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**The Talent Kitchen**  
(‘the Company’)

**AND**

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(‘the Client’)

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**TERMS AND CONDITIONS OF BUSINESS**

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## **1. Acceptance of terms**

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- 1.1. These terms and conditions constitute an agreement between the Company and the Client.
- 1.2. Acceptance of the terms of this agreement occurs when the Client returns an executed copy of this document, engages any of the services of the Company as outlined in this agreement, or arranges any interview or meeting with an Applicant introduced to the Client by the Company.
- 1.3. Any variation to this agreement must be in writing and signed by an authorised representative of the Company and the Client.
- 1.4. This agreement supersedes and replaces any previous agreements between the Company and the Client.
- 1.5. If any terms of this agreement are held to be illegal or unenforceable by a Court, that term will be severed from the agreement without affecting the validity or enforceability of all remaining terms.

## **2. Recruitment**

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- 2.1 Upon acceptance of this agreement by the Client, the Company will commence performing the services agreed upon by the Client in accordance with this agreement.
- 2.2 The Client will be responsible for taking up any references as supplied by an Applicant, however, upon prior written agreement, the Company is able to do this on the Client's behalf.
- 2.3 Where prior agreement is obtained from the Client, all reasonable costs incurred by an Applicant in attending interviews with the Company will be payable by the Client.
- 2.4 The Company shall make every reasonable effort to ensure the appropriateness of the Applicants introduced to the Client, however, the Client accepts full responsibility for the final selection of an Applicant and must satisfy themselves as to the suitability of an Applicant.
- 2.5 The Company shall not be held liable to the Client for any loss, damage or claims in respect of the recruitment or engagement of any Applicant introduced to the Client.
- 2.6 The Client must notify the Company as soon as is possible, or within a maximum of three (3) working days, where an Applicant introduced by the Company accepts an engagement with the Client, or any related entity of the Client.
- 2.7 All introductions are confidential. The Client, or any employee or representative of the Client, must not provide the details of an Applicant to any third party. If the provision

of an Applicant's details to a third party results in that Applicant being employed by that third party, or a related entity, the Client will be charged in accordance with this agreement as if they had engaged the Applicant themselves.

### **3. Advertising**

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- 3.1 Where previously agreed, the Company will advertise the positions of the Client using agreed upon strategies. The costs of this advertising will be reimbursed by the client within seven (7) days of the Company providing an invoice to the Client.
- 3.2 The Company will accept cancellation of an advertisement where sufficient notice is provided by the Client. Any costs in relation to cancellation of an advertisement are payable by the Client.

### **4. Payment of fees**

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- 4.1 The Client must pay all fees due to the company with seven (7) days of their invoice date.
- 4.2 The Company reserves the right to charge interest at a rate of 10% per month on unpaid invoices from the due date to the time of payment.
- 4.3 In the event that fees are not paid by the Client in accordance with this agreement, the Company reserves the right to refer the outstanding amounts to a third party collection agency.

### **5. Introductions**

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- 5.1 An introduction of an Employee by the Company, to the Client, occurs when the Company communicates to the client the personal details of an Employee, whether through email, writing, or verbal communication.
- 5.2 Should the Client, or any related entity of the Client, engage a candidate who was introduced to them by the Company within a twelve (12) month period from the date of introduction, through either their own resources or those of another recruitment agency, the Client shall be liable to pay to the Company the full placement fee owed in accordance with this agreement. There will be no guarantee period on engagements of this nature.

### **6. Guarantee period**

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- 6.1 In the event that a permanent engagement terminates within three (3) months of the date upon which the Employee commences employment with the Client, the Company shall endeavor to provide a replacement candidate, on the same terms, and at no additional cost to the client (subject to any adjustments in relation to remuneration package, and further agreed upon advertising costs), provided that:

- 6.1.1 The Client, or any related entity of the Client, does not engage the original placed Employee within twelve (12) months of the date of termination;
- 6.1.2 The Client notifies the Company in writing of the termination within ten (10) working days;
- 6.1.3 The termination was not due to redundancy, organisational or structural changes in the Client's business, a change or anticipated change in in the job specification or location, the Employee being engaged by a related entity of the Client, or the Client's failure to fulfil its actual or implied legal obligations to the employee; and
- 6.1.4 All fees due to the Company by the Client have been paid and received on time and in accordance with the terms and conditions of business.
- 6.2 The replacement guarantee is valid for one (1) permanent replacement only, and applies only to the role affected, and cannot be transferred to another role, or to an altered version of the original role.
- 6.3 The replacement guarantee does not extend to Employees previously replaced under guarantee.
- 6.4 If for any reason the Client does not request a replacement for a terminated employee within ten (10) working days, no refund will be payable to the Client.

## **7. Permanent employees**

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- 7.1 All permanent placement fees are expressed as a percentage of the first year's anticipated gross remuneration package including, but not limited to, salary, superannuation, car allowance, bonuses and commissions, in accordance with the scale of fees in clause 8 below.
- 7.2 For retained assignments, the Client will pay the Company in the following installments:
  - 7.2.1 A non-refundable commencement fee equating to one-third of the estimated final fee, payable on commencement of the assignment;
  - 7.2.2 A non-refundable shortlist fee equating to one-third of the estimated final fee, payable on presentation of the shortlist of Applicants to the Client;
  - 7.2.3 A completion fee equating to the balance of the final fee owed to the Company, payable on successful completion of the assignment; and

7.2.4 The Client acknowledges that it is reasonable and fair for the payments in clauses 7.2.1 and 7.2.2 to be retained by the Company where the assignment is not taken through to completion in consideration of the effort and work completed by the Company in commencing the assignment, and progressing the assignment to the point of providing a shortlist to the Client.

7.3 Fees in relation to contingent and exclusive assignments become due in full at the time an Applicant accepts a placement with the Client.

**8. Scale of fees (exclusive of GST)**

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	<b>Gross Annual Remuneration Package</b>		
	<b>\$0 to \$100,000</b>	<b>\$100,001 to \$140,000</b>	<b>\$140,000+</b>
<b>Retained Assignment</b>	12%	12%	14%
<b>Exclusive Assignment</b>	14%	14%	16%
<b>Contingent Assignment</b>	16%	16%	18%

**9. Working Holiday and Student Visa candidates**

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9.1 In the event that the Company places an Employee with the Client who is on a Working Holiday Visa or Student Visa, in consideration of the reduced availability of the Employee, the Company shall alter its fee schedule as follows:

9.1.1 Placements with an annual gross remuneration package of \$70,000 or less will be charged to the Client at a flat fee of \$4,000.00 (exclusive of GST); and

9.1.2 Placements with an annual gross remuneration package of over \$70,000 will be charged to the client at 4% of the gross remuneration package (exclusive of GST).

9.2 Should the employee become available to work beyond the original restrictions of their visa for any reason, and assume full-time employment with the Client, then the balance of the full permanent placement fee will become due at that time in accordance with the table in clause 8 of this agreement.

**10. Fixed term and casual employees**

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10.1 The Client agrees that their obligations in relation to all fixed term and casual engagements are:

10.1.1 To provide the Company the following specific details in relation to the engagement:

- a. The role, responsibilities, required experience, qualifications, training, and necessary authorisations;
- b. The location, hours of work, duration of assignment and starting date required;
- c. Any risks or potential risks to the health or safety of a candidate in relation to the engagement; and
- d. Any changes that occur in relation to any of the above information once the engagement has commenced.

10.1.2 To supervise and direct the Employee in their duties and responsibilities in the course of their engagement with the Client.

10.1.3 To be responsible for the health and safety of the Employee while in the Client's workplace, or any other place resulting from the engagement.

10.1.4 To assume full responsibility and liability resulting from any damage caused by the Employee while acting in the course of their engagement with the Client, whether to the Client's property, or any other party's property.

10.1.5 To pay all fees on time and in accordance with this agreement.

10.2 The Company agrees that their obligations in relation to all fixed term and casual engagements are:

10.2.1 To source and present candidates to the Client in accordance with the information provided pursuant to clause 10.1.1 of this agreement.

10.2.2 To ensure the suitability of candidates by:

- a. Checking all proposed candidates' rights to work in Australia;
- b. Checking required qualifications, certifications and authorisations as detailed by the Client; and
- c. Performing a minimum of two (2) reference checks of each proposed candidate.

10.2.3 To be responsible for the payroll obligations in relation to payment of Employees engaged by the Client, including responsibility for the payment of wages, and where applicable, leave entitlements, PAYG tax, worker's compensation, superannuation and payroll tax, to the Employee.

10.3 All fixed term and casual engagement fees are expressed as an hourly rate, and are calculated on the cost of providing the Employee to the Client, and are to be agreed

upon prior to the engagement commencing. The Company, at their discretion, may charge for the minimum payment due on the booking prior to the commencement of the engagement.

- 10.4 The fee for fixed term and casual engagements will be the cost to the Company of that placement, plus a 25% margin, plus GST. Fees in relation to an engagement may be updated or amended by the Company by providing written notice to the Client.
- 10.5 The Client must provide the Company confirmation of the hours worked by engaged Employees on a weekly basis by signing the timesheet of Employees, or by informing the Company in writing of the hours worked by Employees. For clarity, the Client will be responsible for all hours worked by Employees, and a refusal to sign a timesheet will not absolve the Client of amounts owed to the Company. If the requisite information is not provided to the Company, the client will be charged in accordance with the original agreement for the hours worked by the Employee, and no refund will be available if this amount exceeds the hours worked.
- 10.6 All costs and fees related to fixed term and casual Employees will be invoiced to the Client on a weekly basis, and be payable within a strict seven (7) day period. In the event of non-payment the Company reserves the right to terminate the engagement on twenty four (24) hours written notice to the Client, and to charge interest in accordance with this agreement on the amounts overdue.
- 10.7 Employees that are found to be unsuitable by the Client must be reported to the Company immediately in writing. The Company will be liable for up to one hour of the placement's fees after a complaint has been made to the Company. The Client has full liability for fees of the engagement up until a written complaint is made. If the Client continues to engage the Employee who is the subject of a complaint, they do so at their own risk, and are liable for the full fees charged in relation to the engagement.
- 10.8 An engagement may be terminated by the Client in writing at any time provided that there are no outstanding fees owed to the Company. If a Client continues to employ an Employee previously engaged through the Company after the termination of this agreement, the Client will be liable to pay the full fees of the engagement in accordance with this agreement.
- 10.9 Should the Client wish to engage the services of a fixed term or casual Employee within twelve (12) months of the completion of their original engagement, the Client shall only seek to engage that Employee through the Company, and shall pay the appropriate fees in accordance with this agreement.
- 10.10 If the Client engages a fixed term or casual Employee on a permanent basis during, or within twelve (12) months of the completion of, their original engagement, the

Client will be liable to pay the permanent placement fee in accordance with the table in clause 8 of this agreement. For clarity, no guarantee period applies for permanent engagements made subject to this clause.

- 10.11 The safety of the fixed term Employee while in the Client's workplace is the Client's responsibility. The Client must provide a safe workplace, and ensure the Employee is inducted and trained in how to perform their role safely. All incidents involving the safety, or having a possibility of impacting the safety, of Employees engaged through the Company, must be reported immediately to the Company.

**11 Group recruitment consulting**

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- 11.1 The Client may engage the Company to act as consultants for the purpose of group recruitment days.
- 11.2 The Company charges a flat consultancy fee of \$1,000.00 (exclusive of GST) per day in lieu of the normal placement fee of the Employees, and the Client will be liable for agreed expenses including, but not limited to, travel, accommodation, venue hire and advertising, as necessary.
- 11.3 A guarantee period does not apply to Employees placed as a result of group recruitment consultancy.

**12 Privacy**

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- 12.1 All information regarding Applicants and Employees provided to the Client is confidential, and must be treated in accordance with the *Privacy Act 1988* (Cth) and the Australian Privacy Principles. The Client must dispose of the details of all unsuccessful candidates as provided to them by the Company.

As a duly authorised representative of the organisation stated below, I hereby acknowledge that I have read, understand and agree to the Company's Terms and Conditions of Business.

Organisation: .....

ABN/ACN: .....

Name: .....

Position: .....

Signature: .....

Date: .....