of the Candidate's employment.
- 6.8. If the Candidate should leave employment or is found to be unsuitable before the agreed end date of the Short Term Placement, the Introduction Fee charged is still payable and cannot be refunded.
- 6.9. If the Client withdraws a confirmed offer of employment for any reason prior to the Candidate commencing work, 25% of the original agreed Introduction Fee will be payable to the Agency as a cancellation fee in accordance with Schedule 1.
- 6.10. The Introduction Fee charged for a Permanent or Short Term Placement is applicable to one Placement only.
- 6.11. For additional Candidates Introduced by the Agency and Engaged by the Client, further Introduction Fees will be payable in accordance with the prevailing Fee Structure detailed at Schedule 1.
- 6.12. If a Client Engages a Candidate or makes a permanent offer of employment following a Short Term Placement without first notifying the Agency in writing, there will be a 50% surcharge added on to the final Introduction Fee payable and no Service Guarantee will be available. Invoices raised on this basis will be calculated based on the original salary figure used to advertise the vacancy.
- 6.13. The Agency will only consider Fee refunds in exceptional circumstances and at its discretion.

7. ADMINISTRATION FEE

- 7.1. The Fee payment must be made on time, in full and without any deduction, set off or counterclaim.

7.2. In the event that an account is outstanding, the Agency will refer the matter to our debt collection agents which will incur a surcharge of 15% of the debt, plus VAT at the prevailing rate.

7.3. The Client agrees that it will be legally liable to pay the Agency the debt recovery surcharge and that payment of the same can be enforced against the Client in court. The Client also agrees to pay interest at the relevant reference rate provided for under the Late Payment of Commercial Debts (Interest) Act 1998, which interest is payable both after and before any judgment of the court and continues to accrue.

7.4. A request for a replacement candidate will only be supplied if supported by a satisfactory explanation as to the candidate's suitability, or lack of. The Agency reserves the right to decide whether to provide a replacement.

7.5. Listique Ltd is V.A.T registered.

8. **CONFIDENTIALITY**

8.1. The Client shall keep all Introductions of Candidates by the Agency and their details confidential.

8.2. The Client undertakes not to disclose any Introductions or Candidate details to third parties.

8.3. Any breach of this undertaking resulting in the Engagement of a Candidate by a third party renders the Client liable for full payment of the Agency's Introduction Fee and the provisions of the Service Guarantee shall not apply.

9. **SERVICE GUARANTEE**

9.1. The Service Guarantee entitles the Client to one (1) free replacement Candidate per Introduction paid if the Candidate leaves the Clients employment and the replacement will be for the same role.

9.2. The Service Guarantee is available only on all Permanent Placements and covers the first three (3) months of the Candidate's employment if in the UK and (3) months if overseas, but to qualify the Client must:

9.2.1. notify the Agency in writing within 48 hours of the termination of the Candidate's employment;

9.2.2. give written reasons for termination that the basis on which the Candidate was Engaged had not altered in any way from the job description provided to the Agency;

9.2.3. have paid the Introduction Fee in full within seven (7) days of the date of invoice for UK placements and prior to the Candidate leaving the UK or commencing their duties for Overseas Placements; and

9.2.4. not be in breach of this Agreement and not have previously Engaged the candidate at any time on a Short Term Placement basis.

9.3. The first 3 month period of the Candidate's employment is deemed to be less any time worked on a Trial Basis and any Credit Notes offered would not include any sums incurred by the Trial Basis and the Trial Basis Fee.

9.4. If a Candidate leaves the Engagement within the first two weeks and a suitable replacement Candidate cannot be found within a reasonable period of time (4 weeks), the Agency will issue a Credit Note for the full Introduction Fee paid.

9.5. If the Candidate leaves the employment as a result of the Client's failure to comply with the agreed hours, salary and duties that were provided to the Agency and/or the Candidate is unfairly or unreasonably dismissed and/or if the working conditions for the Candidate are found to be unreasonable, the full Introduction Fee will remain payable to the Agency and the Service Guarantee will not apply.

9.6. If the final agreed salary between the Client and Candidate is lower than the original salary figure provided to advertise the vacancy, the Agency reserves the right to use the original salary figure to source the replacement Candidate and the Client will be liable for any difference in Introduction Fees that would result if it employs the replacement Candidate at the higher salary rate.

9.7. If for any reason the Client chooses not to source a replacement using the Agency, the Service Guarantee will no longer apply and no refund will be available regardless of when the Candidate's employment was terminated.

9.8. Any replacement will be for the same role and not a different role with the Client.

9.9. The Service Guarantee does not apply to Yacht Crew.

10. GENERAL

10.1. This Agreement embodies the entire and only agreement and understanding of the parties in respect of the matters contained or referred to in it and there are no promises, terms, conditions or obligations, oral or written, express or implied other than those contained in this Agreement.

10.2. No variation or amendment of this Agreement or oral promise or commitment related to it will be valid unless in writing and signed by or on behalf of both parties.

10.3. This Agreement is in substitution for all any previous contracts express or implied between the Agency and the Client

10.4. The validity, construction and performance of this Agreement and any claim, dispute or matter arising under or in connection with it or its enforceability is governed by and will be construed in accordance with the law of England. Each party irrevocably submits to the exclusive jurisdiction of the English courts over any claim, dispute or matter arising under or in connection with this Agreement or its enforceability or the legal relationships established by it except to the extent that the Agency invokes the jurisdiction of the courts of any other country.

10.5. 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.

11. NOTICES

11.1. Any notice given under this Agreement must be in writing and may be served:

11.1.1. personally;

11.1.2. by registered or recorded delivery mail;

11.1.3. by facsimile transmission (confirmed by post); or

11.1.4. by any other means which any party specifies by notice to the other i.e. email.

11.2. Each party's address for the service of notices will be the address set out above or such other address as is specified for this purpose by notice to the other.

11.2.1. A notice is deemed to have been served:

11.2.2. if it was served in person, at the time of service;

11.2.3. if it was served by post, 48 hours after it was posted;

11.2.4. if it was served by facsimile transmission, at the time of transmission;

12. INTERPRETATION

12.1. References to any party to this Agreement shall where the context permits include its successors in title.

12.2. In this Agreement:

12.2.1. words expressed in any gender where the context so requires or permits include any other gender;

12.2.2. words expressed in the singular where the context so requires or permits include the plural; and

12.2.3. where any party is more than one person:

12.2.3.1. that party's obligations in this Agreement take effect as joint and several obligations;

12.2.3.2. anything in this Agreement which applies to that party applies to all of those persons collectively and each of them separately; and

12.2.3.3. the benefits contained in this Agreement in favour of that party take effect as if conferred in favour of all of those persons collectively and each of them separately.

12.3. References in this Agreement to anything which any party is required to do or not to do include its acts, defaults and omissions, whether:

12.3.1. direct or indirect;

12.3.1.1. on its own account; or

12.3.1.2. for or through any other person; and

12.3.1.3. permitted or suffered to be done or not done by any other person.

12.4. The effect of all obligations affecting the Consultant under this Agreement is cumulative and no obligation is limited or modified by any other of those obligations unless there is in this Agreement an express limitation or modification.

IN WITNESS WHEREOF this document has been executed and delivered on the date first stated above.

1.

FEE SCHEDULE

Permanent Placements: 18% of the candidate's gross annual salary.

- A minimum introduction fee of £1500 will apply to any permanent placement.

Overseas Placement: 18% of the candidate's gross annual salary.

Short Term Placement: 30% of the candidate's gross annual salary calculated on a pro-rata basis.

- Ongoing introduction of continued casual employee - £1500 fixed fee

Trial Basis Fee (only applicable to permanent placements in the UK) charged at a daily rate of £25 per day or £125 per week (5-day week)

