

## Contract Staff

### 1. Parties

- 1.1. These terms and conditions (“Terms”) are between ES2 People (ABN:57 163 419 136) and any company or organisation (the “Client”) that requires the introduction of personnel (the “Candidate”) for temporary employment (the “Assignment”).

### 2. Fees & Employment Obligations

- 2.1. The Client agrees to pay the hourly/day rate (+ GST) advised at the time of booking of the Assignment. The hourly/day rate includes an allowance for all statutory charges paid by ES2 People (including payroll tax, superannuation and workers’ compensation).
- 2.2. The rate will be subject to a CPI increase annually which will come into effect July 1<sup>st</sup> of each year.
- 2.3. Any amounts that ES2 People is required to pay to Candidates under the provision of an award or any other legislative requirement during the Assignment will be incorporated into the hourly/day rate paid by the Client.
- 2.4. Where the fees charged by ES2 People are dependent on an agreed pay rate for the Candidate, if changes to the pay rate become necessary due to statutory regulations, union negotiations or award, enterprise agreement or site specific increases or allowances, then these changes (including back pay) will be directly reflected in the fees charged.
- 2.5. All charges will be invoiced weekly and payable upon receipt.
- 2.6. ES2 People are required to comply with relevant laws and industrial awards applying to Candidates. The Client therefore agrees to notify ES2 People within (24) hours should any Candidate be required to work overtime or outside of normal working hours.
- 2.7. All reasonable costs incurred by a Candidate attending an interview or due to the Client requiring the Candidate to travel during the Assignment will be paid by the Client.

### 3. Subsequent Employment & Assignment Extensions

- 3.1. If the Client engages a Candidate introduced via ES2 People within the duration of an Assignment or within (12) months of the conclusion of an Assignment as an employee, contractor or in any other capacity, the Client will pay a fee to ES2 People. This placement fee will apply to any Candidate introduced via ES2 People who is engaged by the Client or any division, related company or third party in any capacity.
- 3.2. The permanent placement fee for such an occurrence will be calculated in line with ES2 People’s standard Permanent Fee Schedule and no guarantee period applies to such placements.
- 3.3. For the conversion of a temporary Assignment to permanent employment with the Client, fees will be reduced as follows:

<b>0-3 Months</b>	No Reduction
<b>4-6 Months</b>	10%
<b>7-12 Months</b>	15%

### 4. Payment Terms

- 4.1. The Client agrees to pay the hourly/day rate for all hours the Candidate works along with any additional costs agreed by the Client. The hours worked will be submitted by the Candidate weekly and authorised by the Client.
- 4.2. ES2 People will invoice charges for providing a Candidate for an Assignment on a weekly basis which will be payable within seven (7) days.
- 4.3. Any fees payable under these Terms are exclusive of Goods and Services Tax (GST). GST charges will be added to invoices.

## 5. Client Obligations

- 5.1. The Client is responsible for the direction, supervision and control of the Candidate provided by ES2 People for the term of the Assignment.
- 5.2. The Client agrees to notify ES2 People immediately in writing if they are unhappy with the Candidate.
- 5.3. The Client is responsible for the working environment of the Candidate for the duration of the Assignment and as such will ensure that the Candidate is provided with a safe working environment that complies with relevant legislation.
- 5.4. The Client agrees that whilst the Candidate is on Assignment with the Client, the Client will be responsible for instructing the Candidate in the performance of work and must ensure that the Candidate, performs the work in accordance with all statutory obligations applicable to the Client's site.
- 5.5. ES2 People agrees to use its best endeavours to cause the Candidate to comply with the Client's occupational health and safety policies and procedures. The Client agrees to assist ES2 People in its endeavours to do so, including provision of full documentation of the Client's policies if and when requested by ES2 People, as well as allowing ES2 People employees or other persons nominated by ES2 People, to enter the Client's site for the purpose of conducting inspections, incident investigations and audits.
- 5.6. The Client agrees to notify ES2 People as soon as practicable upon becoming aware of any incident involving a Candidate.
- 5.7. In the event of a Candidate being injured while working on the Client's site, the Client acknowledges they have a joint responsibility with ES2 People for the rehabilitation of the injured Candidate. In such circumstances, the Client agrees to provide suitable duties in accordance with the treating medical practitioner's advice.
- 5.8. The Client must provide and ensure that the Candidate attends the Client's induction/job familiarisation prior to the Candidate starting work for the Client. The Client agrees to provide ES2 People with documented records verifying that a site-specific and/or job specific induction has been provided.
- 5.9. The Client warrants that the Client has, and will maintain liability insurance which provides cover for all works carried out by the Client, including against liability for work carried out by the Client's employees and any Candidate working under the Client's supervision.

## 6. ES2 People's Obligations

- 6.1. ES2 People will be responsible for the allocation and payment of wages, superannuation, workers' compensation and public and professional liability insurance in relation to the Assignments undertaken by the Candidates.

## 7. Termination

- 7.1. ES2 People can immediately terminate the employment of a Candidate engaged on a temporary Assignment if found to be engaging in serious misconduct, or otherwise by giving a minimum of one (1) week's notice.

## 8. Reference Checking & Suitability

- 8.1. The Client is responsible for satisfying itself as to the suitability of the Candidate prior to engaging with the Candidate. This includes all necessary reference, background checks and testing. On request, ES2 People may undertake this task.
- 8.2. ES2 people are not liable for any untrue statements or misrepresentations made by a Candidate, or the accuracy of information provided by the Candidate.
- 8.3. ES2 People will make reasonable endeavours to confirm the experience, qualifications and skill level of the Candidate it sources for the assignment brief provided by the Client. ES2 People makes no representation as to the actual skill level or capability of any Candidate.

- 8.4. Where the Candidate's original duties have changed, the Client, before the work is undertaken, will notify ES2 People of such change and the commencement by the Candidate of such changed duties shall be conditional upon ES2 People being able to verify with the Candidate that the Candidate is trained, competent and qualified to perform the changed duties.

## 9. Liability & Indemnity

- 9.1. To the extent permitted by law, ES2 People and any of its employees, contractors and agents will not be liable to the Client for any loss incurred by the Client, be it direct, indirect or consequential arising from any breach of any expressed or implied term. Where liability arises which cannot be excluded, then ES2 People's liability will be limited to the re-supply of recruitment services, or the payment of the cost of having the services supplied again.
- 9.2. The Client acknowledges that ES2 People is not performing the services required of its Candidate. ES2 People's contractual duty is to provide Candidates qualified to perform the services required by the Client. From the time a Candidate reports to the Client, they are under the care, control and supervision of the Client for the duration of their Assignment with the Client.
- 9.3. The Client agrees that ES2 People is not liable to the Client in respect of any damage, loss or injury of whatsoever nature or kind, which is caused or contributed to by the acts or omissions of a Candidate to the extent that the Candidate has acted or omitted to act in accordance with the directions or instructions (direct or implied) of the Client.
- 9.4. Without limiting ES2 People's liability at law or in tort the Client agrees to:
- 9.4.1. indemnify and keep indemnified ES2 People and its directors, officers, agents and assignees against any liability for any claims made against ES2 People or the Candidate arising out of or in connection with any breach by the Client of these Terms; or
  - 9.4.2. any loss, damage or injury suffered by a third party caused by any negligence or deliberate act by a Candidate in the course of performing work for the Client.
- 9.5. In relation to each of the indemnities in these Terms:
- 9.5.1. the indemnity is a continuing obligation, separate and independent from the other obligations of a party and survives the expiration or earlier termination of contractual relations between the parties;
  - 9.5.2. it is not necessary for a party to incur expense or make a payment before enforcing a right of indemnity conferred by these Terms; and
  - 9.5.3. a party is liable to pay to the party to be indemnified an amount equal to any loss suffered or incurred by an employee, officer or agent of that party.

## 10. Confidentiality, Privacy & IP

- 10.1. In line with the Privacy Act 1988, all information provided to the Client is private and to be kept confidential, regardless of the means required and is provided for the sole purpose of enabling the client to determine a Candidate's suitability for employment.
- 10.2. ES2 People and the Client acknowledge that each party has no right or interest in respect of the Confidential Information of the other party and that all of the Confidential Information is and will be the sole and exclusive property of the party disclosing the Confidential Information. ES2 People and the Client must do everything necessary to keep the Confidential Information of the other party confidential.
- 10.3. "Confidential Information" means all confidential information and trade secrets of ES2 People or the Client whether verbal, written or in electronic format.
- 10.4. The Client agrees to comply with the Privacy Act 1988 and keep confidential all resumes, pricing and all other material supplied by ES2 People.

- 10.5. The Client agrees and acknowledges that Candidates own the intellectual property rights contained in Candidates' resumes.

## 11. Suspension or Ceasing Provision of services:

- 11.1. ES2 People may in its complete discretion and without incurring any liability to the Client, cease or suspend provision of services to the Client or amend these Terms.
- 11.2. The Client must provide ES2 People with seven (7) business days' notice of cancellation or postponement of services that have not yet commenced to enable ES2 People to gainfully deploy the Candidate elsewhere. If the Client does not provide the notice as required then ES2 People may charge the Client as if the Candidate were engaged and had provided the services for the period of notice under these Terms, as well as all costs wasted as a result of the cancellation including accommodation and travel.
- 11.3. If the Client fails to pay in accordance with these Terms or otherwise breaches these Terms, ES2 People may, without prejudice to its other rights, call up monies owed to it by the Client, retain all moneys paid on account, or cease further services and recover from the Client all loss of profits arising there from.

## 12. General Terms

- 12.1. ES2 People will not be responsible for any delays caused by or in any way related to or arising out of any cause outside ES2 People's reasonable control. Delays due to force majeure do not relieve the Client from the obligation to pay for services already provided.
- 12.2. These Terms and the provision of the services will be governed and construed in accordance with the laws of Western Australia and the parties hereby agree to submit to the exclusive jurisdiction of a competent court in Western Australia.
- 12.3. A variation or waiver of, or any consent by a party to any departure from, a provision of these Terms is only effective if it is in writing and signed by the parties. That variation, waiver or consent is effective only to the extent for which it is made or given.
- 12.4. The failure, delay, relaxation or indulgence on the part of any party in exercising any power or right conferred upon that party by these Terms does not operate as a waiver of that power or right. Any single exercise of any power or right does not preclude any other or further exercise of it or the exercise of any other power or right under these Terms.
- 12.5. These Terms constitute the sole and entire agreement between the parties. A warranty, representation, guarantee or other term or condition of any nature that is not contained, recorded, or referred to in these Terms, is of no force or effect.
- 12.6. The covenants, conditions and provisions of these Terms that are capable of having effect after the expiration of these Terms will remain in full force and effect following the expiration of these Terms.

# Terms & Conditions

**These Standard Terms & Conditions of Business take effect once signed by a representative of the Client.**

Acceptance of Terms

Date: \_\_\_\_\_

\_\_\_\_\_  
Client's Company

\_\_\_\_\_  
Client Representative:

\_\_\_\_\_  
Client Representative's Signature:

\_\_\_\_\_  
ES2 People Representative:

\_\_\_\_\_  
ES2 People Representative's Signature: