

TERMS OF USE FOR HRGO FONT CLIENT PORTAL

HRGO FONT CLIENT PORTAL is an online portal made available by the Agency to support Clients in recruiting and managing temporary agency workers. Capitalised terms used in these Terms are defined at Clause 1 below.

As a Client user of HRGO FONT CLIENT PORTAL, you acknowledge and agree that:

- Save as otherwise stated in these Terms, nothing in these Terms or arising out of or in connection with HRGO FONT CLIENT PORTAL creates or is intended to create at any time any partnership or employment or agency relationship between the Agency and Client
- These Terms are applicable to Client use of the HRGO FONT CLIENT PORTAL only and do not affect the validity or enforceability of HRGO's separate general terms of business ("**General Terms**").

TERMS AND CONDITIONS

(these "**Terms**")

1. Definitions

In these Terms:

1.1 the following expressions shall have the following meanings unless the context otherwise requires:

"**Account**": the account created within HRGO FONT CLIENT PORTAL in accordance with Clause 4.1;

"**Agency**" (or "**we**", "**us**" or "**our**"): HRGO Recruitment Ltd (company number 00924542) with registered office at The Cedars, Church Road, Ashford, Kent, England, TN23 1RQ.

"**Breach of Duty**": the breach of any: (i) obligation arising from the express or implied terms of a contract to take reasonable care or exercise reasonable skill in the performance of the contract; or (ii) common law duty to take reasonable care or exercise reasonable skill (but not any stricter duty);

"**Business Day**": any day other than: (i) a Saturday, (ii) a Sunday or (iii) any day when the clearing banks in the City of London are not open for business;

"**Candidate**": means the person introduced by the Agency to the Client for an Engagement including any officer, employee or other representative of the Candidate if the Candidate is a corporate body;

"**Candidate Account**": the separate online portal made available by us to Candidates.

"**Client**" (or "**you**" or "**your**"): a client of the Agency to whom a Candidate may be introduced;

"**Confidential Information**": any information in any form or medium obtained by or on behalf of one Party from or on behalf of the other Party in relation to these Terms which is expressly marked as confidential or which a reasonable person would reasonably consider to be confidential, whether disclosed or obtained before, on or after the date of these Terms, together with any reproductions of such information or any part of such information, including information not in the public domain;

"**Content**": any information (including any personal data) provided to us by a Client or End Users and/or shared with us by a Client or End Users, within an Account or otherwise;

"**Data Protection legislation**": all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder); the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications);

"**End Users**" has the meaning given in Clause 4.1;

"**Engagement**": means the engagement (including the Candidate's acceptance of the Client's offer), employment or use of a Candidate by the Client or by any third party to whom the Candidate has been introduced by the Client, on a permanent or temporary basis, whether under a contract of service or for services and/or through a company of which the Candidate is an officer, employee or other representative, an agency, license, franchise or partnership arrangement, or any other engagement; and "**Engage**", "**Engages**" and "**Engaged**" shall be construed accordingly;

"**General terms**" shall have the meaning given above (HRGO'S Terms of Business).

"**HRGO FONT CLIENT PORTAL**": the online portal made available by us to provide Recruitment Services to Clients;

"**Intellectual Property Rights**": all intellectual and industrial property rights of any nature anywhere in the world, including copyright, database rights, design rights, topography rights, registered designs, design rights, trade mark rights, service mark rights, domain name rights, patents, rights to inventions, trade secrets, rights in know-how, and any other rights of a similar nature, whether or not any of the same are capable of protection by registration and whether registered or not, and applications for registration of any of the foregoing and the right to apply for any of them, anywhere in the world;

"**Liability**": liability in or for breach of contract, Breach of Duty, torts (including negligence and intentional torts), deliberate breach (including deliberate personal repudiatory breach), misrepresentation, restitution or any other cause of action whatsoever relating to or arising under or in connection with these Terms, including liability expressly provided for under these Terms or arising by reason of the invalidity or unenforceability of any term of these Terms;

"**Party**": either us or you, and "**Parties**" shall mean both of us and you;

"**Role(s)**": the permanent, fixed term or temporary roles listed by the Agency;

"**Recruitment Services**": the online services provided by the Agency via HRGO FONT CLIENT PORTAL to support Clients in the recruitment and management of Candidates, including:

- (a) listing and making available to Candidates Roles via the Candidate Account or in whatever other manner we may deem appropriate;

- (b) providing Client, where relevant, access to the profiles of Candidates; including personal data of Candidates.
- (c) giving Clients the ability to review and approve Timesheets via HRGO FONT CLIENT PORTAL; and
- (d) providing the Client, where applicable, with financial information including account information and invoicing terms

"Timesheets": the form electronic or otherwise used to record the number of hours worked by a Candidate in respect of an Engagement;

"Virus": any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or device;

"Vulnerability": a weakness in the computational logic (for example, code) found in software and hardware components that when exploited, results in a negative impact to the confidentiality, integrity, or availability, and the term Vulnerabilities shall be construed accordingly;

"UK GDPR": has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018;

- 1.2 references to "Clauses" are to clauses of these Terms;
- 1.3 the headings are inserted for convenience only and shall not affect the construction or interpretation of these Terms;
- 1.4 a **"person"** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- 1.5 words imparting the singular shall include the plural and vice versa. Words imparting a gender shall include the other gender and the neutral and references to persons shall include an individual, company, corporation, firm, partnership, trust, association, government or local authority department or other authority or body (whether corporate or unincorporated);
- 1.6 a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- 1.7 any phrase introduced by the terms **"including"**, **"include"**, **"in particular"** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding or following those terms; and
- 1.8 a reference to **"writing"** or **"written"** includes in electronic form and similar means of communication (except under Clause 14).

2. **These Terms**

- 2.1 These Terms apply to your use of HRGO FONT CLIENT PORTAL to the exclusion of all other terms. By accessing HRGO FONT CLIENT PORTAL you agree to these Terms. If you do not agree to these Terms, you will not be provided with access to HRGO FONT CLIENT PORTAL and you must not attempt to access HRGO FONT CLIENT PORTAL by any other means.

3. **Recruitment Services**

- 3.1 We shall:
 - 3.1.1 make the Recruitment Services available to you; and
 - 3.1.2 list the Roles within the Candidate Account (or make these available to Candidates in such other manner as we may deem appropriate) using the information and Content provided to us by you, and we shall list such Content in a way that we, at our absolute discretion consider appropriate.
- 3.2 We shall make available the Recruitment Services using information and criteria supplied by you or End Users. It is your responsibility to provide and you shall ensure that you and End Users provide accurate and updated information.
- 3.3 We may also make available to you additional services from time to time. The availability of additional services will be at our absolute discretion and may require additional approvals, verifications or conditions to be complied with before you are permitted to access them.
- 3.4 We reserve the right and have absolute discretion, but not an obligation, to remove, screen or edit any Content that you provide which is in breach of these Terms or is otherwise objectionable. Without prejudice to any other provision of these Terms, we reserve the right to refuse to list Content or to immediately remove listed Content.
- 3.5 You acknowledge that we cannot guarantee and do not warrant uninterrupted, timely or error-free access to HRGO FONT CLIENT PORTAL. Reasonable endeavours will be used to minimise downtime of HRGO FONT CLIENT PORTAL in the case of any scheduled or emergency maintenance.
- 3.6 We do not warrant that HRGO FONT CLIENT PORTAL will meet your needs.
- 3.7 We retain the right, if we consider it appropriate, to:
 - 3.7.1 Immediately halt the listing of any Roles;
 - 3.7.2 remove any Content and/or an Account in part or in full from HRGO FONT CLIENT PORTAL;
 - 3.7.3 prevent or restrict access to an Account or HRGO FONT CLIENT PORTAL; and/or
 - 3.7.4 take any other action to preserve and protect an Account or HRGO FONT CLIENT PORTAL and/or to restrict access to or the availability of or remove any objectionable Content or other material, or any inaccurate, inappropriate, unlawful or prohibited information.
- 3.8 Except where expressly provided for within these Terms, we exclude all conditions, warranties, terms and obligations, whether express or implied by statute, common law or otherwise, to the fullest extent permitted by law in respect of HRGO FONT CLIENT PORTAL, the Recruitment Services, the Account and our obligations under these Terms.

4. **Your Account**

- 4.1 Upon your acceptance of these terms, an Account will be created for your optimised use of HRGO FONT CLIENT PORTAL and the Recruitment Services. Your Account will allow you (as an **"End User"**) to access the Recruitment Services.
- 4.2 You may only access your Account and/or HRGO FONT CLIENT PORTAL with a device that is compatible with HRGO FONT CLIENT PORTAL's security policy and otherwise strictly in accordance with Clause 6.

- 4.3 You will need to provide certain information to us to enable your activation and maintenance of your Account, as explained in more detail at Clause 5. Such information may include the personal data of End Users, which will be processed by us in accordance with our data protection policies and procedures.(Clause 12).
- 4.4 Clients must and must procure that End Users keep Account passwords and other access details confidential and immediately inform us if any unauthorised third party becomes aware of a password or any other access details or if there is any unauthorised use of the Account or any breach of security known to the Client or one of its End Users. The Client agrees that any person to whom any access details are disclosed will be deemed an End User and are authorised to act as the Client's agent for the purposes of using HRGO FONT CLIENT PORTAL. The Client is entirely responsible if End Users do not maintain the confidentiality of relevant access details.
- 4.5 Once you have completed your acceptance with us, your Account will enable you to view certain Candidate information, review and either accept or reject Timesheets for each Candidate (subject to clause 5.2 below), view financial reports as appropriate and any other relevant information as you may agree with us from time to time.
- 4.6 We reserve the right to prevent you using HRGO FONT CLIENT PORTAL at our absolute discretion.

5. **Conditions**

- 5.1 Each time you or any End User provides Content you warrant to us that the Content you are providing is true, accurate, complete and not misleading and in particular that the End User is appropriately qualified to do so.
- 5.2 During the term of an Engagement, Candidates will be able to submit and you will be able to review and either accept or reject those submitted Timesheets via HRGO FONT CLIENT PORTAL. It is your responsibility to ensure that each Timesheet and all information therein is correct. We shall have no Liability (subject to Clause 10.2) if a Candidate submits an incorrect timesheet and/or in connection with your acceptance of any incorrect timesheets. The General Terms shall also apply in respect of the submission and authorisation of timesheets and in the event of any conflict between these Terms and the General Terms, the General Terms shall apply.

6. **Our status and rights**

- 6.1 You acknowledge that HRGO FONT CLIENT PORTAL is a facilitation tool designed to streamline certain aspects of the Recruitment Services.
- 6.2 Without prejudice to any other right or remedy which we may have, if we reasonably believe that you have failed to comply in any way with any of these Terms, we may exercise any one or more of the following remedies at our absolute discretion:
 - 6.2.1 rescind these Terms (in whole or in part); and/or
 - 6.2.2 temporarily suspend your Account; and/or
 - 6.2.3 close your Account.

7. **Your obligations**

- 7.1 You shall and (where applicable) shall procure that End Users shall:
 - 7.1.1 ensure that you fully co-operate with us, including in order to enable us to carry out fully, accurately and promptly our obligations under these Terms to the best of our ability;
 - 7.1.2 provide certain information for your Account, which shall be subject to our approval and shall be subject to these Terms and (where relevant) used by us in accordance with our data protection policies and procedures Clause 12;
 - 7.1.3 ensure that the information provided to us (including any information contained within your Account and End User personal data) is complete and accurate and you shall procure that End Users maintain and update this as necessary;
 - 7.1.4 promptly comply with all of our reasonable requests under these Terms;
 - 7.1.5 have all necessary rights, permissions and consents to enter into, and perform your obligations under, these Terms; and
 - 7.1.6 comply with all applicable laws, statutes, regulations and by-laws in relation to the exercise of your rights and performance of your obligations under these Terms.
- 7.2 You shall not and shall procure that End Users shall not, except as may be allowed by any applicable law which is incapable of exclusion by agreement between the Parties and except to the extent expressly permitted under these Terms:
 - 7.2.1 attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of HRGO FONT CLIENT PORTAL (as applicable) in any form or media or by any means; or
 - 7.2.2 attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of HRGO FONT CLIENT PORTAL; or
 - 7.2.3 build a product or service which competes with HRGO FONT CLIENT PORTAL; or
 - 7.2.4 use HRGO FONT CLIENT PORTAL to provide services to third parties; or
 - 7.2.5 subject to Clause 8.1.1 and Clause 15, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the HRGO FONT CLIENT PORTAL available to any third party; or
 - 7.2.6 attempt to obtain, or assist third parties in obtaining, access to HRGO FONT CLIENT PORTAL; or
 - 7.2.7 introduce or permit the introduction of, any Virus or Vulnerability into HRGO FONT CLIENT PORTAL or any network and information systems networking to us or a third-party supplier of ours who assists in making HRGO FONT CLIENT PORTAL available to you.
- 7.3 It is your responsibility to ensure that you and End Users provide us with the information required to enable us to properly provide access to HRGO FONT CLIENT PORTAL, including Content. We shall not be responsible or have any Liability (subject to Clause 10.2) for any failure to provide access to HRGO FONT CLIENT PORTAL to the extent caused by your failure to comply with your obligations in this Clause 7 or otherwise within these Terms.
- 7.4 You shall not and shall procure that End Users shall not in any way use HRGO FONT CLIENT PORTAL, or submit to us or HRGO FONT CLIENT PORTAL, anything which in any respect:
 - 7.4.1 is in breach of any law, statute, regulation or bylaw of any applicable jurisdiction;
 - 7.4.2 is fraudulent, criminal or unlawful;
 - 7.4.3 is inaccurate or out-of-date;

- 7.4.4 is obscene, indecent, vulgar, discriminatory, offensive, threatening, defamatory or untrue;
- 7.4.5 impersonates any other person or body or misrepresents a relationship with any person or body;
- 7.4.6 infringe or breach the Intellectual Property Rights or privacy or other rights of us or any third party;
- 7.4.7 be contrary to our interests;
- 7.4.8 is contrary to any specific rule or requirement that we may stipulate for HRGO FONT CLIENT PORTAL; or
- 7.4.9 involves your use, delivery or transmission of any Virus or Vulnerability.
- 7.5 You and End Users may not use any automated means to access your Account or the HRGO FONT CLIENT PORTAL or collect any information from them unless we explicitly agree in writing to allow you to do so.
- 7.6 It is your responsibility to ensure that HRGO FONT CLIENT PORTAL is sufficient and suitable for your purposes and meets your requirements. It is your responsibility to ensure that:
 - 7.6.1 you have sufficient capacity to enter into these Terms; and
 - 7.6.2 your use of HRGO FONT CLIENT PORTAL is in your best interests;and you bear sole responsibility and Liability (subject to Clause 10.2) for the consequences of your use of HRGO FONT CLIENT PORTAL.
- 7.7 You shall not and shall procure that End Users shall not impersonate any person or use a name that you are not legally authorised to use. If you provide false or incorrect information or do not notify us of changes to your information or Content immediately, we reserve the right to terminate these Terms under Clause 11.3.1.
- 7.8 We shall not be responsible or have any Liability (subject to Clause 10.2) for information or Content provided to HRGO FONT CLIENT PORTAL that is in breach of any provision of these Terms and that is subsequently posted on HRGO FONT CLIENT PORTAL.

8. Intellectual Property Rights

- 8.1 We and you acknowledge that, as between us and you, we and our licensors own all Intellectual Property Rights in the Account and HRGO FONT CLIENT PORTAL. We grant to you a limited non-transferable licence to make use of your Account and the HRGO FONT CLIENT PORTAL in accordance with these Terms. This licence expressly excludes, without limitation:
 - 8.1.1 any resale or commercial use of HRGO FONT CLIENT PORTAL;
 - 8.1.2 modifying, distributing, copying, republishing or making any derivative of HRGO FONT CLIENT PORTAL; and
 - 8.1.3 the collection and use of participant email addresses or other user information or listings, or Content, or any data extraction or data mining whatsoever.Any goodwill accruing out of the use of our and our affiliates Intellectual Property Rights under these Terms shall vest in us and our affiliates, as the case may be.
- 8.2 You grant to us and our affiliates a non-exclusive, worldwide, royalty-free, perpetual, irrevocable licence to exercise all Intellectual Property Rights over the information and Content provided by you to us under these Terms.
- 8.3 Subject to anything else to the contrary in these Terms, neither Party shall have any rights over or use of the other Party's (or the other Party's licensors) Intellectual Property Rights for any other purpose without the other Party's express prior written consent.

9. Confidentiality

- 9.1 Each Party shall keep the other Party's Confidential Information confidential and shall not:
 - 9.1.1 use such Confidential Information except for the purpose of exercising or performing its rights and obligations under these Terms; or
 - 9.1.2 disclose such Confidential Information in whole or in part to any third party, except as expressly permitted by this Clause 9.Each Party shall use adequate procedures and security measures to protect the other Party's Confidential Information from inadvertent disclosure or release to unauthorised persons.
- 9.2 A Party may disclose the other Party's Confidential Information to those of its employees, agents and subcontractors (if it has any) who need to know such Confidential Information provided that:
 - 9.2.1 it informs such employees, agents and subcontractors of the confidential nature of the Confidential Information before disclosure; and
 - 9.2.2 it does so subject to obligations equivalent to those set out in this Clause 9.
- 9.3 A Party may disclose the Confidential Information of the other Party to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other Party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this Clause 9.3, it takes into account the reasonable requests of the other Party in relation to the content of such disclosure.
- 9.4 The obligations of confidentiality in this Clause 9 shall not extend to any matter which either Party can show:
 - 9.4.1 is in, or has become part of, the public domain other than as a result of a breach of the confidentiality obligations of these Terms; or
 - 9.4.2 was independently developed by it; or
 - 9.4.3 was independently disclosed to it by a third party entitled to disclose the same; or
 - 9.4.4 was in its written records prior to receipt.
- 9.5 Each Party reserves all rights in its Confidential Information. No rights or obligations in respect of a Party's Confidential Information other than those expressly stated in these Terms are granted to the other Party, or to be implied from these Terms.
- 9.6 We may identify you as a user of HRGO FONT CLIENT PORTAL, provided that, in doing so, we shall not reveal any of your Confidential Information (without your prior written consent).
- 9.7 On termination of these Terms, each Party shall delete the other Party's documents and materials (and any copies) containing, reflecting, incorporating or based on the other Party's Confidential Information, including any Content, in line with each Party's data protection policies and procedures. (Clause 12) unless by law a Party is required to retain it.
- 9.8 The provisions of this Clause 9 shall continue to apply after termination of these Terms.

10. Limitation of Liability

- 10.1 This Clause 10 prevails over all of these Terms and sets forth our entire Liability and, to the extent there is any at all, the Liability of our third party providers of services who assist in making HRGO FONT CLIENT PORTAL available to you, and your sole and exclusive remedies, in respect of:
- 10.1.1 performance, non-performance, purported performance, delay in performance or mis-performance of these Terms or any services in connection with these Terms; or
 - 10.1.2 otherwise in relation to these Terms or entering into these Terms.
- 10.2 Neither Party excludes or limits its Liability for:
- 10.2.1 its fraud; or
 - 10.2.2 death or personal injury caused by its Breach of Duty; or
 - 10.2.3 any breach of the obligations implied by Section 2 of the Supply of Goods and Services Act 1982; or
 - 10.2.4 any other Liability which cannot be excluded or limited by Applicable law.
- 10.3 Subject to Clause 10.2, and other than any Liability arising pursuant to these Terms, we do not accept, and we hereby exclude, any Liability for Breach of Duty.
- 10.4 Subject to Clause 10.2, we shall not have any Liability in respect of any:
- 10.4.1 indirect or consequential losses, damages, costs or expenses;
 - 10.4.2 loss of actual or anticipated profits;
 - 10.4.3 loss of contracts;
 - 10.4.4 loss of use of money;
 - 10.4.5 loss of anticipated savings;
 - 10.4.6 loss of revenue;
 - 10.4.7 loss of goodwill;
 - 10.4.8 loss of reputation;
 - 10.4.9 loss of business;
 - 10.4.10 ex gratia payments;
 - 10.4.11 loss of operation time;
 - 10.4.12 loss of opportunity;
 - 10.4.13 loss caused by the diminution in value of any asset; or
 - 10.4.14 loss of, damage to, or corruption of, data;

whether or not such losses were reasonably foreseeable or we or our agents or contractors had been advised of the possibility of such losses being incurred. For the avoidance of doubt, Clauses 10.4.2 to 10.4.14 (inclusive) of this Clause 10.4 apply whether such losses are direct, indirect, consequential or otherwise.

- 10.5 Subject to Clause 10.2, our total aggregate Liability arising out of or in connection with all claims in aggregate (including warranty claims and losses relating to the breach of warranty) shall be limited to £500.
- 10.6 The limitation of Liability under Clause 10.5 has effect in relation both to any Liability expressly provided for under these Terms and to any Liability arising by reason of the invalidity or unenforceability of any term of these Terms.
- 10.7 You acknowledge and accept that we only make HRGO FONT CLIENT PORTAL available on the express condition that we will not be responsible, nor, subject to Clause 10.2, shall we have any Liability, directly or indirectly, for any act or omission of you, your affiliates or your or their employees, agents, contractors or customers or any third party.

11. Termination

- 11.1 You may terminate these Terms with immediate effect at any time by notifying your HRGO recruitment consultant or account manager or in such other manner as we may specify.
- 11.2 We may terminate these Terms immediately by notice in writing to you if we reasonably consider that our relationship with you may cause our brand or business to be brought into disrepute.
- 11.3 We may terminate these Terms immediately by notice in writing to you if:
- 11.3.1 you are in material breach of any of your obligations under these Terms or the Data Protection Legislation which is incapable of remedy;
 - 11.3.2 you fail to remedy, where capable of remedy, any material breach of any of your obligations under these Terms or the Data Protection legislation after having been required in writing to do so within a period of no less than 10 Business Days;
 - 11.3.3 you are in persistent breach of any of your obligations under these Terms.
- 11.4 Without prejudice to any other right or remedy we may have under these Terms, we may terminate these Terms at any time with immediate effect.
- 11.5 Termination of these Terms shall be without prejudice to any accrued rights or remedies of either Party.
- 11.6 Termination of these Terms shall not affect the coming into force, or continuance in force, of any provision which is expressly or by implication intended to come into or continue in force on or after such termination.
- 11.7 On termination of these Terms for any reason you shall cease to have access to HRGO FONT CLIENT PORTAL.

12. Data Protection

For the purpose of this Clause 12, the following terms shall have the following meanings:

Agreed Purposes: provision by the Agency and receipt by the Client of the Recruitment Services.

Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical and organisational measures: shall have the meanings given in the Data Protection Legislation.

Permitted Recipients: the Agency and the Client as Parties, the employees of each Party and any third parties engaged to perform obligations in connection with these Terms.

- 12.1 The Parties acknowledge that, in relation to their obligations under these Terms, they will each act as independent controllers in respect any personal data relating to Candidates ("**Candidate Data**"). For the avoidance of doubt, it is not envisaged that the Client will be processing Candidate Data as a processor on the Agency's behalf [or vice versa]. This Clause sets out the

- framework for the sharing of Candidate Data between the Parties as controllers. Each Party acknowledges that the Agency will disclose Candidate Data collected by the Agency to the Client for the Agreed Purposes.
- 12.2 Each Party shall comply with all the obligations imposed on a controller under the Data Protection Legislation.
- 12.3 Each Party shall:
- 12.3.1 ensure that it has all necessary notices and consents and lawful bases in place to enable lawful transfer of the [Candidate Data] to the Permitted Recipients for the Agreed Purposes;
 - 12.3.2 give full information to any data subject whose personal data may be processed under these Terms of the nature of such processing. This includes giving notice that, on the termination of these Terms, personal data relating to them may be retained by or, as the case may be, transferred to one or more of the Permitted Recipients, their successors and assignees;
 - 12.3.3 for the purpose of these Terms, process the Candidate Data only for the Agreed Purposes. [The Parties each acknowledge and agree that they may each process Candidate Data for additional purposes under the General Terms or (in the case of the Agency) pursuant to or in connection with any contract for or of services, or (in the case of the Client) any Engagement;]
 - 12.3.4 not disclose or allow access to the Candidate Data to anyone other than the Permitted Recipients;
 - 12.3.5 ensure that all Permitted Recipients are subject to written contractual obligations concerning the Candidate Data (including obligations of confidentiality) which are no less onerous than those imposed by these Terms;
 - 12.3.6 ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data;
 - 12.3.7 not transfer any personal data received from the other Party outside the UK: (a) in the case of the Client, without the Agency's prior written consent; and (b) unless the transferor ensures that: (i) the transfer is to a country approved under the applicable Data Protection Legislation as providing adequate protection; or (ii) there are appropriate safeguards or binding corporate rules in place pursuant to the applicable Data Protection Legislation; or (iii) the transferor otherwise complies with its obligations under the applicable Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; or (iv) one of the derogations for specific situations in the applicable Data Protection Legislation applies to the transfer.
- 12.4 Each Party shall assist the other in complying with all applicable requirements of the Data Protection Legislation. In particular, each Party shall:
- 12.4.1 consult with the other Party about any notices given to data subjects in relation to the Candidate Data;
 - 12.4.2 promptly inform the other Party about the receipt of any data subject rights request;
 - 12.4.3 provide the other Party with reasonable assistance in complying with any data subject rights request;
 - 12.4.4 not disclose, release, amend, delete or block any Candidate Data in response to a data subject rights request without first consulting the other (and in particular the disclosing) Party wherever possible;
 - 12.4.5 assist the other Party, at the cost of the other Party, 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, personal data breach notifications, data protection impact assessments and consultations with the Information Commissioner or other regulators;
 - 12.4.6 notify the other Party without undue delay on becoming aware of any complaint, notice or communication which relates directly or indirectly to the Candidate Data or to either Party's compliance with the Data Protection Legislation or any breach of the Data Protection Legislation and provide the other Party with all reasonable cooperation and assistance in relation to any such complaint, notice or communication or breach of the Data Protection Legislation.
 - 12.4.7 at the written direction of the disclosing Party:
 - (a) amend, delete or return Candidate Data and copies thereof to the disclosing Party on termination of these Terms or otherwise, unless required by law to store the Candidate Data; and
 - (b) provide a copy of all Candidate Data held by the recipient Party in the format and on the media reasonably specified by the disclosing Party;
 - 12.4.8 use compatible technology for the processing of Candidate Data to ensure that there is no lack of accuracy resulting from personal data transfers;
 - 12.4.9 maintain complete and accurate records and information to demonstrate its compliance with this Clause 12; and
 - 12.4.10 provide the other Party with contact details of at least one employee as point of contact and responsible manager for all issues arising out of the Data Protection Legislation, including the joint training of relevant staff, the procedures to be followed in the event of a data security breach, and the regular review of the Parties' compliance with the Data Protection Legislation.
- 12.5 The Client shall immediately inform the Agency if:
- 12.5.1 any Candidate Data is lost or destroyed or becomes damaged, corrupted, or unusable, and you shall restore such Candidate Data at your own expense
 - 12.5.2 you become aware of any unauthorised or unlawful processing, loss of, damage to or destruction of the Candidate Data.
- 12.6 Each party shall indemnify the other against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other [reasonable] professional costs and expenses) suffered or incurred by the indemnified party arising out of or in connection with the breach of the Data Protection Legislation by the indemnifying party, its employees or agents, provided that the indemnified party gives to the indemnifier prompt notice of such claim, full information about the circumstances giving rise to it, reasonable assistance in dealing with the claim and sole authority to manage, defend and/or settle it.
13. **Indemnity**
- 13.1 You shall indemnify us and keep us indemnified, against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by us arising out of or in connection with:

- 13.1.1 your breach, negligent performance or non-performance of these Terms;
 - 13.1.2 the enforcement of these Terms;
 - 13.1.3 any claim made against us for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or in connection with any information or Content provided by you to us under these Terms; and/or
 - 13.1.4 any claim made against us by a third party (including a Candidate) arising out of or in connection with any Roles, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of these Terms by you, your employees, agents or subcontractors.
- 13.2 This indemnity in Clause 13.1 shall apply whether or not we have been negligent or at fault.
14. **Notices**
- 14.1 Any notice given to either Party under or in connection with these Terms shall be in writing and sent by email addressed as follows:
- 14.1.1 in the case of a notice addressed to the Agency: customer.success@hrgo.co.uk;
 - 14.1.2 in the case of a notice addressed to the Client: using the email address provided by the Client for their Account.
- 14.2 A notice sent in accordance with Clause 14.1 shall be deemed to have been received at the time of email transmission.
- 14.3 The provisions of this Clause 14 shall not apply to the service of any proceedings or other documents in any legal action.
15. **Assignment**
- You may not assign, transfer, charge or otherwise encumber, create any trust over, or deal in any manner with, these Terms or any right, benefit or interest under it, nor transfer, novate or sub-contract any of your obligations under it, without our prior written consent (such consent not to be unreasonably withheld or delayed).
16. **Severance**
- 16.1 If any court or competent authority finds that any provision of these Terms (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of these Terms shall not be affected.
- 16.2 If any invalid, unenforceable or illegal provision of these Terms would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.
17. **Waiver**
- A waiver of any right or remedy under these Terms is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a Party to exercise any right or remedy provided under these Terms or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
18. **Third party rights**
- 18.1 Our third party providers of services who assist in making HRGO FONT CLIENT PORTAL available to you shall have the right to enforce these Terms against you as if they were the Agency.
- 18.2 Notwithstanding Clause 18.1, the rights of the Parties to rescind or vary these Terms are not subject to the consent of any other person.
19. **Variation**
- We may change these Terms at any time by notifying you of a change when you next access HRGO FONT CLIENT PORTAL. The new terms may be displayed on-screen and you may be required to read and accept them to continue your use of HRGO FONT CLIENT PORTAL. If you do not agree with the changes, you may terminate these Terms in accordance with Clause 11.1.
20. **No partnership**
- Save as otherwise stated at Clause 4.5 nothing in these Terms shall constitute a partnership or employment or agency relationship between the Parties.
21. **Governing law and jurisdiction**
- 21.1 These Terms and any dispute or claim arising out of or in connection with it or its subject matter (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England and Wales.
- 21.2 The Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with these Terms or its subject matter.