

**TERMS AND CONDITIONS OF BUSINESS FOR THE INTRODUCTION OF PERMANENT STAFF TO BE DIRECTLY EMPLOYED BY THE CLIENT**

**1. DEFINITIONS**

1.1 In these Terms of Business the following definitions apply:

**“Applicant”** means the person introduced by the Agency to the Client for an Engagement including any officer or employee of the Applicant if the Applicant is a limited company and members of the Agency’s own staff;

**“Client”** means the person; firm or corporate body together with any subsidiary or associated Company as defined by the Companies Act 1985 to which the Applicant is introduced;

**“Agency”** means Bowen Scott which is trading as Breathe Management Limited (Company No 11127335) of The Nook Blithbury Road, Trent Valley, Rugeley, Staffordshire, England, WS13 3HQ

**“Engagement”** means the Engagement, employment or use of the Applicant by the Client or any third party on a permanent or temporary basis, whether under a contract of service or for services; under an agency, licence, franchise or partnership agreement; or any other engagement; directly or through a limited company of which the Applicant is an officer or employee;

**“Introduction”** means (i) the Client’s interview of an applicant in person or by telephone, following the Client’s instruction to the Agency to search for an Applicant; or (ii) the passing to the client of a curriculum vitae or information which identifies the Applicant; and which leads to an engagement of that Applicant

**“Remuneration”** includes base salary or fees, guaranteed and / or anticipated bonus and commission earnings, allowances, inducement payments, the benefit of a company vehicle and all other payments and taxable (and, where applicable, non – taxable) emoluments payable to or receivable by the Applicant for services rendered to or on behalf of the Client. Where the Client provides a company vehicle, a notional amount of £6,000 will be added to the salary in order to calculate the Agency’s fee.

1.2 Unless the context requires otherwise, references to the singular include the plural.

1.3 The headings contained in these Terms of Business are for convenience only and do not affect their interpretation.

## 2. THE CONTRACT

- 2.1 These Terms constitute the contract between the Agency and the Client and are deemed to be accepted by the Client by virtue of an introduction to, or the Engagement of an Applicant or the passing of any information about the Applicant to any third party following an introduction.
- 2.2 These Terms contain the entire agreement between the parties and unless otherwise agreed in writing by a Managing Director of the Agency, these Terms of Business prevail over any other Terms of business or purchase conditions put forward by the Client.
- 2.3 Any variation of these Terms and Conditions of Business in respect of fee and refunds must be previously agreed between a Director of the Agency and the Client and set out in writing and a copy of the varied terms given to the Client stating the date on or after which such varied terms shall apply.

## 3. NOTIFICATION AND FEES

- 3.1 The Client agrees:
1. To notify the Agency immediately of any offer of an Engagement which it makes to the Applicant;
  2. To notify the Agency immediately that its offer of an Engagement to the Applicant has been accepted and to provide details of the Remuneration to the Agency; and
  3. To pay the Agency's fee within 14 days of the date of invoice. Immediate payment maybe required in certain circumstances, but these will be outlined in writing prior to the invoice.
- 3.2 Except in the circumstances set out in clause 5.1, 5.2, 5.3 below, no fee is incurred by the client until the Applicant accepts the offer of Engagement whether such an offer shall be conditional or not when the Agency will render an invoice to the Client for its fees.
- 3.3 The Agency reserves the right to charge interest on invoiced amounts unpaid for more than 14 days at the rate of 2% above the base rate from time to time of the Bank of England from the due date to the date of payment.
- 3.4 A fee ("the Introduction fee") shall be payable by the Client within 7 days of the first day of employment of the Applicant introduced by the Agency or in respect to retained assignments within 7 days of the first invoice being presented (which will be a percentage of the Introduction fee). The Introduction fee shall be a minimum of 15% (all charges are listed in clause 3.8) of the projected (or actual if higher) FIRST YEAR'S GROSS ANNUAL taxable remuneration including sums earned during the period and paid after it and including bonus, commission and any other benefit.
- a) The minimum Introduction fee is £3,000 unless agreed otherwise
  - b) Where an Applicant is recruited as 'self-employed' the fee shall be based upon anticipated remuneration and calculated upon the above formula.
  - c) Where the Client requires a 'Search Assignment' or 'Client Paid Advertising' the same fee applies in three stages: i Upon instruction | ii Upon presentation of Applicant Shortlist | iii Upon Applicant acceptance of employment.

- d) If a Client engages or employs an Applicant registered with the Agency within 6 months of being introduced to such a Client, without the Agency's knowledge, the above fee structure will not apply and a fee of 25% will become payable by the Client with immediate payment terms. For the avoidance of doubt the 25% will be calculated on a minimum of £30k per annum gross salary. The agency reserves the right to increase this should the salary be higher.

3.5 In the event that the Engagement is for a fixed term of less than 12 months, the fee in clause 3.4 will apply pro-rata. If the Engagement is extended beyond the initial fixed term or if the Client re-engages the Applicant within 6 calendar months from the date of termination of the first Engagement the Client shall be liable to pay a further fee based on the additional Remuneration applicable for the period of Engagement following the initial fixed term up to the termination of the second Engagement or the first anniversary of its commencement, whichever is the sooner.

3.6 If the Client subsequently engages or re-engages the Applicant within the period of 6 calendar months from the date of termination of the Engagement or withdrawal of the offer, a full fee calculated in accordance with clause 3.4 above becomes payable.

3.7 If any of the following Clients of Persons uses, engages or employs an Applicant registered with or used by the Agency or who has been registered with or used by the Agency within 6 months of being introduced to such a Client or Persons then the introduction fee of the Agency as per the current scale of rates and charges will be payable by the Client as if the Client was that said following person and that the said following person had contracted with the Agency on these Terms and Conditions of Business:-

- (a) A Client or any servant or agent or employee of the Client; or
- (b) any associate or subsidiary of the Client or any servant or agent or employee of such associate or subsidiary; or
- (c) any other person to whom any of these referred to in Clauses 3.7(a) or 3.7(b) above introduced that Applicant. Without prejudice to the generality thereof, an introduction shall be deemed to have been effected if that Applicant carries out any work at the premises of, or for the benefit of any persons referred to in the said Clauses whether in the employment of those persons or not.
- (d) The introduction fee shall also be payable if the Client or Person shall enter into any contract for the supply of the Applicant's services with any company or legal entity with which the Applicant is connected or associated with and/or which company or legal entity invoices that Client for the Applicant's services.

3.8

<b>SALARY (OTE)</b>	<b>PERCENTAGE CHARGE</b>
<b>Up to £29,999.99</b>	<b>15%</b>
<b>£30,000.00 - £49,999.99</b>	<b>20%</b>
<b>£50,000.00 - £74,999.99</b>	<b>25%</b>
<b>Over £75,000.00</b>	<b>30%</b>

#### 4. REBATES

- 4.1 In order to qualify for the following rebate or Safeguard, the Client must pay the Agency's fee within 7 days of the date of invoice and must notify the Agency in writing of the termination of the Engagement within 2 days of its termination. No refund shall be given if these terms are not abided

In the event of the candidate leaving the Clients service or the candidate's engagement with the Client being terminated lawfully ("the termination") for any reason other than redundancy provided that the fees have been paid within 7 days of the commencement of the candidate's engagement, the following rebate scale will apply:

PERIOD OF EMPLOYMENT	PERCENTAGE OF CREDIT	PERIOD OF EMPLOYMENT	PERCENTAGE OF CREDIT
1 <sup>st</sup> week	100%	5 <sup>th</sup> week	30%
2 <sup>nd</sup> week	80%	6 <sup>th</sup> week	20%
3 <sup>rd</sup> week	60%	7 <sup>th</sup> week	10%
4 <sup>th</sup> week	40%	8 <sup>th</sup> week +	No refund

#### 5. CANCELLATION FEE

- 5.1 If, after an offer of Engagement has been made to the Applicant, the Client decides for any reason to withdraw it, the Client shall be liable to pay the Agency a minimum fee of 15% of the annual Remuneration or the percentage in which the salary would have related to in clause 3.8.

#### 6. INTRODUCTIONS

- 6.1 Introductions of Applicants are completely confidential. The disclosure by the Client to a third party of any details regarding an;  
Applicant introduced by the Agency which results in an Engagement with that third party within 6 months of the Introduction renders the Client liable to payment of the Agency's fee as set out in clause 3.4 with no entitlement to any refund.
- 6.2 An Introduction fee calculated in accordance with clause 3.4 will be charged in relation to any Applicant engaged as a consequence of or resulting from an introduction by or through the Agency, whether direct or indirect, within 6 months from the date of Agency's introduction.
- 6.3 Where the amount of the actual Remuneration is not known the Agency will charge a fee calculated in accordance with clause 3.4 on the minimum level of remuneration applicable for the position in which the Applicant has been engaged with regard to any information supplied to the Agency by the Client and/or comparable positions in the market generally for such positions.

## **7. SUITABILITY AND REFERENCES**

- 7.1 The Agency endeavours to ensure the suitability of any Applicant introduced to the Client by obtaining confirmation of the Applicant's identity; that the Applicant has the experience, training, qualifications and any authorisation which the Client considers necessary or which may be required by law or by any professional body; and that the Applicant is willing to work in the position which the Client seeks to fill.
- 7.2 At the same time as proposing an Applicant to the Client the Agency shall inform the Client of such matters in clause 7.1 as they have obtained confirmation of. Where such information is not given in paper form or by electronic means it shall be confirmed by such means by the end of the third business day (excluding Saturday, Sunday and any Public or Bank Holiday) following save where the Applicant is being proposed for a position which is the same as one in which the applicant has worked within the previous five business days and such information has already been given to the Client.
- 7.3 The Agency endeavours to take all such steps as are reasonably practicable to ensure that the Client and Applicant are aware of any requirements imposed by law or any professional body to enable the Applicant to work in the position which the Client seeks to fill.
- 7.4 The Agency endeavours 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 Applicant for the Applicant to work in the position which the Client seeks to fill.
- 7.5 Notwithstanding clauses 7.1, 7.2, 7.3 and 7.4 above the Client shall satisfy itself as to the suitability of the Applicant and the Client shall take up any references provided by the Applicant to it or the Agency before engaging such Applicant. The Client is responsible for obtaining work permits and/or such other permission to work as may be required, for the arrangement of medical examinations and/or investigations into the medical history of any Applicant, and satisfying any medical and other requirements, qualifications or permission required by law of the country in which the Applicant is engaged to work.
- 7.6 To enable the Agency to comply with its obligations under clauses 7.1, 7.2, 7.3 and 7.4 above the Client undertakes to provide to the Agency details of the position which the Client seeks to fill, including the type of work that the Applicant would be required to do; the location and hours of work; the experience, training, qualifications and any authorisation 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 or 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 date the Client requires the Applicant to commence, the duration or likely duration of the work; the minimum rate of remuneration, expenses and any 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.

## **8. SPECIAL SITUATIONS**

- 8.1 Where the Applicant is required by law, or any professional body to have any qualifications or authorisations to work in the position which the Client seeks to fill; or the work involves caring for or attending one or more persons under the age of eighteen, or any person who by reason of age, infirmity or who is otherwise in need of care or attention, the Agency will take all reasonably practicable steps to obtain and offer to provide copies of any relevant qualifications or authorisations of the Applicant, two references from persons not related to the Applicant who have agreed that the references they provide may be disclosed to the Client and has taken all reasonably practicable steps to confirm that the Applicant is suitable for the position. If the Agency is unable to do any of the above it shall inform the Client of the steps it has taken to obtain this information in any event.

- 8.2 The Client shall be solely responsible for taking up references (including the confirmation of any professional or academic qualifications) which it shall require and for arranging any medical examination and investigations of the Applicant, the Applicant's background and for obtaining any work or other necessary permits and shall be solely responsible for satisfying itself as to the suitability of any Applicant.

## **9. LIABILITY**

- 9.1 The Agency shall not be liable under any circumstances for any loss, expense, damage, delay, costs or compensation (whether direct, indirect or consequential) which may be suffered or incurred by the Client arising from or in any way connected with the Agency seeking an Applicant for the Client or from the Introduction to or Engagement of any Applicant by the Client or from the failure of the Agency to introduce any Applicant. For the avoidance of doubt, the Agency does not exclude liability for death or personal injury arising from its own negligence.

## **10. LAW**

- 10.1 These Terms are governed by the law of England & Wales are subject to the exclusive jurisdiction of the Courts of England & Wales.

**Bowen Scott operates Equal Opportunities & Positive about Disabled People Policies.**

I understand and agree with the above terms of business.

### **Signed on behalf of the Client**

Print Name: \_\_\_\_\_

Position: \_\_\_\_\_

Signed By: \_\_\_\_\_

### **Signed on behalf of the Agency**

Print Name: \_\_\_\_\_

Position: \_\_\_\_\_

Signed By: \_\_\_\_\_

Please note: Terms will be agreed by the client immediately from the point the client engages in a request for staff or expresses interest in a candidate(s) profile via email or any other communication with the agency irrespective of this contract being signed by the client.