

## Terms and Conditions Version 2.0

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## Terms and Conditions (Version 2.0)

### 1 Interpretation

1.1.1 In these Terms the following expressions have the following meanings:

“The Client”	The Client [named on the Order] who wishes to purchase the Services;
“Contract”	the contract for the provision of Services by the Supplier subject to these Terms;
“Indirect Loss”	any indirect loss, damage, costs or expenses arising out of or in connection with the Contract or its contemplated or lack of performance;
[“Order”]	[the order form completed by The Client for provision of the Services;]
“Prices”	the amounts payable by The Client to the Supplier for the Services, as set out in paragraph 1.3;
“Services”	any services which the Supplier has agreed to provide to or for The Client, as more fully described in main body; and
“Supplier”	Staffvetting.com Limited registered in England and Wales under company number 06045519 and whose registered office is at Unit 7, Silverlink Business Park, Kingfisher Way, Wallsend, Newcastle upon Tyne, NE28 9ND.

1.1.2 In these Terms:

- any gender includes any other gender and the singular includes the plural and vice versa;
- references to persons include bodies corporate, unincorporated associations, governments, states, partnerships and trusts (in each case, whether or not having separate legal personality);
- the terms vetting or screening are repeatedly used within these terms and conditions and have the same meaning being the process of performing a background check;
- the Schedules form part of these Terms and the expression “these Terms” includes the Schedules; and
- any reference to a statutory provision includes a reference to any modification, consolidation or re-enactment of the provision from time to time in force and all subordinate instruments, orders or regulations made under it.

### 1.2 Agreement to purchase

1.2.1 The Client agrees to purchase and the Supplier agrees to provide the Services. Each Order for Services by The Client is an offer by The Client to purchase the Services subject to these Terms.

1.2.2 Subject to co-operation from previous employers and referees the Supplier shall submit its final report to The Client within standard service levels of receipt of the Order.

1.2.3 In the event that the Supplier is unable to provide the report within standard service levels it shall provide the Client with regular updates on its progress.

- 1.2.4 Where the Services are to be performed in instalments, each performance shall be a separate contract and failure by the Supplier to perform any one or more of the instalments in accordance with these Terms or any claim by The Client in respect of any one or more instalment shall not entitle The Client to treat the Contract as a whole as repudiated.

### **1.3 Prices and payment**

- 1.3.1 In consideration of the Supplier providing the Services, The Client agrees to pay the Prices as set out in the Fees section of the contract. Prices are exclusive of value added tax and all other applicable taxes, duties and levies which will be charged and invoiced to The Client in addition to the Prices.
- 1.3.2 Prices shall be paid within 30 days of the date of the Supplier's invoice.
- 1.3.3 The Supplier will charge the full unit price should a candidate screening application be failed or cancelled once the vetting procedure has commenced. A screening file may fail due to specific criteria not being achieved as an example expiration of time frames or incomplete responses. The Supplier reserves the right to charge a minimum fee of £100 for services such as BS7858 to cover administration costs should a candidate application be withdrawn once the vetting procedure has commenced, a file not actioned then a nominal administration charge of £10 will be levied.
- 1.3.4 The Supplier reserves the right to increase the Prices from time to time but shall always notify The Client in advance of any such increase.
- 1.3.5 If The Client is overdue with any payment owing under these Terms then, without prejudice to any other right or remedy available to the Supplier, The Client will be liable to pay interest and statutory compensation for debt recovery costs under the Late Payment of Commercial Debts (Interest) Act 2002 (before and after judgment) on the overdue amount, which interest will accrue on a daily basis from the date payment becomes due until the Supplier has received full payment of the amount due together with all accrued interest.

### **1.4 The Client's responsibilities**

- 1.4.1 The Client shall provide the Supplier with complete, accurate and timely information as requested by the Supplier.
- 1.4.2 The Customer shall be solely responsible for and liable to obtain or facilitate the receipt of Consent from any Applicant. Where Consent is provided to the Customer, Staffvetting shall be deemed to have the right to consider Consent to have been granted upon confirmation of such Consent by the Customer. Copies of Consent in respect of one of more Applicants shall be made available to Staffvetting on request, either from time to time or generally.
- 1.4.3 The Supplier will provide verification checks on documents for services such as 'Right to Work' checks however the responsibility remains with The Client for ensuring the full checks for 'Right to Work' are carried out.
- 1.4.4 The Client must ensure the Applicant completes all requested data entry forms in a clear and concise manner.
- 1.4.5 The Client acknowledges that any failure to comply with this clause may result in The Client incurring additional costs.
- 1.4.6 The decision to employ rests solely with the Client (employer) not the Supplier or organisation carrying out the security screening.

- 1.4.7 The Customer warrants and undertakes that at all times during the Term it will ensure that:
- It will store, handle and retain and dispose of the Certificate result strictly in accordance with the DBS Explanatory Guide for Registered Persons and Other Recipients of Certificate Information;
  - Comply with all other DBS policy requirements and regulations as amended from time to time.
  - It will store, handle and retain and dispose of the Certificate result strictly in accordance with the Disclosure Scotland's Code of Practice;
  - Comply with all other Disclosure Scotland policy requirements and regulations as amended from time to time.

## 1.5 Confidentiality

- 1.5.1 Each party agrees in relation to the confidential information belonging to the other that during the term of the Supplier's engagement and for five years afterwards:
- it shall keep such information confidential and shall not disclose it to any third party; and
  - it shall use such information only in so far as is necessary to comply with these Terms.
- 1.5.2 Each party shall be responsible for any unauthorised disclosure or use of the other's confidential information made by any of its employees, agents, or sub-contractors and shall take reasonable precautions to prevent such unauthorised disclosure or use.
- 1.5.3 The above restriction on disclosure shall not apply to any information which at the time of its disclosure was already in the public domain or which is requested to be disclosed by law or which the receiving party can show was already in its possession at the time of disclosure.
- 1.5.4 For the avoidance of doubt, the term "confidential information" shall include the Supplier's final report and any other documents or oral presentations delivered by the Supplier in connection with the Services.

## 1.6 Intellectual property rights

- 1.6.1 All intellectual property rights of whatever nature relating to the Services and all reports, written advice or other materials produced by the Supplier and all systems, methodologies, software and know-how used by the Supplier in delivering the Services shall belong to the Supplier.
- 1.6.2 The Client shall not disclose any Supplier copyrighted documents such as application forms to a third party without the Supplier's prior written consent, this excludes the final report.

## 1.7 Data protection

- 1.7.1 Each party shall comply with the Data Protection Act 1998 (the “DPA”) and associated Regulations or similar regulations if the Client resides outside the European Union.
- 1.7.2 The parties acknowledge that the data which is being processed may include sensitive personal data and will comply with any requirements of the DPA in respect of such information.
- 1.7.3 The Supplier will only process personal data as far as necessary for the performance of the Services and in particular will keep the personal data confidential and will not pass the personal data to any third party.
- 1.7.4 The Supplier may store and archive the final vetting report however this data will be purged at different timeframes. The Supplier is not required to retain these reports once the report has been completed and transferred to The Client.

## 1.8 Liability

- 1.8.1 Neither party shall exclude or restrict its liability in connection with this Agreement resulting from death or personal injury caused by negligence of that party, its officers, employees, contractors or agents, nor for fraud nor breach of obligations implied by section 12, Sale of Goods Act 1979 or section 2, Supply of Goods and Services Act 1982, nor any other liability which may not by law be limited.
- 1.8.2 Subject to Clause 1.8.1, the aggregate liability of each party, whether for damages, payments of compensation or by way of indemnity or of any nature howsoever arising under or in relation to this Agreement or any part thereof (whether in contract or tort, including negligence, or otherwise) shall be limited in any calendar year to 100% of the Charges paid in that calendar year.
- 1.8.3 Staffvetting expressly excludes all liability for the content or accuracy of the information that it receives or provides to the Customer in the course of the Service, whether from the DBS, Disclosure Scotland or other third parties, and under no circumstance shall Staffvetting be liable for any failure to verify the accuracy and completeness of the information provided by the DBS, Disclosure Scotland or other third parties, or conducting any further investigations or controlling the time taken by the DBS etc. to process forms or issue Certificates or any other failure by the Customer to comply with its obligations detailed at clause 1.4.6 above.
- 1.8.4 In no event shall either party be liable to the other party in respect of loss of profits, business, revenue, goodwill or anticipated savings or indirect or consequential loss or damage (whether caused by negligence or otherwise) or the acts or omissions of any third party (whether as a result of negligence or otherwise) arising as a result of the use of the System or Service or otherwise in relation to this Agreement.

1.8.5 During the Term of this Agreement, Staffvetting shall maintain in force with a reputable insurance company or companies public liability, professional indemnity and employers' liability insurance and Staffvetting shall upon written request produce to the Customer sufficient written evidence of the existence and maintenance of such cover.

1.8.6 Staffvetting have Professional Indemnity Insurance to indemnify their legal liability for breach of professional duty to an aggregate limit of £1,000,000 (one million pounds) and this shall be Staffvetting's total liability (whether in contract, tort, negligence or otherwise) under or in connection with this Agreement.

## 1.9 Termination

1.9.1 A party (the "Non-Defaulting Party") may terminate the Contract with immediate effect by written notice to the other party (the "Defaulting Party") on or at any time after the occurrence of an event specified in this clause.

1.9.2 The events are:

- the Defaulting Party is in material breach of these Terms and that breach cannot be remedied;
- the Defaulting Party is in material breach of an obligation under these Terms which can be remedied but the Defaulting Party fails to do so within 30 days starting on the day after receipt of written notice from the Non-Defaulting Party;
- the Defaulting Party stops payment of its debts or is unable to pay its debts as they fall due or is deemed unable to pay its debts;
- the Defaulting Party becomes or is declared insolvent or a resolution is passed for the winding up of the Defaulting Party or the Defaulting Party convenes a meeting of its creditors or makes or proposes to make any arrangement or composition with its creditors or any person takes any step to appoint an administrator or a liquidator, an administrative receiver, a receiver, manager, trustee, custodian or analogous officer is appointed in respect of all or any part of its property, undertaking or assets;
- it becomes unlawful for the Defaulting Party to perform all or any of its obligations under these Terms; or
- the Defaulting Party (being a natural person) shall die or become mentally incapacitated, or (being a partnership or other unincorporated association) shall be dissolved or become subject to any bankruptcy or analogous insolvency procedure in any jurisdiction.

## 1.10 Force majeure

1.10.1 “Force Majeure” means any event or circumstance preventing either party from performing any or all of its obligations which arises from or is attributable to acts, events, omissions or accidents beyond the reasonable control of the party so prevented.

1.10.2 If either party is prevented or delayed in the performance of its obligations under the Terms by Force Majeure, that party shall serve written notice on the other party specifying the nature and extent of the circumstances giving rise to Force Majeure. Subject to the service of such notice, neither party shall be liable for delay in performing or failure to perform its obligations under these Terms if such delay or failure results from Force Majeure.

## 1.11 Notices

1.11.1 Any communication given under these Terms shall be in writing and delivered personally or by facsimile transmission (facsimile transmission to be confirmed by letter posted within 12 hours) or pre-paid recorded, special delivery or first class post (or air mail post if to an address outside the United Kingdom) to the address or facsimile number of the party who is to receive such communication as may from time to time be specified in writing by the relevant party as its address for the purpose of this Clause.

1.11.2 Each party undertakes to notify the other party in accordance with this Clause if the address or facsimile number specified in this Clause is no longer an appropriate address for the service of communications.

## 1.12 Miscellaneous

1.12.1 Nothing in these Terms or any arrangement contemplated by it shall constitute either party a partner, agent, fiduciary or employee of the other party.

1.12.2 No amendment or variation of the terms of these Terms shall be effective unless made or confirmed in writing and signed by all the parties to these Terms.

1.12.3 If any provision of these Terms shall be found by any court or body or authority of competent jurisdiction to be invalid or unenforceable, such provision shall be severed from the remainder of these Terms which shall remain in full force and effect to the extent permitted by law.

1.12.4 The rights and remedies provided by these Terms are cumulative and (unless otherwise provided in these Terms) are not exclusive of any rights or remedies provided by law.

1.12.5 Neither party shall without the prior written consent of the other party (which shall not be unreasonably withheld or delayed) assign, transfer, charge, dispose of or deal in any other manner with these Terms or any of its rights or beneficial interests under it, or purport to do any of the same, nor sub-contract any or all of its obligations under these Terms.



1.12.6 These Terms do not create, confer or purport to create or confer any benefit or right enforceable by any person other than The Client and the Supplier (except that a person who is a permitted successor to or assignee of the rights of a party to these Terms shall be deemed to be a party to these Terms).

## 1.13 Entire agreement

1.13.1 These Terms constitute the entire agreement and understanding of the parties and supersedes any previous agreement between the parties relating to the subject matter of these Terms.

1.13.2 These Terms of business govern the Contract to the exclusion of any terms and conditions which The Client purports to apply at any time or which are implied by trade, custom or course of dealing.

1.13.3 Each of the parties acknowledges and agrees that:

- in entering into the Contract it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to these Terms or not) other than as expressly set out in these Terms; and
- its only remedy in respect of statements, representations, warranties or understandings made or repeated in these Terms or in relation to these Terms shall be for breach of contract.

1.13.4 Nothing in this Clause shall operate to limit or exclude any liability for fraud.

## 1.14 Governing law and jurisdiction

1.14.1 The Contract is governed by and shall be construed in accordance with the laws of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to hear and determine any suit, action or proceedings, and to settle any disputes, which may arise out of or in connection with these Terms.