

Terms and Conditions for Advertisers

22nd May 2008

These Terms and Conditions for Advertisers ("Conditions") and any document referenced in them set out the terms and conditions on which we will place your Advertisements on www.consultancyrolefinder.com or www.consultancyrolefinder.co.uk (the "Sites"). Please read these Conditions carefully before submitting any Advertisements to either of the Sites. You should understand that these Conditions form a binding contract with Top Appointments Ltd and that by submitting an Advertisement or requesting or using any Services, you confirm your acceptance of these Conditions and agree to be bound by them.

www.consultancyrolefinder.com or www.consultancyrolefinder.co.uk are websites owned and operated by Top Appointments Limited, a limited liability company registered in England and Wales with registered number 5903962 and registered office at Northcliffe House, 2 Derry Street, Kensington, London W8 5TT ("Top Appointments").

1. Definitions

1.1 In these Conditions the following words and phrases shall have the following meanings unless the context requires otherwise:-

Advertisement

any recruitment advertisement appearing on either of the Sites and/or any page(s) of Client advertising together with any other form of advertisement as shall appear on the Sites from time to time;

Advertising Agency

a Client who in relation to the Services is receiving them on behalf of an End Client or is directly or indirectly providing the Services to an End Client;

Agreed XML Schema

an XML schema, to be agreed between Top Appointments and the Client, for the presentation of all of the necessary details of an Advertisement in the XML format for inclusion in the Vacancy Listings

Applicant

a Candidate who applies for a vacancy advertised on either of the Sites;

Candidate

a person who uses the Sites for the purpose of finding employment;

Client

any person using the Services, where a person includes but is not limited to, Direct Employers, Recruitment Agencies and Advertising Agencies. In the circumstance of any Recruitment or Advertising Agency acting on behalf of one of their own End Clients, Top Appointments will charge the Agency and not the Agency's End Client;

Corporate Brochure

a web page which contains text, graphics, data, files and links which are used to promote a corporate message;

CV

the curriculum vitae or brief outline details of a Candidate's education, training, skills and employment experience which is provided to Top Appointments by a Candidate for distribution to Clients with a view to securing employment;

Direct Employer

a Client who in relation to the Services is receiving them for the purpose of their own recruitment needs and not on behalf of any other third party End Client;

End Client

the person to whom the Client's services are provided;

Fees

the fees and charges payable by the Client under these Conditions;

Jobs-by-Email

a Service which matches and sends vacancies via email to Candidates who have subscribed to this Service;

Recruiter

any person working on behalf of the Advertising Agency, Direct Employer or Recruitment Agency Client and who is authorised by the Client to use the Services;

Recruitment Agency

an Employment Agency or Employment Business as defined by the Employment Agencies Act 1973 (and all regulations made thereunder);

Services

the services which Top Appointments has agreed to provide to the Client and includes Advertisements, Jobs-by-Email and any other services which may be provided to the Client;

Vacancy Listing

any page on the Sites which display or list Advertisements;

XML Feed

A set of Advertisements, for inclusion in the Vacancy Listings that are configured to the Agreed XML Schema;

XML Posting Service

A Service which enables the Client to send an XML Feed to Top Appointments.

2. Services Generally

- 2.1 The Client agrees to provide Top Appointments, in such a format as Top Appointments may request, any information, design work, artwork and logos necessary to enable Top Appointments to provide the Services.
- 2.2 Top Appointments shall not be obliged to provide the Services until the Client has supplied it with the information, design work, artwork and logos necessary to provide the Services. Such information shall be supplied within 5 days of the Client requesting the performance of the relevant Services, or such later date as agreed by Top Appointments.
- 2.3 Top Appointments shall make such modifications to any Advertisement as are reasonably requested by the Client. Minor modifications shall be made at no extra charge to the Client, but Top Appointments reserves the right to charge at the rate of 50 Pounds Sterling per hour for the time involved in connection with any modifications which are not, in Top Appointments's sole opinion, of a minor nature.
- 2.4 The Client may remove an Advertisement from the Sites before the Advertisement has reached its expiry date.
- 2.5 Top Appointments reserves the absolute right, without giving any reasons, to decline, cancel or remove any Advertisement or provision of Services for any reason and at any time without prior notice.
- 2.6 The Client shall be responsible for ensuring that any Advertisement and the Client's use of the Services comply with all applicable laws and regulations including, without limitation, those relating to the prohibition of discrimination on grounds of age, sex or race.
- 2.7 Top Appointments will use its reasonable endeavours to publish the Advertisement or provide the Services on the agreed date. Top Appointments does not accept liability for any consequences, howsoever arising, due to error or delay in provision of the Services and has the right at its sole discretion to decline to publish or omit, suspend or change the position of any Advertisement accepted by it.
- 2.8 Links to a Client's or End Client's website may be included in an Advertisement, Corporate Brochure or any Service used by the Client, provided that Top Appointments may, at its discretion and without prior notice, remove such links from the Sites at any time.
- 2.9 Top Appointments may at its discretion and without prior notice, report any Advertisement or Service used which in its reasonable opinion is being used for an improper or illegal purpose by a Client to the relevant authorities including, without limitation, the Department of Employment, the Office of the Information Commissioner and the Recruitment and Employment Confederation. Top Appointments may also disclose information about any Client to any third party, as Top Appointments shall deem necessary to protect its interests or the interests of Clients, Recruiters, Candidates, Applicants and/or other users of the Sites.
- 2.10 Top Appointments shall be entitled at any time without notifying the Client to make changes to the Services, which are necessary to comply with any applicable security or other statutory requirements and shall determine the manner in which the Services are provided.
- 2.11 Top Appointments will only make available or supply copies of the CVs that have been received by it for distribution to Clients of Top Appointments solely for the purpose of securing suitable employment for the Candidates.

3. Posting of an Advertisement

- 3.1 If the Client wishes to place an Advertisement in the Vacancy Listing, it shall ensure that it has the permission of Top Appointments

4. Jobs-by-Email

If the Services include Jobs-by-Email, the provisions of this clause 4 shall apply thereto.

- 4.1 Top Appointments shall at its sole discretion include the Client's Jobs in its Jobs-by-Email service
- 4.2 The contents of the Jobs By Email message may contain a link only to a Client's Corporate Brochure or Vacancy Listing or any individual vacancy Advertisement.
- 4.3 The Client accepts that Top Appointments cannot guarantee the number of recipients of the Jobs-by-Email and that no obligations are imposed on Top Appointments in this regard.

5. XML Posting Service

The provisions of this clause 5 shall apply to the use of the XML Posting Service by Clients.

- 5.1 Upon receipt of a request for use of the XML Posting Service by a Client, Top Appointments shall provide the Client with the Agreed XML Schema within 48 hours of receiving such request.
- 5.2 Top Appointments shall notify the Client of such reasonable processes as Top Appointments may require for the notification, submission and receipt of an XML Feed. Top Appointments shall not be required to post any Advertisement sent via an XML Feed unless the XML Feed is notified, submitted and received in accordance with this process.
- 5.3 Subject to paragraph 5.2, Top Appointments will integrate the Advertisement received in an XML Feed into the Vacancy Listings within 24 hours of notification of the same from the Client. Top Appointments shall not be required to comply with the timings set out in this paragraph 5.3 if the same Client has notified Top Appointments of another XML Feed within the previous 24 hours.
- 5.4 The Client accepts that, notwithstanding its compliance with the process notified to it by Top Appointments in accordance with paragraph 5.2, Top Appointments cannot guarantee the number of Advertisements that will be included in the Vacancy Listings will be the same as the number of Advertisements that the Client included in the XML Feed and that no obligations are imposed on Top Appointments in this regard.

6. Obligations of Top Appointments

- 6.1 Top Appointments will use its reasonable endeavours to enable Applicants the facility of viewing the Clients' Advertisements on one or both of the Sites (at Top Appointments's discretion) and to provide the Services to the Client. However, the Client accepts that Top Appointments cannot guarantee the number of occasions on which any individual Advertisement appears on such Site(s) and that no obligations are imposed on Top Appointments in this regard.

7. Obligations of the Client

- 7.1 The Client hereby undertakes and warrants to Top Appointments:
 - 7.1.1 to use all reasonable precautions against access of the Sites (or any website that is, or may become linked to any website) by any unauthorised persons, including but not limited to, the use of user names and passwords and the securing of information relating to communications between the Client's hardware and the rest of the Sites;
 - 7.1.2 to comply with the provisions of the Data Protection Act 1998 or relevant legislation with regard to any Applicant information received by it and in particular to keep such information confidential;
 - 7.1.3 in relation to any Advertisement the Client is a principal notwithstanding that the Client may be acting directly or indirectly for a third party;
 - 7.1.4 the reproduction and/or publication of the Advertisement by Top Appointments as originally submitted or as amended will not breach any agreement or infringe or violate any right of any person or render Top Appointments liable to any proceedings whatsoever;
 - 7.1.5 any information supplied by the Client in connection with the provision of the Services is accurate, complete and true;
 - 7.1.6 in respect of any Advertisement which contains the name or pictorial representation (photographic or otherwise) of any living person and/or any part of any living person and/or any copy by which any living person is or can be identified the Client has obtained the authority of such living person to make use of such name, representation and/or copy;
 - 7.1.7 each Advertisement is legal, decent, honest and truthful and complies with all applicable laws, rules, regulations and codes relating to advertising as may be appropriate;
 - 7.1.8 no Advertisement contains any data, image or other material which:
 - (a) is offensive, obscene or indecent, or capable of being resolved into obscene or indecent images or material;
 - (b) is defamatory, threatening or racially, ethnically or otherwise objectionable;
 - (c) is designed or likely to cause annoyance, inconvenience, unwanted attention or needless anxiety to any other person;
 - (d) infringes the rights (including, without limitation, the intellectual property rights) of another person;
 - (e) is designed or likely to cause disruption to any computer system or to any network;
 - (f) is illegal or designed or likely to induce an illegal act.

- 7.2 The Client is responsible for ensuring that the content of any Advertisement and the use of the Services is not discriminatory, obscene, defamatory, or in any other way illegal or in breach of any legislation. The Client also agrees to comply with all relevant industry Codes of Practice.
- 7.3 The Client acknowledges that it is not vested with any proprietary rights in respect of the Sites, or any CV or other information submitted by any Applicant.
- 7.4 Without prejudice to the generality of clause 11, the Client shall indemnify Top Appointments against all claims made by the third parties in respect of the misuse of the data supplied to the Client.
- 7.5 The Client shall obtain from the Applicant, as much information about the Applicant's qualifications and experience, as is necessary for determining whether the Applicant is suitable for employment, and shall ascertain that the Applicant has such qualifications as are required by law.
- 7.6 The Client shall ensure that the Applicant is fully aware of any conditions imposed by law, which must be satisfied by the Applicant and that any employment resulting therefrom shall be legal.
- 7.7 The Client agrees not to employ, or make arrangements to employ, a young person (being a person under the age of 18) who is attending, or has ceased to attend school, unless the Client has made all such enquiries as are reasonably practicable for the purposes of ascertaining that the young person has received vocational advice.
- 7.8 The Client will obtain at least two character references from suitable persons, not being relatives of the Applicant but being resident or based in the vicinity of the normal place of residence of the Applicant, in respect of any Applicant applying for a job in the United Kingdom where the Applicant is resident outside the United Kingdom, and in any event not offer employment to an Applicant where the rate of repayment of any advance of fare is 1/8th or more of the Applicant's basic weekly pay or the total amount to be repaid is more than three weeks' pay in the job.
- 7.9 The Client shall ensure that the Applicant, before departing for the employment, receives a written statement in a language they understand giving full details of their employment.
- 7.10 The Client agrees to keep a written record of all job applications, for a period of not less than one year from the date of employment or, where no employment results, from the date the job application is rejected.
- 7.11 The Client shall:
- 7.11.1 use all CVs supplied for the sole purpose of endeavouring to provide or locate suitable employment on behalf of Candidates;
 - 7.11.2 ensure that it is notified as a data controller to the Office of the Information Commissioner under the Data Protection Act 1998 to the extent that it applies and complies with its obligations under that Act;
 - 7.11.3 keep confidential the CVs and all other information supplied by Top Appointments or Candidates to the Client or its employees or agents and shall only use such information for such agreed purpose if endeavouring to seek or provide employment opportunities for Candidates with their express consent in respect of the CVs;
 - 7.11.4 obtain the express consent of a Candidate prior to submitting his or her CV to any person;
 - 7.11.5 not submit, copy, supply, re-sell, distribute or make available in any way any CVs or other information received from Top Appointments to any person provided that where the Client is a Recruitment Agency it may make CV's available to its genuine End Clients who intend to recruit such Candidates for their own employment.
- 7.12 The Client:
- 7.12.1 acknowledges that the Client and Top Appointments may agree that Top Appointments can accept instructions in relation to the Services (without having to refer to the Client) from any of the following persons:
 - (a) any person agreed between Top Appointments and the Client to be a Recruiter;
 - (b) any person to whom the Client or any Recruiter provides passwords to or is set up to make use of the services by using the facilities offered by Top Appointments for such purposes.
 - 7.12.2 authorises Top Appointments to accept instructions in relation to the Services (without having to refer to the Client) from any Recruiter and any person using such passwords.

8. Rates

- 8.1 The rates shall be those rates agreed between Top Appointments and the Client in writing at the time the Client places an order for Services.

9. Payment

- 9.1 In the event that any money becomes payable to Top Appointments by the Client then Top Appointments will supply the client with an invoice. Payment for Services will be made by the Client within 30 days of the invoice date.

- 9.2 If the Client fails to make any payment by the due time then all moneys owing by the Client to Top Appointments shall immediately become due and payable and the provisions of clause 9.4(b) shall forthwith apply to such moneys.
- 9.3 Top Appointments will provide invoices to the Client in respect of the Services. Further, all items on the invoice are deemed to be payable and any errors or omissions must be communicated to Top Appointments in time to be rectified before payment becomes due. Payment for the provision of the Services shall be made as aforesaid whether or not the Client shall have provided Top Appointments with an order number at the time of ordering.
- 9.4 The Client agrees to pay to Top Appointments in respect of each item of Services for which payment is not made by the due time:
- (a) the sum of £25.00 as an administration charge; and
 - (b) interest on the amount paid late at the rate of 4% per annum above the base rate of Nat West Bank Plc accruing from day to day (including the date on which payment was due) both before and after judgment.
- 9.5 All sums due in respect of the Fees are exclusive of any value added tax or other applicable sales tax, for which the Client shall be additionally liable.

10. Liability

- 10.1 Top Appointments does not verify or guarantee any Applicant's details whether forwarded to the Client via Top Appointments or otherwise. Top Appointments accepts no responsibility as to the suitability of Applicants who respond to Advertisements or Services.
- 10.2 The Client shall satisfy itself as to the suitability of any Applicant and shall take up any reference provided by the Applicant before engaging any such Applicant.
- 10.3 The Client shall be responsible for obtaining work, or any other permits, for the arrangements of medical examinations and/or investigations into medical history of any Applicant, and shall satisfy itself of any medical or other requirements or qualifications required by law.
- 10.4 Top Appointments does not accept liability of any description, including liability for negligence (except for personal injury or death), or any damages or losses (including, but without limitation to indirect or consequential loss, or loss of business, revenue, profits, use or opportunity) howsoever resulting from the Client's use of (or inability to use) the Sites.
- 10.5 Top Appointments makes no warranty that the Sites (or any website that is, or may become linked to the website) is free from computer viruses, "cookies", or any other malicious or impairing computer programmes and/or that the Sites shall operate uninterrupted and error-free.
- 10.6 Top Appointments does not accept liability, of any description, however arising, for any loss or damage caused to any Client, or any other third party, arising from any virus or other impairing computer program contained in any CV submitted by any Applicant.
- 10.7 Top Appointments does not accept liability for:
- 10.7.1 any loss of copy, artwork, photographs, data or other materials that the Client supplies to Top Appointments and the Client shall be responsible for retaining in its possession sufficient quality and quantity of such materials for whatsoever purposes it may require;
 - 10.7.2 any mistakes or errors whatsoever that arise during the course of publication of any Advertisement or any loss of information or data or any damage thereto in each case as a result of circumstances beyond its reasonable control or which arise as a result of the acts or omissions of the Client.

11. Indemnity

- 11.1 The Client agrees to indemnify Top Appointments and to keep Top Appointments indemnified in respect of, but not limited to, all damages, costs, expenses, claims and liabilities that Top Appointments may incur arising from an Advertisement or use of any Service, and in particular resulting from the following:
- 11.1.1 the publication of any defamatory statement;
 - 11.1.2 breach of copyright;
 - 11.1.3 any claims made by any person in respect of race, religion, age, sex or disability discrimination;
 - 11.1.4 any breach by the Client of any undertaking or warranty given hereunder.

12. Disclaimer

- 12.1 Except as otherwise provided by statute, Top Appointments disclaims all warranties, express or implied by law of statute, in relation to, but not limited to, the Sites.

13. Governing Law and Jurisdiction

- 13.1 These Conditions shall be governed by, and construed in accordance with, the laws of England and Wales and each party irrevocably submits to the exclusive jurisdiction of the English Courts.

14. Miscellaneous

- 14.1 These Conditions constitute the entire agreement between Top Appointments and the Client in relation to the matters referred to within them and no other terms apply to them, including, but not limited to, any terms and conditions which the Client purports to apply. No variation to these Conditions shall be binding unless agreed in writing.
- 14.2 If any provision of these Conditions is held to be void or unenforceable in whole or in part, these Conditions shall continue to be valid as to the other provisions and the remainder of the affected provision. No waiver by Top Appointments shall be effective except in relation to the matter in respect it was specifically given.
- 14.3 Nothing in these Conditions is intended to confer on any person any right to enforce any provision of these Conditions, which that person would not have had but for the Contracts (Rights of Third Parties) Act 1999. Insofar as the Client is a consumer (as that term is defined in the Consumer Protection (Distance Selling) Regulations 2000, the Client agrees that the provision of Services under these Conditions may, by agreement between the Client and Top Appointments, take place before the end of any applicable cancellation period, in which case the right to cancel such provision of Services shall not apply.

15. Contracting Party

- 15.1 Top Appointments Ltd (company number 5903962) whose registered office address is at Northcliffe House, 2 Derry Street, Kensington, London W8 5TT, and which is a subsidiary of Associated Newspapers Limited (company number 84121).