

TERMS OF USE CANDIDATE (TOU)

MELT.MEDIA BERLIN (effective May 25th, 2018)

1. SCOPE

These Terms of Use apply for the last valid version for every usage of the services offered by MELT.MEDIA BERLIN (hereinafter referred to as MELT.). These Terms of Use apply exclusively unless otherwise agreed by the parties in writing. MELT. will not accept any divergent terms unless MELT. has explicitly agreed to them.

2. OBJECT OF SERVICES

MELT. offers services in personnel consultancy and recruitment as well as management consultancy for companies (hereinafter referred to as CLIENTS) and is specialized in finding qualified staff (hereinafter referred to as CANDIDATES) of the media industry. When a CANDIDATE is placed in a fixed employment contract, there will not be any payment obligations. If a freelance project is procured, a commission has to be paid to MELT. The commission has been already added to the fee, which the CLIENT has to pay the CANDIDATE. When a commission has to be paid is regulated in clauses 6 and 7 of the Terms of Use.

3. JOB PLACEMENT CONTRACT, CANDIDATE POOL AND PERFORMANCE OF SERVICES

- 3.1 A job placement contract is concluded as soon as the CANDIDATE has online filled in or sent the application form provided on the website to MELT., or if he/she sends his/her application documents to MELT. intending a possible placement through MELT. or if he/she applies for a specific job from the MELT. website.
- 3.2 MELT. will check the data, documents and information (hereinafter referred as CONTENT) provided by the CANDIDATE and decide afterwards, if the CANDIDATE will additionally be accepted to the Candidate Pool. The CANDIDATE does not have a legal claim to be accepted to the Candidate Pool.
- 3.3 MELT. reserves itself the right to not complete the job placement contract, which was already accepted, if the CONTENT provided by the CANDIDATE offends against legal or official prohibitions or is contrary to morality.
- 3.4 MELT. aims to keep the candidate profiles up to date. Any changes have to be requested by the CANDIDATE in writing or they can be made within the private webprofile by the CANDIDATE himself, using his email address to order an access link. MELT. will check the possibly requested changes in writing and will, if appropriate, implement them immediately.
- 3.5 MELT. is entitled to delete already recorded CONTENTS without prior notice. The CANDIDATE will be informed of such a measure by email to his/her deposited e-mail address, if the delivery of the CONTENTS by the CANDIDATE does not lie longer than 24 months in the past..

4. DUTIES OF THE CANDIDATE

- 4.1 The CANDIDATE guarantees that all personal details provided to MELT. are true and complete, especially all information regarding person, education and career. If the CANDIDATE is prevented from starting a job for determined CLIENTS or industries, because he/her accepted a competition clause from his/her former or current employer, this has to be communicated to MELT. at the latest when being accepted to the Candidate Pool.
- 4.2 The CANDIDATE will immediately inform MELT. as soon as a permanent or freelance contract has been concluded with one of MELT's clients, and he/she will start the employment or he/she signed a corresponding contract with the CLIENT. This requires the submission of the contract or the fee agreement. If he/she does not meet the obligation within 14 days, he/she has to make up for any loss for MELT. caused by this violation of duty.
- 4.3 The CANDIDATE is responsible to provide the entire CONTENT, which is necessary for the creation of his/her profile. MELT. will send back the provided physical CONTENT only if requested in writing and at the expense of the CANDIDATE.
- 4.4 If the CANDIDATE delivers MELT. CONTENT for his/her self-presentation, he/she explicitly ensures, that MELT. is entitled to use this CONTENT for a presentation to the CLIENT, and that this kind of use does not oppose rights of third parties. The CANDIDATE indemnifies MELT. from all claims, that third parties raise regarding illegal content or any other violations against MELT. committed by the Candidate. The indemnity does also include the adequate costs of the litigation or claim defense.
- 4.5 The CANDIDATE will not contact the CLIENTS stated by MELT directly. MELT. will be the broker for every contact arising unless otherwise agreed upon in writing. If a violation of the CANDIDATE against this duty leads to a conclusion of a contract with a CLIENT placed by MELT., a full commission claim of MELT. towards the CANDIDATE arises, which will become due immediately and has to be paid within 14 days.
- 4.6 The CANDIDATE is responsible for all of his/her tax issues and the correct payment of his/her receipts and expenditures. MELT. cannot and will not give any support in this respect.

5. FEES, INFORMATION AND TERMS OF PAYMENT: PERMANENT CONTRACT

If the permanent job placement of the CANDIDATE was successful, the CANDIDATE will not have any payment obligation towards MELT..

The CANDIDATE only commits himself/herself to inform MELT. of his/her gross annual salary of the first year. This is done by submitting the permanent contract or the fee agreement from which the salary component and the signature of the parties of the placed employment contract result. The gross annual salary is considered to be the income before taxes inclusive all agreed success-related and other special payments, as for example the 13th or 14th month's salary.

6. FEES, INFORMATION AND TERMS OF PAYMENT: FREELANCER

- 6.1 If the freelance job placement of the CANDIDATE was successful, the commission which has to be paid will be calculated as follows: the CANDIDATE states his/her general fee (fee excluding VAT) as a rule his daily rate (8 working hours). MELT. will add a commission of 12%. If the freelance job placement of the CANDIDATE through MELT. was successful, the CANDIDATE will invoice the increased daily rate to the CLIENT (example daily rate 1000 EUR - Calculation: 1000 EUR daily rate / plus 190 EUR VAT = 1190 EUR / plus 120 EUR commission MELT. / Plus 22,80 EUR VAT MELT. = Total invoice amount 1332,80 EUR). After the payment of the increased daily rate from the CLIENT is received, the CANDIDATE retains the usual gross fee and passes only the previously added rate as commission on to MELT..
- 6.2 If the CLIENT offers a project or pitch fee, which is below the increased gross rate stated under clause 6.1, MELT. will confer with the CANDIDATE. If the CANDIDATE accepts the decreased fee notwithstanding clause 6.1, a commission of 12% plus VAT of the agreed fee will become due. If the CANDIDATE invoices a decreased fee to the CLIENT without prior consultation of MELT., the full commission which is based on the general gross rate will always be due.
- 6.3 The commission claim of MELT. will be substantiated by the conclusion of a written or oral agreement with the company procured by MELT. unless otherwise agreed by the parties. If the agreement will be concluded only after the commencement of work, the commission claim will be substantiated already with the commencement of work.
- 6.4 The CANDIDATE is obligated to balance accounts monthly with the CLIENT. The CANDIDATE obligates himself/herself to immediately forward all invoices as a copy within 7 days past invoice date to MELT. to determine the commission.
- 6.5 If the CANDIDATE withdraws already prior to the first invoicing of his/her own account and not for health reasons from the freelance relationship, he/she has to make up for the loss, provided that MELT. cannot fill the vacancy otherwise.
- 6.6 The commission will be due for every project and follow-up project, which the CANDIDATE will carry out with the CLIENT procured by MELT.. Excepted from this commission obligation are placements of CANDIDATES to companies they have already worked for, before connecting with MELT., provided that the CANDIDATE has stated this company to MELT., at the latest when being accepted to the Candidate Pool. Otherwise also these placements are subject to commission.
- 6.7 The commission payment has to be remitted to MELT. by the CANDIDATE within a period of 14 days after the receipt of the fee paid by the CLIENT. The CANDIDATE is obligated to inform MELT. immediately about the receipt of payment. After the period of 14 days MELT. is entitled to invoice default interest of 8% above the respective valid base rate plus VAT.

7. FEES, INFORMATION AND TERMS OF PAYMENT: INTERN

- 7.1 If the internship placement of the CANDIDATE was successful, no additional obligations towards MELT. will arise at first. If the CANDIDATE, after the end of the internship, will receive a permanent or freelance contract by the CLIENT, these Terms of Use will apply also for this new function, especially for the commission agreements regulated in clause 5 and 6.
- 7.2 The CANDIDATE is obligated to inform MELT. immediately as soon as he/she will be employed on a permanent or freelance basis by the CLIENT and he/she will begin the employment or will sign the respective contract with the CLIENT. This is done by submitting the contract or the fee agreement.

8. CONFIDENTIALITY AND DATA PROTECTION

- 8.1 In accordance with Art. 6 Para. 1 lit. b) of the General Data Protection Regulation (GDPR), the CANDIDATE herewith grants MELT. his express permission to the use of his personal data for the fulfilment of the purpose of this agreement. The MELT. data protection regulations, especially figure IV, are part of this agreement.
- 8.2 MELT. collects, processes and uses data only in so far as it is required to fulfill the aim of the contract. Both parties guarantee to respect the terms of privacy and data protection and to treat all data towards third parties as strictly confidential. The CANDIDATE obligates himself/herself in particular to keep every kind of CONTENT, which was obtained in the framework of business relations (for example information and company data of a vacant position) in strict confidence and to not forward them neither explicitly nor in anonymised form to third parties.
- 8.3 The duty of discretion continues to apply after the contract with MELT. has ended. The agreed legal consequences for one-off or repeat violations of the obligations to secrecy can still be asserted by the contracting parties even after the end of the contract and also for post-contractual violations.
- 8.4 MELT. will only introduce the profiles to the CLIENT, if previously a binding confidentiality agreement was closed with the CLIENT. To be able to work quickly and effectively MELT. will inform the CANDIDATE about the introduction of his/her profile at the time when the CLIENT has signaled interest in the CANDIDATE.
- 8.5 MELT. is entitled to use CONTENT, which is freely accessible on the internet, for the presentation of the CANDIDATE.

- 8.6 If the CANDIDATE's violation of the obligations to confidentiality incumbent leads to the completion of the contract with third parties, he/she has to make up for the loss incurred, which includes in particular the commission shortfall.
- 8.7 MELT. plans to inform the CANDIDATE irregularly in an information e-mail (electronic newsletter) about relevant database updates, functions and changes of the TOU. The CANDIDATE herewith explicitly agrees until further notice. He/she is free to retract the declaration any time by simple notification and effective for the future. If he/she retracts the declaration, he/she will no longer receive any newsletters but solely informations that MELT is legally bound to, e.g. changes in the terms of use, by electronic newsletter or e-mail.

9. DURATION AND TERMINATION OF THE USER RELATIONSHIP

- 9.1 The user relationship starts with the acceptance of the CANDIDATE to the Candidate Pool and is contracted indefinitely. It can be terminated with observance of a two working days. The notice of termination must be in writing (letter, fax, e-mail etc) to be effective.
- 9.2 The outstanding accounts already incurred by MELT. are still maintained after the contract has been terminated. The CANDIDATE has to subsequently and retrospectively pay the full commission under clause 3.3 for the year following the termination of the contract, even in the case of a delayed completion of contract with one of the clients placed by MELT., and pass on the information arranged in clause 6.

10. GUARANTEE

- 10.1 MELT. does not assume any responsibility for content, up-to-dateness and completeness and/or availability of the CONTENT provided. This applies especially to the CONTENT provided by CANDIDATES, CLIENTS or other third parties.
- 10.2 MELT. is not liable for losses, that the contract partners or third parties incur as a result of an employment contract initiated or concluded with MELT..
- 10.3 MELT. does not guarantee, that a contact with a CLIENT will happen nor does MELT. guarantee a minimum number or quality of enquiries by the CLIENT.

11. LIABILITY

- 11.1 MELT. is only liable for damage caused deliberately or due to gross negligence. The compensation for the violation of essential duties is limited to the typical, predictable damage.
- 11.2 Notwithstanding clause 11.1 MELT. is liable for every culpable infringement of essential duties as well as for a guarantee of quality (§ 443 German Civil Code) according to the statutory provisions. For services provided free of charge MELT. is not liable, even if the damage is caused by an only slightly negligent violation.
- 11.3 The liability for damages of life, body and health as well as the liability according to the Product Liability Act remain unaffected by the preceding regulations in either case.

12. CHANGES OF THE TERMS OF USE

- 12.1 MELT. reserves its right to change the Terms of Use at any time effective for running contracts. In such a case MELT. will inform the CANDIDATE before the projected coming into effect of the new Terms of Use. The information will be send by e-mail or electronic newsletter to the e-mail adress stated by the CANDIDATE.
- 12.2 The CANDIDATE is entitled to contradict to the projected changes within two weeks after the reception of the information. In this case the old regulations continue to apply. The right of termination according to clause 9 remains unaffected thereof.
- 12.3 The projected changes are considered to be accepted unless the CANDIDATE exercises his/her contradiction right.

13. OTHER

- 13.1 The law of the Federal Republic of Germany governs the privity of contract between the contracting parties. The parties declare, as far as legally permissible, that Berlin is the exclusive jurisdiction for all legal disputes arising from the contractual relationship.
- 13.2 Collateral agreements, modifications and additions must be in writing to be effective; this applies in particular also to the rescission of this provision
- 13.3 If a provision in this present contract ceases to be effective, the validity of the remaining provisions of the contract shall remain unaffected. The ineffective clause shall be replaced with a clause that most closely resembles the economic sense and purpose of the ineffective clause.
- 13.4 In case of doubt the German version of this contract prevails over the English one.