

Annotated Retained Search Agreement

Summary: Use this sample annotated retained search agreement in drafting an agreement with a legal recruiting firm.

Introductory Sections

1. Introductory section which defines the parties to the agreement.

This letter is an agreement between [Firm](the "FIRM"), a California partnership containing professional corporations and SEARCH FIRM LEGAL SEARCH, INC., an California corporation ("SEARCH FIRM") (the "Agreement") concerning a search [describe search] the [department or practice group] of the [city] office of the FIRM (the "Search").

The Search

2-3. *This paragraph describes the scope of the search and the range of services to be performed by the search firm. It lays the groundwork for what information is to be provided, in what format, and to whom.* SEARCH FIRM agrees to provide its usual and customary attorney search and placement services in connection with the SEARCH, including without limitation (a) Providing resumes of candidates with their prior permission who SEARCH FIRM believes to be qualified for and interested in the position covered by the SEARCH; (b) Providing the FIRM with information it requests regarding candidates including, but not limited to bar cards, transcripts, references, and additional background information requested by the FIRM; and) Making candidates available to the FIRM at the earliest practicable time for interviews.

Search Firm will follow all instructions and directions received from the FIRM with respect to the SEARCH including but not limited to the following : (a) Candidate quality and the presentation of candidates; (b) Development and presentation of background information on compensation, hours, billings, collections, realization, and any other information deemed material by the FIRM and/or) Completion of the FIRM's lateral hiring questionnaire.

Fees Paid by the Law Firm to the Search Firm

4. *This sets the base fee including how the base percentage is calculated, how it can be adjusted based on the performance of the firm, and other factors.*

In consideration for SEARCH FIRM providing the FIRM the services referred to in Paragraphs 2 and 3 of the Agreement, and subject to the conditions of this Agreement, the FIRM agrees to pay SEARCH FIRM a fee of [Base Fee %]percent of the placed partner's (the "Placed Partner") guaranteed or targeted annual compensation for the twelve months the Placed Partner joins THE FIRM (the "Placement Fee").

5. *Substantial confusion can arise if the firm and the search firm do not understand how compensation is calculated. For partners cash compensation as reported on their K-1 is the most straightforward method.*

The Placement Fee is based on guaranteed annual compensation or a good faith estimate of targeted income for the twelve months after the placed partner joins THE FIRM. ("Targeted Compensation"). Targeted Compensation includes only gross cash compensation paid to the partner as shown on IRS Form K-1. Targeted Compensation does not include (a) expense accounts, moving expenses, relocation expenses, bar examination, or licensing fees by THE FIRM on behalf of the Placed Partner or (b) any additional increases in compensation that may awarded in the future.

6. *If the fee is based on a targeted point or unit value and the firm's performance falls shot of this projection, the firm could call for a reduction in the fee.*

The Placement Fee can be reduced, at the option of the FIRM, if it notifies SEARCH FIRM no later than April 15 of the year after the Placed Partner joins the FIRM, that the Targeted Compensation was not reached.

7. Fee Caps - this section sets a maximum fee for individual or group placements. Various formulas and sliding scales can be used for groups.

The Placement Fee for this Placement shall be no greater than \$ [Maximum fee] for any placement of up to five lawyers. If SEARCH FIRM places more than five lawyers with the Firm in the SEARCH, THE FIRM and SEARCH FIRM will negotiate in good faith a reasonable separate fee for the additional lawyers placed with THE FIRM.

8. This paragraph would set a schedule of retainer payments from the time the agreement is signed.

The Firm shall pay SEARCH FIRM the following Retainer Payments (The fees paid under this Paragraph are collectively known as the "Retainer Payments") which will be invoiced by SEARCH FIRM to THE FIRM and are due as shown.

9. The balance of the fee is paid after the candidate joins the firm.

The FIRM will pay SEARCH FIRM a completion payment in three equal payments made 30, 60, and 90 days after the Placement joins the FIRM, calculated by subtracting the Retainer Payments received to date from the Placement Fee.

10. The law firm and search firm should have a clear understanding of whether certain out of pocket expenses are borne by the search firm or billed to the law firm. This varies from search to search depending on the geographic scope and other issues.

SEARCH FIRM bears all routine disbursements (phone, fax, copying, database runs, Internet research, messenger, overnight deliveries) for the SEARCH. If SEARCH FIRM is requested by the FIRM to screen candidates located in other cities in person, travel expenses are billed at our cost for coach air travel and customary accommodations. Any expenses concerning Identified Prospects will be billed in either the monthly retainer the month after the expense is incurred, or in the completion payments, at the option of SEARCH FIRM. SEARCH FIRM bears all entertainment expenses incurred in the SEARCH, with the exception of expenses relating to Identified Prospects, as covered by Paragraph 12. In the event a candidate identified by SEARCH FIRM or an Identified Prospect (see Paragraphs 12-13) incurs travel expenses to visit THE FIRM for interviews, THE FIRM shall reimburse the candidate or Identified Prospect for their reasonable travel expenses.

Other Candidates That Surface During the Search

11- 12 A delicate situation arises when a law firm has previously identified prospects for the search. The law firm may believe that a reduced fee is appropriate in such a situation. There are many ways to slay this dragon. On the other hand, if the law firm carves out too much of the territory the search firm may lose motivation.

IF THE FIRM identifies a partner (an "Identified Prospect") and asks SEARCH FIRM to cultivate, and present the Identified Prospect, the only fees due to SEARCH FIRM are (a) the Retainer Payments made through the date the partner becomes the sole target of the SEARCH; (b) additional fees at \$[hourly rate] per hour, calculated in quarter hour increments, for advisory services and other related work developing, presenting, Identified Prospects; and) Reasonable and appropriate entertainment expenses incurred relating to Identified Prospects. THE FIRM and SEARCH FIRM shall confer promptly after signing this agreement to

compile a list of Identified Prospects for the SEARCH.

14. The search firm and law firm must address how they will handle submissions through other routes during the search.

The firm and SEARCH FIRM acknowledge that other names and resumes may be presented during the Search by other search firms, directly by candidates, or directly or indirectly to or through Firm lawyers and clients. The Firm and SEARCH FIRM agree that the Firm shall notify respond to all such submissions or presentations by notifying the presenting party that a retained search is in progress and that all submissions must be made through SEARCH FIRM. The Firm shall pay no fee to any other search firm for a candidate covered by this Search while this Search is in progress.

If the Search Is Discontinued

15. If a search is discontinued the search and law firm must have an agreed upon termination payment. This delicate area is critical for the law firm.

If the FIRM discontinues the SEARCH, all payments by THE FIRM to SEARCH FIRM cease, except Retainer Payments already invoices and a pro-rated payment for the month in which the SEARCH is discontinued. However, if the FIRM elects a partner within the next 12 months who was prospected and presented to THE FIRM by SEARCH FIRM, THE FIRM shall pay SEARCH FIRM the full fee contemplated by this Agreement.

Refund and Guarantee by Search Firm

The Placement Fee paid by THE FIRM to SEARCH FIRM for the SEARCH will be refunded in full if a placed partner identified by SEARCH FIRM resigns firm. It can insist on a full fee refund, a pro- rated refund, or the option of having the search firm present replacement candidates at no charge. The definition of resignation or expulsion must be handled with care.

voluntarily or is expelled for cause within twenty four months after joining the FIRM ("A Refund Event"). If THE FIRM notifies SEARCH FIRM of a Refund Event, SEARCH FIRM shall, at the Firm's option, either (a) refund to THE FIRM all Placement Fees received for the SEARCH, in three equal installments 30, 60, and 90 days after THE FIRM Notifies SEARCH FIRM or (b)present, for no additional fee whatsoever, suitable replacement candidates if a Refund Event Occurs. SEARCH FIRM will present replacement candidates at no charge at any time for up to five years after the SEARCH.

Conflicts, Confidentiality and "Hands-Off"

16. This provision precludes the search firm from accepting conflicting engagements

SEARCH FIRM will not accept any contingent fee or retained search engagements which directly or indirectly conflict with this engagement until it is concluded.

17-18 The search firm cannot solicit or initiate contact with any firm attorney.

This can be expanded or contracted and can be a delicate issue.

SEARCH FIRM will not, without the written consent of THE FIRM (a) solicit or initiate any contact with any Firm attorney with respect to other employment opportunities so long as this Agreement is in effect or (ii) disclose to any other person or entity (other than the employees or agents of SEARCH FIRM who need to know such information in order to perform their duties under this Agreement) any information concerning THE FIRM or any aspect of this Agreement or the relationship between THE FIRM and SEARCH FIRM. SEARCH FIRM acknowledges that any violation of this covenant in this Paragraph may be very harmful and damaging to THE FIRM and subject SEARCH FIRM to liability therefore.

19. The search firm may be blocked from contacting certain firms.

The FIRM understands and agrees that SEARCH FIRM cannot, except under certain limited circumstances, solicit lawyers from the following firms - [list of firms where SEARCH FIRM cannot solicit]

20. The search firm must protect the confidences of its law

SEARCH FIRM agrees that all information regarding compensation, job specifications, and other general information about THE FIRM which SEARCH FIRM receives from THE FIRM will be treated as strictly confidential by SEARCH FIRM, its agents, employees, and representatives and used for the sole purpose of the SEARCH. SEARCH FIRM acknowledges that any violation by SEARCH FIRM, its agents, employees, or representatives may be very harmful and damaging to THE FIRM and subject SEARCH FIRM to liability therefore. kind relating to the SEARCH. SEARCH FIRM shall not at any time use any confidential information received from the FIRM for any reason except the SEARCH.

21. SEARCH FIRM shall protect the confidences of the FIRM. SEARCH FIRM shall not at any time disclose to any party any confidential information about the FIRM, its partners, its associates, its finances, or operations, except as strictly necessary in the course of developing prospects, presenting candidates, or closing the placement. At the conclusion of this search SEARCH FIRM shall, at the FIRM's option, return, destroy, shred all paper or electronic files of any kind.

Terminating the Agreement

22. This allows the law firm to terminate the search.

This Agreement may be terminated by THE FIRM on 30 days' notice by delivering a letter of termination to SEARCH FIRM. In the event that the FIRM terminates the Agreement, any further payments by the FIRM to SEARCH FIRM will cease 30 days after notice is received. However, if the FIRM, within twelve months after termination hires or elects as a partner any lawyer presented to the FIRM by SEARCH FIRM before termination, then the FIRM will pay SEARCH FIRM 50 percent of the remaining fees due on the placement.

23. This provision limits the ability of the search firm to abandon the search and requires it to refund all fees paid to date if it does so.

SEARCH FIRM can only terminate this Agreement on 60 days' notice and must (a) refund to the FIRM all Retainer Payments received through the date of termination and (b) withdraw any invoices for payments not yet received.

Miscellaneous Provisions - Notices, Arbitration, Governing Law

24. While no one wants to contemplate a dispute relating to a search agreement, it should nevertheless contain governing law and related sundry terms.

Any notices under this Agreement shall be delivered by facsimile or U.S. Mail to [INSERT NAMES]. This Agreement is governed by California Law. This agreement is the entire agreement between the parties concerning this search. This Agreement can be modified only by a subsequent written agreement executed by the FIRM and SEARCH FIRM. This Agreement inures to the successors and assigns of the FIRM and SEARCH FIRM. This agreement may not be assigned by SEARCH FIRM without the express written permission of THE FIRM.

25-26 *If a dispute arises, the parties should be clear on the forum and nature of proceedings. A confidential arbitration is probably in the interests of both parties. The parties can use the rules of the AAA or of NALSC.*

Any dispute concerning this agreement or arising directly or indirectly from this agreement shall be subject to arbitration governed by the rules of the American Arbitration Association and shall be held in Los Angeles. The parties consent to entry of judgment in state or federal court in Los Angeles County, California of any arbitral award. The arbitrators may, in their discretion, award attorney's fees to the prevailing party in any arbitration. The arbitration shall be confidential and the parties may not disclose the nature of any arbitral award to any person at any time except as may be required by federal or state law.

Sample Retained Search Agreement
[Firm Letterhead] October, 2014

{Name} [Firm] [Address]
[city state zip]

Dear [name]

1. This letter is an agreement between [Firm](the "FIRM"), an California partnership containing professional corporations and [SEARCH FIRM]LEGAL SEARCH, INC., a California corporation("[SEARCH FIRM]") (the "Agreement") concerning a search [describe search] the [department or practice group] of the [city] office of the [FIRM] (the "Search").

SERVICES PROVIDED BY [SEARCH FIRM] LEGAL SEARCH, INC.

2. [SEARCH FIRM] agrees to provide its usual and customary attorney search and placement services in connection with the SEARCH, including without limitation (a) Providing resumes of candidates with their prior permission who [SEARCH FIRM] believes to be qualified for and interested in the position covered by the SEARCH; (b) Providing the [FIRM] with information it requests regarding candidates including, but not limited to bar cards, transcripts, references, and additional background information requested by the [FIRM];and) Making candidates available to the [FIRM] at the earliest practicable time for interviews.

3. [SEARCH FIRM] will follow all instructions and directions received from the [FIRM] with respect to the SEARCH including but not limited to the following : (a) Candidate quality and the presentation of candidates; (b) Development and presentation of background information on compensation, hours, billings, collections, realization, and any other information deemed material by the [FIRM] and/or) Completion of the [FIRM]'s lateral hiring questionnaire.

PLACEMENT FEES AND EXPENSES

4. In consideration for [SEARCH FIRM] providing the [FIRM] the services referred to in Paragraphs 2 and 3 of the Agreement, and subject to the conditions of this Agreement, the [FIRM] agrees to pay [SEARCH FIRM] a fee of [Base Fee %]percent of the placed partner's (the "Placed Partner") guaranteed or targeted annual compensation for the twelve months the Placed Partner joins [FIRM] (the "Placement Fee").

5. The Placement Fee is based on guaranteed annual compensation or a good faith estimate of targeted income for the twelve months after the placed partner joins [FIRM]. ("Targeted Compensation"). Targeted Compensation includes only gross cash compensation paid to the partner as shown on IRS Form K-1. Targeted Compensation does not include (a) expense accounts, moving expenses, relocation expenses, bar examination, or licensing fees by [FIRM] on behalf of the Placed Partner or (b) any additional increases in compensation that may awarded in the future.

6. The Placement Fee can be reduced, at the option of the [FIRM], if it notifies [SEARCH FIRM] no later than

April 15 of the year after the Placed Partner joins the [FIRM], that the Targeted Compensation was not reached.

7. The Placement Fee for this Placement shall be no greater than \$ [Maximum fee] for any placement of up to five lawyers. If [SEARCH FIRM] places more than five lawyers with the [FIRM] in the SEARCH, [FIRM] and [SEARCH FIRM] will negotiate in good faith a reasonable separate fee for the additional lawyers placed with [FIRM].

8. [FIRM] shall pay [SEARCH FIRM] the following Retainer Payments (The fees paid under this Paragraph are collectively known as the "Retainer Payments") which will be invoiced by [SEARCH FIRM] to [FIRM] and are due as shown -

INVOICE DATE DUE DATE PAYMENT TYPE AMOUNT

When Agreement Is Signed Presentment Initial Retainer Payment \$ [initial pmt]

[date pmt 2] [due date pmt 2] Monthly Retainer Payment \$ [amt.pmt 2]

[date pmt 3] [due date pmt 3] Monthly Retainer Payment \$ [amt pmt 3]

[date pmt 4] [due date pmt 4] Monthly Retainer Payment \$ [amt pmt 4]

[date pmt 5] [due date pmt 5] Monthly Retainer Payment \$ [amt pmt 5]

9. The [FIRM] will pay [SEARCH FIRM] a completion payment in three equal payments made 30, 60, and 90 days after the Placement joins the [FIRM], calculated by subtracting the Retainer Payments received to date from the Placement Fee.

10. [SEARCH FIRM] bears all routine disbursements (phone, fax, copying, database runs, Internet research, messenger, overnight deliveries) for the SEARCH. If [SEARCH FIRM] is requested by the [FIRM] to screen candidates located in other cities in person, travel expenses are billed at our cost for coach air travel and customary accommodations. Any expenses concerning Identified Prospects will be billed in either the monthly retainer the month after the expense is incurred, or in the completion payments, at the option of [SEARCH FIRM]. [SEARCH FIRM] bears all entertainment expenses incurred in the SEARCH, with the exception of expenses relating to Identified Prospects, as covered by Paragraph 12.

11. In the event a candidate identified by [SEARCH FIRM] or an Identified Prospect (see Paragraphs 12-13) incurs travel expenses to visit [FIRM] for interviews, [FIRM] shall reimburse the candidate or Identified Prospect for their reasonable travel expenses.

PROSPECTS IDENTIFIED BY [FIRM]

12. IF THE [FIRM] identifies a partner (an "Identified Prospect") and asks [SEARCH FIRM] to cultivate, and present the Identified Prospect, the only fees due to [SEARCH FIRM] are

- a. the Retainer Payments made through the date the partner becomes the sole target of the SEARCH;
- b. additional fees at \$[hourly rate] per hour, calculated in quarter hour increments, for advisory services and other related work developing, presenting, Identified Prospects; and
- c. Reasonable and appropriate entertainment expenses incurred relating to Identified Prospects.

13. [FIRM] and [SEARCH FIRM] shall confer promptly after signing this agreement to compile a list of Identified Prospects for the SEARCH.

PROSPECTS PRESENTED BY OTHER MEANS DURING THE SEARCH

14. The [FIRM] and [SEARCH FIRM] acknowledge that other names and resumes may be presented during the Search by other [SEARCH FIRM]s, directly by candidates, or directly or indirectly to or through [FIRM] lawyers and clients. The [FIRM] and [SEARCH FIRM] agree that the [FIRM] shall notify respond to all such submissions or presentations by notifying the presenting party that a retained search is in progress and that all submissions must be made through [SEARCH FIRM]. The [FIRM] shall pay no fee to any other [SEARCH FIRM] for a candidate covered by this Search while this Search is in progress.

REFUNDED PLACEMENT FEES & GUARANTEE

If the [FIRM] discontinues the SEARCH, all payments by [FIRM] to [SEARCH FIRM] cease, except Retainer Payments already invoices and a pro-rated payment for the month in which the SEARCH is discontinued. However, if the [FIRM] elects a partner within the next 12 months who was prospected and presented to [FIRM] by [SEARCH FIRM], [FIRM] shall pay [SEARCH FIRM] the full fee contemplated by this Agreement.

15. The Placement Fee paid by [FIRM] to [SEARCH FIRM] for the SEARCH will be refunded in full if a placed partner identified by [SEARCH FIRM] resigns voluntarily or is expelled for cause within twenty four months after joining the [FIRM] ("A Refund Event"). If [FIRM] notifies [SEARCH FIRM] of a Refund Event, [SEARCH FIRM] shall, at the Firm's option, either (a) refund to [FIRM] all Placement Fees received for the SEARCH, in three equal installments 30, 60, and 90 days after [FIRM] Notifies [SEARCH FIRM] or (b) present, for no additional fee whatsoever, suitable replacement candidates if a Refund Event Occurs. [SEARCH FIRM] will present replacement candidates at no charge at any time for up to five years after the SEARCH.

SOLICITATION AND CONFIDENTIALITY

16. [SEARCH FIRM] will not accept any contingent fee or retained search engagements which directly or indirectly conflict with this engagement until it is concluded.

17. [SEARCH FIRM] will not, without the written consent of [FIRM] (a) solicit or initiate any contact with any [FIRM] attorney with respect to other employment opportunities so long as this Agreement is in effect or (ii) disclose to any other person or entity (other than the employees or agents of [SEARCH FIRM] who need to know such information in order to perform their duties under this Agreement) any information concerning [FIRM] or any aspect of this Agreement or the relationship between [FIRM] and [SEARCH FIRM]. [SEARCH FIRM] acknowledges that any violation of this covenant in this Paragraph may be very harmful and damaging to [FIRM] and subject [SEARCH FIRM] to liability therefore.

18. The [FIRM] understands and agrees that [SEARCH FIRM] cannot, except under certain limited circumstances, solicit lawyers from the following firms - [list of firms where [SEARCH FIRM] cannot solicit].

19. [SEARCH FIRM] agrees that all information regarding compensation, job specifications, and other general information about [FIRM] which [SEARCH FIRM] receives from [FIRM] will be treated as strictly confidential by [SEARCH FIRM], its agents, employees, and representatives and used for the sole purpose of the SEARCH. [SEARCH FIRM] acknowledges that any violation by [SEARCH FIRM], its agents, employees, or representatives may be very harmful and damaging to [FIRM] and subject [SEARCH FIRM] to liability therefore.

20. [SEARCH FIRM] shall protect the confidences of the [FIRM]. [SEARCH FIRM] shall not at any time disclose to any party any confidential information about the [FIRM], its partners, its associates, its finances, or operations, except as strictly necessary in the course of developing prospects, presenting candidates, or closing the placement. At the conclusion of this search [SEARCH FIRM] shall, at the [FIRM]'s option, return, destroy, shred all paper or electronic files of any kind relating to the SEARCH. [SEARCH FIRM] shall not at any time use any confidential information received from the [FIRM] for any reason except the SEARCH.

TERMINATION OF THE AGREEMENT

21. This Agreement may be terminated by [FIRM] on 30 days' notice by delivering a letter of termination to [SEARCH FIRM]. In the event that the [FIRM] terminates the Agreement, any further payments by the [FIRM] to [SEARCH FIRM] will cease 30 days after notice is received. However, if the [FIRM], within twelve months after termination hires or elects as a partner any lawyer presented to the [FIRM] by [SEARCH FIRM] before termination, then the [FIRM] will pay [SEARCH FIRM] 50 percent of the remaining fees due on the placement.

22. [SEARCH FIRM] can only terminate this Agreement on 60 days' notice and must (a) refund to the [FIRM] all Retainer Payments received through the date of termination and (b) withdraw any invoices for payments not yet received.

OTHER PROVISIONS

23. Any notices under this Agreement shall be delivered by facsimile or U.S. Mail to [firm Man. Ptr], Esq. [Managing Partner](#) [Firm name][Firm address] [Firm city state zip]

[SEARCH FIRM] Principal [SEARCH FIRM]
[[SEARCH FIRM] address] [[SEARCH FIRM] city state zip]

24. This Agreement is governed by California Law. This agreement is the entire agreement between the parties concerning this search. This Agreement can be modified only by a subsequent written agreement executed by the [FIRM] and [SEARCH FIRM]. This Agreement inures to the successors and assigns of the [FIRM] and [SEARCH FIRM]. This agreement may not be assigned by [SEARCH FIRM] without the express written permission of [FIRM].

25. Any dispute concerning this agreement or arising directly or indirectly from this agreement shall be subject to arbitration governed by the rules of the American Arbitration Association and shall be held in Los Angeles. The parties consent to entry of judgment in state or federal court in Los Angeles, California of any arbitral award. The arbitrators may, in their discretion, award attorneys fees to the prevailing party in any arbitration. The arbitration shall be confidential and the parties may not disclose the nature of any arbitral award to any person at any time except as may be required by federal or state law.

Sincerely

[Name of Managing Partner] Managing Partner
[FIRM]

AGREED AND ACCEPTED [DATE OF AGREEMENT]

by
[SEARCH FIRM], Inc.