



## **TERMS AND CONDITIONS - IMPORTANT PLEASE READ**

Recruitment Industry Benchmarking is an internet based benchmarking service which provides the recruitment industry with benchmarking data and reports using our proprietary software (the "**Service**"). Please read the following terms and conditions carefully before using the Service, so that you are aware of your legal rights and your obligations to Recruitment Industry Benchmarking Limited and its Associates and Group Companies (referred to, individually and collectively, in these terms and conditions as "**RIB**").

By receiving Reports (as defined below) and using the Service you signify your irrevocable acceptance of these terms and conditions (the "**Terms**").

We reserve the right to change, modify, suspend or discontinue any portion of the Service at any time provided we give you reasonable notice of the changes.

We reserve the right to change these terms and conditions from time to time by posting revised terms and conditions on this Service. Although we may notify you of the existence of revised terms and conditions, you are encouraged to review these terms and conditions from time to time. Revisions to these terms and conditions will be effective once they are posted on the Service. Your continued use of the Service following the posting of such changes will mean you accept those changes. If you do not wish to be bound by these terms and conditions (or any revised terms and conditions) you are not authorised to access or otherwise use the Service and you must discontinue your use of the Service immediately.

### **1. Membership / Accessing the Service**

- 1.1 Access to the Service is limited to its members. You will only become a member of the Service when you have completed our online registration process and have your own unique username and password for your account.
- 1.2 Your membership of the Service will be on a rolling monthly basis (subject to paragraph 8) and we shall require monthly payments in accordance with paragraph 5 throughout the term of your membership depending on what tier of membership you opt for as part of the registration process. You shall be entitled to upgrade to a higher tier of membership upon written request (and your request will normally be processed in order to take effect in the next calendar month, subject to you making the increased payment for that month).
- 1.3 Your access to and use of the Service is subject to these terms and conditions at all times. Unless you are accessing the Service in your personal and individual capacity you do so as the representative of the company or other entity that employs you or engages your services, and you represent and warrant that the relevant entity is bound by these terms and conditions.
- 1.4 The use of your unique username and password is limited to you and other authorised representatives. If any other person wishes to access or use the Service that person must complete our registration process.
- 1.5 You will be solely responsible for maintaining the security and confidentiality of your username, password and your account information, and you are fully responsible for all activities that occur under your account (including any unauthorised access or use of the Service under your account).
- 1.6 You agree to immediately notify RIB of any unauthorised use of your account or any other breach of security and to ensure that you exit securely from your account at the end of each session.
- 1.7 RIB will not be responsible or liable for any loss or damage arising from your failure to comply with the requirements set out in this paragraph 1.



## **2. Use of the Service and provision of Reports**

- 2.1 As a member of the Service you will be entitled to use the Service to input the various information relating to your business' performance (the "**Raw Data**") subject to these terms and conditions.
- 2.2 The Raw Data shall be inputted by you or another authorised representative of your business in line with any guidelines. You acknowledge that the benchmarking measurements and calculations that we perform with your Raw Data require a minimum level of Raw Data to be inputted for each particular measurement or calculation. Therefore, you are encouraged to include as much Raw Data as possible in order to ensure that the reports you receive are as detailed and comprehensive as possible. We will then process that Raw Data and provide you with reports setting out benchmarking information for your business against the businesses of all members and where there are a minimum number of members in your particular sector, sector-specific benchmarking information relating to members within your sector (the "**Reports**"). Unless otherwise agreed, we shall provide you with a monthly snapshot and historical analysis on an all members and where applicable on a sector-specific basis.
- 2.3 Please note that if you do not provide the relevant Raw Data required in order for us to carry out the relevant measurements and calculations (or you do not provide the relevant Raw Data by the deadlines for doing so each month) you shall not be entitled to benchmarking information in respect of those same measurements and calculations in respect of the other businesses who are members of the Service. Acceptance of Raw Data after the applicable deadline is subject to RIB's discretion at all times (and RIB reserves the right to make an additional administration charge to process Raw Data for a particular month after the applicable deadline).
- 2.6 You acknowledge that RIB may discontinue certain elements of the Service where it deems appropriate, provided we give you reasonable notice of the discontinuation.

## **3. Raw Data provided by you**

- 3.1 You will be solely responsible for the accuracy, completeness and reliability of the Raw Data you provide. By submitting Raw Data that is inaccurate, incomplete or unreliable, you will be undermining the overall accuracy, completeness and reliability of the Service. We shall not be responsible for any use or decisions made based on the benchmarking information or Reports we provide to you as part of the Service.
- 3.2 You will ensure that:
- 3.2.1 you have all necessary legal consents, licences and permissions required to input the Raw Data and for us to process that Raw Data for benchmarking purposes as set out in these Terms; and
- 3.2.2 for the avoidance of doubt, you comply with all relevant representations and warranties under paragraph 4 below in respect of the Raw Data.
- 3.3 RIB shall ensure that your Raw Data is kept confidential and secure at all times in accordance with best industry practice. We shall only use and process your Raw Data for the purposes of the Service (including for the purposes of carrying out the relevant measurements and calculations and formulating Reports). For the avoidance of doubt, we shall be entitled to use our calculations and measurements (based on your Raw Data) for the purposes of promoting the availability of the Service to third parties. In doing so, we shall ensure that you, as the source of the underlying Raw Data, remain anonymous and we shall use our best endeavours to ensure that it is not possible for third parties to positively identify you solely through the use of those measurements and calculations and any supporting information or comments that we include in or around the materials in which those measurements and calculations are used or displayed.



#### **4. *User conduct***

4.1 You represent and warrant that you will not:

- 4.1.1 restrict, inhibit or prevent any other authorised user from using or enjoying the Service;
- 4.1.2 act in any way that would damage, disable, overburden, or impair the Service or encourage conduct that would constitute a criminal offence or give rise to civil liability;
- 4.1.3 upload any information, materials or other data (including the Raw Data) that contain a virus or other harmful component, or false or misleading indications of origin or statements of fact or any material that is obscene, indecent, defamatory or in breach of any third party's rights;
- 4.1.4 impersonate any person or entity or misrepresent your affiliation with any other person or entity;
- 4.1.5 engage in spamming, flooding, harvesting of e-mail addresses or other personal information, spidering, screen scraping, database scraping, or any other activity with the purpose of obtaining lists of users or other information (including any activity which involves accessing or using RIB cookies for purposes which are unrelated to the Service);
- 4.1.6 use the Service or the Reports obtained from or via the Service to operate a service bureau or other revenue-generating service business;
- 4.1.7 attempt to gain unauthorised access to other computer systems through the Service or obtain (or attempt to obtain) any materials or information through any means not intentionally made available or provided for on the Service;
- 4.1.8 reverse engineer or decompile, disassemble or otherwise reduce any machine-readable part of the Service or component thereof to human-readable form;
- 4.1.9 create or attempt to create, by reverse engineering or otherwise, the source code or internal structure of the Service (or any part thereof);
- 4.1.10 remove any product identification, legend or notices of any proprietary or copyright restrictions from any part of the Service;
- 4.1.11 list or otherwise display or copy any object code underlying the Service (or any part thereof);
- 4.1.12 copy the Service or any Report, develop any improvement, modification or derivative works or include any part thereof in any other computer program, equipment or item save as specifically permitted under these terms and conditions or as specifically allowed by applicable law; or
- 4.1.13 represent or claim that you are the owner of any of the software underlying the Service or otherwise do anything that is inconsistent with RIB's proprietary rights.

4.2 If you breach or fail to comply with any of the representations and warranties set out in paragraph 4.1 above, RIB is entitled to:

- 4.2.1 immediately suspend your access to and membership of the Service; and/or
- 4.2.2 immediately terminate your access to and membership of the Service.



## **5. *Payment***

- 5.1 In consideration of our provision of the Service and of the Reports, you agree to pay the amount applicable to the tier of membership you sign-up for in respect of each month during the continuation of this agreement (the "**Monthly Fee**"). The Monthly Fee is payable even if you do not provide the relevant Raw Data in order for us to carry out the relevant measurements and calculations (or you do not provide the relevant Raw Data by the deadlines for doing so each month) you shall not be entitled to benchmarking information in respect of those same measurements and calculations in respect of the other businesses who are members of the Service.
- 5.2 The Monthly Fee shall be payable monthly within 14 days of RIB sending you an invoice in respect of the same. Alternatively, if requested by RIB, you will complete a bank mandate to enable the Monthly Fee to be taken from your specified bank account by direct debit, or standing order, and your Monthly Fee will continue to be taken from that account (unless otherwise agreed) until this agreement is terminated.
- 5.3 The amount payable shall be exclusive of VAT, with such VAT being payable in addition to the Monthly Fee each month.
- 5.4 RIB reserves the right to vary the Monthly Fee upon providing you with no less than 30 days notice.

## **6. *Rights and Ownership***

- 6.1 As between you and RIB, RIB will continue to own all intellectual property rights relating to the Service (including the look and feel, design and organisation thereof) and the Reports made available to you as part of the Service.
- 6.2 Your use of the relevant benchmarking information or Reports (whether during the term of this agreement or after their termination) shall be restricted to your own internal business purposes only. If you wish to use the benchmarking information or Reports for any external purposes (including marketing or other commercial purposes), such use will be subject to our prior written consent and you must first notify us reasonably in advance of the proposed publication and we reserve the right (at your cost and expense) to require that the relevant Raw Data is audited by a qualified and suitably skilled and experienced independent auditor of financial information so as to ensure its accuracy, completeness and reliability for those purposes.
- 6.3 You undertake not, directly or indirectly, to provide any Raw Data or Report or any data derived therefrom to any other person (whether or not a member of RIB) without our prior written consent.

## **7. *Data Protection***

The RIB Privacy Policy describes how we treat Personal Data about you or any other authorised representatives of your business which you provide to us as part of the account creation process and in our subsequent dealings.



## **8. *Term and Termination***

- 8.1 This agreement shall commence on the date on which you accept these Terms and shall terminate at any time upon you providing RIB with no less than 90 days prior written notice of the same. For the avoidance of doubt, you shall remain responsible for inputting the Raw Data and paying the applicable Monthly Fee whilst this agreement remains in force. Within a reasonable period of membership ceasing, all badges and reference to membership shall be removed from your stationery and marketing material.
- 8.2 Notwithstanding anything else contained herein, these terms and conditions and/or the provision of the Service and your membership may be terminated immediately by either party on giving no less than twenty days notice in writing to the other if the other commits a material breach of its obligations under the terms of this Agreement and (in the case of a material breach capable of being remedied) shall have failed, within five days after the receipt of a request in writing from the other party so to do, to remedy the breach (such request to contain a warning of such party's intention to terminate).
- 8.3 Termination or suspension pursuant to paragraphs 8.1, 8.2 and 4.2 shall not affect any other rights, remedies or other forms of relief to which RIB may be entitled, at law or in equity.

## **9. *Limitation of Liability / Disclaimers***

- 9.1 IN NO EVENT WILL RIB BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL LOSSES OR FOR EXEMPLARY DAMAGES OR FOR ANY DIRECT OR INDIRECT LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER SUCH LOSSES, INCLUDING WITHOUT LIMITATION ANY SUCH LOSS OR DAMAGES ARISING OUT OF OR IN ANY WAY CONNECTED WITH: (1) THE USE OF THIS SERVICE OR ANY DELAY OR INABILITY TO USE THE SERVICE, OR (2) ANY INFORMATION, MATERIALS, DATA OR SERVICES PROVIDED OR OBTAINED VIA THE SERVICE (INCLUDING IN RESPECT OF THEIR ACCURACY, COMPLETENESS OR LEGALITY), OR (3) THE USE BY OTHER USERS OF RIB SERVICES OF ANY ADDITIONAL DATA PROVIDED BY YOU, OR (4) RIB'S DISCONTINUATION OF ANY PART OF THE SERVICE, WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, AND EVEN IF RIB OR ANY OF ITS AFFILIATES OR SUBSIDIARIES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES.
- 9.2 SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL LOSS OR DAMAGES. ACCORDINGLY SOME OF THE LIMITATIONS IN PARAGRAPH 9.1 ABOVE MAY NOT APPLY TO YOU. NOTHING IN THESE TERMS AND CONDITIONS SHALL EXCLUDE OR LIMIT ANY LIABILITY FOR DEATH OR PERSONAL INJURY ARISING FROM THE NEGLIGENCE FRAUDULENT MISREPRESENTATION.
- 9.3 IN ANY EVENT, RIB'S LIABILITY TO YOU IN RELATION TO ANY MATTER ARISING UNDER OR IN RELATION TO THESE TERMS SHALL BE LIMITED TO THE AMOUNT PAID OR PAYABLE BY YOU UNDER THIS TERMS IN THE PRECEDING TWELVE MONTH PERIOD PRIOR TO THE EVENT GIVING RISE TO SUCH LIABILITY.
- 9.4 RIB shall not be in breach of this Agreement nor bear any responsibility or liability for any losses arising out of any delay or failure in the performance of its obligations under this Agreement due to events beyond its reasonable control including: fire, storm, flood or other Acts of God; war or the threat of war or acts of terrorism or similar; contamination; riot or other manifestation of civil disorder; strike, lockout or other forms of labour difficulties; any act, order, rule or regulation of any Court, government agency or public authority; an absence of power or other essential services; failure of technical facilities; failure of the internet; failure or delay of transportation (beyond the reasonable control of the defaulting party); non-performance by suppliers and/or sub-contractors arising through no fault of the defaulting party; and/or any similar or dissimilar cause beyond the reasonable control of the defaulting party.



**10. Miscellaneous**

- 10.1 You will execute such documents and perform such acts as may reasonably be required in order to give full effect to these terms and conditions and the rights expressed to be granted under these terms and conditions.
- 10.2 You acknowledge and agree that the warranties, disclaimers and limitations in these terms and conditions are material terms and that they have been taken into account in the decision by RIB to provide this Service and Service hereunder.
- 10.3 You may not assign any of your rights, obligations or privileges hereunder without the prior, written consent of RIB. Any assignment of the foregoing shall be invalid without such consent.
- 10.4 If any provision of these terms and conditions shall be unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from these terms and conditions, shall be enforced to the fullest extent allowed by law as to effect the intention of the parties, and shall not affect the validity and enforceability of any remaining provisions.
- 10.5 These terms and conditions and any posted operating rules constitute the entire agreement of the parties with respect to the subject matter hereof, and supersede all prior or contemporaneous communications and proposals, whether oral or written, between the parties with respect to such subject matter.
- 10.6 No waiver of any provision or any right granted hereunder will be effective unless set forth in a written instrument signed by the waiving party. No waiver by either party of any breach or default hereunder shall be deemed a waiver of any subsequent breach or default.
- 10.7 The headings used in these terms and conditions are used for convenience only and are not to be considered in construing or interpreting these terms and conditions.
- 10.8 These terms and conditions shall be governed by and construed in accordance with the laws of England. You hereby agree to the non-exclusive jurisdiction of the Courts of England regarding any and all disputes relating to or arising from these terms and conditions or your use of this Service.