
CYBER EXECUTIVE SEARCH - CLIENT TERMS AND CONDITIONS

These Terms and Conditions together with any attachments or Schedules shall apply to the provision of Services by the Agency to the Client.

1. Definitions and Interpretation

- 1.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

"Agency" means Cyber Executive Search Ltd. a company registered in England under number 15180777 whose registered office is at 2 Manor Farm Walk, Portesham, Dorset, DT3 4PH;

"Candidate" means ANY person who is the subject of an Introduction by the Agency to the Client for the purpose of a possible an Engagement;

"Client" means any person, firm or company including any associates or subsidiaries to whom a Candidate is introduced, including when such introduction between any company, associate or subsidiary is carried out without the knowledge or permission of the Agency;

"Confidential Information" means any information concerning either Party and relating to its business methods, plans, systems, finances or projects; its trade secrets; its products or services; or any other information which is expressly described as confidential;

"Engagement" means any form of employment, engagement or use by a Client of a Candidate, directly or indirectly, part or full time, on a permanent or temporary basis, with or without a contract, as a result of an Introduction;

"Introduction" an introduction of a Candidate to a Client by the Agency will be deemed to have taken place where the Agency has provided a Client directly or indirectly with any information concerning a Candidate which identifies the Candidate or where a Client interviews a Candidate, following an instruction from a Client to search for or identify a Candidate;

"Introduction Fee" means the fee payable by the Client to the Agency (or where the context requires, an additional fee) in accordance with these Terms and Conditions in consideration of the Services being provided where there is an Introduction of a Candidate to a Client resulting in the Engagement of that Candidate within one Calendar year of that Introduction;

"Remuneration"

means any and all salary, fees, bonuses, targeted commission, allowances, or any other financial benefit payable to, or received by a Candidate for services to a Client; and

"Services" means the employment agency services provided by the Agency to the Client as set out in these Terms and Conditions.

- 1.2 Unless the context otherwise requires, each reference in these Terms and Conditions to:

- 1.2.1 "writing", and any similar expression, includes a reference to any communication effected by electronic transmission or similar means;
- 1.2.2 a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;
- 1.2.3 "these Terms and Conditions" is a reference to these Terms and Conditions and each of the Schedules as amended or supplemented at the relevant time;
- 1.2.4 a Schedule is a schedule to these Terms and Conditions;
- 1.2.5 a Clause or paragraph is a reference to a Clause of these Terms and Conditions (other than the Schedules) or a paragraph of the relevant Schedule; and
- 1.2.6 a "Party" or the "Parties" refer to the parties to these Terms and Conditions.

- 1.3 The headings used in these Terms and Conditions are for convenience only and shall have no effect upon the interpretation of these Terms and Conditions.

- 1.4 Words communicating the singular number shall include the plural and vice versa.

- 1.5 References to any gender shall include any other gender.

2. The Contract

- 2.1 Any and all business entered into by the Agency is subject to these Terms and Conditions together with the attachments and in the event of any conflict with any other terms and conditions these Terms and Conditions together with the attachments shall prevail unless agreed otherwise in writing by a Director of the Agency.

- 2.2 No modification or change to these Terms and Conditions or attachments will be valid unless the details of

any such changes are in writing, signed on behalf of the Agency and the Client, and state the date on or after which such new terms will apply.

- 2.3 The Introduction of a Candidate or Engagement of a Candidate, or the commencement of work or provision of services by a Candidate for the Client shall be deemed acceptance of these Terms and Conditions and attachments by the Client.
- 2.4 These Terms and Conditions together with attachments contain the entire agreement between the Agency and the Client and supersede all previous terms of business, agreement and arrangements.

3. Vacancies and Advertisements

- 3.1 The Agency shall have the right to decline, cancel or otherwise remove any vacancy advertisement provided by the Client to the Agency at any time, for any reason and without giving prior notice to the Client.
- 3.2 If any vacancy advertisement appears to demonstrate that the Client intends to discriminate on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, or sexual orientation, it will be declined unless the vacancy is exempted from the provisions of the Equality Act 2010; the Employment Equality (Religion and Belief) Regulations 2003; or the Employment Equality (Age) Regulations 2006. In the case of any applicable exemptions, the vacancy advertisement must be accompanied by a written statement explaining those exemptions and how they apply to the vacancy.
- 3.3 If, in the opinion of the Agency, any vacancy advertisement indicates any illegal purposes on the part of the Client, the Agency may, without notice, report the vacancy and the Client to the relevant authorities. Such authorities may include, but are not limited to, the Department for Work and Pensions, ACAS, the Information Commissioner's Office; and the Recruitment and Employment Confederation.
- 3.4 Vacancy advertisements shall remain open and viewable by prospective Candidates for a period at the discretion of the Agency or otherwise as agreed between the Agency and the Client.
- 3.5 All vacancy advertisements shall contain details of no more than one single vacancy unless otherwise agreed in writing between the Agency and the Client.

4. The Agency's Obligations

- 4.1 The Agency shall endeavour to find suitable and willing Candidates to fill such vacancies as are notified to the Agency by the Client or to notify the Client if the Agency believes it is unable to assist with the Client's requirements.
- 4.2 The Agency shall endeavour to ensure that all vacancy advertisements, if deemed necessary by the Agency, are published on the date agreed with the Client or, where no date is agreed, within seven day of receiving details of the vacancy.
- 4.3 The Agency shall endeavour to ensure that all Candidates introduced to the Client have the experience, qualifications, and authorisations which are required by the Client, by law or by any professional body, for the position(s) that the Client wishes to fill and shall also endeavour to verify the identity of Candidates prior to introducing them to the Client.
- 4.4 At the same time as proposing a Candidate to the Client, the Agency shall inform the Client of such matters as detailed in sub-Clause 4.3 of which the Agency has obtained confirmation.
- 4.5 The Agency shall endeavour to take all reasonable steps to ensure that Clients and Candidates are aware of any requirements imposed by law or any professional body on the vacancy / vacancies that the Client seeks to fill.
- 4.6 The Agency shall endeavour to take all such steps as are reasonably practicable to ensure that it would not be detrimental to the interests of either the Client or the Candidate to work in the position which the Client seeks to fill.
- 4.7 The Agency cannot guarantee to find a suitable Candidate for each vacancy and gives no warranties as to the suitability of any Candidate. (The Client undertakes to use all reasonable interviewing and relevant skills testing during of proposed Candidates during their Candidate selection process to decide if the Candidate is in possession of the required skills appropriate their specific requirements).

5. The Client's Obligations

- 5.1 The Client shall provide to the Agency all information which is reasonably required for the Agency to provide the Services. The Client shall use its best endeavours to ensure that such information is complete, accurate and up to date.
- 5.2 The Client shall ensure that all information provided to the Agency does not contain any material which could be regarded as offensive, indecent, obscene, illegal, dishonest, untruthful, defamatory or discriminatory.
- 5.3 The Client shall ensure that all information provided to the Agency does not contain any material which infringes the rights of any third parties (including, but not limited to, intellectual property rights).
- 5.4 The Client must provide the Agency with details of the vacancies that the Client wishes to fill, which must include the type of work required, the date of commencement, the duration, the hours, rates of pay and location as well as the experience, training, qualifications and any authorisations required by law, the Client and any professional body for the position(s).

- 5.5 The Client must inform the Agency of any health or safety risks or requirements of the vacancies the Client wishes to fill, as well as the action taken by the Client to minimise and control such risks.
- 5.6 The Client must not seek to employ any member of the Agency's staff, but in the event that any member of staff accepts an Engagement with the Client, the Client must pay an Introduction Fee in accordance with Clause 6.
- 5.7 The Client warrants that it shall immediately, and in any event within 1 business day of the Agency's first provision of information relating to the Candidate's identity, inform the Agency if the Client believes that it is aware of the identity of the Candidate other than via information supplied by the Agency. The Client agrees that it will be deemed not to have been aware of the identity of the Candidate prior to the Agency's provision of the information relating to the Candidate's identity if the Client fails to provide such a notice within the aforementioned business day.
- 5.8 The Client acknowledges that the Agency is under no obligation to provide the Services until all required information has been provided by the Client in accordance with sub-Clause 5.1.
- 5.9 The Client shall inform the Agency immediately in the event that any relevant information changes following the submission of that information to the Agency. The Agency reserves the right to charge the Client at the rate of £500 for any work required to make alterations to vacancy advertisements or other relevant information it holds.
- 5.10 Subject to the provisions of sub-Clause 4.3, the Agency shall not verify or otherwise check any Candidate details or other information about the Candidate, howsoever they may be obtained by the Client or provided by the Agency to the Client. The Client shall have the sole responsibility to verify and otherwise check any such details and information.
- 5.11 It shall be the sole responsibility of the Client to obtain any required permits (including, but not limited to, work permits).
- 5.12 It shall be the sole responsibility of the Client to arrange for any required medical examinations or investigations.
- 5.13 The Client must notify the Agency immediately of any offer of an Engagement that it makes, or intends to make, to a Candidate.
- 5.14 The Client must notify the Agency immediately of the acceptance by a Candidate of any offer of Engagement that is made to that Candidate and provide details of the Candidate's remuneration.
- 5.15 The Client must notify the Agency immediately if, following the Engagement of a Candidate, the Candidate's remuneration increases at any time during the first 12 months of the Engagement, and the Introduction Fee detailed in Clause 6 will be increased accordingly.
- 5.16 The Client must within 2 days of offering an Engagement to a Candidate provide the Agency with a copy of the job offer or contract given to the Candidate.
- 5.17 Notwithstanding sub-Clauses 4.3 and 4.8 above, the Client must satisfy itself as to the suitability of a Candidate for any vacancy, and the Client must be responsible for taking up references and checking the validity of qualifications and authorisations. The Client shall have sole responsibility to check for such suitability, validity of qualifications and authorisations, and to take up references.
- 5.18 The Client is responsible for payment of remuneration to the Candidate.

6. Fees and Payment

- 6.1 Fees and Payment are set out in **Schedule 1** Below

7. Confidentiality

- 7.1 Each Party undertakes that, except as provided by sub-Clause 7.2 or as authorised in writing by the other Party, it shall, at all times:
 - 7.1.1 keep confidential all Confidential Information;
 - 7.1.2 not disclose any Confidential Information to any other party;
 - 7.1.3 not use any Confidential Information for any purpose other than as contemplated by and subject to these Terms and Conditions;
 - 7.1.4 not make any copies of, record in any way or part with possession of any Confidential Information; and
 - 7.1.5 ensure that none of its directors, officers, employees, agents or advisers does any act which, if done by that Party, would be a breach of the provisions of sub-Clauses 7.1.1 to 7.1.4 above.
- 7.2 Either Party may:
 - 7.2.1 disclose any Confidential Information to:
 - 7.2.1.1 any sub-contractor or supplier of that Party;
 - 7.2.1.2 any governmental or other authority or regulatory body; or
 - 7.2.1.3 any employee or officer of that Party or of any of the aforementioned persons; to such extent only as is necessary for the purposes contemplated by these Terms and Conditions, or as

required by law, and in each case subject to that Party first informing the person in question that the Confidential Information is confidential and (except where the disclosure is to any such body as is mentioned in sub-Clause 7.2.1.2 above or any authorised employee or officer of any such body) obtaining and submitting to the other Party a written undertaking from the person in question, as nearly as practicable in the terms of this Clause, to keep the Confidential Information confidential and to use it only for the purposes for which the disclosure is made; and

- 7.2.2 use any Confidential Information for any purpose, or disclose it to any other person, to the extent only that it is, or has become, public knowledge through no fault of that Party, provided that in doing so that Party does not disclose any part of that Confidential Information which is not public knowledge.

- 7.3 The provisions of this Clause 7 shall continue in force in accordance with their terms, notwithstanding the termination of these Terms and Conditions for any reason.

8. Data Protection

- 8.1 In this Clause 8: "Data Protection Legislation" means all applicable legislation in force from time to time in the United Kingdom applicable to data protection and privacy including, but not limited to, the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (the "UK GDPR"), as it forms part of the law of England and Wales, Scotland, and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018; the Data Protection Act 2018 (and regulations made thereunder); and the Privacy and Electronic Communications Regulations 2003 as amended; and "personal data" means personal data as defined in the UK GDPR.
- 8.2 All personal data that either Agency or the Client may use will be collected, processed, and held in accordance with the provisions of Data Protection Legislation and the rights under the Data Protection Legislation defined in 8.1.
- 8.3 For complete details of the Agency's collection, processing, storage, and retention of personal data including, but not limited to, the purpose(s) for which personal data is used, the legal basis or bases for using it, the Client should refer to the Agency's Privacy Notice attached in Schedule 1 of these Terms and Conditions.
- 8.4 All personal data to be shared between the Parties under this Agreement shall be shared in accordance with the terms of the legislation reference in 8.1.

9. Liability

With the exception of death or personal injury due to negligence or fraud by the Agency, the Agency shall not be liable or responsible for any loss or damages of any nature whether direct or indirect including any loss of profits, loss of business, loss of revenue, loss of anticipated savings, or any consequential damages suffered or incurred by the Client, howsoever caused or arising, whether due to breach of contract, tort (including negligence and breach of statutory duty), as a result of the Introduction of a Candidate to the Client by the Agency, the Engagement of a Client Introduced by the Agency, the failure of the Agency to introduce any Candidate to the Client, or otherwise arising out of or in connection with the Services or any agreement for the Services between the Agency and the Client.

10. Indemnity

The Client shall indemnify the Agency against any costs, liability, damages, loss, claims or proceedings incurred directly or indirectly by the Agency which may arise out of the Client's use of the Services or out of any breach by the Client of any of these Terms and Conditions.

11. Force Majeure

Neither Party to these Terms and Conditions shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, Internet Service Provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other similar or dissimilar event that is beyond the control of the Party in question.

12. Relationship

Nothing in these Terms and Conditions shall create a partnership or agency or the relationship of employer and employee, or other relationship between the Agency and the Client.

13. Severance

In the event that any part(s) of these Terms and Conditions and their attachments or part thereof is declared to be invalid, unlawful, void or unenforceable then such terms or parts shall be severed and the remaining terms and conditions shall continue to be valid and enforceable to the fullest extent of the law.

14. Third Parties

No provision of these Terms and Conditions and their attachments shall confer any benefit on or be enforceable by any person who is not a party to these Terms and Conditions under the Contract (Rights of Third Parties) Act 1999.

15. Waiver

No failure or delay by either Party in exercising any right or remedy available to it will constitute a waiver of that or any other right or remedy. No waiver or amendment of any clause will be effective unless confirmed in writing to the other Party.

16. Law and Jurisdiction

- 16.1 These Terms and Conditions (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.
- 16.2 Any dispute, controversy, proceedings or claim between the Parties relating to these Terms and Conditions (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the [exclusive] jurisdiction of the courts of England and Wales.

SCHEDULE 1

FEES AND PAYMENT

1. Fees and Payment

- 1.1 An Introduction Fee shall be payable by the Client to the Agency upon the commencement of an Engagement by a Candidate and the Introduction Fee shall be calculated as the amount equal to **25% of the Candidate's remuneration during the first 12 months of the Engagement exclusive of VAT.**
- 1.2 If the Engagement of a Candidate is for a fixed term of less than 12 months, then the Introduction Fee will be calculated pro rata as above.
- 1.3 In the event that an Engagement for a fixed term of less than 12 months is extended then an additional Introduction Fee will become payable by the Client for the extension period (not expiring later than 12 months from the beginning of the original Engagement) based on the Candidate's remuneration pro rata for the extension period.
- 1.4 The Client will not be liable for any Introduction Fee until a Candidate commences an Engagement when the Agency will render an invoice to the Client.
- 1.5 The Client must pay the Agency's Introduction Fee within 30 days of receiving the invoice. Late payment will negate Clause 1.7.
- 1.6 The Agency reserves the right to charge interest at the rate of 10% rate of interest per annum on any invoiced Introduction Fee that remains unpaid by the Client from the due date to the date of payment.
- 1.7 Where an Engagement terminates within 4 weeks after its commencement, except where it is due to redundancy or unlawful or constructive dismissal, the Agency will endeavour to find a suitable replacement Candidate on a four-week exclusive arrangement at no extra cost to the Client. If the Agency is unable to find and Introduce a suitable replacement Candidate, according to the job specification previously agreed for the same role, within this time and therefore no Engagement by the Client of that replacement within 8 weeks of their Introduction, then the Agency will refund the Introduction Fee.
 - 1.7.1 Client must notify the agency of the termination, and phone call to the recruiter and confirm by email, within 3 working days of the termination with the abovementioned 4 week period.
- 1.8 Where a Client has made an offer of Engagement to a Candidate but withdraws it before the Candidate commences the Engagement, the Client must pay the Agency an amount equal to not less than 25% of the annual remuneration to which the Candidate would have been entitled if the Engagement had proceeded.

SCHEDULE 2

PRIVACY NOTICE

For our up to date and compliant Privacy Terms, please down load from the following Link: <https://cyberexec.io/policy>