

SOMERSET WHITE

RECRUITMENT TERMS FOR THE INTRODUCTION OF PERMENANT OR SHORT-TERM CONTRACT STAFF (TO BE CONTRACTED BY THE CLIENT OR MEMBER, ACTING AS EMPLOYER)

If a Member or Client instructs the Company to search for a suitable person (the "Applicant") to be Introduced by the Company for the purposes of an Engagement the following terms ("Recruitment Terms") will apply:

1. **Definitions**

For the purposes of these Recruitment Terms, the following definitions shall apply:

- 1.1. "Applicant" means the person (whether or not previously known to the Client or Member) Introduced by the Company to the Client or Member for an Engagement including (without limitation) any officer, member, employee or other representative of the Applicant if the Applicant is a corporate body or partnership (including limited company or limited liability partnership), and members of the Company's own staff.
- 1.2. "Engagement" means the appointment of an Applicant to perform services for a Member or on a Member's behalf or for or on behalf of any third party at a Member's request, whether directly or through a company which the Applicant is an officer or employee or which is controlled by the Applicant ("Engage", "Engaged" and "Engaging" shall be construed accordingly);
- 1.3. "Client" means the person, firm or corporate body to which the Applicant is introduced and/or has instructed the Company to fill a vacancy.
- 1.4. "Company" means Somerset White Limited (3817716) whose registered office is at 1st Floor, 591-593 Kings Road, London SW6 2EH.
- 1.5. "Introduction" means (i) the interview of an Applicant by on or behalf of a Client or Member in person or by telephone following a Client or Member's instructions to the Company to search for an Applicant; or (ii) the passing to a Client or Member of a curriculum vitae or information which identifies the Applicant and which leads to an offer of Engagement of that Applicant and in both (i) and (ii) irrespective of whether or not that Applicant was known previously to the Member or Client. ("Introduced" shall be construed accordingly);
- 1.6. "Introduction Fee" means the fee payable by the Member or Client to the Company at the rate set out in the appropriate Price Guide;
- 1.7. "Member" means an individual who receives services and benefits from the Company as detailed in a separate membership agreement.
- 1.8. "Price Guide" means a schedule detailing the amount payable to the Company by either Members or Clients upon appointing of the Company and on the Engagement of an Applicant.
- 1.9. "Remuneration" means the gross salary payable to an Applicant in respect of the first 12 months of the Engagement notwithstanding that the Engagement may be terminated during that period. If the value of the Remuneration is uncertain, the best estimate available, to be agreed between the Company and the Client or Member, shall be used in calculating such amount.
- 1.10. "Retainer Fee" means a non-refundable deposit (detailed in the Price Guide) which must be paid in order for the Company to begin its vacancy search on behalf of Clients and/or Members.
- 1.11. "Replacement Applicant" means any Applicant Introduced by the Company to the Client or Member to fill the Engagement following the Introduction of another Applicant whose Engagement either did not commence or was terminated during the first 6 weeks of the Engagement.
- 1.1. "Terms" means these recruitment terms.

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2. **The Agreement**

- 2.1. These Terms constitute the entire agreement between the Company and either the Client or Member for the supply of permanent or contract staff (to be engaged directly by either the Client or Member). These Terms are deemed to be accepted by the Client or Member on the earliest date of either (i) the Client or Member's signature on any recruitment paperwork or application form that is provided by the Company (ii) an Introduction, offer of Engagement or Engagement to an Applicant (iii) a request received by the Company from the Client or Member for information regarding an Applicant or to interview an Applicant or (iv) the passing by the Client or Member of any information about the Applicant to any third party. These Terms supersede all previous discussions and previous agreements in relation to recruitment and shall prevail over any other terms put forward by the Client or Member.
- 2.2. No variation or alteration to these Terms shall be valid unless they agreed in writing between a director of the Company and the Client or Member.
- 2.3. The Company acts as an employment agency (as defined in Section 13(2) of the Employment Agencies Act 1973) when Introducing Applicants to the Client or Member for direct Engagement by that Client or Member. The Client or Member authorises the Company to act on its behalf in seeking Applicants and, if the Client or Member so requests, shall advertise for such Applicants through such methods as are agreed with the Client or Member.
- 2.4. It is the Client or Member's responsibility to immediately inform us where it receives information and/or a cv from the Company in relation to an Applicant which it has already received from a different agency, company or individual. If no such notification is received by the Company and in the event that an offer is made to the Applicant, the Company is entitled to charge the Introduction Fee or a proportion thereof that shall be payable to the Company, notwithstanding any fee or charges that may be payable to any other agency or company.

3. **Standards Required**

The Member agrees to provide sufficient information to the Company to enable it to assess the suitability of an Applicant for the Engagement. The Member agrees in particular to provide the following information at the time of requesting the Services:

- 3.1. the date on which it is proposed that the Engagement should begin and the duration or likely duration of the Engagement;
- 3.2. the position to be filled including the type of work which the Applicant would be required to do, the location at which and the hours during which the Applicant would be required to work;
- 3.3. any risks to health or safety relevant to the Engagement and the steps taken by you to prevent or control such risks;
- 3.4. the experience, training, qualifications and any authorisations which are necessary (or which are required by law or by any professional body) for the Applicant to possess in order to work in the position and any expenses payable by or to the Applicant;
- 3.5. the minimum rate of pay and any other benefits to be offered in respect of the relevant position and the intervals at which they would be paid; and
- 3.6. where applicable, the length of notice which the Applicant would be required to give and entitled to receive to end the Engagement.

4. **Skills and Qualifications**

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- 4.1. The Company will use its reasonable endeavor to ensure that all Applicants are suitable for the Engagement but gives no warranty in this regard.
- 4.2. The Company cannot guarantee to find a suitable Applicant for each or any vacancy.
- 4.3. The Company may be required or tasked with carrying out various background checks on Applicants on behalf of the Client or Member, however, the Member or Client has sole responsibility for: (i) satisfying itself that the Applicant has the necessary qualifications and skills to perform the duties required including, without limitation, by taking up and/or confirming any references (including the confirmation of any professional or academic qualifications) supplied by the Company and/or the Applicant before Engaging the Applicant; (ii) obtaining any work permit necessary for the Engagement; (iii) verifying any medical and other requirements or qualifications required by law or essential for the Engagement; and (iv) ensuring compliance with all legal obligations of the Applicant in respect of any contract relating to their existing employment or engagement.
- 4.4. Should the Member or Client be provided with a non-disclosure agreement by the Company to issue to the Applicant, the Company makes no guarantee or warranty that it shall be fit for the purpose the Member or Client requires and it is the Member or Client's responsibility to ensure it is suitable and legally binding.

5. **Notification and Fees**

- 5.1. Upon appointment of the Company, a Retainer Fee shall be charged to the Client or Member in order for the Company to commence performance of the vacancy search. The Company will not commence the search until the Retainer Fee has been paid in cleared funds.
- 5.2. The Introduction Fee payable on Engagements is calculated in accordance with the Price Guide issued to Clients or Members upon the date they requested a search for a particular role.
- 5.3. The Introduction Fee will be payable for an Introduction which results in that Applicant being Engaged, whether the offer of such Engagement is made immediately or at any time within a 12 month period following the date of Introduction or final interview, whichever takes place later.
- 5.4. Where an offer is made to Engage an Applicant, the Member or Client shall notify the Company of such offer on the same day. The Member or Client shall advise the Company immediately if an offer of Engagement is accepted by the Applicant providing full details of the Applicant's Remuneration and the Applicant's agreed start date.
- 5.5. Where prior to commencement to any Engagement the Company and the Client or Member agree that the Engagement will be on the basis of a fixed term of less than 12 months, the Introduction Fee will apply pro-rata, unless otherwise stated in the Price Guide. If the Client or Member (a) extends the Engagement beyond the initial fixed term or (b) re-Engages the Applicant within 12 calendar months from the date of termination of the agreed period of the fixed term Engagement, then the Client or Member shall be liable to pay a further Introduction Fee based on the additional Remuneration applicable for (a) the extended period of Engagement or (b) the period of the second and any subsequent Engagement, subject to the Client or Member not being liable to pay a greater sum in Introduction Fees than the Client or Member would have been liable for under clause 5.1 had the Applicant first been Engaged for 12 months or more.
- 5.6. If: (i) a Member or Client or any of a Member's or Client's employees or representatives refer an Applicant directly or indirectly to a third party within six months of the Introduction and such third party Engages the Applicant; or (ii) any Engagement of an Applicant occurs as a direct or indirect result of the Introduction of the Applicant then the Company shall be entitled to charge the Member the Introduction Fee as though the Member itself had Engaged the Applicant. In such circumstances, the Member shall not be entitled to any refund referred to in clause 7 below.

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- 5.7 The Introduction Fee shall be payable within 14 days of the date of the Company's invoice, which will be rendered at any time on or after the date of (i) Engagement Commencement in respect of UK Engagements and (ii) Engagement Acceptance in respect of International Engagements.
- 5.8 Where applicable, VAT is charged at the standard rate on all fees. All invoices must be settled in full in GBP Sterling and for the avoidance of doubt the Client or Member is solely responsible for paying all bank transfer, currency conversion and other fees and charges so that the full amount of the invoice is received by the Company.
- 5.9 The Company reserves the right to charge interest under the Late Payment of Commercial Debts (Interest) Act 1998 on invoiced amounts unpaid by the due date at the rate of 5% per annum above the base rate of the Bank of England from the due date until the date of payment.
- 5.10 If, after an offer for Engagement has been made, the Client or Member decides for any reason to withdraw it at any time prior to the commencement of Engagement, the Client or Member shall be liable to pay the Company a Cancellation Fee calculated as 10% of what the Introduction Fee would have been under clause 5.3 had the commencement of Engagement taken place.

6 **Payment**

- 6.7 Prior to the Company starting the search for an Applicant on behalf of the Member or Client, a non-refundable Retainer Fee must be paid in cleared funds.
- 6.8 The Company shall be entitled to raise an invoice for the Introduction Fee payable by the Member on or at any time after the day on which the Applicant accepts any offer of an Engagement, or where a third party Engages an Applicant as referred to in clause 5 above.
- 6.9 The Introduction Fee is payable within 14 days of the date of the invoice. If the Introduction Fee, or any other sum payable under the terms of this Schedule, is not paid in full on its due date, the Company shall be entitled to charge interest in accordance with these Terms and Conditions.
- 6.10 Should an invoice remain unpaid in whole or in part for 14 days or more after the due date, the Member or Client shall lose all rights to claim a rebate under clause 7.
- 6.11 In the event that a Member or Client fails to inform the Company of the acceptance by the Applicant of any offer of Engagement (as outlined in clause 5 above) the Member or Client will be liable for interest on the Introduction Fee due from the date on which such acceptance was communicated by the Applicant.

7. **Refunds & Rebates**

- 7.1 Subject to clause 7.2, if the Engagement terminates within six weeks of its commencement, the Member or Client will be entitled to a full refund in respect of the Introduction Fee subject to the deduction by the Company of an administration fee of £250 plus VAT. For the avoidance of doubt, the Retainer Fee shall not be refunded. However, should the Client or Member wish for the Company to find a Replacement Applicant, the initial Introduction Fee shall be refunded, the original Retainer Fee shall not be refunded and an additional retainer fee agreed in writing between the parties prior to the search for a Replacement Applicant shall be deducted from the Introduction Fee payable upon Engagement of a Replacement Applicant.
- 7.2 A refund will not be paid where: (i) an invoice remains unpaid in whole or in part for 14 days or more after its due date (as outlined in paragraph 7 below); or (ii) an Engagement has been terminated by reason of redundancy or for any unlawful reason or without reasonable cause. In addition, the amount of any such rebate shall be immediately repayable by the Member or Client if, within the period of six months from such termination of the Engagement, the Applicant is subsequently re-Engaged by the Member or Client (or, where the Member or Client is a company, by any member of such Member's or Client's Group).

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8. Liability

8.1 The Company shall not be liable under any circumstances whether in contract, tort (including negligence), breach of statutory duty, or otherwise for any loss, expense, damage, delay, costs or compensation (whether direct, indirect or consequential) which may be suffered or incurred by the Client or Member arising from or in any way connected with (i) the Company seeking a Applicant for the Client or Member (ii) the Introduction to or Engagement of any Applicant by the Client or Member (iii) the failure of the Company to introduce any Applicant (iv) any act or omission of any Applicant (whether wilful, negligent, fraudulent, reckless or otherwise). Nothing in these Terms shall limit or exclude the Company's liability for death or personal injury arising from its own negligence or for any other loss which it is not permitted to exclude under law.

8.2 The Client shall indemnify and hold harmless the Company from and against all liabilities, claims, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses, suffered or incurred by the Company arising out of or in connection with (i) the Client's breach or negligent performance or non-performance of the terms of this Agreement; (ii) introduction by Company of an Applicant to the Client; (iii) the hiring, firing or refusal to accept for hiring any Applicant introduced to Client by the Company; or (iv) the Company's enforcement of these Terms.

8.3 Subject to Clause 8,1, the Company's total liability to the Client or Member shall not exceed the Applicant's fee due under this Contract. The Company's total liability includes liability in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with this agreement

9. Early termination between the parties

9.1 Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if:

9.1.1 The other party commits a material breach of any term of this agreement (if such breach is remediable) fails to remedy that breach within 7 days of receipt of notice in writing to do so;

9.1.2 The other party repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement.

9.2 If this Agreement is terminated in accordance with clause 9.1 above, the parties shall act in good faith to calculate a pro-rata amount of fees and charges that are payable by the Client or Member to the Company. In any event, the Retainer Fee shall not be refunded.

9.3 It is at the absolute discretion of the Company should it wish to accept searches for employment on behalf of a Client or Member. If prior to or during a search, the Company wishes to terminate this agreement, it can do so for convenience with 7 days' notice. No Introduction Fee will be payable unless an offer of Engagement or Engagement has been made under this agreement.

10. Confidentiality

10.1 Each party undertakes that it shall not at any time during this agreement, and for a period of five years after termination of this agreement, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by Clause 10.2

10.2 Each party may disclose the other party's confidential information:

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(a) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this *Clause 10*; and

(b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

10.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.

11. Data Protection

11.1 The following definitions apply in this Clause 11:

Agreed Purposes: The performance by each party of its obligations under this agreement.

Controller, data controller, processor, data processor, data subject, personal data, processing and appropriate technical and organisational measures: as set out in the Data Protection Legislation in force at the time.

Data Protection Legislation: the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including the privacy of electronic communications)

Permitted Recipients: the parties to this agreement, the employees of each party, any third parties engaged to perform obligations in connection with this agreement,

Shared Personal Data: the personal data to be shared between the parties under this agreement. Shared Personal Data shall be confined to the following categories of information relevant to the following categories of data subject: identifiable data, contact information, financial data.

UK Data Protection Legislation: all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

11.2 This Clause 11 sets out the framework for the sharing of personal data between the parties as data controllers. Each party acknowledges that one party (the **Data Discloser**) will regularly disclose to the other party (the **Data Recipient**) Shared Personal Data collected by the Data Discloser for the Agreed Purposes.

11.3 Each party shall comply with all the obligations imposed on a controller under the Data Protection Legislation.

11.4 Each party shall:

(a) ensure that it has all necessary consents and notices in place to enable lawful transfer of the Shared Personal Data to the Data Recipient for the Agreed Purposes;

(b) give full information to any data subject whose personal data may be processed under this agreement of the nature such processing. This includes giving notice that, on the termination of this agreement, personal data relating to them may be retained by or, as the case may be, transferred to one or more of the Permitted Recipients, their successors and assignees;

(c) process the Shared Personal Data only for the Agreed Purposes;

(d) not disclose or allow access to the Shared Personal Data to anyone other than the Permitted Recipients;

(e) ensure that all Permitted Recipients are subject to written contractual obligations concerning the Shared Personal Data (including obligations of confidentiality) which are no less demanding than those imposed by this agreement;

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(f)ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.

11.5 Each party shall assist the other in complying with all applicable requirements of the Data Protection Legislation. In particular, each party shall:

- (a)consult with the other party about any notices given to data subjects in relation to the Shared Personal Data;
- (b)promptly inform the other party about the receipt of any data subject access request;
- (c)provide the other party with reasonable assistance in complying with any data subject access request;
- (d)not disclose or release any Shared Personal Data in response to a data subject access request without first consulting the other party wherever possible;
- (e)assist the other party, at the cost of the other party, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (f)notify the other party without undue delay on becoming aware of any breach of the Data Protection Legislation;
- (g)at the written direction of the Data Discloser, delete or return Shared Personal Data and copies thereof to the Data Discloser on termination of this agreement unless required by law to store the personal data;
- (h)use compatible technology for the processing of Shared Personal Data to ensure that there is no lack of accuracy resulting from personal data transfers;
- (i)maintain complete and accurate records and information to demonstrate its compliance with this *Clause 11*; and
- (j)provide the other party with contact details of at least one employee as point of contact and responsible manager for all issues arising out of the Data Protection Legislation, including the procedures to be followed in the event of a data security breach, and the regular review of the parties' compliance with the Data Protection Legislation.

11.6 Each party shall indemnify the other against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the indemnified party arising out of or in connection with the breach of the Data Protection Legislation by the indemnifying party, its employees or agents, provided that the indemnified party gives to the indemnifier prompt notice of such claim, full information about the circumstances giving rise to it, reasonable assistance in dealing with the claim and sole authority to manage, defend and/or settle it.

12. No Partnership Or Agency

12.1 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

12.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

13.Variation

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

14. Force Majeure

Neither party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement, including payment, if such delay or failure result from events, circumstances or causes beyond its reasonable control. If the period of delay or non-performance continues for

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more than 2 weeks, the party not affected may terminate this agreement by giving 7 days' written notice to the affected party.

15. Severance

15.1 If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement.

15.2 If any provision or part-provision of this agreement is deemed deleted under clause 15.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

16. Governing Law

This agreement 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 law of England and Wales.

17. Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation.