

Terms & Conditions

Temporary and Permanent Staffing Solutions



This combined document contains the terms and conditions ("Terms") which apply to all Labour Hire, Temporary Services and Permanent Services (collective, "Services") provided by LABOUR 4 YOU AUCKLAND LIMITED t/a STAFF 4 YOU (NZBN: 9429046710222) ("Supplier") to the following client:

[_____] ("the Client")

1 ACCEPTANCE

- 1.1 These terms become binding when the Client:
- (a) signs the Terms or tells the Supplier that the Client accepts them;
 - (b) accepts an introduction of a Candidate or Engages a Candidate after having received these Terms; or
 - (c) accepts or Engages one of the Supplier's Workers on Assignment.

1.2 These Terms replace and supersede any previous terms and conditions which the parties may have entered into for the Services. All implied terms, conditions and warranties are expressly excluded from this contract to the fullest extent permitted by law.

2. DEFINITIONS

2.1 The following definitions will apply to these Terms:

- **Assignment** means specified work and tasks to be performed by Workers under the Client's care, supervision, direction and control.
- **Worker** means any person supplied by the Supplier to the Client to carry out the Assignment.
- **Candidate** means any person introduced to the Client by the Supplier, by any means for employment by the Client, and includes any person contained in a submission or short list made by the Supplier to the Client, even though the person may be presented independently to the Client.
- **Engage, Engaged or Engagement** means the employment using or on-hiring of a Candidate or an Worker.
- **Introduce, or Introduction** means the passing of any information (verbal or in writing) to the Client about a Candidate or Worker (such as the name, CV, employment history or other relevant information) by the Supplier.
- **Placement Fee** means the fee payable by the Client to the Supplier upon the Client's Engagement of a Candidate or Worker introduced by the Supplier.
- **Total Remuneration Package** means the Candidate's first year gross annual remuneration including base salary, bonus structure and any other contractual benefits which form part of the total remuneration package. If a vehicle is included in the package, this will be valued at \$15,000 per annum.

3. TEMPORARY SERVICES

3.1 The Supplier will make every reasonable effort to provide Workers suitable to the Client's requirements and to ensure that each Worker Assigned to the Client performs their duties with reasonable standards of skill.

3.2 The Client agrees to pay to the Supplier, the following details relating to the Assignment before the Worker commences the Assignment:

- (a) A description of the work to be performed;
- (b) The location of where the Worker is to perform the work; and
- (c) An indication of the hours to be worked by the Worker.

3.3 The Client agrees not to change the Assignment description, hours of work, or location of work, duties or tasks performed by a Worker unless the Supplier is first advised of such a change.

3.4 The Client understands that the above details in clause 3.2 are required by the Supplier in order to comply with the requirements of the *Employment Relationship Act 2000*. If the Client fails to provide this information before the Worker commences or while the Worker is on an Assignment, the Client will indemnify the Supplier in respect to any liability which the Supplier incurs as a result of the Client's breach of this clause.

3.5 The Client agrees to complete in full, sign and return to the Supplier all documentation required before the commencement of each and any assignment and during each and any assignment.

3.6 The provisions of this clause 3 continue to bind the parties after an Assignment has ended.

4. FEES, PAYMENT AND INVOICING

4.1 The rate to be charged for a Worker will be as agreed between the Supplier and the Client prior to each Assignment, subject to rights of variation provided under these Terms.

4.2 The Client acknowledges unless otherwise agreed in writing, the minimum charge equal to four (4) hours at the appropriate hourly charge out rate agreed for the Worker is payable for each day of an Assignment.

4.3 The Client will pay all charges invoiced by the Supplier within 7 days of the date of invoice unless otherwise agreed.

4.4 Any payments to be made under these Terms are exclusive of GST (if any) and any GST must be added and paid by the person or company to whom the goods and services are provided.

4.5 The Supplier may vary the interest rate stipulated on its credit policy at any time by notifying the Client.

4.6 A claim or dispute raised by the Client does not entitle the Client to set-off against, or withhold payment of, any money owed to the Supplier.

4.7 The Supplier may withdraw any of its Workers on Assignment with the Client at any time if the Client does not comply with these Terms.

5. MANAGING DISCIPLINE, PERFORMANCE, REPLACING A WORKER OR ENDING AN ASSIGNMENT

5.1 In all matters relating to the discipline of Worker supplied by the Supplier (i.e., conduct, performance or attitude) which may result in the unexpected end of an Assignment, the Client agrees to notify the Supplier as soon as possible. If the Client has a concern about the conduct or performance of a Worker, the Client agrees to notify the Supplier as soon as practically possible.

5.2 The Supplier may request the Client to assist with an investigation into a Worker's conduct or to assist with managing the Worker's performance. The Client agrees to assist the Supplier wherever possible and supply information about any incidents or events relevant to that investigation to meet the Supplier's and the Client's obligations under the *Employment Relations Act 2000*.

5.3 Should a Worker be found unsuitable by the Client on reasonable grounds:

- (a) Within four (4) hours of the start of an Assignment and the Supplier is informed within that time, no charges will be incurred by the Client in respect of that Worker; and
- (b) After the first four (4) hours of an assignment, the Supplier will use its best endeavours to replace that Worker, but normal rates will be charged.

5.4 The guarantee in clause 5.3 applies where all money owing under these Terms has been paid.

5.5 Any cancellation of an Assignment by the Client must be advised to the Supplier at least twenty-four (24) hours before the Assignment is due to commence or, if this is not possible, as soon as practicable.

5.6 The minimum Assignment is four (4) hours per day unless otherwise agreed to in writing. If any Assignment is cancelled at least two (2) hours prior to the shift commencement, and the Supplier is able to notify the assigned Worker(s), there will be no charge. However, if the Worker(s) are already en-route to their Assignment, a minimum charge of four (4) hours will be charged to the Client.

6. RETENTION OF A WORKER

6.1 If a Worker is placed on Assignment and the Client engages the Worker as an employee or as an independent contractor during the Assignment, the Client will pay (a) a Placement Fee calculated at 15% of the Total Remuneration Package if the Worker has been on Assignment less than six (6) months; or (b) a Placement fee calculated at 8% of the Total Remuneration Package if the Worker has been on Assignment more than six (6) months.

6.2 Where, after the earlier of (a) six (6) months of termination or an Assignment or (b) six (6) months of the most recent referral of a Worker to the Client:

- (a) The Client or an related company of the Client such as but not limited to a parent or subsidiary company engages the Worker as an employee or an independent contractor;
- (b) The Client introduces the Worker to another person or organisation and that person or organisation engages the Worker as an employee or as an independent contractor; or
- (c) The Client introduces the Worker to another person or organisation and that person or organisation engages the Worker as an employee or as an independent contractor back to the Client,

Then the Client will pay a Placement Fee calculated at 10% of the Total Remuneration Package.

7. INSURANCE

7.1 The Client undertakes to ensure that the Worker is adequately insured against any liability to third parties arising out of the Worker's acts or omissions while in the course of an Assignment.

7.2 Unless otherwise agreed, the Worker shall not be required to use his or her own vehicle for the purposes of an Assignment. In the event the Worker uses their own vehicle for the purposes of an Assignment, the Client will be liable for any loss or damage caused or suffered by the Worker, to the extent that it is not covered by the Worker's own insurance cover.

8. COMPLIANCE WITH LEGISLATION

8.1 Workers Assigned to the Client, are under the Client's care, control, direction and supervision. The Client agrees to provide a safe workplace for the Worker and comply with the legislative and regulatory requirements relating to employees, including but not limited to *Health and Safety at Work Act 2015*, *Human Rights Act 1993* and *Employment Relations Act 2000*.

8.2 The Client will not allow the Worker to carry out work on site or on equipment considered unsafe by any party, or where a Worker does not have the appropriate qualifications or previous experience to perform the work safely.

8.3 The Client agrees to allow Supplier representatives reasonable access to its sites to conduct, among other things as a good employer, annual site health and safety reviews, Worker performance reviews, and to assess general care and wellbeing of its Workers.

8.4 In the event of an injury, the Client agrees, to ensure appropriate medical assistance is sought and will immediately advise the supplier.

8.5 The Client agrees where practicable, to assist with rehabilitation of a Worker injured whilst on Assignment by providing suitable duties in consultation with the Supplier.

9. NATURE OF RELATIONSHIP BETWEEN WORKER AND CLIENT COMPANY

9.1 The parties agree that the Supplier employs the Worker and that the Worker while on Assignment does not become an employee of the Client unless further engagement is agreed upon and is in accordance with all aspects of Clause 6.

9.2 The Client agrees that they will not alter or change the duties of the Worker engaged by the Supplier, the remuneration paid or undertake any process that compromises the employment relationship the Supplier has with its Worker. Any such and required changes will be discussed with the Supplier and the Supplier will facilitate as required.

10. LIABILITY

10.1 The Client agrees that actual tasks or outcomes performed by a Worker under an Assignment are not Services provided by the Supplier. Once a Worker commences an Assignment with the Client, the Worker is subject to the Client's care, control, supervision and direction.

10.2 The Supplier will not be liable for any acts, omissions or errors of any Worker during and Assignment and the Client indemnifies the Supplier, to the extent permissible by law, from any liabilities, losses or claims incurred or suffered directly or indirectly by the Client as a result of the acts or omissions by the Worker while on Assignment with the Client.

10.3 The provisions of this clause 10 continue to bind the parties after any Assignment has ended.

11. PERMANENT SERVICES

11.1 The Supplier will identify and introduce Candidates to be Engaged by the Client on a full time, part time or fixed term basis.

11.2 The Supplier will test and reference check Candidates when the Supplier considers it appropriate and practicable to do so.

11.3 The Supplier will use its best endeavours to make known to the Client the Candidate's employment records, qualifications and salary requirements as accurately and objectively as possible.

11.4 Except where the Supplier is precluded by the Candidate or by law, the Supplier will not withhold any information about a Candidate which might adversely affect the Client.

11.5 The Client will be liable to pay a Placement Fee to the Supplier if any of the following events happen within six (6) months of the date of the first introduction of a Candidate:

- (a) The Candidate is Engaged by the Client as a result of the Supplier's introduction of the Candidate;
- (b) The Client passes the details of the Candidate to a third party and that third party Engages the Candidate;
- (c) The Candidate was not initially Engaged by the Client but is subsequently Engaged by the Client; or

- (d) The Client's offer of Engagement is accepted by the Candidate but due to no fault of the Candidate, that Engagement does not commence.

11.6 Any request for Services on a "client-paid basis" (e.g., for advertising, psychometric assessments) are separate to the Placement Fee. the parties will agree to the fee to be paid for these additional services before they are provided.

12. FEES, PAYMENT AND INVOICING

12.1 The Placement Fee payable by the Client will be 15% of the Total Remuneration Package.

12.2 The Client will pay all charges (plus GST) which are invoiced by the Supplier, and all agreed advertising costs invoiced by the Supplier within seven (7) days of the date of a company invoice unless otherwise agreed.

12.3 A claim or dispute raised by the Client does not entitle the Client to set-off against, or withhold payment of, any money owed to the Supplier.

12.4 The cost of recovering any debt owed to the Supplier by the Client shall be met by the Client.

13. PLACEMENT GUARANTEE

13.1 The following Placement Guarantee is subject to:

- (a) Payment of the Placement Fee in full being made within seven (7) days of the date of the Supplier invoice or as otherwise agreed to in writing;
- (b) Notification having been given to the Supplier by the Client of the intention to call upon the guarantee prior to the expiration of the guarantee period; and
- (c) Cessation of the candidate's employment during the guarantee period is not due to restructuring of the job, redundancy or redeployment initiated by the Client.

13.2 If the Candidate is dismissed by the Client for cause or leaves during the period of twelve (12) weeks, the Supplier will endeavour to procure a suitable replacement Candidate. If the Supplier is unable to find a suitable replacement Candidate within four (4) weeks, the Supplier shall provide the Client with a credit calculated in accordance with the following table (valid for three (3) months from its issue date) subject to clause 13.3:

Employment Period	Credit Value
Candidate leaves within 4 weeks of commencement	75%
Candidate leaves within 5-6 weeks of commencement	50%
Candidate leaves within 7-12 weeks of commencement	25%

13.3 No credit applies if the vacancy is filled through other sources and unless the Supplier is provided with the exclusive opportunity to submit a replacement candidate top the original job specification within four (4) weeks of the date of notification of cessation of employment.

13.4 Except as provided in this Clause 13, the Client is not entitled to recover any money from the Supplier.

14. POSTPONING OR TERMINATING SERVICES

14.1 Where a request for Permanent Services is cancelled or postponed by the Client after the commencement of the recruitment activity (i.e., confirmation of job order), the Supplier reserves the right to charge the client a service fee for costs incurred. The service fee will be determined by the type of recruitment search the Supplier is engaged in for that particular role and in accordance with the following:

Services Provided	Fee
On commencement of recruitment activity but prior to shortlisting	25%
On shortlisting and presentation of Candidates	50%
After the Supplier has organised an interview for Candidate(s) with the Client	75%

16. LIABILITY

16.1 The Client acknowledges and agrees that:

- (a) It has absolute discretion as to the employment or Engagement of a Candidate;
- (b) It is responsible for assessing the suitability of the Candidate; and
- (c) Once a Candidate commences employment with the Client (i) the Candidate will be the Client's employee; and (ii) the Client will be liable for any acts or omissions of the Candidate.

16.2 The Supplier will not be liable for any loss, damage or expense suffered by the Client resulting from the acts or omissions of a Candidate or from any delay or failure by the Supplier to refer a Candidate to a Client.

16.3 The Client indemnifies the Supplier against any loss, damage or expenses suffered by the supplier arising from the referral of, or any acts or omissions of, any Candidate or the Client, or arising from any breach of these Terms and Conditions.

16.4 The provisions of this clause 16 continue to bind the parties after these Terms and Conditions have ceased to apply.

GENERAL

17. LIMITATION OF LIABILITY

17.1 Notwithstanding anything in these Terms, The Supplier's liability under these terms will be limited to the lesser of \$100,000 or 100% of the fees paid in the last 12 months at the time that the liability arises.

17.2 Neither party will be liable to the other for any indirect or consequential losses, including loss of profit, loss of revenue, loss of production, loss of or damage to reputation or loss of data.

18. CONFIDENTIALITY

18.1 All information supplied by a party to another is confidential and must not be disclosed to any other party without the written consent of the discloser, unless required by law. This includes but is not limited to information in respect of a Candidate imparted to the Client for the sole purpose of enabling the Client to determine whether the Candidate is suitable for employment

19. VARIATION AND ASSIGNMENT

19.1 Excluding Clause 4.5, these Terms may not be amended except by mutual written agreement of the parties.

19.2 The Client may not assign this agreement without prior written consent of the Supplier.

20. GOVERNING LAW

20.1 These Terms and Conditions are governed by the laws of New Zealand.

20.2 These Terms and Conditions are binding on, and for the benefit of, the successors of the Client and the successors and assigns of the Supplier.

EXECUTION

The Supplier	
Name of 1st Authorised Representative:	Name of 2nd Authorised Representative:
Title:	Title:
Signature:	Signature:
Date:	Date:

The Client
Name of Authorised Representative:
Title:
Signature:
Date: