

Terms of business for the Introduction of Permanent & Fixed Term candidates

1. Definitions

1.1. In these Terms the following definitions apply:

"Cancellation Fee" - means the fee payable by the Client to The Works (UK) when the Client withdraws an offer of Engagement made to the Candidate before the Candidate has accepted the offer and which is calculated in accordance with clause 3.14;

"Candidate" - means the person Introduced by The Works (UK) to the Client for an Engagement including any officer, employee or other representative of the Candidate if the Candidate is a corporate body, and members of The Works (UK)'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;

"Conduct Regulations" - means the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (as amended) or the Conduct of Employment Agencies and Employment Businesses Regulations (Northern Ireland) 2005 (as amended);

"Engagement" - means the engagement, employment or use of the Candidate by the Client or by any 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 an agency, licence, 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 "Engage", "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 Works (UK) to search for a Candidate; and "Introduces" and "Introduced" shall be construed accordingly;

"Introduction Fee" - means the fee payable by the Client to The Works (UK) for an Introduction resulting in an Engagement calculated in accordance with clause 3.3;

"The Works (UK)" - means The Works (UK) Limited (registered company no. 2998539) of 20 Canal Wharf, Leeds LS11 5PS

"Remuneration" - includes gross base salary 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 Candidate for services rendered to or on behalf of the Client or any third party;

"Replacement Candidate" - means any candidate introduced by The Works (UK) to the Client to fill the Engagement following the introduction of another Candidate whose Engagement either did not commence or was terminated during the first 8 weeks of the Engagement.

"Vulnerable Person" - means any person who by reason of age, infirmity, illness, disability or any other circumstance is in need of care or attention, and includes any person under the age of eighteen.

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

2. The Contract

- 2.1. These terms of business ("**the Terms**") constitute the contract between The Works (UK) and the Client for the supply of permanent or contract staff (to be engaged directly by the Client) and are deemed to be accepted by the Client by virtue of its request for an interview or information in relation to a Candidate Introduced by The Works (UK) or 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 Works (UK), 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 Works (UK) 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 Works (UK) 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 Client agrees to:

- 3.1.1. notify The Works (UK) immediately of the terms of any offer of an Engagement which it makes to the Candidate;
- 3.1.2. notify The Works (UK) immediately that its offer of an Engagement to the Candidate has been accepted and to provide details to The Works (UK) of the Remuneration agreed with the Candidate together with any documentary evidence as requested by The Works (UK); and
- 3.1.3. pay the Introduction Fee, to be calculated in accordance with the provisions of this clause 3, by the due date for payment in clause 3.11.

3.2. The Introduction Fee calculated in accordance with clause 3.3 below is payable if the Client Engages the Candidate within the period of 12 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).

3.3. The Introduction Fee is calculated as a percentage of the total annual Remuneration applicable during the first 12 months of the Engagement according to the following scale:

Remuneration (£)	% Introduction Fee
Up to and including 25,000	20
25,001 - 40,000 inclusive	25
40,001 - 60,000 inclusive	30
60,001 +	35

Minimum Introduction Fee payable under these Terms is £2,000.

3.4. Where the actual Remuneration is not known, The Works (UK) 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 of remuneration applicable for the position in which the Candidate has been Engaged and with regard to any information supplied to The Works (UK) by the Client and/or comparable positions in the market generally.

3.5. Where prior to the commencement of the Engagement The Works (UK) and the Client agree that the Engagement will be on the basis of a fixed

term of less than 12 months, the Introduction Fee will apply as a percentage of the annual Remuneration as follows:

Fixed term contracts of more than 6 months

Remuneration (£)	% Introduction Fee pro rata
Up to and including 20,000	20
20,001 - 25,000 inclusive	25
25,001 – 30,000 inclusive	30
30,001 +	35

Fixed term contracts up to (and including) 6 months

Remuneration (£)	% Introduction Fee pro rata
Up to and including 20,000	25
20,001 - 25,000 inclusive	30
25,001 – 30,000 inclusive	35
30,001 +	40

Example: For a fixed term Engagement of 4 months with annual Remuneration of £25,000 the transfer fee is calculated as follows:

$$25,000 \times 0.30 = 7,500$$

$$7,500/12 = £625 \text{ per month}$$

$$625 \times 4 \text{ months} = £2,500$$

This Introduction Fee is subject to the Client Engaging the Candidate for the agreed fixed term.

3.6. If the Client (a) extends the Engagement beyond the initial fixed term or (b) re-Engages the Candidate within 6 calendar months from the date of termination of the agreed period of the fixed term Engagement, then the Client shall be liable to pay a further Introduction Fee in accordance with Clause 3.5 based on the additional Remuneration applicable for (a) the extended period of Engagement or (b) the period of the second and any subsequent Engagement, subject to the Client not being liable to pay a greater sum in Introduction Fees than the Client would have been liable for under clause 3.3 had the Candidate first been Engaged for 12 months or more.

3.7. 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.

3.8. If the Client wishes to appeal against The Works (UK)'s invoice it must do so in writing within 7 days from the date of the invoice. After this period the

Client shall have no right of appeal.

- 3.9. If The Works (UK) incurs any costs in recovering any overdue payment from the Client (including the full costs of legal representation and proceedings, judicial or otherwise) the Client shall reimburse those costs in full.
- 3.10. The Works (UK) shall have the right to set off any sums that The Works (UK) may from time to time owe to the Client against any sums owed by the Client under these Terms.
- 3.11. Except as otherwise expressly stated, all invoices are due within 14 days of the invoice date, invoices are raised upon signed acceptance of employment by the candidate. If invoices are not settled within 7 (seven) days of the due date (unless agreed), without prejudice to its right to recover that payment, the Company is not obliged to provide the replacement employee facility and may suspend Services until payment is made.
- 3.12. VAT is charged at the standard rate on all fees.
- 3.13. The Works (UK) reserves the right to charge interest under the Late Payment of Commercial Debts (Interest) Act 1998 on invoiced amounts unpaid by the due date at the rate of 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.
- 3.14. If, after an offer of Engagement has been made to the Candidate, the Client decides for any reason to withdraw it prior to the Candidate accepting the Engagement, the Client shall be liable to pay The Works (UK) a Cancellation Fee of 33% of the Introduction Fee calculated in accordance with clause 3.3.
- 3.15. In the event that any The Works (UK) staff with whom the Client has had personal dealings accepts an Engagement with the Client while employed by The Works (UK) or within 3 months of leaving The Works (UK), the Client shall be liable to pay an Introduction Fee to The Works (UK) calculated in accordance with clause 3.3.

4. Replacement Employee Facility

- 4.1 If an Appointment terminates within the first eight weeks, the Company will use all reasonable endeavours to provide a replacement Candidate for no additional fee **PROVIDED ALWAYS** that; (a) the Client has paid the Company's invoices within the due dates and in cleared funds **AND** (b) the Company receives notification from the Client by recorded delivery within 7 days of the Candidate's departure

AND (c) the termination is not due to unlawful termination by the Client or due to ill health, injury or redundancy of the Candidate.

5. Introducing to Third Parties

Introductions of Candidates are confidential. If a Client discloses 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 6 months of The Works (UK)'s Introduction of the Candidate to the Client, then the Client will be liable to The Works (UK) for payment of an Introduction Fee in accordance with clause 3. Neither the Client nor the third party shall be entitled to a refund of the Introduction Fee under clause 4 in any circumstances.

6. Suitability Checks

- 6.1. The Works (UK) 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:
 - 6.1.1. ensure that it would not be detrimental to the interests of either the Client or the Candidate;
 - 6.1.2. ensure that both the Client and Candidate are aware of any requirements imposed by law or by any professional body;
 - 6.1.3. confirm that the Candidate is willing to work in the position;
 - 6.1.4. obtain confirmation of the Candidate's identity and that the Candidate has the experience, training, qualifications and any authorisation which the Client considers necessary for the position.
- 6.2. Notwithstanding clause 6.1 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:

- 6.2.1. taking up any references provided by the Candidate before Engaging the Candidate;
- 6.2.2. 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;
- 6.2.3. the arrangement of medical examinations and/or investigations into the medical history of any Candidate; and
- 6.2.4. satisfying any medical and other requirements, qualifications or permission required for the Candidate to work in the Engagement.
- 6.3. To enable The Works (UK) to comply with its obligations under 6.1 above the Client undertakes

to provide to The Works (UK) details of the position which the Client seeks to fill, including the following:

- 6.3.1. the type of work that the Candidate would be required to do;
- 6.3.2. the location and hours of work;
- 6.3.3. 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;
- 6.3.4. any risks to health or safety known to the Client and what steps the Client has taken to prevent or control such risks;
- 6.3.5. the date the Client requires the Candidate to commence the Engagement;
- 6.3.6. the duration or likely duration of the Engagement;
- 6.3.7. the minimum rate of Remuneration, expenses and any other benefits that would be offered;
- 6.3.8. intervals of payment of Remuneration; and
- 6.3.9. the length of notice that the Candidate would be entitled to give and receive to terminate their employment with the Client.

6.4. Where the Candidate is Introduced for a position which involves working with, caring for or attending a Vulnerable Person The Works (UK) shall, in addition to the obligations in clause 6.1, take reasonably practicable steps to:

- 6.4.1. obtain confirmation of the Candidate's identity;
- 6.4.2. obtain confirmation that the Candidate 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
- 6.4.3. obtain and offer to provide copies to the Client of two references from persons who are not relatives of the Candidate and who have agreed that the references they provide may be disclosed to the Client; and any relevant qualifications or authorisations of the Candidate. If The Works (UK) has taken all reasonably practicable steps to obtain such information and has been unable to do so fully it shall inform the Client of the steps it has taken to obtain this information in any event.

7. Information to be Provided

In the case of a position which involves working with Vulnerable Persons, when The Works (UK) Introduces a Candidate to the Client The Works (UK) shall inform the Client that they have obtained confirmation of the matters set out in clause 6.4.1 and 6.4.2. 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 the Introduction. This clause will not apply 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.

8. Confidentiality and Data Protection

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 Works (UK)'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.

9. Liability

9.1 Save to the extent that the Client suffers loss, expense or damage or delay as a direct result of The Works (UK)'s failure to fulfill its obligations under this Agreement The Works (UK) shall not be liable under any circumstances for any loss, expense, damage, delay, costs or compensation (whether direct, indirect or consequential including loss of profit) which may be suffered or incurred by the

Client arising from or in any way connected with:

- 9.1.1. The Works (UK) seeking a Candidate for the Client; or
- 9.1.2. the Introduction to or Engagement of any Candidate by the Client; or
- 9.1.3. from the failure of The Works (UK) to introduce any Candidate.

9.2 For the avoidance of doubt, The Works (UK) does not exclude liability for death or personal injury arising from its own negligence or for any other loss which it is not permitted to exclude under law.

9.3 Subject to clause 9.2, The Works (UK)'s total liability for all loss, liability, expenses, damages or claims to the Client (for all causes including but not

limited to contract, tort, indemnity, strict or statutory authority or otherwise) shall, per event, not exceed the amount equivalent to 125% of the net Introduction Fee paid or payable by the Client to The Works (UK) in respect of the Candidate to whom the claim relates and The Works (UK)'s total aggregate liability to the Client shall not exceed £50,000.00 per calendar year.

10. Non Solicitation

The Client shall not solicit or endeavour to entice away from The Works (UK) anyone employed or engaged by The Works (UK) in the capacity of a consultant, Branch Manager, Operations Manager or other corporate capacity except with the prior written consent of a The Works (UK) Director. A breach of the clause will render the Client liable to pay a Introduction Fee in accordance with clause 3.

11. Notices

All notices which are required to be given in accordance with this Agreement 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.

12. 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.

13. Force Majeure

Neither Party shall have any liability to the other for delay or loss occasioned by war, strike, lockout, industrial dispute, fire, illness, or other circumstance which is outside of their reasonable control.

14. 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.

Clients Name:.....

.....
Signed for and on behalf of the Client:

Print name

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

Date