

## TERMS AND CONDITIONS OF BUSINESS

(These Terms and Conditions are current as of 16<sup>th</sup> March 2023. Positions that have registered by Clients with HomeOrganisers prior to this date will be charged at the rates that were applicable at the time of their registration.)

### 1. DEFINITIONS AND INTERPRETATION

In this agreement, the following definitions and rules of interpretation will apply, unless the context requires otherwise:

**“Agency”:** HomeOrganisers Limited, trading as HomeOrganisers, incorporated in England and Wales under company registration number 9590170 and whose registered office is C/O More Than Accountants, Nautica House (Ground Floor) Navigation Business Park, Waters Meeting Road, Bolton, England, BL1 8SW

**“Applicant”:** a person introduced by the Agency to the Client either orally or in writing for potential employment or engagement in respect of childcare, housekeeping, companion, or any other job profile, on a temporary basis (including for reasons of maternity) or a permanent basis, whether full or part time.

**“Client”:** any person, including any family connections of such person, or company who contacts the Agency with the aim of Engaging an Applicant and for whom the Agency has agreed to provide the Services in accordance with these Conditions.

**“Contract”:** the contract between the Agency and the Client for the provision of the Services incorporating these Terms and Conditions as evidenced by the signing of the Registration Form and the acceptance by the Agency in accordance with Clause 2.1.

**“Data Protection Legislation”:** (i) unless and until the GDPR is no longer directly applicable in the UK, the General Data Protection Regulation ((EU) 2016/679) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 1998.

**“Engagement”:** the engagement, employment or use of the Applicant by the Client or any third party on a temporary or permanent basis following an introduction by the Agency. **“Engages”** or **“Engaged”** shall be interpreted accordingly.

**“Engagement Commencement Date”:** in relation to an Engagement, the date on which the relevant Applicant’s Engagement with the Client commences. In the absence of other evidence, the date upon which the Applicant attends the Client’s property (or such property as the Client has directed) and starts working in any role shall be deemed to be the Engagement Commencement Date.

**“Family Registration Form”:** the booking form to which these Terms and Conditions are attached setting out, amongst other things, the Client’s details and requirements for a nanny, other childcare professional, Companion or domestic worker.

**“Introduction”** the passing by the Agency to the Client of a Curriculum Vitae or any other information in relation to an Applicant.

**“Introduction Fee”:** the relevant fee payable by the Client to the Agency in accordance with Fee and Guarantee schedule.

**“Introduction Fee Due Date”** has the meaning given in Clause 6.1.

**“Confidential Information”:** all personal and business information about the Client to this agreement, including details about their family, children, business, friends or any information of a personal nature.

**“Permanent Engagement”:** Engagement for any period of more than 12 consecutive weeks (full-time or part-time).

**“Temporary Engagement”:** an Engagement for any period up to and including 12 consecutive weeks (full-time or part-time)

**“Services”:** an introduction service whereby a Client is introduced to one or more Applicants to work for the Client as a nanny, mother’s help, housekeeper, Companion or other childcare professional or household staff;

**“Trial Day”:** Before entering into an Engagement, the Client may request that an Applicant work, for one or more days to enable the Client and the Applicant to assess their mutual suitability

**“Terms and Conditions”:** these terms and conditions, as amended from time to time.

- 1.1. The singular includes the plural and vice versa whilst the masculine includes the feminine and vice versa.
- 1.2. If the Client comprises more than one person those persons shall be jointly and severally liable in respect of all obligations and liabilities contained herein.
- 1.3. A reference to a person includes reference to that person’s successors, legal representatives, permitted assigns and any person to whom rights and obligations are transferred or passed for whatever reason involving that person
- 1.4. A reference in this agreement to any document or text is a reference to that document or text at the date when the contract is made. We reserve the right to change any such document without notice. If we do, the version which applies is the version which existed at the time this contract is made
- 1.5. The headings to the paragraphs and schedules to these Terms and Conditions are inserted for convenience only and do not affect the interpretation.
- 1.6. Nothing in these Terms and Conditions shall prejudice any condition or warranty, express or implied, or any legal remedy to which the Agency may be entitled in relation to the Services, by virtue of any statute, law or regulation.
- 1.7. A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.8. A reference to a “Month” means a calendar month, and a “Week” means 7 consecutive days.
- 1.9. This agreement is made only in the English language. If there is any conflict in meaning between the English language version of this agreement and any version or translation of this agreement in any other language, the English language version shall prevail. If a version of this agreement has been supplied to the Client in some language other than English, that is a courtesy only and that translated version is of no legal effect.

## **2. CONTRACT**

- 2.1. The Agreement between the Agency and the Client, incorporating these Terms and Conditions, shall only come into force when the Agency confirms acceptance of the Family Registration Form orally, in writing or by email to the Client and/ or the Client verbally instructs the Agency to submit suitable Applicants for an Engagement.
- 2.2. These Terms and Conditions apply to the Contract to the exclusion of all other terms and conditions and shall to the extent contradictory supersede any other documentation or communication between the Client and the Agency.
- 2.3. Any variation of this Contract (including any special terms and conditions agreed between the parties) must be agreed in writing by the Agency and the Client.
- 2.4. The Client acknowledges that he understands exactly what is included in the Services and he is satisfied that the Services are suitable and satisfactory for his requirements.

## **3. SUPPLY OF SERVICES**

- 3.1. The Agency is an introduction agency: an intermediary which introduces Applicants to prospective clients and vice versa. The Agency has no role, contractual or otherwise, in any arrangement between the Client and the Applicant.

- 3.2. The Agency shall use reasonable endeavours to introduce to the Client Applicants which the Agency considers suitable to be Engaged by the Client as required in the Instructions and to perform the additional Services as further set out in these Terms and Conditions.
- 3.3. The Agency shall carry out its obligations with reasonable skill and care and to a reasonable standard and in accordance with recognised codes of practice and relevant statutory obligations.
- 3.4. Time for commencement shall not be of the essence of the Agreement and the Agency shall not be held liable for any loss, costs, damages, charges or expenses caused directly or indirectly by any delay in the Services.
- 3.5. Nothing in these Terms and Conditions shall prevent the Agency from entering into a similar contract with any other person.

#### **4. OBLIGATIONS OF THE CLIENT**

- 4.1. The Client accepts that the Agency acts only as an introduction agency for childcare and domestic placements and therefore holds no employer responsibility for any Applicant whether introduced on a permanent, contract or a temporary basis.
- 4.2. The Client is responsible for providing a full detailed job description to the Agency in the Family Registration Form. The Client agrees that the description of work and other information that he has provided, or provides in a future time, is accurate and complete.
- 4.3. The Client agrees to satisfy himself as to the suitability of an Applicant generally and to:
  - 4.3.1. take up references, including the confirmation of any professional, academic or other qualifications;
  - 4.3.2. to obtain DBS checks criminal record checks or police checks and to ask to see copies of any certification obtained by an Applicant, including paediatric first aid certification;
  - 4.3.3. ensure that the Applicant can drive to the standard expected by the Client;
  - 4.3.4. confirm identity and proof of address confirmation documents by sight and the Client is further advised to periodically check and retain copies of these identity documents and necessary certificates;
  - 4.3.5. obtain any visa or permit necessary to enable the Applicant to accept the Engagement; and
  - 4.3.6. obtain any necessary medical certificate.
  - 4.3.7. ensure that the applicant has relevant car insurance including 'business use' car insurance, if Applicant is using Applicants own vehicle for work and appropriate car insurance if driving car supplied by client.
- 4.4. If an Applicant introduced to the Client by the Agency has already been introduced by a third party, the Client will immediately (and, in any event, within 7 days of the introduction by the Client) inform the Agency of that fact and provide such evidence of such prior introduction as the Agency reasonably requires to prove the fact. If the Client fails to so inform the Agency and/or provide the supporting evidence of the prior introduction and the Applicant is engaged by the Client, the Client shall be liable to pay the related Introduction Fee to the Agency.
- 4.5. In the event that and Applicant accepts an Engagement, the Client shall immediately (and, in any event, within 7 days): (i) inform the Agency in writing of that acceptance; and (ii) confirm the following terms of the Engagement: gross annual salary, start date and end date and whether the Engagement is permanent or temporary.
- 4.6. The Client shall become liable to pay the relevant Introduction Fee upon acceptance by an Applicant of an Engagement, as described in Clause 6.
- 4.7. The Client will comply with UK employment and tax law, including, but not limited to the provision of a contract of employment, pay slips, correct deductions for tax and national insurance, as well as any pension contributions, if the Applicant is eligible.
- 4.8. For self-employed Applicants, the Client is responsible for confirmation that the Applicant is eligible for self-employed status and should request documentation confirming self-employed status.

- 4.9. If the Client or a member of the Client's family or any acquaintance or associate of the Client, passes on the details of an Applicant to any other person or persons within 12 months of the Applicant's introduction to the Client by the Agency, resulting in the Engagement of the Applicant, the Client shall be liable for payment of the relevant full Introduction Fee in accordance with Clause 6.
- 4.10. The Client is responsible for ensuring that the Applicant has current Public Liability Insurance, if required.
- 4.11. The Client warrants that he holds and will maintain appropriate Employer's Liability insurance for at least £5 million. Employer's Liability Insurance must be in place for interview and trial sessions and the Engagement of permanent, temporary and contract staff.
- 4.12. The Client is responsible for the instruction and direction of the Applicant. The Client is responsible for ensuring that the Applicant clearly understands the needs of the Client's children and expected duties.
- 4.13. During the Client's Engagement of the Applicant, the Client will ensure that the Applicant is provided with a suitable and safe working environment which in no way may compromise and affect the welfare of the Applicant and will ensure that the place of work is clean and hygienic and complies with appropriate health and safety laws;
- 4.14. For live in positions, the Client must ensure
  - 4.14.1. adequate household insurance is in place to protect the Applicant's possessions
  - 4.14.2. provision of suitable live-in accommodation to the Applicant, including, without exception, a bedroom for exclusive use and access to a bathroom.
- 4.15. The Client may reimburse the Applicant for travelling expenses for interview at his discretion.
- 4.16. Before entering into an Engagement, the Client may request that an Applicant work, for one or more days to enable the Client and the Applicant to assess their mutual suitability ('**Trial Days**') There is no contractual obligation on either the Client or the Applicant to undertake a Trial Day or to continue it but in the event that a Trial Day(s) is undertaken, the Client shall be liable for paying the Applicant for any time spent. The Client shall pay to the Agency the daily "**Trial Day Administration Fee**" specified in the Fees and Guarantee Schedule, with the first trial day being free of charge. The number of Trial Days may not exceed one full week. The Client should ensure that Employer Liability insurance is in place throughout any Trial Day. The Agency shall take reasonable endeavours to ensure that the Applicant's background screening is in progress. It is agreed and understood that the background screening pack may not be complete and It is the sole decision and responsibility of the Client, if they proceed with a Trial Day.
- 4.17. Overseas clients are responsible for travel costs relating to the interview process of the Applicant. The payment of a return travel journey is a requirement of any overseas placement.
- 4.18. The Client agrees that for the purpose of providing the Services, the Agency can use any medium to find a suitable Applicant or to advertise vacancies including the Internet.
- 4.19. The Client agrees not to enter into any relationship with the Applicant that may be detrimental to the interest of the Agency during this agreement or within one year from the date of its termination.
- 4.20. The Client shall inform the Agency immediately, in writing, in the event of serious dissatisfaction with the performance or conduct of the Applicant.

## 5. AGENCY OBLIGATIONS

- 5.1. The Agency shall take reasonable endeavours to introduce to the Client, Applicants which the Agency considers suitable to be employed by the Client as required in the Family Registration Form and perform the additional services as further set out in this Clause.
- 5.2. The Agency shall request Applicants to provide; -
  - 5.2.1. A Curriculum Vitae.
  - 5.2.2. Original Government issued identity documents for right to work check.
  - 5.2.3. Relevant certificates.

- 5.2.4. DBS certification. The Agency actively encourages Applicants to renew their Disclosure and Barring Service (DBS) certificate and to subscribe to the DBS update service.; and
- 5.2.5. Referee contact details and apply for 2 references.
- 5.3. The Agency will inform the Client as to the status of each of the above documents set out in Clause 5.2.2-5.2.5 prior to any decision to Engage. In the event that, for example; the DBS is in progress at the time an offer is made, the Agency shall recommend that an Engagement does not commence until the DBS certification is received and is deemed acceptable. If the Client moves forward and commences Engagement before the DBS or any of the other relevant documents are received, then the decision rests exclusively with the Client as to whether such Engagement should proceed. For the avoidance of doubt, the relevant Introduction Fee would still be due to be paid in such circumstances
- 5.4. The Agency sometimes uses the service of external providers for compliant pre-employment background screening and it will provide a report detailing background screening undertaken. However, the obligation for every security and other check on an Applicant rests exclusively with the Client and the Client must satisfy itself as to the overall suitability of any Applicant that is introduced by the Agency to them.
- 5.5. The Agency does not give any warranty as to the accuracy of the information supplied to them by the Applicant and which is then transferred to the Client.
- 5.6. The Agency takes reasonable steps to ensure that both the Applicant and the Client are aware of requirements imposed by law or professional bodies to enable the Applicant to work for the Client in the capacity of the position that the Client wishes to fill.
- 5.7. The Agency will comply with legislation covering Data Protection, and both the storage and disposal of confidential information (in both electronic and paper format) on Applicants and Client Families. The Agency is registered with the Information Commissioner's Office entry Z2118203.
- 5.8. The Agency only collects personal information for the legitimate business purpose of introducing childcare professionals and domestic staff to Clients and finding positions on a temporary and /or permanent basis for Applicants. All information received is treated as private and confidential, and all steps are taken to ensure that information is protected from unauthorised viewing by up-to-date computer protection. All personal details on paper are securely stored and shredded when they are no longer required for legitimate business reasons. Personal Information is only kept for the period of time allowed in accordance with the Data Protection Act 1998. For the purposes of the Data Protection Act 1998, the Client consents to the processing of his all or any personal data (in manual, electronic or any other form) relevant to these Terms and Conditions, by the Agency and/or any agent or third party nominated by the Agency and bound by a duty of confidentiality. Processing includes but is not limited to obtaining, recording, using and holding data and includes the transfer of data to any country either inside or outside the EEA.
- 5.9. With regards to Equal Opportunities Policy, the Agency will strive to ensure that no Client or Applicant will ever be treated unfavourably in any part of our recruitment or placement process due to their disability, gender, race, sexual orientation, religion or belief or in any other professional dealings.
- 5.10. The Agency aims to provide only the highest level of service. However, the Agency does recognize that sometimes it may fall short of this objective. To this aim, the Agency has devised a complaints policy that will ensure that it offers the highest quality service. If a Client wishes to make a complaint, in the first instance, it should telephone Deborah Barrett on 01932 254686 who will aim to resolve any complaint, quickly and with politeness and consideration. If a Client does not feel satisfied and wishes to make a formal complaint, then it should submit a written statement of the complaint to Deborah Barrett via email [debbie@homeorganisers.co.uk](mailto:debbie@homeorganisers.co.uk) who will diligently investigate the complaint further and a written response will be forwarded within 15 days. If a Client does not feel satisfied after the informal and formal complaint then it should direct its complaint to The Employment Agency Standards Inspectorate Dept of Trade and Industry (UG65)1 Victoria Street, London SW1 H0EX.

## **6. AGENCY FEES AND NOTIFICATION**

- 6.1. The Introduction Fee becomes due and payable on the date (the “Introduction Fee Due Date”) which is the earlier of: (i) the date upon which an Applicant accepts an offer of Engagement either by verbal or by written agreement; and (ii) the Engagement Commencement Date. The Introduction Fee is calculated in accordance with Agency’s fee structure as set out below. The Agency will raise an invoice on, or as soon as reasonably practicable after becoming aware of, the Introduction Fee Due Date. For the avoidance of doubt, such Introduction Fee is due and payable by the Client even if the Client has not notified the Agency of the acceptance or commencement of the Engagement.
- 6.2. The Client agrees to pay the Agency’s Introduction Fee within 5 days of invoice date or before the commencement of the Applicant’s employment (whichever is sooner).
- 6.3. The Introduction Fees for Services are as specified below and are subject to VAT. (VAT Registration Number 269 8627 40):

UK Nationwide: -

- Permanent Placement – 10% of gross annual salary
- Temporary Placements – £200 per week or £50 per individual day.

Overseas Placements: -

- Permanent Placement - 15% of net annual salary.
- Temporary Placement £250 per week, or part there of

Minimum Placement Fee: -

- The minimum fee charged on all permanent placements is £1250.

Trial Day Administration Fee: -

- There is no agency charge for the first Trial Day. Any subsequent Trial Days are invoiced at temporary placement rate of £50 per Trial Day and a trial may not exceed one full week.

Search Activation Fee: -

- We charge a search activation fee of £55, plus VAT for UK placements.

- 6.4. If an Applicant Engaged on a Temporary Engagement (an engagement lasting less than 12 weeks) and leaves the Client’s Engagement within an invoiced period, the Agency will refund payment for each full week not worked. (Monday to Sunday) This provision is conditional on the Client having complied fully with these Terms and Conditions.
- 6.5. In the event that a Client wishes to share an Applicant with another family, the “Client” will be the one deemed to have signed the Contract but in such an event, the Client will only have to pay 50% of the relevant Introduction Fee provided that the other family has paid the remaining 50% to the Agency directly.
- 6.6. If the Introduction Fee paid relates to a temporary placement of an Applicant who then becomes a permanent employee of the Client within 12 months from the date of the initial introduction, the Client shall pay the difference between the Temporary Introduction Fees already paid and the Permanent Introduction Fee at the time of the change in employment status.
- 6.7. If the Client subsequently engages or re-engages the Applicant within the period of 12 months from the date of termination of the Engagement or withdrawal of the offer, the Client shall be liable to pay a full Introduction Fee calculated and payable in accordance with Agency’s fee structure.
- 6.8. The Client agrees a late payment charge of an additional 5% if payment is not made within 5 days of invoice date and a further 3% will be added for each week that the invoice remains unpaid.
- 6.9. The Client is not entitled to withhold any monies due to the Agency.

## 7. REPLACEMENT

- 7.1. The Agency fees are non-refundable. Should the Applicant leave the Engagement within eight weeks from commencement of Engagement, the Agency will offer one replacement free of charge. The Agency shall

provide the Client with up to three applicant profiles for free replacement. Such profiles will be selected based on the information originally provided in the Family Registration Form. The Agency accepts no liability and is not obliged to offer a replacement or any refund if the Client finds the Applicants unacceptable and does not want to engage any of the potential Applicants.

- 7.2. Replacements will only be given to the Client if the Client has informed the Agency, in writing, within 2 days of the termination of the Engagement.
- 7.3. The replacement guarantee is only applicable if the Client has paid the Introduction Fee in full, within 5 days of invoice or before the commencement of the Applicant, whichever is sooner.
- 7.4. No replacement will be given where the Client retains the services of the Applicant even though the Client considers the Applicant unsuitable.
- 7.5. An Engagement is deemed satisfactory after 8 weeks and no replacements will be given after the 8 -week period.
- 7.6. The replacement guarantee does not apply if the Applicant has left the position due to unreasonable working conditions, change of location, change of job description, the Client's change of mind or if HomeOrganisers believes the Applicant has been mistreated in any way.
- 7.7. No replacement shall be given if there are any discounts made to the Introduction Fees.
- 7.8. Except as set out in Clause 6.4, no refunds/replacement will be given if a temporary placement has been shortened by the Client after commencement of the Engagement for whatever reason.
- 7.9. For short term placement (more than 12 weeks but less than year) charged on a pro rata basis, the guarantee period will also be calculated on a pro rata basis.

## **8. CANCELLATION FEE AND ADMINISTRATION CHARGE**

- 8.1. In the event that the Client withdraws an offer of Engagement to the Applicant (if the Offer is conditional and the Applicant meets the conditions), the Client agrees to pay the FULL Introduction Fee.
- 8.2. The Client agrees to pay the Applicant one month's salary, if the Client withdraws an Offer of Engagement because they have 'changed their mind' or due to other events that the Applicant cannot control, assuming the Applicant meets all conditions of the Offer of Engagement.

## **9. LIABILITY AND DISCLAIMERS and INDEMNITY**

- 9.1. This Clause applies so far as the applicable law allows and states the entire liability of the Agency.
- 9.2. All implied conditions, warranties and terms are excluded from this agreement.
- 9.3. Any decision as to the suitability of an Applicant and the decision to engage an Applicant is at the sole discretion of the Client. The Agency will take all reasonable steps to introduce Applicants to the Client who are of sound character, honest and reliable but cannot be held responsible for the conduct of an Applicant either before or after Engagement. The Agency accepts no liability for any loss or damage arising from any negligence, misconduct, dishonesty, conduct or lack of skill on the part of the Applicant.
- 9.4. The Agency shall not be liable to the Client for loss arising from or in connection with representation agreements, statements or undertakings made prior to the date of these Terms and Conditions.
- 9.5. The Agency shall not be liable to the Client for any loss or expense which is:
  - 9.5.1. Indirect or consequential loss; or
  - 9.5.2. Economic loss or other loss of turnover, profits, business or good will; or
  - 9.5.3. Loss or damage suffered by the Client as a result of an action brought by third party; or
  - 9.5.4. Loss or damage caused during the Engagement of the Applicant or any act, omission or negligence of such Applicant.
- 9.6. The Agency does not exclude or restrict liability for death or personal injury resulting from its negligence nor any other matter for which it would be illegal or unlawful for the Agency to

exclude or attempt to exclude from the Agency's liability.

- 9.7. Particulars of Applicants, their summary profiles and other information provided by the Agency are prepared in good faith and solely for the Client's guidance.
- 9.8. The Agency offers a draft "Offer Letter" as a guide only and the Client is advised to seek independent legal advice. The Agency is not responsible for the "Employment Contract" or any terms of service between the Client and the Applicant.
- 9.9. Except in the case of fraud, or death or personal injury, the maximum limit of the liability of the Agency to the Client, whether in contract, tort, negligence, breach of statutory duty or otherwise shall not exceed the sum insured under the professional indemnity insurance policy held by the Agency in the insurance year in which the Client's claim is first notified.
- 9.10. The Client agrees to indemnify the Agency against all costs, claims and expense arising directly or indirectly from:
  - 9.10.1. his breach of these terms and conditions;
  - 9.10.2. any act, neglect or default by any of his agents, employees or contractors

## **10. ASSIGNMENT**

Neither the Client nor the Agency shall be entitled to assign its rights or obligations or delegate its duties under this Agreement without the prior written consent of the other party to these Terms and Conditions.

## **11. THIRD PARTY RIGHTS**

The parties agree that the warranties, covenants and undertakings given by the Client and the provisions of Clauses 8.4 and 4.13 are also given for the benefit of, and maybe enforced by, the Applicant in accordance with the Contracts (Rights of Third Parties) Act 1999. Other than as provided in this clause the provisions of this Contract are personal to the Parties and are not intended to confer any rights of enforcement on any other third party and the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Contract or to any of its provisions.

## **12. CONFIDENTIALITY**

- 12.1. In this paragraph, "Damage" means both economic loss, loss of, and damage to, reputation, or professional standing.
- 12.2. Each party to this contract now undertakes for the benefit of the other that he will not:
  - 12.2.1. divulge to any person whatever or otherwise make use of any Confidential Information relating to the other, which he learns as a result of these Terms and Conditions or any circumstance flowing from the Terms and Conditions;
  - 12.2.2. post any text, nor image, nor audio-visual material, on any social network or other public place which could be hurtful, embarrassing or damaging to the other party.
- 12.3. The parties agree that any Damage arising directly or indirectly, foreseeable or not from a breach of the above provisions must be compensated on the basis of the effect on the damaged party.
- 12.4. The Client accepts personal liability for compliance with these provisions by his children of any age, other members of his family and domestic staff.
- 12.5. Notwithstanding how the Terms and Conditions are terminated, this Clause shall be effective for five years from the date of termination of these Terms and Conditions.

## **13. DATA PROCESSING**

- 13.1. The parties acknowledge that for the purposes of the Data Protection Legislation, the Client is the data controller and the Agency is the data processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation).



13.2. The Agency shall, in relation to any Personal Data (as defined in the Data Protection Legislation) processed in connection with the performance by the Agency of its obligations under this agreement:

- 13.2.1. process that Personal Data only on the written instructions of the Client for the purposes of carrying out a Childcare /domestic Search in accordance with the terms of this agreement unless the Agent is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Agent to process Personal Data (Applicable Laws). Where the Agent is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Agent shall promptly notify the Client of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Agent from so notifying the Client;
- 13.2.2. ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Client, 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 (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- 13.2.3. ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;
- 13.2.4. assist the Client, at the Client's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- 13.2.5. notify the Client without undue delay on becoming aware of a Personal Data breach;
- 13.2.6. at the written direction of the Client, delete or return Personal Data and copies thereof to the Client on termination of the agreement unless required by Applicable Law to store the Personal Data; and
- 13.2.7. maintain complete and accurate records and information to demonstrate its compliance with this clause 13.

13.3. The Client does not consent to the Agent appointing any third-party processor of Personal Data under this agreement.

#### **14. SEVERANCE**

If any term or provision of these Terms and Conditions is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if these Terms and Conditions had been agreed with the invalid, illegal or unenforceable provision eliminated.

#### **15. WAIVER**

The failure by either party to enforce at any time or for any period any one or more of the Terms and Conditions herein shall not be a waiver of them or of the right at any time subsequently to enforce all Terms and Conditions.

#### **16. NOTICES**

Any notice to be given by either party to the other may be served by email, personal service or by post to the address of the other party given in the Registration Form or such other address as such party may from time to time have communicated to the other in writing, and if sent by email shall unless the contrary is proved be deemed to be received on the day it was sent, if given by letter shall be deemed to have been served at the time at which the letter was delivered personally or if sent by post shall be deemed to have been delivered in the ordinary course of post.

#### **17. ENTIRE AGREEMENT**

These Terms and Conditions constitutes the entire agreement and shall supersede any other agreement or arrangement between the Agency and the Client whether written or oral with respect to the provision of the Agency's Services to the Client and each party acknowledges that in entering into these Terms and Conditions, it has not relied on and shall have no remedy in respect of any statement, representation, warranty or other provision of any person which is not expressly set out in these Terms and Conditions (save for any fraudulent or dishonest statement act or omission).

#### **18. GOVERNING LAW**

These Terms and Conditions, and any non-contractual obligations arising therefrom, shall be governed by and construed in accordance with the law of England and the parties hereby submit to the exclusive jurisdiction of the English Courts.