



# The Property VA

## Terms of Business

VA Agency and Support Services

### **IMPORTANT NOTE:**

This TOB is separate from the Service Agreement that you must sign with the Virtual Assistant. The Property VA will provide a template for clients to use as a basis to negotiate with the Virtual Assistant.

### **Section 1: Background**

**Outsourcing Agency:** The Property VA

**Client:** the person, firm or corporate body to whom Outsourcing Agency Introduces a Candidate and/or retains as a VA training support provider

**Candidate:** refers to the Virtual Assistant rendering the services to the client

### **Services:**

1. Introduction to Client of a VA Candidate
2. Facilitation of engagement by client of candidate(s)
3. Regular support provided to both candidate/VA and client
4. Weekly training in property lead generation services to VA(s)

### **Training Topics Covered:**

1. Lead generation strategies
2. Pipeline systemisation
3. Direct to vendor campaigns
4. Use of third party suppliers for DTV marketing campaigns
5. Other topics relevant to lead generation in general

### **Charges/Fees:**

Client agrees to pay Outsourcing Agency a monthly fee of 15% of the Virtual Assistant's monthly salary.

**Minimum contract:**

The minimum contract to use The Property VA's VA Support Services is 3 months. (The minimum contract to engage the VA's services may be different. It can be as short as 1 month's trial.)

**Termination/Notice Period:**

The notice period to terminate the contract is 30 days.

**Section 2: Standard Terms**

## 1. Definitions

## 1.1 In these Terms -

"Conduct Regulations" means the Conduct of Employment Agencies and Outsourcing Agencies Regulations 2003 (as amended);

"Data Controller" means (i) "data controller" in the Data Protection Act 1998 in respect of processing undertaken on or before 24 May 2018; and (b) "controller" in accordance with the General Data Protection Regulation (EU) 2016/679 in respect of processing undertaken on or after 25 May 2018;

"Data Protection Legislation" means all applicable laws and regulations, as amended or updated from time to time, in the United Kingdom relating to data protection, the processing of personal data and privacy, including without limitation, (a) the Data Protection Act 1998; (b) (with effect from 25 May 2018) the General Data Protection Regulation (EU) 2016/679; (c) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (as may be amended by the proposed Regulation on Privacy and Electronic Communications); and (d) any legislation that replaces or converts into United Kingdom law the General Data Protection Regulation (EU) 2016/679, the proposed Regulation on Privacy and Electronic Communications or any other law relating to data protection, the processing of personal data and privacy resulting from the United Kingdom leaving the European Union;

"Engagement" means the engagement, employment or use of the Candidate by Client or by any Third Party to whom or to which the Candidate was Introduced by Client (whether with or without Outsourcing Agency's knowledge or consent) on a permanent or temporary basis, whether under a contract of service or for services; under an agency, license, franchise or partnership agreement; or through any other engagement directly or through a limited company of which the Candidate is an

officer or employee or through a limited liability partnership of which the Candidate is a member or employee; or indirectly through another company and “Engages” and “Engaged” will be construed accordingly;

“Introduction” means –

the passing of a curriculum vitae or information about the Candidate; or

the interview of a Candidate in person or by telephone

and the time of the Introduction will be taken to be the earlier of (a) and (b) above; and “Introduced” and “Introduces” will be construed accordingly;

“Personal Data” means as set out in, and will be interpreted in accordance with Data Protection Legislation;

“Personal Data Breach” means the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise Processed in connection with these Terms or which relates to any Candidate;

“Process” means as set out in, and will be interpreted in accordance with Data Protection Legislation and “Processed” and “Processing” will be construed accordingly;

“Remuneration” includes base salary or fees, guaranteed and/or anticipated bonus and commission earnings, allowances, and all other payments or emoluments payable to or receivable by the Candidate for work (or for services where applicable) to be rendered to or on behalf of Client.

“Terms” means these terms of business as further defined within clause 2;

“Third Party” means any company or person who is not Client. For the avoidance of doubt, subsidiary and associated companies of Client (as defined by s.1159 of the Companies Act 2006 and s.416 of the Income and Corporation Taxes Act 1988 respectively) are included (without limitation) within this definition; and

“Training” means weekly workshops provided by The Property VA

“Vacancy” means a specific role/s, work or position that Client requests Outsourcing Agency to submit person for consideration for such role/s work or position.

## 2. These Terms

2.1 These Terms constitute the entire agreement between Outsourcing Agency and Client in relation to the subject matter hereof and are deemed to be accepted by Client and to apply by virtue of (a) an Introduction to Client of a Candidate; or (b) the Engagement by Client of a Candidate; or (c) the passing of information about the Candidate by Client to any Third Party; or (d) Client’s interview or request to interview a Candidate; or (e) Client’s signature at the end of these Terms; or (f) any other written expressed acceptance of these Terms. For the avoidance of doubt, these Terms apply whether or not the Candidate is Engaged by Client for the same type of work and/or Vacancy as that for which the Introduction was originally effected.

2.2 These Terms supersede all previous agreements between the parties in relation to the subject matter hereof.

2.3 These Terms prevail over any other terms of business or purchase conditions put forward by Client save where expressly agreed otherwise by Outsourcing Agency.

2.4 Client authorises Outsourcing Agency to act on its behalf in seeking a person to meet Client’s requirements and, if Client so requests, shall advertise for such a person through such methods as are agreed with Client and at Client’s expense.

2.5 For the purposes of these Terms, Outsourcing Agency acts as an Outsourcing Agency as defined within the Conduct Regulations.

## 3. Obligations of Outsourcing Agency

3.1 Outsourcing Agency shall use reasonable endeavours to introduce at least one suitable person to meet the requirements of Client for each Vacancy. Outsourcing Agency cannot guarantee to find a suitable person for each Vacancy. Without prejudice to clause 3.2 below, Outsourcing Agency shall use reasonable endeavours to ascertain that the information provided by Outsourcing Agency to Client in respect of the Candidate is accurate.

3.2 Outsourcing Agency accepts no responsibility in respect of matters outside its knowledge and Client must satisfy itself as to the suitability of the Candidate.

#### 4. Client Obligations

4.1 Client shall satisfy itself as to the suitability of the Candidate. Client is responsible for obtaining work permits and/or such other permission to work as may be required, for the arrangement of medical examinations and/or investigations into the medical history of any Candidate, for criminal records and/or background checks and for satisfying other requirements, qualifications or permission required by the law and regulations of the country in which the Candidate is engaged to work.

4.2 To enable Outsourcing Agency to comply with its obligations under clause 3 Client undertakes to provide to Outsourcing Agency details of the position which Client seeks to fill, including the type of work that the Candidate would be required to do; the location and hours of work; the experience, training, qualifications and any authorisation which Client considers necessary or which are required by law or any professional body for the Candidate to possess in order to work in the position; and any risks to health or safety known to Client and what steps Client has taken to prevent or control such risks.

4.4 Client agrees that it shall inform the Outsourcing Agency of any information it has that suggests it would be detrimental to the interests of either Client or the Candidate for the Candidate to work in the position which Client seeks to fill.

4.5 Client agrees to provide written notice to Outsourcing Agency within 3 working days where it receives details of a Candidate from Outsourcing Agency which it has already received from (a) another company; or (b) a person; or (c) the Candidate; or (d) any other source including (without limitation) from social media, job boards or advertisements placed by Client. Client further agrees that if no such notice is given by Client to Outsourcing Agency then in the event of an Engagement of the Candidate by Client, howsoever arising, Client agrees to pay Outsourcing Agency a fee in accordance with clause 5.2.

4.6 Where Client does so notify Outsourcing Agency in accordance with clause 4.5 above and whereupon Client provides evidence to Outsourcing Agency that such receipt of details by Client is in direct relation to the Vacancy, Client will not be liable to pay Outsourcing Agency a fee for that Candidate in respect of the Vacancy. Client acknowledges and agrees that where Client is unable to evidence such or freely admits their possession of the Candidate's details was not in relation to the Vacancy, Client agrees to pay Outsourcing Agency's fee in accordance with clause 5.2.

4.7 Client agrees to -

a) notify Outsourcing Agency as soon as possible (and in any event, no later than 7 days from the date of offer or from the date the Engagement takes effect; whichever is earlier) of any offer of an Engagement which it makes to the Candidate; and

b) notify Outsourcing Agency immediately when its offer of an Engagement to the Candidate has been accepted and to provide details of the Candidate's Remuneration to Outsourcing Agency; and

c) pay Outsourcing Agency's fee within the period set out under clause 6.2.

4.8 Client shall not, and shall not seek to cause Outsourcing Agency to, unlawfully discriminate in relation to the services provided by Outsourcing Agency to Client in connection with these Terms and shall disclose any and all information requested by Outsourcing Agency in the event a Candidate makes a complaint to Outsourcing Agency.

4.9 Client warrants that it shall not, and shall procure that its employees and agents shall not, pass any information concerning a Candidate to any Third Party. Client acknowledges that Introductions of Candidates are confidential and that failure to comply with this clause 4.9 may cause Outsourcing Agency to breach the Conduct Regulations and/or the Data Protection Legislation and accordingly, Client agrees to indemnify Outsourcing Agency from any and all liability in connection with Client's breach of this clause 4.9.

## 5. Charges/Fees

5.1 Client agrees to pay Outsourcing Agency's monthly fee of 15% of the Virtual Assistant's monthly salary, or £50 if the VA was not sourced by Outsourcing Agent but is retained as an attendee for the weekly training workshops

5.2 Client agrees to pay Outsourcing Agency a fee declared in accordance with clause 5.1 where it Engages, whether directly or indirectly, any Candidate within 12 months from the date of Outsourcing Agency's Introduction.

5.3 Client acknowledges that it has no right to set-off, withhold or deduct monies from sums due to Outsourcing Agency under or in connection with these Terms.

## 6. Invoices

6.1 No fee is incurred by Client until the Candidate commences the Engagement; whereupon Outsourcing Agency will render an invoice to Client for its fees.

6.2 Outsourcing Agency shall raise invoices in respect of the charges payable and Client agrees to pay the amount due within 30 days of the date of the invoice.

6.3 All invoices will be deemed to be accepted in full by Client in accordance with the payment terms stated within clause 6.2 unless Client notifies Outsourcing Agency, in writing within 5 days of receiving the invoice, stating the amount Client disputes and the reason Client disputes that amount. In the event Client does so notify the Outsourcing Agency that it wishes to dispute part of an invoice, Client agrees to pay the undisputed part of the invoice within the agreed payment terms and shall cooperate fully with the Outsourcing Agency in order to resolve the dispute as quickly as possible.

## 7. Rebates

7.1 Where Client qualifies for a rebate in accordance with clause 7.2, and the employment of the Candidate is terminated by Client or by the Candidate within the time periods specified below, Client will be entitled to a rebate of the monthly fee as follows –

7.2 The following conditions must be met in order for Client to qualify for a rebate –

a) Client must notify Outsourcing Agency that the Candidate's employment has ended within 7 days of the employment ending or within 7 days of notice being given to end the employment (whichever is earlier) together with a reason for the premature end of the employment;

b) Outsourcing Agency's invoice for the fee must have been paid within the payment terms in accordance with clause 6.2;

c) the Candidate's employment is not terminated by reason of redundancy or re-organisation or change in strategy of Client;

d) the Candidate's employment is not terminated by reason of poor performance prior to the completion of any induction or training period;

e) if the Candidate's employment is terminated by reason of misconduct, rebate is only due where such misconduct was reasonably foreseeable by Outsourcing Agency;

f) the Candidate did not leave the employment because he/she reasonably believed that the nature of the actual work was substantially different from the information Client provided prior to the Candidate's acceptance of the employment;

g) the Candidate did not leave the employment as a result of discrimination or other acts against the Candidate; and

h) the Candidate was not at any time in the 12 months prior to the start of the employment employed or hired (whether on a permanent or contract basis, directly or indirectly) by Client.

7.3 Where Client re-engages the Candidate on an employment, worker or indirect (via a Third Party) basis, Client agrees that any rebate paid to Client under clause 7.1 in respect of that Candidate, will be immediately repaid to Outsourcing Agency by Client.

#### 7.4 SUB-CONTRACTORS and TEMPORARY REPLACEMENTS (Temps)

a) In the event that the named Candidate is unable to work temporarily, the Outsourcing Agency is permitted to use sub-contractors to provide some or all of the Services, subject to obtaining the approval of the Client to use a particular intended sub-contractor

b) Should the client not approve the use of a Temp, the Outsourcing Agency will refund the days when the Candidate has not rendered any services from its monthly fees. The refund will be calculated on a pro-rata basis.

#### 8. Liability and Indemnity

8.1 Outsourcing Agency shall use reasonable endeavours to ensure Candidate has the required standard of skill, experience and necessary qualifications as stated in the Vacancy; nevertheless, Outsourcing Agency is not liable for any loss, expense, damage or delay arising from and in connection with any failure on the part of Outsourcing Agency or of Candidate to evidence such to Client nor for any negligence whether wilful or otherwise, dishonesty, fraud, acts or omissions, misconduct or lack of skill, experience or qualifications of Candidate.



8.2 Outsourcing Agency is not liable for any indirect or consequential losses or damage including but not limited to; loss of profits, revenue, goodwill, anticipated savings or for claims by third parties arising out of Outsourcing Agency's performance or failure to perform any of its obligations in these Terms.

8.3 Notwithstanding clause 8.2 above, nothing in these Terms will be deemed to exclude or restrict any liability of Outsourcing Agency to Client for personal injury, death or fraud directly caused by Outsourcing Agency.

8.4 Outsourcing Agency shall not be liable for failure to perform its obligations under these Terms if such failure results by reason of any cause beyond its reasonable control.

8.5 Client will indemnify and keep indemnified Outsourcing Agency against any costs (including legal costs), claims or liabilities incurred directly or indirectly by Outsourcing Agency arising out of or in connection with these Terms including (without limitation) as a result of -

a) any breach of these Terms by Client or by its employees or agents;

b) any breach by Client or by Third Party, or any of its employees or agents, of any applicable statutory provisions (including, without limitation, any statutory provisions prohibiting or restricting discrimination or other inequality of opportunity, immigration legislation, the Conduct Regulations and Data Protection Legislation); or

c) any unauthorised disclosure of a Candidate details by Client or by Third Party, or any of its employees or agents.

8.6 Save as required by law, the sole aggregate liability of Outsourcing Agency arising out of or in connection with these Terms is limited to £10,000.00.

## 9. Termination

9.1 These Terms may be terminated by either party by giving to the other immediate notice in the event that either Outsourcing Agency or Client goes into liquidation, becomes bankrupt or enters into an arrangement with creditors or has a receiver or administrator appointed or where Outsourcing Agency has reasonable grounds to believe Client will not pay Outsourcing Agency's invoice within the payment terms agreed within clause 6.2.

9.2 These Terms may be terminated by either party for convenience by serving 30 days' notice in writing.

9.3 Without prejudice to any rights accrued prior to termination, the obligations within clauses 1, 4.9, 5, 6, 7.3, 8, 11, 12, 13, 14, 15 and 16 will remain in force beyond the cessation or other termination (howsoever arising) of these Terms.

## 10. Equal Opportunities

10.1 Outsourcing Agency is committed to equal opportunities and expects Client to comply with all anti-discrimination legislation as regards the selection and treatment of Candidates.

## 11. Confidentiality

11.1 All information contained within these Terms will remain confidential and Client shall not divulge it to any Third Party save for its own employees and professional advisers and as may be required by law.

11.2 Client shall not without the prior written consent of Outsourcing Agency provide any information in respect of a Candidate to any Third Party whether for employment purposes or otherwise.

## 12. Data Protection

12.1 For the purposes of this clause 12 "Data Subject" means as set out in, and will be interpreted in accordance with Data Protection Legislation. For the avoidance of doubt, Data Subject includes Candidate.

12.2 The parties hereto acknowledge that Outsourcing Agency is a Data Controller in respect of the Personal Data of Candidate and provides such Personal Data to Client in accordance with the Data Protection Legislation for the purposes anticipated by these Terms.

12.3 The parties hereto acknowledge that Client is a Data Controller but the parties hereto are not Joint Controllers (as defined within Data Protection Legislation) save where a specific agreement is made to that effect between the parties hereto.

12.4 The parties hereto warrant to each other that any Personal Data relating to a Data Subject, whether provided by Client, Outsourcing Agency or by Candidate, will be used, Processed and recorded by the receiving party in accordance with Data Protection Legislation.

12.5 The parties hereto will take appropriate technical and organisational measures to adequately protect all Personal Data against accidental loss, destruction or damage, alteration or disclosure.

12.6 Client will -

a) comply with the instruction of the Outsourcing Agency as regards the transfer/sharing of data between the parties hereto. If Client requires Personal Data not already in its control to be provided by Outsourcing Agency, Client will set out their legal basis for the request of such data and accept that Outsourcing Agency may refuse to share/transfer such Personal Data where, in the reasonable opinion of Outsourcing Agency, it does not comply with its obligations in accordance with Data Protection Legislation;

b) not cause the Outsourcing Agency to breach any of their obligations under the Data Protection Legislation.

12.7 In the event Client becomes aware of an actual or any reasonably suspected Personal Data Breach, it will immediately notify Outsourcing Agency and will provide Outsourcing Agency with a description of the Personal Data Breach, the categories of data that was the subject of the Personal Data Breach and the identity of each Data Subject affected and any other information the Outsourcing Agency reasonably requests relating to the Personal Data Breach.

12.8 In the event of a Personal Data Breach, Client will promptly (at its own expense) provide such information, assistance and cooperation and do such things as Outsourcing Agency may request to -

a) investigate and defend any claim or regulatory investigation;

b) mitigate, remedy and/or rectify such breach; and

c) prevent future breaches.

and will provide the Outsourcing Agency with details in writing of all such steps taken.

12.9 Client will not release or publish any filing, communication, notice, press release or report concerning any Personal Data Breach without the prior written approval of the Outsourcing Agency.

12.10 Client agrees it will only Process Personal Data of Candidate for the agreed purpose that is introduction for a Vacancy pursuant to these Terms.

12.11 Client will provide evidence of compliance with clause 12 upon request from the Outsourcing Agency.

12.12 Client will indemnify and keep indemnified Outsourcing Agency against any costs, claims or liabilities incurred directly or indirectly by Outsourcing Agency arising out of or in connection with any failure to comply with clause 12.

### 13. General

13.1 Any failure by the Outsourcing Agency to enforce at any particular time any one or more of these Terms will not be deemed a waiver of such rights or of the right to enforce these Terms subsequently.

13.2 Headings contained in these Terms are for reference purposes only and will not affect the intended meanings of the clauses to which they relate.

13.3 No provision of these Terms will be enforceable by any person who is not a party to it pursuant to the Contract (Rights of Third Parties) Act 1999.

13.4 If any provision, clause or part-clause of these Terms is held to be invalid, void, illegal or otherwise unenforceable by any judicial body, the remaining provisions of these Terms will remain in full force and effect to the extent permitted by law.

13.5 Any reference to legislation, statute, act or regulation will include any revisions, re-enactments or amendments that may be made from time to time.

### 14. Notices

14.1 Any notice required to be given under these Terms (including the delivery of any information or invoice) will be delivered by hand, sent by facsimile, e-mail or prepaid first class post to the recipient at its fax number or address specified in these Terms

(or as otherwise notified from time to time to the sender by the recipient for the purposes of these Terms).

14.2 Notices will be deemed to have been given and served -

a) if delivered by hand, at the time of delivery if delivered before 5.00pm on a business day or in any other case at 10.00am on the next business day after the day of delivery; or

b) if sent by facsimile or e-mail, at the time of despatch if despatched on a business day before 5.00 p.m. or in any other case at 10.00 a.m. on the next business day after the day of despatch, unless the transmission report indicates a faulty or incomplete transmission or, within the relevant business day, the recipient informs the sender that the facsimile or e-mail message was received in an incomplete or illegible form; or

c) if sent by prepaid first class post, 48 hours from the time of posting.

15. Variation

15.1 No variation or alteration of these Terms will be valid unless approved in writing by Client and Outsourcing Agency.

16. Applicable Law

16.1 These Terms will be construed in accordance with English Law and the parties submit to the exclusive jurisdiction of the Courts of England and Wales.