

Terms and Conditions

This agreement is dated

PARTIES

- (1) **ALBERT CLIFF LIMITED** of 59-60 Russell Square, London, United Kingdom, WC1B 4HP (**Albert Cliff**)
- (2) [] of [] (**Client**).

AGREED TERMS

1. Interpretation

The following definitions and rules of interpretation apply in this agreement.

1.1 Definitions

Assignment: the provision of a Candidate to perform certain services.

Business Day: a day other than a Saturday, Sunday or public holiday, when banks in London are open for business.

Candidate: a third party, being an individual, a company or other legal entity as the case may be, introduced by Albert Cliff to the Client to provide services to the Client

Commencement Date: []

Contract of Employment: an agreement between the Client and a Candidate which forms the basis of the employment relationship

Engagement: the temporary or permanent employment of a Candidate by the Client or engagement directly or indirectly through any employment business other than through Albert Cliff (whether for a definite or indefinite period) as a direct result of any Introduction to the Client and the terms **Engaged** or **Engagement** shall be construed accordingly.

Introduction: the provision of information by Albert Cliff to the Client, whether in oral or written form, by way of a curriculum vitae or in such format as the Client may from time to time require which identifies the Candidate and **Introduction**, **Introduce** and **Introduced** shall be construed accordingly.

Introduction Fee: the fee to be calculated as set out in Schedule 1.

Offer Letter: a Letter sent by the Client to the Candidate confirming an offer of employment

Permanent Assignment: an indefinite contract between the Client and the Candidate until such time as the Client or Candidate wishes to terminate the contract.

Standard Agreed Placement Fee: 30% of the anticipated base salary or EUR 15,000 (whichever is greater)

Temporary Assignment: a short-term contract between the Client and the Candidate.

VAT: value added tax chargeable under the Value Added Tax Act 1994.

Unsatisfactory Candidate: an unsuitable Candidate who is unable to perform the Assignment.

- 1.2 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.3 The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules.
- 1.4 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.6 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.7 A reference to **writing** or **written** includes email.
- 1.8 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.9 A reference to **this agreement** or to any other agreement or document referred to in this agreement is a reference to this agreement or such other agreement or document as varied or novated (in each case, other than in breach of the provisions of this agreement) from time to time.
- 1.10 References to clauses and Schedules are to the clauses and Schedules of this agreement and references to paragraphs are to paragraphs of the relevant Schedule.
- 1.11 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. Governing Law and Jurisdiction

- 2.1 This agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.
- 2.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation.

3. Albert Cliff's Obligations

- 3.1 Albert Cliff acts as an employment business and these terms set out the agreement between Albert Cliff and the Client for the Introduction and Engagement of a Candidate by Albert Cliff to the Client.
- 3.2 Albert Cliff agrees to search, and within such timeframe as the Client may specify, for Candidates for the Client who meet the Client's stipulated minimum criteria for an Assignment.

- 3.3 Where a Candidate is required by law or any professional body to have any qualifications, authorisations or certification to work on the Assignment, Albert Cliff shall take all reasonably practicable steps to obtain, and offer to provide copies of, any relevant qualifications or authorisations or certification. Albert Cliff shall also take all reasonably practicable steps to confirm that the Candidate is suitable for the Assignment.
- 3.4 It is incumbent upon the Client to satisfy themselves as to the appropriateness and usability of a Candidate and the Client shall be responsible for:
- 3.5.1 obtaining work and other permits;
 - 3.5.2 the arrangement of medical examinations and/or medical history enquiries where considered appropriate; and
 - 3.5.3 compliance with any statutory or other legal requirements
- 3.6 Albert Cliff shall not be liable for any loss, damage or expense suffered or incurred by the Client arising from or in any way connected to Albert Cliff's enquiries and searches of:
- 3.6.1 any Candidate for the Client;
 - 3.6.2 any Introduction to of a Candidate by Albert Cliff to the Client; and
 - 3.6.3 any Engagement of a Candidate by Albert Cliff to the Client.
- 4. Client's Obligations**
- 4.1 When making a request for an Assignment, the Client will give Albert Cliff details of:
- (a) the date on which the Client requires the Candidate to commence work and the duration, or likely duration, of the work;
 - (b) the position which the Client seeks to fill, including the type of work the Candidate in that position would be required to do, the location at which, and the hours during which, the Candidate would be required to work, and any risk to health or safety known to the Client and what steps the Client has taken to prevent or control such risks;
 - (c) the expected remuneration the Candidate is likely receive should the Client wish to engage the Candidate;
 - (d) the experience, training, qualifications and any authorisation which the Client considers are necessary, or which are required by law, or by any professional body, for the Candidate to possess in order to work in the position;
 - (e) any expenses payable by or to the Candidate; and
 - (f) any information reasonably required by Albert Cliff.
- 4.2 The Client reserves the right to change its requirements at any time before the commencement of the Assignment without any liability of the Client to Albert Cliff whatsoever, such cancellation or

amendment shall be effective immediately upon the Client giving notice to Albert Cliff. Albert Cliff will be entitled to render an invoice for the services already performed.

5. Albert Cliff's Fees

- 5.1 Following the Engagement of a Candidate by Albert Cliff, the Client will pay to Albert Cliff a fee for the employment services provided as set out and calculated in Schedule 1.
- 5.2 The fee will be calculated on the remuneration agreed between the Client and the Candidate and the Client shall disclose full details in writing to Albert Cliff of the remuneration offered as soon as any Engagement has been accepted by a Candidate.
- 5.3 The Client is required to pay the fee within 14 days from the date the Candidate signs the Offer Letter or Contract of Employment whichever is earlier provided by the Client
- 5.4 In the event the Client does not disclose the Engagement of a Candidate to Albert Cliff a Standard Agreed Placement Fee will be payable by the Client to Albert Cliff.
- 5.5 Any advertising, production or other out of pocket expenses agreed with the Client shall be payable immediately upon presentation of Albert Cliff's invoice. These amounts are specifically excluded from the refund guarantees set out in clause 7 below. Albert Cliff retain the right not to accept any queries the Client may have with respect to the content or calculation of the invoice if not notified to Albert Cliff within 30 days of the invoice date.
- 5.6 Should the Client Engage a Candidate as a result of an Introduction by or through Albert Cliff, whether directly or indirectly, within 12 months from the date of Albert Cliff's Introduction then the Client shall pay an Introduction Fee. An Introduction Fee shall apply regardless whether or not:-
 - 5.6.1 the Client knew the Candidate previously;
 - 5.6.2 the Client negotiated with the Candidate directly; and
 - 5.6.3 the Client notifies Albert Cliff of the Candidate's Engagement.
- 5.7 Should the Client communicate an Introduction to a different employer, which results in an Engagement, the Client shall pay to Albert Cliff an Introduction Fee.
- 5.8 Where applicable, Albert Cliff shall charge VAT to the Client, at the prevailing rate, after Albert Cliff has provided the Client with a VAT invoice.
- 5.9 If the Client fails to make a payment due to Albert Cliff under this agreement by the due date, then the Client shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each day at 4% a year above the Bank of England's base rate from time to time.

6. Term

This agreement shall commence on the Commencement Date and shall continue, unless terminated earlier in accordance with clause 8 or until either party gives to the other party 30 Business Days' notice to terminate.

7. Temporary Assignment

- 7.1 Where a Candidate is Engaged on a Temporary Assignment, the Client shall ensure that adequate insurance is in place throughout the Temporary Assignment and is responsible for all health and safety requirements and ensuring that the Candidate's working conditions are suitable.
- 7.2 No replacement or refund is applicable to Temporary Assignments.

8. Unsatisfactory Candidate

- 8.1 If the Client decides that a Candidate is an Unsatisfactory Candidate then the Client will be entitled to a refund from Albert Cliff if the following requirements are complied with:
- 8.1.1 the Candidate was Engaged in relation to a Permanent Assignment;
 - 8.1.2 the Client notified Albert Cliff in writing within 7 days of termination of the Permanent Assignment giving the grounds for its dissatisfaction with the Candidate;
 - 8.1.3 Albert Cliff is unsuccessful in finding a Candidate, acceptable to the Client, to replace the Unsatisfactory Candidate within 6 months from the date Albert Cliff receives notice of termination of the Permanent Assignment in accordance with clause 8.1.2. For the avoidance of doubt, no fee shall be charged to the Client for Albert Cliff's services in locating a Candidate to replace the Unsatisfactory Candidate for the Assignment.
 - 8.1.4 Albert Cliff's fees have been paid in full in accordance with Schedule 1 and have been paid to Albert Cliff within 14 days from the date the Candidate signs its Offer Letter or Contract of Employment whichever is the earlier.
- 8.2 If the Client has complied with Clause 7.1 the client shall be entitled to a refund as set out in Schedule 2.
- 8.3 In the event the Candidate's Engagement is terminated and a refund is provided to the Client by Albert Cliff, should the Candidate be subsequently reengaged by the Client, any subsidiary, or associated company within 52 weeks of the termination of the Engagement, the Client shall pay a further fee to Albert Cliff calculated in accordance with the scale of fees as set out in Schedule 1.
- 8.4 No refund will be payable to the Client in the following circumstances:
- 7.3.1 the Candidate is made redundant;
 - 7.3.2 the cause of termination has no bearing on the Candidate's ability, integrity or character.

9. Default and Early Termination

Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of any term of this agreement and (if such a breach is remediable) fails to remedy that breach within 14 days of receipt of notice in writing to do so;

- (b) the other party repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;
- (c) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- (d) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;
- (e) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the other party with one or more other companies or the solvent reconstruction of the other party;
- (f) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
- (g) the holder of a qualifying floating charge over the assets of the other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (h) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (i) the other party (being an individual) is the subject of a bankruptcy petition, application or order;
- (j) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
- (k) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 9(c) to clause 8(h) (inclusive);
- (l) the other party suspends or threatens to suspend, or ceases or threatens to cease to carry on, all or a substantial part of its business; or
- (m) the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing their own affairs or becomes a patient under any mental health legislation.

10. Effect of Early Termination

- 10.1 Any provision of this agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this agreement shall remain in full force and effect.
- 10.2 Termination or expiry of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the

right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

11. Audit and Record-Keeping

11.1 For the duration of this agreement and for a period of three years from the termination or expiry of this agreement, Albert Cliff shall maintain full and accurate records of:

- (a) the services provided by Albert Cliff under this agreement;
- (b) all expenditure reimbursed by the Client;
- (c) all payments made by the Client;

11.2 Albert Cliff shall promptly on request provide the Client or the Client's representatives with copies of such records referred to in clause 12.1 as the Client may from time to time reasonably request.

12. Confidentiality

12.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 13.2.

12.2 Each party may disclose the other party's confidential information:

- (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under this agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 13; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

12.3 No party shall use any other party's confidential information for any purpose other than to perform its obligations under or in connection with this agreement.

13. Data Protection Compliance

13.1 Albert Cliff will collect and process information relating to the Candidate in accordance with the privacy notice which is [on the intranet OR annexed to this Agreement].

13.2 For the purposes of this clause, Data Protection Legislation includes the General Data Protection Regulation (EU) 2016/679 (GDPR) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK, as well as any successor legislation to the GDPR and Data Protection Act 1998.

13.3 Albert Cliff and the Client acknowledge that for the purposes of the Data Protection Legislation, the Albert Cliff is the data controller and the Client is the data processor.

13.4 The schedule to this agreement sets out the scope, nature and purpose of the processing by the Client, the duration of the processing and the types of personal data (as defined in the Data Protection Legislation (Personal Data)) and categories of data subject.

13.5 The Client shall, in relation to any Personal Data processed:

- (1) Process that Personal Data only on written instructions of Albert Cliff

- (2) Keep the Personal Data confidential
- (3) Comply with the Albert Cliff's and/or Candidates reasonable instructions with respect to processing Personal Data and with the Albert Cliff's Privacy standard
- (4) Not transfer any Personal Data outside of the European Economic Area without Albert Cliff's prior written consent
- (5) Assist Albert Cliff in responding to any data subject access request and to ensure compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, privacy impact assessments and consultations with supervisory authorities or regulators.
- (6) Notify Albert Cliff without undue delay on becoming aware of a Personal Data breach or communication which relates to Client's compliance with the Data Protection Legislation
- (7) At the written request of Albert Cliff or the Candidate, delete or return Personal Data and any copies thereof to the Albert Cliff on termination of this agreement unless required by the Data Protection Legislation to store the Personal Data.
- (8) Maintain complete and accurate records and information to demonstrate compliance with this clause 13 and allow for audits by the Albert Cliff or Albert Cliff's designated auditor.

13.6 The Client shall ensure that appropriate technical or organisational measures are in place, reviewed and approved by the Albert Cliff, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures. Such measures may include, where appropriate:

- (1) pseudonymising and encrypting Personal Data
- (2) ensuring confidentiality, integrity, availability and resilience of its systems and services
- (3) ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident
- (4) regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it.

13.7 The Client shall have personal liability for and shall indemnify Albert Cliff for any loss, liability, costs (including legal costs), damages, or expenses resulting from any breach by the Client or a substitute engaged by the Client of the Data Protection Legislation, and shall maintain in force full and comprehensive insurance policies to cover such liability.

14. Warranties and Undertakings

14.1 Albert Cliff warrants that has the necessary expertise to provide the services contemplated in this agreement and will perform them in keeping with the highest professional business standards by using appropriately qualified, experienced and trained personnel.

14.2 Each party warrants that it has full capacity and authority to enter into and perform this agreement.

15. Non-Solicitation

17.1 The Client shall, either on its own account or in partnership or association with any person, firm, company or organisation, or otherwise and whether directly or indirectly, solicit or entice away or

attempt to entice away or authorise the taking of such action by any other person, any employee of Albert Cliff who has worked on the services provided under this agreement at any time during the term of this agreement other than by means of a national advertising campaign open to all-comers and not specifically targeted at such employees of Albert Cliff.

- 17.2 In the event that an employee of Albert Cliff with whom the Client has had personal dealings, accepts an Engagement with the Client within 3 months of leaving Albert Cliff's employment, the Client shall be liable to pay a fee to Albert Cliff which is to be calculated in accordance with Schedule 1.

16. Assignment and Other Dealings

Neither party shall assign, transfer, mortgage, charge, declare a trust over or deal in any other manner with any or all of its rights and obligations under this agreement without the prior written consent of the other.

17. No Partnership or Agency

- 17.1 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

- 17.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

18. Variation

No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

19. Entire Agreement

- 19.1 This agreement constitutes the entire agreement between the parties and, unless otherwise agreed in writing by a duly authorised officer of Albert Cliff, supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

- 19.2 Each party acknowledges that in entering into this agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement.

- 19.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this agreement.

- 19.4 Nothing in this clause shall limit or exclude any liability for fraud.

20. Third Party Rights

The rights of the parties to rescind or vary this agreement are not subject to the consent of any other person.

21. Notices

- 21.1 With the exception of notices given by the Client pursuant to clause 4.2, which may be given by telephone, any notice or other communication given to a party under or in connection with this agreement shall be in writing and shall be:
- (a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its principal place of business; or
 - (b) sent by email to *to Leon.Leschinsky@albertcliff.com* (on behalf of Albert Cliff) and sent to the managing director or HR officer (or anyone else equivalent seniority) on behalf of the Client.
- 21.2 Any notice or communication shall be deemed to have been received:
- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
 - (b) if sent by pre-paid first-class post or other next working day delivery service, or at the time recorded by the delivery service.
 - (c) if sent by email, at 9.00 am on the next Business Day after transmission.
- 21.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

22. Force Majeure

Neither party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement, if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for 4 weeks the party not affected may terminate this agreement by giving 7 days' written notice to the affected party.

23. Severance

- 23.1 If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement.
- 23.2 If one party gives notice to the other of the possibility that any provision or part-provision of this agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

This agreement has been entered into on the date stated at the beginning of it.

Signed by Leon Leschinsky
for and on behalf of Albert Cliff
Limited

.....
Director

Signed by []
for an on behalf of []

.....
[]



Schedule 1

Scale of Fees

Albert Cliff's fees are based on a percentage of the Candidate's remuneration received by the Client unless an alternative calculation is agreed in advance by the parties.

Candidate's Remuneration	Fee/ Fee Percentage
Candidate is employed on a salary or draw basis (which shall include all guaranteed income and bonuses)	Whichever is the greater of: EUR 15,000 or 30% of Candidate's first year guaranteed income
Candidate is employed on a commission only basis without a draw	Whichever is the greater of: EUR 15,000 or 30% of total earnings in the year prior to the offer of employment or the Candidate's last base salary, whichever is the greater.

Schedule 2

Scale of Refunds

In the event a Permanent Assignment is terminated, the Client shall receive a refund by Albert Cliff which shall be calculated on the number of weeks the Candidate is Engaged by the Client from the date the Candidate commenced employment.

Number of Weeks the Candidate was employed by the Client	Percentage of Fee refunded
Weeks 1 - 2	100%
Weeks 3 - 4	75%
Weeks 5 - 8	50%
Weeks 9 - 12	25%