

1. DEFINITIONS AND INTERPRETATION

1.1. In these Terms the following definitions apply:

Agency	Resourcing Solutions Limited (Company Number 03280183) whose registered office is at 1450 Parkway, Solent Business Park, Whiteley, Fareham, Hampshire, PO15 7AF
Applicant	any person Introduced by the Agency to the Client for an Engagement including any members of the Agency's own staff;
Client	the person, firm or corporate body together with any Group Company to which any Applicant is Introduced by the Agency;
Contract	the contract between the Agency and the Client for the Agency's supply of permanent and direct fixed term recruitment services and the Introduction of Applicants to the Client comprising these Terms and any Special Conditions;
Data Protection Laws	any data protection legislation from time to time in force in the UK including the Data Protection Act 2018 or any successor legislation and for so long as and to the extent that the law of the EU has legal effect in the UK the General Data Protection Regulation ((EU) 2016/679) and any other directly applicable EU regulations relating to data protection and privacy;
Engagement	the engagement, employment or use of the Applicant by the Client or any third party on a permanent or direct fixed term basis, whether under a contract of service or for services; under an agency, licence, franchise or partnership agreement; or any other engagement; and " Engaging ", " Engage ", " Engages " and " Engaged " shall be construed accordingly;
Group Company	in relation to a company, that company, any subsidiary or holding company or subsidiary undertaking of a common parent (as defined by section 1162 of the Companies Act 2006);
Introduction	the earlier of (i) the Agency's provision to the Client of a CV or other information which expressly or impliedly identifies the Applicant or (ii) the Client's interview of an Applicant (in person, by telephone or by any other means) following the Client's instruction to the Agency to search for an Applicant; and " Introduced " shall be construed accordingly;
Introduction Fee	the sum or sums payable under the Contract by the Client to the Agency as calculated in accordance with clause 5;
Losses	all losses, liabilities, damages, costs, expenses (including management time and reasonable legal fees) and charges arising out of or resulting from actions, omissions, defaults, proceedings, claims and/or demands;
Regulations	the Conduct of Employment Agencies and Employment Businesses Regulations 2003;
Remuneration	includes base salary or fees, guaranteed and/or anticipated bonus and commission earnings, benefits, allowances, inducement payments, and all other payments and taxable (and, where applicable, non-taxable) sums payable to the Applicant for its Engagement by the Client or any third party to whom the Client introduces the Applicant;
Special Conditions	all specific conditions relating to the Contract set out in the Agency's written order acknowledgement or otherwise by written agreement between the parties; and
Terms	the terms and conditions of business between the Agency and the Client as set out in this document.

1.2. The headings in these Terms are inserted for convenience only and shall not affect its construction.

1.3. A reference to the singular includes the plural and vice versa.

1.4. A reference to a law, statute and/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.

1.5. Any phrase introduced by the terms 'including', 'include', 'in particular' or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

2. THE CONTRACT

2.1. The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between the parties, whether written



or oral, relating to its subject matter.

- 2.2. If there is any inconsistency between these Terms and the Special Conditions, the provisions in the Special Conditions shall prevail.
- 2.3. The Contract is deemed to be accepted by the Client on the earlier of it:
 - 2.3.1. accepting or instructing the Agency to Introduce Applicants;
 - 2.3.2. being Introduced to an Applicant by the Agency;
 - 2.3.3. interviewing or Engaging an Applicant following an Introduction; or
 - 2.3.4. passing information about the Applicant to a third party following an Introduction.
- 2.4. No variation to the Contract shall be valid unless it is in writing and signed by an authorised signatory of the parties, save that any personnel of the Agency may agree to vary the Introduction Fees.
- 2.5. When providing services pursuant to these Terms the Agency is acting as an employment agency as defined in the Employment Agencies Act 1973.

3. CLIENT'S OBLIGATIONS

- 3.1. When requesting the Agency to provide details of potential Applicants, the Client shall provide details of:
 - 3.1.1. the identity of the Client;
 - 3.1.2. the commencement date and, if applicable, the duration of any fixed term employment;
 - 3.1.3. the work to be provided (including the location and the hours to be worked, the potential health and safety risks and the steps taken to prevent or control such risks);
 - 3.1.4. the training, qualifications and authorisations it considers necessary;
 - 3.1.5. any expenses payable;
 - 3.1.6. the Remuneration the potential Applicant would be entitled to receive; and
 - 3.1.7. the length of notice which the potential Applicant would be required to give and which the potential Applicant would be entitled to receive to end the Engagement.
- 3.2. The Agency may advertise each vacancy which the Client notifies to the Agency unless the Client informs the Agency otherwise in writing.
- 3.3. Each Introduction made by the Agency shall take priority over any duplicate applications made by or on behalf of the same Applicant provided that the Agency's Introduction was made first in time. If the Agency's Introduction is a duplicate application and not made first in time, the Client shall notify the Agency of this in writing, and provide satisfactory evidence of the same, within 2 (two) business days of receipt of the relevant Applicant's details from the Agency.
- 3.4. Although the Agency endeavours to ensure the suitability of Applicants, the Client shall satisfy itself as to the suitability of the Applicant and the Client shall take up any references provided to it by the Applicant or the Agency before Engaging such Applicant. The Client shall be responsible for checking the Applicant's right to work and obtaining any permission to work as may be required by the law of the country in which the Applicant is Engaged to work, for the arrangement of medical examinations and/or investigations into the medical history of any Applicant, and satisfying any medical and other requirements or qualifications required by law of the country in which the Applicant is Engaged to work.

4. AGENCY'S OBLIGATIONS

- 4.1. The Agency agrees to search for Applicants who may be suitable for Engagement by the Client based on the information provided by the Client pursuant to clause 3.1 with a view to effecting an Introduction.
- 4.2. The Agency shall use its reasonable endeavours to:
 - 4.2.1. obtain confirmation of the Applicant's identity;
 - 4.2.2. ensure that the Client and the Applicant are aware of any requirements imposed by law or by any professional body; and
 - 4.2.3. confirm that, in its reasonable opinion, it would not be detrimental to the interests of either the Client or the Applicant for the Applicant to work in the position the Client seeks to fill.
- 4.3. Where the Applicant will be working with children or vulnerable adults the Agency will take all reasonable steps to obtain and offer to provide copies to the Client of two references from persons who are not relatives of the Applicant pursuant to Regulation 22 of the Regulations.

5. INTRODUCTION AND INTRODUCTION FEES

5.1. Notification

The Client shall:

- 5.1.1. notify the Agency immediately of any offer of an Engagement which it makes to the Applicant;
- 5.1.2. notify the Agency immediately that its offer of an Engagement to the Applicant has been accepted and provide details of the Remuneration to the Agency to enable the Agency to raise an invoice; and
- 5.1.3. pay the Agency's Introduction Fee within 14 (fourteen) days of the date of invoice and shall not make payment of the invoice dependent upon any procedural formalities, including any requirement by the Client for the Agency to provide a purchase order number.



5.2. Ownership

5.2.1. An Introduction Fee will be charged in relation to any Applicant Engaged as a consequence of, or resulting from, an Introduction by or through the Agency, whether direct or indirect, within 12 (twelve) months of the date of the Agency's Introduction.

5.2.2. Irrespective of whether the Applicant was previously known to the Client or not, an Applicant shall be considered to have been Introduced to the Client exclusively by the Agency and any Engagement of the Applicant shall be deemed to have occurred solely as a consequence of that Introduction unless, upon receipt of the Applicant's details, the Client has notified the Agency in accordance with clause 3.3.

5.3. Third party introductions

Introductions of Applicants are confidential. The disclosure by the Client to a third party of any details regarding an Applicant Introduced by the Agency which results in an Engagement with that third party within 12 (twelve) months of the Introduction renders the Client liable to payment of the Agency's fee as set out in clause 5.4 with no entitlement to any refund under any circumstances.

5.4. Introduction Fee

The Introduction Fee shall be calculated in accordance with the fee structure detailed below based on the Remuneration applicable during the first 12 months of the Engagement plus VAT or local withholding tax (if applicable).

Remuneration	Percentage charged
£0 - £29,999	25%
£30,000+	35%

5.5. Where the amount of the actual Remuneration is not known, the Agency will charge a fee calculated on the minimum level of remuneration applicable for the position in which the Applicant has been Engaged with regard to any information supplied to the Agency by the Client and/or comparable remuneration in the market generally for such positions.

5.6. If the Client requires the Applicant to undertake a trial period before making an offer of permanent Engagement, the services of the Applicant will be provided in accordance with the Agency's Terms and Conditions of Business for the Introduction of Contract/Temporary Staff. If an Engagement takes place within 6 (six) months of the end of the trial period, an Introduction Fee will be payable and the refund provisions under clause 6 will not apply.

5.7. Fixed Term Engagement

5.7.1. If the Engagement is for a fixed term of less than 12 (twelve) months, the Introduction Fee will apply pro-rata.

5.7.2. If the Engagement is extended beyond the initial fixed term or if the Client re-Engages the Applicant within 6 (six) months of the termination or expiry of the first Engagement, the Client shall be liable to pay a further fee based on the additional Remuneration applicable for either the period of Engagement following the initial fixed term up to the termination or expiry of that second Engagement, or the first anniversary of the commencement of the initial fixed term Engagement (whichever is the earlier). Any further extensions or Engagements within 6 (six) months of the second Engagement shall require the Client to pay the Agency a further fee based on the additional Remuneration applicable for either that further fixed term period or the first anniversary of the commencement of the initial fixed term Engagement (whichever is the earlier).

5.8. Agency's rights

The Agency reserves the right to:

5.8.1. charge the Client interest and compensation under the Late Payment of Commercial Debts (Interest) Act 1998, and any such interest and/or compensation shall be payable on demand. The Agency may also charge the Client any reasonable legal fees and costs associated with recovering any overdue Introduction Fees; and

5.8.2. where the Client has failed to make payment of an invoice on time, claim immediate payment of all invoices rendered including those still within the agreed time for payment.

6. REFUNDS

6.1. If the Engagement ends, whether by expiry of notice or otherwise, before the expiry of 8 (eight) weeks from the date the Engagement starts, the Introduction Fee will be refunded to the Client in accordance with clause 6.2, provided that:

6.1.1. the Client has complied with all of the provisions in clause 5.1;

6.1.2. the termination is either a consequence of the Applicant leaving of his own volition or a dismissal by the Client which is not by reason of redundancy and which is neither wrongful nor unfair as defined by the Employment Rights Act 1996; and

6.1.3. the Client notifies the Company in writing within 7 (seven) days of the Applicant's resignation or dismissal, as the case may be.



- 6.2. If the conditions in clause 6.1 have been met, the following proportion of the Introduction Fee paid by the Client will be refunded by the Agency:

Week in which the Applicant leaves	% of Introduction Fee refunded
1 - 4	100%
5 - 6	30%
7 - 8	10%

- 6.3. There will be no refund where the Applicant leaves after the 9th (ninth) week, of the Engagement.
6.4. Should the Client and/or any Group Company of the Client subsequently Engage or re-Engage the Applicant within 6 (six) calendar months from the date of termination of the Engagement or the Client's withdrawal of the offer of Engagement, a full Introduction Fee shall be payable by the Client to the Agency, with no entitlement to a refund under any circumstances.

7. LIABILITY

- 7.1. Nothing in the Contract shall limit or exclude either party's liability for:
- 7.1.1. death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
 - 7.1.2. fraud or fraudulent misrepresentation; or
 - 7.1.3. any other liability which may not be limited or excluded under applicable law.
- 7.2. Subject always to clause 7.1, the Agency shall under no circumstances whatsoever be liable to the Client, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit or any indirect or consequential loss arising under or in connection with the Contract.
- 7.3. The Agency's total aggregate liability to the Client in respect of all other Losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the higher of:
- 7.3.1. the total Charges paid by the Client to the Agency in the preceding 12 months; or
 - 7.3.2. £100,000 (one hundred thousand pounds).
- 7.4. The parties expressly agree that if any limitation or provision contained or expressly referred to in this clause 7 is held to be invalid under any applicable statute or rule of law, it shall, to that extent, be deemed omitted. If any party becomes liable for any Losses which would otherwise have been excluded, that liability shall be subject to the other limitations and provisions set out in this clause 7.

8. TERMINATION

- 8.1. The Contract may be terminated by either party at any time upon providing the other party with at least 30 (thirty) days' written notice.
- 8.2. Either party may terminate the Contract immediately in writing by giving notice to the other party if:
- 8.2.1. there is any breach of the Contract by the other party which is, in the reasonable opinion of the terminating party, incapable of remedy;
 - 8.2.2. the other party commits any other serious or repeated breach of the Contract which is, in the reasonable opinion of the terminating party, capable of remedy and which is not remedied within 30 (thirty) days after receiving written notice of the breach requiring the breach to be remedied within such period; or
 - 8.2.3. the other party becomes insolvent, is unable to pay its debts, ceases to trade, has a receiver appointed over the whole or any part of its assets, has an administrator appointed, enters into any composition with creditors generally, is wound up or any step is taken towards any of these events.
 - 8.2.4. the other party is prevented by the imposition of relevant sanctions from performing this Contract or the performance of the Contract is illegal by reason of the imposition of relevant sanctions.
- 8.3. Termination of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination, including (for the avoidance of doubt and without limitation) the Client's obligation to pay Introduction Fees.

9. DATA PROTECTION

- 9.1. In relation to the performance of its obligations under the Contract, each party shall comply strictly with all requirements of the Data Protection Laws applicable to it.
- 9.2. Neither party shall, by any act or omission, cause the other party to breach any of the Data Protection Laws in connection with this Contract.



- 9.3. The parties acknowledge and agree that:
- 9.3.1. they shall each be a data controller in respect of the personal data of Applicants that may be exchanged between them. Neither party is the processor for the other party. Personal data may include contact details, CVs, references and other information provided directly by the data subject or otherwise collated about them for the purposes of assessing their suitability for a position; and
- 9.3.2. each party shall be responsible for complying with all applicable Data Protection Laws relevant to its own processing of the personal data concerned.
10. **CONFIDENTIALITY**
- 10.1 Each party undertakes that it shall not at any time during the term of the Contract, and for a period 2 (two) years after termination of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party (including, without limitation, the terms of the Contract), except as permitted by clause 10.2.
- 10.2 Each party may disclose the other party's confidential information:
- 10.2.1 to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall procure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 10; and
- 10.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 10.3 Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.
11. **NON-SOLICITATION**
- 11.1. During the term of the Contract and for a period of 6 (six) months following its termination, neither party shall, directly or indirectly, solicit, engage or receive services from any employee of the other party, irrespective of whether such employee has been involved in or with the Agency's supply of services to the Client, on any basis whatsoever, including on a fixed term, temporary or permanent basis, whether during the term of that employee's employment with the other party or for a period of 6 (six) months after termination of that employee's contract of employment with that party.
- 11.2. Neither party shall be in breach of clause 11.1 in the event that the employee approached that party directly, or responded to a vacancy advertised to the general public without that employee having been previously approached directly by that party.
12. **ETHICAL BUSINESS PRACTICE, ANTI BRIBERY AND ANTI TAX EVASION**
- 12.1. Each party shall conduct its business and its relationships with each other and with third parties in good faith and in a fair and ethical manner.
- 12.2. The Agency is committed to equal opportunities and expects the Client to comply with all anti-discrimination legislation as regards the selection and treatment of Applicants.
- 12.3. In performing its obligations under the Contract, each party shall comply with all applicable laws, statutes, regulations and codes relating to:
- 12.3.1. anti-bribery and anti-corruption, including but not limited to the Bribery Act 2010; and
- 12.3.2. anti-slavery and human trafficking, including but not limited to the Modern Slavery Act 2015.
- 12.4. Each party shall not, and shall procure that its employees, agents and contractors shall not, engage in any activity, practice or conduct which would constitute an offence and/or contravention of the Criminal Finances Act 2017.
13. **GENERAL**
- 13.1. **Severance:** If any provision or part-provision of the Contract is or becomes invalid, unlawful or unenforceable, it shall be ineffective only to the extent of such invalidity, unlawfulness or unenforceability and shall not prejudice or affect the remainder of the Contract.
- 13.2. **Rights of Third Parties:** Except in relation to rights expressly granted to third parties by the Contract, a person who is not a party to the Contract shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract. This clause 13.2 does not affect any right or remedy which exists or is available otherwise than pursuant to that Act.
- 13.3. **Notices:** Any notices given by either party under the Contract shall be given in writing and sent by first class post to the other party's registered office, and shall be deemed to have been received 2 (two) business days after the date of posting.
- 13.4. **Force majeure:** Neither party shall be liable to the other party for any delay or non-performance of its obligations under the Contract resulting from causes beyond its reasonable control, including acts of God, fire, flood, earthquake or other natural disaster, terrorist attack or civil commotion.
- 13.5. **Waiver:** A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy at any time subsequently to enforce all terms of the Contract. No single or partial exercise of any right or remedy provided under the Contract shall prevent or restrict the further exercise of that or any other right or remedy.



- 13.6. **No partnership or agency:** Nothing in the Contract shall create or be deemed to create any partnership or joint venture between the parties, constitute either party the agent of the other party, or authorise either party to make or enter into any commitments for or on behalf of the other party.
- 13.7. **Governing law and jurisdiction:** The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of England and Wales and the Contract is subject to the exclusive jurisdiction of the courts of England and Wales.

