

GENERAL TERMS & CONDITIONS RECRUITMENT & SELECTION MIDDLE POINT BV

1. DEFINITIONS

Middle Point: Middle Point BV acting under the name Middle Point.

Client: the natural person or legal entity with whom/which Middle Point enters into the Assignment.

Assignment: the agreement between the Client and Middle Point by virtue of which Middle Point performs recruitment and selection activities on behalf of the Client.

Assignment Confirmation: the document sent by Middle Point to the Client effecting the Assignment. The Assignment Confirmation in any case contains a description of the procedure to be followed, the Fee(s), expenses and the payment mode.

Candidate/Candidates: the one(s) involved in the recruitment and selection by Middle Point on behalf of the Client.

Fee: the compensation owed by the Client to Middle Point in accordance with the Assignment.

Parties: Middle Point and Client.

2. APPLICABILITY

- 2.1 These general terms and conditions shall apply to all offers and tenders of Middle Point, introductions of Candidates by Middle Point and Assignments to Middle Point.
- 2.2 The applicability of general terms and conditions of Client is explicitly excluded.
- 2.3 The Assignment, including the general terms and conditions, and including documents and annex(es) referred to in the Assignment, replace any previous (written and verbal) agreements. An amendment of the Assignment is solely valid when agreed in writing between Middle Point and Client.
- 2.4 Derogations from these general terms and conditions shall exclusively be agreed in writing in the Assignment by the Parties.
- 2.5 If one or more stipulations of these general terms and conditions or the Assignment is declared invalid, unlawful or unfeasible, such shall not – in any way – impair or diminish the validity, legality and feasibility of the remaining stipulations. If and to the extent that the general terms and conditions and/or the Assignment do not provide an arrangement or provision regarding a particular situation of material importance, Parties shall as soon as possible consult and to the best of their abilities attempt to come to an agreement regarding an addition or amendment of these general terms and conditions and / or the Assignment which shall largely correspond with the stipulations of the general terms and conditions and / or as set out in the Assignment.

3. DURATION AND TERMINATION OF THE ASSIGNMENT

- 3.1 The Assignment is entered into for a definite or indefinite duration. The Assignment with a definite duration ends by operation of law at the time the agreed period expires. Extension of the Assignment with a definite period is exclusively possible if agreed in writing between the Parties.

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- 3.2 Interim termination of the Assignment by the Client is exclusively possible if agreed in writing between the Parties. In case of an interim termination by the Client, Middle Point retains the right to charge the Client the Fee as stated in the Assignment Confirmation, plus the actual expenses/costs incurred. Interim termination in the context of this paragraph also includes the interim amendment of the function profile in the broadest sense of the word.
- 3.3 In all cases the Assignment terminates at the time that the Client directly and / or by means of third parties enters into an employment relationship of any kind with a Candidate introduced by Middle Point.
- 3.4 Assignments between Middle Point and the Client can be terminated without judicial intervention and without requiring any notice of default at the time that:
- Client is liquidated or declared bankrupt;
 - Client has applied for a temporary suspension of payments;
 - Client is placed under guardianship;
 - Seizure of property of Client is effected;
 - Client in other respects loses full or partial power of disposition of its assets or parts thereof;
 - Recovery of current or future debts cannot be guaranteed in the opinion of Middle Point.

4. EXECUTION OF THE ASSIGNMENT

- 4.1 Middle Point shall lay down in writing the relevant vacancy of the Client in the form of a function description in the Assignment Confirmation. Preferably and to the extent possible, in any case included shall be: the content of the function, the desired profile of the required Candidate on the basis of competence and skills, the external influences regarding the placement of the Assignment and the assessment criteria regarding the selection of the Candidate.
- 4.2 Middle Point shall make an effort to nominate one or more Candidates on the basis of the function description referred to in the first paragraph of this clause.
- 4.3 Middle Point is responsible for an appropriate execution of the Assignment. By accepting the Assignment, Middle Point has a performance obligation. Nominations of Candidates are effected in accordance with best perception and pursuant to standards of professional expertise.
- 4.4 If Parties agree on a time frame within which the Assignment is to be concluded, these agreements should be considered indicative. Middle Point does not accept any liability hereto.
- 4.5 Middle Point is not responsible for information and details provided by the Client in the scope of the Assignment and Middle Point assumes the provided information and details to be correct.
- 4.6 Middle Point assumes that information and details provided by the Candidate regarding himself/herself or those of references regarding the Candidate, is correct.
- 4.7 Middle Point shall act impartial in the assessment of Candidates.
- 4.8 In the scope of the Assignment, Middle Point shall not accept remuneration in whatever form of any other than the Client. Middle Point in any case shall not develop activities within the field of reciprocal mediation.

5. FEE AND COSTS

- 5.1 The Client shall owe Middle Point the agreed Fee at least as soon as it enters into an employment agreement of whatever form with the Candidate – either directly and / or through or on behalf of third parties. If the aforementioned employment relationship is terminated by the Client within one year after commencement of the employment relationship pursuant to an urgent cause in accordance with Section 677, Subsection 1, Book 7 of the Dutch Civil Code, Middle Point shall at the written request of the Client perform the Assignment again for no consideration under the previously agreed conditions. The content of the preceding sentence shall also apply if the employment relationship is terminated during the trial period, irrespective of the cause and irrespective on whose initiative the employment relationship terminates.
- 5.2 The Fee shall be 25% percent of the gross annual income (based on a full-time employment) that the Candidate shall earn at the Client, supplemented by the guaranteed bonus, bonus or profit-sharing bonus.
- 5.3 All expenses/costs incurred by Middle Point pursuant to the Assignment Confirmation, shall be charged to the Client.

6. INVOICING

- 6.1 Payment should occur within 30 (thirty) days post invoice date by transferring the amount to the bank account referred to on the invoice by Middle Point.
- 6.2 Client pays all invoices without deduction and sett-off, without deferment because of alleged or actual accountable default and without allowing Client blockade of his payment obligation by sequestration or other.
- 6.3 If Client fails to pay within the term referred to in paragraph 2 or the explicitly agreed payment term, the Client is in default by operation of law and owes the statutory commercial interest pursuant to Section 119a, Book 6 of the Dutch Civil Code up to the moment of settlement of the invoice amount in full.
- 6.4 All costs, including costs for judicial proceedings and costs of extrajudicial claims that Middle Point incurs within the scope of the agreed Assignment or claimed against Middle Point, are for the account of Client. Extrajudicial costs are determined to be at least 15% of the amount owed with a minimum of € 450.00, unless the extrajudicial costs are more, in which case the actual extrajudicial costs are paid by the Client in full.
- 6.5 Payment by or on behalf of Client are used to compensate for the (extra)judicial costs owed, the interests owed and subsequently in chronological order the outstanding main sums, without prejudice to different directions by Client. Middle Point is entitled to refuse full settlement of the main sum if it excludes the interest and costs owed.
- 6.6 In case of a joint Assignment, Clients are separately and jointly associated towards Middle Point.
- 6.7 Client relinquishes any right towards settlement of reciprocal amounts.

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MIDDLE POINT BV****7. PROHIBITION ON EMPLOYMENT OF CANDIDATES**

- 7.1 During the duration of the Assignment and for a term of 12 (twelve) months after its termination, Middle Point shall refrain from approaching employee(s) of the Client for a function elsewhere, unless the wish to change of function is expressed by those employee(s) themselves.
- 7.2 If Client, operating company, affiliate or subsidiary company, at least a (legal) entity in any way liaised to the Client, during the 12 (twelve) months after the termination of the Assignment in relation to a Candidate introduced by Middle Point – and rejected by Client – approaches such Candidate directly and / or through or on behalf of third parties and enters into an employment relationship or any kind of cooperation, the total Fee agreed in the Assignment Confirmation shall become immediately due to Middle Point and payable by Client.

8. PROHIBITION ON EMPLOYMENT OF STAFF OF MIDDLE POINT

- 8.1 Client is not allowed to employ (former) employees of Middle Point during the formation and / or execution of the Assignment or any other agreement between Parties, as well as during a period of 12 (twelve) months after its termination, either directly or indirectly, or hire their services in any other way, or use or hire the services of an enterprise where the relevant employee of Middle Point has become director, manager, mandatory or authorized representative, all under an immediately payable penalty of €25,000.00 which is not subject to mitigation.

9. CONFIDENTIALITY

- 9.1 Parties shall not disclose any confidential information obtained in the course of the formation and execution of the Assignment.

10. BREACH AND LIABILITY

- 10.1 Middle Point shall never be liable for damage and / or loss – including consequential loss – as a result of acts and / or omissions by a Candidate introduced by Middle Point with whom the Client has entered into an employment relationship of any kind, either directly and / or through or on behalf of third parties, as (well as) a result of the execution of the Assignment by Middle Point.

11. DISPUTES

- 11.1 Netherlands jurisdiction, excluding any other jurisdiction, applies to the general terms and conditions and its interpretation, as well as to all offers, tenders and nominations by Middle Point, the agreement with Client and any consecutive agreements.
- 11.2 All disputes arising from these general terms and conditions, its interpretation and execution, as well as related to all offers, tenders and introductions by Middle Point, the agreement with Client and any consecutive agreements, are in first instance submitted to the competent Court of Amsterdam, without prejudice to the right of Middle Point to institute legal proceedings against the Client before any other competent Court.

Amsterdam, 17 September 2018

Maarten van Haren
On behalf of the management board of Middle Point BV