

HUNTER NASH

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CLIENT TERMS OF BUSINESS FOR THE INTRODUCTION OF PERMANENT OR CONTRACT STAFF

Hunter Nash confirms to its Clients that it is acting as a consultancy for the purpose of the introduction of Applicants, in its capacity as an Employment Agency (in accordance with the Conduct of Employment Agencies and Employment Businesses Regulations 2003 - as amended from time to time).

Hunter Nash expects Clients to act promptly, reasonably and in good faith (including not applying any discriminatory standards or practices) when deciding whether they wish to engage an Applicant.

1. DEFINITIONS

1.1. The headings contained in these Terms of Business are for convenience only and do not affect their interpretation.

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

"Agency" means Hunter Nash Limited of 1 Fore St Ave, London, EC2Y 9DT. Registered in England No. 12006678;

"Applicant" means the person introduced by the Agency to the Client for the Engagement including any officer or employee of the Applicant if the Applicant is a limited company and members of the Agency's own staff; **"Cancellation Fee"** means the fee payable by the Client to the Agency when the Client withdraws an offer of Engagement that has been accepted by the applicant. See Clause 5;

"Client" means the person; firm or corporate body together with any subsidiary or associated Company as defined by the Companies Act 1985 to which the Applicant is introduced;

"Commencement Date" means the date detailed on page 5 of these terms and for the avoidance of doubt all the provisions of these Terms shall be deemed to become effective at this date;

"Data Protection Laws" means the Data Protection Act 1998, the General Data Protection Regulation (EU 2016/679) or 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 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 the Applicant is an officer or employee; and "Engage", "Engages" and "Engaged" shall be construed accordingly; **"Exclusivity Term"** means the period during which these Terms shall remain in force commencing on the Commencement Date;

"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 information which identifies the Applicant; and which leads to an Engagement of that Applicant;

"Introduction Fee" means the fee payable by the Client to the Agency for an Introduction resulting in an Engagement;

"Losses" means all losses, liabilities, damages, costs, expenses, fines, penalties or interest, whether direct, indirect, special or consequential (including, without limitation, any economic loss or other loss of profits, business or goodwill, management time and reasonable legal fees) and charges, including such items arising out of or resulting from actions, proceedings, claims and demands;

"Client Trial Period" is the period over which a Client is evaluating the services of the Agency; the period is defined as 4 weeks;

"Remuneration" includes base salary or fees, guaranteed bonus, commission earnings, allowances, inducement payments 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. Hunter Nash does not charge where the Client provides a company car;

"Replacement Applicant" means any Applicant Introduced by the Agency to the Client to fill the Engagement following the Introduction of another Applicant whose Engagement either did not commence or was terminated during the first four weeks of the Engagement;

2. THE CONTRACT

2.1 These terms of business and the attached Schedule(s) ("the Terms") constitute the contract between the Agency and the Client for the Introduction of permanent or contract staff (to be engaged directly by the Client) and are deemed to be accepted by the Client by virtue of an Introduction or the Engagement of a Applicant, or the passing by the Client of any information about an 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.

2.4 The Agency acts as an employment agency (as defined in Section 13(2) of the Employment Agencies Act 1973) when Introducing Applicants to the Client for direct Engagement by that Client.

2.5 Unless agreed separately with the Agency these terms remain valid for twelve months from the date of the agreement by the client, whether by executed by deed or electronic mail.

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 to the Agency within 30 days of the date of invoice, or according to the agreed invoice schedule.

3.2. Except in the circumstances set out in clauses 5.1, 11.1 or 11.2, no fee is incurred by the Client until the Applicant commences the Engagement. When this occurs, the Agency will render an invoice to the Client for its fees.

3.3 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 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.

3.4 The fee payable to the Agency by the Client for an Introduction resulting in an Engagement is calculated in accordance with the attached Fee Structure detailed in Schedule One on the Remuneration applicable during the first 12 months of the Engagement. VAT will be charged on the fee at the prevailing rate, if applicable.

3.5 In the event that the Engagement is for a fixed term of less than 12 months, the fee must be agreed accordingly with the agency. 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

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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 sooner.

- 3.6 If the Client subsequently engages or re-engages 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 3.4 above becomes payable.
- 3.7 For roles that do not include remuneration, for instance 'commission only' roles, the minimum fee will be £2,000^{+VAT} unless specifically agreed beforehand in writing.
- 3.8 In the event that any Agency staff with whom the Client has had personal dealings accepts an Engagement with the Client while employed by the Agency, or within three months of leaving the Agency, the Client shall be liable to pay the Agency a fee equivalent to the Introduction Fee detailed in Schedule One. For the avoidance of doubt, the Client shall not be entitled to a refund for any fee due under this clause 3.8 in any circumstances.
- 3.9 VAT is charged at the standard rate on all fees.

4. TERM, REFUNDS AND REPLACEMENTS

- 4.1. To qualify for the following refund, the Client must pay the Agency's fee within 30 days of the date of invoice to the Agency, or according to the schedule agreed in the invoice. The Client must notify the Agency in writing of the termination of the Engagement within seven days of its termination and wherever possible supply a copy of the Applicant's letter of termination.
- 4.2. The refund is applicable when the Engagement is terminated by the Applicant or by the Applicant's death within the Replacement or refund period
- 4.3. For the benefit of doubt if the Engagement is terminated by the Client, then our discount guarantee scheme applies which is detailed in Schedule Three of these Terms of Business.
- 4.4. If the Engagement is terminated by the applicant before the expiry of 12 weeks from the commencement of the Engagement a portion of the fee will be refunded in accordance with the accompanying Scale of Refund set out in Schedule Three of these Terms of Business.
- 4.5. It is a condition precedent to any post Engagement benefit, such as rebate, refund, replacement, discount guarantee or any other form of warranty mentioned in or otherwise inferred from these Terms of Business, that the relevant invoice is paid to terms
- 4.6. The Agency reserves the right to refuse to make a refund or provide a free replacement Applicant where in the reasonable opinion of the Agency the Client has employed an Applicant introduced by the Agency with the prior or likely intention of dispensing with the Applicants' services for whatever nature, or the Client has terminated the applicant's employment.
- 4.7. In circumstances where clause 3.8 applies the full fee stated is payable and there shall be no entitlement to a refund, rebate or replacement.
- 4.8. When the free replacement applicant option is applicable, the agency will make a single replacement of the original applicant. If, after several months the agency, after exhausting all reasonable resources, is unable to provide a replacement the agency reserves the right to withdraw the offer of a free replacement.
- 4.9. Exceptions. Rebates or discount guarantees will not apply where the Engagement period was contracted to be for less than six months. The default Engagements period is 12 calendar months.

5. CANCELLATION FEE

- 5.1. If, after the offer of Engagement has been verbally accepted by the Applicant, the Client decides for any reason not to proceed with the appointment before the Applicant starting the engagement, it shall be liable to pay the Agency 50% of the fee set out in Schedule One of these Terms of Business.

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 12 months of the Introduction renders the Client liable to payment of the Agency's fee as set out in Schedule One with no entitlement to any refund.
- 6.2. An introduction fee calculated in accordance with Schedule One 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 12 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 Schedule One on the maximum level of remuneration detailed when the assignment was 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 3 months of leaving the Agency's employment, the Client shall be liable to pay an introduction fee to the Agency in accordance with Schedule One.
- 6.5. Hunter Nash does not recognise trial periods. No trial periods are permitted under these Terms of Business with a chosen applicant unless otherwise agreed in writing by the Agency.

7. SUITABILITY AND REFERENCES

- 7.1. The Agency endeavours to ensure the suitability of Applicants Introduced to the Client to work in the position which the Client seeks to fill by taking reasonably practicable steps to:
 - 7.1.1. ensure that it would not be detrimental to the interests of either the Client or the Applicant;
 - 7.1.2. ensure that both the Client and Applicant are aware of any requirements imposed by law or by any professional body;
 - 7.1.3. confirm that the Applicant is willing to work in the position;
- 7.2. Notwithstanding clause 7.1 the Client must satisfy itself as to the suitability of the Applicant for the position they are seeking to fill. The Client is responsible for:
 - 7.2.1. taking up any references provided by the Applicant before Engaging the Applicant;
 - 7.2.2. checking the Applicant's right to work and obtaining permission to work as may be required by the law of the country in which the Applicant is Engaged to work;
 - 7.2.3. the arrangement of medical examinations and/or investigations into the medical history of any Applicant; and
 - 7.2.4. satisfying any medical and other requirements, qualifications or permission required for the Applicant to work in the Engagement.
- 7.3. To enable the Agency to comply with its obligations under clause 7.1 above the Client undertakes to provide to the Agency details of the position which the Client seeks to fill, including the following:
 - 7.3.1. the type of work that the Applicant would be required to do; party resulting from such;
 - 7.3.2. the location and hours of work;

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- 7.3.3. the experience, training, qualifications and any authorisation which the Client considers necessary or which are required by law or any professional body for the Applicant to possess in order to work in the position;
- 7.3.4. any risks to health or safety known to the Client and what steps the Client has taken to prevent or control such risks;
- 7.3.5. the date the Client requires the Applicant to commence the Engagement;
- 7.3.6. the duration or likely duration of the Engagement;
- 7.3.7. the minimum rate of Remuneration, expenses and any other benefits that would be offered;
- 7.3.8. the intervals of payment of Remuneration; and
- 7.3.9. the length of notice that the Applicant would be entitled to give and receive to terminate their employment with the Client.

7.4. The Agency will use due skill and care in locating and introducing Applicants and use all reasonable endeavours to ensure that an applicant is suitable in accordance with the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (as amended from time to time). Beyond that, no other term or condition is to be implied concerning the Agency's services. In particular, the Agency does not warrant or make any representations about the suitability of, or the accuracy of any information concerning, an Applicant (as this information comes from the Applicant or other sources outside the Agency's control) and none is to be implied from anything the Agency may undertake or provide. The Agency recommends Independent CV Verification which the Agency is able to provide through a third-party supplier at cost.

8. ADVERTISING AND EXCLUSIVITY

- 8.1. The Agency agrees to introduce Applicants to the Client for Engagement directly by the Client for the duration of the Term as detailed in Schedule Four. The Client agrees that unless otherwise explicitly notified in writing, the Agency will have the right to advertise any roles which it works on for the Client. These will be advertised confidentially, without mentioning the Client by name.
- 8.2. If an Exclusivity Term has been agreed, the Client warrants that during the Exclusivity Term it will use the services of the Agency for the Introduction of permanent or contract staff. The Client agrees they will not use the services of any employment agency, directly or indirectly, other than the Agency save in circumstances where the Agency has searched for Applicants but is unable to introduce suitable Applicants for Engagement.
- 8.3. Nothing in these Terms shall preclude the Client from
 - 8.3.1. responding to unsolicited approaches from third party agencies by referring that agency to the Agency to serve as a sub-contractor or consultant for the Agency;
 - 8.3.2. responding to unsolicited approaches from work-seekers directly and referring them to the Agency;
 - 8.3.3. directly approaching work-seekers using its own resources and referring them to the Agency.
- 8.4. Either party may immediately terminate the Exclusivity Term by notice to the other if the other:
 - 8.4.1. commits a breach of these Terms which in the case of a breach capable of remedy shall not have been remedied within 14 days of the receipt by the other of a notice from the innocent party identifying the breach and requiring its remedy;
 - 8.4.2. is unable to pay its debts or enters into compulsory or voluntary liquidation (other than for the purpose of effecting a reconstruction or amalgamation in such manner that the reconstruction or amalgamation if a different legal entity shall

agree to have the contract assigned to it and to take on all liabilities and obligations thereunder whether actual or contingent).

- 8.5. For the avoidance of doubt in the event that the Exclusivity Term is terminated by either party, the Client remains obligated to pay any fees owed to the Agency in accordance with the Terms, irrespective of whether these fees relate to an Introduction made before or after the Exclusivity Term is terminated.

9. INFORMATION TO BE PROVIDED

- 9.1. When the Agency Introduces an Applicant to the Client the Agency shall inform the Client that they have obtained confirmation of the matters set out in clause 7.1.

10. CONFIDENTIALITY AND DATA PROTECTION

- 10.1. All information relating to an Applicant 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 abide by the provisions of the Data Protection Laws in receiving and processing the data at all times. In addition, information relating to the Agency'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.

11. LIABILITY

- 11.1. 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 or for any other loss which it is not permitted to exclude under law.
- 11.2. 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 by the Client.

12. NOTICES

- 12.1. All notices which are required to be given in accordance with these Terms 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.

13. SEVERABILITY

- 13.1. 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.

14. GOVERNING LAW AND JURISDICTION

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

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SCHEDULE ONE: SCALE OF FEES

The Agency's fee is 20% of an Engaged Applicants first-year basic salary and guaranteed bonuses, unless a specific fee schedule has been agreed and formally confirmed.

If the Client is undertaking a **Client Trial Period**, the Agency will reduce its fees to an agreed percentage. These reduced fees must be confirmed either in writing or by email, by a Senior Consultant or Director. The agreed percentage fee that applies to of the first-year basic salary and guaranteed bonuses will be for a defined period. The period, unless agreed in writing for a longer term, will be one calendar month.

SCHEDULE TWO: ASSIGNMENT

Hunter Nash shall source applicants for the role as defined by the Client.

SCHEDULE THREE: REFUNDS AND GUARANTEES

The Agency intends to provide a quality recruitment service and recognising this, the Agency offers the following guarantee. The guarantee is for a period of 12 weeks, calculated from the date of Engagement.

In accordance with clause 4 of these terms of business, the Agency will during the first four weeks provide a replacement Applicant free of charge within a timeframe to be agreed in writing. After the agreed period, if the Agency has been unsuccessful, the Client can either decide to extend the period for the Agency to find an alternative Applicant or request a discount of a proportion of the next invoice as detailed in the discount guarantee scheme below.

The Discount & Refund Guarantee Schemes

All refunds are on the provision that payment is made within the payment terms of the invoice. A refund only applies when the Engagement is terminated by the Applicant. In such circumstances, the following Replacement or Refund will apply:

Weeks within which the Applicant terminates the Engagement	Guarantee and Refund Details
Up to 4 Weeks	a new Applicant supplied free
Up to 8 Weeks	A rebate of 40% of the fee
Up to 12 Weeks	A rebate of 20% of the fee

Should the Client terminate the engagement, the Agency guarantees to discount a proportion of the next invoice as follows:

weeks within which the Client terminates the Engagement	Discount Guarantee Details
Up to 4 Weeks	75%
Up to 8 Weeks	50%
Up to 12 weeks	25%

This Discount Guarantee is applicable only to full permanent placements and not to fixed-term appointments.