

**GENERAL TERMS AND CONDITIONS OF BUSINESS
SUBSCRIPTION SERVICE**

Registered Company

Address

Create and Adapt Limited
8b Greenway
Farm
Wick
Bristol
England
BS30 5RL

Company Registration Number:

9723247 VAT Registration Number:

226575592

www.createandadapt.com

Terms of Business for the Introduction of Candidates to be directly employed by Clients

1. DEFINITIONS

1.1 In these Terms and Conditions of Business (the “Terms”) the following expressions shall be given the following meanings:

“Candidate” means an individual introduced by Create and Adapt Limited to the Client by supplying the name of the individual to the Client on any written medium to be considered for an Engagement “Client” means any person, firm or corporation who approaches Create and Adapt Limited with a view to engaging or otherwise employing a Candidate or to whom a Candidate is introduced by

Create and Adapt Limited;

“Create and Adapt Limited” means Create and Adapt Limited or any of its subsidiary, associated or holding companies or associates;

“Engagement” means the employment, hire or other use, directly or indirectly and whether under a contract of service or contract for services or otherwise, and on a permanent, temporary or other basis, of a Candidate by or on behalf of the Client;

“Introduction” means the passing to the Client of a curriculum vitae or other information which identifies the Candidate or the interviewing (whether in person or by telephone) by or on behalf of the Client

“Introduction Fee” means the fee calculated in accordance with Clause 3

“Remuneration” includes base salary or fees, guaranteed and/or anticipated bonus and commission earnings, allowances, inducement payments, 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.

“Talent Pool” means the defined pool of candidates sourced and approached following a brief given at the beginning of the subscription period.

“DPA” means the Data Protection Act 1998.

“GDPR” means the General Data Protection Regulation (Regulation (EU) 2016/679).

“Data Protection Legislation” means all laws relating the processing of Personal Data, privacy and security, including, without limitation, the EU Data Protection Directive 95/46/EC (as will be superseded by the EU General Data Protection Regulation 2016/679 (“GDPR”), the EU Privacy and Electronic Communications Directive 2002/58/EC, as implemented in each jurisdiction, and all amendments, or all other applicable or replacement international, regional, federal or national data protection laws, regulations and regulatory guidance;

“Data Controller”, “Data Processor”, “Data Subject”, “Personal Data”, “Sensitive Personal Data” and “processing” shall have the meanings given to them in the in the Data Protection Legislation.

“Data Protection Authority” means the relevant data protection authority in the territories where the parties to this Agreement are established.

“Data Protection Directive” means EU Data Protection Directive (95/46/EC).

“Data Protection Rules” means the DPA and GDPR and all other laws that relate to data protection, privacy, the use of information relating to individuals or the information rights of individuals.

“Data Security Requirements” means the security requirements as set out in Article 32 of the GDPR.

“Shared Personal Data” means any Personal Data and any Sensitive Personal Data to be shared by us under or pursuant to this Agreement.

“Subject Access Request” means the rights of an individual as set out at “Right of access to personal data” in section 7 of the DPA (until 24 May 2018) or “Right of access by the data subject” in Article 15 of the GDPR (from 25 May 2018). **Create + ADAPT**

1.2 For the avoidance of doubt, when providing services pursuant to these Terms, Create Adapt Limited is acting as an employment agency pursuant to the Employment Agencies Act 1973 (as amended) and the Conduct of Employment Agencies and Employment Business Regulations 2003.

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

1.4 Unless otherwise specified, a reference to a statutory provision is a reference to that provision as amended, consolidated, extended or re-enacted from time to time (whether before or after the date of this Agreement) and to any subordinate legislation made under it.

1.5 Create and Adapt Limited shall act as an intermediary between the Candidate and the Client and does not have any authority to bind the Candidate.

2. THE CONTRACT

2.1 The instruction by the Client for Create and Adapt Limited to supply Candidates or their details, the interviewing (whether in person or by telephone) by or on behalf of the Client, the Engagement of a Candidate or the commencement by a Candidate of work for or the provision of services to the Client or the passing of information about the Candidate to any third party following an introduction (whichever first occurs) shall be deemed acceptance of and agreement to these Terms.

2.2 When requesting Create and Adapt Limited to provide details of potential Candidates, the Client shall provide details of the identity of the Client, the commencement date and likely duration of any fixed term employment (if applicable), the work to be provided (including the location and the hours to be worked, the potential health and safety risks together with the steps taken to prevent or control such risks), the training, qualifications or authorisations considered necessary, any expenses payable, the rate of remuneration and/or pay (and any other benefits offered by the Client together with the intervals) which the candidate would be paid, and the length of notice which the applicant would be required to give and which the candidate would be entitled to receive to end the employment.

2.3 The Client agrees to Create and Adapt Limited advertising each vacancy which the Client issues to Create and Adapt Limited unless the Client specifies otherwise in writing.

2.4 The Client agrees that upon Create and Adapt Limited providing details of a potential candidate, Create and Adapt Limited will be given priority over any duplicated applications by or on behalf of the same potential candidate. Should the Client receive a duplicated application, the Client shall not

engage that potential candidate outside these Terms without the written permission of Create and Adapt Limited.

2.5 The Client consents to the disclosure by Create and Adapt Limited to Candidates of information relating to the Client.

3. NOTIFICATION AND FEES

3.1 The Client agrees:

To notify Create and Adapt Limited immediately in writing of any offer of an Engagement which it makes to the Candidate;

To notify Create and Adapt Limited immediately in writing that its offer of an Engagement to the Candidate has been accepted and to provide details of the Remuneration to Create and Adapt Limited.

3.2 The Client agrees (as per agreement):

- The prices outlined in the digital contract linked to this contract.
- All prices are agreed and subject to change based on the service level

agreement. The above applies in sterling, as applicable.

VAT will be added to the charges above.

If the Client fails to make a payment due in accordance with 3.1, Create and Adapt Limited is entitled to terminate the agreement.

3.3 Create and Adapt Limited will advertise in free spaces on behalf of all of its clients, with clear branding on the client name and logo. Any paid advertising required or requested must be separately agreed in writing before the advertisement is placed and will be payable irrespective of whether a Candidate is engaged. All other charges must be separately agreed in writing and will be payable irrespective of whether or not a Candidate is engaged.

All monies due under these Terms shall be paid by the Client within 14 days of the date of invoice issued by Create and Adapt Limited.

3.4 Create and Adapt Limited reserves the right, without notification, to charge the Client interest in respect of any outstanding balance after the period for payment set out in Paragraph 3.2 (both before and after any judgment) from the date of the invoice up to and including the date of payment at a daily rate of 4% per annum above Cater Allen's base rate from time to time.

In the event that any monies become due in accordance with these Terms in any other currency not provided for herein, Create and Adapt Limited shall apply the conversion rate that is the average rate available for the month of the Candidate's Engagement using data from the website www.xe.com.

3.5 The right is reserved to recover debt recovery costs in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 (from time to time amended) as amended by the Late Payment of Commercial Debts (Interest) Regulations 2002. Payment must be made without deduction or set-off.

3.6 The subscription shall commence on the date of the Instruction and shall continue for an initial period of 3 months ("Initial Term") at which point it will be renewed automatically for successive periods of 1 month ("Renewal Period".)

3.7 In the event that the client wishes to terminate their subscription they will notify Create and Adapt Limited in writing with no less than 1 month notice. The subscription will be terminated after 1 further subscription payment on scheduled date of payment. Access to Create + Adapt's online system and candidates will be removed from this date.

4. REFUND

4.1 Create and Adapt Limited is a subscription based service, providing services and time, this is not based on the successful factor of a candidate being introduced. Refunds are not available on our monthly subscription, unless there is a breach in the service level agreement.

4.2 Where we have a percentage agreement in place for the successful placement of a Candidate, then the candidate withdraws prior to the commencement of their Engagement, the Client will not incur a fee in respect of a replacement Candidate. Create and Adapt Limited shall only waive its introduction fee for the replacement Candidate if the role to be carried out by the replacement Candidate is the same as the role for which the initial Candidate was sought.

5. INTRODUCTIONS

In the event that Create and Adapt Limited are briefed on recruiting a role for headhunting purposes.

5.1 Introductions of Candidates are confidential.

5.2 The Client undertakes that in the event of the Client employing, hiring, directly or indirectly and whether under a contract of service or contract for services or otherwise, and on a permanent, temporary or other basis, in relation to any other vacancy or role the Client shall immediately notify Create and Adapt Limited and shall be liable to pay an Introduction Fee, unless the Engagement occurs more than 12 months after the Introduction of the Candidate to the Client by Create and Adapt Limited or from the date of the Candidate's last interview with the Client, whichever is the later.

5.3 The Client undertakes that in the event of the Client effectively introducing (directly or indirectly) any Candidate to another person, firm or corporation (including any subsidiary, associated or holding company of the Client) resulting in the employment, hire or other use, directly or indirectly and whether under a contract of service or contract for services or otherwise, and on a permanent, temporary or other basis by that person, firm or corporation (which the Client shall immediately notify to Create and Adapt Limited) the Client shall pay to Create and Adapt Limited an introduction fee in accordance with Paragraph 3, unless the Engagement occurs more than 12 months after the introduction of the Candidate to the Client by Create and Adapt Limited or from the date of the Candidate's last interview with the Client whichever is the later.

5.4 Where the amount of the Remuneration is not known, Create and Adapt Limited will charge a fee calculated in accordance with Paragraph 3.2 on the minimum level of remuneration applicable

for the position in which the Candidate has been engaged with regard to any information supplied to Create and Adapt Limited by the Client and/or comparable positions in the market generally for such positions.

6. SUITABILITY

6.1 Create and Adapt Limited endeavours to ensure the suitability of any Candidate introduced to the Client, in particular Create and Adapt Limited shall: obtain confirmation of the Candidate's identity, that the Candidate has the experience, training, qualifications and any authorisations which the Client has notified to Create and Adapt Limited's pursuant to Paragraph 2.2 above that it considers necessary, and that the Candidate is willing to work in the position which the Client is seeking to fill;

inform the Client of such of the matters as outlined in Paragraph 6.1(a) of which Create and Adapt Limited shall have obtained confirmation;

take all steps that are reasonably practicable to ensure that the Client and the Candidate are aware of any requirements imposed by law or any professional body to enable the Candidate to work in the position which the Client seeks to fill; and

take all steps as are reasonably practicable to ensure that it would not be detrimental to the interests of either the Client or the Candidate for the Candidate to work in the position which the Client seeks to fill.

The Client accepts that no warranty as to the suitability of the Candidate can be given by Create and Adapt Limited. Create and Adapt Limited cannot guarantee to find a suitable Candidate for each vacancy.

Notwithstanding Paragraph 6.1, the Client shall satisfy itself as to the suitability of any Candidate for the purposes of the vacancy for which the Candidate has been introduced. Without prejudice to the generality of the foregoing, it is acknowledged by the Client that it is for the Client to take up

references, to check the validity of qualifications and to ensure that the Candidate is capable of operating any equipment to the necessary skill level. The Client shall be responsible for obtaining any work and other permits and for ensuring that the Candidate satisfies any medical requirements or other qualifications that may be appropriate or required by law.

7. LIABILITY

7.1 Neither Create and Adapt Limited nor any of its staff shall be liable to the Client for any loss, injury, 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, damage, expense or delay arising from or in any way connected with:

Failure of the Candidate to meet the requirements of the Client for all or any of the purposes for which he is required by the Client;

Any act or omission of a Candidate, whether wilful, negligent, fraudulent, dishonest, reckless or otherwise;

Any loss, injury, damage, expense or delay incurred or suffered by a Candidate provided that nothing in this Paragraph shall be construed as purporting to exclude or restrict the liability of Create and Adapt Limited to the Client for personal injury or death resulting from the negligence of Create and Adapt Limited nor for any statutory liability or any exclusion or limitation which is prohibited by law.

7.2 In consideration of Create and Adapt Limited entering into any agreement with the Client into which these Terms are incorporated, the Client hereby undertakes to indemnify Create and Adapt Limited in respect of any and all liability, costs or damages of Create and Adapt Limited for:

(a) Any it restricted to loss or damage that has directly been caused by the client.
loss, injury, expense or delay suffered or incurred by a Candidate, howsoever caused; and

7.2 b the client has no responsibility for the actions of a Candidate prior to employment

(b) Any loss, injury, damage, expense or delay suffered or incurred by anyone arising directly or indirectly from or in any way connected with the acts and omissions of a Candidate, whether wilful, negligent, fraudulent, dishonest, reckless or otherwise, provided that this indemnity is given only in respect of any such loss, injury, damage, expense or delay caused during or arising directly or indirectly out of or in any way connected with an Engagement.

7.3 Create and Adapt Limited's maximum aggregate liability under the Agreement in contract, tort (including negligence), misrepresentation, for breach of duty (including strict liability) or otherwise shall be limited to a sum equal to the total fees paid or payable during the twelve (12) months immediately preceding the event giving rise to the liability. Our liability cap will be mutual in this agreement.

7.4 Nothing in these Terms limits or excludes any party's liability for death or personal injury caused by its negligence, for its fraud or fraudulent misrepresentation or for any other liability which cannot be excluded by law.

7.5 The Client acknowledges that the limitations and exclusions of the obligations and liabilities of Create and Adapt Limited under these Terms and shall accept the risk and/or insure accordingly.

8. GENERAL

8.1 All and any business undertaken by Create and Adapt Limited is transacted subject to these Terms, all of which shall be incorporated into any agreement between Create and Adapt Limited and the Client.

8.2 Unless otherwise agreed in writing by Create and Adapt Limited these Terms prevail over any terms of business or purchase conditions proffered by the Client. Where any clause or provision of these Terms conflicts with any clause or provision of any subsequent contract or agreement between Create and Adapt Limited and the Client, these Terms shall prevail, unless the subsequent contract or agreement specifically provides in writing that its terms shall prevail over these Terms.

8.3 No valid variation can be made to these Terms without the written consent of a director of Create and Adapt Limited and any variation shall be appended to these Terms in a Schedule.

8.4 The complete or partial invalidity of any provision of these Terms for any purpose shall in no way affect the validity or enforceability of such a provision for any other purpose or the remaining provisions. Any such provisions shall be deemed to be severed for that purpose subject to such consequential modification as may be necessary for the purpose of such severance.

8.5 These Terms supersede all Create and Adapt Limited's previous terms of business whether written or verbal.

8.6 These Terms shall be governed by and construed in accordance with the laws of England and Wales and the English Courts shall have exclusive jurisdiction.

9. DATA PROTECTION

9.1 Each party acknowledges that, for the purposes of the Data Protection Rules, in performing this Agreement they are both Data Controllers and each party warrants and undertakes to the other that they will:

(a) process the Shared Personal Data in compliance with the Data Protection Rules and all other applicable laws, enactments, regulations, orders, standards and other similar instruments that apply to our Personal Data processing operations;

- (b) respond within a reasonable time and as far as reasonably possible to enquiries from the relevant Data Protection Authority in relation to the Shared Personal Data;
- (c) respond to Subject Access Requests in accordance with the Data Protection Rules;
- (d) where applicable, maintain registration with all relevant Data Protection Authorities to process all Shared Personal Data for the purpose of this Agreement;
- (e) take all appropriate steps to ensure compliance with the Data Security Requirements; and
- (f) notify the other party without undue delay on becoming aware of an actual Personal Data breach.

9.2 To the extent that Create + Adapt processes Shared Personal Data as a processor on behalf of the Client, the Create + Adapt shall:

- (a) comply with its obligations under Data Protection Legislation and its obligations with respect to personal data under this agreement, and not do or permit anything to be done which might cause Customer to be in breach of the Data Protection Legislation;
- (b) process Shared Personal Data only for the purposes of performing this agreement and only in accordance with instructions contained in this Agreement, or as otherwise notified by Customer to the Supplier from time to time;
- (c) not otherwise modify, amend or alter the contents of Shared Personal Data or disclose or permit the disclosure of any of the Shared Personal Data to any third party (including a data subject) unless specifically authorised to do so in writing by Candidate;
- (d) assist Client in fulfilling its obligations to data subjects pertaining to rights of data subjects, including by maintaining written records of personal data processing, as required and when applicable under the GDPR;
- (e) ensure that access to the Shared Personal Data is limited to those of its employees who need to have access to it and that they are informed of the confidential nature of the Shared Personal Data, are under an obligation to keep such Shared Personal Data confidential;

9.3 Each party warrants and undertakes that they will not disclose or transfer the Shared Personal Data to a third party data controller located outside the EEA unless:

- (a) it complies with the provisions of (i) Articles 25 and 26 of the Data Protection Directive (until 24 May 2018); or (ii) Articles 44 to 46 (inclusive) of the GDPR (from 25 May 2018) as implemented in the national data protection laws to which it is subject;

(b) Data Subjects have been given the opportunity to object, after having been informed of the purposes of the transfer, the categories of recipients and the fact that the countries to which the Shared Personal Data is exported may have different data protection standards; or

(c) with regard to onward transfers of Sensitive Personal Data, Data Subjects have given their explicit consent to the onward transfer.

9.4 Each party agrees to provide reasonable assistance to the other with regard to Subject Access Requests as is reasonably necessary and to respond to any other queries, exercise of individual rights or complaints from Data Subjects

10. How We Work

10.1 Subject to timely payment of the Fees, in accordance with the service level agreement listed in the summary overview, we shall use our reasonable endeavours to carry out the Services in all material respects.

10.2 With the exception of English bank holidays, our normal business hours are 9.00am to 5.30pm, Monday to Friday or as otherwise agreed in writing between us.

10.3 You acknowledge that we are entitled to act on instructions received from a Named User as if they were instructions received directly from you.

10.4 You agree to: a) give us a clear brief in connection with the Services; and b) co-operate with us as regards our provision of the Services which shall include engaging with us and providing us with your instructions in a timely manner.

10.5 You agree to help us by promptly making available accurate information that is necessary for the provision of the Services. We shall not be liable for any delay in carrying out the Services to the extent caused by a Force Majeure Event or your failure to provide us with requested information necessary for the provision of the Services in a timely fashion.

10.6 If our performance of our obligations under this Agreement is prevented or delayed by any act or omission on your behalf or on behalf of your personnel, we shall not be liable for any costs, charges or losses sustained or incurred by you that arise directly or indirectly from such prevention or delay.

10.7 You shall be liable to pay us, on demand, all reasonable costs, charges or losses sustained or incurred by us (including any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) that arise directly or indirectly from the your fraud, negligence, failure to perform or delay in the performance of any of your obligations under this Agreement, subject to us confirming such costs, charges and losses to you in writing

10.8 You shall not, without our prior written consent, at any time from the date of this Agreement until the expiry of 6 months after its expiry or termination, solicit or entice away from us or employ or attempt to employ any person who is, or has been, engaged as any Personnel by us for the delivery of the Services.

10.9 Any consent given by us in accordance with clause 10.8 shall be subject to you paying to us a sum equivalent to 50% of the then current annual remuneration of any Personnel of ours or the six month sum of the monthly average talent agreement you have in place according to this agreement.