

introduction of permanent staff

terms of business



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 Be Personnel Limited of 50 Albany Street, Edinburgh EH1 3QR
- “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 (i) 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 (ii) the passing to the Client of a curriculum vitae or other information which identifies the Applicant; and which leads to an Engagement of that Applicant by the Client;
- “Remuneration”** includes base salary, guaranteed and/or anticipated bonus and commission earnings, allowances, inducement payments, the benefit in kind value 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.

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 of Business are deemed to be accepted by the Client by virtue of an Introduction to, or the Engagement of an Applicant.
- 2.2. Unless otherwise agreed in writing by a director of the Agency, these Terms of Business shall prevail over any other terms of business or purchase conditions put forward by the Client.
- 2.3. No variation or alteration of these Terms of Business shall be valid unless approved in writing by a director of the Agency.

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.

3.1. Except in the circumstances set out in clause 5.1 below, no fee is incurred by the Client until the Applicant commences the Engagement when the Agency will render an invoice to the Client for its fees.

3.2. 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 Lloyds TSB Bank from the due date until the date of actual payment.

3.3. The fee payable to the Agency by the Client for an Introduction resulting in an Engagement is calculated in accordance with the accompanying Fee Structure on the Remuneration applicable during the first 12 months of the Engagement. VAT will be charged on the fee if applicable.

3.4. In the event that the Engagement is for a fixed term of less than 12 months, the fee in clause 3.3 will apply pro-rata. If the Engagement is extended beyond the initial fixed term or if the Client re-engages the Applicant within 6 months of the 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.

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 the period stated in clause 2 of the Scale of Refund, from the commencement of the Engagement (except where the Applicant is made redundant) the fee will be refunded in accordance with the accompanying Scale of Refund set out in the schedule to these Terms of Business.
- 4.3. Should the Client or any subsidiary or associated Agency of the Client subsequently engage or re-engage the Applicant 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 clause 3.3 above becomes payable, with no entitlement to the 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 annual Remuneration.

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 3.3 with no entitlement to any refund.
- 6.2. An introduction fee calculated in accordance with clause 3.3 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 charge is not known the Agency will charge a fee calculated in accordance with clause 3.3 on the minimum 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.
- 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 6 months of leaving the Agency's employment, the Client shall be liable to pay an introduction fee to the Agency in accordance with clause 3.3.

7. SUITABILITY AND REFERENCES

- 7.1. The Agency endeavours to ensure the suitability of any Applicant introduced to the Client. Notwithstanding this 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 shall be responsible for obtaining work and other permits if required, for the arrangement of medical examinations and/or investigations into the medical history of any Applicant, and satisfying any medical and other requirements or qualifications required by law of the country in which the Applicant is engaged to work.

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.

9. LAW

- 9.1. If this contract is concluded in England & Wales, it is governed by the law of England & Wales and is subject to the exclusive jurisdiction of the Courts of England & Wales.
- 9.2. If this contract is concluded in Scotland, it is governed by the law of Scotland and is subject to the exclusive jurisdiction of the Courts of Scotland.

Signed:

on behalf of

("The Client")