

TERMS AND CONDITIONS -PERMANENT RECRUITMENT SERVICES



1. Scope of this Agreement

- 1.1 This Agreement details the terms and conditions upon which Talent Strategy Consulting will supply Services to Client in respect of Candidates sourced and Introduced by Talent Strategy Consulting for Permanent and Maximum Term Placements.
- 1.2 This Agreement commences on the date Talent Strategy Consulting starts supplying Services to Client and continues until terminated pursuant to clause 10 of this Agreement.
- 1.3 The use by Client of any Candidate details provided by Talent Strategy Consulting will constitute Client's acceptance of the terms of this Agreement.

2. Services

- 2.1 Talent Strategy Consulting shall use reasonable skill and care in providing Services to Client. 2.2 Client shall provide all information reasonably necessary to enable Talent Strategy Consulting to source and introduce suitable Candidates for a Placement. Talent Strategy Consulting shall make every reasonable effort to ensure that Candidates suit Client's notified requirements.
- 2.3 Talent Strategy Consulting will conduct background checks on Candidates as requested by Client. Insofar as Candidates or third parties provide details relating to Candidates, Talent Strategy Consulting will use reasonable endeavours to ensure these details are correct but provides no warranty to such effect. Talent Strategy Consulting will not be liable for any loss or damage as a result of such information and Client acknowledges that it is responsible for undertaking its own investigations to verify Candidate information is correct.
- 2.4 Where Client has instructed Talent Strategy Consulting to headhunt a particular Candidate on Client's behalf, Client shall indemnify and keep Talent Strategy Consulting indemnified against all loss, or expense incurred by Talent Strategy Consulting as a result of claims made in connection with such instruction.
- 2.5 Talent Strategy Consulting makes no representation that any Candidate is or will be willing and/or available to accept a Placement with Client.
- 2.6 Talent Strategy Consulting excludes liability for any loss, losses, liabilities, costs or expenses incurred by Client arising from a Candidate's acts or omissions, including in the performance of a Placement with Client.
- 2.7 Client acknowledges and agrees that the final decision to employ any particular Candidate in a Placement rests with Client.
- 2.8 Client must promptly notify Talent Strategy Consulting if a Candidate accepts a Placement with Client or a third party to whom Client has referred the Candidate, including the start date of the Placement and details of the Candidate's Salary Package.

3. Fees and Additional Costs

- 3.1 In consideration of Talent Strategy Consulting' provision of the Services, Client must pay Talent Strategy Consulting the Fees.
- 3.2 The Fee payable by Client for a Placement is calculated as a percentage of the Candidate's Salary Package, in accordance with the table below:

SALARY PACKAGE	% MARGIN
\$0 – 49,999	16%
\$50,000 – 99,999	20%
\$100,000 – 149,999	25%
\$150,000 +	30%

- 3.3 For Maximum Term Placements or part-time positions, the Fee will be calculated as a percentage of the equivalent annual full time Salary Package, in accordance with clause 3.2.
- 3.4 Client must inform Talent Strategy Consulting and pay the Fee that would have been due to Talent Strategy Consulting for a Placement where:
- (a) although no Placement occurs initially, a Candidate is employed or engaged by Client within 12 calendar months from the date of Introduction;
- (b) an offer of employment is made by Client and accepted by a Candidate but (through no fault of the Candidate) no employment or engagement results; or
- (c) irrespective of whether or not a Placement results from the Introduction of a Candidate by Talent Strategy Consulting to Client, the Candidate is Introduced by Client to a third party within 12 calendar months of the date of Introduction.
- ## 4. Retained Searches
- 4.1 This clause only applies if Client requests Talent Strategy Consulting in writing to provide Services in respect of a Retained Search.
- 4.2 For a Retained Search, the Fee (calculated in accordance with clause 3) will be invoiced in three stages:
- (a) 33% upon Talent Strategy Consulting' agreement to undertake the Services;
- (b) 33% upon the earlier of:
- (i) Talent Strategy Consulting' delivery of a short-list of Candidates to Client; or
- (ii) 30 days after Talent Strategy Consulting' agreement to undertake the Services; and (c) the balance of the Fee (if applicable, adjusted for any changes to the Salary Package) on the commencement of the Candidate's Placement with Client.
- 4.3 If Client withdraws the Placement before the Candidate commences, all three stages of the Fee specified in clause 4.2 will be payable immediately. If within three (3) calendar months of such withdrawal Client instructs Talent Strategy Consulting to provide Services for an identical position, a credit will be given against such Fee.

5. Payment Terms

- 5.1 Invoices are payable within 14 days of the date of invoice.
- 5.2 If Client requires a purchase order, or its equivalent, to effect the payment of an invoice, Client must raise a purchase order prior to Candidate's commencement of a Placement with Client. For the avoidance of doubt, acceptance of a purchase order by Talent Strategy Consulting will not result in acceptance of any terms and conditions attached to such purchase order.
- 5.3 Client is deemed to have accepted the invoice if no dispute is raised within 14 days of the date of invoice.
- 5.4 Overdue payments are subject to interest on the amount unpaid from the due date to the date of payment at a daily rate 2.5% per annum above the base rate of the Commonwealth Bank of Australia.
- 5.5 A dispute will not affect payment of any non-disputed Fee on the same invoice or the payment of any other invoices due by Client and Client shall have no right of set off.
- 5.6 All Fees payable to Talent Strategy Consulting under this Agreement are in AUD and GST exclusive. GST shall be charged on Fees due at the prevailing rate and on such aspects of any other charges as is required by law. Client is responsible for any bank charges, local taxes or costs incurred in relation to payments. Any costs incurred by Talent Strategy Consulting in recovering amounts overdue shall be payable by Client.
- ## 5.7 Maximum Term Placements
6. Client must promptly notify Talent Strategy Consulting of any offer of a Permanent Placement or extension of a Maximum Term Placement and provide details of the Candidate's Salary Package.
- 6.1 If:
- 6.2 (a) the original Maximum Term Placement is extended, a further Fee will be payable in accordance with clause 3.3; or
- (b) the Candidate accepts a Permanent Placement with Client, a further Fee will be payable in accordance with clause 3.2.

Replacement Guarantee

7. At Client's request, if a Candidate's Placement is terminated within eight (8) weeks of its commencement date (including the Candidate's period of contractual notice), Talent Strategy Consulting will seek a replacement Candidate, on the condition that: (a) the Candidate terminates the Placement of his or her own volition and not due to any redundancy measures, change in job description or change in work change in job description or change in work conditions;
- (b) Client has paid Talent Strategy Consulting' invoice in respect of the initial Placement in accordance Clause 5;
- (c) Client has complied with its legal obligations to the Candidate, including its obligations under Workplace Laws;
- (d) the request is given exclusively to Talent Strategy Consulting to replace the Candidate; (e) the nature of the replacement position is the same as for the initial Placement; and
- (f) Client notifies Talent Strategy Consulting within 7 days of the date of termination of the Placement.
- No rebate or refund of Fees will be payable.
- 7.2 Talent Strategy Consulting offers this replacement guarantee on the initial Placement only. The replacement guarantee does not apply to Maximum Term Placements or to any conversion from a temporary client role to a Permanent Placement.
- 7.3 If the Salary Package of the replacement Candidate changes from the original Placement, the Fee will be adjusted accordingly.
- 7.4 The replacement guarantee will be valid for a period of three (3) months from the date of termination of the initial Placement, after which Talent Strategy Consulting is not obliged to offer such guarantee.
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- 7.6

8. Privacy and Confidentiality

- 8.1 The parties must comply with Privacy Laws in their collection, use, storage and disclosure of Personal Information in the performance of this Agreement. For the purposes of this clause, Personal Information shall have the meaning given to that term in Privacy Laws. If Client becomes aware of any actual or alleged breach of Privacy Laws concerning Personal Information disclosed to or by Talent Strategy Consulting, Client must notify Talent Strategy Consulting immediately and comply with any reasonable directions of Talent Strategy Consulting with respect to such breach.
- 8.2 The parties will hold information of the other that can be reasonably regarded as being confidential or is notified as being so by the disclosing party, (including this Agreement and details of any Candidate), in confidence and will not disclose such information without the consent of the other party unless required by law or it has already been made available to the public other than through a breach of this clause.
- 8.3

Liability

- Neither party shall be liable to the other under or in connection with this Agreement for any indirect or consequential loss, loss of profits or loss of revenue. Nothing in this Agreement limits any warranty or right imposed by statute or regulation to the extent that it cannot lawfully be limited, or limits either party's liability for its fraud (including fraudulent misrepresentation).
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10. Termination

- 10.1 Either party may terminate this Agreement for convenience with 14 days' written notice to the other party or immediately for a material breach of this Agreement or for insolvency.
- 10.2 Termination of this Agreement will not prejudice any rights or remedies already accrued to a party under the Agreement prior to termination.

11. General

- 11.1 Client will not during the course of this Agreement and for a period of 12 calendar months thereafter (either on its own account or for any other individual or organisation), directly or indirectly induce, entice or solicit away or try to induce, entice or solicit away from Talent Strategy Consulting any individual who is an employee, director or consultant of Talent Strategy Consulting.
- 11.2 If Client employs or engages any person in breach of clause 11.1, Client shall pay to Talent Strategy Consulting on demand the sum equivalent to 35% of the Salary Package of such person. The parties agree that this is a genuine pre-estimate of loss.
- 11.3 If a clause is held by a Court to be illegal or unenforceable, that part will be severed from all other terms without affecting the validity or enforceability of all other terms of this Agreement.
- 11.4 Neither party is responsible for any failure to perform its obligations under this Agreement if it is prevented from, or delayed in, performing those obligations by an event of force majeure. A party affected by a force majeure event must notify the other party as soon as possible that such event has arisen or is likely to arise. Force majeure event includes pandemics, epidemics, quarantine, biological contamination or entry and exit restrictions resulting in shortage of labour or materials as a result of such an event which is beyond the reasonable control of a party.
- 11.5 No failure or delay by either party in exercising any right or remedy available to it will constitute a waiver of that or any other right or remedy. No waiver or amendment of any clause will be effective unless confirmed in writing to the other party and in the case of Talent Strategy Consulting, by a director of Talent Strategy Consulting.
- 11.6 This Agreement shall be governed by the laws of that State or Territory in which the Services are performed. The parties submit to the non-exclusive jurisdiction of the courts of such State or Territory.
- 11.7 Those clauses which, by their nature, are intended to continue to have effect following termination of this Agreement shall survive and continue to bind the parties.

12. Definitions

- 12.1 The following words are defined as follows:

- (a) **Candidate** means an individual Introduced by Talent Strategy Consulting to Client for a Placement.
- (b) **Client** means the legal entity acquiring Services under this Agreement and any of its Related Bodies Corporate as defined in the Corporations Act 2001 (Cth).

- (c) **Fee** means the fee for Services calculated in accordance with clause 3.
- (d) **GST** means GST within the meaning of the A New Tax System (Goods and Services Tax) Act 1999.
- (e) **Introduced** means (i) the sending of a Candidate's CV or other information which expressly or impliedly identifies the Candidate (ii) the arrangement of an interview whether at a face to face meeting, by telephone or by web/video conference with a Candidate; or (iii) the introduction by whatever means by, Talent Strategy Consulting to Client or Client to a third party (as applicable) that enables the Candidate to be identified, and "Introduction" and "Introduce" shall be construed accordingly.
- (f) **Maximum Term** means the employment of a Candidate by Client for a specified period of time or task with either party able to terminate for convenience with notice.
- (g) **Permanent** means the employment of a Candidate by Client on an ongoing basis until Client or Candidate ends the employment relationship.
- (h) **Placement** means a position in respect of which a Candidate is employed by Client on a Permanent or Maximum Term basis.
- (i) **Privacy Laws** means the Privacy Act 1988 (Cth), as amended from time to time.
- (j) **Retained Search** means Services provided on an exclusive basis in respect of a Placement for which Talent Strategy Consulting will charge a Fee in accordance with clause 4.2.
- (k) **Talent Strategy Consulting** means Talent Strategy Consulting Pty Limited (ABN18683393277);
- (l) **Salary Package** means the annual anticipated gross remuneration package for a Placement, which includes gross annual salary, applicable benefits (including superannuation), commission, bonuses, allowances and joining inducements. The provision of a car is valued at \$25,000 per annum.
- (m) **Services** means work performed by Talent Strategy Consulting in relation to the sourcing and Introduction of Candidates for Placements, including but not limited to, Talent Strategy Consulting receiving instructions from Client for a Placement, long/short listing of Candidates, Introducing a Candidate, 'Talent Strategy Consulting' arrangement of or conducting interviews with Candidates or any other act in the sourcing and Introduction of Candidates for Placements, or other services described in clause 2.
- (n) **WHS Laws** means the laws of the relevant State or Territory that govern the health and safety of employees and others at work.
- (o) **Workplace Laws** means the laws of the Commonwealth, States and Territories of Australia that govern Australia's workplaces or regulate or relate in any way the relationships between employers and employees or principals and contractors, including the Fair Work Act 2009 (Cth), WHS Laws, anti-discrimination legislation and any subordinate legislation.