

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this clause apply in these Conditions.

“Agency Membership” means an IOR Membership taken out by a business in respect of a number of User Subscriptions the details and scope of which are set out on the IOR’s website under the heading “Agency or In House Team Membership”.

“Authorised Users” means those employees, agents and independent contractors of the Portal Member who are authorised by the Portal Member to use the Portal and the Split Fee Services.

“Business Day” means any day which is not a Saturday, Sunday or bank or public holiday in the UK.

“Client” means a client of a Portal Member who has a position or job vacancy to be filled or a candidate seeking a position in respect of which a Split Fee Posting is made under these Conditions.

“Confidential Information” means information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 12.5.

“Effective Date” means the date on which the IOR member’s application to use the Portal and Split Fee Services subject to these Conditions is accepted by IOR.

“Intellectual Property Rights” patents, utility models, rights to inventions, copyright and related rights, trade marks and service marks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other Intellectual Property rights, including all applications for (and rights to apply for and be granted), renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world.

“IOR” means the Institute of Recruiters registered in England and Wales with company no. 07575583 and with its registered office and main place of business at 76 Manchester Road, Denton, Manchester, M34 3PS.

“IOR Dispute Resolution Service” means the fixed fee dispute resolution service details of which are set out on the Portal.

“IOR Membership” means membership of the IOR in accordance with the terms and conditions laid down by IOR from time to time.

“Membership Term” the time period from the Effective Date during which the Portal Member has a current IOR Membership until IOR ceases to make the Portal available.

“Normal Business Hours” means 9.00 am to 5.00 pm local UK time, each Business Day.

“Personal Membership” means an IOR Membership bought by a business as part of its Agency Membership the details and scope of which are set out on the IOR’s website under the heading “Personal Membership Recruiters and HR”.

“Portal” means the portal operated by IOR in order to provide the Split Fee Services and accessed via the following url: www.splitfee.org

“Portal Member” means a person which has an Agency Membership and is registered to use the Portal and the Split Fee Services in the manner required by IOR and in accordance with these Conditions.

“Portal Member Data” means the data inputted by the Portal Member, Authorised Users, or IOR on the Portal Member's behalf for the purpose of using the Portal and/or the Split Fee Services or facilitating the Portal Member's use of the Split Fee Services.

“Split Fee Services” means the services provided by IOR relating to providing access to the Portal and facilitating recruiters sharing recruitment fees with another recruiter relating to candidates, positions or job vacancies posted on the Portal as more particularly set out in clause 5.

“Split Fee Posting” means a posting of a position, job vacancy or candidate made by a Portal Member on the Portal in which such Portal Member offers to pay a fee to another Portal Member should such other Portal Member fill the position or job vacancy or provide a position or job for the candidate. The content of the Split Fee Posting shall be in accordance with the fields and requirements of the Portal.

“User Subscriptions” means the Personal Memberships purchased by a Member as part of its Agency Membership package.

“Virus” means 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 devices.

- 1.2 Clause headings shall not affect the interpretation of these Conditions.
- 1.3 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns.
- 1.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Words in the singular shall include the plural and vice versa.
- 1.6 A reference to one gender shall include a reference to the other genders.
- 1.7 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.8 A reference to writing or written includes faxes but not e-mail.
- 1.9 References to clauses are to the clauses of these Conditions.
- 1.10 Any reference to “include” or “including” shall mean “include without limitation” or “including without limitation” as appropriate.

2. TERMS OF USE

- 2.1 These Conditions (together with any documents referred to in them) set out the terms of use on which the Portal Member may make use of the Portal and access and use the Split Fee Services.
- 2.2 By registering to use the Portal and Split Fee Services or by clicking on the "we accept" button the Portal Member confirms that it accepts these Conditions and agrees to comply with them.
- 2.3 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

3. USE OF THE PORTAL AND SPLIT FEE SERVICES

- 3.1 In order to access the Portal and use the Split Fee Services the Portal Member must have an IOR Agency Membership and must adhere to and observe the IOR's code of professional conduct published from time to time on the IOR's website which currently has the url: www.theior.org.uk and must have registered or have Authorised Users registered to use the Split Fee Services in the manner required by IOR. IOR reserves the right to refuse applications to register to use the Portal in its entire discretion.
- 3.2 The Portal Member may (subject to clause 3.3) permit Authorised Users to access the Portal and use the Split Fee Services during the Portal Membership Term on the terms of these Conditions.
- 3.3 In relation to the Authorised Users, the Portal Member undertakes that:
 - 3.3.1 the maximum number of Authorised Users that it authorises to access and use the Split Fee Services shall not exceed the number of User Subscriptions it has from time to time;
 - 3.3.2 it will not allow Portal or Split Fee Services log on details to be used by more than one user unless it has been reassigned in its entirety to another user, in which case the previous user shall no longer have any right to access or use the Portal and the Split Fee Services;
 - 3.3.3 each Authorised User shall keep a secure password for their use of the Portal and Split Fee Services, that such password shall be changed no less frequently than monthly and that each Authorised User shall keep their password confidential;
 - 3.3.4 it shall maintain a written, accurate and up to date list of current Authorised Users and provide such list to IOR within 5 Business Days of IOR's written request at any time or times;
 - 3.3.5 it shall permit IOR to audit its use and the use of its Authorised Users of the Portal and/or the Split Fee Services in order to establish the name and password of each Authorised User and their use of the Portal and/or Split Fee Services. This audit may be conducted no more than once per quarter, at IOR's expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with the Portal Member's normal conduct of business;
 - 3.3.6 if any of the audits referred to in clause 3.3.5 reveal that any password has been provided to any individual who is not an Authorised User, then without prejudice to IOR's other rights, the Portal Member shall promptly disable such passwords and IOR shall not issue any new passwords to any such individual; and

- 3.3.7 if any of the audits referred to in clause 3.3.5 reveal that the Portal Member has not purchased enough User Subscriptions of IOR, then without prejudice to IOR's other rights, the Portal Member shall pay to IOR an amount equal to such underpayment as calculated in accordance with IOR's standard membership prices within 5 Business Days of IOR's request.
- 3.4 In posting candidates, positions or vacancies on the Portal or otherwise using the Split Fee Services the Portal Member shall and procure that Authorised Users will:
- 3.4.1 ensure that all information and details posted are accurate, up to date and complete;
- 3.4.2 not access, store, distribute or transmit any Viruses, or post any material that:
- 3.4.2.1 is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
- 3.4.2.2 facilitates illegal activity;
- 3.4.2.3 depicts sexually explicit images;
- 3.4.2.4 promotes unlawful violence;
- 3.4.2.5 infringes any third party Intellectual Property Rights;
- 3.4.2.6 is discriminatory based on race, age, gender, colour, religious belief, sex, sexual orientation, marital or civil partnership status or disability; or
- 3.4.2.7 is otherwise illegal or causes damage or injury to any person or property;
- and IOR reserves the right, without liability or prejudice to its other rights to the Portal Member, to remove, take down and disable access to any material that breaches the provisions of this clause.
- 3.5 The Portal Member shall not and shall procure that Authorised Users will not:
- 3.5.1 (except as may be permitted by any applicable law or the terms of these Conditions) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the content of the Portal or the Split Fee Services in any form or media or by any means; or
- 3.5.2 access all or any part of the Split Fee Services in order to build a product or service which competes with the Split Fee Services; or
- 3.5.3 give access to the Portal or make the Split Fee Services available to any third party except the Authorised Users; or
- 3.5.4 attempt to obtain, or assist third parties in obtaining, access to the Portal or Split Fee Services, except as permitted by these Conditions.
- 3.6 The Portal Member shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Portal or the Split Fee Services and, in the event of any such unauthorised access or use, promptly notify IOR.

- 3.7 The rights provided under this clause 2 are granted to the Portal Member only, and shall not be considered granted to any subsidiary or holding company of the Portal Member without the agreement of IOR.

4. CHANGE IN AUTHORISED USERS

- 4.1 If the Portal Member extends its IOR Membership and buys additional User Subscriptions then IOR shall grant access to the Portal and Split Fee Services to an equivalent number of additional Authorised Users from the date on which such change takes effect in accordance with the provisions of these Conditions.
- 4.2 If the Portal Member reduces its IOR Membership and reduces the number of User Subscriptions purchased by it then IOR shall reduce access to the Portal and Split Fee Services to an equivalent number of Authorised Users from the date on which such change takes effect in accordance with the provisions of these Conditions.

5. SPLIT FEE SERVICES

PLEASE BE AWARE THAT IOR HAS THE RIGHT TO SUSPEND OR TERMINATE ACCESS TO THE PORTAL AND THE SPLIT FEE SERVICES AND TO TERMINATE YOUR IOR MEMBERSHIP FOR BREACH OF ANY OF THESE TERMS.

- 5.1 IOR shall, during the Portal Membership Term, provide the Split Fee Services on and subject to the terms of these Conditions to the Portal Member.
- 5.2 If the Portal Member wishes to post a candidate, position or vacancy on the Portal and use the Split Fee Services it shall make a Split Fee Posting and complete the fields on the Portal in an accurate and complete manner. If there are any conditions which are relevant to the Split Fee Posting they shall be made clear as part of such posting. This includes the amount payable to another Portal Member, the point at which payment will be made, the payment split i.e. what percentage of the amount payable is payable when, any provisions relating to reimbursement of sums paid to the other Portal Member, any requirements which the candidate must meet and pre-screening that must have been carried out in relation to such candidate and what happens if the client of the Portal Member does not pay the fee to the Portal Member.
- 5.3 All information provided by the Portal Member in a Split Fee Posting shall be up to date and shall relate to positions, job vacancies and candidates which are existing and available or the applicable conditions change at the time of posting. If the position, job vacancy or candidate ceases to be available then the Portal Member shall update the Split Fee Posting as soon as reasonably possible. The Portal Member must not post fake positions, job vacancies or candidates to the Portal.
- 5.4 If the Portal Member wishes to respond to a vacancy posted on the Portal by another Portal Member it shall follow the instructions on the Portal.
- 5.5 The Portal Member shall ensure that all candidates who are the subject of a Split Fee Posting or in relation to whom a response to a Split Fee Posting is made can legally work in the UK.
- 5.6 The Portal Member making the Split Fee Posting shall have the entire discretion whether it wishes to submit any candidate to its client employer or submit any vacancy to its candidate.
- 5.7 The Portal Member acknowledges and undertakes for the benefit of both IOR and other Portal Members that the Split Fee Posting shall be an offer to enter into a contract by the relevant Portal Member which can then be accepted by another Portal Member by responding to it. A legally binding contract will be formed at the point at which the Portal Member responds to the Split Fee Posting ("the Contract"). This Contract will be subject to the terms set out in the Split Fee Posting.

- 5.8 Notwithstanding the provisions of clause 5.5 the Portal Member making the Split Fee Posting can update or change the terms of the Split Fee Posting at any point prior to a candidate accepting the offer or a job/position. If the Portal Member responding to the Split Fee Posting no longer wishes to continue with the Contract it may immediately withdraw from the arrangement and terminate the Contract without liability by sending an email to the first Portal Member.
- 5.9 The Portal Member further acknowledges and undertakes for the benefit of both IOR and other Portal Members that IOR is not party to the Contract.
- 5.10 The Portal Member acknowledges that information contained in a Split Fee Posting and/or a response to a Split Fee Posting made by another Portal Member is Confidential Information of such other Portal Member and the Portal Member agrees to observe terms equivalent to those set out in clause 12 for the benefit of such other Portal Member in respect of such information. The Portal Member shall only use such information for the purposes of considering whether it has an appropriate position, job vacancy or candidate to meet the requirements of the other Portal Member and filling such position or job vacancy or introducing such candidate to appropriate positions or job vacancies.
- 5.11 When completing information required as part of the Split Fee Posting the Portal Member shall provide details of the fee (to be expressed as an amount and NOT as a percentage) payable to other Portal Members.
- 5.12 The Portal Member acknowledges and undertakes for the benefit of other Portal Members that if another Portal Member supplies a candidate for a position or job vacancy contained in a Split Fee Posting or supplies a position or job for a candidate contained in a Split Fee Posting and the applicable candidate is employed then the Portal Member making the posting shall pay to the other Portal Member the fee advertised in the Split Fee Posting in accordance with the payment terms posted as part of such posting.
- 5.13 The Portal Member acknowledges and undertakes for the benefit of other Portal Members that it shall not (except with the prior written consent of the other Portal Member) from the date on which the posting is made and for the period of 6 months after it is removed solicit:
- 5.13.1 any client of another Portal Member; or
- 5.13.2 any candidate of another Portal Member;
- in either case where the Portal Member has been engaged in filling positions or job vacancies for such client or finding a position or job for such candidate as part of the Split Fee Services PROVIDED THAT this restriction shall not apply if the Portal Member has acted for or represented the client or candidate of the other Portal Member in the previous 6 months before the solicitation.
- 5.14 The Portal Member acknowledges and undertakes for the benefit of other Portal Members that where a Split Fee Posting is made that if the Portal Member has submitted a vacancy or position then it shall take the lead on scheduling meetings and communicating with its Client in respect of the position or job vacancy to which the Split Fee Posting relates to and the Portal Member acting for the candidate shall take the lead on scheduling meetings and communicating with the candidate.
- 5.15 The Portal Member shall ensure that Split Fee Postings and all acts under these Conditions including interaction with Clients and candidates is in accordance with all applicable laws and is not discriminatory based on race, age, gender, colour, religious belief, sex, marital or civil partnership status, sexual orientation or disability.

- 5.16 The Portal Member who is submitting the candidate confirms that it has obtained the candidate's consent to be submitted for the vacancy or position concerned.
- 5.17 If there is any dispute between the Portal Member and other Portal Members in relation to Split Fee Postings or the Split Fee Services or the acts or omissions of a Portal Member then either Portal Member may refer the matter to the IOR Dispute Resolution Service. Details of the IOR Dispute Resolution Service and its terms shall be as published on the Portal as varied by IOR from time to time.

6. PORTAL AVAILABILITY

- 6.1 IOR shall use commercially reasonable endeavours to make the Portal and the Split Fee Services available 24 hours a day, seven days a week, except for:
- 6.1.1 planned maintenance which IOR shall use its reasonable endeavours to carry out outside Normal Business Hours; and
- 6.1.2 unscheduled maintenance.

7. MEMBER DATA

- 7.1 The Portal Member shall own all right, title and interest in and to all of the Portal Member Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Portal Member Data.
- 7.2 IOR shall, in providing the Split Fee Services, comply with its Privacy Policy relating to the privacy and security of the Portal Member Data available at www.splitfee.org or such other website address as may be notified to the Portal Member from time to time, as such document may be amended from time to time by IOR in its sole discretion.
- 7.3 In providing the Split Fee Services the Portal Member and its Authorised Users will provide personal data to IOR including in relation to the Portal Member's Authorised Users and candidates for appointments or job vacancies. The parties record their intention that the Portal Member shall be the data controller in respect of such personal data and IOR shall be a data processor and in any such case:
- 7.3.1 the Portal Member acknowledges and agrees that the personal data may be transferred or stored outside the EEA in order to carry out the Split Fee Services and IOR's other obligations under these Conditions;
- 7.3.2 the Portal Member shall ensure that it is entitled to transfer the relevant personal data to IOR so that IOR may lawfully use, process and transfer the personal data in accordance with these Conditions on the Portal Member's behalf;
- 7.3.3 the Portal Member shall ensure that the relevant third parties have been informed of, and have given their consent to, such use, processing, and transfer as required by all applicable data protection legislation;
- 7.3.4 IOR shall process the personal data only in accordance with the terms of these Conditions and any lawful instructions reasonably given by the Portal Member from time to time; and
- 7.3.5 each party shall take appropriate technical and organisational measures against unauthorised or unlawful processing of the personal data or its accidental loss, destruction or damage.

8. IOR'S OBLIGATIONS

- 8.1 IOR agrees that the Split Fee Services will be provided with reasonable skill and care.
- 8.2 If the Split Fee Services do not comply with clause 8.1, IOR will, at its expense, use reasonable commercial endeavours to correct any such non-compliance promptly. This correction is the Portal Member's sole and exclusive remedy for any breach of clause 8.1.
- 8.3 IOR:
- 8.3.1 does not warrant that the Portal Member's use of the Portal or Split Fee Services will be uninterrupted or error-free or that they will meet the Portal Member's requirements; and
- 8.3.2 is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Portal Member acknowledges that the Portal or Split Fee Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 8.4 These Conditions shall not prevent IOR from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under these Conditions.
- 8.5 IOR warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under these Conditions.

9. PORTALMEMBER'S OBLIGATIONS

- 9.1 The Portal Member shall:
- 9.1.1 provide IOR with:
- 9.1.1.1 all necessary co-operation in relation to these Conditions;
and
- 9.1.1.2 all necessary access to such information as may be required by IOR;
- in order to provide the Split Fee Services;
- 9.1.2 comply with all applicable laws and regulations with respect to its activities under these Conditions;
- 9.1.3 ensure that the Authorised Users use the Portal and Split Fee Services in accordance with the terms and conditions of these Conditions and shall be responsible for any Authorised User's breach of these Conditions;
- 9.1.4 obtain and shall maintain all necessary licences, consents, and permissions necessary for IOR, its contractors and agents to carry out or provide their obligations under these Conditions, including without limitation the Split Fee Services; and
- 9.1.5 be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to IOR's data centres, and all problems, conditions, delays, delivery failures and all

other loss or damage arising from or relating to the Portal Member's network connections or telecommunications links or caused by the internet.

- 9.2 Without prejudice to IOR's other rights and remedies, IOR may suspend access to or remove the Portal Member and all Authorised Users from the Portal and/or the Split Fee Services or terminate the Portal Member's membership of IOR in the event of the Portal Member breaching any of the terms of these Conditions or breaching the terms of a Contract.

10. CHARGES AND PAYMENT

- 10.1 IOR makes the Portal and Split Fee Services available to the Portal Member free of charge as a benefit of membership of IOR.
- 10.2 The payment due and the payment terms relating to a Split Fee Posting shall be agreed between the Portal Members as part of the Contract.

11. INTELLECTUAL PROPERTY RIGHTS

- 11.1 Subject to clause 11.2, the Portal Member acknowledges and agrees that IOR and/or its licensors own all Intellectual Property Rights in the Portal and Split Fee Services. Except as expressly set out in these Conditions, it does not grant the Portal Member any rights to, or in, such Intellectual Property Rights or any other rights or licences in respect of the Portal or Split Fee Services.
- 11.2 The Portal Member warrants, represents and undertakes to IOR that the Portal Member owns or is licensed to use the Intellectual Property Rights in any content in any posting made by the Portal Member or its Authorised Users on the Portal, that it does not infringe any Intellectual Property Rights, privacy rights or confidentiality of any third party and that it has the authority and right to make the posting.
- 11.3 The Portal Member agrees to grant to IOR a non- exclusive, perpetual and irrevocable licence of the Intellectual Property Rights content of any posting made on the Portal for the purposes of allowing IOR to provide the Split Fee Services.

12. CONFIDENTIALITY

- 12.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under these Conditions. A party's Confidential Information shall not be deemed to include information that:
- 12.1.1 is or becomes publicly known other than through any act or omission of the receiving party;
 - 12.1.2 was in the other party's lawful possession before the disclosure;
 - 12.1.3 is lawfully disclosed to the receiving party by a third party without restriction on disclosure;
 - 12.1.4 is independently developed by the receiving party, which independent development can be shown by written evidence; or
 - 12.1.5 is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.
- 12.2 Each party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of these Conditions.

- 12.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of these Conditions.
- 12.4 Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.
- 12.5 The Portal Member acknowledges that details of the Split Fee Services constitute IOR's Confidential Information.
- 12.6 This clause 12 shall survive termination of these Conditions, however arising.

13. INDEMNITY

- 13.1 The Portal Member shall defend, indemnify and hold harmless IOR against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Portal Member's use of the Portal and/or the Split Fee Services and that of its Authorised Users:
- 13.2 IOR shall defend the Portal Member, its officers, directors and employees against any claim that the content of the Portal or Split Fee Services which is owned by IOR infringes any United Kingdom Intellectual Property Rights and shall indemnify the Portal Member for any amounts awarded against the Portal Member in judgment or settlement of such claims, provided that:
 - 13.2.1 IOR is given prompt notice of any such claim;
 - 13.2.2 the Portal Member provides reasonable co-operation to IOR in the defence and settlement of such claim, at IOR's expense; and
 - 13.2.3 IOR is given sole authority to defend or settle the claim.
- 13.3 In the defence or settlement of any claim, IOR may procure the right for the Portal Member to continue using the content owned by IOR on the Portal or provided as part of the Split Fee Services, replace or modify such content that it becomes non-infringing or, if such remedies are not reasonably available, terminate these Conditions and the Portal Member's use of the Portal and Split Fee Services on 2 Business Days' notice to the Portal Member without any additional liability or obligation to pay liquidated damages or other additional costs to the Portal Member.
- 13.4 In no event shall IOR, its employees, agents and sub-contractors be liable to the Portal Member to the extent that the alleged infringement is based on:
 - 13.4.1 the content contained on the Portal or which forms part of a the Split Fee Services which has been provided by or on behalf of any Portal Member; or
 - 13.4.2 the Portal Member's use of the Portal or the Split Fee Services in a manner contrary to the instructions given to the Portal Member by IOR; or
 - 13.4.3 the Portal Member's use of the content on the Portal or as part of the Split Fee Services after notice of the alleged or actual infringement from IOR or any appropriate authority.
- 13.5 This clause 13 and clause 14.4.2 state the Portal Member's sole and exclusive rights and remedies, and IOR's (including IOR's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any Intellectual Property Rights.

14. LIMITATION OF LIABILITY

- 14.1 This clause 14 sets out the entire financial liability of IOR (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Portal Member:
- 14.1.1 arising under or in connection with these Conditions;
 - 14.1.2 in respect of any use made by the Portal Member of the Portal or Split Fee Services or any part of them; and
 - 14.1.3 in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with these Conditions.
- 14.2 Except as expressly and specifically provided in these Conditions:
- 14.2.1 IOR shall have no liability for any damage caused by errors or omissions in any information or postings provided to IOR by the Portal Member or made by Portal Members or any third party in connection with the Portal or the Split Fee Services, or any actions taken by IOR at the Portal Member's direction;
 - 14.2.2 IOR is dependent upon a third party hosting company in relation to the hosting of the Portal. It shall therefore have no liability caused by the failure of or disruption of the Portal;
 - 14.2.3 all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from these Conditions; and
 - 14.2.4 since the Portal and the Split Fee Services are provided free of charge to the Portal Member then such portal and services and the content on them are provided to the Portal Member on an "as is" basis; and
 - 14.2.5 IOR has no liability to either the Portal Member or the other Portal Member as a result of or relating to the Contract between the Portal Member and the other Portal Member arising as a result of their use of the Portal and the Split Fee Services as it is not a party to it.
- 14.3 Nothing in these Conditions excludes the liability of IOR:
- 14.3.1 for death or personal injury caused by IOR's negligence; or
 - 14.3.2 for fraud or fraudulent misrepresentation.
- 14.4 Subject to clause 14.2 and clause 14.3:
- 14.4.1 IOR shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under these Conditions; and
 - 14.4.2 IOR's total aggregate liability in contract (including in respect of the indemnity at clause 13.2), tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of these Conditions shall be limited to £100 .

15. TERM AND TERMINATION

- 15.1 The Portal Member's use of the Portal and Split Fee Services shall, (unless otherwise terminated as provided in this clause 15 or otherwise as set out in these Conditions), commence on the Effective Date and shall continue for the Portal Membership Term.
- 15.2 The Portal Member shall be bound by these Conditions from the Effective Date.
- 15.3 Either party may terminate the Portal Member's use of the Portal and Split Fee Services by giving the other 14 days notice in accordance with clause 23.
- 15.4 The Portal Member's use of the Portal and Split Fee Services shall automatically terminate if the Portal Member ceases to have an IOR membership. If the Portal Member changes the scope of IOR membership which it holds then clause 4 above will apply.
- 15.5 Without prejudice to any other rights or remedies to which the parties may be entitled, either party may terminate the Portal Member's use of the Portal and Split Fee Services without liability to the other if:
- 15.5.1 the other party commits a material breach of any of the terms of these Conditions and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or
 - 15.5.2 an order is made or a resolution is passed for the winding up of the other party, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order in relation to the other party; or
 - 15.5.3 an order is made for the appointment of an administrator to manage the affairs, business and property of the other party, or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the other party, or notice of intention to appoint an administrator is given by the other party or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986); or
 - 15.5.4 a receiver is appointed of any of the other party's assets or undertaking, or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the other party, or if any other person takes possession of or sells the other party's assets; or
 - 15.5.5 the other party makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way; or
 - 15.5.6 the other party ceases, or threatens to cease, to trade; or
 - 15.5.7 the other party takes or suffers any similar or analogous action in any jurisdiction in consequence of debt.
- 15.6 On termination of the Portal Member's use of the Portal and Split Fee Services for any reason:
- 15.6.1 all rights to access the Portal or use the Split Fee Services shall immediately terminate; each party shall return and make no further use of any Confidential Information (and all copies of them) belonging to the other party provided that this obligation shall not be applicable to Confidential Information that forms part of an electronic back-up system which is not immediately retrievable as part of day-to-day business;

- 15.6.2 IOR may immediately remove any of the Portal Member Data including all postings of positions, job vacancies or candidates on the Portal; and
- 15.6.3 the accrued rights of the parties as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination, shall not be affected or prejudiced.

16. FORCE MAJEURE

IOR shall have no liability to the Portal Member under these Conditions if it is prevented from or delayed in performing its obligations under these Conditions, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of IOR or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that the Portal Member is notified of such an event and its expected duration.

17. WAIVER

- 17.1 A waiver of any right under these Conditions is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and to the circumstances for which it is given.
- 17.2 Unless specifically provided otherwise, rights arising under these Conditions are cumulative and do not exclude rights provided by law.

18. SEVERANCE

- 18.1 If any provision (or part of a provision) of these Conditions is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.
- 18.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

19. ENTIRE AGREEMENT

- 19.1 These Conditions, and any documents referred to in them, constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover.
- 19.2 Each of the parties acknowledges and agrees that in entering into these Conditions it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to these Conditions or not) relating to the subject matter of these Conditions, other than as expressly set out in these Conditions.

20. ASSIGNMENT

- 20.1 The Portal Member shall not, without the prior written consent of IOR, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under these Conditions.
- 20.2 IOR may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under these Conditions.

21. NO PARTNERSHIP OR AGENCY

Nothing in these Conditions is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

22. THIRD PARTY RIGHTS

Except for the obligations owed by the Portal Member to other Portal Members as set out in clause 5, these Conditions do not confer any rights on any person or party (other than the IOR and Member and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

23. NOTICES

23.1 Any notice required to be given under these Conditions shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its address set out in these Conditions, or such other address as may have been notified by that party for such purposes, or sent by fax to the other party's fax number as set out in these Conditions.

23.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9 am on the first business day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by fax shall be deemed to have been received at the time of transmission (as shown by the timed printout obtained by the sender).

24. GOVERNING LAW AND JURISDICTION

24.1 These Conditions and the Portal Member's use of the Portal and Split Fee Services and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by, and construed in accordance with, the law of England.

24.2 The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with these Conditions or its subject matter or formation (including non-contractual disputes or claims).