



# PROCTOR PARTNERSHIPS

Creating Succession Solutions

**DATED**

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## **INTRODUCTION AGREEMENT**

between

**INTRODUCER**

and

**PRINCIPAL**

**Proctor Partnerships (Yorkshire) Limited**

The Coach House | 51 Sackville Street | Barnsley | S70 2BZ | T: 07785 594285  
Company number 8011910

[www.proctorpartnerships.co.uk](http://www.proctorpartnerships.co.uk)

## CONTENTS

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### CLAUSE

1. ....	Interpretation	1
2. ....	Introductions	2
3. ....	Commission and payment	3
4. ....	Obligations of the Principal	4
5. ....	Confidentiality	5
6. ....	Commencement and duration	5
7. ....	Termination	6
8. ....	Consequences of termination	7
9. ....	Independent status	7
10. ....	Entire agreement	7
11. ....	Variation	7
12. ....	Assignment	7
13. ....	No waiver	8
14. ....	Severance	8
15. ....	Notice	8
16. ....	Third party rights	9
17. ....	Governing law and jurisdiction	9

**THIS AGREEMENT** is dated [DATE]

## **PARTIES**

- (1) PROCTOR PARTNERSHIPS LIMITED whose address is at The Coach House 51 Sackville Street Barnsley S70 2BZ (**Introducer**).
- (2) [FULL COMPANY NAME] incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS](**Principal**).

## **BACKGROUND**

- (A) The Introducer has a large number of Prospects, and can meet further Prospects within the North of England who may be interested in entering in to a joint venture, merger, or sale / acquisition agreement (“**Relevant Contract**”) with the Principal.
- (B) The Principal wishes to be introduced to such Prospects (“**Introductions**”), and is willing to pay the Introducer a Fixed Fee on the terms of this agreement upon an Introduction of a Prospect being made by the Introducer to the Principal together with a commission based fee payable to the Introducer if such Prospect enters into a Relevant Contract following an Introduction and the Introducer is willing to effect Introductions in return for the Fixed Fee and Commission fee.

## **AGREED TERMS**

### **1. INTERPRETATION**

- 1.1 The definitions and rules of interpretation in this clause apply in this agreement.

#### **Business Days:**

**Confidential Information:** information of a confidential nature, including trade secrets and information of commercial value, disclosed by either party, its employees, officers or representatives to the other party and specifically including any information or documentation whatsoever provided by the Introducer to the Principal in relation to any Prospect

**Commission Fee:** means the sum of 2.5% of the Contract Value from each party (total 5%)

**Completion Date:** the completion of a Relevant Contract.

**Contract Value:** the turnover of the Prospect in the 12 months prior to the Introduction Date

**Fixed Fee:** has the meaning given to it in clause 3.2

**Introduction:** the provision to the Principal of the details of a Prospect known to the Introducer or a deemed Introduction under clause 2.6 of this agreement

**Introduce, Introduces** and **Introduced** shall be interpreted in accordance with Introduction.

**Introduction Date:** for each Prospect, the date during the term of this agreement on which the Introducer first Introduces or is deemed to have made the Introduction.

**Prospect:** a person, or the representative of person whose principal business is the provision of accountancy services who is a reasonable prospect to the Principal.

**Relevant Contract:** a contract for a full or partial joint venture, merger or sale / acquisition agreement entered into by the Principal following an Introduction.

- 1.2 Clause and paragraph headings shall not affect the interpretation of this agreement.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 Words in the singular shall include the plural and vice versa.
- 1.5 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.6 A reference to **writing** or **written** includes faxes and e-mail.
- 1.7 Any words following the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

## 2. INTRODUCTIONS

- 2.1 The Principal appoints the Introducer on a non-exclusive basis to identify Prospects for the Principal and to make Introductions of such Prospects on the terms of this agreement.
- 2.2 The Introducer shall:
  - (a) serve the Principal faithfully and diligently and not to allow his interests to conflict with its duties under this agreement;
  - (b) use his best endeavours to make Introductions of Prospects agreed pursuant to this clause 2
  - (c) report in writing to the Principal from time to time on progress made with Prospects; and
  - (d) comply with all reasonable and lawful instructions of the Principal.

- 2.3 The Introducer shall have no authority, and shall not hold itself out, or permit any person to hold itself out, as being authorised to bind the Principal in any way in relation to any prospects, and shall not do any act which might reasonably create the impression that the Introducer is so authorised. The Introducer shall not make or enter into any contracts or commitments or incur any liability for or on behalf of the Principal.
- 2.4 Prior to making the Introduction, the Introducer must disclose to each Prospect that he is an introduction agent and that he has no authority or ability to negotiate or vary the or the terms of any contract or Relevant Contract entered in to on behalf of the Principal.
- 2.5 The Introducer shall not produce any marketing material for the Principal's services or use the Principal's name, logo or trade marks on any marketing created for the purpose of marketing the services of the Introducer without the prior written consent of the Principal.
- 2.6 Where a Prospect is Introduced by the Introducer and the Prospect or Principal then introduce a third party with whom either the Prospect or Principal enter in to a Relevant Contract, the Introducer shall be deemed to have Introduced the third party and will be due payment in accordance with this agreement.

### **3. COMMISSION AND PAYMENT**

- 3.1 The Introducer shall only be entitled to payment as set out in clause 3.2 or 3.4 of this agreement unless otherwise agreed in writing by both Parties.
- 3.2 Upon the Principal entering into this agreement, the Introducer will be entitled to an Engagement Fee of £550.00 payable by the Principal. In the event of the Relevant Contract being concluded this Engagement Fee is refundable.
- 3.3 Within 28 days of the Introduction Date the Prospect will provide to the Introducer annual accounts or management accounts evidencing the Contract Value
- 3.4 If, following an Introduction, a person enters into a Relevant Contract, the Introducer will be entitled to the Commission Fee although it is recognised by the Introducer that the Principal may recover a proportion of such commission fee from a successful Prospect which the Introducer anticipates will constitute 2.5% of the Contract Value.
- 3.5 The Principal shall promptly notify the Introducer in writing the date it enters into a Relevant Contract;

- 3.6 The Introducer shall invoice the Principal for the Commission Fee together with any applicable VAT and the Principal shall pay such invoice 2 business days after the anticipated Completion Date. If the Prospect, by entering into the Relevant Contract, ceases to exist, the shareholders, members or partners as relevant shall guarantee to the Introducer that the Principal, or other party to the Relevant Contract, shall discharge such invoice.
- 3.7 All sums payable under this agreement:
- (a) are exclusive of value added tax which shall be added to the sum in question;
  - (b) shall be paid in full without any deductions;
  - (c) are payable in pounds sterling.
- 3.8 If the Principal fails to make any payment due to the Introducer under this agreement by the due date for payment, then without limiting the Introducer's remedies under this agreement, the Introducer may charge the Principal interest on the overdue amount at the rate of 3% per year above the base lending rate of HSBC Bank Plc in force from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The Principal shall pay the interest immediately on demand by the Introducer.
- 3.9 If any dispute arises as to the amount of Commission Fee payable by the Principal to the Introducer, the same shall be referred to an independent firm of accountants agreed between the parties or in absence of such Agreement application shall be made by both parties to the President for the time being of the Royal Institute of Chartered Accountants to nominate a firm of accountants for settlement and their decision, save in the case of manifest error, shall be final and binding on both parties.
- 3.10 Termination of this agreement, howsoever arising, shall not affect the continuation in force of this clause 3 and the Principal's obligation to pay a Commission Fee to the Introducer in accordance with it.

#### **4. OBLIGATIONS OF THE PRINCIPAL**

- 4.1 The Principal must at all material times act in good faith towards the Introducer.
- 4.2 The Principal shall provide the Introducer at all material times with the information the Introducer reasonably requires to carry out its duties.

- 4.3 The Principal shall not be responsible for any costs incurred by the Introducer unless such costs have been agreed by the Principal in writing, in advance.
- 4.4 The Principal shall be under no obligation to:
- (a) accept any Introduction made by the Introducer; or
  - (b) enter into a Relevant Contract.

## 5. CONFIDENTIALITY

5.1 Each party (**Receiving Party**) agrees that it shall at all times (both during the term of this agreement and after its termination) keep confidential, and shall not without the prior written consent of the other party (**Disclosing Party**) use (other than as permitted in clause 5.2) any Confidential Information of the Disclosing Party, unless such information:

- (a) was public knowledge or already known to the Receiving Party at the time of disclosure;
- (b) subsequently becomes public knowledge other than by breach of this agreement;
- (c) subsequently comes lawfully into the possession of the Receiving Party from a third party;
- (d) is agreed by the parties not to be confidential.

5.2 The Receiving Party may use the Disclosing Party's Confidential Information in the performance of its obligations and the exercise of its rights under this agreement and in particular:

- (a) the Introducer may, during the term of this agreement use Confidential Information disclosed to it by the Principal for the purposes of identifying Prospects and seeking to make Introductions to the Principal.

5.3 All documents and other records (in whatever form) containing Confidential Information supplied to or acquired by the Introducer from the Principal shall be returned promptly to the Principal on termination of this agreement, and no copies shall be kept.

## 6. COMMENCEMENT AND DURATION

This agreement shall commence on the date when it has been signed by all the parties (**Commencement Date**) and shall continue, unless terminated earlier in accordance with clause 7, or until either party gives to the other party 1 months written notice to terminate.

## 7. TERMINATION

7.1 Without prejudice to any rights that have accrued under this agreement or any of its rights or remedies, either party may at any time terminate this agreement with immediate effect by giving written notice to the other party if:

- (a) the other party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment;
- (b) the other party commits a material breach of any material term of this agreement other than failure to pay any amounts due under this agreement and if such breach is remediable fails to remedy that breach within a period of 30 days after being notified in writing to do so;
- (c) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- (d) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (e) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party;
- (f) a floating charge holder over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;
- (g) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (h) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 7(c) to clause 7(i) (inclusive);
- (i) the other party ceases, or threatens to cease, to carry on all or substantially the whole of its business; or
- (j) there is a change of control of the other party (within the meaning of section 1124 of the Corporation Tax Act 2010).

**8. CONSEQUENCES OF TERMINATION**

- 8.1 Other than as set out in this clause, neither party shall have any further obligation to the other under this agreement after its termination.
- 8.2 The following clauses shall continue to apply after the termination of this agreement: clause 1, clause 3, clause 5 and clause 7 to clause 17 (inclusive).
- 8.3 Termination of this agreement, for any reason, shall not affect the accrued rights, remedies, obligations or liabilities of the parties existing at termination.

**9. INDEPENDENT STATUS**

The Introducer is an independent contractor, and nothing in this agreement shall constitute the creation, establishment or relationship of partnership, joint venture or employer and employee between the parties.

**10. ENTIRE AGREEMENT**

- 10.1 This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous drafts, agreements, arrangements and understandings between them, whether written or oral, relating to its subject matter.
- 10.2 Each party acknowledges that in entering into this agreement it does not rely on, and shall have no remedies in respect of, any representation or warranty (whether made innocently or negligently) that is not set out in this agreement. No party shall have any claim for innocent or negligent misrepresentation based upon any statement in this agreement.
- 10.3 Nothing in this clause shall limit or exclude any liability for fraud.

**11. VARIATION**

No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

**12. ASSIGNMENT**

This agreement is personal to the parties and neither party shall assign, transfer, mortgage, charge, subcontract, declare a trust of or deal in any other manner with any of its rights and obligations under this agreement without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed)

**13. NO WAIVER**

No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

**14. SEVERANCE**

14.1 If any court or competent authority finds that any provision of this agreement (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this agreement shall not be affected.

14.2 If any invalid, unenforceable or illegal provision of this agreement would be valid, enforceable and legal if some part of it were deleted, [the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable **OR** the parties shall negotiate in good faith to amend such provision such that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the parties' original commercial intention].

**15. NOTICE**

15.1 Any notice or other communication required to be given under this agreement, shall be in writing and shall be delivered personally, or sent by pre-paid first-class post or recorded delivery or by commercial courier, to each party required to receive the notice or communication as set out below:

(a) PROCTOR PARTNERSHIPS LIMITED [**Introducer**], The Coach House, 51 Sackville, Street Barnsley S70 2BZ;

(b) [PARTY2]: [**PRINCIPAL**], [ADDRESS],

or as otherwise specified by the relevant party by notice in writing to each other party.

15.2 Any notice or other communication shall be deemed to have been duly received:

(a) if delivered personally, when left at the address and for the Prospects referred to in this clause;

(b) if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second business day after posting; or

(c) if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

15.3 A notice or other communication required to be given under this agreement shall be validly given if sent by e-mail only if an acknowledgement of receipt of the email is received from the Party to whom the notice or acknowledgement was sent.

15.4 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

**16. THIRD PARTY RIGHTS**

No person other than a party to this agreement shall have any rights to enforce any term of this agreement.

**17. GOVERNING LAW AND JURISDICTION**

17.1 This agreement and any dispute or claim arising out of or in connection with it or its subject matter shall be governed by and construed in accordance with the law of England and Wales.

17.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter.

This agreement has been entered into on the date stated at the beginning of it.

Signed by Robert Proctor  
For and on behalf of Proctor .....  
Partnerships Limited-

Signed by .....  
for and on behalf of