

# Wenham Carter Group Terms and Conditions of Business

## General Terms

### 1. For the purposes of these Terms:

“Applicant” means an individual and/or any other person (e.g. legal entity, partnership, firm, sole trader) whom Wenham Carter has identified as a suitable and potential candidate for a Requirement.

“Client” means any person whom receives recruitment services from Wenham Carter whether on behalf of itself and/or any Client Member.

“Client Group” means all companies who are an associated, subsidiary or holding company of the Client to be construed in accordance with the Companies Act 2006 and reference to a “Client Member” shall be reference to any of companies of the Client Group.

“Considered” means the Applicant has either (i) introduced himself or herself for the same Requirement as a direct consequence of the Requirement being advertised in the public domain (prior to the Applicant being informed of the Requirement by Wenham Carter) and the Client has already been in contact with or progressed arrangements with the Applicant to discuss his/her application or (ii) been introduced by a third party with authority to represent the Applicant for the same Requirement and the Client has already contacted the third party to discuss the Applicant’s suitability for the Requirement.

“Contract Requirement” means a temporary or contract vacancy or role of the Client or of any Client Member.

"Data Protection Laws" means the EU Regulation 2016/679 (General Data Protection Regulation) and any data protection legislation applicable from time to time in the UK or the relevant assignment location and use herein of ‘Personal Data’, ‘Controller’, and ‘Data Subject’ have the respective meanings defined therein.

“Engagement” means the engagement, employment or use of an Applicant, whether under a contract of service, contract for services, agency, license, franchise, partnership agreement, or in any other capacity, whether directly or indirectly through a third person or other legal entity; engages and engaged shall be interpreted accordingly.

“Fee” means either a Placement Fee or Transfer Fee as applicable.

“Introduction” means the passing of any information relating to an Applicant to the Client for a Requirement, and which includes the Applicant’s personal details, CV, profile, contact details or any other information which identifies the Applicant to the Client or which allows identification of the applicant by the Client through cross referencing such information with information held by the Client, or information held in the public domain or information obtained through third party resources; introduced and introduce shall be interpreted accordingly.

"Non-Executive and Advisory Personnel" means an individual engaged in a part-time employed or part-time consultancy capacity to advise and consultant with the leadership of the Client on matters including but not limited to Fund Raising, Trade Sale, Strategy, Technical Matters, Marketing, Sales, Recruitment and Market Entry.

“Permanent Requirement” means a permanent or fixed term permanent vacancy or role of the Client or any Client Member.

"Privacy Notice" shall mean Wenham Carter's privacy notice made pursuant to the Data Protection Laws from time to time and which can be found here <https://www.wenhamcarter.com/privacy-policy/> .

“Requirement” shall mean together any Permanent Requirement and Contract Requirement.

“Terms” these terms and conditions of business for the provision of recruitment services.

“Total Remuneration” means salary and any bonus or commission payments, car or car allowance, housing allowance, relocation contributions, together with any additional salary, company pension contribution, paid expense or any taxable benefits. The provision of a motor car will be valued at £12,500, the taxable benefit or car allowance, whichever is the greater. The Client undertakes to inform Wenham Carter in writing of the terms of employment and to provide such information that may be necessary to calculate Fees payable. If for any reason the remuneration in the first year of employment cannot be agreed, Wenham Carter reserves the right to calculate its Fee on its own projection of total remuneration based upon market rates for the role concerned.

"Wenham Carter Group" means those companies who are associates of, subsidiaries of, or holding companies of Wenham Carter Limited (a UK registered company, number 04990020) and which includes but is not limited to Wenham Carter Consulting Ltd. (a UK registered company, number 07905696), and Wenham Carter Consulting Ltd. (a registered branch of Wenham Carter Consulting Ltd. (above) in the Netherlands under chamber of commerce registration number 70690715), and Wenham Carter Consulting Inc (a United States Corporation registered in the State of New York) and reference to “Wenham Carter” shall be reference to a company within the Wenham Carter Group whom delivers recruitment services under these Terms.

2. These Terms govern the provision of recruitment services from Wenham Carter and the Wenham Carter Group. Provided Wenham Carter has sent, transmitted, or otherwise communicated (“issued”)

the Terms to the Client, these Terms shall be deemed to have been accepted by the Client on behalf of itself and the Client Group upon (a) the Client requesting Wenham Carter to perform recruitment services or otherwise request the introduction of an Applicant for a Requirement (b) the introduction of an Applicant by Wenham Carter for a Requirement, (c) the Client's subsequent use of any information provided by Wenham Carter in respect of an Applicant introduced for a Requirement (c) the engagement of an Applicant (whether directly or indirectly through a third party) or (d) the Client's passing of any information about the Applicant to any third party following an introduction, whichever event occurs the earlier. Wenham Carter will be deemed to have issued the Terms on behalf of itself and the Wenham Carter Group.

3. Wenham Carter will assume that any person who requests the recruitment services of Wenham Carter has authority to do so on behalf of the Client. The Client may request recruitment services from the Wenham Carter Group and may assume that Wenham Carter will deliver the recruitment services under these Terms.
4. If the Client engages any Applicant within 12 months of the introduction of the Applicant by Wenham Carter (irrespective of whether the Client engages the Applicant in the same role as set out in the Requirement for which the Applicant was introduced or in a different role), the Client shall be liable to pay a Fee to Wenham Carter in accordance with these Terms.
5. If, upon an introduction by Wenham Carter, the Client believes the Applicant has been considered by the Client for the same Requirement that the Applicant was introduced for by Wenham Carter (whether directly or indirectly through a third party) prior to the introduction by Wenham Carter, the Client shall notify Wenham Carter in writing within 36 hours of the introduction of the Applicant, and the Client shall at the same time provide evidence that the Applicant has been considered. If the Client fails to notify the Recruitment Consultancy within the time-frame specified, and/or fails to provide evidence that the Applicant has been considered, and/or such previous introduction was for a different Requirement the Client shall be liable to pay a Placement Fee or Transfer Fee upon the Applicant's Engagement. For the avoidance of doubt, this provision only applies to Requirements which are not classified or agreed as retained projects with the Client, for which all Applicants (whether or not considered by the client prior to any retained project) will be deemed introduced by Wenham Carter and will attract a retained placement fee, as agreed with the Client under agreed terms for a retained assignment.
6. Should the Client wish to engage an Applicant for a Contract Requirement, the Specific Terms for Contract Requirements below shall apply and should the Client wish to engage an Applicant for a Permanent Requirement, the Specific Terms for Permanent Requirements below shall apply.
7. With respect to engagements for a Contract Requirement, the Client accepts that it will be required to enter into a contract detailing the particular obligations of the Contract Requirement and any other terms relevant to the Contract Requirement which shall be issued by Wenham Carter in its standard format. No other terms and conditions other than these Terms and Wenham Carter's contract shall govern the Contract Requirement.
8. Wenham Carter shall act as an employment agency, for the purposes of the Conduct of Employment

Agencies and Employment Businesses Regulations 2003 (as amended) (“Conduct Regulations”) in the introduction of Applicants for Permanent Requirements, and shall act as an employment business, for the purposes of the Conduct Regulations, in the introduction of Applicants for Contract Requirements.

### **Specific Terms - Introductions for Permanent Placements**

9. The Client must immediately notify Wenham Carter of the engagement of an Applicant by the Client or any Client Member together with details of the remuneration agreed to be paid, whereupon a placement fee as set out in Clause 13 hereof shall be payable in respect of such engagement (“Placement Fee”).
10. Introductions of Applicants by Wenham Carter to the Client are confidential. Accordingly a breach of confidentiality or a transfer of an introduction by the Client to another employer which results in either a permanent or a temporary engagement of an Applicant by another party renders the Client liable to pay Wenham Carter a Placement Fee.
11. Wenham Carter makes every reasonable effort to ensure the suitability of an Applicant to the Permanent Requirement for which the Applicant is to be introduced to the Client but the Client must ultimately satisfy itself as to the suitability of the Applicant for engagement into the Permanent Requirement or any other role. The Client is responsible for the taking up of references in respect of the Applicant’s qualifications, medical history, ability and suitability and for undertaking any assessment of the skills, technical expertise, and experience of any Applicant before extending an offer for a Requirement to the Applicant. It is also the responsibility of the Client to obtain a work permit or any other permits wherever necessary. Wenham Carter gives no representation or warranty that any Applicant is or will be available to accept any engagement.
12. Neither Wenham Carter or the Wenham Carter Group shall be liable under any circumstances for any loss, damage, cost or expense suffered or incurred by the Client or the Client Group arising in any way directly or indirectly from an introduction of or engagement of an Applicant. The Client is strongly advised to ensure that it and the Client Group obtain their own insurance against such matters. No warranties or representations, implied, statutory or otherwise are given by Wenham Carter or the Wenham Carter Group to the Client or the Client Group. To the extent that any liability of Wenham Carter cannot be excluded in law, but may be limited in law, any such liability shall be capped to the sum of the Placement Fees paid by the Client during the preceding 6 month period subject to a cap of £20'000. For the avoidance of doubt, the liability of Wenham Carter shall be several and extend only to liability it causes and Wenham Carter shall not be liable for or otherwise responsible for any liability of any other companies within the Wenham Carter Group.
13. The Placement Fee payable by the Client in accordance with the provisions hereof on the engagement of an Applicant into a Permanent Requirement shall be calculated as 33% (plus VAT thereon) of Total Remuneration in the first year of employment payable by the Client to the Applicant, subject to a minimum fee of £8'000 before VAT irrespective of the Total Remuneration.
14. Should the Client or any Client Member seek to engage an Applicant for a Contract Requirement following an introduction made by Wenham Carter for a Permanent Requirement then the Applicant

will be deemed to be engaged under a Contract Requirement. Whereby the Client shall be required to enter into a contract with Wenham Carter for the provision of the services of such Applicant for the Contract Requirement.

15. The Placement Fee shall be paid by the Client within 14 days of a formal employment offer being accepted in writing by an applicant. The Client shall bear any legal and a recovery cost incurred by Wenham Carter if an invoice is unpaid within 14 days. No variation of the payment terms shall be valid or binding unless expressly agreed in writing by a director of Wenham Carter. Should Wenham Carter agree to vary such payment terms, it reserves the right to revert back to its standard payment terms herein should any invoice remain unpaid by the due date in respect of any Requirement at any time.
16. To the extent that any proposed Placement Fee is calculated against projected remuneration, if the actual remuneration in the first year of employment is materially different from the projected remuneration used in calculating the Placement Fee, Wenham Carter reserves the right to charge an additional Placement Fee based upon the actual remuneration and the Client shall provide such information as Wenham Carter requires to calculate the additional Placement Fee.
17. If the Client agrees to use any of Wenham Carter's additional services, including but not limited to advertising, executive search and Internet services ("the Additional Services"), the fees for the Additional Services shall be agreed between Wenham Carter and the Client in a separate Services proposal document.
18. If the Client requests that Wenham Carter arranges, manages or reimburses Applicant travel/ interview expenses (including but not limited to flights, hotel accommodation, taxi, public transport, subsistence and video conference facilities) the Client agrees to reimburse Wenham Carter the expenses incurred (including VAT where applicable) plus a management and administration fee of 20% of the total expenses.
19. Where an Applicant introduces any other individual(s) to the Client or a Client Member within twelve months of being introduced to the Client and/or a Client Member and this results in the engagement of such individual(s), the Client shall be liable to pay Wenham Carter a Placement Fee.

#### **Specific Terms - Introductions of Non-Executive and Advisory Personnel**

20. The Client must immediately notify Wenham Carter of the engagement of an Applicant by the Client or any Client Member whereupon a placement fee as set out in Clause 24 shall be payable in respect of such engagement ("Placement Fee").
21. Introductions of Applicants by Wenham Carter to the Client are confidential. Accordingly a breach of confidentiality or a transfer of an introduction by the Client to another employer which results in either a permanent or a temporary engagement of an Applicant by another party renders the Client liable to pay Wenham Carter a Placement Fee.
22. Wenham Carter makes every reasonable effort to ensure the suitability of an Applicant to the

Permanent Requirement for which the Applicant is to be introduced to the Client but the Client must ultimately satisfy itself as to the suitability of the Applicant for engagement into the Permanent Requirement or any other role. The Client is responsible for the taking up of references in respect of the Applicant's qualifications, medical history, ability and suitability and for undertaking any assessment of the skills, technical expertise, and experience of any Applicant before extending an offer for a Requirement to the Applicant. It is also the responsibility of the Client to obtain a work permit or any other permits wherever necessary. Wenham Carter gives no representation or warranty that any Applicant is or will be available to accept any engagement.

- 23.** Neither Wenham Carter or the Wenham Carter Group shall be liable under any circumstances for any loss, damage, cost or expense suffered or incurred by the Client or the Client Group arising in any way directly or indirectly from an introduction of or engagement of an Applicant. The Client is strongly advised to ensure that it and the Client Group obtain their own insurance against such matters. No warranties or representations, implied, statutory or otherwise are given by Wenham Carter or the Wenham Carter Group to the Client or the Client Group. To the extent that any liability of Wenham Carter cannot be excluded in law, but may be limited in law, any such liability shall be capped to the sum of the Placement Fees paid by the Client during the preceding 6 month period subject to a cap of £20,000. For the avoidance of doubt, the liability of Wenham Carter shall be several and extend only to liability it causes and Wenham Carter shall not be liable for or otherwise responsible for any liability of any other companies within the Wenham Carter Group.
- 24.** The Placement Fee payable by the Client in accordance with the provisions hereof on the engagement of an Applicant in a Non-Executive or Advisory position shall be £30'000 before VAT irrespective of the Total Remuneration.
- 25.** The Placement Fee shall be paid by the Client within 14 days of a formal employment offer being accepted in writing by an applicant. The Client shall bear any legal and a recovery cost incurred by Wenham Carter if an invoice is unpaid within 14 days. No variation of the payment terms shall be valid or binding unless expressly agreed in writing by a director of Wenham Carter. Should Wenham Carter agree to vary such payment terms, it reserves the right to revert back to its standard payment terms herein should any invoice remain unpaid by the due date in respect of any Requirement at any time.
- 26.** If the Client agrees to use any of Wenham Carter's additional services, including but not limited to advertising, executive search and Internet services ("the Additional Services"), the fees for the Additional Services shall be agreed between Wenham Carter and the Client in a separate Services proposal document.
- 27.** If the Client requests that Wenham Carter arranges, manages or reimburses Applicant travel/ interview expenses (including but not limited to flights, hotel accommodation, taxi, public transport, subsistence and video conference facilities) the Client agrees to reimburse Wenham Carter the expenses incurred (including VAT where applicable) plus a management and administration fee of 20% of the total expenses.
- 28.** If a Client subsequently employs an Applicant who has previously been engaged in a Non-Executive

or Advisory position within a period of 2 years from the start-date of the Applicant with the Client. The Client will be liable for a Recruitment Fee under the provisions of the Introductions for Permanent Placements above. Subject to discount of the fees already paid under the provisions of the Introductions for Non-Executive or Advisory Personnel.

### **Specific Terms - Introductions for Contract Requirements**

- 29.** Where a Client or any Client Member wishes to engage the services of an Applicant for a Contract Requirement, the Client shall be required to enter into a contract with Wenham Carter for the provision of the services of such Applicant for the Contract Requirement and Wenham Carter shall either payroll the Applicant (where engaged as a PAYE worker by Wenham Carter) or shall engage the Applicant through an intermediary and shall supply the agreed services through the Applicant for the duration of the contract. The Client or any Client Member may not receive the services of any Applicant introduced by Wenham Carter for a Contract Requirement other than through the mechanism described without the express prior written consent of Wenham Carter.
- 30.** The Client shall be required to pay a contract charge rate to Wenham Carter on a weekly or monthly basis based upon verification of the services provided by the Applicant. The contract charge rate shall include the salary of the Applicant (where engaged as a PAYE worker) and any statutory costs of Wenham Carter in engaging the Applicant on this basis or fees of the Applicant (where engaged through an intermediary) together with any Agency Regulations on-costs, and Wenham Carter's fee for the provision of its recruitment service which is chargeable throughout the lifetime of the contract ("Charge Rate").
- 31.** Should the Client or any Client Member breach the terms of Clause 29 and fail to ensure that the Applicant is engaged and supplied through Wenham Carter for any Contract Requirement following the introduction of the Applicant by Wenham Carter for a Contract Requirement, Wenham Carter shall be entitled to charge the Client a transfer fee which shall be 6 times the average monthly Charge Rate (that Wenham Carter has invoiced the Client) across the length of engagement prior to the Client's breach of clause 29, or in the event the Client or Client Member breaches this clause before any supply of the Applicant occurs, Wenham Carter shall be entitled to invoice the Client a transfer fee which shall be 6 times the monthly total charge rate (based on market rates for the same or similar Contract Requirement) to be determined solely by Wenham Carter in its discretion ("Transfer Fee").
- 32.** Where an Applicant engaged through Wenham Carter and supplied under a Contract Requirement to the Client or any Client Member pursuant to Clause 29 is engaged for a Permanent Requirement with the Client or any Client Member either during a Contract Requirement or within 12 months of the end of any such Contract Requirement, a Placement Fee as calculated under Clause 13 shall be payable to Wenham Carter by the Client. No refunds or rebate apply to any Placement Fee paid under this clause 32.
- 33.** Where an Applicant engaged through Wenham Carter and supplied under a Contract Requirement to the Client or any Client Member pursuant to Clause 29 is engaged for a further Contract Requirement (whether directly or indirectly through any intermediary) either during an existing Contract

Requirement through Wenham Carter or within 12 months of the end of any such Contract Requirement, a Transfer Fee calculated under clause 31 shall be payable to Wenham Carter by the Client in respect of the engagement of the Applicant for a further Contract Requirement.

- 34. Where an Applicant is introduced for a Contract Requirement, and no supply occurs, but the Client and or Client Member subsequently engages the Applicant for a Permanent Requirement within 12 months of the introduction of the Applicant by Wenham Carter, a Placement Fee calculated under clause 13 shall be payable to Wenham Carter by the Client. No refunds or rebate apply to any Placement Fee paid under this clause 34.
- 35. If the Conduct Regulations apply to a Contract Requirement, the Client shall be entitled to elect to choose an extended hire option as an alternative to payment of a Placement Fee or Transfer Fee under these Specific Terms, which shall allow the Client to engage the Applicant through Wenham Carter for a one off period of eight months, such period to be charged at the Contract Rate, after which time the Client shall be free to engage the Applicant without further charge. The Client must give notice of its wish to take up the extended hire option to Wenham Carter within 7 days of its decision to engage the Applicant pursuant to clause 31, 32, 33 or 34. If the Client fails to give notice, the Client shall be deemed to have elected to pay the Transfer Fee or Placement Fee as applicable.
- 36. Fees for the provision of contract services will be paid by the Client within 14 days of invoice date. The Client shall bear any legal and a recovery cost incurred by Wenham Carter if an invoice is unpaid within 14 days. No variation of the payment terms shall be valid or binding unless expressly agreed in writing by a director of Wenham Carter. Should Wenham Carter agree to vary such payment terms, it reserves the right to revert back to its standard payment terms herein should any invoice remain unpaid by the due date in respect of any Requirement at any time.

### **Standard Provisions**

- 37. Introductions of Applicants by Wenham Carter to the Client are confidential. Accordingly a breach of confidentiality or a transfer of an introduction by the Client to another employer which results in either a permanent or a temporary engagement of an Applicant by another party renders the Client liable to pay Wenham Carter a Placement Fee.
- 38. Payments made in foreign currencies shall be converted into United Kingdom sterling at the exchange rate in the United Kingdom on the date of invoicing.
- 39. Interest shall be charged to the Client on any sums payable and overdue under this agreement or any document referred to herein at the rate of 8% above the Bank of England's base rate from time to time and calculated on a daily basis from the due date until payment.
- 40. Wenham Carter may use Client logo/branding in internet advertising and online branding.
- 41. Each Party agree that save where expressly agreed otherwise in writing, the capacity of each Party under this contract shall be that of Data Controller, and each Party shall be responsible for its own compliance with the Data Protection Laws. In addition, each Party agrees to (a) hold any Personal



Data the other Party provides securely, and confidentially and shall not use it or any part of it for any unlawful purpose, nor any purpose unrelated to this contract; (b) ensure that it has appropriate technical and organisational measures within its organisation, including but not limited to measures which protect against the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Personal Data; (c) any Personal Data it provides to the other Party will be lawfully obtained, compliant with the Data Protection Laws.

- 42.** These Terms exclude any other terms and conditions which the Client might seek to impose even though such other terms and conditions may be submitted in a later document and/or purport to exclude or supersede any terms or conditions inconsistent with them or may be contained in any offer acceptance or counter offer made by the Client.
- 43.** Alterations to these Terms will only be valid if authorised in writing by a Director of Wenham Carter.
- 44.** These Terms shall be governed and construed in accordance with English law and the parties hereby submit to the non-exclusive jurisdiction of the English Courts.