



Executive Search Terms of Business

SpenglerFox Terms of Business

1. General Provision and Definitions

- 1.1 This document contains the Terms and Conditions ("Terms of Business") under which SpenglerFox supplies executive search services to its clients.
- 1.2 In these Terms of Business:
 - 1.2.1 "Agreed Purposes" means the purpose of fulfilling the Project, including the executive search and other deliverables, described in the Proposal.
 - 1.2.2 "Candidate" or "Candidates" means any and all persons introduced by SpenglerFox to the Client by means of an introduction with a view to possible engagement in an executive, consultancy, advisory or any other capacity with the Client.
 - 1.2.3 "Client" means the person, firm or corporate body who engage SpenglerFox to provide details of Candidates and/or perform or collaborate on the performance of the Executive Search Assignment.
 - 1.2.4 "Controller" means the natural or legal person, public authority, agency, or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data.
 - 1.2.5 "Data Discloser" has the meaning given to it in clause 6.3 of these Terms of Business.
 - 1.2.6 "Data Protection Legislation" means any and all applicable laws and regulations relating to the Processing of Personal Data and privacy which apply to a Party and, if applicable, the guidance and binding codes of practice issued by the relevant data protection or supervisory authority, as may be revised and superseded from time to time, including but not limited to EU 2016/679 General Data Protection Regulation (the "GDPR"); (ii) Directive 2002/58/EC as updated by Directive 2009/136/EC; and (iii) the Irish Data Protection Acts 1988-2018, as applicable.
 - 1.2.7 "Data Subject" means an identified or identifiable living natural person who is the subject of Personal Data, which for these purposes may include a Candidate.
 - 1.2.8 "Executive Search Assignment" means the assignment, including the executive search and other deliverables, described in the Proposal.
 - 1.2.9 "Introduction" means the provision by SpenglerFox to the Client of any information which identifies a Candidate whether in writing.
 - 1.2.10 "GAER" means Gross Annual Expected Remuneration, which is comprised of the following, provided that they are offered to the Candidate: annual gross basic salary, annual expected performance bonus (target bonus), guaranteed bonus such as "welcome bonus", housing and transport allowances, corporate car (equivalent to a benefit of €10,000 per year) and any other benefit that is included in the employment contract.
 - 1.2.11 "Party" means SpenglerFox or the Client and the "Parties" means both of them.
 - 1.2.12 "Permitted Recipients" means the Parties, the employees of each Party and any third parties engaged by either of them to perform obligations in relation to the performance

of the Executive Search Assignment and/or these Terms of Business.

- 1.2.13 "Personal Data" means any information relating to an identified or identifiable living natural person; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural, or social identity of that natural person.
- 1.2.14 "Processing" means any operation or set of operations which is performed on Personal Data or on sets of Personal Data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction and the words "process" or "processes" or "processed" shall be construed accordingly.
- 1.2.15 "Proposal" means the proposal for the executive search attached to these Terms of Service or otherwise provided by SpenglerFox to the Client in relation to the Executive Search Assignment.
- 1.2.16 "Shared Personal Data" means the Personal Data to be shared between the Parties under clause 6 of these Terms of Business.
- 1.3 All business undertaken by SpenglerFox is transacted subject to these Terms of Business and shall apply to the exclusion of any others. Any changes to these Terms of Business must be expressly approved in writing by an authorised representative of SpenglerFox. These Terms of Business shall be governed by and construed in all respects in accordance with the laws and the exclusive jurisdiction of the courts of the country in which the SpenglerFox Legal Entity, who is a party to this Agreement, is registered.
- 1.4 These Terms of Business apply to the Executive Search Assignment to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by trade, custom, practice, or course of dealing.

2. Fees

- 2.1 SpenglerFox' minimum fee level for executive search is €20,000 across Central and Southern Europe, €25,000 across the Middle East and Africa, and €40,000 across Western Europe and the Americas.
- 2.2 Executive Search fees are based on the Candidate's first year's GAER and are chargeable and payable in three instalments:
 - A first instalment is payable as a Retainer on acceptance of a sales contract by the Client
 - A second instalment (Shortlist) is payable when SpenglerFox presents pre-screened candidates, and the client agrees to interview one or more, triggering the agreed shortlist fee invoice.

Private and Confidential

- A third and Final instalment is payable on acceptance by any Candidate of any offer of engagement from the Client
- 2.3 In addition to executive search fees, Clients will be charged a flat Administrative Fee with the first instalment (Retainer) to cover office- and Candidate meeting costs.
- 2.4 SpenglerFox charges a fee for each Candidate assessed with Saville Consulting Wave psychometric test. The price includes the test itself as well as an in-depth assessment by a SpenglerFox Consultant.
- 2.5 In case of a combined use of both Executive Search and Interim Management, a 2% discount applies to SpenglerFox fees for the provision of each service. The discount is applicable only for similar positions and at the condition that the agreements for the two services are signed simultaneously.
- 2.6 In case of using the Executive Onboarding service, SpenglerFox' fee for this service is 33% of the total Executive Search project fee, with a minimum of €6,000 across the CEE Region / €8,000 across the MEA Region / €10,000 across the Western Europe Region. The fee is payable in two stages:
 - A first instalment equal to 50% of the fee is payable on the start date of the executive.
 - A second instalment, being the remaining 50% of the fee, is payable on completion of the 90-days Onboarding program.
- 2.7 The Client may use further assessment tools at an additional cost as described in the Proposal. SpenglerFox shall not engage in any further assessments without prior consent from the Client.
- 2.8 Any advertising or artwork expenses will be charged at cost to the Client. SpenglerFox will not commit any expense without prior written approval from the Client. All Candidate travel expenses will be managed by the Client.
- 2.9 The Client agrees to notify SpenglerFox immediately of any offer of engagement to a Candidate, the acceptance by a Candidate of any offer and to provide details of the GAER offered and accepted by a Candidate.
- 2.10 Should the Client fail to notify or disclose to SpenglerFox that an introduction has resulted in an engagement of a Candidate, SpenglerFox reserves the right to charge the Client in accordance with the agreed Terms of Business. In such cases the Client will also forfeit any rights to replacements as set out in our Terms of Business.
- 2.11 In the unlikely event that none of the Candidates introduced by SpenglerFox is acceptable to the Client, SpenglerFox will continue to introduce further Candidates until a Candidate is accepted by the Client. The continuation of Introductions is conditional on the payment by the Client of all amounts due and invoiced by SpenglerFox.
- 2.12 In the case of hiring of more than one presented Candidate, the Client will be charged a fee for each additional recruited Candidate. SpenglerFox will invoice the Client a fee of 25% of GAER, on the date of acceptance of the offer by each additional Candidate. Payment terms are the same as defined in 2.16.
- 2.13 Should the Client subsequent to the completion of the assignment and within a year of the assignment contract date offer a position to one or more of the candidates introduced by SpenglerFox as part of the assignment

process, then SpenglerFox will invoice the Client a fee of 25% of the final GAER agreed with any one or more of those candidates. Such a fee or fees will be issued by SpenglerFox on the date of acceptance of the offer by any one or more of the candidates taking up a position or positions so identified by the Client. Payment terms are the same as defined in 2.16.

- 2.14 The Client may terminate the assignment at any time. On termination, all fees up to and including the stage reached must be paid, together with a cancellation fee of 10% of the estimated GAER. Should an assignment be put 'on hold' by the Client for a period exceeding three weeks (15 working days) then the assignment shall be deemed cancelled and the cancellation fee invoiced accordingly.
- 2.15 In the event of a search being restarted after presentation and acceptance of the shortlist due to a change in the profile of the candidate, or after a project is restarted after it was put on hold and not formally cancelled as per Clause 2.14 above, SpenglerFox will charge a fee for the additional shortlist, the fee of which will be equal to the original shortlist fee.
- 2.16 All invoices are due for payment within 30 calendar days of the date of invoice. SpenglerFox reserves the right to charge late payment interest at 0.05% of the outstanding amount per day. Where applicable, VAT is charged at the current rate at the time of invoicing. All costs, including but not limited to withholding taxes, bank transfer or foreign exchange costs, will be borne by the Client.

3. Guarantees and Liabilities

- 3.1 The guarantee is subject to all invoices being paid within the period specified in clause 2.16 and the Client must notify SpenglerFox in writing of the termination of the Candidate's employment within 5 working days. Should the Client be overdue on payment the guarantee and free replacement will no longer be valid.
- 3.2 Where the Client employs a Candidate introduced to the Client by SpenglerFox and subsequently terminates such employment within 6 months, SpenglerFox shall, for 50% of the original project fee, endeavour to find a satisfactory replacement for such Candidate, PROVIDED THAT
 - (a) The Candidate left the Client of his/her own accord (except by extraordinary termination) or in the case of dismissal;
 - (b) has not been made redundant;
 - (c) is not employed by an associated or subsidiary company of the Client within 12 months from the date of his/her termination of employment, and that the Client has in all respects complied with its obligations under these Terms of Business.
- 3.3 For the time of this assignment and 12 months thereafter the Client agrees not to engage or to attempt to engage any member of SpenglerFox' staff. A flat fee of €40,000 will be payable should this clause be breached.
- 3.4 All introductions are confidential. For a period of 12 months from the date on which a candidate was introduced and/or a formal assessment was sent, the Client agrees not to hire the candidate without notification to SpenglerFox and not to refer the Candidate to a third party. Should a candidate be hired by the Client or a third party due to a referral within the 12 months' period, SpenglerFox reserve the right to invoice the Client with the full Executive Search fee as though the Client had themselves engaged the Candidate. After a period of 12

Private and Confidential

months the Client has no obligation to pay any fee to SpenglerFox.

3.5 SpenglerFox shall not be liable under any circumstances for any loss, expense, damage, delay, costs, or compensation (whether direct, indirect, or consequential) which may be suffered or incurred by the Client arising from or in any way connected with SpenglerFox seeking a Candidate for the Client or from the Introduction to or Engagement of any Candidate by the Client or from the failure of SpenglerFox to introduce any Candidate. For the avoidance of doubt, SpenglerFox does not exclude liability for death or personal injury arising from its own negligence or for any other loss which it is not permitted to exclude under law.

4. Intellectual Property Rights

4.1 Where the Client provides SpenglerFox with logos, trademarks, and other items of intellectual property for use by SpenglerFox in advertising and promotional material developed on behalf of the Client in accordance with the Terms of Business, the Client warrants that it is either the sole legal and beneficial owner of any and all intellectual property rights in such intellectual property or that it has the right to grant SpenglerFox the necessary authority to use such intellectual property.

4.2 The Client shall indemnify and hold SpenglerFox harmless on demand, from and against all financial and other liability (including legal fees) arising from or in connection with any actual or alleged third party claim brought against SpenglerFox for infringement of any third-party intellectual property rights and which arise out of or in connection with SpenglerFox' or the Client's use or possession of the material which the Client provides to SpenglerFox pursuant to Clause 4.1.

5. Suitability of Candidates and References

5.1 The Client shall satisfy itself as to the suitability of any Candidate prior to engagement and the Client shall be responsible for arranging medical examinations, and for obtaining any work or other permits and satisfying any medical and other requirements or qualifications required by law.

6. Data Protection

6.1 **Compliance.** Each of the Parties shall comply with all applicable requirements of applicable Data Protection Legislation. Each Party agrees to perform its legal obligations in relation to Personal Data in such a way as to not cause the other Party to breach any of their obligations under applicable Data Protection Legislation. This clause 6.1 does not relieve, remove, or replace a Party's obligations under applicable Data Protection Legislation.

6.2 **Each Party as Controller.** The Parties acknowledge that each Party is a Controller of its Personal Data. Neither Party is a Processor of the other Party under these Terms of Business.

6.3 **Controller to Controller Sharing of Personal Data.** This section sets out the framework for the sharing of Personal Data between the Parties as Controllers in relation to the Project. Each Party acknowledges that one Party (the "Data Discloser") may regularly disclose to the other party Shared Personal Data collected by the Data Discloser for the Agreed Purposes.

6.4 **Effect of non-compliance with Data Protection Legislation.** Each Party shall comply with all the obligations imposed on a Controller under applicable Data Protection Legislation,

and any material breach of such Data Protection Legislation by one Party shall, if not remedied within 30 days of written notice from the other Party, give grounds to the other Party to terminate the Project and the contract entered into by these Terms of Business.

6.5 **Particular obligations relating to data sharing.** Each Party shall:

- (a) ensure that it has all necessary notices and consents in place to enable lawful transfer of the Shared Personal Data to the Permitted Recipients for the Agreed Purposes;
- (b) give full information to any Data Subject whose Personal Data may be Processed for the Agreed Purposes of the nature such Processing. This includes giving notice that, on the termination of the Executive Search Assignment and/or the contract entered into by these Terms of Business, Personal Data relating to them may be retained by or, as the case may be, transferred to one or more of the Permitted Recipients, their successors, and assignees;
- (c) process the Shared Personal Data only for the Agreed Purposes and in accordance with all applicable Data Protection Legislation and other similar instruments that apply it its Personal Data Processing operations;
- (d) not disclose or allow access to the Shared Personal Data to anyone other than the Permitted Recipients;
- (e) ensure that all Permitted Recipients are subject to written contractual obligations concerning the Shared Personal Data (including obligations of confidentiality) which are no less onerous than those imposed by these Terms of Business;
- (f) ensure that it has in place appropriate technical and organisational measures, reviewed, and approved by the Data Discloser to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data.

(g) in the context of Personal Data of an EU Data Subject, not transfer any such Personal Data received from the Data Discloser outside the European Economic Area (the "EEA") unless the transferor:

- 1. complies with the provisions of Articles 26 of the GDPR (in the event the third party is a joint controller); and
- 2. ensures that (i) the transfer is to a country approved by the European Commission as providing adequate protection pursuant to Article 45 GDPR; (ii) there are appropriate safeguards in place pursuant to Article 46 GDPR; or (iii) one of the derogations for specific situations in Article 49 GDPR applies to the transfer.

6.6 **Mutual assistance.** Each Party shall assist the other in complying with all applicable requirements of the Data Protection Legislation. In particular, each Party shall:

- (a) consult with the other Party about any notices given to Data Subjects in relation to the Shared Personal Data;
- (b) promptly inform the other Party about the receipt of any Data Subject access request;
- (c) provide the other Party with reasonable assistance in complying with any Data Subject access request;

Private and Confidential

- (d) not disclose or release any Shared Personal Data in response to a Data Subject access request without first consulting the other Party wherever possible;
 - (e) assist the other party, at the cost of the other Party, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - (f) notify the other Party without undue delay on becoming aware of any breach of the Data Protection Legislation;
 - (g) at the written direction of the Data Discloser, delete or return Shared Personal Data and copies thereof to the Data Discloser on termination of the Project and/ or the contract entered pursuant to these Terms of Business, unless required by law to store the Personal Data;
 - (h) use compatible technology for the processing of Shared Personal Data to ensure that there is no lack of accuracy resulting from Personal Data transfers;
 - (i) maintain complete and accurate records and information to demonstrate its compliance with this clause 6 and allow for audits by the other Party or the other Party's designated auditor; and
 - (j) provide the other Party with contact details of at least one employee as point of contact and responsible manager for all issues arising out of the Data Protection Legislation, including the joint training of relevant staff, the procedures to be followed in the event of a data security breach, and the regular review of the Parties' compliance with the Data Protection Legislation.
- 6.7 **Indemnity.** Subject to clause 3.5, each Party shall indemnify the other against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the indemnified Party to the extent arising out of or in connection with the breach of Data Protection Legislation by the indemnifying Party, its employees or agents, provided that the indemnified Party gives to the indemnifier prompt notice of such claim, full information about the circumstances giving rise to it, reasonable assistance in dealing with the claim and sole authority to manage, defend and/or settle it.
- 6.8 **Consent for Information Sharing.** The Client hereby grants SpenglerFox consent to share relevant business information, including but not limited to financial, strategic, and operational details, with potential candidates as part of the Executive Search Assignment. This information sharing is strictly for the purpose of facilitating the recruitment process and attracting suitable candidates for the position.
- 6.9 **Client Responsibility.** The Client acknowledges that they are responsible for determining which information is appropriate to share with SpenglerFox for the purposes of the Executive Search Assignment. The Client shall clearly identify any information that is highly confidential or not to be shared with candidates.
- 6.10 **Limitation of Liability.** SpenglerFox shall exercise reasonable care in handling and sharing the Client's business information. However, SpenglerFox shall not be held liable for any losses, damages, or adverse consequences incurred by the Client resulting from the disclosure or use of shared business information by candidates or other third parties. This includes, but is not limited to, any financial losses, reputational damage, or competitive disadvantages arising from such information becoming public.
- 6.11 **Candidate Confidentiality.** SpenglerFox will make reasonable efforts to ensure that candidates receiving the Client's business information understand the confidential nature of such information. However, SpenglerFox cannot guarantee the actions of candidates and shall not be responsible for any unauthorized disclosure by candidates.
- 6.12 **Indemnification.** The Client agrees to indemnify and hold SpenglerFox harmless from any claims, actions, or demands arising from the sharing of business information as authorized under these Terms of Business.