

# CONTINGENCY RECRUITMENT AGREEMENT

**Engagement Type:** Contingency Placement **Effective Date:**

This Recruitment Agreement (this "Agreement") is entered into and made effective as of (the "Effective Date"), by and between **[RECRUITER NAME]**, a Llc organized under the laws of the State of **[STATE]**, with an address of **[RECRUITER ADDRESS]** (the "Recruiter"), and **[CLIENT NAME]**, a Corporation organized under the laws of the State of **[STATE]**, with an address of **[CLIENT ADDRESS]** (the "Client"). Recruiter and Client are each a "Party" and together the "Parties."

## Recitals

WHEREAS, Client desires to engage Recruiter to source, screen, and present qualified candidates for the position of **[POSITION TITLE]**;

WHEREAS, Recruiter represents that it has the experience, contacts, and resources to perform such services on the terms set forth herein;

NOW, THEREFORE, in consideration of the mutual covenants and other good and valuable consideration, the Parties agree as follows.

## 1. Parties and Scope

**Parties bound.** This Agreement binds only the named Client entity. Hires made by Client's parents, subsidiaries, or affiliates are not covered unless separately agreed in writing.

## 2. Services and Position

**Position.** Recruiter is engaged to source, screen, present, and (upon Client's request) facilitate interviews and reference checks for candidates for the position of **[POSITION TITLE]**. Description: **[POSITION SERVICES DESCRIPTION]**

**Exclusivity.** Recruiter is a **non-exclusive** recruiter. Client may engage other recruiters or conduct its own sourcing for the same position, subject to the fee-attachment rules in Section 4.

**Geographic scope.** National.

## 3. Candidate Presentation and Fee Attachment

Recruiter shall present candidates to Client by written submission (email or Client's designated applicant-tracking system) of the candidate's resume, profile, or equivalent identifying information. The date and method of each written submission shall constitute the presentation record.

**Fee attachment.** Recruiter's fee right with respect to a specific candidate attaches when (a) Recruiter first presents the candidate to Client in writing, and (b) Client has not, within the **6** month period immediately preceding such presentation, (i) received the same candidate's application through its own channels, (ii) received the same candidate from another recruiter who presented first, or (iii) identified the candidate through a documented internal sourcing effort. Client shall maintain reasonable records sufficient to establish any prior-contact exclusion and shall promptly notify Recruiter in writing of any prior contact upon receipt of a presentation.

**Competing presentations.** If two or more recruiters present the same candidate, the recruiter whose written presentation was timestamped first by Client's email system or applicant-tracking system shall be deemed the presenting recruiter for fee-attachment purposes, subject to the prior-contact exclusions above.

**Client acknowledgment of submissions.** Client shall use commercially reasonable efforts to acknowledge receipt of each candidate submission within five (5) business days. Failure to acknowledge does not waive Recruiter's fee rights if the candidate is hired.

**Candidate-initiated re-engagement.** If a candidate presented by Recruiter and not hired during the presentation window subsequently applies to Client through Client's own channels more than **6** months after Recruiter's presentation, no fee shall attach to such subsequent application.

#### 4. Fees

**Placement fee.** Client shall pay Recruiter a placement fee equal to **20%** of the placed candidate's first-year base salary (the "Fee Base").

**Invoice trigger.** Recruiter shall invoice Client upon the placed candidate's start date. Payment is due within **30** days after the invoice date. Amounts not paid when due accrue interest at 1.5% per month or the maximum rate permitted by law, whichever is lower.

#### 5. Guarantee and Replacement

If a placed candidate's employment terminates within **90** days after the start date (the "Guarantee Period") by reason of (a) the candidate's voluntary resignation, (b) termination by Client for cause, or (c) the candidate's failure to pass a lawful pre-employment background check or drug screen, Recruiter shall provide the following remedy: Recruiter shall conduct a **replacement search** at no additional fee and present qualified replacement candidates within a commercially reasonable timeframe. The replacement candidate, if hired, shall be entitled to a new Guarantee Period of equal duration.

**Guarantee exclusions.** The guarantee does not apply if: (i) Client materially changes the role, compensation, reporting relationship, or working conditions after hire; (ii) Client terminates the candidate without cause for business reasons unrelated to candidate quality (including reduction in force); (iii) Client fails to pay the placement fee in accordance with Section 4; (iv) the candidate's departure results

from harassment, discrimination, or other unlawful conduct attributable to Client; or (v) Client has otherwise materially breached this Agreement.

## **6. Post-Termination Tail (Look-Back)**

If Client (or Client) hires, engages, or enters into an independent-contractor arrangement with any candidate who was presented in writing by Recruiter during the Term, and such hire or engagement occurs within **6** months after the expiration or termination of this Agreement for any reason, Client shall pay Recruiter the full placement fee calculated under Section 4 as if the candidate had been placed during the Term. Client shall promptly notify Recruiter in writing of any such hire. This Section 6 survives termination of this Agreement.

## **7. Confidentiality and Data Security**

Each Party (as "Receiving Party") shall hold in strict confidence all non-public information disclosed by the other Party ("Disclosing Party") in connection with this Agreement, including Client's business plans, compensation data, personnel information, and hiring strategy, and Recruiter's candidate identities, sourcing methods, and candidate compensation histories (collectively, "Confidential Information"). Receiving Party shall use Confidential Information solely for the Purpose of this Agreement, shall limit internal access to personnel with a need to know under equivalent confidentiality obligations, and shall not disclose Confidential Information to any third party without Disclosing Party's prior written consent. Confidentiality obligations survive expiration or termination of this Agreement for three (3) years, except that trade secrets remain protected for so long as they retain trade-secret status under applicable law.

**Exclusions.** Confidential Information does not include information that is (a) publicly available through no fault of Receiving Party; (b) independently developed without reference to Confidential Information; (c) rightfully received from a third party without confidentiality obligation; or (d) required to be disclosed by lawful process, subject to prompt notice to Disclosing Party and cooperation in seeking a protective order.

**Candidate PII.** Recruiter acknowledges that candidate personally identifiable information (PII) is sensitive Confidential Information. Recruiter shall implement reasonable administrative, physical, and technical safeguards, including encryption of PII at rest and in transit, role-based access controls, and secure deletion upon termination. Recruiter shall comply with all applicable privacy laws, including (where applicable) the California Consumer Privacy Act / CPRA (Cal. Civ. Code §1798.100 et seq.), the EU General Data Protection Regulation, and state biometric and data-breach statutes.

**Security incident notification.** Recruiter shall notify Client in writing without undue delay, and in any event within **seventy-two (72) hours**, of any actual or reasonably suspected unauthorized access to, acquisition of, or disclosure of Client Confidential Information or candidate PII ("Security Incident"). Such notice shall describe the Incident, affected data, remedial steps taken, and a point of contact.

Recruiter shall cooperate with Client in any investigation and with any regulatory or candidate-facing notifications required by law.

**Subprocessors.** Recruiter shall not engage any third-party subprocessor to handle candidate PII without flow-down contractual protections at least as protective as this Section 7.

## 8. Intellectual Property and Candidate Data

**Recruiter retains candidate database.** Recruiter retains all right, title, and interest in its candidate database, sourcing methodologies, prospecting histories, and general work product. With respect to candidates actually presented to Client under this Agreement, Recruiter grants Client a **limited, non-exclusive, non-transferable license** to use such candidate information solely for the purpose of evaluating, hiring, and employing the specific candidate for the position described in Section 2. Client shall not use Recruiter's candidate information for direct outreach to candidates Recruiter has presented but Client has not hired, nor transfer such information to any third party (including any other recruiter).

## 9. Representations, Warranties, and Indemnification

**Mutual EEO representation.** Each Party represents and warrants that it shall comply with all applicable federal, state, and local equal employment opportunity and anti-discrimination laws in the sourcing, screening, presentation, and hiring of candidates, including Title VII of the Civil Rights Act of 1964 (42 U.S.C. §2000e et seq.), the Age Discrimination in Employment Act (29 U.S.C. §621 et seq.), the Americans with Disabilities Act (42 U.S.C. §12101 et seq.), the Genetic Information Nondiscrimination Act (42 U.S.C. §2000ff et seq.), and all applicable state and local laws. Neither Party shall direct the other to take any action that would violate such laws.

**Pay-transparency compliance.** To the extent applicable, each Party shall comply with state and local pay-transparency laws requiring disclosure of salary ranges in job postings, including N.Y. Lab. Law §194-b, Cal. Lab. Code §432.3, Colo. Rev. Stat. §8-5-201 (Equal Pay for Equal Work Act), and Wash. Rev. Code §49.58.110. Client shall timely provide Recruiter with the good-faith salary range for each posted role.

**Recruiter representations.** Recruiter represents and warrants that (a) it has the right and authority to enter into this Agreement; (b) it will present only candidates whose background information is, to Recruiter's knowledge, accurate; (c) it will disclose to Client any known conflicts of interest; and (d) it is in compliance with all licensing, registration, and permit requirements applicable to its business in the states where it operates.

**Mutual indemnification.** Each Party ("Indemnitor") shall indemnify, defend, and hold harmless the other Party, its officers, directors, and employees ("Indemnitees") from and against any third-party claim, loss, damage, or expense (including reasonable attorneys' fees) arising out of (i) Indemnitor's breach of this Agreement; (ii) Indemnitor's gross negligence, willful misconduct, or fraud; or (iii) Indemnitor's violation

of applicable law. The Indemnitor shall control the defense, provided that no settlement shall be made without the Indemnitee's prior written consent (not to be unreasonably withheld). The Indemnitee may participate in the defense through counsel of its own choosing at its own expense.

**Limitation of liability.** EXCEPT FOR (a) INDEMNIFICATION OBLIGATIONS FOR THIRD-PARTY IP CLAIMS, (b) GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR FRAUD, (c) BREACH OF CONFIDENTIALITY OR DATA-SECURITY OBLIGATIONS, AND (d) PAYMENT OBLIGATIONS, EACH PARTY'S AGGREGATE LIABILITY UNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL NOT EXCEED THE TOTAL FEES PAID OR PAYABLE UNDER THIS AGREEMENT IN THE 12 MONTHS PRECEDING THE CLAIM. NEITHER PARTY SHALL BE LIABLE FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, EXCEPT AS ALLOWED FOR THE CARVE-OUTS ABOVE.

## 10. Independent Contractor Status

Recruiter is an independent contractor. Nothing in this Agreement shall be construed to create an employer-employee, principal-agent, partnership, or joint-venture relationship between the Parties. Recruiter is solely responsible for all federal, state, and local income and self-employment taxes on its fees, and for all benefits, insurance, and workers' compensation coverage for its personnel. Client shall issue IRS Form 1099-NEC as required by Internal Revenue Code §6041A for payments exceeding \$600 in a calendar year. **Tax-advisor disclaimer.** The independent-contractor designation reflects the Parties' intent but does not guarantee that the IRS, Department of Labor, or any state agency will accept such classification; each Party is responsible for consulting its own tax and legal advisors.

## 13. Non-Solicitation and Off-Limits

**Recruiter non-solicitation of Client employees.** During the Term and for 12 months after termination, Recruiter shall not, directly or indirectly, solicit for employment or engagement, or cause to be contacted for purposes of recruiting, any then-current employee of Client with whom Recruiter had material contact in connection with this Agreement. General advertising not targeted at Client personnel, and responses from Client employees to such general advertising, do not violate this Section. This Section shall be narrowly construed to comply with applicable law.

## 14. Term and Termination

**Fixed term.** This Agreement commences on the Effective Date and continues for 90 days, unless earlier terminated as provided herein. The Term may be extended by written agreement of the Parties.

**Termination for cause.** Either Party may terminate this Agreement immediately upon written notice if the other Party (a) materially breaches this Agreement and fails to cure within fifteen (15) days after written notice; (b) becomes insolvent, files for bankruptcy, or has a receiver appointed; or (c) engages in fraud or willful misconduct.

**Effect of termination.** Termination does not relieve Client of its obligation to pay fees for placements made or invoiced before termination, nor relieve either Party of obligations under Sections 5 (Guarantee), 6 (Tail), 7 (Confidentiality), 8 (IP), 9 (Indemnification), 13 (Non-Solicitation), and 15 (General Provisions), each of which survives termination.

## 15. State-Specific Compliance Overlays

## 16. Dispute Resolution

**Arbitration.** Any controversy or dispute between the Parties arising out of or relating to this Agreement shall be resolved by binding arbitration under the Federal Arbitration Act (9 U.S.C. §1 et seq.) and before the American Arbitration Association under its Commercial Arbitration Rules, seated in [VENUE CITY], [STATE]. The administrative cost of the arbitration and the arbitrator's fee shall be shared equally by the Parties. The arbitrator shall have no authority to modify the terms of this Agreement. The arbitrator's decision shall be final and binding. Each Party shall bear its own attorneys' fees. Either Party may seek temporary or preliminary injunctive relief in a court of competent jurisdiction pending arbitration.

## 17. General Provisions

**Governing Law.** This Agreement is governed by and construed in accordance with the laws of the State of [STATE], without giving effect to conflict-of-laws principles.

**Assignment.** Neither Party may assign this Agreement or any rights hereunder without the prior written consent of the other Party, except that either Party may assign to a successor entity in connection with a merger, acquisition, or sale of substantially all of its assets, provided the successor agrees in writing to be bound hereby.

**Notices.** Notices required or permitted under this Agreement shall be in writing and delivered to the addresses in the preamble by (a) personal delivery; (b) certified mail, return receipt requested; (c) nationally recognized overnight courier; or (d) email with confirmation of receipt. Notice is effective on actual receipt.

**Force Majeure.** Neither