

TERMS OF BUSINESS

1. These Terms of Business “**terms**” are between “**the agency/we/us/our**” - Lotus People Pty Ltd ABN 29 607 298 297 and Lotus People Queensland ABN 79 662 056 493 and the “**client/you/your**” being:

Client name: _____ **Client ABN:** _____

2. ACCEPTANCE OF TERMS

2.1 Your receipt of a resume, interviewing or engagement of a candidate in any capacity, or the passing to any other person or organisation of personal information pertaining to a candidate introduced to you by us “**candidates**”, will be taken as your acceptance of our terms of business.

2.2 We provide recruitment services relating to the employment of staff “**Permanent Recruitment**”, fixed term contractors “**Fixed Term Recruitment**” and temporary contracting recruitment “**Temporary or Contract Recruitment**”.

3. PERMANENT RECRUITMENT

3.1 FEES ARE PAYABLE WHEN YOU:

- a) Engage a candidate we introduced to you, in any capacity, within 12 months from date of introduction, or within 12 months of the date of any subsequent re-submission or date of last dialogue with us (or the candidate) regarding their application. An introduction is defined as any candidate we present (including viewing details) that is not currently engaged in active dialogue regarding employment with you. Our right to represent is not precluded by you having your prior awareness of the candidate by reputation, secondary contacts, social media or prior introduction, unless it is for the same role and within another supplier’s ‘right to represent’ period. You agree to notify us immediately in writing if a candidate introduced by us accepts your offer of permanent employment.
- b) Pass on information concerning a candidate to any party which results in an engagement in any capacity, temporary or permanent.
- c) Where a candidate is referred for a position and an offer of employment is accepted, a percentage fee is payable as listed below of the total full-time, projected first year remuneration package of the successful candidate, including base salary, superannuation, guaranteed bonus, company vehicle car allowance or any other employee benefit converted to a monetary value by us having regard to the average market value of the benefit “**Permanent Fee**”. Please note we do not pro-rata where a candidate accepts a part-time role. Where a candidate accepts an offer that sacrifices remuneration for equity, or any other long-term incentive or benefit that defers remuneration until after the first year, then our Permanent Fee will be calculated based on the greater of (i) the fair- market salary value for the same or similar position in the applicable current market (as determined by us acting reasonably) (ii) The cash equivalent of any equity, benefit or deferred payment based on the value that you place on the equity or benefit during the advertisement or (iii) The expected remuneration amount stated on the candidate’s resume at the point of representation.

Permanent Fees Schedule

Total Annual Gross Remuneration	Exclusive / Retained Fee	Non-Exclusive Fee
<\$79 999	18%	20%
\$79 999 - \$99 999	20%	22%
\$100 000 - \$149 999	22%	24%
\$150 000 +	26%	28%

3.2 If you wish to hire a temporary candidate on a fixed term contract (i.e. on your payroll for a fixed period of time), a fee will be payable on engagement which will be equivalent to our non-exclusive fee schedule on a pro rata basis, i.e. for a 6month fixed term hire, 50% of our non-exclusive fee will apply (please note we do not pro rata for part-time salaries). If you wish to extend the period of employment then successive pro rata non-exclusive fees will apply. If you wish to convert a candidate from a fixed term contract to a permanent status, our non-exclusive fee in the Permanent Fees Schedule in clause c) will then be applied. Under Fixed Term Recruitment, any fixed term contracts will be for a minimum of 6 months.

3.3 If you engage us on a retained search basis, our fee (as set out above) will be payable by you in three parts. Firstly, the retainer fee is payable on our acceptance of the assignment. Secondly our interim fee is payable on our presentation to you of a shortlist. Finally, the completion fee (adjusted for any salary changes) is payable on the successful candidate accepting an offer of employment from you. Where you subsequently terminate the retainer instructions the retainer fee and interim fee together with any advertising and agreed costs will become payable immediately.

4. OUR QUALITY GUARANTEE

4.1 All permanent placements for Permanent Recruitment are covered by a replacement guarantee. In the event that the client terminates the engagement due to the candidate not meeting expected performance levels within 12 weeks of their commencement including notice period, we will strive to replace them for no extra fee, provided:

- a) The fee was paid within 7 days of the date of commencement;
- b) We are notified in writing within 7 days of termination;
- c) Termination of employment is not due to restructuring of the role, retrenchment or redeployment, a change in the job specification, the client’s structure, operations and workplace conditions; and
- d) We have been given the exclusive opportunity to replace the candidate.

- 4.2 If you do not require a replacement candidate or we do not find a suitable replacement candidate within 30 business days from the candidate's last day with you, you will be eligible for a discount off future permanent and fixed term placement services up to the value of 50% of the placement fee paid for the original candidate. You may elect to apply the discount in the 12 months after the date the original candidate's termination. Any eligible discount not applied by you will automatically expire at the end of this period. We do not provide refunds.
- 4.3 If the total remuneration offered to the replacement candidate is greater than that of the original candidate, an adjustment to the original invoice will be made accordingly.
- 4.4 This guarantee is a one-off scenario; we will not replace a candidate multiple times free of charge.
- 4.5 For fixed term contracts (see 3.5 above) our guarantee period will be proportionate to the duration of the contract. I.e. 12 months or more will equate to the standard permanent guarantee period; 6-month contract will be covered by a 6-week guarantee period and 6 months will be covered by a 6-week guarantee.

5. SUITABILITY OF SELECTION

- 5.1 We make every effort to ensure our candidates are suitable for your requirements as provided to us in writing.
- 5.2 We endeavour to ensure the complete authenticity of all information supplied through the reference checking process.
- 5.3 When a candidate is placed as an employee, you, the client has sole responsibility for the employee. The agency has no liability or further obligations.

6. TEMPORARY OR CONTRACT RECRUITMENT

6.1 FEES FOR TEMPORARY OR CONTRACT ASSIGNMENTS

- a) The fee is inclusive of wages, payroll tax, all leave entitlements, workers compensation, superannuation and administrative costs. You will be required to sign weekly/fortnightly time-sheets that we rely upon as an authority to pay the temporary candidate and by signing or approving timesheets you confirm your satisfaction that the work has been completed. Failure to sign the time-sheet does not alter your liability to pay for hours worked.
- b) Charge rates will be adjusted accordingly to include any increases in over-time allowances and loadings, statutory costs and charges, including but not limited to superannuation and payroll tax.
- c) If the client cancels an order less than one hour before the agreed start time for a temporary role, the client must pay a four-hour service charge per candidate.
- d) All temporary candidates will be paid and charged for a minimum of four hours per day.

6.2 Direct Employment or Payroll Transition of Temporary or Contract Staff

For conversion to permanent employment for temporary or contract candidates assigned to you, transition to another supplier's payroll or direct pay-rolling of temporary or contract candidates assigned to you, our recruitment fee is calculated on the total annual remuneration package (see standard Permanent Fee Schedule). Please note that there is no guarantee period on any temporary candidates permanently placed.

6.3 Supervision Of Temporary Candidate

- a) You are responsible for the direct supervision and management of the candidate in the performance of the assignment, and the achievement of outcomes required of the assignment.
- b) You must ensure that all workplace health and safety legislation is complied with in relation to the candidate while on assignment at your premises, or at any other premises as you may direct. This includes induction and training required for the candidate to comply with your OH&S policies and procedures.
- c) You must ensure that all state and federal equal opportunity legislation is complied with in relation to the candidate, including in relation to discrimination and harassment, and ensure compliance with all general protections in Part 3-1 of the Fair Work Act 2009.

6.4 Passing through cost

All prices or fees listed in these are subject to variations as a result of the change in cost to the agency to supply the labour, for example changes to statutory rates, charges or benefits or changes to or the application of any relevant industrial award or instrument.

6.5 Termination

- a) You may terminate a Temporary or Contracting Recruitment assignment by giving us notice in writing of the duration specified in a relevant Services Agreement (Notice Period).
- b) We may terminate Temporary or Contracting Recruitment assignment without further notice if you are in breach of these terms and fail to remedy the breach within 14 days of us notifying you in writing.
- c) Where the Temporary or Contracting Recruitment assignment is terminated for any reason, you will be liable to pay us the fee in respect of all hours worked by the candidate up to and including the time of termination. This will include all Notice Period(s) that the candidate is subject to, or which is required to be given, including other leave.

7. MODERN SLAVERY

- 7.1 We agree to take reasonable measures to ensure that modern slavery and human trafficking practices do not occur in its supply chains relevant to this agreement.

8. ONWARD REFERRAL

- 8.1 If at any time you disclose information regarding any candidates that have been introduced by the agency to other parties, within a 12-month period from introduction that results in their engagement in any capacity (temp or perm) a fee (at our standard rates current at the time) will apply.

9. CONFIDENTIALITY & PRIVACY

- 9.1 All resumes and introductions are for the sole use of you and your company. You may not disclose any information

regarding the candidate to any other party without our express written consent.

9.2 You agree to comply with the provisions of the *Privacy Act (Cth)* 1988 regarding the use of personal information and will not use personal information except for the purpose of considering a candidate for an assignment.

10. INVOICING & CONDITIONS OF PAYMENT

- a) Our stated fees are exclusive of any GST. GST will be calculated at the standard government rate and added to invoice total.
- b) For Permanent Recruitment an invoice for the total of the fee, which is calculated on the actual annual remuneration package (as defined above), is issued upon candidate acceptance of an offer of employment and is payable within seven (7) days of date of issue.
- c) For contract or temporary staff, an invoice for hours worked based on the agreed rate will be issued following approval of timesheets and is payable within seven (7) days of date of issue.
- d) If you require specific advertising, medical checks, probity checks or other special services in addition to our fees the entire cost of these services will also be invoiced to you and payable within seven (7) days irrespective of whether the person involved is successfully appointed by you.

11. GENERAL PROVISIONS

11.1 No soliciting

In your dealings with the agency staff you agree not to solicit our employees for employment. If you do employ an employee from the agency our standard permanent placement fee applies.

11.2 No Warranties and Indemnities

- a) Although we will conduct interviews and submit details of candidates we believe are appropriate to the job specification you provide, we make no warranty as to the suitability of any candidate to a particular position. You are responsible for ensuring the candidate is suitable to the position to which they are appointed. You will indemnify and hold us harmless against all liability, loss, claims, fines, penalties and damage (including any legal costs on a full indemnity basis) suffered by us, or our related bodies corporate, or the officers, employees, agents or contractors of us or our related bodies corporate, arising out of or in connection with these terms or any act or omission of a candidate generally.
- b) Notwithstanding any other provision of these terms, we are not liable for any loss suffered by you arising from the introduction of any candidate, any delays in the recruitment process, any errors, omissions or inaccuracies in the information provided to us by third parties, including (but not limited to) information as to a candidate's qualifications and experience and information contained in a candidate's reference, the failure of a candidate to accept an offer of employment, the failure of a candidate to perform their obligations under your employment or control, or any actions or omissions of a candidate. We shall have no liability (whether for breach of contract, under indemnity, negligence, common law, tort, equity, under statute or in restitution, or on any other legal or equitable basis) to you for loss of use, profit, revenue, business, data, contract or anticipated benefit or saving, or for any delay, financing costs or increase in operating costs or for any special, indirect or consequential loss. Otherwise, our maximum aggregate liability (whether for breach of contract, under indemnity, negligence, common law, tort, equity, under statute or in restitution, or on any other legal or equitable basis) to you is limited to the amount paid by you to us under this Agreement during the twelve (12) months period immediately preceding the first event giving rise to a claim.

11.3 Variation

These terms may only be amended or supplemented in writing signed by the parties.

11.4 Severability

Any provisions in these terms are invalid or unenforceable in any jurisdiction is to be read down for the purposes of that jurisdiction, if possible, so as to be valid and enforceable, and is otherwise capable of being severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions of these terms or affecting the validity or enforceability of that provision in any other jurisdiction.

11.5 Governing Law

These terms are governed by the laws of the State of New South Wales. Each party irrevocably submits to the non-exclusive jurisdiction of the courts of the State of New South Wales.

We hereby accept and agree to abide by the above terms of business Signed on behalf of the client:

(Name)

(Date)

(Position)

(Signature)