

## Terms of Use

This Website Terms of Use Agreement (“**Agreement**”) is made effective as of today’s date and describes the terms by which RecruitHire LLC, (“**RecruitHire**”) offers you (“**Employer**” or “**Recruiter**”) use of the RecruitHire website [www.recruithire.com](http://www.recruithire.com) (“**Website**”) for the purpose of interacting with individuals or entities assisting in the delivery of resumes to **Employers** via transmission by **Recruiters**. For good and sufficient consideration, the receipt of which is acknowledged hereby, the parties agree as follows:

### General

RecruitHire is an on-line networking platform that connects employers and recruiters. RecruitHire may in its sole discretion change, modify, suspend, make improvements to or discontinue any aspect of the Website, temporarily or permanently, at any time.

Neither Employers nor Recruiters are required to pay a sign-up fee to enroll with RecruitHire. Employer will pay to RecruitHire all amounts invoiced within fifteen (15) days of receipt thereof. All payments exclude all withholding, services, VAT, sales, use and other taxes that might be imposed on such payments, which taxes are the responsibility of Recruiter or Employer.

### Postings and Rights

By posting a job to the Website, you agree that RecruitHire may use that posting in the normal course of business of running the Website. Employer hereby authorizes RecruitHire to include Employer’s name on its standard customer list, in a manner consistent with, and of no greater prominence than, the identification of other users.

The Website, including without limitation, all copyrights and patents relating thereto and trademarks used thereon, is the sole and exclusive property of RecruitHire.

### Registration and Fees

You shall pay RecruitHire in accordance with the terms identified on Exhibit A. RecruitHire shall not be deemed a trustee, employer or agent of either employers, recruiters or candidates.

### Communications with RecruitHire

Except as herein expressly provided, all notices or requests required to be given under this Agreement and all other communications related to this Agreement shall be in writing and shall be deemed to have been duly given if personally delivered, sent by overnight courier or fax or mailed, first class, by registered or certified mail return receipt requested, addressed as follows, and shall be effective when received. All notices and other communications to RecruitHire required under this Agreement shall be directed to **734 E Utah Valley Drive Suite #200 American Fork, Utah 84003** or [support@recruithire.com](mailto:support@recruithire.com).

### Reporting of Violations

As RecruitHire asks others to respect its intellectual property rights, it respects the intellectual property rights of others. If you believe that material located on or linked to by the Website violates your copyright, you are encouraged to notify RecruitHire.

If you suspect that a user has violated your rights, or has posted content that is obscene, lewd, lascivious, excessively violent, harassing, objectionable, or otherwise in violation of this Agreement, a RecruitHire policy or the law, you should report the suspected violation to RecruitHire at [support@recruithire.com](mailto:support@recruithire.com).

### Website Restrictions

You are entirely responsible for the content you post (including, but not limited to, job postings and company descriptions) to the Website. When you post content to the website, you thereby represent and warrant that: (i) your posting is not obscene, libelous or slanderous, does not violate any applicable law, regulation, or rule, including without limitation those related to labor and employment; (ii) your access to and use of the Website will be in accordance with this Agreement and with any applicable laws or regulations;

You agree not to do any of the following: (i) notwithstanding anything to contrary contained herein, use or attempt to use any engine, software, tool, agent or other device or mechanism (including without limitation browsers, spiders, robots, avatars, or intelligent agents) to navigate or search the Website other than the search engine and search agents available from RecruitHire on the Website and other than generally available third party web browsers; (ii) attempt to decipher, decompile, disassemble or reverse engineer any of the software embodied in the Website; (iii) use the Website to contact others in an attempt to circumnavigate RecruitHire; (iv) solicit or accumulate Candidate resumes to promote such Candidate to potential employers outside of the Website; and (v) use, or access the Website for the purpose of initiating, advising, developing, operating a product or on-line marketplace in competition with the Website.

If a Recruiter successfully places a Candidate with a given Employer, then Recruiter may not knowingly, until the twelve (12) month anniversary of that Candidate's Start Date initiate communication for the purpose of representation with any employees of that Employer. For the avoidance of doubt, Recruiters may represent such employees, but only if communications are initiated by the given employee.

### **Marketplace Risks**

You agree and acknowledge that: (i) RecruitHire acts as an avenue for employers to post job opportunities and Recruiters to submit Candidates, and RecruitHire does not screen or censor the listings offered. RecruitHire is not involved in the actual transaction between Employer and Recruiter; (ii) RecruitHire has no control over the quality, safety or legality of the resumes posted, the truth or accuracy of the listings, the ability of Recruiters to fill job openings and makes no representations about any resumes or content on the Website; (iv) There are risks associated with your use of the Website, including but not limited to the risk of physical harm, of dealing with strangers, foreign nationals, underage persons or people acting under false pretenses; and (v) Because user authentication on the Internet is difficult, RecruitHire cannot and does not confirm that each Recruiter and Candidate is who they claim to be.

RecruitHire is not an employer or agent with respect to your use of the Website and RecruitHire shall not be responsible for any specific results from use of Website and RecruitHire shall not be responsible for any employment decisions, for whatever reason made, made by Employer. RecruitHire cannot guarantee and does not promise any specific results from use of Website. No advice or information, whether oral or written, obtained by you from RecruitHire or the Website shall create any warranty not expressly stated herein.

### **Disclaimer of Warranties and Limitation of Liability**

You agree that your access to and use of, or inability to access or use, the website is at your sole risk. The Website is provided "as is" and RecruitHire makes no representations or warranties of merchantability, fitness for a particular purpose, or non-infringement without limiting the foregoing, RecruitHire makes no representation or warranty that your access to or use of the website will be uninterrupted or error-free. Some Jurisdictions may not allow the exclusion of certain implied warranties or the limitation of certain damages, so some of the above disclaimers, waivers and limitations of liability may not apply to you.

Notwithstanding anything to the contrary contained herein, except for obligations of an indemnifying party, no party will be liable to any other party for incidental, indirect, consequential, special, punitive or exemplary damages of any kind – including lost revenues or profits, loss of business or loss of data –related to this agreement or the services provided hereunder (including without limitation as a result of any breach of any warranty or other term of this Agreement), regardless of whether the party allegedly liable was advised, had other reason to know, or knew the possibility thereof. Moreover, except for obligations related to indemnification obligations or post content, in no event will the aggregate liability for any and all claims arising out of or related to this Agreement exceed the fees paid for use of the Website during the one year period prior to the date where a claim is made. The Parties agree that this limitation of liability represents a reasonable allocation of risk. Some states do not allow limitations on damages, so the above limitation may not apply.

Recruiters have pledged to comply, upon Employer's request, with all aspects of the OFCCP Regulations at 41 CFR Part 60-1 which relate to the definition of internet applications and all related record-keeping requirements. You agree and acknowledge that RecruitHire does not and cannot determine whether Recruiters comply with such a pledge.

### **Indemnity**

You shall defend, indemnify and hold harmless RecruitHire and its shareholders, directors, officers, employees, agents, representatives, affiliates, parents, subsidiaries, and licensors (collectively, "**RecruitHire Indemnified Parties**") from and against any and all alleged or actual damages, costs, liabilities, and fees (including without limitation reasonable attorney's fees) that arise from or relate to any and all alleged or actual claims, actions, demands, causes of action and other proceedings ("**Claims**") (i) brought by a breach of this Agreement, including without limitation any representation or warranty contained in this Agreement; (B) your access to or use of the Website. The RecruitHire Indemnified Parties will have the right, but not the obligation, to participate through counsel of their choice in any defense by you of any Claim for which you are required to defend, indemnify or hold harmless the RecruitHire Indemnified Parties ("**Indemnified Claim**"), provided that your obligation to pay RecruitHire's attorney's fees shall only extend to RecruitHire's reasonable attorney's fees. You may not settle any Indemnified Claim without the prior written consent of the concerned RecruitHire Indemnified Parties.

RecruitHire shall defend, indemnify and hold harmless you and your shareholders, directors, officers, employees, agents, representatives, affiliates, parents, subsidiaries, and licensors (collectively, "**Employer Indemnified Parties**") from and against any and all Claims arising out of or relating to any allegation that the Website, or Employer's use thereof in accordance with this Agreement, violates the copyright, trademark, or patent rights of any third party. The Employer Indemnified Parties will have the right, but not the obligation, to participate through counsel of their choice in any defense by RecruitHire of any Claim for which RecruitHire is required to defend, indemnity or hold harmless Employer Indemnified Parties, provided that our obligation to pay your attorney's fees shall only extend to reasonable attorney's fees. RecruitHire may not settle any indemnified Claim without the prior written consent of the concerned Employer Indemnified Parties.

**Termination**

Either party may terminate this Agreement for any reason or no reason at all, with or without cause, and upon written notice to the other party.

**Survival**

The second paragraph of Postings and Rights, and Disclaimer of Warranties and Limitation of Liability, Indemnity, Termination, survival Miscellaneous and Exhibit A shall survive the termination of this Agreement.

**Miscellaneous**

You agree that the Uniform Computer Information Transaction Act or any version thereof, adopted by any state, in any form (“UCITA”), shall not apply to this Agreement or Website. To the extent that UCITA is applicable, the parties agree to opt out of the applicability of UCITA pursuant to the opt-out provision(s) contained therein.

You and we acknowledge that each has requested that this Agreement, all ancillary documents and this Website be drawn up in the English language only.

RecruitHire makes no claims that the Website may be lawfully viewed or accessed outside of the United States. Access to the Website may not be legal by certain persons or in certain countries. If you access this Website from outside the United States, you do so at your own risk and are responsible for compliance with the laws of your jurisdiction.

This Agreement constitutes the entire agreement between RecruitHire and you concerning the subject matter hereof, and it may only be modified by notice signed by an authorized executive of RecruitHire and Employer or Recruiter. If any part of this Agreement is held invalid or unenforceable, that part will be altered and construed to reflect as nearly as possible the parties’ original intent, and the remaining portions will remain in full force and effect. This Agreement may only be amended by a writing executed by each party. This Agreement shall be governed by the laws of the State of Utah, without regard to its principles of the conflicts of laws.

IN WITNESS WHEREOF, the parties agree to be bound by the terms of this Agreement and all Exhibits thereto:

RecruitHire LLC

## Exhibit A – STATEMENT OF PAYMENT TERMS

### Employers

With respect to each posted job for which a candidate is hired by Employer, the fee payable by Employer to RecruitHire will equal either (A) the flat fee identified by Employer in the job posting; or (B) the product of (i) the commission percentage identified by Employer in the job posting; multiplied by (ii) the base annual salary associated with the posted job as of the Start Date (each of (A) and (B) the “**Placement Fee**”). Employer’s obligation to pay the Placement Fee to RecruitHire accrues on the date upon which the Candidate becomes Employer’s employee (“**Start Date**”).

Employer shall not be liable for any Placement Fee or any other fee if Employer provides notice to Recruiter that it obtained Candidate’s resume from outside the Website within six (6) months prior to receipt of Candidate’s resume from Recruiter. If a Recruiter submits a Candidate for a position with Employer and the Candidate is not hired for that position, but is hired for another position, Recruiter shall be entitled to a Placement Fee unless (i) the Candidate was referred for employment with Employer by another Recruiter through the Website with respect to a job posting for which the initial Recruiter had not yet submitted the Candidate.

If Employer hires a Candidate for a position other than the position for which Recruiter submitted the Candidate prior to the twelve (12) month anniversary of the date upon which Employer received such Candidate’s resume, then Employer has an obligation to pay RecruitHire the Placement Fee, as defined above, calculated using the base annual salary associated with the position actually filled by such Candidate.

- Employer must enter the Candidate’s Start Date and the base annual salary associated with the relevant posted job on the Website as soon as possible after the date upon which Employer hired Candidate.
- RecruitHire will email Employer an invoice for each Payment Fee on the Candidate Start Date. Payment is due to RecruitHire no later than fifteen (15) days after the Candidate Start Date. Employer agrees and acknowledges that Recruiters are the intended third-party beneficiaries of its obligation to pay the Placement Fee.
- If two Recruiters submit the same Candidate for the same job posting and the Candidate is hired by Employer, the Recruiter that submitted the Candidate first will receive the Placement Fee, less RecruitHire’s administrative fee.
- If a Candidate that Employer hires from the RecruitHire Website does not remain employed by Employer for the whole Initial Period, Employer may request that the Placement Fee Employer paid for the Candidate be refunded to Employer. For Employers that offer a commission percentage of between ten percent (10%) and less than or equal to nineteen percent (19%), the “Initial Period” shall be the first thirty (30) days after the relevant Start Date; and for Employers that offer a commission percentage greater than or equal to twenty percent (20%), the “Initial Period” shall be the first sixty (60) days after the relevant Start Date. RecruitHire has no obligation to refund a Placement Fee to Employer if (i) the Candidate leaves Employer’s employ in connection with a downsizing or company layoffs; or (ii) Employer fails to pay the Placement Fee within fifteen (15) days of the Start Date. For Employers that offer fixed fee Placement Fee, the “Initial Period” shall be the first thirty (30) days after the relevant Start Date.
- Upon receiving a request from Employer for a refund, RecruitHire will contact the Recruiter who submitted the Candidate to Employer to confirm that the Candidate is no longer employed by Employer. The Recruiter will have three (3) business days to respond to such a request. If the Recruiter agrees that the Candidate is no longer employed by Employer or, if the Recruiter does not respond to RecruitHire inquiry within three (3) business days, the Placement Fee will be refunded.
- In the event of any dispute between Employer and Recruiter concerning a Candidate’s termination, Employer records demonstrating termination shall be conclusive evidence that such termination occurred.
- Notwithstanding anything in this Agreement to the contrary, if RecruitHire has paid the Placement Fee to the Recruiter prior to the sixty (60) day anniversary of the Start Date at Employer’s request, then RecruitHire will not be obligated to refund any amounts to Employer in excess of the sum of the relevant RecruitHire’s administrative fee.
- For the avoidance of doubt and subject to the foregoing paragraph, RecruitHire’s refund of any Placement Fee to Employer is not conditioned upon RecruitHire recovery of amounts due from Recruiter.