

ten-percent.co.uk limited

Terms and Conditions

Terms of Business relating to supply of candidates for vacancies by ten-percent.co.uk limited

As at 12th May 2006 – please note our Fees Section.

1. Interpretation

- 1.1 In these terms of business ('the Terms') the following expression shall be given the following meanings:
- 'Candidate' means a person introduced by the Company to the Client to be considered for an Engagement and for the avoidance of doubt an introduction shall be deemed to have taken place where the Company passes to the Client any information (including a curriculum vitae) which identifies the Client or where a Candidate is interviewed by the Client (by telephone or in person) following an instruction by the Client to the Company to search for a Candidate;
- 'The Client' means any person, firm or corporation who approaches the Company with a view to engaging or otherwise employing a Candidate or to whom a Candidate is introduced by the Company;
- The 'Company' means ten-percent.co.uk limited and includes its' subsidiary, holding or associated companies unless otherwise stated;
- 'Engagement' means the employment, hire, engagement or other use directly or indirectly of the Candidate by or on behalf of the Client or any third party on a permanent, temporary or other basis whether under a contract of service or contract for services, agency, licence, franchise agreement, joint venture, partnership agreement or otherwise;
- 'Month' means a calendar month;
- 'Remuneration' means the aggregate remuneration payable to or receivable by the Candidate in respect of services rendered to or on behalf of the Client to include salary drawings or fees, commission and bonus earnings (guaranteed and/or anticipated), benefits in kind (including the provision of a company car), taxable (and, where applicable, non-taxable) emoluments, profit shares, incentives and all other payments and any financial benefit payable to or receivable by the Candidate where the Candidate acquires any interest in the business of the Client;
- 'Week' means seven consecutive days.
- 1.2 In these Terms words importing the singular shall include the plural and vice versa and words importing the masculine gender shall include the feminine gender and vice versa.
- 1.3 All and any business undertaken by the Company is transacted subject to these Terms, all of which shall be incorporated in any agreement between the Company and the Client. In the event of any conflict between these Terms and any other terms and conditions, these Terms shall prevail unless expressly otherwise agreed in writing by a Director or other authorised officer of the Company. No variation in these Terms shall be valid if made without the written consent of a Director or other authorised officer of the Company.
- 1.4 The interviewing by or on behalf of the Client or the Engagement of a Candidate or the commencement by a Candidate of work for or the provision of services to the Client (whichever first occurs) shall be deemed acceptance of an agreement to these Terms.
- 1.5 The complete or partial invalidity or unenforceability of any provision herein for any purpose shall in no way affect the validity or enforceability of such a provision for any other purpose or the remaining provisions. Any such provisions shall be deemed to be served for that purpose subject to such consequential modification as may be necessary for the purpose of such severance.
- These Terms supersede all previous terms of business.

2. Obligations of the Company

- 2.1 The Company will use reasonable endeavours to introduce to the Client a suitable Candidate to carry out work for the Client of such nature as the Client shall notify to the Company of the vacancy in respect of which the Candidate has been introduced. The Client accepts that no warranty as to the suitability of the Candidate can be given by the Company. The Company cannot guarantee to find a suitable Candidate for each vacancy.
- 2.2 The Company shall donate a percentage of its annual profits, after tax has been paid, to The Ten-Percent Foundation, a registered charitable trust. This percentage is normally 10% but the Company reserves the right to alter this percentage from year to year.

3. Obligations of the Client

- 3.1 The Client will notify the Company immediately of any offer of an Engagement which it makes to the Candidate.
- 3.2 The Client shall notify the Company immediately of the acceptance of its offer of an Engagement to the Candidate and provide to the Company full and complete details of the Candidate's Remuneration. If the level of the Candidate's Remuneration increases at any time during the first 12 months of the Engagement the Client shall immediately notify the Company and the fee detailed in clause 4.2 shall be recalculated accordingly.

- 3.3 The Client shall, on request from the Company, provide a copy of the job offer and/or contract sent to the Candidate to offer the employment to them.
- 3.4 The Client shall, on request from the Company, provide a copy of the first month's wage slip for the Candidate, or, alternatively, a certified copy of a computer printout detailing the amount paid.
- 3.5 Notwithstanding clause 2.1 above, the Client shall satisfy itself as to the suitability of any Candidate for the purposes of the vacancy for which the Candidate has been introduced. Without prejudice to the generality of the foregoing, it is acknowledged by the Client that it is for the Client to take up references and to check the validity of qualifications. The Client shall be responsible for obtaining any work and other permits and for ensuring that the Candidate satisfies any medical requirements or other qualifications that may be appropriate or required by law.
- 3.6 The Client undertakes not to employ or seek to employ members of staff of the Company but if any such member of staff accepts an Engagement within 3 months of such member leaving the employment of the Company, then the Client shall be liable to pay the Company's scale fees as if such member had been introduced by the Company.
- 3.7 The Client undertakes that in the event of the Client effectively introducing (directly or indirectly) any Candidate to another person, firm or corporation, including any subsidiary, associated or holding company of the Client, resulting in an Engagement by that person, firm or corporation (which the Client shall immediately notify the Company) the Client shall pay to the Company an introduction fee in accordance with clause 4 hereof, unless the Engagement occurs more than 12 months after the introduction of the Candidate to the Client by the Company or from the date of the Candidate's last interview with the Client whichever is the later.

4. Fees

- 4.1 The introduction fee shall become due immediately upon the commencement of an Engagement. The fee shall be calculated in accordance with the Company's scale of fees in relation to Candidates in force from time to time (a copy of which may be obtained from the Company on request). Value Added Tax shall be payable thereon at the prevailing rate where applicable.
- 4.2 The introduction fee payable pursuant to clause 4.1 above shall be calculated as **15%** of the Candidate's Remuneration applicable during the first 12 months of the Engagement. There is no fee payable by the Client for out of hours (overtime) police-station work by Candidates.
- 4.3 If a Client employs a Candidate on a contract for a fixed term of less than 12 months, the fee in clause 4.2 shall be calculated pro rata, unless the position is a locum position to cover holiday or annual leave, maternity leave, an employee on sick leave, a period of time prior to a permanent employee commencing a position, or a period of time of less than 3 months, in which case any fee will be agreed in writing between the parties prior to the commencement of employment.
- 4.4 Where the precise amount of the Remuneration is not known the Company will charge a fee calculated in accordance with clause 4.2 based on the minimum remuneration applicable for the position in which the Candidate has been engaged having regard to comparable positions in the market and the information (if any) supplied to the Company by the Client in accordance with clauses 3.2 and 3.3.
- 4.5 Charges for advertising must be separately agreed in writing before the advertisement is placed and will be payable irrespective of whether a Candidate is engaged. All other charges must be separately agreed in writing and will be payable irrespective of whether or not a Candidate is engaged.
- 4.6 All monies due hereunder shall be paid by the Client within 21 days of the date of invoice by the Company. The invoice shall be issued as soon as the Client has notified the Company of the Candidates' acceptance of an offer of Engagement by the Client.
- 4.7 Provided the prior written consent of the Company is obtained by the Client, monies owed to the Company by the Client may be paid over six months by monthly instalments.
- 4.8 In the event that the Client fails to pay any monthly instalment when it is due and owing then the Company reserves the right to withdraw its consent to payment by instalments and all remaining monies owed to the Company by the Client will become payable on demand by the Company.
- 4.9 If an unconditional job offer made by the Client in writing and accepted by the Candidate is subsequently withdrawn by the Client prior to the commencement of employment by the Candidate, an administration fee is owed to the Company by the Client of £1,500 plus VAT.
- 4.10 If the Client fails to pay the Company any sum due the Company reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.

5. Termination

- 5.1 In the event of a Candidate or the Client lawfully terminating the Engagement within 12 weeks of the date upon which such Candidate commenced work for the Client (including probationary periods) and provided that:
- (a) all monies due hereunder have been paid by the Client in accordance with clause 4 hereof;
 - (b) such termination is not as a result of redundancy, pregnancy, injury or ill-health or by reason of the Candidate's race, sex or any disability;
 - (c) such termination has not arisen where the Client has entered into the Engagement with the prior or likely intention of disposing with the Candidate's services or terminating employment either without proper cause or with a view to obtaining a refund unfairly;
 - (d) the Client serves notice on the Company in writing at its registered office of the termination of the Engagement within 7 days thereof giving full details as to the reason for the termination together with any further information relating to the termination requested by the Company thereafter; and
 - (e) neither the Client nor any subsidiary associated or holding company of the Client shall commence Engagement of the Candidate within 12 months from the date of the termination of the Engagement,

then the Client shall receive a rebate calculated in accordance with the Company's scale of rebates in force from time to time.

5.2 The scale of rebates due to the Client is (as at 12th May 2006):

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|------|-------------------------------|-----|--------------------|
| 100% | Less than 24 hours employment | 50% | Less than 8 weeks |
| 90% | Less than 1 week | 25% | Less than 12 weeks |
| 75% | Less than 4 weeks | | |

Under no circumstances will any expenses be refunded. If the Candidate is employed by the Client as a locum (temporary employee), the rebates do not apply and any rebate must be agreed on an individual basis.

5.3 No rebate shall be payable by the Company in the event of failure by the Client to adhere to the time limits provided for in clause 5.1 above.

5.4 No rebate shall be made in respect of an Engagement where the Candidate was previously engaged in any capacity by the Client through the Company.

5.5 The rebate shall be repayable in full where the client subsequently re-engages the Candidate in any capacity.

5.6 In the event of a Candidate or the Client lawfully terminating the Engagement after the period of 12 weeks from the date upon which such Candidate commenced work for the Client (including probationary periods) and provided that the conditions in clause 5.1 (a) to 5.1(e) (inclusive) are fulfilled then the Client shall be entitled to use the Retained Consultancy Services detailed in clause 7 at a discounted price to be agreed between the parties.

6. Liability and indemnity

6.1 Neither the Company nor any of its staff shall be liable to the Client for any loss, injury, damage, expense or delay incurred or suffered by the Client arising directly or indirectly from or in any way connected with an Engagement and, in particular, but without limitation to the foregoing, any such loss, injury, damage, expense or delay arising from or in any way connected with:

- (a) failure of the Candidate to meet the requirements of the Client for all or any of the purposes for which he is required by the Client (subject to clause 5 hereof);
- (b) any act or omission of a Candidate, whether wilful, negligent, fraudulent, dishonest, reckless or otherwise;
- (c) any loss, injury, damage, expense or delay incurred or suffered by a Candidate;

PROVIDED THAT nothing in this clause 6 shall be construed to purporting to exclude or restrict liability of the Company to the Client for personal injury or death resulting from negligence (as defined in the Unfair Contract Terms Act 1977) nor any statutory liability or any exclusion or limitation which is prohibited by law.

6.2 In consideration of the Company entering into an agreement with the Client into which these Terms are incorporated, the Client hereby undertakes to indemnify the Company in respect of any and all liability of the Company for:

- (a) any loss, injury, expense or delay suffered or incurred by a Candidate, howsoever caused; and
- (b) any loss, injury, damage, expense or delay suffered or incurred by anyone arising directly or indirectly from or in any way connected with the acts and omissions of a Candidate, whether wilful, negligent, fraudulent, dishonest, reckless or otherwise;
- (c) any legal costs and other expenses incurred by the Company arising out of any breach of these Terms by the Client;

PROVIDED THAT this indemnity is given only in respect of any such loss, injury, damage, expense or delay caused during or arising directly or indirectly out of or in any way connected with an Engagement.

6.3 The Client acknowledges that the limitations and exclusions of the obligations and liabilities of the Company set out herein are reasonable and reflected in the fee payable to the Company hereunder and shall accept risk and/or insure accordingly.

7. Retained Consultancy Services

7.1 "Agreement" in this section refers to the written agreement between the Company and Client for the Company to provide the Client with Search & Selection (Retained Consultancy) Services.

7.2 "Retained Consultancy Services" are recruitment services offered by the Company to the Client on an exclusive basis.

7.3 If the Company and Client agree to the Company acting as retained consultants, these additional terms apply.

7.4 The Client must agree in writing to be bound by these terms as well as the standard terms and conditions before the additional terms apply.

7.5 The Client must refer all third party and direct applications to the Company, and forward all correspondence by post or via the documentary exchange service.

7.6 If no Candidates are placed, no fee is due by the Client, and any monies paid will be returned by the Company.

7.7 The Client undertakes to pay all advertising costs at the standard rates as agreed prior to the commencement of the Retained Consultancy Service regardless of whether the Company is successful or not in introducing Candidates to the Client.

7.8 The Company may request the payment of one third of the agreed fee in advance by the Client to the Company. This will be agreed in writing if applicable.

7.9 The Company contracts with the Client to act as sole and exclusive recruitment consultants to the Client.

7.10 The Company will provide all recruitment services to the Client on an exclusive basis until the Agreement is terminated.

7.11 The Company will only charge the agreed fee, unless the job description given at the start of the assignment alters significantly.

- 7.12 The Company will undertake the services agreed to in the Agreement signed by Company and Client prior to commencement of the Retained Consultancy Service.
- 7.13 If the Client recruits directly or receives referrals from third parties without notifying the Company, the Agreement is terminated immediately, and one-third of the agreed fee or a minimum fee of £2,500 plus VAT (whichever is the higher) will become owed to the Company by the Client as an administration fee, together with a standard 15% fee for each Candidate placed as according to the standard terms and conditions.
- 7.14 The Agreement can be terminated by the Client by giving 10 working days notice in writing to the Company. All monies outstanding must be paid to the Company before the Agreement can be terminated.

8. Miscellaneous

- 8.1 The Company reserves the right to review and to revise these Terms without prior notice.
- 8.2 These Terms shall be governed by and construed in accordance with the laws of England and Wales and the Company and the Client agree to submit to the exclusive jurisdiction of the courts of England and Wales.