

# Accord Management Services

## Terms & Conditions of Business



### 1. General Terms

- 1.1 These terms and conditions of business shall be governed by English Law.
- 1.2 No variation of these terms shall be valid or binding on Accord Management Services ("Accord") unless confirmed in writing by a Director or Partner of Accord.
- 1.3 For the purpose of these terms;-  
"Introduction" shall mean Accord making a Client or a potential Client aware of the availability of a Candidate, whether or not the Candidate or his availability was already known to the Client;  
"Client" shall mean any person, firm or company to whom Accord introduces a Candidate;  
"Candidate" shall mean a person, firm or company seeking a Position;  
"Position" shall mean a placement, whether as an employee, under a contract for services, as a director, partner, agent, contractor or otherwise;  
"Successful Introduction" shall be deemed to have occurred when the Client engages or makes use of any Candidate the subject of an Introduction in any Position whatsoever within a period of eighteen months from the date of the Introduction;  
"Total Commencing Remuneration" shall mean in the case of employed Candidates their basic annual salary together with any additional guaranteed minimum payment, whether expressed as a bonus, commission or otherwise.
- 1.4 The Client is deemed to have accepted these terms when;-  
(a) the Client requests Accord to make an Introduction by the Client of a Candidate for a position with the Client; or  
(b) the Client interviews a Candidate who has been the subject of an Introduction; or  
(c) a Successful Introduction takes place.
- 1.5 Accord may assign or sub-contract its rights and obligations under these terms but the Client may not do so.
- 1.6 These terms and conditions shall apply to all Introductions by Accord to the Client to the exclusion of all other terms and conditions.
- 1.7 If any part of these terms is found to be invalid, unlawful or unenforceable then such part will be severed from the remainder of the terms which will continue to be valid and enforceable to the fullest extent permitted by law.
- 1.8 Accord, but not the Client, shall have the right of set-off.

### 2. Payment terms

- 2.1 Accord's fee for a Successful Introduction of a Candidate to a Client shall be;-  
(a) if the Candidate is engaged by the Client as a PAYE employee;-  
(i) 22.5% of the Candidate's Total Commencing Remuneration of less than £20,000; or  
(ii) 25% of the Candidate's Total Commencing Remuneration of £20,000 or more;  
subject in either case to a minimum fee of £3,000; or  
(b) if the Candidate is engaged by the Client other than as a PAYE employee, £3,000 unless otherwise agreed in writing.
- 2.2 The Client shall notify Accord in writing on the day a Candidate commences in a Position with the Client.
- 2.3 Accord may raise an invoice for its fee at any time following a Successful Introduction. Such invoices shall be payable by the Client without set-off or deduction immediately on receipt of invoice by the Client ("the Due Date") which shall be deemed to be the business day following postage by Accord. In the event that the Client fails to notify Accord in accordance with clause 2.2, the Due Date shall be the date of commencement of the Candidate.
- 2.4 In the event that a Candidate's commencement date is set to be more than 6 months after his Introduction, Accord may nonetheless raise an invoice for its fee at the expiry of the 6 month period.
- 2.5 In the event that payment is not made by the Client within twenty-eight days of the Due Date, then Accord may at its discretion take any or all of the following steps;-  
(a) charge interest from the Due Date until the date of payment on any balance outstanding calculated at 4% over the then National Westminster Bank PLC base rate from time to time, pro rata on a daily basis;  
(b) suspend or cancel the provision of any other services to the Client.
- 2.6 Fees due to Accord under these terms are exclusive of VAT which shall be payable on such fees and charges at the then prevailing rate.

### 3. Third parties and re-employment

- 3.1 The Client shall keep all information concerning Candidates confidential and shall not disclose such information to third parties.
- 3.2 If the Client or a member of the Client's staff or any party on behalf of the Client refers a Candidate to some third person or body ("the Third Party") and the Third Party within eighteen months of the Introduction engages the Candidate in any Position, the Client will be liable to Accord for a fee calculated in accordance with clause 2.1 as if the Candidate had been engaged by the Client. If the Candidate's remuneration cannot be ascertained, the fee shall be £3,000.
- 3.3 If any Candidate in respect of whom a refund has been paid to the Client pursuant to Clause 6.2 hereof is re-engaged in any Position by the Client within eighteen months of the Introduction, the Client will be liable to Accord for a sum equal to any refund paid to the Client pursuant to Clause 6.2 hereof.

3.4 If any Candidate who commences a Position with the Client subsequently introduces another candidate into a Position with the Client within 6 months of commencement, the Client shall pay a fee to Accord calculated in accordance with clause 2.1 as if Accord had introduced the second candidate directly.

#### **4. Suitability of Candidate for a Position**

- 4.1 The responsibility of Accord is strictly limited to the Introduction of the Candidate and it is the exclusive responsibility of the Client to decide upon the suitability and selection of the Candidate. Accord advise the Client to take up references as to the Candidate's qualifications, capabilities, integrity, medical history and suitability generally to meet the job specification and to confirm the content of the Candidate's CV and other papers. The securing of such references and information are the exclusive responsibility of the Client.
- 4.2 It is the responsibility of the Client to obtain in connection with the Candidate any necessary work permit and security clearance and to comply with any other statutory requirements applicable to the Client engaging the Candidate.
- 4.3 The Client warrants that it has not relied on any representations made by or on behalf of Accord in selecting the Candidate.

#### **5. Liability of Accord**

- 5.1 Accord shall not be liable for any costs or expenses incurred by the Client due to the unsuitability of the Candidate for the Position.
- 5.2 Accord shall use its best endeavours to meet any time-scales communicated by the Client but time on its part shall not be of the essence.
- 5.3 Accord shall not be liable for any loss, damages, costs or expenses howsoever caused, which the Client or its servants or agents may suffer or become liable to arising out of, or in connection with, or as a result of an Introduction or the engagement of a Candidate.
- 5.4 Accord shall not be liable under contract, tort (including negligence) or otherwise for any loss of production, loss or corruption of data, loss of profits or of contracts, loss of operation time, loss of goodwill and loss of anticipated savings, nor for any indirect or consequential loss, damage, cost or expense of any kind whatever and however caused.
- 5.5 These terms represent the whole agreement between the parties and all other warranties, conditions, terms, undertakings or representations of any kind, whether express or implied, statutory or otherwise are expressly excluded save where prohibited by statute.

#### **6. Guarantee**

- 6.1 Should any Candidate introduced by Accord leave a Position with the Client within a period of eight weeks from the commencement of such Position, Accord will use its best endeavours to find some other suitable Candidate at no further charge to the Client with advertising support if necessary at the cost of Accord.
- 6.2 In the event of Accord being unable to find a suitable replacement within a period of one calendar month of receipt of such written notification, Accord shall refund the fee paid by the Client for the Introduction of the Candidate less such advertising and administration costs as it has incurred in respect of the Candidate and attempts to replace him, subject to the following conditions:-
- (a) The fees due to Accord have been paid in full by the Client within 28 days of the Due Date; and
  - (b) Accord received notification from the Client in writing within one week of the Candidate leaving the Position; and
  - (c) Accord are given sole opportunity to find a suitable replacement for that vacancy and the Client does not recruit or attempt to do so directly;
  - (d) The Client has complied with Clause 2.2 hereof in relation to the Candidate.
- 6.3 In the event of a replacement Candidate provided without cost to the Client under clause 6.1 hereof leaving a Position, Accord shall not be required to provide a further replacement or to make any refund under this clause 6.

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