

## HIRER CODE CHALLENGE - TERMS OF USE

This page (together with the policies and other documents referred to on it) sets out the terms and conditions applicable to Inviting Companies in relation to their use of our Site and Service. These Code Challenge Terms of Use also incorporate our [Website Terms of Use](#) and [Acceptable Use Policy](#)

By using the Site or Service in any manner, you indicate that you accept these Code Challenge Terms of Use (including the [Website Terms of Use](#) and [Acceptable Use Policy](#)) and that you agree to comply with them. If you do not agree to these Code Challenge Terms of Use, you may not use any part of the Site and Service.

If you are accepting these Code Challenge Terms of Use on behalf of an Employer or Agency, you represent that you have the authority to bind the Employer or Agency to these Code Challenge Terms of Use.

We may revise these Terms of Use in accordance with clause 17.

### 1 ABOUT US

- 1.1 The Service is provided by Deazy Limited (trading as Geektastic) (“**Geektastic**” “**Deazy**”, “**we**”, “**us**” or “**our**”), a private limited company registered in England and Wales under company number 10305788. Our registered office address and principal trading address is Runway East Bristol Bridge, 1 Victoria St, Redcliffe, Bristol, England, BS1 6AA. Our VAT number is 248572575
- 1.2 If you need assistance or have any queries, please contact us at [hello@geektastic.com](mailto:hello@geektastic.com)

### 2 DEFINITIONS:

2.1 The following definitions apply in these Terms of Use:

- **Account** - your account area of the Service.
- **Admin role** – this is the role given to the first individual within an Inviting Company to register with the Service. This role allows the user to invite new members of the Inviting Company, set the new member’s role type (either Admin, Recruiter or Code Reviewer), license and create Code Challenges, invite Candidates, to carry out Evaluations made by you and view Evaluations made by the Uber Developers).
- **Agency** – a recruitment agency or business acting on behalf of and authorised by an Employer to use the Service for the purposes of evaluating Candidates.
- **ATS** – a third party ATS (applicant tracking system) used by you to track job applicants;
- **ATS Integration Partners** – The Service is integrated to a number of ATS systems, these are listed on the **Site** under ATS partners.
- **Calendar month** - a period of time consisting of thirty days in April, June, September and November, and of thirty-one days in the remainder of the months, except February, which consists of twenty-eight days, except in leap-year, when the intercalary day is added, making twenty-nine days
- **Candidate** – an individual person who is invited by an Inviting Company to participate in a Code Challenge.
- **Candidate Privacy Notice** - means the specific privacy notice for Candidates taking a Code Challenge (as amended from time to time) available [here](#)
- **Code Challenge** – a technical test intended to be taken by Candidates to test coding skills. We have two types of Code Challenge; **Take-home Code Challenges** and **Express Code Challenges**.
- **Code Reviewer Role** – this role within an Inviting Company allows the user to create Code Challenges and carry out an evaluation on a Candidate’s Code Solution. This role does not allow the user to view Evaluations completed by the Uber Developers.
- **Code Solution** - a submission by a Candidate setting out a technical solution to a Take-home Code Challenge.
- **Confidential Information** - means any confidential or proprietary information in whatever form relating to the business, customers, products, affairs and finances of either party whether or not such information is marked confidential
- **Data Protection Legislation** - all applicable data protection and privacy legislation in force from

time to time including the General Data Protection Regulation ((EU) 2016/679) and the Data Protection Act 2018;

- **Developer** - a person who is registered as a software developer on the Service from time to time;
- **Employer** - a company, business, firm or organisation wishing to use the Service for the purposes of evaluating Candidates.
- **Evaluation** – means the review and evaluation of a Code Solution by Geektastic in accordance with clause 7.4.
- **Express Code Challenge** – is a multiple-choice code challenge consisting of a question with a minimum of 4 possible answers, the Candidate is required to select the correct answer(s).
- **Express code challenge sets** – is a set of up to 20 Express Code Challenges presented to a candidate by an **Inviting Company** for the candidate to answer
- **Inviting Company, you or your** - either an Employer or an Agency also known as a Hirer.
- **Privacy Notice**: means our privacy notice (as amended from time to time), available [here](#);
- **Recruiter Role**: this role within an Inviting Company allows the user to invite candidates to Code Challenges and to view Evaluations by us and by you.
- **Service** – all the services, features, functionality and content made available by Geektastic through the Site or any mobile application;
- **Site** - [www.geektastic.com](http://www.geektastic.com) or any successor website operated by Geektastic;
- **Take-home Code Challenge** – is a technical assessment which is sent to a Candidate from the site and is then completed offline. Once completed the candidate submits a Code Solution via the Site for evaluation.
- **Take-home challenge Migration** – is a process whereby we will take a Take-home Code Challenge owned by you and enable the challenge to be used by you, and only you, to Evaluate your Candidates. Where Evaluations are being performed by an Uber Developer this Migration will also include creating review guidelines and training our Uber Developers how to review your Code Challenge in line with your requirements.
- **Uber Developer** – a Developer who is registered on the Service as an Uber Developer and is qualified to perform Evaluations on the Service.

### 3 WHAT IS THE SERVICE?

- 3.1 We operate an online network of Developers and a talent assessment platform supported by our online network of Uber Developers. The Service permits Inviting Companies to:
- invite Candidates to complete Code Challenges and submit Code Solutions for Evaluation
  - view information, reports and data we make available on the Service; and
  - to license the use of our Code Challenges and to allow Candidates to submit Code Solutions for Evaluation.

### 4 OUR STATUS

- 4.1 Please note that Geektastic is not an employment agency or employment business for the purpose of The Conduct of Employment Agencies and Businesses Regulations 2003 and other applicable legislation ("**Employment Regulations**") and does not introduce or supply work seekers to Inviting Companies (or vice versa). Therefore we do not:
- obtain confirmation of the identity of any work-seeker or Inviting Company, or the nature of any Inviting Company's business;
  - obtain confirmation of the position which the Inviting Company seeks to fill (and any relevant details such as location, hours, pay, expenses, health and safety risks or length of notice) applicable to such position;
  - obtain confirmation that the work-seeker is willing to work in the position which the Inviting Company wishes to fill;
  - obtain confirmation of the experience, training, qualifications and any authorisation which the Inviting Company considers necessary, or which is required by law or any professional body, to work in the position the Inviting Company wishes to fill or whether a work-seeker has such experience, training, qualifications or authorisation;
  - take any steps to ensure that the work-seeker and Inviting Company are aware of any

requirement imposed by law or otherwise which must be satisfied by either of them to permit the work-seeker to fulfil the position to be filled;

- take any steps to ensure that it would not be detrimental to the interests of the work-seeker or Inviting Company for the work-seeker to work for the Inviting Company in the position to be filled;
- provide any information to any Inviting Company that a work-seeker is suitable or unsuitable for a position at any time;
- provide any references or copies of relevant qualifications or authorisations of any work-seeker; or
- make any accommodation or travel arrangements for any work-seeker.

## 5 WHO CAN USE OUR SERVICE

5.1 **Eligibility:** In order to use any part of our Service, you must:

- be registered with us;
- be legally able to enter into a binding contract with us to purchase services, and where acting on behalf of a company, business or other person, be authorised to legally bind that company, business or other person

(“Eligibility Requirements”)

## 6 YOUR ACCOUNT

6.1 **Registration:** You must complete all mandatory areas of the online registration form in order to apply to use our Service. We may use any reasonable means to verify the information supplied by you on registration. We may reject any application for registration at any time for any reason. If an application for registration is approved, the applicant will receive an email from us to verify his/her nominated email. You will need to activate the link we send to you by email in order to activate and have access to your Account. Nominated passwords or other login information can then be changed by logging into your Account on the Site.

6.2 Once you have activated your Account, you will be permitted to use our Site and Services and purchase Code Challenges, Evaluations and use other products and services offered through our Site, subject to these Terms of Use.

6.3 **Inviting Company Obligations:** You must at all times:

- keep any password or any other piece of security information chosen by you or allocated by us as part of the registration process strictly confidential and not disclose it to any third party;
- keep your email address and all other registration details complete, accurate and up to date and notify us promptly of any changes. We will use this email address to contact you about your Account;
- not permit or do anything to assist any person who is not the Inviting Company to access your Account or the Service or to pass themselves off as that Inviting Company (save as expressly permitted in these Code Challenge Terms of Use);
- not create additional registration accounts;
- not pass yourself off as another Inviting Company or other person;
- continue to comply with the Eligibility Requirements at all times;
- take responsibility and remain responsible for your Candidates’ use of any Code Challenges made available to you through the Service; and
- comply at all times with these Code Challenge Terms of Use.

6.4 You are solely responsible for any and all use of your Account.

6.5 **Terminating Your Account:** You may terminate your Account at any time for any reason. You must pay any outstanding Fees on termination of your Account and such termination shall not affect your obligations to pay any outstanding Fees in accordance with these Code Challenge Terms of Use.

6.6 We have the right to terminate, disable or delete any Account with at least 30 days’ prior notice. We accept no liability for any termination, disabling or deletion of your Account or for any deletion or

inability to access your Content. Such termination, disabling or deletion of your Account or deletion or inability to access your Content shall not affect your obligation to pay all outstanding Fees which are or may become due

## 7 ORDERING SERVICES AND PRODUCTS

7.1 **How to Place an Order:** If you wish to order any services or products from us (such as Code Challenges and Evaluations), you must place an order in accordance with these Code Challenge Terms of Use ("**Order**").

- You need to log into your Account to place an Order. When you place an Order with us, we will send you an email or confirm using a notification within the Service acknowledging receipt of your Order and containing the details of your Order. Please check this carefully and contact us if anything is incorrect. This notification within the service or email is not an acceptance of your Order, just a confirmation that we have received it. No contract is formed between us in relation to your Order until we send you a further notification within the service or email confirming that your Order has been accepted ("**Confirmation**").
- When placing an Order you confirm to us that all details you provide to us are true and accurate, that you will only use the products or services ordered (and any deliverables we provide) in accordance with these Code Challenge Terms of Use and that you are fully authorised on behalf of the Inviting Company to place your Order
- We have no obligation to accept any Order, even if we have previously accepted Orders from you.
- You may not cancel any Order after it is placed.

7.2 **Fulfilment of your Order:** Any deliverables specified in your Order (such as Code Challenges and Evaluations) will be delivered to you via the Account area of the Site for the period and in the format (if any) specified in the Confirmation.

7.3 **Orders for Code Challenges:** Where you have placed an Order for a Code Challenge, the Code Challenge will be delivered to you via your Account area of the Site. You may only use such Code Challenge in the Account area of your Site and only for the purpose of permitting Candidates to provide Code Solutions and or answers to Express Code Challenges through our Service. You are not required to order an Evaluation from us to our Code Challenges but in this case, any evaluation of the Code Solution to our Code Challenge may only be undertaken by the Inviting Company who has an Account with us and may only be undertaken on our Service.

7.4 **Orders for Evaluations:** Orders for Evaluations can be placed using Take-home Code Challenges which have been either created by you or by us. Evaluations will be delivered to you via your Account area of the Site.

## 8 CANDIDATES

8.1 All Candidates must agree to the [Candidate Terms of Access](#) in order to undertake any Code Challenge and submit their Code Solution on our Service and you are responsible for ensuring that they do so and that they comply with the Candidate Terms of Access.

8.2 We may require you to provide us with the name and email address of your Candidate in order to invite the Candidate to take the Code Challenge. You must ensure that you are fully and lawfully entitled to transfer and disclose such personal data to us to allow us to lawfully process such personal data for the purposes of provision of the Code Challenge.

8.3 You are responsible for ensuring that Candidates are fully aware of the purpose for which they are being invited to use the Service and the purposes for which you will use their Profiles, their Code Solution, Evaluation and any other information or data (including personal data) about the Candidates. You will comply with the Data Protection Legislation in respect of your use of Candidate personal data.

8.4 We will not enter into any correspondence in relation to any Evaluation with you or with a Candidate. We take no responsibility and have no liability for Candidates and their suitability or otherwise. You must comply in full with the Employment Regulations (if applicable to you) in relation to Candidates.

## 9 ACCEPTABLE USE POLICY

- 9.1 In using the Service, you acknowledge and agree that you may be given access to Profiles, Evaluations, Code Challenges created by us and other reports and information we provide as part of the Service.
- 9.2 Accordingly it is a condition of your use of the Service that you comply with our **Acceptable Use Policy**. You must comply with the spirit as well as the letter of our Acceptable Use Policy. We will decide in our ultimate discretion whether you have breached our Acceptable Use Policy.
- 9.3 In addition to our Acceptable Use Policy, you further agree to the following (which shall be deemed to be part of our Acceptable Use Policy for the purposes of these Code Challenge Terms of Use) in using the Service:
- you must only use the Service and any data or other Content provided to you as part of the Service for the purposes of Code Challenges and Evaluations and for no other purpose;
  - you must at all times comply with the Data Protection Legislation and all other applicable local, national and international law and regulation;
  - you must not disclose any data or other Content provided to you through the Service (including without limitation, any Code Challenge created by us, Evaluation, Profile and/or personally identifiable information of any person) to any third party, unless you are an Agency, in which case you can disclose it to the Employer for whom you are acting and such Employer must comply with these Code Challenge Terms of Use. You may disclose to the Candidate the outcome of his/her Evaluation provided that such Candidate has already agreed to the Candidate Terms of Access;
  - you must deal fairly and professionally with Candidates and Developers you may contact using any information provided to you as part of the Service;
  - you must, where applicable, comply in full with the requirements of the Employment Regulations in dealing with any Candidates or other persons (including Developers).

## 10 CODE CHALLENGES SUBMITTED BY YOU

- 10.1 If you wish to use your own Code Challenge on the Service you must comply with the following:
- it must comply with our Acceptable Use Policy;
  - it must be your own work or you must have a valid licence to use it on and for the purposes of the Service (including making it available to Candidates and to us and our contractors (including any Uber Developers) for the purposes of Evaluation);
  - it must not infringe the copyright and other intellectual property rights of any third party;
  - it must not incorporate the confidential information of any third party.

## 11 EVALUATION OF CODE CHALLENGES OTHER THAN BY US

- 11.1 If you wish someone other than Geektastic to evaluate any Code Solution submitted by your Candidate to any of our Code Challenges, you may do so provided that such person complies in full with these Code Challenge Terms of Use (including our Acceptable Use Policy and Website Terms of Use) in relation to use of our Site, Service and Content. You are responsible and liable to us for all acts and omissions of such person. In particular, without limitation, you must ensure that they are aware of our ownership of and the confidential nature of our Code Challenges.
- 11.2 We do not own the intellectual property rights in any Evaluation which is prepared by you.

## 12 CONTENT

- 12.1 In these Code Challenge Terms of Use "**Content**" means all information, comments, contributions, data, text, photographs, software, reports, scripts, graphics, and interactive features generated, provided, or otherwise made accessible by us on or through the Service (which includes Profiles, Code Challenges created by us and Evaluations).
- 12.2 All Content is the sole responsibility of the person who provided such Content. We cannot guarantee the authenticity of all Content provided on the Service. You acknowledge that all Content accessed by you using the Service is at your own risk and you will be solely responsible and liable for any damage or loss to you or any other party resulting therefrom.

12.3 We will also not be liable to any Candidate for any Content, whether provided by such Candidate or by any third party, and in particular, without limitation, we cannot be responsible for any upset or harm caused to any Candidate from the use or content of the Profiles or Evaluations.

### 13 YOUR CONTENT

13.1 Subject to the remaining provisions of this clause 14.1, by submitting your Content to the Site and the Service, you hereby grant to us a non-exclusive, worldwide, royalty free right to use, publish and distribute your Content on the Site and Service. However, we will only use any Code Challenges you provide and any Code Solutions provided by Candidates for the purposes of providing Services to you under these Code Challenge Terms of Use and we may retain and use Code Solutions for the purposes of archive, comparison with other technical solutions submitted to us, analysis for the purposes of research and the provision of anonymised reports and for improving our Service.

13.2 Please also note that, in accordance with our Acceptable Use Policy you must ensure that your Content does not infringe any copyright, database right, trade mark or other intellectual property right of any other person nor include any confidential information of any person. By submitting your Content to the Site or Service, you are warranting that you have the right to license all rights in your Content on the terms set out in these Code Challenge Terms of Use. If you are not in a position to do so you must not submit your Content to the Site. Your Content will be considered non-confidential.

13.3 We will not be responsible, or liable to any person for the content or accuracy of your Content.

13.4 We have the right to remove your Content (or any of it) if, in our opinion, such material does not comply with our Acceptable Use Policy. We have the right to disclose your identity to any third party who is claiming that your Content constitutes a violation of their intellectual property rights, or of their right to privacy.

### 14 OWNERSHIP AND INTELLECTUAL PROPERTY RIGHTS:

14.1 All right, title and interest to and all intellectual property rights in the Site and the Service, and all data, information and other Content (other than Your Content (including Code Challenges that you have created and had uploaded to the Service (which remain vested in you or your licensors)) or Code Solutions submitted by any Candidate, (which remain vested in that Candidate)) remains vested in Geektastic (or its licensors) and nothing in these Code Challenge Terms of Use shall grant to you any rights of ownership therein nor any license save for a non-exclusive license to use the Site, Service and Content for the purposes permitted by and in accordance with these Code Challenge Terms of Use and for no other reason. In particular, without limitation, you must not use our Code Challenges for any reason other than for the purposes of enabling Candidates to submit Code Solutions for evaluation or participate in Express Code Challenges, either by us or by you, using the Service. You may not copy, distribute, publish, make available or disclose any of our Code Challenges to any person other than a Candidate (for the purposes permitted by these Code Challenge Terms of Use)

### 15 PRICES AND PAYMENT

15.1 **The Services:** Fees and prices for the products and services we provide are set out below ("Fees"). Fees are non-refundable

Service	Description	Fees
<b>Take-home Code Challenge</b> Monthly Platform use:	Use of the Site and Service for managing <b>Take-home Code Challenges</b>  Includes provision for two Admin and or Recruiter roles to access the site per month.	£250 (€300 or \$350) per month if 1 or more Code Solutions are submitted by your Candidates per month.  No charge if no Candidates submit Code Solutions during

	<p>For the avoidance of doubt, if you are paying both the Take-home Code Challenge Monthly Platform fee and the Express Code Challenge Monthly Platform fee you will have a total of two Admin and or Recruiter roles included in your fees, not four.</p>	<p>the month.</p>
<p><b>Express Code Challenge Monthly Platform use:</b></p>	<p>Use of the Site and Service for managing <b>Express Code Challenges</b></p> <p>Includes provision for two Admin and or Recruiter roles to access the site per month.</p> <p>Includes 50 assessments for free within this Express Code Challenge Platform fee.</p> <p>For the avoidance of doubt, if you are paying both the Take-home Code Challenge Monthly Platform fee and the Express Code Challenge Monthly Platform fee you will have a total of two Admin and or Recruiter roles included in your fees, not four.</p>	<p>£125 (€150 or \$175) per month if 1 or more Express code challenge sets are started by your Candidate(s) per month.</p> <p>No charge if no Candidates start any Express Code Challenge sets during the month.</p>
<p>Use of the Site and Service by additional user accounts</p>	<p>Any further Admin or Recruiter user accounts over and over the two provided for in the Take-home and / or Express</p>	<p>£35 (€45 or \$50) per month per additional Admin or Recruiter user account if any of these particular features of</p>

	Code Challenge Monthly Platform Fees, other than those which are expressly stated to be free of charge which include but are not limited to Code Reviewer Roles.	the Service are used by these additional users.
<b>Take-home Code Challenge – Usage of our Code Challenges</b>	Monthly license fee for use of our Code Challenges	£50 (€60 or \$70) per Code Challenge, per programming language, per month in which is it used.
<b>Take-home Code Challenge provided by us – Per use</b>	Fee per submitted solution of each Code Challenge (to be paid in addition to the monthly license fee)	£5 (€6 or \$7) per Candidate use
<b>Take-home Code Challenge provided by us - Evaluation</b>	Evaluation by us of Take-home Code Solution submitted by a Candidate	£75 (€90 or \$95) per Evaluation per Candidate
<b>Take-home Code Challenge created by you - Evaluation</b>	Evaluation <b>by us</b> of Take-home Code Solution submitted by a Candidate	Per Evaluation Fee to be agreed between us on a challenge by challenge basis
<b>Take-home Code Challenge - Evaluation</b>	Evaluation <b>not provided by us</b>	<p>The first 20 Take-home Code Challenge solutions submitted to the service per calendar month are included within the Monthly Platform fee</p> <p>The following Code Challenge Solutions submitted to the service per calendar month are charged at £2.50 (€3.00 or \$3.50) per submission.</p>



<b>Take-home Code Challenge</b> created by you - Migration	Migration by us of Take-home Code Challenge provided by you	Depending on complexity, in the range of £500-£1,000 (€600 to €1,200 Or \$700 to \$1400) all fees will be agreed and signed prior to work commencing.
<b>Take-home Code Challenge - Bespoke Creation</b>	Custom built Take-home code challenges created by us for You	Depending on complexity, in the range of £2000-£4000 (€2400 to €4800 Or \$3000 to \$6000) all fees will be agreed and signed prior to work commencing.
<b>Express Code Challenge</b> assessment fee	The technical evaluation of your candidate using Express Code Challenges	The first 50 assessments per month are included within the Express Code Challenge Platform fee  Thereafter the cost is £2.00 (€2.50 or \$3.00 per candidate)
<b>Express Code Challenge</b> created by you - Migration	Addition of Express Code Challenge created by you to the Service.	£50 (€60 or \$65) per Express Code Challenge migrated
<b>Express Code Challenge - Bespoke Creation</b>	Custom built code challenges created by us for You	<u>Express code challenges</u> £150 (€180 or \$195) per Express code challenge created by us for you.
Use of the Service via an <b>ATS</b>	Any use of our ATS Integrations	£100 (€120 or \$130) per month if any of these particular

	<p>to our ATS Integration Partners.</p> <p>This includes but is not limited to requesting API keys, issuing code challenges from within the ATS and reviewing candidate's code</p>	<p>features of the Service are used. No charge if none of these features of the Service are used</p>
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- it is always possible that, despite our best efforts, some of the Services may be incorrectly priced. We will normally verify prices in our Confirmation so that, where the correct Fee is less than our stated Fee at the time of your Order, we will charge you the lower amount. If the correct price is higher than the price stated on our Site, we will normally, at our discretion, either contact you for instructions or reject your Order and notify you that we are rejecting it.
- If a pricing error is obvious and unmistakable and could have been reasonably recognised by you as an error, we do not have to provide the Services to you at the incorrect (lower) price even if we have sent a Confirmation. In those circumstances, we will refund your Fees for the relevant Services ordered.
- Invoices are issued monthly by email and are payable within 14 days (unless we agree an alternative period) of the date of invoice in cleared funds via the payment methods available on the Site. If you do not pay by the due date, we may, without prejudice to our other rights and remedies, suspend your access to the Service (including any licence to use Code Challenges) until such time as payment is received in full. We may charge interest on any overdue payment at the rate of 4% per annum above the base rate of Barclays Bank plc, from the due date until the date of payment (whether before or after judgment). All Fees are stated exclusive of VAT, which shall be charged in addition to the Fees and which is payable by you.
- Save as expressly set out in these Code Challenge Terms of Use no refunds will be given.
- Fees for Services may be invoiced and are payable notwithstanding termination or expiry of these Code Challenge Terms of Use.

## **16 VARIATIONS TO CODE CHALLENGE TERMS OF USE**

- 16.1 We amend these Code Challenge Terms of Use from time to time. We will notify you of any changes to these Code Challenge Terms of Use by email or post and such changes will be binding on you if you continue to use our Site or Service. However, if you have placed an Order with us prior to the change in our Code Challenge Terms of Use, the Code Challenge Terms of Use in force at the time of your Order will apply to that Order.

## **17 CONFIDENTIALITY**

- 17.1 Each party acknowledges that in the course of using or providing the Services it may have access to Confidential Information of the other party (the “disclosing party”). Each party shall not at any time use or disclose to any third party (and shall use its best endeavours to prevent the publication or disclosure of) any Confidential Information of the disclosing party. This restriction does not apply to (a) any use or disclosure authorised by the disclosing party or required by law, or (b) any information which is already in, or comes into, the public domain otherwise than through the disclosing party’s unauthorised disclosure.

## **18 YOUR LIABILITY**

- 18.1 Your maximum liability to us arising out of or in connection with these Code Challenge Terms of Use whether caused by tort (including negligence), breach of contract or otherwise shall not, subject to clause 19.3, shall not exceed the greater of the amount of any fees you have paid to us in respect of the Service in the 12 months prior to the cause of action or £50,000.
- 18.2 Subject to Clause 19.3, you exclude your liability for loss of profits and for any indirect or consequential loss or damage.
- 18.3 Nothing in this Clause 19 shall limit or exclude your liability:
- for death or personal injury caused by your negligence;
  - for fraud or fraudulent misrepresentation;
  - to pay us the Fees;
  - for any infringement by you of our intellectual property rights; or
  - for any other acts or omissions for which governing law prohibits the exclusion or limitation of liability.

## **19 OUR LIABILITY**

- 19.1 We are not a recruitment or employment agency or business and give no warranty as to the suitability (in any regard) of any Candidate or Developer or to the accuracy, completeness, currency, correctness, reliability, integrity or quality of any information contained in any Content (including any Profile or any information about any Candidate or Developer).
- 19.2 We do not vet, screen or interview any Candidates (and whilst we approve Developers before they are registered with us, we do not otherwise vet, screen or interview them) and you acknowledge and agree that you, and not we, are solely responsible for any conclusions you may draw from any Evaluation, Profile or any other information on our Service and for any decision you may take to reject, short-list, interview, recruit, employ or engage any Candidate or Developer.
- 19.3 You agree and undertake that you are solely responsible for all of Your Content that you post to the Service and for your use of the Service. We do not guarantee the results from your use of the Service.
- 19.4 To the extent permitted by law, the Service is provided on an “as-is” and “as-available” basis without any guarantees, conditions or warranties as to its accuracy or completeness.
- 19.5 To the extent permitted by law, we exclude all liability for:
- any conditions, warranties and other terms which might otherwise be implied by statute, common law or the law of equity.
  - any loss or damage caused by a distributed denial-of-service attack, viruses or other technologically harmful material that may infect your computer equipment, computer programs, data or other proprietary material due to your use of the Site or Service or to your downloading of any material posted on it, or on any website linked to it.
  - any liability for any failures, interruptions, delays or other matters of a similar nature arising out of circumstances beyond our reasonable control;
  - your use of third party websites linked from the Service;
  - any Content posted by any user of the Service
  - any Profile
  - any loss of profit or revenue, loss of data, loss of opportunity, loss of or damage to reputation, wasted management time, third party loss or any indirect losses or damage incurred by you in connection with the Site, Service or Content or in connection with the use, inability to use, or results of the use of the Site, Service or Content whether caused by tort (including negligence), breach of contract or otherwise, even if foreseeable.
- 19.6 Our maximum liability arising out of or in connection with the use, inability to use, or results of the use of the Site, Service or Content whether caused by tort (including negligence), breach of contract or otherwise, which is not excluded by the provisions above, shall not exceed the greater of the amount of any fees you have paid to us in respect of the Service in the 12 months prior to the cause of action or £50,000. We do not limit or exclude our liability in any way for death or personal injury caused by our negligence, fraud or fraudulent misrepresentation or for any other acts or omissions for which governing law prohibits the exclusion or limitation of liability.

## **20 BREACH OF THESE CODE CHALLENGE TERMS OF USE**

- 20.1 If you fail to comply with or breach these Code Challenge Terms of Use (or we have reasonable grounds to believe that you have done so) we may take all or any of the following actions:
- Immediate, temporary or permanent withdrawal of your right to use the Site and Service;
  - Immediate, temporary or permanent removal of Your Content (or any of Your Content) from the Site and Service;
  - Issue of a warning to you;
  - Further legal action against you.
  - Disclosure of such information to law enforcement authorities or third parties as we reasonably feel is necessary.

These actions are not limited, and we may take any other action we reasonably deem appropriate.

## **21 DATA PROTECTION**

- 21.1 We process personal data in accordance with our **Privacy Notice**. Any changes to our **Privacy Notice** will be posted to our site.
- 21.2 Where you have placed an Order for a Code Challenge or an Evaluation, you may provide us with the following personal data in relation to one or more Candidates ("**Candidate Personal Data**"):
- Name and email address of the Candidate(s);
- 21.3 In relation to any processing of the Candidate Personal Data, you will be the data controller and we will be a data processor.
- 21.4 The scope, nature and purpose, and duration of the processing of the Candidate Personal Data are as follows:
- scope, nature and purpose – the provision of the Code Challenge or Evaluation to you under these terms including communication with the Candidate to provide details of access to the Code Challenge and attribution of an Evaluation to a particular Candidate; Hosting of the Candidate Personal Data on the platform and support and maintenance.
  - duration – the duration of the agreement between us (and any agreed upon retention of such data after the end of the agreement);
- 21.5 In relation to the Candidate Personal Data, we will:
- process that Candidate Personal Data only on your documented instructions as set out in these terms unless we are required by the laws of England and Wales, any member of the European Union or by the laws of the European Union applicable to us to process the Candidate Personal Data (**Applicable Laws**), in which case we shall notify you of this legal requirement before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit us from doing so;
  - ensure that any persons who are authorized to process Candidate Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
  - not transfer such Candidate Personal Data outside the EEA unless your prior written consent has been obtained and the following conditions are fulfilled: (i) you or we have provided appropriate safeguards in relation to the transfer; (ii) the Candidate has enforceable rights and remedies (iii) we comply with our obligations under the Data Protection Legislation by providing an adequate level of protection to any Candidate Personal Data which is transferred; and (iv) we comply with your reasonable instructions notified to us in advance with respect to the processing of the Candidate Personal Data.
  - insofar as possible and taking into account the nature of the processing, take appropriate technical and organisational measures to assist you with the fulfilment of your obligation to respond to requests exercising a data subject's rights under the Data Protection Legislation;
  - taking into account the nature of the processing and the information available to us, assist you in ensuring compliance with your obligations under the Data Protection Legislation with respect to security of processing of Candidate Personal Data, notification of Candidate Personal Data breaches to the supervisory authority, communication of Candidate Personal Data breaches to the data subject, data protection impact assessments and prior consultation in relation to high-risk processing under the Data Protection Legislation;
  - implement appropriate technical and organisational measures to protect the Candidate Personal Data from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, the Candidate Personal Data (a "**Security Incident**"). Such measures shall have regard to the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons.

- notify you without undue delay of becoming aware of a Security Incident;
- at your written direction, delete or return Candidate Personal Data and copies thereof to you termination of the agreement, unless required by Applicable Law to store the Personal Data;
- make available to you all information necessary to demonstrate our compliance with this clause 22.5 and allow for and contribute to audits, including inspections, conducted by you or your designated auditor;
- You hereby authorise us engage third party processors in the UK or European Union for the purposes of hosting the Candidate Personnel Data and for support and maintenance of our Service. We will inform you of any intended changes concerning the addition or replacement of any third party processors in advance of such changes and, if you object, then you or we may terminate our agreement or any Order immediately on written notice to the other party. We will ensure that each third party processor is subject to equivalent legal obligations as those imposed us under this clause 22.5 and that we remain liable for any breach of this clause 23.5 that is caused by an act, error or omission of our third party processor(s).

## **22 NOTICES**

All notices given by you to us must be given to us at our address or email address given at the beginning of the Code Challenge Terms of Use. We may give notice to you at either the email or postal address you provide to us when registering with us or by posting changes on the Site. Notice will be deemed received and properly served immediately when posted on the Site, 24 hours after an email is sent, or 3 days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an email, that such email was sent to the specified email address of the addressee.

## **23 EVENTS OUTSIDE OUR CONTROL**

- 23.1 Both parties will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations that are caused by events outside our reasonable control, including adverse weather, strikes or other industrial action, riot or civil commotion, pandemics or epidemics.

## **24 GENERAL**

- 24.1 Any failure by us to insist upon strict performance of any of your obligations under these Code Challenge Terms of Use or any contract with us, or any failure by us to exercise any of the rights or remedies to which we are entitled, is not a waiver by us of such rights or remedies and will not relieve you from compliance with such obligations. Any waiver must be agreed by us in writing.
- 24.2 We intend to rely upon these Code Challenge Terms of Use and any document expressly referred to in them in relation to the subject matter of any contract between us. These Code Challenge Terms of Use (including the documents referred to in these Code Challenge Terms of Use) constitute the entire agreement between you and us relating to the Service and use of the Site.
- 24.3 The Contracts (Rights of Third Parties) Act 1999 is expressly excluded from these Code Challenge Terms of Use

## **25 JURISDICTION AND APPLICABLE LAW**

- 25.1 The English courts will have non-exclusive jurisdiction over any claim arising from, or related to, the Site and Service although we retain the right to bring proceedings against you for breach of these Code Challenge Terms of Use in your country of residence or any other relevant country.
- 25.2 These Code Challenge Terms of Use and any dispute or claim arising out of or in connection with them or their subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.