

## 1 Definitions & Interpretation

1.1 In these terms of business (**Terms**), the following definitions apply:

**Business Day:** a day from Monday to Friday which is not a public holiday in England and Wales.

**Candidate:** a person (including a legal person) who is Introduced by Company to Client.

**Client:** the person, firm, partnership, organisation, public sector body or company to which the Recruitment Services are provided under these Terms.

**Company:** Ceto Talent Ltd (Registered in England & Wales) of 29 Carlton Crescent, Southampton, SO15 2EW.

**Conduct Regulations:** the Conduct of Employment Agencies and Employment Businesses Regulations 2003.

**Connected Party:** any (i) holding, subsidiary, associated or connected company of Client (ii) organisation or business within the same purchasing group as Client or (iii) organisation or business which is demonstrably connected to Client through common ownership, management, or control.

**Data Protection Legislation:** the Data Protection Act 2018, the UK-GDPR and all other applicable primary and secondary legislation in the United Kingdom relating to data privacy, together with any successor legislation.

**Employee:** an employee or director of Company with whom Client has had material dealings in connection with these Terms.

**Engagement:** the engagement, employment, hire or use of the Candidate or Employee by Client or Connected Party under any agreement or arrangement whatsoever, whether directly or through any third party and whether on a permanent, fixed term, temporary, consultancy or any other basis. “Engage,” “Engaged” and “Engages” each have the corresponding meaning.

**Introduction:** has the meaning set out in clause 3.2. “Introduce”, “Introduces” and “Introduced” each have the corresponding meaning.

**Introduction Fee:** means the fee payable by Client upon the Engagement of a Candidate as specified in the Commercial Terms Schedule.

**Introduction Period:** means the twelve month period from the most recent Introduction of the Candidate.

**Payment Terms:** the period specified in the Commercial Terms Schedule.

**Rebate:** a full or partial refund or credit of the Introduction Fee in accordance with clause 7.2.

**Rebate Period:** the period after commencement of the Candidate’s Engagement as specified in the Commercial Terms Schedule.

**Recruitment Services:** the Introduction of Candidates to Client by Company.

**Remuneration:** (i) the gross annualised remuneration package payable to the Candidate including, without limitation, basic salary, guaranteed and anticipated bonuses, guarantee payments, 50% of any estimated bonuses or commission, any allowances and all other emoluments and benefits in kind. A notional sum of £5,000 shall be added to the Remuneration in respect of any company car provided to the Candidate or (ii) if the Candidate is Engaged on a self-employed basis, via a personal services company or through any third-party company, firm or business, the total estimated annualised fees payable in respect of the Candidate’s services.

**Shared Data:** personal data and special/sensitive personal data within the meaning of the Data Protection Legislation which relates to Candidates and which is shared between the parties pursuant to these Terms.

**Third-Party Engagement:** the engagement of a Candidate by a party other than Client following a Third-Party Introduction.

**Third-Party Introduction:** the disclosure of a Candidate’s details to a third party by Client following an Introduction.

1.2 A reference to a party shall mean either Company or Client as applicable and a reference to the parties shall mean both Company and Client.

1.3 The clause headings used in these Terms are not intended to affect the interpretation of any clause.

1.4 Unless otherwise indicated by the context (i) references to the singular include the plural and vice-versa (ii) references to the masculine include the other genders and vice-versa.

1.5 Any reference to legislation includes an amendment or re-enactment of such legislation from time to time and any secondary legislation which may be made under such legislation.

## 2 Formation & Basis of Agreement

2.1 Unless otherwise agreed in writing by a director of Company, these Terms form the entire agreement between the parties for the provision of Recruitment Services to the exclusion of any terms proposed or issued by Client.

2.2 If Client has not confirmed acceptance of these Terms in writing, they shall be deemed to have been accepted upon Client (i) instructing Company to Introduce Candidates (ii) interviewing or meeting with a Candidate who has been Introduced (iii) using Company to facilitate an Engagement or (iv) making a Third-Party Introduction, whichever occurs first following receipt of these Terms.

2.3 Once accepted in accordance with clause 2.2, these Terms shall apply to any Recruitment Services provided by Company under these Terms until terminated in accordance with clause 8.

2.4 No amendment to these Terms shall be effective unless agreed in writing between a representative of Client and a director of Company. Nothing in this clause shall prevent Company from issuing a revised version of these Terms from time to time.

2.5 For the purposes of the Conduct Regulations, Company shall act as an employment agency when providing Recruitment Services under these Terms.

## 3 Introductions

3.1 Company shall use reasonable endeavours to Introduce Candidates who (i) meet the criteria specified by Client under clause 4.1 in respect of a Relevant Position or (ii) Company believes may otherwise be of interest to Client.

3.2 An Introduction shall occur upon (i) Company providing a CV or other information to Client which expressly or impliedly identifies a Candidate (ii) Company arranging an interview or meeting between Client and a Candidate whether face to face, by telephone, by web conference or by any other means or (iii) the parties conducting any negotiations or discussions, whether verbal or written, in respect of the potential Engagement of a specific Candidate.

3.3 An Introduction by Company shall be deemed to be the effective cause of any Engagement of the Candidate within the Introduction Period unless all three of the following conditions apply: (i) within the 12 month period prior to the initial Introduction, the Candidate had applied directly for a position with Client or instructed a third party to introduce the Candidate to Client for a specific position (ii) Client provides reasonable evidence of such prior application or introduction within five Business Days of Company initially Introducing the Candidate and (iii) Client has not arranged to interview the Candidate through Company or otherwise used Company’s Introduction to facilitate the Engagement of the Candidate.

## 4 Provision of Information

4.1 Client shall provide to Company all such information as Company shall reasonably require regarding the position which Client is seeking to fill (**Relevant Position**) including, without limitation, the information specified in Regulation 18 of the Conduct Regulations.

4.2 Company may advertise the Relevant Position in such format and including such information as Company considers appropriate unless Client notifies Company in writing that it may not advertise such position or otherwise specifies the information about the position which may not be advertised.

4.3 Client must (i) notify Company without delay of any offer of an Engagement which it wishes to make to a Candidate and provide the terms of such offer (ii) notify Company without delay upon the acceptance of an offer of Engagement by a Candidate and in any event prior to commencement of the Engagement and (iii) provide the details of the Remuneration agreed with the Candidate and, if requested by Company, a copy of the Candidate’s contract.

## 5 Candidate Checks

- 5.1 Company shall comply with its obligations under the Conduct Regulations by (i) taking all reasonably practicable steps to ensure that the Candidate and Client are each aware of any requirements imposed by law, or by any professional body, which must be satisfied by Client or the Candidate to enable the Candidate to work in the Relevant Position (ii) making all such enquiries as are reasonably practicable to ensure that it would not be detrimental to the interests of the Candidate or Client for the Candidate to work in the Relevant Position and (iii) ensuring that the Candidate is willing to work in the Relevant Position.
- 5.2 Where required to do so under the Conduct Regulations due to the nature of the Relevant Position, Company shall take all reasonably practicable steps to (i) obtain copies of any relevant qualifications or authorisations of the Candidate and offer to provide copies of those documents to Client (ii) obtain two references from persons who are not relatives of the Candidate and who have agreed that the references may be disclosed to Client and (iii) confirm that the Candidate is suitable for the Relevant Position.
- 5.3 Notwithstanding Company's obligations under clause 5.1 and, where applicable, clause 5.2, Client acknowledges that Client is exclusively responsible for deciding whether to Engage the Candidate and shall bear all costs associated with Engaging the Candidate. Client must therefore make such enquiries and carry out such checks as are necessary for Client to satisfy itself that the Candidate's ability, experience, and character meet Client's requirements.
- 5.4 Client must not and shall ensure that its employees, subcontractors, and representatives do not unlawfully discriminate against, harass, or victimise any Candidate.

## 6 Fees & Invoicing

- 6.1 Where Company is the effective cause of an Engagement under clause 3.3, Client shall pay an Introduction Fee to Company in respect of each Candidate who is Engaged within the Introduction Period, whether or not they are Engaged in the position for which they were Introduced.
- 6.2 The Introduction Fee shall be a sum equivalent to a percentage of the Remuneration, rounded up to the nearest pound and calculated in accordance with the Fee Scale specified in the Commercial Terms Schedule.
- 6.3 Company shall issue an invoice for the Introduction Fee on the first day of the Engagement or as soon as reasonably practicable thereafter. VAT shall be charged at the standard rate.
- 6.4 Client shall settle Company's invoices within the Payment Terms.
- 6.5 Client must not deduct or set off against any sum due to Company under these Terms, any sum which is owed or which Client alleges to be owed by Company to Client, whether under these Terms or under any other agreement between Company and Client unless otherwise agreed in writing by Company.
- 6.6 If Client does not pay Company's invoice within the Payment Terms, Company may (i) charge interest at the rate of 8% per annum above the base rate of the Bank of England from the due date until the date of payment together with statutory compensation under the Late Payment of Commercial Debts (Interest) Act 1998 (ii) issue a further invoice under clause 6.7, where applicable and (iii) refer the collection of such payment to a collection agency or legal representatives and, in such circumstances, Client shall be liable for all costs, fees (including legal fees), charges and disbursements incurred by Company in recovering payment from Client.
- 6.7 Any discount or reduction in the Introduction Fee which is agreed between the parties is conditional upon Client (i) complying with clause 4.3 in all respects and (ii) paying Company's invoice within the Payment Terms.
- 6.8 If the precise Remuneration is not known, if Client fails to provide details of the Remuneration to Company or if it is impracticable to calculate the Remuneration, Company will calculate the Introduction Fee using the Remuneration which, in Company's reasonable opinion, is the market rate for the Engagement.
- 6.9 If the Candidate's Remuneration is not paid in Pounds Sterling, Company shall convert the Remuneration to Pounds Sterling using the exchange rate published by the Bank of England on the invoice date and shall submit the invoice in Pounds Sterling. Client shall bear any bank charges and currency exchange costs when paying Company's invoice.
- 6.10 Where, prior to commencement of the Engagement, Client notifies Company that the Candidate shall be engaged on a fixed term contract of less than 12 months (**Fixed Term Contract**), the Introduction Fee shall be charged on a pro-rata basis of 1/12 of the full Introduction Fee for each full or partial month of the Fixed Term Contract, subject to a minimum fee one quarter of a full Introduction Fee. If the Fixed Term Contract is extended or if the Candidate is Engaged again on any basis within 12 months of the Fixed Term Contract ending, Client shall pay to Company an additional pro-rata fee or the balance of the full Introduction Fee as applicable each time. For the avoidance of doubt, the aggregate Introduction Fee payable by Client under this clause for a series of Fixed Term Contracts shall not exceed the Introduction Fee that Client would have been liable to pay for a permanent Engagement.
- 6.11 If Client withdraws an accepted offer of Engagement for any reason other than the Candidate's suitability for the position, Client shall be liable to pay a Cancellation Fee equivalent to 25% of the Introduction Fee. The Cancellation Fee shall be payable by Client within the Payment Terms.
- 6.12 If Client makes a Third-Party Introduction which results in a Third-Party Engagement within the Introduction Period, Client shall be liable to pay an Introduction Fee which shall be calculated in accordance with clause 6.2. Client shall not be entitled to a Rebate if the Third-Party Engagement terminates for any reason.
- 6.13 If Client Engages any Employee within six months of such Employee leaving Company's employment, Client shall pay a fee to Company, which shall be a sum equivalent to 30% of the gross annualised remuneration which had been payable by Company to the Employee. Such fee shall be payable by Client within the Payment Terms.

## 7 Rebate Guarantee

- 7.1 If the Engagement terminates within the Rebate Period, Client shall be entitled to a Rebate provided that (i) Client paid the Introduction Fee within the Payment Terms (ii) Client strictly complied with clause 4.3 (iii) Client notified Company in writing within five Business Days of the termination of the Engagement, giving the reasons for such termination and, if requested by Company, reasonable evidence that the Engagement has terminated (iv) the Candidate's position was not redundant or otherwise no longer required due to any internal reorganisation, restructure or change in strategy (v) the Candidate was not dismissed for reasons which were automatically unfair and (vi) Company had not previously supplied the Candidate to Client as a temporary worker for a period of more than one month.
- 7.2 Subject to the conditions in clause 7.1, Company shall give a Rebate to Client in accordance with the Rebate Scale specified in the Commercial Terms Schedule.
- 7.3 For the purposes of calculating the Rebate, the date of termination of the Engagement shall be the last day of the Candidate's contractual notice period, irrespective of whether the Candidate is paid in lieu of notice or agrees to shorten their notice.
- 7.4 If Client receives a Rebate and subsequently Engages the same Candidate again within 12 months of the original Engagement terminating, Client must repay the Rebate to Company without delay. Client shall have no further right to a Rebate if this subsequent Engagement then terminates for any reason.

## 8 Termination

- 8.1 Either party may terminate the Recruitment Services by Company at any time by notifying the other party in writing.
- 8.2 Any provision of these Terms that expressly or by implication is intended to continue in force on or after termination of the Recruitment Services shall remain in full force and effect including, without limitation, the validity of any Introduction which was made by Company prior to such termination and Company's right to charge an Introduction Fee in respect of any Engagement of a Candidate within the Introduction Period.

## 9 Liability & Indemnity

- 9.1 Whilst Company will use reasonable endeavours to ensure that any Candidate Introduced to Client meets the requirements specified by Client, Company offers no warranty as to the ability, integrity, or character of the Candidate.
- 9.2 Company shall not be liable to Client for (i) not Introducing a Candidate for the Relevant Position (ii) the acts or omission of any Candidate (iii) any indirect or consequential losses or (iv) any claim for loss of profit, business, anticipated savings, or reputation howsoever arising.
- 9.3 Subject to clause 9.4, the aggregate liability of Company to Client in respect of any claim or series of claims arising out of or in connection with these Terms and whether arising in contract, tort (including negligence) or otherwise, is limited to a sum equivalent to the Introduction Fee paid or payable by Client in respect of the Engagement to which the claim relates or, if no Introduction Fee was paid or payable or the claim does not relate to a specific Engagement, the sum of £10,000.
- 9.4 Company does not limit or exclude liability for death or personal injury arising from its own negligence, for fraud or fraudulent misrepresentation or for any other liability which may not be limited or excluded by law.

- 9.5 All warranties, conditions and other terms implied by statute or common law are excluded from these Terms to the fullest extent permitted by law.
- 9.6 Any claim which Client may bring against Company in connection with these Terms must be commenced within 12 months of the date on which Client becomes aware or should reasonably have become aware of such claim.
- 9.7 Client shall indemnify Company against all losses, costs, expenses and fees (including legal fees) suffered or incurred as a result of any claim (actual or threatened) made against Company to the extent that such claim has arisen from any breach of contract, negligence or breach of statutory duty by Client.

## 10 Confidentiality & Data Protection

- 10.1 Client shall treat all information relating to a Candidate which is provided by Company with the utmost confidentiality and, in particular, must (i) not use such information for any other purpose without the prior consent of Company and the Candidate (ii) ensure that its employees, contractors, representatives and agents are all bound by written confidentiality obligations in respect of such information and (iii) not disclose to any third party that the Candidate is seeking new employment or apply for a reference from the Candidate's current employer without the Candidate's express consent.
- 10.2 Company shall take the necessary steps to ensure that it is entitled to provide Shared Data relating to a Candidate to Client.
- 10.3 Company and Client understand that they shall each act as independent data controllers in respect of any Shared Data. Each party shall (i) control and process the Shared Data in accordance with the Data Protection Legislation (ii) place the Candidate on notice of their data processing activities through notices which comply with the Data Protection Legislation and Company shall give reasonable assistance to Client in this regard if requested to do so (iii) take appropriate technical and organisational measures to safeguard the security of Shared Data under their control (iv) co-operate with the other party in respect of any regulatory enquiry or investigation relating to the Shared Data and (v) co-operate with the other party where any Candidate seeks to exercise their rights under the Data Protection Legislation.

## 11 Bribery & Human Trafficking

Client and Company warrant that they shall each (i) comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (ii) promptly notify the other party of any request or demand for any undue financial or other advantage of any kind in connection with the performance of these Terms and (iii) take reasonable steps and carry out appropriate checks to ensure that their respective businesses and business supply chains are free of slavery and human trafficking.

## 12 General Provisions

- 12.1 Client shall not assign any of its rights or obligations under these Terms without the prior written consent of Company.
- 12.2 Company may assign any monies owing from Client to a third party including, without limitation, a recruitment finance or factoring company and, if relevant, the right to receive payment under these Terms and any associated rights may be directly enforced by such third party and their assigns.
- 12.3 Subject to clause 12.2, the parties do not intend these Terms to be enforceable by any third party under the Contracts (Rights of Third Parties) Act 1999.
- 12.4 If any provision of these Terms is determined by a court to be unenforceable, the unenforceable provision shall be severed from these Terms solely to that extent and the remainder of the Terms shall continue to be valid and enforceable to the extent permitted by law.
- 12.5 No failure or delay by a party in exercising any right or remedy under these Terms or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- 12.6 Neither party shall be in breach of these Terms nor liable for any delay in performing or failure to perform, any of their obligations under these Terms if such delay or failure result from events, circumstances or causes beyond their reasonable control. In such circumstances, the affected party shall be entitled to a reasonable extension of the time for performing its obligations.
- 12.7 These Terms shall be interpreted in accordance with English law and the parties irrevocably submit to the exclusive jurisdiction of the Courts of England and Wales in respect of any dispute or claim arising in relation to the construction, interpretation, or performance of these Terms.

### COMMERCIAL TERMS SCHEDULE – PERMANENT & FIXED TERM

#### Fee Scale:

Remuneration	Introduction Fee
All Remuneration Levels	30%

#### Rebate Scale:

Week of Termination	Rebate
1-2 weeks	100%
3-4 weeks	50%
5-6 weeks	25%
7-8 weeks	10%

**Payment Terms:** 14 days from date of invoice