

# Best Practices: Shared-Fee Agreements

By Valerie Fontaine, Esq. and Arthur Polott, Esq.

One of the benefits of NALSC membership is getting to know legal search consultants across the country we can team up with on searches. Knowing that your fellow NALSC members also believe in keeping up with best practices in legal recruiting and adhering to the Code of Ethics provides a level of trust and an expectation of fair dealing when working jointly on projects.

Nevertheless, just as we strongly recommend executing a written fee agreement before embarking on a search for a client, we likewise urge you to have a shared-fee agreement in place before working with another legal search consultant, whether or not they are a member of NALSC. Clarifying expectations at the outset reduces the possibility of disappointments or disagreements down the road.

Typical clauses included in a shared-fee agreement include:

1. The agreed-upon division of fees received by either party relating to, or resulting from, any candidate, client, or search assignment referrals shared or accepted between the parties.
2. An understanding that neither party is under any obligation to make or accept referrals from the other unless it is mutually advantageous to both search firms.
3. The “shelf life” of the referral—the agreed-upon period of time the parties are entitled to a fee split after the last communication in relation to a referred candidate, client, or search assignment.
4. An agreement that all client, candidate, and search assignment information shared is considered confidential.
5. Payment terms for any fees due under the shared-fee agreement and whether the parties are required to provide proof of payment from the client (i.e. copy of the check, electronic payment, etc.) for any fee(s) received related to a referral.
6. An agreement that both parties share responsibility, and in what percentages, for any issues related to the guarantee and/or refund policy in place with a client where a placement is made. In the case of a refund due to one party’s client, the time period in which the other party will reimburse any applicable portion.
7. Should there be any disagreement or legal action resulting from a breach of the shared-fee agreement, which state’s laws will govern and serve as the venue for its resolution and whether the prevailing party is entitled to recover reasonable attorney’s fees and court costs in addition to damages.
8. The term of the agreement or, if it is to remain in effect continuously until revoked by either party, the manner of revocation. Also, in the event the agreement is revoked, whether any terms remain in force.
9. You can also add a term requiring that both parties abide by the NALSC Code of Ethics (which should be given if both recruit-

ers are NALSC members, but this would allow you to use the same agreement in confidence if you wish to team up with a non-NALSC member).

We plan to add the above information as a resource to the NALSC webpage in the ShareServ members only section. We envision this as a “living document” with the latest best practices. Therefore, we invite members to email [info@NALSC.org](mailto:info@NALSC.org) with any additional suggested split fee agreement terms you have gleaned from your experiences.

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