1. The Contract and Services

1.1. The Recruiter wishes to Introduce Candidates to the Client and the Client may wish to Engage those Candidates. Services will be provided on a Retained Service.

1.2. The Contract comes into existence on the earlier of:

1.2.1. The Client's signature on this Agreement;
1.2.2. The Recruiter confirming acceptance of the Client's instructions in writing;
1.2.3. The Client requesting a Resume of the Candidate;
1.2.4. The Client requesting Identifying Information;
1.2.5. The Client requesting the Recruiter to make arrangements for any contact between the Client and the Candidate;
1.2.6. The Client making contact with the Candidate;
1.2.7. The Client arranging to Interview or Interviewing a Candidate; or
1.2.8. The Client offering Engagement to a Candidate.

1.3. These Conditions apply to the exclusion of any other terms that the Client may seek to incorporate and can only be varied by agreement between the Parties confirmed in writing.

1.4. The Definitions set out at the foot of this document form part of the Agreement.

1.5. The Headings contained in this Agreement are for convenience only and shall not affect the interpretation of the Agreement.

1.6. The Recruiter will use reasonable endeavours to Introduce Candidates to the Client. The Recruiter will seek to meet performance dates required by the Client but no guarantee, warranty or promise is made in respect of Introducing Candidates by specific dates, timeframes, or deadlines. Time for delivery of Introductions shall not be of the essence of the Contract.

1.7. Where the Client uses a Retained Service, the Client shall provide the Recruiter with clear instructions on the and the Recruiter shall use reasonable endeavours to Introduce Candidates that fulfil those instructions. Without prejudice to Clauses 2.12 and 2.13 below, if no Engagement is made within 12 months of the Retained Instruction, the Recruiter may terminate the Retained Instruction forthwith at any time thereafter.

2. Fees and Invoicing

2.1. Within 7 days of the commencement of this Agreement, the Client shall pay the Retainer Fee set out in the Order Form. Thereafter, if the Client Engages a Candidate Introduced by the Recruiter within 12 months of the Introduction, the higher of the following Fees shall apply, unless the Order Form states differently:

2.1.1. In the event that the Candidate is Engaged in an employed position, 30% of the Candidate's Earnings;
2.1.2. In the event that the Candidate is Engaged in a self-employed position, 30% of the Candidate's Earnings; or
2.1.3. In the event that the Candidate is Engaged in a board, consultancy, advisory, part-time, or any other manner not described in Clauses 2.1.1 or 2.1.2 above, $40,000.00

The Retainer Fee will be deducted from the Fee calculated in accordance with Clauses 2.1.1-2.1.3 in respect of the first Engagement only. The Retainer Fee will not be deducted from Fees for further or future Engagements.

2.2. Invoices may be sent upon commencement of the Engagement. Fees shall be paid within 14 days of invoice. Where the Client uses a Retained Service, the Retainer Service Fee shall be invoiced on or around the commencement of the Retained Instruction and payment shall be due within 14 days of invoice.

2.3. If the Client introduces or passes Identifying Information of Candidate to another party (directly or indirectly and including, but not limited to, a member a Group Company) and that party Engages the Applicant, the Client will immediately notify the Recruiter and pay the Fee set out in Clause 2.1.

2.4. Clause 2.3 shall not apply where a period of 12 months has passed from the date of the Introduction to the Engagement.

2.5. The Client is required to notify us within 3 days of an Engagement. Where a Client does not do so, the Recruiter shall be entitled to estimate the Candidate's Earnings and invoice the Fee accordingly.

2.6. All Fees shall be paid without set-off or deduction of any kind. All Fees are exclusive of VAT, sales tax or any other tax that may apply.

2.7. If the Fee has been calculated based on estimated Earnings, the Client will notify the Recruiter as soon as reasonably practicable as to the correct Earnings. In the event that the Recruiter is entitled to a greater Fee, the Recruiter may invoice the balance between the Fee originally paid and the recalculated Fee. In the event that the Fee originally paid by the Client is greater than the recalculated Fee, the Recruiter shall be under no obligation to refund the balance between the Fee originally paid and the recalculated Fee.

2.8. Late payments shall incur interest at a rate of 8% per annum. Where 8% exceeds the maximum amount permitted by the law of the jurisdiction stated in Clause 13 below, the maximum amount permitted by the law of that jurisdiction.

2.9. Any Retainer Service Fee paid and/or any other Fee paid prior to any Introduction is non-refundable in any circumstances including, but not limited to, where Retained Services are cancelled or terminated, this Agreement is terminated, and/or a person is Engaged outside of the terms of this Agreement (including, but not limited to, by way of internal recruitment or another recruiter assistance).

2.10. Where the Client has paid a Retainer Service Fee and prior to the termination of the Retained Instruction, an Engagement occurs, the fee at Clause 2.1 above shall apply and the Retainer Service Fee paid shall be deducted from the Fee. Where the Client has paid a Retainer Service Fee and following the termination of the Retained Instruction, an Engagement occurs, the fee at Clause 2.1 above shall apply and the Retainer Service Fee paid shall not be deducted from the Fee. Where the Client has paid a Retainer Service Fee and an Engagement is made for a role that is not the Retained Instruction, the Retainer Service Fee shall not be deducted from the Fee.

2.11. The Recruiter retains absolute sole discretion as to whether Fees shall be waived, in whole or in part, where the Client had knowledge of the Candidate prior to the Introduction. The exercise of discretion in one instance shall not bind the Recruiter to the same exercise of discretion in future or similar circumstances.

3. Replacement

3.1. If an Engaged Candidate's Engagement is Terminated within the first 3 months of the Engagement (unless the Order Form provides a different timeframe), the Recruiter will use reasonable endeavours to Introduce a replacement Candidate for no additional Fee, provided that:

3.1.1. All Fees have been paid in full and on time;
3.1.2. The Client notifies the Recruitment within 7 days of the Termination; and
3.1.3. The Termination is:
(a) lawful;
(b) not due to redundancy;
(c) not due to constructive dismissal;
(d) not due to a material change in the job description or terms of the Engagement; and
(e) not related to an Engagement for a fixed term of less than 6 months.

3.2. For the avoidance of doubt, the Recruiter will be under no obligation to seek replacement Candidates unless all of the conditions set out in Clauses 3.1.1 to 3.1.3 are satisfied.

4. Suitability

4.1. The Recruiter makes no warranty or guarantee as to the suitability of the Candidate for the role and Client is solely responsible for ensuring the Candidate is suitable for the role, including, but not limited to, right to work, skills, and qualifications.

5. Exclusivity

5.1. Unless the Order Form states differently, the Client engages the Recruiter on an exclusive basis to provide the Retained Service. The Client will not engage another party in respect of the same vacancy it has instructed the Recruiter to seek Introductions and Candidate.

6. Termination

6.1. This Agreement may be terminated by either party by providing 3 months' notice in writing to the other party.

6.2. Any Introduction made prior to the termination of this Agreement that results in an Engagement after the termination of this Agreement, shall continue to entitle the Recruiter to the appropriate Fee set out in Clause 2. For the avoidance of doubt, Clause 2 shall survive the termination of this Agreement. Clause 3 shall not survive the Termination of this Agreement.

6.3. Where the Agreement includes a Retained Service, Termination of the Agreement shall terminate the Retained Service and the Retained Instruction without further notice

7. COSTS INDEMNITY

7.1. THE CLIENT SHALL INDEMNIFY AND KEEP INDEMNIFIED THE RECRUITER FOR ALL LIABILITIES, DAMAGES, LOSSES (INCLUDING LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF REPUTATION, LOSS OF SAVINGS AND LOSS OF OPPORTUNITY), FINES, EXPENSES AND COSTS (INCLUDING ALL INTEREST, PENALTIES, LEGAL COSTS (CALCULATED ON A FULL INDEMNITY BASIS) AND PROFESSIONAL COSTS AND EXPENSES) IN RESPECT OF THE CLIENT'S BREACH OF THIS AGREEMENT.

8. Assignment

8.1. The Recruiter may assign, sell, allocate or assign, novate, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under this Agreement.

8.2. The Client may not assign, sell, allocate, or assign, novate, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under this Agreement.

9. LIMITATION OF LIABILITY

9.1. SUBJECT TO CLAUSE 9.2, THE RECRUITER'S TOTAL LIABILITY SHALL NOT EXCEED THE LOWER OF:

9.1.1. THE FEE PAID OR DUE TO THE RECRUITER IN RESPECT OF THE INTRODUCTION GIVING RISE TO LIABILITY; OR
9.1.2. THE FEES PAID OR DUE TO THE RECRUITER IN THE 6 MONTHS PRIOR TO THE EVENT GIVING RISE TO LIABILITY.

9.2. NOTHING IN THIS AGREEMENT LIMITS OR EXCLUDES:

9.2.1. LIABILITY FOR DEATH OR PERSONAL INJURY CAUSED BY NEGLIGENCE;
9.2.2. LIABILITY FOR FRAUD OR FRAUDULENT MISREPRESENTATION; OR
9.2.3. ANY LIABILITY THAT CANNOT LEGALLY BE LIMITED.

9.3. SUBJECT TO CLAUSE 9.2, THE RECRUITER WILL HAVE NO LIABILITY FOR:

9.3.1. LOSS OF PROFITS (INCLUDING LOSS OF ANTICIPATED SAVINGS);
9.3.2. LOSS OF SALES OR BUSINESS;
9.3.3. LOSS OF AGREEMENTS OR CONTRACTS;
9.3.4. LOSS OF USE OR CORRUPTION OF SOFTWARE, DATA OR INFORMATION;
9.3.5. LOSS OF OR DAMAGE TO GOODWILL; OR
9.3.6. INDIRECT OR CONSEQUENTIAL LOSS.

10. Data Protection and Data Processing

10.1. Both parties will comply with all applicable requirements of the Data Protection Legislation in its processing of personal data under or in connection with this Agreement. This clause 10 is in addition to a party's obligations under the Data Protection Legislation.

10.2. The parties acknowledge that for the purposes of the Data Protection Legislation, the Recruiter is the data controller and the Client is the data processor (as defined in the Data Protection Legislation). The Client may, depending on their activities, also be a joint controller (as defined in the Data Protection Legislation). Where the Client is a joint-controller the Client will be responsible for satisfying their legal obligations under the Data Protection Legislation as a controller or joint-controller as the case may be.

10.3. The Recruiter will ensure that the Recruiter has all necessary consents and notices in place to enable lawful transfer of the personal data (as defined in the Data Protection Legislation), whether that transfer is international or not, to the Client for the duration and purposes of the Contract.

10.4. The Client will:

10.4.1. Ensure that it maintains appropriate physical, technical and managerial safeguards to secure and maintain the security of Candidate's personal data and prevent unauthorised processing;
10.4.2. Advise the Recruiter of the lawful basis of processing data;
10.4.3. Process data only in compliance with the Data Protection Legislation;
10.4.4. Only engage processers or sub-processors who have agreed to provisions no less stringent than this Clause 10;
10.4.5. Retain all and any liability for the acts of any processors and sub-processors appointed by the Client or the Client's processors;
10.4.6. Informs the Recruiter of any changes to processors or sub-processors;
10.4.7. Assist the Recruiter in complying with their obligations under the Data Protection Legislation including, but not limited to, fulfilment of the rights of Data Subjects, impact assessments, breach notifications, and breach investigations;
10.4.8. Notify the Recruiter in no less than 24 hours of the Client becoming aware of a data breach;
10.4.9. At the written request of the Recruiter, discontinue and cease immediately all processing of personal data, return to the Recruiter all personal data and/or delete all personal data; and
10.4.10. Make information available to the Recruiter on request by the Recruiter information that demonstrates the Client's compliance with this Clause 10 and the Data Protection Legislation.

10.5. **THE CLIENT INDEMNIFIES AND KEEPS INDEMNIFIED THE RECRUITER IN RESPECT OF ALL AND ANY LOSSES ARISING IN CONSEQUENCE OF ANY BREACH OF THE DATA PROTECTION LEGISLATION WHICH ARE THE RESPONSIBILITY OF THE CLIENT WHETHER SUCH BREACH ARISES FROM THE CLIENT'S SOLE RESPONSIBILITY OR JOINTLY WITH ANY THIRD PARTY.**

11. Entire Agreement

11.1. This Agreement supersedes and replaces any previous agreement between the parties in relation to the subject matter contained in this Agreement.

11.2. No other statement, promise, warranty or commitment that is not recorded in this Agreement shall be binding upon the parties.

12. Variation

12.1. The Recruiter may vary these terms and conditions from time to time on giving the Client at least seven days' notice in writing provided that any variation required by applicable law will be effective immediately. The Client's continued use of the Recruiter's services or the Client not terminating the Agreement after the variation notice shall constitute the Client's acceptance of the variation.

13. Governing Law and Jurisdiction

13.1. This Agreement shall be governed and construed in accordance with the laws of England and Wales.

13.2. This Agreement shall be subject to the exclusive jurisdiction of the Courts of England.

The Definitions noted at Clause 1.4 above are as follows:

Agreement	The Order Form together with the Terms and Conditions
Candidate	A person the Recruiter Introduces to the Client to be considered for an Engagement
Client	Those identified as Client on the Order Form
Contract	This contract between the Client and the Recruiter for the supply of recruitment services whether governed by this Agreement or otherwise
Data Protection Legislation	The General Data Protection Regulation (GDPR), the UK GDPR, and the Data Protection Act 2018 together with all and any implementing laws, regulations, and secondary legislation as may be amended from time to time.
Earnings	all base salary, wages, fees, performance bonus and sign-on bonuses payable to the Candidate in the first 12 months of the Engagement.
Engagement	The Client's engagement, employment, hire or use of the Candidate (whether for the position originally advertised or otherwise) whether as an employee, director, partner, consultant, or otherwise (and whether on an employed or self-employed basis, directly, indirectly, or through a limited company or body corporate of which the Candidate is a director, officer, or employee) or the Client's offer of this which is accepted by the Candidate. Engage, Engages, Engaged and Engaging shall be constructed accordingly
Fee	The monies due to the Recruiter as set out in Clause 2
Group Company	Any incorporated body or unincorporated organisation that is a sister, parent, group, subsidiary, or the Client. Also, any incorporated or unincorporated organisation that shares a director, owner, shareholder or partner with the Client
Identifying Information	Information that may identify a Candidate to the Client, including not limited to personal data, contact information

Introduction	Provision of a Resume, Identifying Information or profile of a Candidate (in paper, electronic or other format) and regardless of whether the Candidate may have been previously or subsequently introduced by another person
Order Form	The document titled "Retainer Service Order Form" that incorporates these Terms and Conditions
Recruiter	Those identified as Recruiter on the Order Form
Resume	A document, profile or summary of a Candidate's background, skills, qualification etc.
Retained Instruction	All information the Recruiter reasonably requires to make an Introduction of Candidates for an Engagement including, but not limited to, details of the role, requirements for Candidates, recruitment process, and the terms and conditions of Engagement.
Retained Service	Recruitment services to be provided where a Retainer Service Fee is paid
Retainer Service Fee	A fee paid in advance of any Introduction
Termination	The ending of the Engagement by either the Client or the Candidate. Terminate, Terminates, Terminated and Terminating shall be construed accordingly
Terms and Conditions	The terms and conditions contained in this document