



# Terms of Business

## Parties

These Terms of Business are between Refugee Talent and its Company Client each time Refugee Talent provides recruitment services to a Company Client.

## Acceptance of Terms of Business

The Client agrees to be bound by these Terms of Business by employing or engaging personnel introduced by Refugee Talent for a Permanent position offered by the Company Client, or for a Contract Assignment with the Company Client.

## Variation to Terms of Business

Any variation to the Terms of Business must be mutually agreed by both parties in writing.

## Definitions

**“Candidate”** means any person who has sought or obtained placement by Refugee Talent in (i) Permanent or fixed term employment with a Company Client of Refugee talent, or (ii) by way of a contract assignment with a Company Client of Refugee Talent.

**“Company Client”** means any person or body to which Refugee Talent provides services.

**“Fixed Term”** means any person who has accepted or obtained placement upto a maximum of twelve months on a fixed term basis with a Company Client of Refugee Talent. A Fixed Term Placement is employed by the Company Client and the Client takes responsibility for payroll and legislative requirements.

**“Independent Contractor”** means any entity engaged by Refugee Talent to carry out a contract assignment with a Company Client of Refugee Talent, who is engaged as an independent contractor and not as an On-Hire Employee. They are usually charged on an hourly basis, which is dependent on the project and negotiated prior to commencement of each assignment or specific project.

**“On-Hire Employee”** means any person placed by Refugee Talent on a contract assignment basis with a Company Client of Refugee Talent, who is employed or engaged by and payrolled by Refugee Talent. They are charged on an hourly basis, which is dependent on the project and will be negotiated prior to commencement of each assignment or specific project.

**“Permanent”** means any person who has accepted or obtained Permanent employment for twelve months with a Company Client.

**“Personal Information”** means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

**“Privacy Laws”** means Privacy Act (Cth) 1988 (and amendments including the Privacy Amendment (Private Sector) Act 2000 (Cth).

**“Refugee Talent”** means Refugee Talent Pty Ltd (ABN 36610400078) and any Refugee Talent Related Entity.

**“Refugee Talent Related Entity”** means any entity connected with Refugee Talent by a common interest in an economic enterprise or a joint venture partner.

**“Standard Fee Structure”** means the standard Refugee Talent fee structure of 10% based on the first year salary of a candidate.

**“Temporary”** means the provision of an On-Hire Employee or Independent Contractor to carry out a Temporary contract assignment for a Company Client of Refugee Talent.

## 1. Fees

1.1. All fees are strictly payable within fourteen days of the invoice date.

### Fees for Permanent Assignments/Fixed Term Assignments and Buy-outs

1.2. Fixed Term Placement – The placement fee for a Fixed Term placement is as agreed in writing between the parties. Further fees will apply should the candidate extend beyond the initial contract period to a maximum of twelve months.

1.3 Buy-Out – Where an On-Hire Employee or Independent Contractor is transferred to a Permanent or other employment status (or contracts directly), with the Company Client or any other person or body to whom the client has introduced the On-Hire Employee, the Company client will be charged a fee based on the Permanent Fee Structure.

1.4 Permanent placement, fixed term placements, and buy-out fees are calculated according to the Standard Fee Structure as a percentage of a Candidate's commencing annual remuneration package. The annual remuneration package includes base salary, employer superannuation contributions (including compulsory contributions), allowances, inducement payments, anticipated commission and bonus earnings and non-salary benefits such as provision of a motor vehicle. Where a Candidate is placed in a Permanent role on a part-time basis the salary for calculating the placement fee will be on the basis of a full-time equivalent salary.

#### **Fees for Contract Assignments**

1.11. The fee will be negotiated prior to commencement of each Contract Assignment or specific project. The fee is based on the standard rate that would be paid to the On-Hire Employee or Independent Contractor, or their nominated representative, based on standard working hours only. All payments to On-Hire Employees will be subject to PAYG withholding unless otherwise agreed in advance in accordance with Refugee Talent policies and ATO guidelines.

1.12. Refugee Talent may vary the fee at any time (including retrospectively) without notice in light of the following:

a) overtime rates, shift penalties, allowances or other rates payable pursuant to any award or agreement or rate of pay set by Fair Work Australia (or other relevant body) applicable to the On-Hire Employee;

b) insurances, insurance premiums, or any statutory charges, levies, taxes or other payments Refugee Talent is lawfully required to make or for which Refugee Talent may become liable in respect of providing an On-Hire Employee under these Terms of Business.

1.13. The Client must pay the fee to Refugee Talent according to the number of hours worked by an On-Hire Employee or Independent Contractor. Invoices are produced weekly based on the actual hours worked by the On-Hire Employee as evidenced by an authorised timesheet. These hours exclude unpaid meal breaks. The On-Hire Employee will be paid on terms to be negotiated prior to the commencement of an assignment (subject to 1.12).

## **2. Permanent Placements - General Provisions**

### **Replacement Guarantee**

2.1. If the requirements set out in this clause are met, Refugee Talent shall extend a replacement guarantee for Candidates recruited and placed as Permanent employees with the Client.

2.2. This guarantee means that if the successful Candidate ceases employment with the client within the twelve months of commencement of such employment, Refugee Talent will endeavour to find a replacement Candidate for the position.

2.3. The replacement guarantee does not apply:

a) if the Candidate's employment ceases for reasons beyond Refugee Talent's control such as redundancy, restructuring, economic circumstances, company closure, change of management or substantial change from the original job description; or

2.4. If the remuneration package of the replacement Candidate increases from the original Candidate, the invoiced amount will be adjusted appropriately.

### **Responsibilities After Permanent Placement**

2.5. Once a Candidate is placed as an employee with a Company Client, the Company Client is the Candidate's employer and has sole responsibility for the employee. Refugee Talent has no liability or obligations in respect of the Company Client's employee, including, without limitation, in respect of the termination of employment of the employee for any reason by the Company Client. This also applies to Fixed Term Placements.

## **3. Contract Assignments - General Provisions**

3.1. Refugee Talent can provide On-Hire Employees or Independent Contractor as required by the Company Client to provide services in accordance with these Terms of Business and the verbal or written job specifications given by the Company Client for a particular Contract Assignment. If Refugee Talent issues an assignment letter for a particular assignment, the provisions of that letter operate in conjunction with these Terms of Business. If the assignment letter differs from these Terms of Business, the Assignment letter prevails (to the extent of that difference).

### **Refugee Talent Responsibilities in Relation to On-Hire Employees**

3.2. Refugee Talent has the following responsibilities in relation to On-Hire Employees (where applicable):

a) payment of remuneration;

b) deduction of all appropriate taxation required by the Australian Taxation Office;

c) workers' compensation payments;

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- d) superannuation guarantee charges; and
- e) payroll tax.

#### **Company Client's Responsibilities in Relation to Contract Assignments**

3.3. The Company Client has direct supervision and management of the On-Hire Employee and nominated representative of the Independent Contractor in the performance of each Contract Assignment for the Client. The Client directly controls the conditions under which the assignment is performed, and the outcome of the On-Hire Employee or nominated representative of the Independent Contractor.

3.4. The Company Client is responsible for ensuring the health and safety of the On-Hire Employee or the nominated representative of the Independent Contractor while the On-Hire Employee or the Independent Contractor is providing services to the Company Client at the Company Client's premises, and must satisfy all its obligations in relation to the On-Hire Employee or nominated representative of the Independent Contractor. under applicable occupational health and safety and discrimination legislation. This includes, but is not limited to, the following:

- a) providing all necessary induction and other training and issuing all necessary policies, procedures and directions;
- b) immediately notifying Refugee Talent of any occupational health and safety risks or discrimination or harassment issues in connection with the provision of services by the On-Hire Employee or nominated representative of the Independent Contractor.
- c) requiring the On-Hire Employee or nominated representative of the Independent Contractor to perform only those tasks that that person is skilled and trained to perform; and
- d) immediately notifying Refugee Talent if there are any changes in the tasks that the On-Hire Employee or nominated representative of the Independent Contractor is assigned to perform for the Company Client;

3.5. The responsibility for protecting the Company Client's confidential information and intellectual property lies solely with the Company Client. Refugee Talent is not liable for any claim arising from the Company Client's Confidential Information and Intellectual Property;

3.6. The Company Client is responsible for ensuring that the On-Hire Employee is adequately covered by any insurance policy held by the Company Client in respect of the Company Client's business. For example, if the On-Hire Employee or nominated representative of the Independent Contractor is required by the Client to handle valuables such as cash, operate machinery or equipment, drive vehicles or handle documentation.

#### **Termination of Contract Assignment**

3.11. The Company Client may immediately terminate a Contract Assignment by giving verbal notice to Refugee Talent.

3.12. The Company Client must pay the fee for all hours worked by the On-Hire Employee or Independent Contractor up to the time that the On-Hire Employee leaves the Contract Assignment.

#### **Replacement Guarantee for On-Hire Employee and Independent Contractors**

3.13. Refugee Talent undertakes to endeavour to replace an On-Hire Employee or nominated representative of the Independent Contractor or at any time where a Company Client is not satisfied with an On-Hire Employee or Independent Contractor.

#### **Approaches to On-Hire Employees or Independent Contractors**

3.14. The Company Client must not discuss the On-Hire Employee or Independent Contractor Fees, or any change to the On-Hire Employee Fee, with an On-Hire Employee or Independent Contractors or its nominated representative.

3.15. If a Company Client makes an offer of Permanent employment to an On-Hire Employee or nominated representative of an Independent Contractor who is performing an assignment for the Company Client (or who has performed an assignment for the Client during the previous 12 months) which the On- Hire Employee or nominated representative accepts, the Company Client must pay to Refugee Talent the Permanent placement fee in respect of the On-Hire Employee/ Nominated Representative in accordance with Refugee Talent's Standard Fee Structure.

3.16. If a Company Client makes an offer of further or different Contract Assignment to an On-Hire Employee or Independent Contractor who is performing or carrying out the assignment for the Company Client (or who has performed an assignment for the Client during the previous 12 months) which the On- Hire Employee or Independent Contractor accepts, the Client must pay Refugee Talent for that assignment in accordance with these Terms of Business.

3.17. The fees payable under this clause are due and payable within 14 days of the On-Hire Employee or nominated representative of the Independent Contractor commencing employment or the new assignment.

## **4. General Terms**

### **Introduction of Candidates**

4.1. Refugee Talent treats the introduction of Candidates and their details as strictly confidential, and therefore expects the Company Client to do the same.

4.2. If a Candidate or his or her details are introduced to or passed on to the Company Client (including the transfer of a candidate's details to the Company Client's database), and that introduction or transfer results in the Permanent employment or engagement on a contract basis of the Candidate, the Company Client must pay Refugee Talent the appropriate fee in accordance with these Terms of Business and Refugee Talent's Standard Fee Structure.

4.3. If a Candidate introduces another Candidate to the Company Client and that introduction results in Permanent employment or engagement on a contract basis of that Candidate, the Company Client must pay Refugee Talent the appropriate fee in accordance with these Terms of Business and Refugee Talent's Standard Fee Structure.

#### Liability and Indemnities

4.4. Refugee Talent makes every effort to maintain a high standard of Candidates and to provide proper details of their qualifications and experience. However, as these details are based on information provided to Refugee Talent by the Candidate, their referees, and other third party organisations as relevant, Refugee Talent is not liable for any errors, omissions, inaccuracies or incorrect conclusions. Company Clients are responsible for the final recruitment decision and must satisfy themselves as to the suitability of the Candidate.

4.5. Refugee Talent is not liable for any loss, damage, costs or compensation (whether direct or indirect) which may be suffered by the Company Client, or for which the Company Client may become liable, arising from:

- a) the introduction by Refugee Talent of Candidates (or delay in any such introduction); or
- b) the failure of a Candidate to accept an offer of employment or Contract Assignment.

4.6. The Company Client indemnifies Refugee Talent (and keeps Refugee Talent indemnified) on a full indemnity basis in respect of all losses, liabilities, costs or claims arising from or related to:

- a) the actions or omissions of a Candidate, performing an assignment for the Company Client, whether wilful or negligent and whether or not occurring at the Company Client's premises or the place where the assignment is performed;
- b) any failure or alleged failure of a Candidate, to duly perform his or her obligations;
- c) personal injury or death of a Candidate, or any other person howsoever arising from, or related to the performance by a Candidate of his or her obligations; and
- d) damage to any property arising from, or related to the performance by a Candidate, of his or her obligations.
- e) any occasion when an On-Hire Employee or Independent Contractor carrying out a Contract Assignment with the Company Client is required to attend jury duty during the course of the Contract Assignment.
- f) any omission, inaccuracy or conduct of the Company Client in relation to the recruitment services.

4.7. The Company Client further indemnifies Refugee Talent (and keeps Refugee Talent indemnified) on a full indemnity basis in respect of all claims related to the Candidate's assignment with the Company Client, including but not limited to termination of the assignment by the Company Client.

#### Goods and Services Tax (GST)

4.8.

- a) All fees payable under these terms of business are exclusive of GST.
- b) GST will be added to the fee at the prevailing rate unless it is assessed by Refugee Talent to be GST exempt.
- c) Out of pocket expenses, when applicable, will be calculated and charged as the amount incurred by Refugee Talent (net of any input tax credit to which Refugee Talent is entitled) plus GST as applicable.

#### Privacy

4.11. The Company Client agrees to comply with the terms of the Privacy Laws regarding Personal information and not to use Personal Information except for the purpose of engaging or considering a Candidate or On-Hire Employee or Independent Contractor to provide services to the Company Client. The Company Client must ensure that before disclosing any Personal Information to Refugee Talent the Company Client is entitled to disclose that information and without taking any further steps as required by the Privacy Laws Refugee Talent may use and disclose such information for the purpose of providing recruitment services under these Terms of Business. If the Client becomes aware of any breach or alleged breach of the Privacy Laws concerning information disclosed by Refugee Talent to the Company Client or by the Company Client to Refugee Talent, then the Company Client must notify Refugee Talent immediately and comply with any reasonable directions of Refugee Talent with respect to such breach.