

RESOURCING SOLUTIONS TERMS OF BUSINESS FOR THE SUPPLY OF RECRUITMENT SERVICES (FOR PERMANENT STAFF)

1. DEFINITIONS

1.1 In these Terms of Business the following definitions shall apply:

“Candidate”	means the individual who is supplied or introduced to the Client for a Role;
“Client”	means the person, firm or corporate body together with any subsidiary or associated company as defined by the Companies Act 1985 to whom the Candidate is supplied or introduced;
“Confidential Information”	means all information disclosed by one party to the other under these Terms of Business which the receiving party has been informed is confidential or which the receiving party ought reasonably to comprehend that the disclosing party would regard as confidential. Confidential information shall include without limitation information relating to each party’s business, but shall exclude information which: <ul style="list-style-type: none"> a) was public knowledge or already known to the recipient at the time of disclosure; b) subsequently becomes public knowledge other than by breach of these Terms of Business; c) subsequently comes lawfully into the possession of the recipient from a third party; or d) is agreed by the parties not to be confidential or to be disclosable;
“Engages/Engaged/Engagement”	means the engagement, employment or use of the Candidate by the Client or any third party directly or through any other employment business on a permanent or temporary basis (whether under a contract of service or for services; an agency, license, franchise or partnership arrangement; or any other engagement; directly or through a limited company of which the Candidate is an officer or employee) which results from an Introduction;
“Engagement Fee”	means the fee payable to RSL prior to commencement of work leading to an Introduction in accordance with Clause 3 below;
“Introduction”	means (i) the Client’s interview of a Candidate in person or by telephone, following the Client’s instruction to RSL to supply a Candidate; or (ii) the passing to the Client of a curriculum vitae or information which identifies the Candidate and which leads to an Engagement of that Candidate;
“Mandatory”	means requirements stipulated by the Client that are essential to performance of the Role;
“Placement Fee”	means the fee payable in accordance with Clause 3 below;
“Remuneration”	includes base salary or fees, guaranteed and/or anticipated bonus and commission earnings, allowances, inducement payments, the benefit of a company car and all other payments and taxable (and, where applicable, non-taxable) emoluments payable to or receivable by the Candidate for services rendered to or on behalf of the Client or any third party;
“Role”	means the permanent position the Client is seeking to fill;
“RSL”	means Resourcing Solutions Limited (company number 03280183), a company incorporated in England & Wales whose registered office is at Thames Valley Headquarters, Ruscombe Business Park, Ruscombe, Berkshire RG10 9JW;
“Terms of Business”	means these terms and conditions;

- 1.2 Unless the context otherwise requires, references to the singular include the plural.
1.3 The headings contained in these Terms of Business are for convenience only and do not affect their interpretation.

2. THE CONTRACT

- 2.1 In the absence of a signed acceptance by the Client of these Terms of Business, these Terms of Business shall be deemed to constitute the contract between RSL and the Client in the event that:
- 2.1.1 RSL receives e-mail confirmation of agreement to these Terms of Business; or
 - 2.1.2 RSL has effected an Introduction of a Candidate to the Client; or
 - 2.1.3 the Client Engages a Candidate; or
 - 2.1.4 RSL has passed any information about the Candidate to the Client following an Introduction; or
 - 2.1.5 the Candidate commences the supply of its services to the Client, whichever is the earlier.
- 2.2 These Terms of Business shall prevail over any terms of business or purchase conditions put forward by the Client.
2.3 No variation or alteration to these Terms of Business shall be valid unless the details of such variation are agreed between RSL and the Client and are set out in writing.

3. INTRODUCTIONS, NOTIFICATION AND FEES

- 3.1 The Placement Fee calculated in accordance with clause 3.5 and/or 3.6 shall be payable on the Engagement of any Candidate within 12 calendar months following an Introduction by RSL.
3.2 The Client agrees to:

- 3.2.1 notify RSL immediately of any offer of an Engagement which it makes to the Candidate;
- 3.2.2 notify RSL immediately that its offer of an Engagement to the Candidate has been accepted; and
- 3.2.3 to provide full details of the Remuneration to RSL.

- 3.3 No Placement Fee is incurred by the Client until the Candidate accepts the offer of the Engagement whether such an offer shall be conditional or not.
3.4 RSL will render an invoice to the Client for the Placement Fee upon commencement of the Engagement and, unless otherwise agreed, such invoice shall be payable within 21 days.
3.5 The Placement Fee payable to RSL by the Client for an Introduction resulting in an Engagement shall be calculated according to the following scale fees, applied to the annual Remuneration paid to the Candidate during the first twelve (12) months of the Engagement unless another method of calculation has been agreed in writing by a director of RSL for the Engagement in question. Subject to clause 4, in the event the Candidate ceases to be engaged by the Client before the end of the said year, no refund of part of the said Placement Fee will be required to be paid by RSL.

Scale fees that shall apply:

Service	Percentage
Retained with Engagement Fee	16% (£1,875 upon engagement* with the balance payable upon placement)
Contingency	20%

- * The Engagement Fee of £1,875 for each role will be payable prior to commencement of RSL’s Engagement and will be deducted from the final invoice.
3.6 Where the amount of the actual Remuneration is not known, RSL will charge a Placement Fee calculated in accordance with clause 3.5 on the minimum level of remuneration applicable for the position in which the Candidate has been engaged with regard to any information supplied to RSL by the Client and/or comparable positions in the market generally for such positions.
3.7 In the event that the Engagement is for a fixed term of less than twelve (12) months, the Placement Fee will apply pro-rata. If the Engagement is extended beyond the initial fixed term or if the Client re-engages the Candidate within six (6) calendar months from the date of termination of the first Engagement, the Client shall be liable to pay a further fee based on the additional Remuneration applicable for the period of Engagement following the initial fixed term up to the termination of the second Engagement or the first anniversary of its commencement, whichever is the sooner.
3.8 If the Client subsequently engages or re-engages the Candidate within the period of six (6) calendar months from the date of termination of the Engagement or withdrawal of the offer, a full Placement Fee calculated in accordance with clause 3.5 above becomes payable with no entitlement to any refund.
3.9 Introductions of Candidates are confidential. The disclosure by the Client to a third party of any details regarding a Candidate introduced by RSL which results in an Engagement with that third party within 12 months of the Introduction renders the Client liable to payment of the Placement Fee calculated in accordance with clause 3.5 and/or 3.6 with no entitlement to any refund.
3.10 RSL endeavours to check with the Candidate that they have not been introduced to the Client within the previous six (6) months. Where it is identified that they have been introduced for an alternative position this will be disclosed, and the status of the introduction highlighted. In the event that the Client contests RSL’s Introduction, the Client must notify RSL in writing within three (3) days from the date of RSL’s Introduction of the particular Candidate. The Client agrees that if it has not, within three (3) business days of a first Introduction, notified RSL that the Candidate has already been introduced into the Client’s recruitment process from an alternative source prior to that first Introduction by RSL, the Candidate will be deemed not to be known to the Client for the purposes of the Placement Fee.

4. REFUNDS

- 4.1 In order to qualify for the refund set out in clause 4.2, the Client must pay the Placement Fee within twenty one (21) days of the date of invoice and must notify RSL in writing of the termination of the Engagement within seven (7) days of its termination.
4.2 If for reasons other than the death or incapacity of the Candidate the Engagement terminates before the expiry of ten (10) weeks from the commencement of the Engagement, a refund of ten per cent (10%) will be allowed against the Placement Fee for each complete week of the initial ten (10) week period not worked by the Candidate. If the Client re-engages the Candidate within six (6) calendar months of such termination, it shall immediately repay any refund given.
4.3 In no circumstances will RSL refund any of the Placement Fee to the Client in the event that the Client terminates the Engagement, where the ability or suitability of the Candidate Engaged has already been proven, or in any event if the Candidate leaves after the tenth week of the Engagement. For the avoidance of doubt RSL shall not refund and in any event the Client shall make full payment of the Placement Fee to RSL pursuant to clause 3 even if the project or purpose for which the Candidate was engaged subsequently ceases.

5. CANCELLATION FEE

- 5.1 If, after an offer of Engagement has been made to the Candidate, the Client decides for any reason to withdraw it, the Client shall be liable to pay RSL a minimum fee of ten per cent (10%) of the Remuneration.

6. PAYMENT AND CHARGES

- 6.1 All amounts payable by the Client to RSL under these Terms of Business are exclusive of value added tax which, where applicable, shall be paid in addition.
6.2 RSL reserves the right to charge interest on any overdue amounts in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.
6.3 The Client agrees to indemnify RSL against all costs and expenses incurred in recovering monies due to RSL by the Client in any event.
6.4 Should the Client dispute all or part of an invoice, the undisputed part shall be paid without prejudice to the provisions for the accrual of interest on unpaid invoiced amounts in accordance with clause 6.2 above.

- 6.5 All amounts due under this agreement shall be paid by the Client to RSL in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 6.6 RSL reserves the right to terminate any and all agreements subject to these Terms of Business, without prejudice to its rights, in the event of non-payment or other breach by the Client of any of these Terms of Business.

7. SUITABILITY CHECKS

- 7.1 RSL endeavours to ensure the suitability of Candidates Introduced to the Client to work in the Role by taking reasonably practicable steps to:
 - 7.1.1 ensure that it would not be detrimental to the interests of either the Client or the Candidate;
 - 7.1.2 ensure that both the Client and Candidate are aware of any requirements imposed by law or by any professional body; and
 - 7.1.3 confirm that the Candidate is willing to work in the Role.
- 7.2 Where a Candidate is required by law or any professional body to have any qualifications or authorisations to work in the Role, or the Role involves working with any Vulnerable Persons (as defined in regulation 2 of The Conduct of Employment Agencies and Employment Business Regulations 2003), RSL will take all reasonably practicable steps to obtain, and offer to provide copies of, any relevant qualifications or authorisations and two references and to confirm that the Candidate is suitable for the Role. If RSL is unable to fully comply with these requirements, it shall inform the Client of the steps it has taken to supply the necessary information.

8. YOUR OBLIGATIONS

- 8.1 Upon making a request for a Candidate, the Client shall provide to RSL sufficient and accurate information, including any Mandatory requirements, to enable RSL to seek suitable and appropriate Candidates and to fulfil its obligations, including:
 - 8.1.1 details of the position to be filled and the nature of the work;
 - 8.1.2 the commencement date and the duration or likely duration of the Engagement;
 - 8.1.3 the location and hours of work;
 - 8.1.4 any health and safety issues and steps taken by the Client to prevent or control any risks and any health and safety matters which RSL is required to inform the Candidate about;
 - 8.1.5 details of Mandatory experience, training, qualifications or other authorisations the Candidate must possess in order to fulfil the Role;
 - 8.1.6 any requirements imposed by law or by any professional body, which must be satisfied if the Candidate is to fill the Role;
 - 8.1.7 any other relevant information that may affect RSL's nomination of a Candidate, or a Candidate's decision to accept the Role offered;
 - 8.1.8 the minimum rate of Remuneration, expenses and any other benefits that would be offered (where applicable) in the Role;
 - 8.1.9 the intervals of payment of Remuneration (where applicable); and
 - 8.1.10 the length of notice that the Candidate would be entitled to give and receive to terminate their employment with the Client (where applicable).
- 8.2 Notwithstanding clause 7 and regardless of any statutory obligation on RSL, the Client shall be obliged to satisfy itself as to the suitability of the Candidate for the Role. The Client is responsible for:
 - 8.2.1 taking up any references provided by the Candidate before Engaging the Candidate;
 - 8.2.2 checking the Candidate's right to work and obtaining permission to work as may be required by the law of the country in which the Candidate is Engaged to work;
 - 8.2.3 the arrangement of medical examinations and/or investigations into the medical history of any Candidate; and
 - 8.2.4 satisfying any medical and other requirements, qualifications or permission required for the Candidate to work in the Engagement.
- 8.3 The Client warrants that any information provided in accordance with this clause 8 is full and accurate.

9. LIABILITY

- 9.1 RSL shall not be liable under any circumstances for any loss, expense, damage, delay, costs or compensation (whether direct, indirect or consequential) which may be suffered or incurred by the Client arising from or in any way connected with RSL seeking a Candidate for the Client or from the Introduction or provision or Engagement of any Candidate by the Client.
- 9.2 RSL shall not be liable for any loss, expense, damage or costs which may be suffered or incurred by the Client arising from or in any way connected with any failure on the part of the Candidate to perform the Role nor for any negligence (whether wilful or otherwise), dishonesty, fraud, acts or omissions, or misconduct of a Candidate or for the quality of services provided by a Candidate whosoever arising.
- 9.3 Notwithstanding clauses 9.1 and 9.2, RSL does not exclude liability for death or personal injury arising from its own negligence.
- 9.4 The Client shall indemnify and keep indemnified RSL against any costs, claims, damages or expenses incurred by RSL arising out of any Engagement or the Client's failure to comply with its obligations under these Terms of Business or as a result of any breach of the Client of these Terms of Business.

10. FORCE MAJEURE

- 10.1 RSL shall not be in breach of this Terms of Business nor liable for any failure or delay in performance of any obligations under these Terms of Business arising from or attributable to acts, events, omissions or accidents beyond its reasonable control ("Force Majeure Event"). A Force Majeure Event shall include, but is not limited to, any labour dispute such as strikes, industrial action or lockouts, terrorist attack, civil war, civil commotion or riots, acts of god, or interruption or failure of utility service.

11. TERMINATION

- 11.1 Either party may terminate these Terms of Business immediately by giving written notice to the other party if:
 - 11.1.1 the other party commits a material breach of any of the terms of these Terms of Business and (if such breach is remediable) fails to remedy that

breach within a period of thirty (30) days after being notified in writing to do so;

- 11.1.2 the other party suspends or ceases carrying on its business or suspends, or threatens to suspend, payment of its debts or is unable to pay its debts or it goes into liquidation or enters into an arrangement with creditors or has a receiver or an administrator appointed.

12. CONFIDENTIALITY

- 12.1 Neither party shall use the other party's Confidential Information for any purpose other than to perform its obligations under this Agreement.
- 12.2 Each party undertakes that it shall not at any time disclose to any third party any Confidential Information of the other party, except to those of its employees, representatives or advisers who need to know such information for the purpose of carrying out the party's obligations under these Terms of Business (and such parties to be bound by the same obligations of confidence), or as may be required by law, court order or any governmental or regulatory authority.

13. GENERAL

- 13.1 The parties agree that these Terms of Business (together with any other terms and conditions expressly incorporated in writing into the contract between the parties) constitutes the entire agreement between the parties relating to the subject matter of the contract. The parties confirm that they have not entered into the contract governed by these Terms of Business on the basis of any representation that is not expressly set out in these Terms of Business or any other terms and conditions expressly incorporated in writing into the contract between them. Nothing in this clause shall limit or exclude any liability for fraud.
- 13.2 If any provision of these Terms of Business is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision shall, to the extent required, be deemed not to form part of the Terms of Business, and the validity and enforceability of the other provisions shall not be affected. Any provision which is found illegal, invalid or unenforceable, shall apply with the minimum modification necessary to make it legal, valid and enforceable.
- 13.3 The Client may not assign, sub-licence or otherwise transfer any agreement governed by these Terms of Business or any rights or obligations hereunder whether in whole or in part.
- 13.4 The Client and RSL agree that any rights accruing to any third party pursuant to the Contracts (Rights of Third Parties) Act 1999 shall be excluded in any event.
- 13.5 Nothing in these Terms of Business shall constitute a partnership or joint venture between the parties.
- 13.6 These Terms of Business are governed by the law of England & Wales and the parties irrevocably submit to the exclusive jurisdiction of the Courts of England & Wales.

Signature _____

Approvers Name _____

Job Title _____

Date _____

On behalf of (Company Name) _____

Company Registration number _____