

Standard Terms for UK Individual Clients (Employment Agency Model)

- **Standard terms and conditions for introducing tutors for direct engagement by clients**

These terms of business apply in relation to any employment agency services provided by Owl Tutors Limited a company incorporated in England and Wales (company number [07679444]) whose registered office is at [Unit 2A, The Plough Brewery, 516 Wandsworth Road, London, SW8 3JX, United Kingdom] (the "**Company**") to any client (the "**Client**").

It is agreed as follows:

1. **Definitions and interpretation**

1.1 In this Agreement, unless the context otherwise requires, the following definitions shall apply:

"Agreement" means this agreement between the Company and the Client comprising the terms set out in this document.

"Business Day" means any day (other than Saturday or Sunday) on which clearing banks are open for business in London.

"Candidate" means a person in respect of whom, or in respect of whose skills or services relating to tutoring or otherwise, information is provided by the Company to the Client.

"Candidate Request" means what the Company reasonably deems to be the Client's instruction, request or confirmation to search for a Candidate for a particular position.

"Client Contact" means any member of the Client's Group or any client of the Client with whom the Candidate had material contact during the Engagement, or any third party (including any client of the Client or any employment business or other person) to whom the Client introduces that individual (a "**Client Third Party Contact**").

"Client's Group" means the Client and (where the Client is a corporate entity) , any body corporate of which the Company is a subsidiary (as defined in section 1159 of the Companies Act 2006), any other subsidiary of such body corporate and any subsidiary of the Company.

"Data Protection Laws" means any applicable laws and regulations in any relevant jurisdiction relating to the use or processing of personal data including: (i) EU Regulation 2016/679 as it forms part of the law of England and Wales by virtue of section 3 of the European Union (Withdrawal) Act 2018 (the "**UK GDPR**"); (ii) the Data Protection Act 2018 ("**DPA**"); and (iii) the Privacy and Electronic Communications (EC Directive) Regulations 2003; in each case, as updated, amended or replaced from time to time; and the terms "**Data Subject**", "**Personal Data**", "**processing**", "**processor**" and "**controller**" shall have the meanings set out in the UK GDPR.

"Engagement" means the Client's or any Client Contact's:

- (a) engagement (direct or indirect) by way of employment or contract for services or otherwise of the Tutor(s); or
- (b) making of any other arrangement for any of the Tutor to provide services for the benefit of the Client or any Client Contact

and "**Engages**" shall be construed accordingly.

"Engagement Date" means the date on which the Candidate begins an Engagement at or with the Client.

"Expenses" means any agreed expenses to be paid by the Client.

"Introduction Fee" means the sum that is payable by the Client to the Company following the Engagement of a Candidate, to be calculated as follows:

"Introduction" means the earlier of the following events:

- (a) the Company supplying to the Client, orally or in writing, any information sufficient to identify a Candidate or
- (c) the Client interviewing the Candidate in person or otherwise.

"Loss" means any demand, contribution, claim, action, proceeding, liability, loss, damage, costs, expenses, tax, national insurance contributions (to the extent permitted by law) and charges and any related penalties, fines or interest whatsoever whether founded in statute, contract, tort or otherwise made or brought against or incurred (including without limitation all losses, liabilities and costs incurred as a result of defending or settling any claims).

"Re-engage" means during an Engagement, or following the termination of a Candidate's Engagement for a fixed term period (for any reason whatsoever), the Client Engages the Candidate in any position for a further period. **"Re-engaged"** and **"Re-engages"** shall be construed accordingly.

"Regulations" means the Conduct of Employment Agencies and Employment Businesses Regulations 2003 as amended.

"Role(s)" means the duties, responsibilities, experience, qualifications and skills that a Candidate will be expected to fulfil.

"Remuneration" means all payments, bonuses, commission, profit sharing, London weighting allowance, where a motor vehicle is provided, this will constitute a payment to the value of £5,000, benefits in kind and any other payment arising from the Engagement and whether payable to the Candidate or to a third party (including, without limitation, a limited company connected with the Candidate) in respect of or referable to the relevant Engagement.

- 1.2 Reference to the Client shall, to the extent the context permits, be the person who is benefitting from the tuition services
- 1.3 Any reference, express or implied, to an enactment includes a reference to that enactment as from time to time amended, modified, extended, re-enacted, replaced or applied by or under any other enactment (whether before or after the date of this Agreement) and all subordinate legislation made (before or after the date of this Agreement) under it from time to time.
- 1.4 Where the context permits, words denoting:
 - (a) persons shall include bodies corporate and unincorporated associations of persons;
 - (b) the singular include the plural and vice versa; and
 - (c) one gender shall include any gender.
- 1.5 For the purposes of the Conduct Regulations the Company shall operate as an employment agency.

2. **Terms**

- 2.1 In the event of any conflict between this Agreement and any other terms and conditions, this Agreement shall prevail unless expressly agreed otherwise in writing by a director of the Company.
- 2.2 This Agreement supersedes all previous terms and conditions of business in respect of the subject matter of this Agreement whether written, oral or implied.
- 2.3 A Client will be deemed to have accepted the terms of this Agreement by issuing a Candidate Request to the Company, by downloading a Candidate's CV, by interviewing (whether in person, by telephone, by video link or by using any other media, including without limitation social media),

engaging or continuing to Engage a Candidate, or by passing any information about a Candidate to any Client Contact following an Introduction.

- 2.4 These terms shall apply to any Client who directly or indirectly Engages any Candidate introduced on a temporary or permanent basis (save where such Engagement is via the Company in circumstances where the Company and the Client have agreed an assignment under the Company's terms of business as an employment business and/or otherwise as a contractual intermediary).
- 2.5 For convenience Schedule 2 sets out terms which the Candidate and Client can use as the basis of their direct contracting arrangements: they are free to agree to whatever terms they want and this template is merely provided by the Company for convenience in case the Tutor and Client do not have their own standard terms readily available.
- 2.6 The Client shall provide such information as the Company may reasonably require from time to time relating to the progress of the services of the Candidate.

3. **Recruitment obligations**

- 3.1 Save in respect of the authority given under this Agreement the Company has no authority to enter into any contract directly with the Candidate on the Client's behalf.
- 3.2 The Company will notify the Client in writing immediately if at any time during this Agreement following an Introduction the Company becomes aware or has reason to believe that a Candidate is not suitable for an Engagement.

4. **Introduction Fee**

- 4.1 The Client shall pay the Company the Introduction Fee in respect of any Engagement
- (a) arranged via the Company; or
 - (b) involving the Candidate accepting an Engagement within 12 months of the most recent event constituting an Introduction.
- 4.2 The Introduction Fee shall be payable in respect of each element or instalment of Remuneration for each instalment or session of tuition or other service provided by the Candidate to or for the benefit of the Client or relevant Client Contact.
- 4.3 The Introduction Fee is still payable if a Candidate is Engaged in a position other than the one originally intended.
- 4.4 No charge for work-finding services is made to the Candidate.
- 4.5 Permanent or fixed-period Engagement: Where an Engagement is agreed in advance to be for a fixed period or permanent employment role the Company may, as a concession in its sole discretion, calculate the Introduction Fee differently, in accordance with Schedule 1, and that the Remuneration (from which the Introduction Fee will be calculated) shall be calculated as the actual amount agreed to be paid for the fixed period or (if longer than a year) annualised fee payable to the Candidate provided that:
- (a) the Client notifies the Company in writing prior to the Engagement Date and the full amount payable for the fixed period or (if longer than a year) annualised fee payable to the Candidate;
 - (b) prior to the commencement of the Engagement, the Company has accepted in writing that the Introduction Fee will be calculated on such basis;
 - (c) the Client pays the concessionary sum within 8 days of the date of Company's invoice; and
 - (d) the Introduction Fee payable in such circumstances shall be 15% of any remuneration agreed within the first 12 months.

Notwithstanding this clause, the Company shall in its sole discretion be entitled to charge a further Introduction Fee when a Candidate is Re-engaged by the Client within a 12 month period of end of the original Engagement. The Client agrees to notify the Company in writing before it Re-engages a Candidate.

4.6 The Introduction Fee and any other fees are subject to VAT where applicable.

5. **Payment of Fees**

5.1 The Client shall confirm the Remuneration

- (a) at the time of the Candidate Request or as soon as possibly thereafter (including by way of confirming that the Remuneration proposed by the Company on behalf of the Candidate is acceptable); or
- (b) to the extent the Remuneration consists of elements as yet unknown, shall confirm the minimum Remuneration and additional anticipated Remuneration to the Company on the Engagement of a Candidate.

5.2 Following the notification of an Engagement of a Candidate to the Company or at such other stage as the Company shall consider appropriate after the Introduction, the Company shall issue to the Client an invoice detailing the Introduction Fee payable by the Company pursuant to clause 4 above.

5.3 The Client shall pay the Introduction Fee to the Company within 8 days of the date of the Introduction Fee invoice. If the Introduction Fee is not paid within this period, the Company shall be entitled to charge annualised interest on any amounts which remain outstanding at the rate of 8% of the original amounts until the account is settled.

5.4 To the extent the Remuneration for the relevant period of the Engagement is or will be, in the reasonable opinion of the Company, materially greater than the sum notified in clause 5.1, the Company shall at any time be entitled to charge an additional Introduction Fee in respect of the difference.

5.5 The Client may, at its option, agree with the Candidate that the Candidate shall issue invoices to the Client via *Stripe Connect* which shall act as payment agent (the "**Payment Agent**"). That arrangement may also involve the Payment Agent making payments to the Tutoring Company of its Introduction Fees relating to the Engagement.

5.6 For the avoidance of doubt the Company is not associated with the Payment Agent and will make no arrangements in relation to the payments due to the Candidate and shall not be liable for any failures by the Payment Agent to make payments correctly or other failures of the Payment Agent. Details of that Payment Agent service are provided for convenience only and may be of use where the Client and/or Candidate want(s) support with the process of making payments/collecting payments.

6. **Suitability and References**

6.1 In accordance with the requirements of the Regulations, the Company will not supply a Candidate to the Client, such that an Engagement starts without first obtaining confirmation of their identity, that they are willing to work in the Role in which the Company wishes to Engage them and that they have the experience, training, qualifications and any authorisation which the Client considers necessary for the Role or which are required by law or any professional body.

6.2 The information which Company has obtained under clause 6.1 above will be provided to the Company as soon as possible, being not later than required by law.

6.3 The Company will not supply a Candidate that an Engagement starts unless it has taken all reasonably practicable steps to ensure that the Client and the Candidate are aware of any requirements imposed by law or any professional body which must be satisfied to enable the Candidate to work in the Role. The Company will also make such enquiries as are reasonably practicable to ensure that it would not be detrimental to the interests of either party for the Candidate to work in the Role.

- 6.4 To enable the Company to comply with its obligations under the Regulations, the Client shall provide the Company with sufficient information to enable it to select a suitable Candidate for the Role which must include the date on which the Client requires the Candidate to commence work and (if the Engagement is for a fixed period) the likely duration; the nature of the work, the location, hours and any risks to health and safety known to the Client and the steps taken to control such risks; details of the experience, training, qualifications and any authorisations which the Client considers necessary, or which are required by law or any professional body for the Candidate to possess to work in the Role; details of any Expenses payable.
- 6.5 The Client will also inform the Company of the minimum rate of Remuneration and (if greater) expected Remuneration and other benefits for the Role, the intervals of pay and the notice required to terminate the Engagement.
- 6.6 Notwithstanding the above, the Client must satisfy itself as to the suitability of the Candidate and the Client shall take up such references provided by the Company or the Candidate before engaging the Candidate. The Client is responsible for obtaining work permits and/or such other permission to work as may be required, for the arrangement for medical examinations and/or any investigations into the medical history of the Candidate and satisfying any medical or other requirements, qualifications or permission required by law applicable to the Engagement.
- 6.7 In accordance with Regulation 22 of the Regulations, where required, the Client will take all reasonably practicable steps to obtain copies of any relevant qualifications or authorisations and two references from persons not related to the Candidate who have agreed that the references they provide may be disclosed to the Client. In accordance with Regulation 22 of the Regulations, where required, the Company shall offer to provide copies of such information to the Client and if it is unable to obtain any of the above information then it shall inform the Client of the steps it has taken to obtain it.
- 6.8 The Company will assume unless it has reason to believe to the contrary that a Role will include or may include working with, or caring for persons under the age of eighteen and/or a Role which involves caring for or attending any person who by reason of age, infirmity, or any other circumstances is in need of care or attention. If the Role will or may include that, the Client shall provide such information and cooperation as the Company shall reasonably require to enable it to comply with the requirements of Regulation 22 of the Regulations.

7. **Availability of Candidates**

The Company shall use all reasonable endeavours to Introduce suitable Candidates but does not guarantee that a Candidate is available to accept any Engagement.

8. **Introduction of a Candidate to a Third Party**

The Introduction of a Candidate to the Client is confidential. The Client must not supply or provide any information that relates to or helps identify a Candidate to any other person, school, firm or company (a "**Third Party Introduction**"). If following a Third-Party Introduction, the Candidate is Engaged within 12 months of the date of the original Introduction by the Company to the Client, the Client shall pay to the Company the Introduction Fee in accordance with clause 4 for the Engagement.

9. **Liability and indemnity**

- 9.1 The Client will indemnify and hold the Company harmless on a continuing basis for any Losses incurred by the Client as a result of its breach of this Agreement or arising from its negligent or deliberate acts, defaults or omissions.
- 9.2 Under no circumstances is the Company liable for any Losses incurred by the Client or any other entity from the Introduction or subsequent Engagement of a Candidate save for death or personal injury caused by the Company's own negligence.
- 9.3 The Client acknowledges that by entering into this Agreement it has not relied on any representations, warranties or other assurances made by the Client other than those expressly

set out in this Agreement, provided that nothing in this clause shall operate to limit or exclude any liability for fraudulent misrepresentation.

10. **Confidentiality and data protection**

- 10.1 All information contained within this Agreement and any Candidate Request shall remain confidential and the parties shall not divulge it to any third party, save for its own employees and professional advisers on a need to know basis or as may be required by law and to Candidates as may be required for the performance of any Engagement. The parties will keep any information associated with an Introduction confidential and not use it for any purpose other than specified at the time the information was provided.
- 10.2 The parties warrant and undertake to each other that, in relation to any personal information generally in relation to this Agreement, they shall comply strictly with all requirements of the Data Protection Laws.

11. **General**

- 11.1 The Company is committed to equal opportunities and expects the Company to comply with all anti-discrimination legislation as regards the selection and treatment of Candidates.
- 11.2 Where applicable value added tax will be added to the Introduction Fee. Remuneration in foreign currency will be calculated at the Bank of England Sterling exchange rate applicable on the date of our invoice.
- 11.3 None of the provisions of this Agreement is intended to be for the benefit of, or enforceable by third parties (other than permitted assignees of either party who shall be entitled to enforce the provisions of this Agreement as if original parties to it) and the operation of the Contracts (Rights of Third Parties) Act 1999 is excluded.
- 11.4 Any notice under this Agreement shall be in writing and sent to the addressee at the last known address, fax number or electronic mail address either, respectively, by first class post, or by fax or by electronic mail, and shall be deemed to have been received, in the case of post on the postal date following the date of posting and in the cases of fax and electronic mail on the date of transmission.
- 11.5 This Agreement constitutes the entire agreement between the parties and supersedes all previous agreements and arrangements (if any) whether written, oral or implied between the Client and the Company relating to the Introduction of Candidates. Unless otherwise agreed in writing by an authorised signatory of the Company, this Agreement prevails over any other terms of business or purchase orders the Client puts forward.
- 11.6 No amendment to this Agreement is effective unless agreed in writing and signed by a signatory authorised to enter into such agreements by the Client and the Company.
- 11.7 If any provision or any part of this Agreement is held to be illegal or unenforceable, in whole or in part, under any enactment or rule of law:
- (a) such provision or part shall to that extent be deemed not to form part of this Agreement but the enforceability of the remainder of this Agreement shall not be affected;
 - (b) to the extent permitted by law, the provision severed under clause 11.7(a), shall be replaced with a provision which is of similar effect but which is not illegal or unenforceable.
- 11.8 This Agreement shall be governed by and construed in all respects in accordance with English law and in the event of any dispute regarding this Agreement the English Courts shall have exclusive jurisdiction.