



<p>Employment Agency</p> <p>F5 Consultants Limited (Company Number 14620798) whose registered office is at First Floor, Clifton Down House, 54a Whiteladies Road, Clifton, Bristol BS8 2NH email service address contracts@f5consultants.co.uk</p>	<p>Client</p> <p>«ClientName» (Company Number «CompanyNumber») whose registered office is at «ClientAddress» «ClientPostCode» email service address «emailserviceaddress»</p> <p>together with any subsidiary or associated Company as defined by the Companies Act 2006</p>
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1. Interpretation

1.1 In this Contract, the following definitions apply:

Base Salary: the total amount of the salary before the deduction of any tax, in respect of the first 12 months of the Engagement.

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

Candidate: the person Introduced by the Employment Agency to the Client.

Contract: the contract between the Employment Agency and the Client for the supply of Services comprising these Permanent and Fixed Term Recruitment Service Terms and Conditions.

Controller, Processor, Data Subject, Personal Data, Personal Data Breach and Process/Processing: shall have the meanings set out in GDPR;

Data Protection Laws: any data protections laws which apply to the provision of the Services including without limitation: (i) the General Data Protection Regulation ((EU) 2016/679), the Data Protection Act 2018 and any national laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) successor legislation to the GDPR or the Data Protection Act 2018;

Engagement: the direct or indirect engagement, use or employment by the Client or any third party whether under a contract of service or for services on a permanent or temporary basis of any Candidate Introduced within the previous 6 months and **engaged** and **engages** shall be construed accordingly.

GDPR: the General Data Protection Regulation (EU) 2016/679;

Introduction: means the referral of a Candidate or the provision of any information about a Candidate to the Client by the Employment Agency and Introduced shall be construed accordingly.

Introduction Fee: twenty five percent (25%) of the Base Salary payable for the first twelve (12) months of the Engagement.

Minimum Fee: £5,000.

Services: the Introduction of Candidates to the Client for Engagement.

2. Basis of Contract

2.1 The Contract shall apply to all Introductions made.

2.2 The Contract constitutes the entire agreement between the parties. The Client acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Employment Agency which is not set out in the Contract.

3. Supply of Services

3.1 The Employment Agency confirms that it is supplying the Services in its capacity as an employment agency (as defined in the Employment Agencies Act 1973) pursuant to the Conduct of Employment Agencies and Employment Businesses Regulations 2003.

3.2 The Employment Agency warrants to the Client that the Services will be provided using reasonable skill and care and that it shall comply with all applicable laws, statutes,

regulations from time to time in force. Beyond that to the fullest extent permitted by law, no other term, representation, warranty or condition is to be implied concerning the Services including under the Supply of Goods and Services Act 1982. In particular, the Employment Agency does not warrant or make any representations about the suitability of Candidates or the accuracy of any information concerning a Candidate (as this information comes from the Candidate or other sources outside the Employment Agency's control) and none is to be implied from anything the Employment Agency may undertake or provide.

3.3 The Employment Agency warrants to the Client that to the best of its knowledge and belief any Candidate shall not have been Introduced to the Client by it within the last three (3) months.

3.4 The Employment Agency shall obtain confirmation of the Candidate's identity and right to work in the United Kingdom and that the Candidate has the experience, training, qualifications and any authorisation which the Client considers necessary or which may be required by law or by any professional body. It shall further confirm that the Candidate is willing to work in the position which the Client seeks to fill and shall confirm details of the same at the Introduction or by the end of the third Business Day following the same save where the Candidate is being proposed for a position which is the same as one in which the Candidate has worked within the previous five (5) Business Days and such information has already been given to the Client.

4. Obligations of the Client

4.1 The Client undertakes:

- a. that it will provide the Employment Agency with details of the position including the type of work, the location and hours of work, the experience, training, qualifications and any authorisation or clearance the Client considers necessary or is required by law or any professional body for the Candidate to possess in order to work in the position, any risks to health and safety known to the Client and what steps it has taken to prevent or control such risks including the provision of a copy of the Client's health and safety statement. In addition, the Client will provide details of the date the Client requires the Candidate to commence work, 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;
- b. that it shall act promptly, reasonably and in good faith (including not applying any discriminatory standards or practices) when deciding whether it wishes to engage a Candidate;
- c. to notify the Employment Agency immediately of any offer or acceptance of an Engagement and of the level of Base Salary relating to the same;



- d. to notify the Employment Agency within three (3) Business Days if it has already been introduced to a Candidate within the last three (3) months in relation to the same vacancy. If no such notification is given by the Client then the Client agrees the Employment Agency is entitled to charge an Introduction Fee in accordance with Clause 5.
- 4.2 Notwithstanding anything contained in the Contract, any decision to proceed with an Introduction, enter into an Engagement or incur any expense is a matter for the Client. The Client agrees that the ultimate responsibility for assessing and ensuring a Candidate's suitability for an Engagement, including taking up or confirming references, educational background, medical history, or obtaining any work and other permits and assessing or confirming qualifications, remains with the Client at all time. The Client is strongly advised by the Employment Agency to, and agrees to, take the steps referred to above before offering or entering into an Engagement.
- 4.3 Introductions of Candidates are confidential and all information is provided to the Client solely for the purpose of considering whether it wishes to Engage that Candidate. The Client must not disclose an Introduction or any information about a Candidate to anyone else. In particular, the Client must not approach a Candidate's current employer until the Client has made an offer of Engagement to that Candidate and has the Candidate's permission to do so.
- 4.4 Any Introduction whereby a Candidate is either scheduled for interview, interviewed and/or Engaged shall render the Client for payment of the Introduction Fee.
- 4.5 The Client must not re-introduce a Candidate to anyone else. If, within twelve (12) months of the Introduction it does so, and this leads to an Engagement with someone other than the Client, the Client must pay the Introduction Fee as if there had been an Engagement under these terms.
- 4.6 If the Client engages any employee of the Employment Agency within twelve (12) months of the date of this Contract or any Introduction made it shall pay the Employment Agency an Introduction Fee in respect of such employee.

5. Payment Terms and Introduction Fee

- 6.1 The Introduction Fee shall be payable by the Client in accordance with the terms of clause 4.4. above.
- 6.2 The Client shall pay each invoice submitted by the Employment Agency:
- within 30 days of the date of the invoice; and
 - in full and in cleared funds to a bank account nominated in writing by the Employment Agency and time for payment shall be of the essence of the Contract.
- 6.3 All sums payable under this Agreement are exclusive of Value Added Tax which will be charged at the prevailing UK rate.
- 6.4 If the Client fails to make any payment due to the Employment Agency under the Contract by the due date for payment, then the Client shall pay interest on the overdue amount at the rate of 2% per cent per annum above The Royal Bank of Scotland Plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Client shall pay the interest together with the overdue amount.
- 6.5 The Client shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Employment Agency may at any time, without limiting its other rights or remedies, set off any amount owing to it by the Client against any amount payable by the Employment Agency to the Client.

In the event of an engagement on a fixed term contact basis ("FTC"), the fee shall be calculated as the greater of i) 25% of the Base Salary divided by 12 multiplied by the number of months contract duration; or ii) the Minimum Fee (the "FTC Fee"). If the FTC is subsequently extended, and another FTC is agreed in respect of the Candidate, then a further FTC Fee shall become payable as per the above formula.

6. Rebates

- 6.1 If an Engagement is terminated by either the Candidate or the Client (except by reason of redundancy, re-organisation or change in strategy of the Client) before the expiry of eight (8) weeks from the date of commencement of the Engagement, then subject to the terms of Clause 6.2, the Employment Agency will refund the Introduction Fee in accordance with the Scale of Rebate set out below.

Scale of Rebate

Week 1	100%
Weeks 2 - 3	75%
Weeks 4 - 5	50%
Weeks 6 - 8	25%

There will be no rebate where the Candidate leaves during or after week nine (9) of the Engagement.

- 6.2 The following conditions must be met in order for the Client to qualify for a Rebate:-
- the Client must notify the Employment Agency in writing of the termination of the Engagement within seven (7) days of its termination;
 - the Client must pay the Employment Agency's invoice for the Introduction Fee further to Clause 6.2;
 - the Candidate must not have left the Engagement as a result of discrimination or other acts or omissions of the Client; and
 - the Client must give the Employment Agency the exclusive right for four (4) weeks from the date on which it notified the Employment Agency of the termination to find a replacement candidate based on the original specification given for the position the Client is seeking to fill ("Replacement Candidate"). If no suitable Replacement Candidate can be found or if the Replacement Candidate's Engagement is terminated before the expiry of eight (8) weeks from the date of commencement of the Engagement, the Client will then be eligible for a rebate in accordance with the provisions of Clause 6.1.
- 6.3 For the purposes of this Clause 6 the date of termination of the Engagement shall be the date on which the Candidate ceases working or would have ceased working for the Client, but for any period of garden leave or payment in lieu of notice, whichever is the later.
- 6.4 If subsequent to the Client receiving a rebate the Candidate is re-engaged by the Client within a period of six (6) calendar months from the date of termination then the rebate shall be repaid by the Client to the Employment Agency. The Client shall not be entitled to any further rebates in relation to the re-Engagement of this Candidate.

7. Confidentiality and Data Protection

- 7.1 A party ("receiving party") shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party ("disclosing party"), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the



Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction. This clause 7 shall survive termination of the Contract.

- 7.2 The parties agree to comply with the Data Protection Laws and shall not cause or seek to cause the other party to breach the Data Protection Laws.
- 7.3 The parties acknowledge that the Employment Agency is a Data Controller in respect of the Personal Data and provides such Personal Data to the Client in accordance with the Data Protection Laws for the purposes of the Contract.
- 7.4 The parties acknowledge that the Client is a Data Controller but the Parties are not Joint Controllers (as defined within the Data Protection Laws).
- 7.5 The Client warrants and represents that it will:
- 7.5.1 having regard to the state of technological development and the cost of implementing any measures, take appropriate technical and organisational measures against the unauthorised or unlawful processing of the Candidate's Personal Data and against the accidental loss or destruction of, or damage to, such Personal Data to ensure a level of security appropriate to:
- (i) the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage; and
- (ii) the nature of the data to be protected;
- take reasonable steps to ensure compliance with those measures; and
- 7.5.2 discharge its obligations under this Agreement with all due skill, care and diligence.
- 7.6 The Client shall provide any information requested by the Employment Agency in a timely manner to enable the Employment Agency to respond to a Data Subject access request (as defined within the Data Protection Laws) or requests from the Information Commissioner's Office.
- 7.7 The parties agree to notify the other party without undue delay and, where feasible, not less than forty eight (48) hours upon becoming aware of or reasonably suspecting a personal Data Breach.

8. Liability and Indemnity

- 8.1 Nothing in the Contract shall limit or exclude the Employment Agency's liability for:
- a. death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
- b. fraud or fraudulent misrepresentation; or
- c. breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 8.2 Subject to clause 8.1:
- a. the Employment Agency shall under no circumstances whatsoever be liable to the Client, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
- b. the Employment Agency's total liability to the Client in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the amount of the Introduction Fee earned in relation to any applicable claim.
- 8.3 This clause 8 shall survive termination of the Contract.

9. Term and Termination

- 9.1 This Agreement shall continue for an initial period of one (1) year and thereafter until terminated by either party

giving the other not less than one (1) month's notice to the other.

- 9.2 Either party may terminate this Agreement with immediate effect at any time if:
- a. the other party commits a material breach of any term of this Agreement and, if the breach is capable of remedy, fails to remedy the breach within fourteen (14) days of receiving written notice from the party not in breach to do so; or
- b. the other party ceases or threatens to cease trading, becomes insolvent or compounds or enters into a voluntary arrangement with its creditors, passes a resolution for winding up or is the subject of an administration order, winding up or bankruptcy order or if a receiver, administrative receiver or liquidator is appointed in respect of any of its business or assets.
- 9.3 On termination of the Contract for any reason:
- a. the Client shall immediately pay to the Employment Agency all of the Employment Agency's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Employment Agency shall submit an invoice, which shall be payable by the Client immediately on receipt;
- b. the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- c. clauses which expressly or by implication survive termination shall continue in full force and effect.

10. Force Majeure

- 10.1 For the purposes of the Contract, Force Majeure Event means an event beyond the reasonable control of the Employment Agency including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Employment Agency or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.
- 10.2 The Employment Agency shall not be liable to the Client as a result of any delay or failure to perform its obligations under the Contract as a result of a Force Majeure Event.

11. Notices

11. All notices or other communication to be given under this Agreement shall be in writing, signed by or on behalf of the Party giving it and may be sent to the other party at the address shown on the Contract or otherwise subsequently notified in accordance with this clause. Notices may be delivered by hand or sent by pre-paid first class post or e-mail and shall be deemed to have been served:
- in the case of delivery by hand, when delivered;
 - in the case of post, at the expiration of two (2) Business Days after the envelope containing the same was delivered into the custody of the postal authorities, providing the envelope was correctly addressed; or
 - in the case of email, upon transmission provided that where, in the case of delivery by hand or email such delivery or transmission occurs after 5pm on any day, service shall be deemed to occur at 9am on the next Business Day.

12. General

- 12.1 *Assignment.* Neither party shall assign or otherwise transfer its rights or obligations under the Contract without the other party's prior written consent (such consent not to be unreasonably withheld).



- 12.2 *Invalidity.* If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- 12.3 *Illegality.* If any provision or part-provision of the Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable and, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 12.4 *Waiver.* A waiver of any right under the Contract or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict its further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 12.5 *No partnership or agency.* Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.
- 12.6 *Third parties.* A person who is not a party to the Contract shall not have any rights to enforce its terms.
- 12.7 *Variation.* Except as set out in this Contract, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the Employment Agency.

- 12.8 *Governing law.* The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.
- 12.9 *Jurisdiction.* Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).

13. Construction.

In this Contract, the following rules apply:

- a. a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and except where the context requires otherwise, reference to the singular includes the plural and vice versa.
- b. a reference to a party includes its successors or permitted assigns;
- c. a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- d. any phrase introduced by the terms including, include, in particular or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- e. a reference to writing or written includes e-mails.

Signed on behalf of [CLIENT]; Name: Date: Signature:	Signed on behalf of F5 Consultants Limited; Name: Date: Signature:
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