

Terms & Conditions : Associates

The following are the **TipTopJob Associate** Terms & Conditions of **TipTopJob (International) Limited** and includes **TipTopGroup Ltd, TipTopJob (UK) Ltd, TipTopJob Inc & TipTopJob (Australia) Pty Ltd** plus any other subsidiary or associated companies from anywhere in the world and supersede any previous versions for any **TipTopJob** group company and includes anything that relates to the Internet sites of **TipTopJob.com** or any Country related sites or the associated Industry market sites, known as **theXjob.com** sites, all referred to as '**TipTopJob**' hereafter. These Terms & Conditions supplement an **Independent Business Associate** ("Associate") and will apply to all personnel employed by the **Associate's** business or companies. Any changes to the **Associate** Terms & Conditions will apply to all **Associates** and staff or sub-Agreements of the **Associate** and will take effect immediately on notification to the **Associate** by **TipTopJob**.

LEGAL REPRESENTATION

TipTopJob will appoint an **Associate** to operate in a Territory which will be defined as one or more Countries which may be allocated to certain Counties/States (hereinafter called the 'Territory'), to sell the **TipTopJob** Services. The **Associate** will be able to represent and use the **TipTopJob** logo and use **TipTopJob** as a name under licence for selling purposes whilst the **Associate** has a valid current **Associate** Agreement ("the Agreement") from **TipTopJob**. The **Associate** will ensure that all documentation produced by the **Associate** for the purposes of carrying out its obligations under the Agreement must state that the **Associate** is operating under a licence from **TipTopJob (International) Limited**. On termination of the Agreement for whatever reason the **Associate** shall immediately cease to use the **TipTopJob** logo or name under any circumstances. All outstanding revenue owed to the **Associate** up to the last working day within the Agreement period will be paid to the **Associate** under the terms below. In the event of conflict between these terms and the Agreement, the Agreement shall take precedence.

OFFICES

TipTopJob have serviced offices in places around the world whereby they provide a serviced office facility where they operate their own staff. In certain Territories, **TipTopJob** will operate its own support personnel for Marketing, Technical Support or Financial Accounting. **TipTopJob** will pay for its own serviced office costs and any forwarding costs associated with their requirements and the facility will be in place regardless if an **Associate** is operational.

OPERATIONAL OFFICES

If the **Associate** is using the same serviced offices - they are normally based on an individual basis and called a 'workstation' that relates to a desk, chair and some cupboard space. There are additional staff costs for each telephone handset and Internet connection, charged per month and a set charge for Tea & Coffee making facilities. A deposit will be payable to the service office provider at the start of the Agreement and held until the Office Agreement is terminated. There will be monthly charges, payable by the **Associate** in arrears, for Telephone and Fax call charges, any telephone answering or forwarding service; and any Business Services (Typing; Faxing; Secretarial time). The Office Provider does not normally include any PC equipment so the **Associate** will need to supply equipment that can access the Internet and assist in performing the Services.

IT EQUIPMENT

All main Servers that are required to operate the **TipTopJob** services will be provided and operated by **TipTopJob** in locations that it finds suitable around the world. The **Associate** will need to supply PC equipment for their staff which will need to support Microsoft Internet Explorer, Microsoft Word and Outlook Express/Windows Mail as a minimum, and have access to the Internet using Broadband/DSL connections. A shared printer will be needed for printing Agreements and Documents along with some other basic administration equipment. It would be appropriate for all Users to be linked on a local network.

HOURS OF WORK

The **TipTopJob** services are available normally 24 hours a day, 7 days a week and can be accessed from anywhere in the world via the Internet. It will be expected that the minimum office hours that will be operated by Sales staff will be 09:00 to 17.30, Monday to Friday, in the local office in the Territory, unless the Country operates a different business day format whereby the normal working day format would be used and agreed with **TipTopJob** in the Agreement. Support staff will be required to work some shift work dependent on the size of the market and this will be agreed in the **Associate** Agreement.

CRIMINAL RECORD

It is required that the Associate procures that anyone on its Staff with a criminal record must declare it either before employment starts or when convicted, and the **Associate** must have the right to remove that member of staff forthwith. The **Associate** will indemnify **TipTopJob** against any fraudulent access to the **TipTopJob** systems by members of the **Associate's** staff.

HOLIDAYS

It will be expected that cover will be maintained at all times at the local office for both Sales and Support personnel as specified in the **Associate** Agreement.

CONFIDENTIALITY

You shall not (except in the proper performance of your duties) either during or after the Agreement period with **TipTopJob** divulge to any person whom so ever and shall use your best endeavours to prevent the publication or disclosure of any trade secret or manufacturing process or any information concerning the business finances research development dealings transactions or affairs of **TipTopJob** or of any customer of **TipTopJob** which may have or may come to your knowledge during the course of the **Associate** Agreement with **TipTopJob**. *The Associate will make this an item in its Employment Terms for any staff employed.*

DELIVERY UP OF DOCUMENTS

Upon termination of the **Associate** Agreement with **TipTopJob** or upon prior demand by **TipTopJob** you shall immediately deliver up to **TipTopJob** all training manuals, plans, design specification, keys, programs, lists of customers, technical literature, contact lists, correspondence and other document papers and property belonging to **TipTopJob** or its customers which may have been prepared by you or have come into your possession in the course of working with **TipTopJob** and you shall not retain any copies thereof. The Associate shall not take copies or copy details of any document belonging to **TipTopJob** or use the information to **TipTopJob's** Commercial disadvantage. *The Associate will make this an item in its Employment Terms for any staff employed.*

GRIEVANCE PROCEDURE

Any dispute arising out of or in connection with the Agreement of these Terms and Conditions shall first be negotiated in good faith by the parties and, failing resolution of such dispute within 14 days, shall then be referred to arbitration in London of a single arbitrator appointed by agreement between the parties or, in default of agreement, nominated on the application of either party by the President for the time being of The Law Society in the United Kingdom.

COMPUTER SOFTWARE & EMAILS

The **Associate** will ensure that all PCs supplied for the purposes of performing its obligations under the Agreement shall have valid software licences for operation on the network. All information requested from Clients or Candidates must be received at the approved **TipTopJob** Email address. Under no circumstances is information to be requested and sent to any personal email address or any competitor organisation. The **Associate** and its staff will not use the email system for any personal messages and will refrain from sending or receiving non-business material. **TipTopJob** will have the right to review any **TipTopJob** email accounts at anytime and will monitor them for valid use.

No copies may be taken of any Software or any Data from **TipTopJob** except with written authority by a Director of **TipTopJob**. The **Associate** and their staff must not use or retain Company information on any Laptop or Personal Organiser. Any **TipTopJob** Company Laptops that are provided must not have anything copied from them and must be returned immediately on request once termination notice has been given.

DISCLOSING INTELLECTUAL PROPERTY

You will promptly disclose to **TipTopJob** and keep confidential all inventions, copyright works, designs or technical know-how conceived or made by the **Associate** or with others that work with the **Associate** in the performance of its obligations under the Agreement. The **Associate** will hold all such intellectual property in trust for **TipTopJob** and will do and/or procure everything necessary or desirable at **TipTopJob's** expense and request to vest the intellectual property fully in **TipTopJob** and/or to secure appropriate forms of protection for the intellectual property. Decisions as to the protection or exploitation of any intellectual property shall be in the absolute discretion of **TipTopJob**.

INTELLECTUAL PROPERTY

During the course of the Agreement the fulfilment of its duties may result in the Associate making or participating in the making of new and original inventions and implementing improvements by means of such inventions and the creation of plans and documents or other intellectual property.

In these clauses the expression "Intellectual Property" shall mean every invention, discovery, development, process, formula, design, program or improvement (collectively referred to as 'Inventions'); and every copyright work or design in which copyright or design rights may subsist and moral rights as defined by the UK Copyright, Designs and Patents Act 1988 (collectively referred to as 'Works').

If at any time, during the Term of the Agreement period, the Associate makes or discovers or participates with another or any others to make an Invention it must immediately disclose to **TipTopJob** in confidence full details of any such Invention to allow **TipTopJob** to determine the ownership of the Inventions in accordance with these Clauses and subject to the UK Patents Act 1977.

Inventions made or originated wholly or substantially in the course of the Associate's normal duties or in the course of duties falling outside its normal duties, but specifically assigned to the Associate and the circumstance in either case were such that Inventions might reasonably be expected to result from its carrying out these duties, or in the course of its duties, at the time of making the Inventions, because of the nature of those duties it had a special obligation to further the interest of **TipTopJob's** undertaking the following sub-clauses of this Clause shall apply.

Such Inventions (or in the case of Inventions made or originated by the Associate jointly with another or others to the full extent of its interest therein so far as the law allows) shall be held by the Associate in trust for **TipTopJob** and shall be, subject to s39 of the UK Patents Act 1977, held by the Associate in trust for **TipTopJob** belong to and become the absolute property of **TipTopJob** and shall not be disclosed to any other person, firm or company without the consent of **TipTopJob** being previously obtained.

The provisions of this Clause shall not entitle the **Associate** or any of its staff to any compensation beyond the standard arrangements specified in the Agreement. **TipTopJob** shall only be bound to provide the appropriate person or persons with additional reward in the case of any Inventions on which a British Patent has been granted or assigned to **TipTopJob** and in respect of which **TipTopJob** has derived outstanding benefit from such patent, in which case these people may be entitled by virtue of s40 of the UK Patents Act 1977 to claim additional compensation.

If and when required by **TipTopJob** and at the expense of **TipTopJob**, the Associate and or its contractors or employees will provide **TipTopJob** with all such documents and information and such assistance and do and/or combine with others in doing all acts and sign and execute all applications and other documents (including Powers of Attorney in favour of nominees of **TipTopJob**) necessary or

incidental to applying for obtaining and maintaining or extending patent or other forms of protection for such Inventions in the UK and in any other part of the world or for transferring to or vesting in **TipTopJob** or its nominees their entire right title and interest to and in such Inventions or to and in any application, patent or other form of protection as the case may be including the right to file applications in the name of **TipTopJob** or its nominees for patent or other forms of protection in any country claiming priority from the date of filing of any application or other date from which priority may run in any other country.

If the Inventions are not the property of **TipTopJob** pursuant to these Clauses **TipTopJob** shall subject to the provisions of s40 of the UK Patents Act 1977 have the right to acquire for itself or its nominee the rights in the Inventions and in such circumstances the Associate and/or its contractors or employees shall deliver to **TipTopJob** all documents and other materials relating to the Inventions. **TipTopJob** shall pay the Associate such compensation as it in its absolute discretion determines fair and reasonable.

If the Associate creates any Works during the Agreement period then the **Associate** shall hold them in trust for **TipTopJob** and all copyright and design rights in such Works shall be the absolute property of **TipTopJob** in accordance with the UK Copyright, Designs and Patents Act 1988. The Associate agrees to waive all its rights as granted by Chapter IV of Part I of the UK Copyright, Designs and Patents Act 1988, in respect of any acts of **TipTopJob** or any acts of third parties done with **TipTopJob**'s authority or in relation to any Works which are the property of **TipTopJob** by virtue of this Clause and the Associate shall, at the request and expense of **TipTopJob**, do all things necessary or desirable to substantiate the rights of **TipTopJob** under this Clause.

The provisions of these Clauses shall remain in force and effect notwithstanding that after these people made or originated any such Intellectual Property the Agreement may have terminated. The provisions of these Clauses shall be binding on the Associates permitted assigns and representatives.

TRANSLATIONS

The **TipTopJob** and **theINDUSTRYjob** sites have documentation that offer multi-lingual translations for some pages and some of the menu pages. It will be expected that assistance will be required in translating pages where that language is used in the **Associate's** allocated Territory.

SALES OR GOVERNMENT TAX

Where appropriate, Sales or Government taxes will be added automatically by **TipTopJob** to all Invoices as required by the Tax rules for each appropriate Country. All rates are generally advertised **without** the Tax and that must be stated in any literature produced by the **Associate**. Where it is a requirement to show the amount as a Gross Amount (i.e. with the tax included) then this will be highlighted. The rules for Government Taxes are different around the world but the Tax understanding is as follows:

- If **TipTopJob** has an operational Sales office in the same country as the person buying then normally a Value added or Sales Tax is payable on all amounts invoiced, at the applicable rate for that country.
- For Countries in the European Union (EU) and where there is no **TipTopJob** Sales office, VAT is payable at the following rates: If the Client is registered locally for VAT and can provide a valid VAT registration, a zero rate is applied. In all other cases, the appropriate VAT rate for Advertising Services from the supplying Country is chargeable.
- For Countries outside the EU and where **TipTopJob** does not have an operational Sales office in the same country as the Client buying then normally an exempt Tax is applied.

TipTopJob has the right to change this tax immediately, or even back date, if any local Country changes the rules to Internet sales.

PAYMENTS & CURRENCY

Payment is required to **TipTopJob** in advance by form of cheque, money order, Bank transfer or by credit card. All payments are payable to **TipTopJob** in the appropriate country at its appropriate Bank

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You only need one job, so get a TipTopJob

Account. Under no circumstances must any payments be made to the **Associate's** Company or Business.

Credit Card payments are currently operated by World Pay Plc, a company owned by the Royal Bank of Scotland plc.

TipTopJob will make payment to the **Associate** on all monies received within each month, one month in arrears in accordance with the Agreement, and be paid direct into their nominated Bank account. Unless specified differently, payments will be paid in Sterling at the Exchange Rate of that day and any Bank charges will be at the **Associates** expense. Any Credit Card payments which are rejected must be refunded immediately. **TipTopJob** will have the right to deduct monies owing to the Associate for any rejected charges.

If **TipTopJob** receives rejected charges more than 2% of the average monthly income then **TipTopJob** will require a retainer to that value to be held by them.

STAFFING

The Associate will agree an employment plan for both Sales and Support staff in the **Associate** Agreement.

HQ SUPPORT

TipTopJob will supply Technical support to the **Associate's** own Support staff who must supply first line support to the Clients in the Territory. All communication with Clients and Candidates must only be done through the Associate's own staff. **TipTopJob** will supply Marketing & PR support on a global basis and will require local articles from the **Associate** to add to the static information pages.

FORECASTS

TipTopJob will agree with the **Associate** minimum Monthly targets for Activity covering Jobs registered; Candidate Registrations; Client Registrations; and Unique Visitors for its allocated Territory.

TipTopJob will agree with the **Associate** minimum Quarterly targets for Sales performance which the Associate will be measured. The **Associate** will also set a more aggressive target to obtain Bonuses.

Forecasts will be reviewed quarterly to assess the success of the **Associate**.

MANAGEMENT REPORTING

The **Associate** may be required to supply Management Reports on a monthly basis in a format acceptable to **TipTopJob**.

GOOD FAITH

Each of the Parties undertakes with the other to do all things reasonably within its power which are necessary or desirable to give effect to the spirit and intent of this Agreement, and to deal with each other under this Agreement and in all respects in good faith.

FURTHER ASSURANCE

The Parties shall, and shall use their respective reasonable endeavours to procure that any necessary third parties shall, do, execute and perform all such further deeds, documents, assurances, acts and things as any of the Parties hereto may reasonably require by notice in writing to the other to carry the provisions of the Agreement into full force and effect.

RIGHTS OF THIRD PARTIES

This Agreement is not intended to convey a benefit on any person not a party to it and accordingly the provisions of the Contracts (Rights of Third Parties) Act 1999 are excluded.

CONDUCT OF THIRD PARTY CLAIMS

If **TipTopJob** shall receive any claim made by a client or customer introduced by the **Associate** (“a Third Party Claim”), which might constitute or give rise to a liability to **TipTopJob**, the **Associate** shall (at its own cost):-

- take such action as **TipTopJob** may reasonably request to avoid, dispute, resist, appeal, compromise or defend or mitigate any such third party claim;
- not make any admission of or settle or compromise any liability which **TipTopJob** may have in relation to the Third Party Claim without the prior written consent of **TipTopJob** such consent not to be unreasonably withheld or delayed;

and

- if so required by **TipTopJob** in writing retain solicitors at the **Associate's** expense chosen by **TipTopJob** to proceed on behalf of **TipTopJob** in relation to the Third Party Claim in accordance with the instructions of **TipTopJob** and give such solicitors all such assistance and information as they may reasonably require;

NATURE OF AGREEMENT

TipTopJob may assign this agreement and its rights and obligations under this Agreement.

This agreement is personal to the **Associate**, which may not without the written consent of **TipTopJob**, assign, mortgage, charge (otherwise than by floating charge) or dispose of any of its rights, or sub-contract or otherwise delegate any of its obligations under this Agreement.

The **Associate** shall not without the prior written consent of **TipTopJob** employ sub-**Associates**; if with such consent it does so, every act or omission of the sub-Associate shall for the purposes of this Agreement be deemed to be the act or omission of the **Associate**.

Nothing in this agreement shall create, or be deemed to create, a partnership or the relationship of employer and employee between the parties.

References in this Agreement to the Parties shall include their respective heirs' successors in title permitted assigns and personal representatives.

This Agreement contains the entire agreement between the parties with respect to the subject matter of this Agreement, supersedes all previous agreements and understandings between the parties with respect thereto, and may not be modified except by an instrument in writing signed by the duly authorised representatives of the parties.

Each party acknowledges that, in entering into this Agreement, it does not do so on the basis of, and does not rely on, any representation, warranty or other provision except as expressly provided in this Agreement, and all conditions, warranties or other terms implied by statute or common law are by this Agreement excluded to the fullest extent permitted by law.

GOVERNING LAW

These terms and conditions shall be interpreted in accordance with English law and the English courts shall decide all disputes.