

## **PUSH AND PULL for Talent : Terms of Business (part of FINTEC recruit Limited services)**

This document together with the documents it refers to tells you the Terms under which you may make use of Push and Pull for Talent Services provided via our platform.

Please read these Terms carefully before you make use of our Services.

By registering to access the PUSH and PULL for Talent you agree to be bound by these Terms. These Terms shall apply each time you use the online PUSH and PULL Services (unless otherwise agreed in writing) and shall prevail over any inconsistent terms or conditions contained, or referred to, in your standard terms of business or any other document supplied by you, or implied by law, industry custom, practice or course of dealing. In the event of any dispute between your standard terms of business and these Terms, these Terms shall prevail. We reserve the right to change these Terms at any time without notice, by posting changes online. You are responsible for checking these Terms every time that you access PUSH and PULL for Talent portal, in order to ensure that you are aware of any changes. Your continued access to and use of the PUSH and PULL services, after changes are posted, constitutes your acceptance of the amended Terms.

By accepting these Terms you warrant that you have full capacity and authority to enter into and perform an Agreement with us to use the PUSH and PULL for Talent portal and Services, and are duly authorised to bind the party for whom you act. You should print a copy of these Terms for future reference.

We reserve the right to modify these Terms at any time. Any changes We may make to these Terms will be posted on our portal and notified to you by email.

### **INFORMATION ABOUT US**

- We are PUSH and PULL for Talent as part of FINTEC recruit Limited services ("PUSH and PULL" or "We" or "Us" or "Our"). We are registered in Scotland, Registration number SC402285 and have our office address at 83 Princes Street, Edinburgh EH2 2ER, United Kingdom. FINTEC recruit Limited and services of PUSH and PULL for Talent is for the purposes of this Agreement, includes any subsidiary or holding company (as defined in section 1159 of the Companies Act 2006) of FINTEC recruit Limited.

For the avoidance of doubt PUSH AND PULL for Talent is a service provided by FINTEC recruit Limited, an employment agency as defined in the Employment Agencies Act 1973. The PUSH AND PULL for Talent online platform for Employers and Candidates to interact.

### **DEFINITIONS AND INTERPRETATION**

For the purpose of these Terms, the following definitions shall apply:

**Account:** By registering on the online platform, as an Employer, you are creating an account, which will give you access to our Services and allow you to store and track activity on the Marketplace PUSH and PULL portal.

**Agreement:** The agreement between Us and you pursuant to which you make use of the Marketplace Services, the terms of which are set out in these Terms.

**AWR:** The Agency Workers' Regulations 2010.

**Candidate:** A person introduced, directly or indirectly, by Our Headhunters to the Employer through the Marketplace platform Services, to be considered for a Vacancy.

**Conduct Regulations:** The Conduct of Employment Agencies and Employment Businesses Regulations 2003.

**FEE:** The fee we deduct which is calculated depending upon the Subscription Plan chosen depending on salary range of each vacancy.

**Candidate:** A person Introduced, directly or indirectly, to the Employer through the Marketplace portal, to be considered for an assignment or vacancy.

**Data Protection Laws:** The EU General Data Protection Regulation 2016/679 (“GDPR”), the Data Protection Act 2018 (currently the Data Protection Bill 2017), the Data Protection Act 1998, and any applicable statutory or regulatory provision, as amended or updated from time to time, and all European Directives and regulations in force from time to time relating to the protection and transfer of personal data.

**Employer:** Any person (whether an individual, limited company, a limited liability partnership, a sole trader, a partnership or any other person) that uses the PUSH AND PULL for Talent Marketplace portal and Marketplace portal to invite candidates and receive candidates for individual Vacancies with the view of considering applicants for interviews and employment.

**Engagement:** The act of an Employer accepting our PUSH and PULL for Talent engagement of our headhunting services and direct receipt of a candidates CV received within the portal facility.

**Fee Period:** The period a Headhunter is deemed to have ownership of a Candidate which shall be six months from the date of submittal of such Candidate’s CV on the PUSH and PULL platform.

**Introducer:** Our role as the introducing party in an Introduction of a candidate

**Marketplace:** Means the marketplace contained within Our Platform in which an Employer may post /upload Vacancies and source Candidates and a Headhunter may submit Candidates to Vacancies.

**Marketplace Services:** The provision by Us of the PUSH and PULL for Talent platform Marketplace, as further described on Our Site from time to time.

Our Site: [www.pushandpullfortalent.com](http://www.pushandpullfortalent.com) part of FINTEC recruit Limited services

**Permanent Recruitment:** Employment of a Candidate on a permanent employment contract

**Placement:** Employment of a Candidate by or on behalf of an Employer directly or indirectly following the supply of a Candidate by a Headhunter via the PUSH and PULL Marketplace, directly or indirectly, and whether under a contract for services or otherwise, and whether on a permanent, or fixed term, or other basis.

**Placement Fee:** The fee according to salary bandings or the Fee agreed with an Employer when posting a Permanent Recruitment Vacancy, which the balance of fee is only payable by the Employer to Us upon the hiring of a Candidate. Once set, the fee may be increased but it may not be reduced.

**Replacement :** Should the candidate leave the new position, a replacement will be sought with no additional charges. The timescale of replacement terms depend on the placement package determined by salary range or agreement with employer when engaging our services.

**Headhunter/Recruiter:** Any person (whether an individual, limited company, a limited liability partnership, a sole trader, a partnership or any other person) who uses the PUSH and PULL for Talent Marketplace Services to introduce Candidates to Employers in respect of any Vacancy.

**Employer Subscription Plan:** The level of access and benefits an Employer has on the Marketplace described and corresponding to the Subscription Plan. The plans and benefits are posted on Our Portal and we may vary them from time to time.

**Screen/Screened Candidates:** A Headhunter/Recruiter will send an internal message via the PUSH and PULL platform on behalf of the client / Employer to a prospective candidate. In replying to this message and attaching a CV, a candidate is agreeing and giving their consent for the end employer to handle their data for the purposes of recruitment for the named job or for other vacancies arising within that company. The candidate will always have the right to contact support@pushandpull for talent or message the client directly to request removal of their data at any time. On messaging a candidate regarding a new vacancies, the candidate receives the company branded job description and details within the message of the opportunity and is fully aware of the vacancy and who they are applying/sending their application to.

**Start Date:** The date on which a Candidate commences employment or an Assignment, with an Employer following the acceptance by the Candidate of an offer of employment or an Assignment by an Employer.

**Terms:** These terms and conditions under which you may make use of the Marketplace Services.

**Vacancy/Vacancies:** A permanent or contract job vacancy posted by the Employer on the Marketplace.

**WTR:** The Working Time Regulations 1998.

In these Terms words importing the singular shall include the plural and vice versa, and words importing the masculine gender shall include the feminine gender and vice versa.

The headings contained in these Terms are for convenience only and do not affect their interpretation.

In these Terms any reference to a statute, statutory provision or any subordinate legislation shall be construed as including a reference to that statute, provision or subordinate legislation as from time to time modified or consolidated, superseded, re-enacted or replaced.

## **STATUS**

Nothing in these Terms will create a partnership or joint venture between us. We are an independent provider of services to you and are not employed by you.

## **REGISTRATION**

In order to use the PUSH and PULL for Talent Marketplace platform Services, each Employer must register with Us. We may accept or reject an application to register at our discretion, and may suspend or cancel such registration at any time if an Employer is in breach of these Terms.

## **OBLIGATIONS OF THE EMPLOYER FOR PERMANENT RECRUITMENT**

The Employer agrees to notify us immediately when an offer of employment has been accepted by a Candidate in order for us to raise the correct invoice for the balance of the Placement Fee. This invoice will be issued by us to the Employer on the Candidate's Start Date.

The Employer shall satisfy itself as to the suitability of any Candidate for the purposes of the Vacancy for which the Candidate has been introduced. Without prejudice to the generality of the foregoing, it is acknowledged by the Employer that it is for the Employer to take up references, to check the truthfulness of a Candidate's application, to undertake any additional security or criminal record checks, to check the validity of qualifications and, where the Engagement requires, to ensure that a Candidate is capable of operating any equipment and/or machinery to the necessary level. The Employer shall be responsible for obtaining any work and other permits and for ensuring that a Candidate satisfies any medical requirements or other qualifications that may be appropriate or required by law.

The Employer shall use their best endeavours to keep confidential any confidential information of any Candidate (including without limitation any CV or other information provided in support of an application for a Vacancy) that is provided to the Employer in connection with the PUSH and PULL Marketplace Services.

The Employer undertakes that where:

(a) any Candidate introduced by a Headhunter/Recruiter to the Employer via the PUSH and PULL Marketplace portal is initially rejected but is later employed by the Employer within the period of six months of the initial introduction, the Employer shall be responsible for the Placement Fee as if such rejection had not occurred;

(b) in the event of the Employer effectively introducing (directly or indirectly) any Candidate to another person, firm or corporation, including any subsidiary, associated or holding company of the Employer, resulting in an Engagement by that person, firm or corporation (of which fact the Employer shall immediately notify Us) the Employer shall be responsible for the Placement Fee as if the Candidate had been introduced to such third party via the PUSH and PULL Marketplace, unless such Engagement occurs more than six months after the initial introduction of the Candidate to the Employer.

The Employer consents to the disclosure by us to Headhunters/Recruiters and Candidates of information relating to the Employer which the Employer has provided to us.

In the event that the Employer has previously received the CV of a Candidate who it subsequently decides to employ or engage from a source other than a specific Recruiter, the Employer is solely responsible for providing the proper evidence that the new engagement was not the result of the Recruiter's submission, but rather of having received the CV previously. In the event of such a dispute We will investigate and based upon the available evidence make a determination on the

source of the Candidate referral that led to the engagement, and therefore whether a Placement Fee shall be charged.

### **OBLIGATIONS OF THE HEADHUNTER/RECRUITER FOR PERMANENT RECRUITMENT**

FINTEC recruit, PUSH and PULL for Talent, Headhunter/Recruiters warrants that they are suitable to act as an Employment Agency and agree that they shall at all times comply with the Conduct Regulations, and the Equality Act 2010.

When a candidate sends their CV DIRECT via the PUSH AND PULL Platform they will have agreed (in compliance with GDPR) to share their details and CV onto the Marketplace for DIRECT receipt by the Employer

The Headhunter/Recruiter will use reasonable endeavours to introduce suitable Candidates to Employers via the Marketplace portal. The Candidates must meet the specification set out by the Employer in the Vacancy. The Headhunter/Recruiter will gain confirmation from a Candidate that they have agreed to share their information with the Employer and they have read the full information available about the job description and the company before they submit their CV DIRECT to the Employer via PUSH and PULL for talent marketplace platform.

The Employer agrees to not directly or indirectly work around, avoid, circumvent or otherwise exploit the Marketplace Services or Our Portal with the intent or effect of depriving us of due compensation, Commissions or Placement Fees.

If an Employer is found to have contacted a Candidate directly to work around, avoid, circumvent or otherwise exploit the Marketplace Services or Our Portal with the intent or effect of undercutting our Marketplace Services, or depriving us of due compensation, Commissions or Placement Fees, the Employer's Account will be suspended immediately during a period of investigation. If evidence of wrongdoing is confirmed the Employer's Account it will be deleted and all data, ratings, and customer information will be lost.

Furthermore, if within a 12 month period without written consent from us, the Employer approaches directly any Candidates to whom they have been introduced to by us, engaged with on the PUSH and PULL Marketplace, will be liable to pay us within 14 days of receipt of invoice any Commission that would have been due to us had the Placement(s) the Headhunter/Recruiter has made with that Employer taken place on Our Marketplace Portal.

Other external Agency Recruiters are not permitted to register as an Employer in order to post Vacancies on Our Site.

If a Headhunter/Recruiter invites a Candidate to apply for a Vacancy and the Candidate is subsequently employed by the Employer, the Recruiter may not be eligible for the Placement Fee in the event that the Employer has previously received that Candidate's CV, or was aware of the Candidate through another source. The Employer is solely responsible for providing the proper evidence that the new engagement was not the result of the Recruiter's submission, but rather of having received the CV previously. In the event of such a dispute, we will investigate and based upon the available evidence make a determination on the source of the Candidate referral that led to the engagement, and therefore whether a Placement Fee shall be charged.

Provided that an Employer is not already aware of a Candidate, and the Headhunter/Recruiter can provide evidence of this, the Recruiter shall be deemed to have ownership of a Candidate for the duration of the Fee Period. Should the Candidate be employed or engaged by the Employer

during the Fee Period we shall invoice the Employer for the same Placement Fee set by the Employer when the Vacancy was originally posted on the PUSH and PULL Marketplace Portal. The Employer shall promptly provide us with accurate information regarding the Start Date of the successful Candidate.

### **THE PLACEMENT FEE (PERMANENT RECRUITMENT ONLY)**

Where a Candidate is invited to apply for a specific vacancy by a Headhunter/ Recruiter via the PUSH and PULL Marketplace and is successfully appointed in a posted Vacancy, or within any other role within the Employer's organisation (including any organisation within the Employer's group), We will invoice the Employer on the Candidate's Start Date for the Placement Fee.

The Placement Fee is payable to us within 30 days of the Candidate's Start Date. If the Candidate in question does not commence employment, the Placement Fee shall not be payable and, if it has been paid to us, it will be refunded in full and a credit note will be issued.

An Employer will be liable for the Placement Fee in respect of a Candidate, where within six months of the Candidate being introduced to the Employer:

- the Employer employs that Candidate on a permanent or temporary basis; or
- the Employer initially rejects the Candidate, but subsequently employs the Candidate or engages with the Candidate in any capacity; or the Employer refers the Candidate to a third party, including another company or business in the Employer's group of companies, and that third party employs or engages with the Candidate.

The Placement Fee excludes VAT and other duties or taxes, which will be payable by the Employer in addition to the Placement Fee at the rate in force.

If any amount payable under these Terms is not paid in full and on time, interest will be payable on such amount in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 (as amended) from the date of invoice up to and including the date of payment.

### **REPLACEMENT (PERMANENT RECRUITMENT ONLY)**

The Rebate Period is determined by the subscribed plan detailed on the portal. In the event that a Candidate terminates employment, or the Employer lawfully terminates the employment within the Replacement Period, the Employer shall be entitled to a free Replacement provided that:

The termination is not as a result of redundancy, corporate restructuring, pregnancy, injury or ill health, or by reason of the Candidate's age, race, gender, sexual orientation or disability;

### **THE RECRUITER FEE AND COMMISSION (PERMANENT RECRUITMENT)**

On a Candidate's Start Date, We shall invoice the Employer for the Placement Fee as specified when posting its Vacancy in line with salary banding terms.

### **EMPLOYER ENGAGEMENT FEE, USAGE AND BENEFITS**

We reserve the right to require payment from An Employer for certain or all Marketplace Services in advance of service. An Employer shall pay all applicable fees, as described on Our Site in connection with such Marketplace Services as selected by them.

We reserve the right to change Our pricing and to institute new charges at any time, upon notice to the Employer, which may be sent by email or posted on Our Site. The Employers use of the

Services following such notification constitutes their acceptance of any new Terms or increased charges. Any fees paid hereunder are non-refundable.

We reserve the right at our discretion to change any benefits, or to add or remove benefits on any subscription plan, from time to time without prior notice to the Employer. We do not guarantee that we will make available, and the Employer acknowledges that it may not receive any particular benefit during the term of the Subscription Plan.

#### **EMPLOYER ACCOUNT TERMINATION**

We may suspend an Employer's access to the PUSH and PULL Marketplace Services at any time, for any reason, and without warning, which may result in the forfeiture and destruction of all data and information associated with the Employer's Account on the Marketplace.

The Employer must ensure that we have the complete and accurate billing and contact information throughout the Employer Engagement Subscription Plan, including the full name of the Account holder, its business address, and billing contact email address. If the Employer Engagement and Subscription Fee become overdue, because, for example, the Employer's credit or debit card has expired, we reserve the right to suspend access to the PUSH and PULL marketplace permanently. We reserve the right to take action in the best interest of Employers and/or Candidates in relation to an existing Engagement during a period of non-payment until the balance is paid.

We may also terminate or suspend any and all Marketplace Services and access to Our Site immediately, without prior notice or liability, if you breach any of the Terms of this Agreement. Upon termination of your Account, your right to use the PUSH and PULL Marketplace Services, access Our Site, and any content will immediately cease. All provisions of the Agreement which, by their nature, should survive termination, shall survive termination, including, without limitation: ownership provisions, warranty disclaimers, and limitations of liability.

In the event of a termination, we reserve the right to handle any existing Engagements in the best interest of FINTEC recruit Limited and Candidates.

#### **CONFIDENTIALITY AND DATA PROTECTION**

We process personal data (as defined in the Data Protection Laws) which We collect as a data controller (as defined in the Data Protection Laws) in the course of providing the Marketplace Services. Where data is processed by Us as a data controller, such processing is carried out in accordance with Our privacy policy which can be found on Our Site and here: <https://www.fintecrecruit.co.uk>

All information relating to Candidates is confidential and subject to the Data Protection Laws and is solely for the purposes of filing an Assignment or Vacancy for an Employer by a Recruiter. The information must not be used for any other purpose nor divulged to any third party and the Employer and the Recruiter undertake to abide by the provisions of the Data Protection Laws in receiving and processing the data at all times. The Employer and the Recruiter hereby indemnifies Us against all losses, liabilities, costs and expenses (included but not limited to legal costs) arising from or incurred by reason of the Employer or Recruiter's failure to comply with this clause

Information relating to an Employer's and our Agency businesses which is capable of being confidential must be kept confidential and not divulged to any third party, except information which is in the public domain.

The Employer and the Candidate may delete or request in writing the deletion or return of all personal data on termination of the Marketplace Services or at any time following termination of the Marketplace Services. Where an Employer and a candidate has not deleted the personal data prior to the termination of the Marketplace Services, We automatically delete all personal data after six months following the date of termination of the Marketplace Services unless otherwise required by applicable law.

The Employer and the Headhunter acknowledges and accepts that a Candidate/Contractor shall also have the right to withdraw their consent to the use of their personal data or information at any time and may request that We permanently delete all information and data held about that Candidate from the Marketplace. In the event that a Candidate exercises their rights in this clause

We shall notify the Employer who shall promptly and permanently delete all the information and data held about that Candidate from the Marketplace account. In the event that the Employer has not done so within a reasonable time, and has not notified us of any requirement of the candidate or us to retain the personal data, We reserve the right to remove such personal data and shall not be liable in any way for any loss or damage suffered by the Recruiter arising from such Candidate exercising their rights.

#### **LIMITATION OF LIABILITY**

In no circumstances shall we, or any party involved in creating, producing or delivering the push and pull marketplace services be liable to you or any third party for any loss or damages which are indirect, special, incidental or consequential, including, without limitation, damages for any lost profits, lost savings, loss of data, costs, fees or expenses of any kind or nature whether caused by tort (including negligence) breach of contract or otherwise that may arise out of or relate to the use of the marketplace services, even if foreseeable.

This does not affect our liability for death or personal injury arising from negligence, nor any liability for fraudulent misrepresentations, nor any other liability which cannot be excluded or limited under applicable law. The Employer agrees to indemnify us from all claims, costs and expenses (including legal expenses) resulting from their breach of these Terms.

#### **YOUR ACCOUNT**

Access to your Account on Our PUSH and PULL Portal is not guaranteed and may expire at any time without notice. We therefore recommend all users make their own appropriate backups and logs of activities. You are not permitted to share access to your Account and must take reasonable steps to ensure your login credentials are kept confidential. Use of Your Account is bound by the Computer Misuse Act 1990.

#### **PROMOTION**

Unless otherwise agreed in writing, by using Our PUSH and PULL Marketplace Services all users give Us permission to disclose our business relationship to other parties to promote Our provenance. This includes (but is not limited to) your company name, logo, testimonials and any written or verbal communication.



## **ENTIRE AGREEMENT**

These Terms contain the entire and only Agreement for the Marketplace Services between Us and you, and supersedes all previous agreements relating to the same. Each party acknowledges and agrees that in entering into the Agreement it has not relied on, and shall have no remedy in respect of, any statement, representation, undertaking or warranty, whether oral or in writing, save as are expressly set out in the Agreement. No changes can be made to these Terms without prior written consent by a Director of FINTEC recruit Limited responsible for PUSH and PULL for talent services..

## **THIRD PARTY RIGHTS**

For the purpose of the Contracts (Rights of Third Parties) Act 1999, these Terms do not and are not intended to give any rights, or any right to enforce any of its provisions, to any person who is not a party to it.

## **GOVERNING LAW AND JURISDICTION**

The laws of Scotland, England and Wales govern the Agreement and all non-contractual obligations arising out of it. The parties agree to submit to the exclusive jurisdiction of the Courts of Scotland, England and Wales.