

GENERAL TERMS AND CONDITIONS OF SERVICE

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Article 1: Definition of Terms and Applicable Conditions

1.1 These General Terms and Conditions govern all offers, requests for offers, quotations and agreements with respect to the provision of services by Silicon Valley Associates (HK) Limited, and/or any of its affiliated companies (hereinafter referred to as the 'Agency') to a party (hereinafter referred to as the 'Client'). These General Terms and Conditions govern all contractual relationships as well as all non-contractual relationships between the parties.

1.2 In these General Terms and Conditions the terms listed below have the following meaning:

- **Candidate:** the natural person introduced by the Agency to the Client to fill a vacancy at the Client's company or business.

- **Confirmation of Assignment:** a written confirmation from the Agency to the Client stating that the assignment has been granted.

- **Gross Annual Salary:** the salary on a full year and full-time basis employment or engagement (forty hours per week) during the first year in the employment or engagement of the Client. The gross annual salary includes a thirteenth month salary (where applicable), holiday pay, holiday allowances, [accommodation allowances, education allowances,] bonuses/commission-based pay (on-target earnings), mobility budget (travel allowance/car expense allowance, relocation allowance) and all other associated conditions and benefits to be granted to the Candidate by the Client.

- **Introduction:** presentation of the Candidate's details by the Agency to the Client, and the Candidate will have been introduced by the Agency to the Client notwithstanding that a third party has previously introduced the Candidate to the Client, or that the Client already knows the Candidate.

- **Concurrence:** concurrence between Candidate and Client regarding the implementation of temporary or permanent employment, partnership, or as the case may be the conclusion of an agreement for the provision of services for the benefit of Client (contract of services).

- **Appointment:** an agreement between the Candidate and the Client regarding temporary or permanent employment or the provision of services for the Client.

- **Agreement:** the agreement between the Client and the Agency for the Agency's services.

- **Placement 'On Hold':** suspension of the Agreement or services provided by the Agency in any manner.

- **VAT:** value added tax, goods and services tax and any other similar taxes and duties.

- All the amounts referred to in these General Terms and Conditions and in offers and quotations from the Agency exclude VAT.

1.3 Any provisions that deviate from these General Terms and Conditions – including any general terms and conditions and special terms and conditions of delivery or otherwise applied by the Client – will apply only if and insofar as the Agency has explicitly accepted them in writing.

1.4 The Agency reserves the right to unilaterally amend these General Terms and Conditions. An amendment will also apply retrospectively in respect of agreements that were concluded prior to the amendment. An amendment

will not enter into force until 14 days after the Client or the Candidate has been notified of the amendment. The notification has no prescribed form. If the Client or the Candidate does not accept the amendment they will be entitled to terminate the Agreement effective from the date on which the amendment enters into force, but such termination shall not affect any right and liabilities of the Agency and Client that have arisen or accrued prior to such termination.

1.5 If any one or more of the provisions contained in these General Terms and Conditions (or part of any provision) is or are invalid, illegal or unenforceable, those provisions or parts of the provisions shall, to the extent required be deemed to be deleted and the remaining provisions contained in these General Terms and Conditions will continue to apply in full. In such cases the Agency and the Client will consult one another in good faith in order to agree on new provisions to replace the provisions that are invalid, illegal or unenforceable, in which context the intention and purport of the original provision will be taken into consideration to every extent possible.

1.6 The Agreement is not entered into under the condition of exclusivity, unless the parties agree otherwise, which must be confirmed in the Confirmation of Assignment. If the parties agree on exclusivity and the Client acts contrary to the agreed exclusivity the Client will be liable to pay to the Agency a sum as liquidated damages that is equal to the minimum fee referred to in Article 4 of these General Terms and Conditions, without prejudice to the Agency's right to recover the actual damage sustained if it exceeds the amount of the liquidated damages. The Client acknowledges and agrees that the liquidated damages represent a genuine pre-estimate of the damage that the Agency would incur or sustain as a result of a breach by the Client acting in contravention of any condition of exclusivity.

1.7 The rights and remedies provided in the Agreement and these General Terms and Conditions are cumulative and not exclusive of any rights and remedies provided by law.

1.8 No failure to exercise or delay in exercising any right or remedy under the Agreement or these General Terms and Conditions shall constitute a waiver thereof and no waiver by any party of any breach or non-fulfilment by the other party of any provision of the Agreement or these General Terms and Conditions shall be deemed to be a waiver of any subsequent or other breach of that or any other provision of the Agreement or these General Terms and Conditions, and no single or partial exercise of any right or remedy under the Agreement or these General Terms and Conditions shall preclude or restrict the further exercise of any such right or remedy.

1.9 Except for the Agency People and its affiliated companies, a person who is not a party to the Agreement shall have no right under the Contracts (Rights of Third Parties) Ordinance (Cap. 623 of the Laws of Hong Kong) to enforce or enjoy any right or benefit under the Agreement or these General Terms and Conditions.

Article 2: Conclusion of the Agreement

2.1 The manner in which the Client grants the assignment to the Agency for the provision of services has no prescribed form.

2.2 After the Client has granted the assignment, the Agency will be entitled to use the Client's name and/or logo in order to support the provision of the services and promotion of the Agency. To this end, the Client grants (or, as the case may be, shall procure the grant) to the Agency a royalty-free, non-exclusive licence to use the Client's name and/or logo to support the provision of the services and promotion of the Agency as contemplated by the terms of the Client's assignment to Agency.

2.3 If Client after the conclusion of the Agreement with the Agency withdraws the assignment provided by Client, or withdraws a vacancy still to be filled, or wishes to put the assignment or the filling of a vacancy 'on hold' for a period longer than four weeks, fundamentally or materially changes the job profile or fills a vacancy with an internal

candidate who is already in the employment of Client, then Client will owe to the Agency for each withdrawn assignment or vacancy a cancellation fee to the amount equal to half of the minimum fee as referred to in article four of these General Terms and Conditions.

Article 3: Agreement

3.1 If, between Client, as well as any companies affiliated to it in any manner whatsoever, and the Candidate proposed by the Agency, Concurrence exists within one year after the first Introduction, the Client will be obliged to provide notification in writing to the Agency regarding this within five working days from the coming into effect of the Concurrence, enclosing the full terms and conditions of the agreement between the Client (or, as the case may be, any of the Client's affiliated companies or businesses) and the Candidate. If the Client does not fulfil this obligation, any right to the arrangements as described in Article 8 of these General Terms and Conditions, will lapse. It is not of relevance to the question of whether Concurrence exists if the conclusion of a contract (whether an employment contract or otherwise) between the Client and the Candidate includes a provision regarding the proper completion of a probationary period, or that the proposed Candidate fills a different vacancy than the one for which he or she was introduced to the Client.

3.2 There is also Concurrence if a vacancy is still cancelled after Concurrence is reached.

3.3 If the Client does not inform the Agency in writing within five working days of the occurrence of the Concurrence about the implementation of the Concurrence, then the Client must immediately pay to the Agency a sum of HKD 100,000 as liquidated damages, without prejudice to the right of the Agency to invoice the Client a fee in conformity with Article 4, or as the case may be Article 3.4. The Client acknowledges and agrees that the above liquidated damages represent a genuine pre-estimate of the damage that the Agency would incur or sustain as a result of the Client's failure to comply with the provision of Article 3.1.

3.4 If so requested, Client shall provide Agency with full salary details and contract agreed and signed by the Candidate for the first year of his/her Agreement. Without prejudice to Article 3.1, if the Client fails to send full salary details to Agency within five working days after being requested to do so in writing, in respect of the contract and the Gross Annual Salary, including all fringe benefits, with regard to the relevant Candidate so that the Agency has an opportunity to charge the Client the fee that the Client owes in accordance with Article 4 of these General Terms and Conditions because of that lack of information, the Client will owe the Agency a fixed fee in the amount of HKD 350,000.

3.5 A Candidate referred to a Client by the original Candidate introduced to the Client by the Agency also remains a Candidate exclusively represented by Agency for a period of 12 months from the date of the referral. The referral is also subject to these General Terms and Conditions.

3.6 Up to a year after the end of the relevant agreement between the Client and the Agency, the Client is not permitted to solicit or otherwise offer any agreement to employ or engage the Agency's employees in any way whatsoever without the prior written consent of the Agency. If this prohibition and/or that which is determined in this article is violated the Client will owe the Agency a sum of HKD 500,000 as liquidated damages for each violation, without prejudice to the Agency's right to recover the damage actually sustained and regardless of the Agency's right to claim that which is determined in this article. The Client acknowledges and agrees that the above liquidated damages represent a genuine pre-estimate of the damage that the Agency would incur or sustain as a result of the Client's contravention of this article 3.6.

3.7 Where any Candidate introduced by Agency to the Client is already known to the Client within the last 12 months as a result of direct contact or contact through

another employment agency, the Client must notify Agency of that fact in writing before any first Interview arranged between Candidate and Client by the Agency, or within 5 working days from the Introduction, failing which the Client will be liable to pay the agreed Fee in the event of an Agreement and its Engagement of that Candidate.

Article 4: Fee

4.1 At the time of Concurrence between Client and a Candidate Client will owe to the Agency a fee over the Gross Annual Salary of the Candidate concerned, in conformity with the rates as described in article 4.2, but subject always to a minimum fee of HKD 100,000.

4.2

Gross Annual Salary	Fee
HKD 0 Up to HKD 500,000	HKD100,000,-
From HKD 500,000 up to HKD 719,999	23%
From HKD 720,000 up to HKD 959,999	25%
From HKD 960,000 (Retained Search)	27%

Article 5: Payment

5.1 The fee as recorded in Article 4 of these General Terms and Conditions, will be charged by the Agency to the Client [with an invoice date being the time of Concurrence between the Client and a Candidate].

5.2 When an Appointment has been filled, the Client will owe the fee referred to in Article 4 of these General Terms and Conditions. If prior to an agreement the Client has given notice in writing that it wishes to work with a purchase order, the Client will undertake to provide the Agency with a purchase order within 14 days of the date on which the Client and the Candidate have reached agreement. If the Client fails to provide the purchase order within that term the Agency will be free to charge the fee without a cover purchase order.

5.3 Invoices must be paid within and no later than 14 calendar days of the invoice date. If that payment term is exceeded, the Client will be in default and will owe default interest to the Agency on the outstanding amount at the rate of 10% per week from the date on which the invoiced amount (or part thereof) falls due until the date of full repayment. All payments by the Client shall be made in full and without any set-off, deduction and counterclaim whatsoever.

5.4 The parties may make different payment agreements, in the sense that the Client will owe a [Shortlist Fee] or [Retainer Fee] in the context of the assignment it grants to the Agency. Such payment agreements will be confirmed in the Confirmation of Assignment and a different payment term can or will apply in that respect.

5.5 If the Client does not protest against the content of the invoice within five calendar days after receiving the invoice, the Client will be deemed to have accepted the invoice and its contents.

5.6 Payment may be made only in legal tender in cash or by transfer to the Agency's bank account listed in the invoice, without any deductions whatsoever.

5.7 If the payment term referred to in Article 5.2 and/or confirmed in the Confirmation of Assignment is exceeded the Client will not be entitled to invoke the scheme described in Article 8 of these General Terms and Conditions. Also, in the case of exceeding the payment term any and all other outstanding invoices and other monies owed to the Agency shall become immediately due and payable.

5.8 If the Client fails to make any payment promptly and in full the Client shall indemnify and reimburse the Agency for any and all costs and expenses (including, but not limited to, legal fees) related to collection of any sums due to Agency.

5.9 Payments made by the Client will always be applied first in respect of any and all interest and costs payable, and subsequently in respect of the invoices that have been outstanding the longest, even if when making payment the Client explicitly states that the payment relates to a later invoice.

5.10 Where the candidate remuneration or an invoice is calculated in a currency other than Hong Kong dollars, the Agency reserves the right to convert the billing currency to Hong Kong dollars at the prevailing exchange rate applicable on the date of signed agreement between Client and Candidate.

5.11 Extraordinary travel expenses for Candidates to attend an interview either with Agency or the Client will be charged to the Client. Extraordinary travel expenses for Agency to attend/conduct interviews outside the consultant's place of work, as requested by the Client, will be charged to the Client. All costs for medical screening of a Candidate, as requested by the Client, will be charged to the Client. Any expenses incurred should Agency be required to assist with visas and work permits will be charged to the Client. Note: At no time will any of the above expenses be incurred without the Client's prior approval.

5.12 Should it emerge that Gross Annual Salary used to calculate the already Invoiced Fees is lower than what had been originally agreed in Concurrence, Agency reserves the right to charge and Client shall pay any additional Fees for the difference.

5.13 Any termination or suspension of this contract, or redundancy, liquidation, bankruptcy, dissolution, amalgamation or reorganisation of the Client, or the Candidate's termination due changes to the original job specifications or any circumstances beyond Agency's control, including but not limited to medical, compassionate, change of job scope, being headhunted by another company, merger or acquisition, "Force Majeure" (natural events such as earthquake, tsunamis, fire, etc) or if the cessation of employment results from illness or death of the Candidate shall not release the Client from its obligations of payment.

Article 6: Liability

6.1 The Agency shall not be liable for any loss, damage, demands, claims or costs and expenses whatsoever which is or is attributable to a Candidate. The Client must ensure that the Candidate is suitable for the Client and has the required (work) permits and/or visas, and/or other requested documents in his or her possession. The Agency will not be party in the agreement or arrangement between Client and a Candidate.

6.2 To the fullest extent of the law, the Agency shall not be liable for any damages, losses, claims, proceedings, suits, demands, costs and expenses whatsoever and howsoever arising that may be suffered or incurred by the Client or any person unless it is proved that there has been gross negligence or wilful default on the part of the Agency. The Agency is also not liable for any damage, loss or delay caused by the Candidate. Nothing in this Article is intended to limit any liability on the part of Agency which is not permitted by law, such as liability for death or personal injury caused as a result of any negligence on the part of the Agency.

6.3 The Agency shall not be liable for any losses due to delays, indirect or consequential damage, loss of profit, business interruption or loss of income.

6.4 In the event that in spite of the provisions contained in Articles 6.1 to 6.3 above the Client believes that it has a well-founded ground to hold the Agency liable, the Client must immediately notify the Agency of that alleged claim in writing, supported by documents and properly substantiated, on penalty of its rights lapsing.

6.5 Without prejudice to the provisions contained in Articles 6.1 to 6.3 above, any liability on the part of the Agency will be limited to the amounts paid to and received by the Agency from Client in the relevant calendar year for the work that it has performed related to the client claim.

Article 7: Duty of Confidentiality

7.1 The Agency and Client acknowledge that Confidential Information have been or may be disclosed to each other, and the Client has a duty of confidentiality in respect of the information regarding the Candidates. Any and all information regarding Candidates is strictly confidential

and must be handled and/or used in accordance with all applicable laws. If the Agency suffers or sustains any damage whatsoever as a result of the Client violating its duty of confidentiality or any applicable laws, the Client shall pay to the Agency on demand the sum of HKD 250,000 as liquidated damages for each violation, but without prejudice to the Agency's right to recover the damage actually sustained if it exceeds the amount of such liquidated damages. The Client acknowledges and agrees that the above liquidated damages represent a genuine pre-estimate of the damage that the Agency would incur or sustain as a result of the Client's breach of this Article 7.1

7.2 An Introduction shall be deemed Confidential Information and the Client shall not disclose an Introduction or any information about a Candidate to any third party. In particular, the Client shall not approach the Candidate's current employer or make the Candidate an offer of Engagement unless Client has express permission to do so from the Agency.

7.3 In the event that the Client communicates confidential information regarding a Candidate to a third party and that results in an employment contract or other agreement between that third party and the Candidate, the Client will owe a fee equal to 35% of the Gross Annual Salary of the Candidate during his or her first year of service at his new employer, inclusive of all fringe benefits.

7.4 The Agency and Client confirm that they will treat any personal data (as defined by Data Protection Laws) pertaining to the other Party or its Stakeholders, according to the Data Protection Laws.

7.5 Each Party is responsible to obtain any necessary consent from its Stakeholders whose personal data is required in connection with the Services, and provide any required notifications to any competent data protection authorities. The Client acknowledges that in order to benefit from certain added value services (such as online tools and systems that will facilitate the administration of the Services) it and its Stakeholders will have to consent to additional terms of use and privacy policies issued by Agency.

Article 8: End of Candidate's employment

8.1 If a Candidate's employment or engagement ends within eight weeks after the commencement of employment or engagement (as the case may be) because the Candidate chooses to stop or the Client terminates the contract with the Candidate or has it dissolved in that period because the Candidate has not performed satisfactorily – which the Client must substantiate with relevant documents – then the Agency can agree to search for a replacement on the original job description only and only upon first receiving full payment of fee as described in Article 5. The Agency agrees to commit to Introduction of at least three new possible replacement Candidates within three-week period after receiving payment, and Client agrees exclusivity with Agency and to not consider any Introductions from either direct contact or contact through another employment agency during this period. If no Introduction results in Agreement in this period, the Agency will hold as credit against future fees the Client part of the fee that it has received, equal to no more than 33% of the fee received by the Agency from the Client. This provision does not apply if the Candidate's unsatisfactory performance or the reason why the Candidate has stopped is attributable to the Client.

8.2 The Client must notify the Agency in writing in respect of the provisions contained in Article 8.1 within five calendar days as from the date of the termination of the Candidate's contract, or the date on which a termination agreement is signed by mutual consent (whichever is earlier), stating, with full particulars, the cause of the Candidate's stopping or the Candidate's unsatisfactory performance.

8.3 After the term referred to in Article 8.2 has expired the Client's right to invoke the scheme referred to in Article 8.1 will lapse. The Client will bear burden of proof in respect of

the Agency's being informed in writing within the term stipulated.

8.4 If the situation referred to in Article 8.1 arises, this will not entitle the Client to suspend any payment obligation under the Agreement, nor will the Client be entitled to set off any amount.

8.5 The provisions contained in Article 8.1 does not apply if the Candidate termination is due to redundancy or the liquidation, bankruptcy, dissolution or amalgamation or reorganisation of the Client or due to changes to the original job specifications or any circumstances beyond Agency's control, including but not limited to the following reasons: medical, compassionate, change of job scope, being headhunted by another company, merger or acquisition, "Force Majeure" (natural events such as earthquake, tsunamis, fire, etc) or if the cessation of employment results from illness or death of the Candidate.

8.6 In the event that the Candidate's employment is ended within the guarantee period and replacement scheme is applied by the Client, and that Candidate is re-engaged and employed again by the Client within 24 months after the original Appointment, the Client will owe Agency the full original fee.

Article 9: Continuous Obligations

Obligations, which by their nature are intended to continue also after the expiry of the Agreement, retain their effect thereafter. These obligations include inter alia: provisions with regard to the duty of confidentiality and the non-compete and non-solicitation clause.

Article 10: Applicable law and disputes

10.1 All Agreements between the Agency and the Client shall be governed by and construed in accordance with the laws of Hong Kong, even if the Agreement has an international character.

10.2 Any and all disputes – including disputes that only one of the parties deems to be such – arising between the Client and the Agency in connection with this Agreement or the agreements ensuing from it (including as to its formation) will be submitted to the exclusive jurisdiction of the Hong Kong courts.

Article 11: Execution:

11.1 These General Terms and Conditions govern all offers, requests for offers, quotations and agreements with respect to the provision of services by Silicon Valley Associates (HK) Limited, and/or any of its affiliated companies to a party. These General Terms and Conditions govern all contractual relationships as well as all non-contractual relationships between the parties.

11.2 The parties may make additional or varying agreements to the terms outlines in this document. Such agreements will be confirmed in a separate Confirmation of Terms and Conditions of Service document and different term can or will apply in that respect. If the Agency does not received a signed copy of the separate Confirmation of Terms and Conditions of Service document within 5 working days of the date, the additional/varying agreements can cease to apply and the Agency can assume that the Client prefers the applicable standard conditions explained here