



## Terms of business - General

Vivo Talent Solutions (“Vivo”) is committed to maintaining a high level of service and efficiency. However, because Introductions are dependent upon the accuracy of information outside Vivo’s control and a Client’s Instructions, and as any decision to engage an Applicant is entirely a matter for a Client, Vivo Talent Solutions cannot accept liability for any Losses incurred by Clients as a result of Engagements.

Vivo expects Clients to act promptly, reasonably and in good faith (including not applying any discriminatory standards or practices) when deciding whether it wishes to Engage an Applicant.

Vivo confirms that, in the context of the Employment Agencies Act Regulations, it is acting in the capacity of an employment agency.

## Commercial terms

### Fee Rates

Upon the Engagement of an Applicant, and subject to a Minimum Fee of £3,500 in respect of any one Engagement, Vivo shall charge the following Fees calculated as a percentage of the Applicant’s Remuneration Package (which, for the avoidance of doubt, shall include all benefits and allowances in addition to basic salary):

### Amount of remuneration package fee percentage chargeable

Up to £29,999 / 20%

£30,000 to £49,999 / 25%

£50,000 to £69,999 / 30%

£70,000 and over / 35%

### Rebate Terms

If an Applicant terminates the Engagement within 4 weeks after the commencement date, for any reason (other than redundancy or the Applicant’s death), the Agency will refund a proportion of any Fee paid.

The Rebate of the Fee shall be 100% of the Fee if the termination takes place during the first week after the commencement date of the Engagement, 75% during the second week, 50% during the third week, and 25% during the fourth week. Any Rebate is conditional upon:

- (a) The Fee and any other invoiced sum having been paid by the Due Date; and
- (b) The Client’s notifying Vivo Talent Solutions in writing within 7 days of the termination and the reason for it; and
- (c) The Applicant’s not being re-engaged in any capacity by the Client or any parent, subsidiary or associated company of the Client within twelve months of the Introduction.

If the Applicant is re-engaged as set out in (c) above, the Client shall notify the Agency immediately and repay the refunded

amount as if the date of notification was the Payment Date for the purposes of these terms.

### Retained Search & Project Recruitment

For senior level roles, niche skillsets and recruitment projects, Vivo Talent Solutions and the Client may agree special commercial terms in relation to the Retained Search or Recruitment Project that is being carried out on an exclusive basis. In respect of such projects, the agreed Fee shall be chargeable as follows:

1/3 of target Remuneration Package payable upon commencement of the project;

1/3 of target Remuneration Package payable upon presentation of shortlist of Applicants;

Balance payable upon commencement date of the Engagement.

Please refer to the full terms and conditions of business below for full details and definitions of terms outlined above

### Fixed Term Contracts

In the event of an Applicant being Engaged by the Client on a Fixed Term Contract (“FTC”) basis, a Fee shall be chargeable according to the following formula:

(Remuneration Package x Fee Percentage x 1.5) x (Number of Months of FTC ÷ 12)

In the event that the FTC is subsequently extended, and another FTC is settled in respect of the Candidate, then a further FTC shall become payable as per the above formula, PROVIDED ALWAYS that the maximum Fees payable in respect of any one particular Applicant shall always be capped at a total equivalent to the appropriate Fee Percentage of one year’s Remuneration Package.



### 1. In these terms:

- a) “Applicant” means anyone who is referred or about whom information is supplied to a Client. It includes someone who may have been known or referred to that Client before Instructions are given or the Introduction is made.
- b) “Client” means the person or persons to whom an Introduction is made. It includes anyone who asks Vivo Talent Solutions for an Introduction, gives Instructions or interviews an Applicant on behalf of a Client.
- c) “Engagement” means any contract under which (directly or indirectly) the Applicant agrees to provide services to or for the Client or at the Client’s direction.
- d) “Fee(s)” means a sum equivalent to a percentage of the Remuneration Package, calculated at the rates set out above. It includes any additional fees that may have to be charged under Clauses 6(b)(2) and 6(b)(4). The Fee is exclusive of any VAT, which must be paid by the Client at the prevailing rate.
- e) “Instructions” means information about the Engagement, the Remuneration Package or the Client’s requirements concerning an Applicant’s qualifications or experience.
- f) “Introduction” means the referral of an Applicant or the provision of any information about an Applicant to a Client by the Agency or any associate, subsidiary or agent of Vivo Talent Solutions.
- g) “Losses” means any kind of loss, cost, expense, charge, damage, liability or claim whatsoever other than liability for death or personal injury caused by negligence.
- h) “Remuneration Package” means the total amount, before the deduction of any tax, of the salary, fees, profit share or equivalent remuneration and all commissions, bonuses, allowances (including company car allowances) and benefits of any kind in respect of the first year of the Engagement. In the event that the Applicant is provided with a company car, the sum of £4,500 shall be added to the Remuneration Package for the purposes of calculation of Fees.
- i) “Vivo” and “Vivo Talent” means Vivo Talent Solutions Limited trading as Vivo Talent, upon whose behalf these terms are issued.

### 2. Precedence of Terms

- a) All Instructions are accepted and every Introduction is made subject to these terms. An Introduction is made when a referral or any information about the Applicant arrives at the Client’s office or is communicated to the Client Intermediary, whichever is the earlier event.
- b) Giving Instructions, arranging an interview with or requesting further information about or from the Applicant, represents deemed acceptance of and agreement to these terms by the Client.
- c) These terms are paramount. They prevail over any other terms or conditions which may conflict with their provisions or, but for this term, may have been incorporated into any agreement between Vivo Talent and the Client.

### 3. Introductions

- a) An Introduction, and any information about an Applicant, is provided to the Client in strict confidence and for the purpose of considering whether it wishes to engage that Applicant. The Client must not disclose an Introduction or any information about an Applicant to anyone else. In particular, the Client must not approach an Applicant’s current employer until the Client has made an offer of Engagement to that Applicant and has the Applicant’s permission to do so.
- b) The Client must not re-introduce an Applicant to anyone else. If, within twelve months of the Introduction it does so, and this leads to a contract equivalent to an Engagement with someone other than the Client, the Client must pay the Fee as if there had been an Engagement under these terms (except that clause 7(a) will not apply), unless that other person pays Vivo Talent a sum equivalent to the Fee.

### 4. Liability

- a) Vivo Talent will use due skill and care in locating and introducing Applicants. Beyond that, no other term or condition is to be implied concerning Vivo Talent’s services. In particular, Vivo Talent does not warrant or make any representations about the suitability of, or the accuracy of any information concerning, an Applicant (as this information comes from the Applicant or other sources outside Vivo Talent’s control) and none is to be implied from anything Vivo Talent may undertake or provide.
- b) 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 responsibility for assessing and ensuring an Applicant’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 times. The Client is strongly advised by Vivo Talent to, and agrees to, take any of the steps referred to before offering or entering into an Engagement.
- c) Vivo Talent, its subsidiaries, associates, staff and agents (for whom Vivo Talent acts for the purpose of this and the following provision) shall not be liable, on any basis, for any Losses arising from, caused by or connected with Vivo Talent taking the Client’s



Instructions, the Introduction, the acts or omissions of an Applicant or an Engagement, even if an Applicant acts or has acted negligently, dishonestly or fraudulently.

- d) However, if, despite the previous provision, a Court determines that, for any reason and on any basis, Vivo Talent or any of its subsidiaries, associates, staff or agents is liable to the Client for any Losses, their aggregate liability shall be limited to the amount of the Fee actually paid by the Client.
- e) Under no circumstances shall Vivo Talent have any liability whatsoever to the Client for loss of profit, revenue, anticipated savings or bargain, loss or corruption of data or software or for any indirect, special or consequential losses.

### 5. Client Responsibilities

a) The Client agrees:

1. To give Vivo Talent the Instructions it may require from time to time to assist it in locating and introducing Applicants.
2. To act promptly, reasonably and in good faith (including not applying any discriminatory standards or practices) when deciding whether it wishes to engage an Applicant.
3. Not to prevent or impede Vivo Talent from making an Introduction or otherwise earning and receiving the Fee in any other way.
4. To indemnify Vivo Talent against any Losses it incurs as a result of the Client's delay in giving, changes in or failure to give adequate Instructions, or any breach of these terms by, or the negligence or other wrongful act, omission or statement of the Client.
5. To meet the costs of psychometric assessment tests or services where applicable.

### 6. Payment of Fees

a) The Fee(s) becomes payable by the Client if an Applicant accepts an offer of Engagement at any time within 12 months of the introduction being made. However, a Fee is not payable if an Applicant accepts an offer but fails to commence the Engagement through no fault of the Client.

b) The Client must:

1. Notify Vivo Talent immediately an Applicant is offered an Engagement and provide full details of the remuneration package (and copies of any relevant contract and other documents if Vivo Talent so requests) and when a commencement date for the Engagement is agreed.
2. Update Vivo Talent immediately if there is any change in the offered or agreed remuneration package or the commencement date. Vivo Talent reserves the right to adjust the Fee or require the payment of an additional fee if there is a change.
3. Pay the Fee within 14 days of the commencement of the Engagement (the "Payment Date").
4. If asked to do so, provide Vivo Talent with full details of the remuneration package actually received by or paid to the benefit of the Applicant for the first year of his or her Engagement (and copies of any relevant contract and other documents if Vivo Talent so requests). Vivo Talent reserves the right to charge an additional fee on the difference between the remuneration package actually received (if it is higher) and that used for the calculation of the Fee.

c) Vivo Talent will calculate and invoice the Client for the Fee and for any other sum payable by the Client under these terms. Unless there is an obvious error in any calculation shown on any invoice, the invoiced sum will be final and binding as the sum due from the Client. It is absolutely essential that the Fee and any other invoiced sum is paid, without deduction, by the Payment Date or, if for any reason an invoice is issued later than the Payment Date, within 14 days from the date of that invoice.

d) The Client must not make any deduction from, or assert or exercise any set-off, lien or other right or claim against the Fee, any other invoiced sum or any interest that may become payable under Clause 6(e)(1) below.

e) If the Fee or any other invoiced sum is not paid within the time specified in Clause 6(c) (the "Due Date") and in full, then:

1. Interest shall be paid on any outstanding balance, for the first 30 days, at the rate of 5% above, and thereafter, at the rate of 8% above Barclays Bank's (or its successor's) prevailing base lending rate, that interest accruing daily from the Due Date until payment (whether before or after judgment) and, while any part of the balance or interest remains outstanding.
1. Vivo Talent may give notice to the Client terminating or, at its option, suspending, in either case with immediate effect, its performance of and any of its obligations under this and any other agreement then in force between itself and the Client, until the outstanding balance and any interest has been paid in full. Vivo Talent will not incur any liability, upon any basis or for any reason, for any Losses resulting from, and the Client will indemnify Agency against any Losses it incurs as a result of, any such termination or suspension. A termination or suspension will not release the Client from performance of, or any of its obligations under, or otherwise vary the terms of any agreement.



## Term and conditions of business - Permanent staff recruitment

2. Vivo Talent may also recover from the Client, as a sum due under these terms, any costs or other expenses it incurs, in enforcing and recovering any payments due from the Client

### 7. Advertising Booking Fees

Where the Client requests Vivo Talent to place advertisements in the media for permanent recruitment opportunities Vivo Talent shall undertake to follow the Client's instructions strictly on the following basis:

- a) Once a booking has been placed, Vivo Talent shall immediately invoice the Client for all costs associated with the actual publication of the advertisement(s) in the media (the "Publication Costs").
- b) The Publication Costs shall be payable by the Client upon presentation of Vivo Talent invoice. The Client understands and accepts that Vivo Talent is unable to guarantee the media space required for the advertisement(s) until payment of the Publication Costs has been made by the Client. Any cancellation costs levied by the media shall be met by the Client.
- c) The Client shall also be billed for all costs associated with the design and production of the advertisement, including advertising agency fees (the "Production Fees"). Invoices for Production Fees shall be payable by the Client upon receipt of Vivo Talent's invoice. Failure to pay by such date will incur the provisions of 6(e) of this agreement.
- d) All direct and indirect costs associated with any advertising placed by Vivo Talent on behalf of the Client at the Client's request will be paid for by the Client whether or not an Applicant is engaged.

### 8. General

- a) This is the entire agreement between the parties. The agreement may not be cancelled, and these terms may not be varied or their application or any breach of them waived other than by a document signed by a director, divisional/regional manager or legal representative of Vivo Talent. No-one else acting for Vivo Talent has authority to agree to any variation or waiver.
- b) If a specific fee or payment arrangement has been made between Vivo Talent and the Client, which includes a variation of any of these terms and the Client breaches any term of that arrangement, then all of these terms shall be substituted for and form part of that arrangement with immediate effect.
- c) In addition to and without prejudicing any of its other remedies, Vivo Talent may terminate the agreement between the parties with immediate effect if the Client breaches any of its terms or (in Vivo Talent's view) materially alters the Instructions.
- d) If the agreement is cancelled or terminated because of a material alteration to the Instructions, the Client agrees to indemnify Vivo Talent against Losses incurred by it to that date or resulting from the cancellation or termination.
- e) Vivo Talent shall not incur any liability to the Client for any Losses if the performance of Vivo Talent's obligations is prevented or delayed by the acts or omissions of others or other events, which are beyond its reasonable control.
- f) If any of these terms (or part thereof) is judged to be invalid or unenforceable for any reason, then the offending words shall be severed from the agreement or amended so as to ensure that the original spirit and intent of the term is made valid as far as possible. In the event that any term is severed for any reason, all other terms and conditions shall continue in full force and effect.
- g) Both parties agree not to approach or induce with offers of employment, directly or indirectly, any of the other party's employees that it has had direct contact with under this agreement, without the prior written agreement of the other party. In the event that the Client employs or engages an employee of Vivo Talent, then a Fee calculated upon that person's Remuneration Package at the rates shown above, or £12,500 (whichever is the greater), shall become immediately payable to Vivo Talent by the Client.

The client acknowledges receipt of these Terms and acknowledges that they have read and understood them.

Client name:

Position:

Date:

Client Signature: