**PERMANENT STAFF RECRUITMENT - TERMS AND CONDITIONS OF BUSINESS**

# ECOM Recruitment is a trading division of InterQuest Group (UK) Limited, registered No.03990043

# CLIENT NAME & ADDRESS: PLEASE ENTER CLIENT NAME AND REGISTERED ADDRESS

# TERMS OF BUSINESS - GENERAL

All ECOM’s contingent permanent recruitment business (including advertising fees and retained recruitment projects) is conducted upon the terms detailed below.

ECOM is committed to maintaining a high level of service and efficiency. However, because Introductions are dependent upon the accuracy of information outside ECOM's control and a Client's Instructions, and as any decision to engage an Applicant is entirely a matter for a Client, ECOM cannot accept liability for any Losses incurred by Clients as a result of Engagements.

**COMMERCIAL TERMS**

**Fee Rates**

Upon the acceptance of an Engagement by an Applicant, ECOM shall charge the following Fees calculated as a percentage of the Applicant’s Remuneration Package (which, for the avoidance of doubt, shall include all benefits and allowances in addition to basic salary):

AMOUNT OF REMUNERATION PACKAGE FEE PERCENTAGE CHARGEABLE

Up to £49,999 20%

£50,000 to £99,999 25%

£100,000 and above 30%

**Rebate Terms**

If an Applicant terminates the Engagement within 12 weeks of the commencement date, for any reason (other than in response to a breach of contract by the Client), the Agency will refund a proportion of any Fee paid.

The rebate of the Fee shall be: 90% of the Fee if the termination takes place during the first two weeks after the commencement date of the Engagement, 80% during the third or fourth week, 60% during the fifth or sixth week, 40% during the seventh or eighth week, 20% during the ninth or tenth week, and 10% during the eleventh or twelfth week (zero Rebate once twelve weeks have elapsed). Any rebate is conditional upon:

(a) The Fee and any other invoiced sum having been paid by the Due Date; and

(b) The Client notifying ECOM in writing within 7 days of the termination and the reason for it; and

(c) The Applicant not being re-engaged in any capacity by the Client or any parent, subsidiary, or associated company of the Client within twelve months of the Introduction.

If the Applicant is re-engaged as set out in (c) above, the Client shall notify the Agency immediately and repay the refunded amount as if the date of notification was the Due Date for the purposes of these terms.

**Retained Recruitment Projects**

ECOM and the Client may agree special commercial terms in relation to retained recruitment projects that are carried out on an exclusive basis.

Please refer to the full terms and conditions of business below for full details and definitions of terms outlined above.

**SIGNED FOR AND ON BEHALF OF ECOM SIGNED FOR AND ON BEHALF OF THE CLIENT**

**Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**TERMS AND CONDITIONS OF BUSINESS**

**1. Definitions**

* 1. In these terms:

a) "Applicant" means anyone who is referred or about whom information is supplied to a Client. It includes someone who may have been known or referred to that Client before Instructions are given or the Introduction is made and includes any members of ECOM’s recruitment staff assigned to the Client’s recruitment project.

b) "Client" means the person or persons to whom an Introduction is made. It includes anyone who asks ECOM for an Introduction, gives Instructions or interviews an Applicant on behalf of a Client (“Client Intermediary”).

c) “Data Protection Laws” means the Data Protection Act 2018, the General Data Protection Regulation (EU 2016/679) and any applicable statutory or regulatory provisions in force from time to time relating to the protection and transfer of personal data;

d) "Engagement" means any contract under which (directly or indirectly) the Applicant agrees to provide services to or for the Client or at the Client's direction.

e) "Fee(s)" means a sum equivalent to a percentage of the Remuneration Package, calculated at the rates set out above. It includes any additional fees that may have to be charged under Clauses 6(b)(2) and 6(b)(4). The Fee is exclusive of any VAT, which must be paid by the Client at the prevailing rate.

f) "Instructions" means information about the Engagement, the Remuneration Package or the Client's requirements concerning an Applicant's qualifications or experience.

g) "Introduction" means the referral of an Applicant or the provision of any information about an Applicant to a Client by the Agency or any associate, subsidiary or agent of ECOM.

h) "Losses" means any kind of loss, cost, expense, charge, damage, liability or claim whatsoever other than liability for death or personal injury caused by negligence.

i) “Remuneration Package" means the total amount, before the deduction of any tax, of the salary, fees, profit share or equivalent remuneration and all guaranteed commissions, bonuses, allowances (including company car allowances) and benefits of any kind in respect of the first year of the Engagement. In the event that the Applicant is provided with a company car, the sum of £5,000 shall be added to the Remuneration Package for the purposes of calculation of Fees unless otherwise agreed.

j) "ECOM" means InterQuest Group (UK) Limited, trading as ECOM, registered company number 03990043, registered at Castle Chambers, 87a High Street, Berkhamsted, Hertfordshire, HP4 2DF.

**2. Precedence of Terms**

2.1 All Instructions are accepted, and every Introduction is made subject to these terms. An Introduction is made when a referral or any information about the Applicant arrives at the Client's office or is communicated to the Client’s intermediary, whichever is the earlier event.

2.2 Giving Instructions, arranging an interview with or requesting further information about or from the Applicant, represents deemed acceptance of and agreement to these terms by the Client.

2.3 These terms are paramount. They prevail over any other terms or conditions which may conflict with their provisions or, but for this term, may have been incorporated into any agreement between ECOM and the Client.

**3. Introductions**

3.1 An Introduction, and any information about an Applicant, is provided to the Client in strict confidence and for the purpose of considering whether it wishes to engage that Applicant. The Client must not disclose an Introduction or any information about an Applicant to anyone else. In particular, the Client must not approach an Applicant's current employer until the Client has made an offer of Engagement to that Applicant and has the Applicant's permission to do so.

3.2 The Client must not re-introduce an Applicant to anyone else. If, within twelve months of the Introduction it does so, and this leads to a contract equivalent to an Engagement with someone other than the Client, the Client must pay the Fee as if there had been an Engagement under these terms, unless that other person pays ECOM a sum equivalent to the Fee.

**4. Suitability of Applicants**

4.1 InterQuest will use due skill and care in locating and introducing Applicants. Beyond that, no other term or condition is to be implied concerning InterQuest's services. In particular, InterQuest 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 InterQuest's control) and none is to be implied from anything InterQuest may undertake or provide.

4.2 Any decision to proceed with an Introduction, enter into an Engagement or incur any expense is a matter for the Client. The Client agrees that the ultimate responsibility for assessing and ensuring an Applicant's suitability for an Engagement, including taking up or confirming references, educational background, medical history, or obtaining any work and other permits and assessing or confirming qualifications, always remains with the Client. The Client is strongly advised by InterQuest to, and agrees to, take any of the steps referred to before offering or entering into an Engagement.

**5. Liabliity**

5.3 InterQuest, its subsidiaries, associates, staff and agents (for whom InterQuest acts for the purpose of this and the following provision) shall not be liable, on any basis, for any Losses arising from, caused by or connected with InterQuest's taking the Client's Instructions, the Introduction, the acts or omissions of an Applicant or an Engagement, even if an Applicant acts or has acted negligently, dishonestly or fraudulently.

5.4 However, if, despite the previous provision, a Court determines that, for any reason and on any basis, InterQuest or any of its subsidiaries, associates, staff or agents is liable to the Client for any Losses, their aggregate liability shall be limited to the amount of the Fees actually paid by the Client.

5.5 Under no circumstances shall InterQuest have any liability whatsoever to the Client for loss of profit, loss of revenue, loss of anticipated savings or bargain, loss or corruption of data or software, or for any indirect, special or consequential losses.

**6. Client Responsibilities**

6.1 The Client agrees:

1. To give InterQuest the Instructions it may require to assist it in locating and introducing Applicants.
2. To enable InterQuest to comply with its obligations under Clause 7, to provide to InterQuest full details of the position the Client seeks to fill, including the type of work that the Applicant would be required to do; the location and hours of work; any experience, training, qualifications or other authorizations 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; and any risks to health and safety known to the Client and what steps the Client has taken to prevent or control such risks. In addition the Client shall provide details of the Applicant’s proposed start date; the duration or likely duration of the work; the minimum rate of remuneration, expenses and other benefits that would be offered; the intervals of payment of remuneration; and the length of notice that the Applicant would be entitled to give and receive to terminate the employment with the Client.
3. To inform InterQuest immediately if it becomes aware of any circumstances which would render an Engagement detrimental to the interests of an Applicant or the Client.
4. To act promptly, reasonably and in good faith (including not applying any discriminatory standards or practices) when deciding whether it wishes to engage an Applicant.

**7. Payment of Fees**

7.1 The Fee(s) becomes payable by the Client if an Applicant accepts an offer of Engagement, and a start date is agreed at any time within 12 months of the Introduction being made. Upon such acceptance, InterQuest will invoice the Client for the Fee.

7.2 The Client must:

1. Notify InterQuest without delay when an Applicant is offered an Engagement and provide full details of the remuneration package (and copies of any relevant contract and other documents if InterQuest so requests) and when a commencement date for the Engagement is agreed. All communications, interviews and offers of employment shall be made via InterQuest.
2. Update InterQuest without delay if there is any change in the offered or agreed remuneration package or the commencement date. InterQuest reserves the right to adjust the Fee or require the payment of an additional fee if there is a change.
3. Pay the Fee within 10 days of the date of InterQuest’s invoice (the “Due Date").

7.3 If asked to do so, provide InterQuest with full details of the remuneration package actually received by or paid to the benefit of the Applicant for the first year of his or her Engagement (and copies of any relevant contract and other documents if InterQuest so requests). InterQuest reserves the right to charge an additional fee on the difference between the remuneration package actually received (if it is higher) and that used for the calculation of the Fee.

7.4 InterQuest will calculate and invoice the Client for the Fee and for any other sum payable by the Client under these terms. Unless there is an obvious error in any calculation shown on any invoice, the invoiced sum will be final and binding as the sum due from the Client. It is absolutely essential that the Fee and any other invoiced sum is paid, without deduction, by the Due Date.

7.5 The Client must not make any deduction from, or assert or exercise any set-off, lien or other right or claim against the Fee, any other invoiced sum or any interest that may become payable under Clause 6.6 a) below.

7.6 If the Fee or any other invoiced sum is not paid by the Due Date and in full, then:

1. InterQuest shall be entitled to levy (a) a one-off late payment charge equivalent to 5% of the value of the unpaid invoice that has not been settled by the Due Date; and/or (b) interest and associated charges as prescribed by the Late Payment of Commercial Debts (Interest) Act 1998. Such late payment charges shall be payable immediately by the Client upon notification by InterQuest.
2. InterQuest may recover from the Client, as a sum due under these terms, any costs or other expenses it incurs, in enforcing and recovering any payments due from the Client.

**8. Data Protection**

8.1 Both parties agree that, in the performance of their respective obligations under the Agreement, they shall comply with the Data Protection Laws applicable to any personal data processed under or in connection with this Agreement to the extent these apply to each of them. Where used in this clause 8, the expressions "process", "Personal Data", “Data Controller”, “Data Processor” and “Data Subject” shall bear their respective meanings given in the Data Protection Laws when applicable.

8.2 Both parties will be acting as Data Controllers under this Agreement. However, in the event circumstances apply such that the Client is acting as the Data Controller, and InterQuest is acting as a Data Processor then the following provisions shall apply:

1. InterQuest warrants that it shall process Personal Data strictly in accordance with the Data Protection Laws, the terms of this Agreement, and Client's lawful instructions from time to time. InterQuest will not disclose Personal Data to any third party under any circumstances, other than at the specific and lawful request of the Client. If lawfully requested in writing by the Client from time to time, InterQuest shall provide to the Client a copy of such Personal Data in the format and on the media reasonably specified by Client.
2. InterQuest confirms that it has appropriate operational and technical processes in place to safeguard against any unauthorised access, loss, destruction, theft, use or disclosure of Client’s Personal Data. In addition, if required, InterQuest will provide to Client suitable assurances in respect of the security of any Personal Data processed by InterQuest, as may be reasonably required by the Client to comply with its own obligations under the Act/GDPR.

8.3 InterQuest agrees to assist the Client promptly with all subject access requests which may be received from Data Subjects.

8.4 InterQuest shall notify the Client immediately upon receiving any notice or communication from any supervisory or government body, which relates directly or indirectly to the processing of the Personal Data.

8.5 Subject to InterQuest’s legal obligations to retain records, on termination of these terms, InterQuest shall immediately cease to use the Personal Data and shall arrange for its safe return or destruction as shall be agreed with the Client at the relevant time.

**9. General**

9.1 InterQuest confirms that it provides services hereunder in its capacity as an employment agency, in the context of the Conduct of Employment Agencies and Employment Businesses Regulations 2003.

9.2 These terms may not be varied or their application or any breach of them waived other than by a document signed by a director, divisional/regional manager or legal representative of InterQuest. No-one else acting for InterQuest has authority to agree to any variation or waiver.

9.3 If a specific fee or payment arrangement has been made between InterQuest and the Client, which includes a variation of any of these terms and the Client breaches any term of that arrangement, then all of these terms shall be substituted for and form part of that arrangement with immediate effect.

9.4 In addition to and without prejudicing any of its other remedies, InterQuest may terminate the agreement between the parties with immediate effect if the Client breaches any of its terms or (in InterQuest's view) materially alters the Instructions.

9.5 InterQuest shall not incur any liability to the Client for any Losses if the performance of InterQuest's obligations is prevented or delayed by the acts or omissions of others or other events, which are beyond its reasonable control.

9.6 If any of these provisions or terms (or part thereof) is judged to be invalid or unenforceable for any reason, but such provision or term would be held to be valid if part of the wording were either amended or deleted, then such provision shall apply with such amendments/deletions as may be necessary to make it valid. Any provision or term that cannot be made valid in such way shall be deemed to be severed from these terms and the rest of the terms shall continue in full force and effect, provided always that if such amendment or deletion substantially alters the commercial basis of these terms the parties shall negotiate in good faith to modify these terms as necessary.

9.7 Both parties agree not to approach or induce with offers of employment, directly or indirectly, any of the other party’s employees that it has had direct contact with under this agreement, without the prior written agreement of the other party. In the event that the Client employs or engages an employee of InterQuest, then a Fee calculated upon that person’s Remuneration Package at the rates shown above shall become immediately payable to InterQuest by the Client.

9.8 This agreement shall be governed and interpreted under the laws of England and Wales and is subject to the jurisdiction of the courts of England and Wales.

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