

TERMS AND CONDITIONS OF BUSINESS FOR PERMANENT STAFF AND FIXED TERM CONTRACT PLACEMENTS

These Terms and Conditions of Business for Permanent and Fixed Term Contract Placements (the "Standard Terms") regulate the relationship between Morgan Philips UK Limited, hereinafter referred to as "Morgan Philips" and the Client. They are effective from 8th Jan 2019 and supersede all previous terms issued by Morgan Philips or the Client. Save as expressly provided for below, these form the entire agreement between the parties. Morgan Philips has been assigned to introduce to the Client, for an Introduction Fee, a

Candidate for Engagement with the Client into a permanent or fixed term contract placement ("the Assignment"). These Standard Terms regulate permanent and fixed term contract and retained placements by Morgan Philips to the Client only. Alternative terms and conditions (from time-to-time in place) apply to the placement of temporary workers. These are available on request.

It is Agreed that:

1. DEFINITIONS

"Advertised Selection" means the selection of Candidates who respond to advertisements placed in various media by Morgan Philips relating to the Client's vacancy

"Agreement" means these Standard Terms

"Candidate" means the person introduced to the Client by Morgan Philips

"Client" means the person, firm or corporate body together with any subsidiary or associated company as defined by the Companies Act 2006 to whom the Candidate is supplied or introduced

"Data Controller" means (i) "data controller" in the Data Protection Act 1998 in respect of processing undertaken on or before 24 May 2018; and (b) "controller" in accordance with the General Data Protection Regulation (EU) 2016/679 in respect of processing undertaken on or after 25 May 2018; **"Contingent Introduction"** means the Introduction of a Candidate to the Client by Morgan Philips other than a Retained Introduction. No prior specific instruction from the Client being required to affect a Contingent Introduction

"Data Protection Legislation" means all applicable laws and regulations, as amended or updated from time to time, in the United Kingdom relating to data protection, the processing of personal data and privacy, including without limitation, (a) the Data Protection Act 1998; (b) (with effect from 25 May 2018) the General Data Protection Regulation (EU) 2016/679; (c) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (as may be amended by the proposed Regulation on Privacy and Electronic Communications); and (d) any legislation that replaces or converts into United Kingdom law the General Data Protection Regulation (EU) 2016/679, the proposed Regulation on Privacy and Electronic Communications or any other law relating to data protection, the processing of personal data and privacy resulting from the United Kingdom leaving the European Union;

"Engagement" means the engagement, employment or use of the Candidate by the Client, whether under a contract of service or for services, partnership or otherwise and "Engages" and "Engaged" shall be construed accordingly

"Executive Search" means the identification of potential senior managerial or executive role Candidates by Morgan Philips and/or the Client and the targeting and direct approach of such Candidate

by Morgan Philips

"Morgan Philips" means Morgan Philips UK Limited, whose registered office is at 12 Red Lion Square, London WC1R 4HQ, an employment agency as defined by section 13(2) of the Employment Agencies Act 1973

"Introduction" means the Client's interview of a Candidate in person or by telephone following the Client's instruction to Morgan Philips to fill a vacancy or the passing to the Client of a curriculum vitae or other information by Morgan Philips that identifies the Candidate and "Introduced" shall be construed accordingly

"Introduction Fee" means the percentage of the Remuneration set out in clause 3 (or any other fixed amount agreed by the parties)

"Personal Data" means as set out in, and will be interpreted in accordance with Data Protection Legislation;

"Personal Data Breach" means the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise Processed in connection with these Terms or which relates to any Candidate;

"Process" means as set out in, and will be interpreted in accordance with Data Protection Legislation and "Processed" and "Processing" will be construed accordingly;

"Remuneration" means the aggregate gross annual taxable emoluments payable to or receivable by the Candidate pursuant to the Engagement, including salary, bonuses, profit share, commission, pension, allowances, profit related pay and any signing-on payment or equivalent (contractual or otherwise and whether guaranteed or not) payable to or receivable by the Candidate during the first year of the Engagement or attributable to such period and paid subsequently. The value of payment of pension contributions (whether to the Client's or Candidate's own scheme) shall be calculated as the higher of the actual value of the contributions or £2,000 per annum. Bonus/profit share which is not guaranteed will be determined on the projected values. Any car, housing and/or relocation allowance shall be treated as part of the Candidate's taxable emoluments. The value of the provision of a company car shall be calculated as the higher of either the taxable benefit of the car provided or the figure of £4,000 per annum and provision of housing, accommodation and/or relocation allowance shall be calculated as the higher of either the value of the benefit or £2,000 per annum. Where the salary or any other element of the package offered to the Candidate is expressed to be net (i.e. after

deductions) then, for the purposes of calculating the Remuneration, this will be grossed up to reflect the value prior to the deduction of tax

"Retained Introduction" means the Introduction of a Candidate to the Client by Morgan Philips on the basis of a specific instruction to identify and select a suitable Candidate for the Client's vacancy. Such introductions will be conducted by Morgan Philips on the basis of Executive Search, or Advertised Selection

"Schedule of Fees" means the attached schedule; and

"Shortlist" means the list of Candidates sent by Morgan Philips to the Client in either written or electronic form.

Unless the context otherwise requires, references to the singular include the plural and vice versa. References to clauses or schedules are references to clauses or schedules of these terms unless the contract otherwise admits.

2. THE CONTRACT

(a) These terms regulate the basis upon which Introductions are effected by Morgan Philips and shall be accepted on signature and return of the terms by the Client to Morgan Philips, or in the event of failure to do so, shall be deemed to be accepted by the Client upon the Client's request for details of Candidates or interview with Candidates (whether by telephone or in person).

(b) For the avoidance of doubt, Candidates become the employees of the Client during the term of the Engagement and the Client assumes all responsibility for the Candidate including, without limitation, the direct payment to the Candidate of all Remuneration.

(c) The Client undertakes to provide to Morgan Philips details of the position which the Client seeks to fill, including the type of work that the Candidate would be required to do; the location and hours of work; the experience, training, qualifications and any authorisation the Client considers necessary or which are required by law or any professional body for the Candidate to possess in order to work in the position; and any risks to health or safety known to the Client and what steps the Client has taken to prevent or control such risks. In addition, the Client shall provide details of the date the Client requires the Candidate to commence, the duration or likely duration of the work, the minimum rate of remuneration, expenses and any other benefits that would be offered; the intervals of payment of remuneration and the length of notice that the Candidate would be entitled to give and receive to terminate the employment with the Client.

3. CONTINGENT ('SUCCESS ONLY') RECRUITMENT

Permanent Roles

Any Candidate being Engaged on a permanent employment basis by the Client following an Introduction shall attract a fee payable by the Client to Morgan Philips (the "Introduction Fee"). The Introduction Fee which will be invoiced upon the Candidate's commencement of the Engagement shall be calculated as a percentage of the Remuneration in accordance with the table below.

Remuneration	Introduction Fee
£0 to £24,999	20%
£25,000 to £39,999	25%
£40,000 and above	30%

Fixed Term Contract Roles

Any Candidate being Engaged on a fixed term contract basis by the Client following an Introduction shall attract a fee payable by the

Client to Morgan Philips (the "FTC Fee") calculated as follows: (Remuneration x Introduction Fee percentage) ÷ 12 x Number of months of fixed term contract

EXAMPLE

An initial fixed term contract of 9 months with Remuneration set at £26,000 has been agreed.

$(£26,000 \times 25\%) \div 12 \times 9$

The FTC Fee payable is £4,875

Where the Engagement is on a fixed-term basis, and in the event that such Engagement contract is renewed or extended after its initial term, further fees will be payable in accordance with the provisions of these terms until such time as such contract ceases or is confirmed as a permanent position. In the latter case, a permanent fee will be payable and will be calculated based upon one year's Remuneration and the applicable percentage.

Where the Candidate is to be engaged on a part time basis, the fees (calculated for the avoidance of doubt by reference to the Remuneration) will be charged at the full time rate.

All Engagements are subject to a minimum fee of £3,000 with the exception of Office Support and Contact Centre roles, for which a minimum fee of £1,200 shall apply.

Where no Remuneration has been agreed or an amount is not readily ascertainable, the fee will be calculated based either on the Candidate's last Remuneration (if data is available for the preceding 12 months) or, where no figures are available, a fee of £20,000 will be payable except where an Executive Search has been carried out in which case the Fee will be £25,000.

4. RETAINED INTRODUCTIONS

The fee payable for Retained Introductions (the "Retainer Fee") is calculated at 33% of the Introduction Fee and is payable in three equal instalments:

The first instalment will be payable upon Morgan Philips's acceptance of instruction (the 'Initial Fee').

The second instalment will be payable upon the submission by Morgan Philips to the Client of a shortlist of Candidates (the 'Shortlist Fee').

The third instalment will be payable upon the Candidate's acceptance of the Client's offer of an Engagement (the "Completion Fee").

In the event that the Client terminates a Retained Introduction before its conclusion, the Client shall pay to Morgan Philips a cancellation fee in an amount equivalent to one third of the total fee due in addition to any fee already paid or due and any expenses incurred.

In the event that the Client hires an additional Candidate submitted within the shortlist of a Retained Introduction (or a shortlist Candidate into a position other than the position which was the focus of the Retained Assignment), an Introduction Fee shall be payable in addition to the Retainer Fee.

5. INVOICING

All invoices are subject to Value Added Tax, where applicable.

The fees will be invoiced, and will be payable, in Sterling within 7 days of the date of the relevant invoice. Morgan Philips reserves the right to charge interest and compensation on all overdue invoices at

the rate set out under the Late Payment of Commercial Debts Regulations 2002 and to recover all reasonable legal costs incurred in recovering sums due and overdue under these Standard Terms.

Any other charges (including charges for advertising) will be agreed

separately in writing and are payable by the Client within 7 days of the date of invoice whether or not a Candidate is Engaged. Costs in respect of artwork, production and media buying and internet advertising are also payable by the Client in accordance with this clause. An advertisement may only be cancelled on sufficient notice to enable Morgan Philips or its advertising agency to withdraw the advertisement.

6. REPLACEMENT CANDIDATES

(a) If the Engagement of a Candidate terminates lawfully within 8 weeks of the initial commencement of the Engagement, then subject to clause 6 (b), Morgan Philips will make reasonable endeavours to find a replacement at no extra cost to the Client (other than advertising).

(b) No replacement will be made in the following circumstances:

(i) if the Candidate Engaged was previously Engaged by the Client as a temporary or fixed term contract worker through Morgan Philips; *or*

(ii) if the Client has not paid sums owed to Morgan Philips in relation to the placement in accordance with these Standard Terms (time to be of the essence); *or*

(iii) if the Client does not notify Morgan Philips in writing within five days of the termination of the Candidate's Engagement (time to be of the essence); *or*

(iv) if an Engagement is terminated by the Client by reason of redundancy or convenience; *or*

(v) if the Client has not offered to Morgan Philips (where applicable) a two-week opportunity (on an exclusive basis) to find a suitable replacement Candidate; *or*

(vi) where an offer of Engagement has been made by the Client and accepted by the Candidate but is subsequently withdrawn by the Client, due to no fault on the part of the Candidate. In the event this clause 6 (b)(vi) applies then notwithstanding any other provision in these Standard Terms, Morgan Philips shall be entitled to immediately issue an invoice to the Client for the Introduction Fee or the Completion Fee.

(c) There are no rebates or refunds payable in respect of the Fees of Morgan Philips.

7. SUITABILITY

Morgan Philips endeavours to ensure the suitability of any Candidate introduced to the Client by obtaining confirmation of the Candidate's identity; checking the Candidate has the experience, training, qualifications and any authorisation which the Client considers necessary and has advised to Morgan Philips in writing in a job specification or otherwise or which may be required by law or by any professional body; and that the Candidate is willing to work in the position which the Client seeks to fill. Morgan Philips makes no warranty, express or implied as to the foregoing suitability and it remains the Client's entire responsibility to ensure that the Candidate is suitable for the Client's requirements. The Client warrants that there will be no health and safety risk to the Candidate in working for the Client and if there are any such risks, the Client agrees to notify Morgan Philips, in writing of the nature of such risks and what steps have been taken by the Client to minimise such risks.

The Client shall be responsible for obtaining work and other permits, for the arrangement of medical examinations and/or investigations into the medical history of the Candidate, and satisfying any medical and other requirements or qualifications required by the Client.

8. LIABILITY

Except in the case of death or personal injury caused by Morgan Philips's negligence or in any other circumstances in which Morgan Philips liability may not be limited at law, Morgan Philips shall not be liable under any circumstances for any loss, expense or damage suffered or incurred by the Client arising from or in any way connected with the Introduction or Engagement of any Candidate or from the failure of Morgan Philips to introduce a Candidate. The Client shall indemnify Morgan Philips against any costs, including legal costs, claims, damages and expenses incurred by Morgan Philips arising from or in any way connected with the Introduction of the Candidate to, or Engagement of the Candidate by, the Client or the withdrawal by the Client, of a vacancy.

9. ANTI-DISCRIMINATION

Neither party shall unlawfully discriminate against any Candidate, whether directly or indirectly, on grounds of sex, sexual orientation, marital or civil partner status, gender reassignment, race, religion or belief, colour, nationality, ethnic or national origin, disability or age. Each party will ensure that each Candidate is considered and / or assessed for a particular role in accordance with the Candidate's merits, qualifications and technical abilities to perform the role. Morgan Philips will not accept instructions from a Client who indicates their intention to discriminate unlawfully. The Client shall indemnify Morgan Philips against any claim or liability howsoever incurred by Morgan Philips arising from following the instructions of the Client in the provision of recruitment services.

10. CONFIDENTIALITY

All introductions are confidential. The information concerning the Candidate including his or her name, address, CV and all other details relating to the Candidate belong to Morgan Philips and the Client may only use that information for the purposes of interviewing the Candidate and deciding whether or not to engage his or her services and for no other purpose whatsoever. Should the Client decide not to engage the services of the Candidate the Client agrees that it will not retain any documents and other records or data held concerning the Candidate. The Client will not pass any information concerning the Candidate to any third party. In the event of the Client's breach of this clause, such breach resulting in the Engagement of the Candidate by any third party, the Client will pay a Fee to Morgan Philips as if the Client had Engaged the Candidate.

11. COMPLIANCE WITH RELEVANT REQUIREMENTS

The Client shall:

(a) comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("Relevant Requirements");

(b) not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;

(c) have and shall maintain in place throughout the term of this Agreement its own policies and procedures, including adequate

procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and sub-clause (b) above, and will enforce them where appropriate;

(d) promptly report to Morgan Philips any request or demand for any undue financial or other advantage of any kind received by the Client in connection with the performance of this Agreement;

(e) provide such supporting evidence of compliance with this clause 11 as Morgan Philips may reasonably request.

The Client shall further ensure that any person associated with the Client who is receiving services in connection with this Agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Client in this clause 11 ("Relevant Terms"). The Client shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to Morgan Philips for any breach by such persons of any of the Relevant Terms.

12. DATA PROTECTION

12.1 For the purposes of this clause 12 "data subject" means as set out in, and will be interpreted in accordance with data protection legislation. For the avoidance of doubt, data subject includes candidate.

12.2 The parties hereto acknowledge that Morgan Philips is a data controller in respect of the personal data of candidate and provides such personal data to client in accordance with the data protection legislation for the purposes anticipated by these terms.

12.3 The parties hereto acknowledge that client is a data controller but the parties hereto are not joint controllers (as defined within data protection legislation) save where a specific agreement is made to that effect between the parties hereto.

12.4 The parties hereto warrant to each other that any personal data relating to a data subject, whether provided by client, Morgan Philips or by candidate, will be used, processed and recorded by the receiving party in accordance with Data Protection Legislation.

12.5 The parties hereto will take appropriate technical and organisational measures to adequately protect all Personal Data against accidental loss, destruction or damage, alteration or disclosure.

12.6 Client will -

(a) comply with Morgan Philips's instruction as regards the transfer/sharing of data between the parties hereto. If Client requires Personal Data not already in its control to be provided by Morgan Philips, Client will set out their legal basis for the request of such data and accept that Morgan Philips may refuse to share/transfer such Personal Data where, in the reasonable opinion of Morgan Philips, it does not comply with its obligations in accordance with Data Protection Legislation;

(b) not cause Morgan Philips to breach any of their obligations under the Data Protection Legislation.

12.7 In the event Client becomes aware of an actual or any reasonably suspected Personal Data Breach, it will immediately notify Morgan Philips and will provide Morgan Philips with a description of the Personal Data Breach, the categories of data that was the subject of the Personal Data Breach and the identity of each Data Subject affected and any other information that Morgan Philips reasonably requests relating to the Personal Data Breach.

12.8 In the event of a Personal Data Breach, Client will promptly (at its own expense) provide such information, assistance and cooperation and do such things as Morgan Philips may request to -
(a) investigate and defend any claim or regulatory investigation;
(b) mitigate, remedy and/or rectify such breach; and
(c) prevent future breaches.

and will provide Morgan Philips with details in writing of all such steps taken.

12.9 Client will not release or publish any filing, communication,

notice, press release or report concerning any Personal Data Breach without the prior written approval of Morgan Philips.

12.10 Client agrees it will only Process Personal Data of Candidate for the agreed purpose that is introduction for a Vacancy pursuant to these Terms.

12.11 Client will provide evidence of compliance with clause 12 upon request from Morgan Philips.

12.12 Client will indemnify and keep Morgan Philips indemnified against any costs, claims or liabilities incurred directly or indirectly by Morgan Philips arising out of or in connection with any failure to comply with clause 12.

13. GENERAL

(a) Where the Candidate's actual Remuneration is higher than the figure upon which the Fee has been calculated, the Client shall provide details of the Remuneration to Morgan Philips within 3 months of the expiry of the first year of the Engagement and Morgan Philips shall be entitled to charge a further fee which shall be calculated by applying the applicable percentage to the excess amount of the Remuneration.

(b) The Client will be liable to pay a fee in respect of any Candidate engaged by the Client as a consequence of or resulting from an Introduction by or through Morgan Philips, whether direct or indirect, which occurs within 12 months of either the Introduction or the Candidate's final interview with the Client, whichever is later.

(c) Where a Candidate introduces any other individual(s) to the Client within 12 months of the Introduction to the Client and this results in the engagement of such individual(s) or the use of their services by the Client whether under a contract of service or for services, partnership or otherwise, the Client shall be liable to pay Morgan Philips a Fee. (The Client acknowledges that the objective of this clause is to cover situations where the Candidate introduces to the Client one or more former colleagues from a previous engagement).

(d) Where any Candidate introduced by Morgan Philips to the Client is already known to the Client as a result of direct contact or contact through another employment agency, the Client shall notify Morgan Philips of that fact in writing within 1 working day from the Introduction, failing which the Client will be liable to pay the Fee in the event of its Engagement of that Candidate.

The Client undertakes that during this Agreement and for 12 months thereafter it shall not, directly or indirectly, solicit or entice away Morgan Philips personnel for employment, engagement or other use by the Client. If the Client breaches this clause, it shall be liable to pay to Morgan Philips a fee equivalent to all losses incurred by Morgan Philips including, without limitation, costs of employing temporary staff to cover such position, administration fees and any other costs or expenses incurred by Morgan Philips as a result.

(e) No variation or alteration of these terms shall be valid unless approved by an authorised representative of Morgan Philips in writing. The details of any variation to these terms shall be notified to the Client in writing by Morgan Philips as soon as reasonably practicable and such document shall confirm the date upon which the varied terms are to take effect.

(f) No third party shall have any rights under the Contracts (Rights of Third Parties) Act 1999 in connection with these Standard Terms.

(g) The parties agree that a failure or delay by either party to enforce any of the provisions set out in these Standard Terms shall not be construed as a waiver.

(h) If any provision or any part of this Agreement is held to be illegal or unenforceable in whole or in part under any enactment or rule of

law such provision or part shall be deemed not to form part of this Agreement but the enforceability of the remainder of this Agreement shall not be affected.

(i) Both Morgan Philips and the Client each undertake to comply with all laws, rules and regulations applicable to the subject matter of this Agreement (including but not limited to the Data Protection Legislation as may be amended from time to time).

(j) This Agreement is governed by English law and all disputes arising from these terms shall be subject to the exclusive jurisdiction of the English Courts.

**Duly authorised for and on behalf of
Morgan Philips UK Limited**

Name: _____

Position: _____

Date: _____

**Duly authorised for and on behalf of
The Client**

Company: _____

Name: _____

Position: _____

Date: _____