

## **Professional Services Agreement**

This Professional Services Agreement is dated XX-XX-XXXX (the 'Effective Date') by and between <Your Company>, a company registered under Companies Act 1956 having its main office (Regd.) at <your address> ("**<Your Company>**") and <Client Company>., a company registered under Companies Act 1956 having its main office at <Client address> ("**<Client Company>**").(The Terms '<Your Company>' and '<Client Company>' shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include its legal representatives, successors in interest, administrators, executors and permitted assigns) and '<Your Company>' and "&b><Client Company>" shall be collectively referred to as "Parties")

### **RECITALS**

#### **WHEREAS**

- a) <Your Company> is engaged in the business of sourcing talent to help find the right candidate the right job and finding the right people for companies to employ.
- b) <Client Company> requires the professional services of <Your Company> to enable them to find the right candidate for vacancies in their company and therefore wishes to engage the services of <Your Company>.
- c) Since the <Client Company>' requirements will vary from time to time, the parties have agreed to enter into this agreement which shall govern the Statement of Work(s) issued in accordance with this agreement.
- d) The parties have thought it fit to reduce into writing the terms and conditions agreed between them.

### **1. Validity and Duration of Agreement & Scope of Agreement**

#### Validity and Duration

This Agreement shall commence as of the **XX-XX-2013** and shall remain in effect until **XX-XX-2014** unless terminated pursuant to the provisions in the Section 11 ("Termination") of this Agreement.

#### Scope of Agreement

<Your Company> shall provide professional services to <Client Company> by identifying and sourcing candidates for employment by <Client Company>, which services shall be governed by the terms and conditions contained in this agreement. .

### **2. Statements of Work**

The statement of work shall be in the form annexed to this Agreement as Schedule 'A' and accepted by <Your Company> and <Client Company> broadly describing the following terms, wherever applicable:

- Scope of services and functional tasks
- Service levels
- Additional commercial terms, engagement fees and pricing/rates for the Services
- Assigned personnel
- Systems, procedures and mechanisms that constitute a Service or are required to be implemented for the performance of a Service
- Target time schedule for the Services
- Acceptance criteria for deliverables

Each Statement of Work shall represent a new project or set of Services. All Statements of Work must be properly executed with signatures of both Parties and such Statements of Work will constitute a material part of this Agreement as Schedules to this Agreement. This Agreement shall govern the key terms of all Statements of Work in the event of a conflict.

### **3. Engagement Fees/Rate Card**

The engagement fees are outlined in each Statement of Work attached with this Agreement.

### **4. Taxes**

The engagement fees mentioned are exclusive of applicable taxes, which will be invoiced to **<Client Company>** in addition to the fees incurred.

### **5. Expenses**

The engagement fees are exclusive of expenses which will be borne by **<Client Company>** at cost. All engagement specific travel and expenses will be itemized and added to the invoice. Such expenses will include:

- a. Travel and expenses for **<Your Company>** consultants to travel outside their office locations if specifically required by **<Client Company>**
- b. Hiring of an external venue (if required) for conducting written tests and interviews
- c. Travel reimbursements (if any) paid to the outstation candidates.
- d. Cost of conducting any other specific activities or campaigns beyond the agreed upon scope of services stated on the Statements of Work, **<Your Company>** will estimate all such expenses and seek prior approval from **<Client Company>**.

### **6. Invoicing**

- a. **<Your Company>** will raise an invoice against each candidate joining. Engagement fees pertaining to other services will be raised on the last business day of the month or on completion of deliverables when the duration for providing Services is less than a month.
- b. Wherever required for the purposes of invoicing, **<Client Company>** will share with **<Your Company>**, the Offer Letter extended to the candidate.
- c. Engagement Fees will be calculated on the basis of the Cost to the Company (CTC) excluding annual performance bonus, stock options, sign-on/joining bonus and any other perks such as Club Membership etc. **<Client Company>** will not unreasonably withhold or delay providing such invoicing information.

### **7. Payment**

- a. **<Client Company>** will make full payment of all invoices within 15 days of receipt of the invoice.
- b. All payments will be made in favor of **<Your Company>**.
- c. In the event of any delay in the payment of any sum payable to **<Your Company>**, **<Client Company>** shall be liable to pay interest at the rate of 18% on such outstanding sum from the date on which such sum became due till the date of receipt of payment by **<Your Company>**.

### **8. Replacement Provisions**

- a. If a candidate leaves **<Client Company>** within 30 days of joining, (measured by the date of separation and not resignation), **<Your Company>** will find a suitable replacement within 30 days or refund the fees (if already paid) provided however that **<Your Company>** shall not be liable to refund any amount collected towards

taxes. In the event of taxes having been collected, then <Your Company> shall refund the sum remaining after deducting the amount collected towards taxes.

- b. Such replacement or refund is subject to the condition that the exit of the candidate has not occurred due to the following reasons:
  - <Client Company> has not made any adverse changes to the offered salary, title/designation, role and responsibilities offered to the candidate at the time of joining.
  - Termination without cause.
  - Transfer to a different location.
  - Any Merger & Acquisition activity.
  - Changes in any of the Terms & Conditions offered at the time of joining.
- c. <Client Company> will notify <Your Company> of any candidate leaving within the 7 working days from the date on which the candidate leaves the <Client Company>, failing which <Your Company> will not be liable to provide a replacement for that candidate.
- d. Replacement is mandatory and no refunds will be made if <Client Company> decides not to work on a replacement. Refunds will be made only if <Your Company> fails to provide the replacement within the above mentioned duration.

## 9. Non Solicitation

- a. <Your Company> shall not, on behalf of its clients, directly solicit any employees of <Client Company> to leave <Client Company> employment during the term of this Agreement.
- b. <Client Company> undertakes that it will not solicit <Your Company> employees during the term of this Agreement and will not hire any <Your Company> employee for upto 1 year from the date that employee has separated from <Your Company>'s employment.

## 10. Non Disclosure

- a. <Your Company> shall maintain confidentiality of all information received from <Client Company> including but not limited to employee requirements, and other information as regards <Client Company> which is not in the public domain.
- b. <Client Company> shall not disclose specific information on candidates such as assessment scores, or any other information provided by <Your Company> to <Client Company> including performance reports, market intelligence information to any other party and <Client Company> may use this only for its own hiring purposes. <Client Company> may not use the information for other Affiliated Companies (companies within the same corporate group, joint ventures etc.) or partners without the prior permission and written approval of <Your Company>.

## 11. Termination

- a. This Agreement may be terminated by either Party upon giving thirty (30) days prior written notice. In addition to other relief, either Party may terminate this Agreement if the other Party breaches any material provisions of this Agreement and fails after receipt of notice of default to correct such default promptly or to commence corrective action.
- b. It is explicitly provided that <Client Company> shall pay for services already performed prior to the date of such notice. <Client Company> shall remain obligated to pay for Services performed up to and including the date of termination, provided <Your Company> continues to perform the scheduled Services as outlined in this Agreement till such date.

## 12. Force Majeure

<Your Company>'s failure to satisfactorily perform its obligations under this Agreement as a result of conditions beyond its control such as, but not limited to, natural disasters, war, strikes, fires, floods, "Acts of God", or damage and destruction of infrastructure, shall not be deemed a breach of this Agreement.

## 13. Test for Assigning Credit to <Your Company>

It is implicitly assumed that all candidates being referred by <Your Company> will be registered on job boards, career portals or will be members of other community websites and hence a search on the Internet may yield the names of all candidates referred by <Your Company>.

The test for assigning credit to <Your Company> will be as follows:

*Positive outcome:* <Your Company> will be assigned credit for referring a candidate if <Your Company> has

- qualified the candidate
- introduced the organization
- counseled the candidate on the specific position
- presented the overall opportunity with <Client Company> gauged interest from the candidate, and

finally refers the candidate based on the outcome of the above mentioned points.

*Negative outcome:* <Your Company> will not receive credit for a candidate referral, only if the candidate has been referred to <Client Company> through another source where the above mentioned list of activities with respect to that specific candidate has been performed prior to <Your Company> referring the candidate. For the avoidance of doubt the list of activities are:

- qualify the candidate; and
- introduce <Client Company>; *and*
- counsel the candidate on the specific position; and
- presented the overall opportunity with <Client Company>; and
- gauge interest from the candidate

## 14. Validity of Resumes

Any resume sent by <Your Company> to <Client Company> will be recorded in <Client Company>'s recruitment database as a valid <Your Company> resume for a period of 12 months from the date of receiving that resume. During such period, if such candidate is hired by <Client Company>, it will be deemed as a candidate hired using <Your Company>'s services and the terms of this agreement will apply.

Any resume sent by <Your Company> will be deleted from the <Client Company>'s database post the date of validity.

## 15. Liability

- a. In case <Client Company> delays the offer rollout to the candidates beyond 15 days from the date of final negotiation OR decides to make an adverse change in terms of offer OR decides to withdraw the offer altogether, then for the purpose of billing all offers will be considered as successful joining.
- b. <Client Company> will also indemnify <Your Company> in case of any liabilities / claims arising due to the situation mentioned in Clause 8(a).

## 16. Survival

The Section 9, “Non Solicitation”, Section 10, “Non Disclosure” and Section 14, “Validity of Resumes” shall survive termination of this Agreement.

## 17. Modification

This agreement may only be modified, or any rights under it waived, by a written document executed by both parties. No failure of either party to exercise or enforce any of its rights under this agreement will act as a waiver of such rights.

## 18. Severability

If any provision of this agreement is held to be invalid by a court of competent jurisdiction, then the remaining provisions will nevertheless remain in full force and effect.

## 19. Entire Agreement

This agreement contains the entire understanding of the parties with respect to the subject matter hereof and supersedes all prior agreements relating thereto, written or oral, between the parties.

## 20. Headings

Headings of paragraphs herein are inserted for convenience of reference only and shall not affect the construction or interpretation of this agreement.

## 21. Governing Law and Jurisdiction

All disputes or differences arising under this agreement or any statement of work issued pursuant to this agreement shall be subject to the laws of India and the courts sat Chennai shall have exclusive jurisdiction arising out of any dispute.

**IN WITNESS WHEREOF** the <Client Company> and <Your Company> have signed and delivered this Agreement at Chennai on the date above mentioned.

<Your Company> Solutions Pvt Ltd	<Client Company> Technologies Pvt Ltd
Signature	Signature
Name <b>XXX</b> Title <b>Chief Executive Officer</b>	Name <b>YYY</b> Title <b>Chief Executive Officer</b>
Address <b>ZZZ</b>	Address <b>ZZZ</b>
Date <b>XX-XX-XXXX</b>	Date <b>XX-XX-XXXX</b>

## Schedule A

This Schedule effective from XX-XX-2013 attached to and becomes, upon execution by both Parties below, a part of the Professional Services Agreement between <Client Company> and <Your Company> Solutions Private Limited and sets forth the specific terms and conditions relating to the Services listed below.

### Scope of Services

<Your Company> will perform the following Services:

- Source the talent specified by <Client Company> through <Your Company>'s network of local and nationwide affiliates.
- Initial screening/shortlist of the candidates.
- Act as an interface between <Client Company> and the candidates.
- Facilitate meetings/interviews for <Client Company> with the candidates and if required other events to facilitate further interaction with the candidates.
- Identify specific requirements, constraints and preferences of the candidate
- Stays engaged with the candidate on behalf of <Client Company> and provide the necessary follow-ups with the candidate till the candidate joins.
- Provide necessary reporting requirements to <Client Company> with updates on status of candidates in various stages of the recruitment process.

### Engagement Fees/Rate Card

The following charges will be applicable for hiring across levels

Sl. No.	Years of experience	Fees
1	For all candidates hired regardless of number of years in experience.	8.33% of the Annual Cost to the Company (CTC) excluding annual performance bonus, stock options, sign-on/joining bonus and any other perks such as Club Membership etc.

For any candidate hired for the top management / key senior position, the professional charges will be \_\_\_\_\_ {TO BE FILLED IN AT THE TIME OF EXECUTION OF WORK/ DELETED IF NOT APPLICABLE}; The Professional Services Agreement is dated XX-XX-XXXX shall govern this statement of work.