

# Terms of business for the introduction and supply of candidates

## 1. DEFINITIONS

1.1. In these Terms the following definitions apply:

"Cancellation Fee" means the fee payable by the Client to Randstad when the Client withdraws an offer of Engagement made to the Candidate before the Candidate has accepted the offer and which is calculated in accordance with clause 3.14;

"Candidate" means the person Introduced by Randstad to the Client for an Engagement including any officer, employee or other representative of the Candidate if the Candidate is a corporate body, and members of Randstad's own staff;

"Client" means the person, firm or corporate body together with any subsidiary or associated person, firm or corporate body (as the case may be) to which the Candidate is Introduced;

"Conduct Regulations" means the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (as amended) or the Conduct of Employment Agencies and Employment Businesses Regulations (Northern Ireland) 2005 (as amended);

"Engagement" means the engagement, employment or use of the Candidate by the Client or by any third party to whom the Candidate has been introduced by the Client, 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; or through a limited company of which the Candidate is an officer, employee or other representative; and "Engage", "Engages" and "Engaged" shall be construed accordingly;

"Introduction" means (i) the passing to the Client of a curriculum vitae or information which identifies the Candidate or (ii) the Client's interview of a Candidate (in person, by telephone or by any other means), following the Client's instruction to Randstad to search for a Candidate; and, in either case, which leads to an Engagement of the Candidate; and "Introduces" and "Introduced" shall be construed accordingly;

"Introduction Fee" means the fee payable by the Client to Randstad for an Introduction resulting in an Engagement calculated in accordance with clause 3.3;

"Randstad" means Randstad Solutions Limited (registered company no. 2389033) of 450 Capability Green, Luton, Bedfordshire, LU1 3LU;

"Remuneration" includes gross base salary or fees, guaranteed and/or anticipated bonus and commission earnings, allowances (including but not limited to travel and living accommodation allowances), profit share, overseas premiums, travel inducement payments, the benefit of a company car and all other payments and taxable (and, where applicable, non-taxable) emoluments payable to or receivable by the Candidate for services rendered to or on behalf of the Client or any third party. Where the Client provides a company car, a notional amount of £4,000 will be added to the salary in order to calculate Randstad's fees;

"Vulnerable Person" means any person who by reason of age, infirmity, illness, disability or any other circumstance is in need of care or attention, and includes any person under the age of eighteen.

"Type of Work" means any work to be undertaken for the Client or Client's Group; and "Working Time Regulations" means the Working Time Regulations 1998.

1.2. Unless the context requires otherwise, references to the singular include the plural and the masculine includes the feminine and vice versa.

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

## 2. THE CONTRACT

2.1. These terms of business ("the Terms") constitute the contract between Randstad and the Client for the Introduction of permanent or contract staff (to be engaged directly by the Client) and are deemed to be accepted by the Client by virtue of an Introduction or the Engagement of a Candidate, or the passing by the Client of any information about a Candidate to any third party following an Introduction.

2.2. These Terms contain the entire agreement between the parties and unless otherwise agreed by the parties in writing, these Terms prevail over any other terms of business or purchase conditions (or similar) put forward by the Client.

2.3. No variation or alteration to these Terms shall be valid unless the details of such variation are agreed between a Director of Randstad and the Client and are set out in writing and a copy of the varied terms is given to the Client stating the date on or after which such varied terms shall apply.

2.4. Randstad acts as an employment agency (as defined in Section 13(2) of the Employment Agencies Act 1973) when introducing Candidates to the Client for direct Engagement by that Client.

## 3. NOTIFICATION AND FEES

3.1. The Client agrees to:

3.1.1. notify Randstad immediately of the terms of any offer of an Engagement which it makes to the Candidate;

3.1.2. notify Randstad immediately that its offer of an Engagement to the Candidate has been accepted and to provide details to Randstad of the Remuneration agreed with the Candidate together with any documentary evidence as requested by Randstad; and

3.1.3. pay the Introduction Fee, to be calculated in accordance with the provisions of this clause 3, by the due date for payment in clause 3.11.

3.2. The Introduction Fee calculated in accordance with clause 3.3 below is payable if the Client Engages the Candidate within the period of 6 calendar months from the date of (a) the Introduction, (b) the Client's withdrawal of an offer of Engagement or (c) the Candidate's rejection of an offer of an Engagement (whichever is the later).

3.3. The Introduction Fee is calculated as a percentage of the annual Remuneration applicable during the first 12 months of the Engagement according to the following scale:

Remuneration (£)	Introduction fee %
Up to and including 35,000	25
35,001 and above	30

The minimum Introduction Fee payable under these Terms is £1,000.

3.4. Where the actual Remuneration is not known, Randstad will charge an Introduction Fee calculated in accordance with clause 3.3 based on its determination of the Remuneration taking into account the market rate level of remuneration applicable for the position in which the Candidate has been Engaged and with regard to any information supplied to Randstad by the Client and/or comparable positions in the market generally.

3.5. Where prior to the commencement of the Engagement Randstad and the Client agree that the Engagement will be on the basis of a fixed term of less than 12 months, the Introduction Fee will apply as a percentage of the annual Remuneration as follows:

Fixed term contracts of more than 6 months

Remuneration (£)	Introduction fee % to be applied pro rata
Up to and including 35,000	25
35,001 and above	30

Fixed term contracts up to (and including) 6 months

Remuneration (£)	Introduction fee % to be applied pro rata
Up to and including 35,000	30
35,001 and above	35

EXAMPLE: For a fixed term Engagement of 5 months with annual Remuneration of £30,000 the Transfer Fee is calculated as follows:

$$30,000 \times 0.30 = 9,000$$

$$9,000/12 = £750 \text{ per month } 750 \times 5 \text{ months} = £3,750$$

This Introduction Fee is subject to the Client Engaging the Flex-worker for the agreed fixed term.

- 3.6. If the Client (a) extends the Engagement beyond the initial fixed term or (b) re-Engages the Candidate within 12 calendar months from the date of termination of the agreed period of the fixed term Engagement, then the Client shall be liable to pay a further Introduction Fee in accordance with Clause 5 based on the additional Remuneration applicable for (a) the extended period of Engagement or (b) the period of the second and any subsequent Engagement, subject to the Client not being liable to pay a greater sum in Introduction Fees than the Client would have been liable for under clause 3.3 had the Candidate first been Engaged for 12 months or more.
- 3.7. The Client's obligations under this clause 3 shall be performed without any right of the Client to invoke set-off, deductions, withholdings or other similar rights.
- 3.8. If the Client wishes to appeal against Randstad's invoice it must do so in writing within 7 days from the date of the invoice. After this period the Client shall have no right of appeal.
- 3.9. If Randstad incurs any costs in recovering any overdue payment from the Client (including the full costs of legal representation and proceedings, judicial or otherwise) the Client shall reimburse those costs in full.
- 3.10. Randstad shall have the right to set off any sums that Randstad may from time to time owe to the Client against any sums owed by the Client under these Terms.
- 3.11. The Introduction Fee shall be payable within 14 days of the date of Randstad's invoice which shall be rendered once the Candidate commences the Engagement.
- 3.12. VAT is charged at the standard rate on all fees.
- 3.13. Randstad reserves the right to charge interest under the Late Payment of Commercial Debts (Interest) Act 1998 on invoiced amounts unpaid by the due date at the rate of 8% per annum above the base rate from time to time of the Bank of England from the due date until the date of payment.
- 3.14. If, after an offer of Engagement has been made to the Candidate, the Client decides for any reason to withdraw it prior to the Candidate accepting the Engagement, the Client shall be liable to pay Randstad a Cancellation Fee of £200.
- 3.15. In the event that any Randstad staff with whom the Client has had personal dealings accepts an Engagement with the Client while employed by Randstad or within 3 months of leaving Randstad, the Client shall be liable to pay an Introduction Fee to Randstad calculated in accordance with clause 3.3.

#### 4. REBATES

- 4.1. If, after the Engagement commences the Engagement is terminated by either the Candidate or the Client (except in circumstances where the Candidate is made redundant) before the expiry of 8 weeks from the date of commencement of the Engagement then subject to the terms of clause 4.2:
  - 4.1.1 a rebate of 100% will be made against the Introduction Fee if the Engagement terminates within 0-30 days; or
  - 4.1.2 a rebate of 30% will be made against the Introduction Fee if the Engagement terminates between 31 and 60 days.
- For the avoidance of doubt, no rebates will be due after the 8th week of Engagement.
- 4.2. In order to qualify for the rebate set out in clause 4.1, the Client must:
  - 4.2.1. be and have been in full compliance with the provisions of clause 3.1; and
  - 4.2.2. notify Randstad in writing of the termination of the Engagement or the non-commencement of the Engagement within 7 days of its termination or non-commencement.

43. For the purposes of this clause 4 the date of termination of the Engagement shall be the date on which the Candidate ceases working for the Client, or where this is earlier than the end of the Candidate's notice period the date their notice period would have ended but for any period of garden leave or payment in lieu of notice, whichever is the later.
44. In circumstances where clauses 3.5 or 3.6 apply, the full Introduction Fee is payable and there shall be no entitlement to a rebate.
45. If subsequent to the Client receiving a refund the Candidate is re-Engaged within a period of 10 calendar months from the date of termination then the rebate shall be repaid to Randstad. The Client shall not be entitled to any further rebates in relation to the re-Engagement of this Candidate.

## 5. INTRODUCTIONS TO THIRD PARTIES

Introductions of Candidates are confidential. If a Client discloses a Candidate's details to a third party, that will be deemed to be a "Third Party Introduction". If that Third Party Introduction results in an Engagement of the Candidate by the third party within 6 months of Randstad's Introduction of the Candidate to the Client, then the Client will be liable to Randstad for payment of an Introduction Fee in accordance with clause 3. Neither the Client nor the third party shall be entitled to a refund of the Introduction Fee under clause 4 in any circumstances.

## 6. SUITABILITY CHECKS

- 6.1. Randstad endeavours to ensure the suitability of Candidates Introduced to the Client to work in the position which the Client seeks to fill by taking reasonably practicable steps to:
  - 6.1.1. ensure that it would not be detrimental to the interests of either the Client or the Candidate;
  - 6.1.2. ensure that both the Client and Candidate are aware of any requirements imposed by law or by any professional body;
  - 6.1.3. confirm that the Candidate is willing to work in the position;
  - 6.1.4. obtain confirmation of the Candidate's identity and that the Candidate has the experience, training, qualifications and any authorisation which the Client considers necessary for the position.
- 6.2. Notwithstanding clause 6.1 the Client shall be obliged to satisfy itself as to the suitability of the Candidate for the position they are seeking to fill. The Client is responsible for:
  - 6.2.1. taking up any references provided by the Candidate before Engaging the Candidate;
  - 6.2.2. checking the Candidate's right to work and obtaining permission to work as may be required by the law of the country in which the Candidate is Engaged to work;
  - 6.2.3. the arrangement of medical examinations and/or investigations into the medical history of any Candidate; and
  - 6.2.4. satisfying any medical and other requirements, qualifications or permission required for the Candidate to work in the Engagement.
- 6.3. To enable Randstad to comply with its obligations under 6.1 above the Client undertakes to provide to Randstad details of the position which the Client seeks to fill, including the following:
  - 6.3.1. the type of work that the Candidate would be required to do;
  - 6.3.2. the location and hours of work;
  - 6.3.3. the experience, training, qualifications and any authorisation which the Client considers necessary or which are required by law or any professional body for the Candidate to possess in order to work in the position;
  - 6.3.4. any risks to health or safety known to the Client and what steps the Client has taken to prevent or control such risks;
  - 6.3.5. the date the Client requires the Candidate to commence the Engagement;
  - 6.3.6. the duration or likely duration of the Engagement;
  - 6.3.7. the minimum rate of Remuneration, expenses and any other benefits that would be offered;
  - 6.3.8. the intervals of payment of Remuneration; and
  - 6.3.9. the length of notice that the Candidate would be entitled to give and receive to terminate their employment with the Client.
- 6.4. Where the Candidate is Introduced for a position which involves working with, caring for or attending a Vulnerable Person Randstad shall, in addition to the obligations in clause 6.1, take reasonably practicable steps to:
  - 6.4.1. obtain confirmation of the Candidate's identity;
  - 6.4.2. obtain confirmation that the Candidate 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
  - 6.4.3. obtain and offer to provide copies to the Client of two references from persons who are not relatives of the Candidate and who have agreed that the references they provide may be disclosed to the Client; and any relevant qualifications or authorisations of the Candidate. If Randstad has taken all reasonably practicable steps to obtain such information and has been unable to do so fully it shall inform the Client of the steps it has taken to obtain this information in any event.

## 7. INFORMATION TO BE PROVIDED

In the case of a position which involves working with Vulnerable Persons, when Randstad Introduces a Candidate to the Client Randstad shall inform the Client that they have obtained confirmation of the matters set out in clause 6.4.1 and 6.4.2. 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 the Introduction. This clause will not apply where the Candidate is being Introduced for an Engagement which is the same as one in which the Candidate has worked within the previous 5 business days and such information has already been given to the Client.

## 8. CONFIDENTIALITY AND DATA PROTECTION

All information relating to a Candidate is confidential and subject to the Data Protection Act 1998 ("DPA") and is provided solely for the purpose of providing work-finding services to the Client. Such information must not be used for any other purpose nor divulged to any third party and the Client undertakes to abide by the provisions of the DPA in receiving and processing the data at all times. In addition, information relating to Randstad's business which is capable of being confidential must be kept confidential and not divulged to any third party, except information which is in the public domain.

## 9. FORCE MAJEURE

Neither party shall have any liability to the other for delay or loss occasioned by war, strike, lockout, industrial dispute, fire, illness, or any other circumstance which is outside of their reasonable control.

## 10. LIABILITY

- 10.1. Save to the extent that the Client suffers loss, expense or damage or delay as a direct result of Randstad's failure to fulfil its obligations under this Agreement Randstad shall not be liable under any circumstances for any loss, expense, damage, delay, costs or compensation (whether direct, indirect or consequential including loss of profit) which may be suffered or incurred by the Client arising from or in any way connected with
- 10.1.2. Randstad seeking a Candidate for the Client; or
- 10.1.3. the Introduction to or Engagement of any Candidate by the Client; or
- 10.1.4. from the failure of Randstad to introduce any Candidate.
- 10.2. For the avoidance of doubt, Randstad does not exclude liability for death or personal injury arising from its own negligence or for any other loss which it is not permitted to exclude under law.
- 10.3. Subject to clause 9.2, Randstad's total liability for all loss, liability, expenses, damages or claims to the Client (for all causes including but not limited to contract, tort, indemnity, strict or statutory authority or otherwise) shall, per event, not exceed the amount the net Introduction Fee paid or payable by the Client to Randstad in respect of the Candidate to whom the claim relates and Randstad's total aggregate liability to the Client shall not exceed £100,000 per calendar year.

## 11. NOTICES

All notices which are required to be given in accordance with these Terms shall be in writing and may be delivered by post to the postal address of the party upon whom the notice is to be served or any other address that the party has notified the other party in writing, or by email. Any such notice shall be deemed to have been served: if by post 48 hours following posting; and if by email when that email is sent.

## 12. SEVERABILITY

If any of the provisions of these Terms shall be determined by any competent authority to be unenforceable to any extent, such provision shall, to that extent, be severed from the remaining terms, which shall continue to be valid to the fullest extent permitted by applicable laws.

## 13. GOVERNING LAW AND JURISDICTION

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

Signed for and on behalf of the Client

\_\_\_\_\_

Print name: \_\_\_\_\_

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

I confirm I am authorised to sign these Terms on behalf of the Client.

Please note that even if these Terms are unsigned Randstad would rely on clause 2.1 in relation to acceptance of these Terms.