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## EMPLOYMENT AGENCY CLIENT TERMS AND CONDITIONS

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These Terms and Conditions [together with the candidate profile] shall apply to the provision of Services by the Agency to the Client.

### 1. Definitions and Interpretation

1.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

<b>“Agency”</b>	means Military Drivers Recruitment a company registered in United Kingdom under number 13702809 whose registered office is at 20-22 Wenlock Road, London, N1 7GU;
<b>“Candidate”</b>	means any person introduced by the Agency to the Client for an Engagement;
<b>“Client”</b>	means any person, firm or company including any associates or subsidiaries to whom a Candidate is introduced;
<b>“Confidential Information”</b>	means any information concerning either Party and relating to its business methods, plans, systems, finances or projects; its trade secrets; its products or services; or any other information which is expressly described as confidential;
<b>“Engagement”</b>	means any employment, engagement or use by a Client of a Candidate whether part or full time, with or without a contract;
<b>“Introduction”</b>	an introduction will be deemed to have taken place where the Agency has provided a Client with any information concerning a Candidate, or where a Client interviews a Candidate following an instruction from a Client to locate a Candidate;
<b>“Introduction Fee”</b>	means the fee payable by the Client to the Agency in accordance with these Terms and Conditions, on the introduction of a Candidate to a Client which results in the Engagement of a Candidate;
<b>“Remuneration”</b>	means any salary, fees, bonuses, commission, allowances, or any other financial benefit payable to, or received by a Candidate for services to a Client; and
<b>“Services”</b>	means the employment agency services provided by the Agency to the Client as set out in these Terms and Conditions.

1.2 Unless the context otherwise requires, each reference in these Terms and Conditions to:

1.2.1 “writing”, and any cognate expression, includes a reference to any communication effected by electronic transmission or similar means;

1.2.2 a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;

- 1.2.3 "these Terms and Conditions" is a reference to these Terms and Conditions and each of the Schedules as amended or supplemented at the relevant time;
- 1.2.4 a Schedule is a schedule to these Terms and Conditions; and
- 1.2.5 a Clause or paragraph is a reference to a Clause of these Terms and Conditions (other than the Schedules) or a paragraph of the relevant Schedule; and
- 1.2.6 a "Party" or the "Parties" refer to the parties to these Terms and Conditions.
- 1.3 The headings used in these Terms and Conditions are for convenience only and shall have no effect upon the interpretation of these Terms and Conditions.
- 1.4 Words imparting the singular number shall include the plural and vice versa.
- 1.5 References to any gender shall include any other gender.

## **2. The Contract**

- 2.1 Any and all business entered into by the Agency is subject to these Terms and Conditions [together with the candidate profile] and in the event of any conflict with any other terms and conditions these Terms and Conditions [together with together with the candidate profile] shall prevail unless agreed otherwise in writing by a Director of the Agency.
- 2.2 No modification or change to these Terms and Conditions [or together with the candidate profile] will be valid unless the details of any such changes are in writing, signed on behalf of the Agency and the Client, and state the date on or after which such new terms will apply.
- 2.3 The Introduction of a Candidate or Engagement of a Candidate, or the commencement of work or provision of services by a Candidate for the Client shall be deemed acceptance of these Terms and Conditions [and together with the candidate profile] by the Client.
- 2.4 These Terms and Conditions [together with together with the candidate profile] contain the entire agreement between the Agency and the Client and supersede all previous terms of business, agreement and arrangements.

## **3. Vacancies and Advertisements**

- 3.1 The Agency shall have the right to decline, cancel or otherwise remove any vacancy advertisement provided by the Client to the Agency at any time, for any reason and without giving prior notice to the Client.
- 3.2 If any vacancy advertisement appears to demonstrate that the Client intends to discriminate on the grounds of age disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, or sexual orientation, it will be declined unless the vacancy is exempted from the provisions of the Equality Act 2010; the Employment Equality (Religion and Belief) Regulations 2003; or the Employment Equality (Age) Regulations 2006. In the case of any applicable exemptions, the vacancy advertisement must be accompanied by a written statement explaining those exemptions and how they apply to the vacancy.
- 3.3 If, in the opinion of the Agency, any vacancy advertisement indicates any illegal purposes on the part of the Client, the Agency may, without notice, report the vacancy and the Client to the relevant authorities. Such authorities

may include, but are not limited to, the Department for Work and Pensions, ACAS, the Information Commissioner's Office; and the Recruitment and Employment Confederation.

- 3.4 Vacancy advertisements shall remain open and viewable by prospective Candidates for a period of 4 weeks or otherwise as agreed between the Agency and the Client.
- 3.5 All vacancy advertisements shall contain details of no more than one single vacancy unless otherwise agreed in writing between the Agency and the Client.

#### **4. The Agency's Obligations**

- 4.1 The Agency shall endeavour to find suitable and willing Candidates to fill such vacancies as are notified to the Agency by the Client or to notify the Client if the Agency believes it is unable to assist with the Client's requirements.
- 4.2 The Agency shall endeavour to ensure that all vacancy advertisements are published on the date agreed with the Client or, where no date is agreed, within 1 week of receiving details of the vacancy.
- 4.3 The Agency shall endeavour to ensure that all Candidates introduced to the Client have the experience, qualifications, and authorisations which are required by the Client, by law or by any professional body, for the position(s) that the Client wishes to fill, and shall also endeavour to verify the identity of Candidates prior to introducing them to the Client.
- 4.4 At the same time as proposing a Candidate to the Client the Agency shall inform the Client of such matters as detailed in sub-Clause 4.3 of which the Agency has obtained confirmation.
- 4.5 The Agency shall endeavour to take all reasonable steps to ensure that Clients and Candidates are aware of any requirements imposed by law or any professional body on the vacancy / vacancies that the Client seeks to fill.
- 4.6 The Agency shall endeavour to take all such steps as are reasonably practicable to ensure that it would not be detrimental to the interests of either the Client or the Candidate to work in the position which the Client seeks to fill.
- 4.7 The Agency cannot guarantee to find a suitable Candidate for each vacancy and gives no warranties as to the suitability of any Candidate.
- 4.8 Where a Candidate is offered or applying for Engagements that involve working with or caring for any persons under the age of 18, the elderly, the infirm or anyone in need of care and attention, the Agency shall take all reasonably practical steps to ensure that it obtains and makes available to the Client copies of all necessary qualifications or authorisations required for the Engagement, two references from persons unrelated to the Candidate, and confirmation that the Candidate is not unsuitable to work with vulnerable people.

#### **5. The Client's Obligations**

- 5.1 The Client shall provide to the Agency all information which is reasonably required for the Agency to provide the Services. The Client shall use its best endeavours to ensure that such information is complete, accurate and up-to-date.
- 5.2 The Client shall ensure that all information provided to the Agency does not contain any material which could be regarded as offensive, indecent, obscene,

illegal, dishonest, untruthful, defamatory or discriminatory.

- 5.3 The Client shall ensure that all information provided to the Agency does not contain any material which infringes the rights of any third parties (including, but not limited to, intellectual property rights).
- 5.4 The Client must provide the Agency with details of the vacancies that the Client wishes to fill, which must include the type of work required, the date of commencement, the duration, the hours, rates of pay and location as well as the training, qualifications and other authorisations required by law, the Client and any professional body for the position(s).
- 5.5 The Client must inform the Agency of any health or safety risks or requirements of the vacancies the Client wishes to fill, as well as the action taken by the Client to minimise and control such risks.
- 5.6 The Client must not seek to employ any member of the Agency's staff, but in the event that any member of staff accepts an Engagement with the Client, the Client must pay an Introduction Fee in accordance with Clause 6.
- 5.7 The Client warrants that it shall immediately, and in any event within 24 hours of the Agency's first provision of information relating to the Candidate's identity, inform the Agency if the Client believes that it is aware of the identity of the Candidate other than via information supplied by the Agency. The Client agrees that it will be deemed not to have been aware of the identity of the Candidate prior to the Agency's provision of the information relating to the Candidate's identity if the Client fails to provide such a notice within the aforementioned 24 hours.
- 5.8 The Client acknowledges that the Agency is under no obligation to provide the Services until all required information has been provided by the Client in accordance with sub-Clause 5.1.
- 5.9 The Client shall inform the Agency immediately in the event that any relevant information changes following the submission of that information to the Agency. The Agency reserves the right to charge the Client at the rate of 5% for any work required to make alterations to vacancy advertisements or other relevant information it holds.
- 5.10 Subject to the provisions of sub-Clauses 4.3 and 4.8, the Agency shall not verify or otherwise check any Candidate details, howsoever they may be provided to the Client.
- 5.11 It shall be the sole responsibility of the Client to ensure that Candidates are suitable for the relevant vacancies and to obtain any references required.
- 5.12 It shall be the sole responsibility of the Client to obtain any required permits (including, but not limited to, work permits).
- 5.13 It shall be the sole responsibility of the Client to arrange for any required medical examinations or investigations.
- 5.14 The Client must notify the Agency immediately of any offer of an Engagement that it makes to a Candidate.
- 5.15 The Client must notify the Agency immediately of the acceptance by a Candidate of any offer of Engagement that is made to that Candidate and provide details of the Candidate's remuneration.
- 5.16 The Client must notify the Agency immediately if, following the Engagement of a Candidate, the Candidate's remuneration increases at any time during the first 12 months of the Engagement, and the Introduction Fee detailed in

Clause 6 will be increased accordingly.

- 5.17 The Client must within 7 days of offering an Engagement to a Candidate provide the Agency with a copy of the job offer or contract given to the Candidate.
- 5.18 Notwithstanding sub-Clauses 4.3 and 4.8 above the Client must satisfy itself as to the suitability of a Candidate for any vacancy, and the Client must be responsible for taking up references and checking the validity of qualifications.
- 5.19 The Client is responsible for payment of remuneration to the Candidate.

## **6. Fees and Payment**

- 6.1 The Introduction Fee payable by the Client to the Agency upon the commencement of an Engagement by a Candidate shall be confirmed in writing through a proposal sent by the agency.
- 6.2 If the Engagement of a Candidate is for a fixed term of less than 12 months then the Introduction Fee will be calculated pro rata as above or a set agreement between the agency and the client.
- 6.3 The Client will not be liable for any Introduction Fee until a Candidate commences an engagement when the Agency will render an invoice to the Client.
- 6.4 The Client must pay the Agency's Introduction Fees within 28 days of receiving the invoice.
- 6.5 The Agency reserves the right to charge interest at the rate of 3% above Tide's rate of interest per annum on any invoiced Introduction Fees that remain unpaid by the Client from the due date to the date of payment.
- 6.6 For a placement period of less than an agreed length of time, the Agency will endeavour to find a suitable replacement candidate on an agreed arrangement at no extra cost to the Client. If the Agency is unable to find a suitable replacement candidate within this time then the Agency may refund the Introduction Fee in accordance with Clause 6.8 below.
- 6.7 Except where a Candidate has been made redundant the Client may be entitled to a refund of the Introduction Fee where it was paid on time, and where the Engagement is terminated within the agreed arrangement of the Candidate commencing the Engagement, at the rate of an equal percentage of the Introduction Fee for each week of the agreed arrangement period not worked by the Candidate.
- 6.8 Where a Client has made an offer of Engagement to a Candidate but withdraws it before the Candidate commences the Engagement the Client must pay the Agency an amount equal to not less than 10% of the agreed fee to which the Candidate would have been entitled if the Engagement had proceeded.

## **7. Confidentiality**

- 7.1 Each Party undertakes that, except as provided by sub-Clause 7.2 or as authorised in writing by the other Party, it shall, at all times:
  - 7.1.1 keep confidential all Confidential Information;
  - 7.1.2 not disclose any Confidential Information to any other party;
  - 7.1.3 not use any Confidential Information for any purpose other than as contemplated by and subject to these Terms and Conditions;

- 7.1.4 not make any copies of, record in any way or part with possession of any Confidential Information; and
- 7.1.5 ensure that none of its directors, officers, employees, agents or advisers does any act which, if done by that Party, would be a breach of the provisions of sub-Clauses 7.1.1 to 7.1.4 above.
- 7.2 Either Party may:
  - 7.2.1 disclose any Confidential Information to:
    - 7.2.1.1 any sub-contractor or supplier of that Party;
    - 7.2.1.2 any governmental or other authority or regulatory body; or
    - 7.2.1.3 any employee or officer of that Party or of any of the aforementioned persons;

to such extent only as is necessary for the purposes contemplated by these Terms and Conditions, or as required by law, and in each case subject to that Party first informing the person in question that the Confidential Information is confidential and (except where the disclosure is to any such body as is mentioned in sub-Clause 7.2.1.2 above or any authorised employee or officer of any such body) obtaining and submitting to the other Party a written undertaking from the person in question, as nearly as practicable in the terms of this Clause, to keep the Confidential Information confidential and to use it only for the purposes for which the disclosure is made; and
  - 7.2.2 use any Confidential Information for any purpose, or disclose it to any other person, to the extent only that it is, or has become, public knowledge through no fault of that Party, provided that in doing so that Party does not disclose any part of that Confidential Information which is not public knowledge.
- 7.3 The provisions of this Clause 7 shall continue in force in accordance with their terms, notwithstanding the termination of these Terms and Conditions for any reason.

## 8. **Data Protection**

- 8.1 In this Clause 8:
 

“Data Protection Legislation” means all applicable legislation in force from time to time in the United Kingdom applicable to data protection and privacy including, but not limited to, the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (the “UK GDPR”), as it forms part of the law of England and Wales, Scotland, and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018; the Data Protection Act 2018 (and regulations made thereunder); and the Privacy and Electronic Communications Regulations 2003 as amended; and

“personal data” means personal data as defined in the UK GDPR.
- 8.2 All personal data that either Agency or the Client (“First Party”) may use will be collected, processed, and held by that First Party in accordance with the provisions of Data Protection Legislation and the rights under the Data Protection Legislation of the other party being, as the case may be, either the Agency or the Client (“Other Party”) and the rights under the Data Protection Legislation of any third party.

- 8.3 For complete details of the First Party's collection, processing, storage, and retention of personal data including, but not limited to, the purpose(s) for which personal data is used, the legal basis or bases for using it, details of the Other Party's and any third party's rights and how to exercise them, and personal data sharing (where applicable), the Other Party should refer to the Privacy Notice of the First Party.
- 8.4 [All personal data to be shared by the First Party with the Other Party under this Agreement shall be shared in accordance with the terms of the Data Sharing Agreement entered into by the Parties pursuant to this Agreement.]
- 8.5 <sup>1</sup>[All personal data to be processed by the First Party on behalf of the Other Party under this Agreement shall be processed in accordance with the terms of the Data Processing Agreement entered into by the Parties on pursuant to this Agreement.]

**9. Liability**

With the exception of death or personal injury or fraud, the Agency shall not be liable or responsible for any loss or damages of any nature whether direct or indirect including any loss of profits or any consequential damages suffered or incurred by the Client, howsoever caused or arising, as a result of the Introduction of a Candidate to the Client by the Agency, the Engagement of a Client Introduced by the Agency, the failure of the Agency to Introduce any Candidate to the Client, or otherwise arising out of or in connection with the Services or any agreement for the Services between the Agency and the Client.

**10. Indemnity**

The Client shall indemnify the Agency against any costs, liability, damages, loss, claims or proceedings incurred directly or indirectly by the Agency which may arise out of the Client's use of the Services or out of any breach by the Client of any of these Terms and Conditions.

**11. Force Majeure**

Neither Party to these Terms and Conditions shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, Internet Service Provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other similar or dissimilar event that is beyond the control of the Party in question.

**12. Relationship**

Nothing in these Terms and Conditions shall create a partnership or agency or the relationship of employer and employee, or other relationship between the Agency and the Client.

**13. Severance**

In the event that any part(s) of these Terms and Conditions [or the candidate profile] or part thereof is declared to be invalid, unlawful, void or unenforceable then such terms or parts shall be severed and the remaining terms and conditions shall continue to be valid and enforceable to the fullest extent of the law.

**14. Third Parties**

No provision of these Terms and Conditions [or the candidate profile] shall confer any benefit on or be enforceable by any person who is not a party to these Terms and

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<sup>1</sup> See the notes about Clause 8 in the information page for this document.

Conditions under the Contract (Rights of Third Parties) Act 1999.

**15. Law and Jurisdiction**

15.1 These Terms and Conditions (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.

15.2 Any dispute, controversy, proceedings or claim between the Parties relating to these Terms and Conditions (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the [exclusive] jurisdiction of the courts of England and Wales.