

The Contract

1. Any amendments to the dSb Recruitment Consultancy Ltd. ("dSb") Standard Fees, Terms and Conditions ("SFT&C") must be in writing and signed by an authorised representative of dSb ("Variation Agreement"). With the exception of the amendments contained in the Variation Agreement, all other SFT&C will remain unchanged. Where dSb and the Client have entered into a Variation Agreement and the Client breaches any of the terms pertaining to in this document or the SFT&C, then dSb may unilaterally revert back to the SFT&C.
2. All and any business undertaken by dSb, is transacted subject to the SFT&C or agreed Variation Agreement hereinafter set out, each of which shall be incorporated or implied in any agreement between dSb and the client ("Client").
3. In the event of conflict between the SFT&C and the Variation in Terms, the former shall prevail unless otherwise expressly agreed by dSb in writing. dSb is acting in the capacity of an employment agency.
4. The provision of a CV or any information sufficient to identify the Applicant following a request by a Client shall be deemed to be acceptance of dSb terms and conditions. The arrangement of an interview, or the interview of any Candidate/Applicant ("Applicant") introduced by dSb whether effected by dSb directly or by the client shall also be deemed to be acceptance of, and agreement to, dSb terms and conditions by the Client. Where dSb is retained by the Client for a specific assignment ("Retained Assignment") the SFT&C shall apply on the acceptance of dSb of the Retained Assignment. The introduction fee (as defined below) will be charged unless the Client advises dSb in writing within 3 working days of the Applicant's submission by dSb, that, within the last 12 months, they have already received the Applicant's CV directly or via another Agency. Upon request, documentation must be provided to dSb clearly showing the date and evidence of CV submission.
5. If any provision, condition or part condition of the SFT&C is held to be invalid, void, illegal, or otherwise unenforceable by a judicial body, the remaining provisions of this contract shall remain in full force and effect to the extent permitted by law.

Definitions

For the purpose of these conditions, the following words and phrases shall have the following meaning:

6. Applicant - Ownership/ Introduction/ Introduced: means the provision of a CV, whether directly, by email, post, in person or telephone introduction, or any disclosed information which enables the Client to identify any Applicant that leads to an Engagement, in conjunction with clause 4.
7. Last introduction/ Date/ Last introduced: means 12 months from the last date on which the Applicant was last introduced, or re-introduced, to the Client by dSb.
8. Engage/ Engagement: means the employment, engagement or use of an Applicant by the Client or any third party on a temporary, fixed term or permanent basis whether under contract of service or for services (such terms shall include the engagement of an Applicant as an employee, franchisee, consultant, licensee, commission only, profit share partner or agent), notwithstanding the fact that the agreement may not comply with the Client's original requirements or Role Details.
9. Introduction Fee: means the Fee payable by the Client for the Engagement of each Applicant and shall become due on the day the Applicant commences work or enters into an expressed or implied contract of employment with the Client, whichever is the soonest. This term includes employment or use whether under a contract of service or for services. If, after the acceptance of an offer of Engagement but prior to the Applicant commencing the Engagement, the Client decides for any reason, which is outside the control of dSb, not to proceed with the Engagement, it shall still be liable to pay dSb the applicable Fee as detailed below. The Client agrees to notify dSb forthwith upon the Engagement by the Client of any Applicant introduced by dSb and, if so requested by dSb, will provide copies of all terms of such Engagement. If the Client fails to notify dSb or fails to provide this information upon request, then dSb shall, at its discretion calculate the Fee based on the Gross Remuneration of other Applicants in a similar role. This fee will be calculated in line with dSb STC&F, and any Variation in Terms agreements will be deemed invalid. In the event that more than one Applicant is Engaged by the Client, then the Client shall pay an Introduction Fee in respect of each Applicant.

Fees

10. On a Fee on Success search, a Fee shall become payable by the Client on the day the Applicant commences work or enters into an express or implied contract of employment with the Client, as defined above.
11. If you Retain Us, Fees will be payable as follows (unless otherwise agreed in a Variation in Terms document):
 - a. a Commencement Fee is payable immediately upon commencement of the assignment and is non-refundable
 - b. a Shortlist Fee is non-refundable and payable upon presentation to the Client of a minimum of 3 Applicants who in the reasonable opinion of dSb meet the agreed specification;
 - c. a Completion Fee which incorporates the Total Fee based on the actual Remuneration of the Applicant, minus the Retainer Fee and Shortlist Fee (if levied). This Fee is payable on the day the Applicant enters into a binding contract of employment and it shall be subject to the same conditions as defined under Introduction Fee above.
 - d. if a Retained Assignment is cancelled, a direct (not introduced by dSb) Candidate is employed, or it is deemed by dSb to be inactive beyond a period of 8 weeks, then in addition to the Retainer Fee and Shortlist Fee (if submitted), the Client shall pay a cancellation fee of 10% of the stated Gross Remuneration, or the Completion Fee based on the stated Gross Remuneration for the Retained Assignment, whichever is less, plus all the agreed advertising costs and travel expenses.
12. For Fixed Term Contracts the Fee will be invoiced, in full, at the start of the contract. If the Client wishes to extend the agreed initial period of the contract (as specified in the Role Details) then an additional Contract Fee will be payable. In the event that the Applicant does not complete the period of the contract, no refund is payable. The Fee due will be equivalent to 'x'/52ths of the Gross Remuneration multiplied by the Fee percentage (where 'x' denotes the duration of the contract in weeks) ("the Fixed Term Contract Fee"). Time lost through absence or holiday will be considered as time worked for the purposes of these terms. All Fees are expressed as a percentage of the Applicants Gross Remuneration. Notwithstanding the above the minimum fee in respect of each Fixed Term Contract Assignment will be £2,500.00. The Contract Fee is not subject to a rebate period and will not be refundable (either wholly or partly) in any circumstances. If, during a contract assignment, the Client wishes to Engage the Applicant on a permanent basis, the Client shall pay dSb an amount equivalent to a Permanent Introduction Fee. Where applicable, Value Added Tax will be charged in addition at the ruling rate.
13. If dSb provides a branded advertising service to the Client, all prior-agreed advertising costs will be charged to the Client as incurred, and the Client will pay the agreed artwork or creative concepts costs incurred by dSb. An advertisement may only be cancelled on sufficient notice as determined by dSb to enable dSb to withdraw the advertisement and not creative work has been started.

Payment Terms

14. All monies due hereunder shall be paid by the client within 14 days of the invoice date, except in short term contracts below 6 months duration when 7 days payment terms apply. In the event of late payment dSb reserves the right to apply late fees and interest on all overdue invoices in line with the Late Payment of Commercial Debts (Interest) Act 1998. In the event of an Engaged Applicant leaving within 8 weeks of their start date, the rebate period is only valid if invoices have been already been paid to the agreed terms.

Introductions

15. In the event that any Applicant is rejected by the Client or any Applicant rejects an offer of Engagement by the Client, the Client shall pay the Introduction Fee to dSb if the Applicant is subsequently Engaged by the Client within 12 months of the date on which the Applicant was Last introduced to or interviewed by the Client, via dSb, whichever is the latter ("the Last Introduction Date"). No refund will be applicable for such an Engagement under any circumstances.

16. Introduction Fees will also be payable if, within 12 months of the Last Introduction Date;
 - a. the Client or any Third Party engages any Applicant, in any capacity, either directly, or via an employment business, or employment agency; or
 - b. the Client or any Third Party uses the services of any Applicant, in any capacity, otherwise than through dSb whether facilitated directly by the Client of Applicant, including, but not limited to outsourcing, or corporate restructuring; or
 - c. the Client or any Third Party engages any Applicant as a direct or indirect result of any Applicant responding to an internal or external advertisement published by the Client, or any of its representatives or agents.

No refund will be applicable for such an Engagement under any circumstances.
17. If the Client introduces or re-introduces any Applicant to another person, firm, body, common directorship or corporation associated with it resulting in the Engagement of the Applicant by that person, firm, body, or corporation within 12 months of the Last Introduction Date, the Client shall pay the Introduction Fee. No refund will be applicable for such an Engagement under any circumstances.
18. The Introduction of an Applicant or the provision of an Applicant's details is done on a strictly confidential basis and is conditional upon the Client agreeing not to disclose any information about an Applicant to any other person, firm or corporation without dSb's prior written consent. In particular, the Client shall not approach the Applicant's referees or current employer unless and until the Applicant has formally accepted the Client's written offer of Engagement.
19. Introduction Fee will also be payable if within 12 months of acceptance of dSb SFT&C. Variation Document, or the Last Introduction Date, whichever is later:
 - a. the Client or any person, firm, body, common directorship or corporation associated with it Engages, in any capacity, whether under a contract of service or a contract for services, any person who at the time of such Engagement, or who, within 13 weeks immediately prior thereto, was employed by dSb or anybody associated with it ("dSb Employee"); or
 - b. any other party Engages, in any capacity, whether under a contract of service or contract for services any dSb Employee where such Engagement has resulted directly or indirectly from the Client passing information about the dSb Employee to another party.
20. For the avoidance of doubt, a dSb Employee who has had direct or indirect contact with the Client during any recruitment assignment shall be deemed to be an Applicant for the purposes of dSb SFT&C.
21. dSb agrees the client shall keep applicant's data on a secured database for a period of 12 months for the purpose of recruitment only and after this period the data shall be deleted.

Refunds

23. In the event that an Engagement terminates (whether by expiry of notice or otherwise) within 8 weeks of the date of commencement of work by the Applicant and provided that:
 - a. the Client notifies dSb in writing of the termination of Engagement within 7 days of such termination; and
 - b. the Client of any person, firm, body, or corporation associated with it shall not Engage the Applicant within 12 months from the date of such termination; and
 - c. the termination is not due to redundancy, constructive or unlawful dismissal, corporate restructure, change of management/job description or Role Details, pregnancy, illness or injury; and
 - d. all monies due from the client have been paid in accordance with clause 14; and
 - e. the Client agrees to engage with dSb exclusively and does not resort to the use of other agencies and does not unduly delay the interview process;

then dSb shall endeavour to find 1 replacement Applicant (as detailed for the specific role in accordance with the Engagement of the first Applicant, as deemed by dSb) at no extra cost to the Client except for agreed additional advertising costs and travel expenses. If dSb does not find a replacement Applicant it shall refund the Fee paid in the same proportions as the period not worked bears to 8 weeks from Applicant start date (calculations being done to the nearest week). If the Client agrees to increase the Gross Remuneration, then additional Fees will be payable in accordance with the agreed fee rate.

On Retained Assignments any applicable refund will be granted against the Completion Fee only.

Time lost through absence or holiday will be considered as time worked for the purpose of calculating any refund that may be due. No refund or replacement shall apply to any replacement Applicant.

Set Off

24. The Client agrees that arrangements in relation to each Applicant and each Retained Assignment or File Search represent individual contracts and that the Client shall have no right of set off or counter claim between individual agreements

Suitability and References

25. dSb shall endeavour to ensure the suitability of an Applicant and to maintain a high of service and integrity, but makes no warranty, express or implied, as to such suitability. The Client shall immediately inform dSb should there be any reason or circumstance under which it would be detrimental to the interests of dSb, the Client or the Applicant for the Applicant to take up a position with the Client
26. When assessing the suitability of an Applicant, dSb shall place reliance on the Role Details provided by the Client and the Client accepts that dSb will make no further assessment of the Client's requirements.
27. dSb agrees to obtain the Applicant's confirmation that the Applicant has the experience, training, qualifications and/ or authorisations specified in the Role Details. dSb shall not undertake any further checks unless requested to do so by the Client.
28. The Client shall be responsible for arranging all medical examinations and investigations of the Applicants (including the confirmation of any professional or academic qualifications) and for obtaining any work and other permits and shall satisfy itself as to the suitability of any Applicant prior to any Engagement.

Liability

29. dSb shall not be liable to the Client for any loss of profit, loss of business, loss of use or any indirect, special, punitive or consequential damages.
30. dSb shall not be liable for any loss, injury, liability, damage, expense or delay incurred or suffered by the Client arising directly or indirectly from or in any way connected with an Engagement and, in particular, but without limitation to the foregoing, any such loss, injury, liability, damage, expense or delay.
31. The Client hereby undertakes to indemnify dSb in respect of any and all liability of dSb which results from any breach by the Client of any of its obligations under dSb terms and conditions.
32. Any circumstances allegedly giving cause for complaint about an Applicant or an invoice must be notified to dSb and confirmed in writing as soon as the cause of the alleged complaint arises.
33. dSb shall not be held liable for any failure or delay in performing its obligations under dSb terms and conditions where such failure or delay is caused by events beyond its reasonable control.
34. All credit notes must be exercised within 12 calendar months from the date of issue.

Law

35. dSb terms and conditions shall be governed and construed in accordance with English and Welsh Law and the parties submit to the exclusive jurisdiction of England and Wales.