

CONTRACT OF SERVICES - PAYG

Between and The Recruitment Company

Preamble

- A. The Contractor is engaged in the business of providing the services as an independent contractor particulars of which are specified in the Schedule (the “**Services**”).
- B. The Recruitment Company (TRC) has engaged to provide, and the Contractor agrees to provide the Services to the Client of TRC in accordance with this Agreement.
- C. The Contractor acknowledges that they have had an opportunity to determine whether to be engaged as an employee or an independent contractor and acknowledges that they are engaged by TRC as an independent contractor and nothing in this Agreement constitutes the Contractor as an agent, employee or partner of TRC.

1.0 The Contractor's obligations

- 1.1 The Contractor will complete the tasks specified by the Client from time to time within the time frames and to the standard specified by the Client.
- 1.2 The Contractor acknowledges that prior to entering into this Agreement, they have reviewed the terms and conditions of the Agreement and that they have had sufficient time to make a decision as to the fairness of the Agreement before executing this Agreement.
- 1.3 The Contractor acknowledges that they have been informed that they have a right to elect to be an employee or contractor and have been informed of the effects of being an employee or contractor and they voluntarily agree to be a contractor.
- 1.4 The Contractor will ensure that the Services are performed to the best of the Contractor’s abilities at all times and that the Contractor possesses all skills and qualifications appropriate for the provision of the Services.
- 1.5 Where the Contractor is required to use their own equipment to perform the tasks and duties set out by the Client, the Contractor warrants that the equipment is in proper working order and that all software used is licensed and virus free. The Contractor understands that the Contractor must not introduce by any means any software, program or data into the Client’s computer equipment without authority from the Client. The Contractor agrees to take responsibility for the downtime of the Contractor’ own equipment and will not charge TRC or the Client for this downtime. The Client’s software system is not to be copied.
- 1.6 The Contractor warrants that the Contractor is legally eligible to work in Australia for the duration of this Agreement and agrees to provide evidence of this if and when required.

The Recruitment Company

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The ‘Contractor’

**THE
RECRUITMENT
COMPANY**

The Recruitment Company

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The 'Contractor'

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2.0 Relationship Between the Parties

- 2.1 The Contractor provides the Services as an independent contractor on an on hire basis from hire to hire. The Contractor is not TRC's employee, partner, legal representative, agent, joint venturer or franchisee. The Contractor has no right or authority to bind TRC, assume or create any obligations for or on behalf of TRC, or make any representations or warranties for or on behalf of TRC as the Contractor is conducting his/her own business in providing the Services to the Client and is not integrated into the business conducted by TRC. The Contractor is not entitled to any benefit from TRC usually attributable to an employee as no employment relationship exists between TRC and the Contractor.
- 2.2 The Contractor acknowledges that TRC has no control over the way, method and manner in which the Services are provided by the Contractor to the Client.

3.0 Rate and Payment

- 3.1 TRC will pay the Contractor for the hours recorded in the timesheets at the rate specified in the Schedule (the "Fee") in accordance with TRC's Contractor payment cycle (as amended from time to time). The Fee is exclusive of GST.
- 3.2 The Contractor acknowledges that TRC receives an amount from the Client in respect of the Services provided by the Contractor and that TRC will deduct from that amount, agency margin, administration costs, superannuation, taxation and insurance as determined by TRC, to provide the Contractor with the Fee.
- 3.3 The Contractor agrees that payment of the Fee constitutes full payment for the provision of the Services in accordance with the invoice.

4.0 Expenses

- 4.1 As the Contractor provides the Services to the Client on an on hire basis, the Contractor will provide the Services at its own cost, and unless expressly authorised by TRC, will not be entitled to be reimbursed for any out of pocket expenses incurred by the Contractor in connection with the provision of the Services and will be solely responsible for and solely bear:
- (a) the payment to the Contractor's employees, contractors and agents of remuneration and benefits including salaries and wages, annual leave, sick leave, superannuation, long service leave and all other benefits to which any of them may be entitled under any contract of service or contract for service with the Contractor or under any award, industrial instrument, statute or common law;
 - (b) the payment of all taxes and duties in respect of such remuneration and benefits; and
 - (c) compliance with, and costs of compliance with, all other statutory or other legal or contractual requirements with respect to the Contractor's engagement under this agreement.

- 4.2 Work related expenses will be reimbursed by TRC to the Contractor if:
- (a) The expense is incurred at the written request of the Client;
 - (b) The expense is properly substantiated and are associated with the service;
 - (c) A receipt showing the provider's ABN is submitted along with details of the expense;
 - (d) TRC's Expense Claim Form is completed (copy obtainable from TRC).

5.0 Occupational Health and Safety

- 5.1 The Contractor must at all times ensure that they familiarise themselves with the relevant health and safety legislation at the Workplace.

6.0 Timesheets

- 6.1 The Contractor is responsible for providing accurate timesheets and for ensuring that these are approved by an authorised approver for the Client.
- 6.2 Unless otherwise specified by the Client the Contractor will complete these timesheets on TRC's electronic timesheet system or as advised by TRC from time to time.

7.0 Confidentiality and Ownership of Confidential Information

- 7.1 Ownership of the Client's Confidential Information will vest in the Client.
- 7.2 The Contractor covenants to TRC that:
- (d) it will not, either during the operation of this Agreement or at any time thereafter, use or disclose to any person or entity any of the Confidential and/or Proprietary Information;
 - (e) it will hold the Confidential Information on trust for the true owner;
 - (f) it will use its best endeavours to prevent the unauthorised use or disclosure of any of the Confidential Information by third parties; and
 - (g) TRC may at its sole election assign the covenant as contained in this part.
- 7.3 The Contractor must take all reasonable precautions to prevent any unauthorised disclosure of Confidential Information and unauthorised use of any proprietary information, including the following precautions:
- (h) the Contractor must at all times store all Confidential Information safely and securely;
 - (i) the Contractor must immediately notify TRC in writing of any actual, threatened or suspected unauthorised disclosure of any Confidential Information; and
 - (j) the Contractor must take all reasonable measures to minimise any unauthorised dissemination of any Confidential Information which is in any way related to or resulting from an act or failure to act by the Contractor.

8.0 Intellectual Property

- 8.1 The Contractor acknowledges that:
- (a) All Intellectual Property created or conceived by the Contractor during the operation of this Agreement will vest in the Client and the Contractor assigns such Intellectual Property to the Client.
 - (b) The Client shall have the sole right to use and exploit all such Intellectual Property without the Contractor's involvement or additional compensation to the Contractor.

9.0 Ending This Agreement

- 9.1 The Contractor and TRC may end the Agreement by giving each other written notice for the appropriate period as specified in the Schedule, or, in TRC's case should it so choose, payment in lieu of notice. Should TRC decide to terminate the Agreement reasons will be given for terminating the Agreement and in this regard TRC's reason shall be final and no other communication shall be entered into between TRC and the Contractor. The Contractor acknowledges to TRC that he or she shall not enter into any negotiation or litigation with TRC relating to the termination of this Agreement.
- 9.2 TRC may terminate this Agreement without any prior written notice if:
- (a) The Contractor fails to perform the Services to the reasonable satisfaction of the Client and the Client advises TRC that it requires TRC to immediately remove the Contractor from the workplace;
 - (b) The Contractor fails to rectify any breach of this Agreement or default in performance of the Contractor's obligations under this agreement within seven (7) days of TRC giving the Contractor written notice of that breach or default;
 - (c) The Contractor is guilty of misconduct in the conduct of the Services without due diligence and skill in the performance of the Services;
 - (d) The Contractor acts in any manner which in TRC's opinion damages or may damage TRC's relationship with the Client or the Client's reputation;
 - (e) The Contractor fails to provide the declaration sought by TRC in relation to their employees, contractors or agents engaged by the Contractor pursuant to this Agreement; or
 - (f) The Contractor breaches or is alleged to have breached a workplace policy of the Client which is sufficient to warrant a workplace investigation.
 - (g) The Client becomes insolvent or notifies TRC that it is unable to meet its financial obligations to TRC.
- 9.3 If this Agreement is terminated:
- (a) TRC does not have liability to the Contractor for any loss (including loss of profits and economic or consequential loss), costs, damages, compensation or any other amount in respect of that termination and in this regard the Contractor releases and forever abandons any claims against TRC it may have; and

- (b) TRC may retain any money due to the Contractor and use same as an offset in connection with this Agreement if the Client has notified TRC or if TRC are otherwise aware of any claim (including actual and potential) by the Client in connection with the Services. TRC may apply any money withheld by it to the reasonable resolution of any claim by the Client, and will pay the balance to the Contractor once all outstanding claims have been met.

10.0 Non Disparagement

- 10.1 This Agreement is confidential to TRC and the Contractor. The Contractor or TRC may not disclose or allow to be disclosed the content of this Agreement except to the extent that the disclosure is reasonably required to give effect to this Agreement or is required by law.
- 10.2 The Contractor and TRC agree that they shall not, during the course of this Agreement, mutually disparage one another so as to adversely affect the Contractor and TRC's good name and reputation.

11.0 Disputes

- 11.1 Should any dispute arise out of this Agreement, the parties agree that they will first attempt to deal with that dispute at the workplace level. If that dispute is not resolved within seven (7) days of either party notifying the other party that the dispute has arisen, it will be referred to arbitration at the cost of the party who raised the dispute.

12.0 Restraints

- 12.1 In consideration of the payments made to the Contractor under this Agreement, the Contractor covenants to TRC as follows:
- (a) that they will not, either in their own right or on behalf of any other person, corporation or legal entity, enter into any negotiations directly with the Client or any other third party on behalf of the Client whereby the Contractor or any person, consultant or corporation on behalf of the Contractor will provide the Services to the Client without first obtaining the prior written consent of TRC. The obligations that the Contractor has under this part will continue for a period of 12 months after the termination of this Agreement or any other subsequent agreement between TRC and the Contractor. In the event that the court finds that the obligations for the restrictions under this part of 12 months are too broad, the Contractor agrees that they will apply in lieu of 12 months a period of six (6) months;
- (b) that the Contractor will not, for a period which is the aggregate of the time in which the Contractor has provided the Services or in accordance with this agreement to TRC during the previous twelve month period, purport to encourage or solicit any employee, contractor or third party with whom the Contractor has had direct contact with while providing the Services under this agreement and who provides the Services to TRC to cease providing those Services to TRC or to any client of TRC where TRC receives a benefit for those persons providing those Services to the Client of TRC; and

- (c) that the Contractor will not during the operation of this agreement enter into any negotiations or agreement with the Workplace in respect of remuneration or benefits and the Contractor acknowledges that TRC is the only entity to negotiate and determine the remuneration paid by the Workplace to TRC for the Contractor providing the Services.

13.0 Miscellaneous

- 13.1 This Agreement can only be varied by agreement in writing.
- 13.2 The clauses of this Agreement contain the entire agreement between the Contractor and TRC. We both acknowledge that there are no promises, terms, conditions or obligations oral or written, expressed or implied, other than those contained in this Agreement.
- 13.3 Each clause in this Agreement is severable from the other clauses. If a clause or part of a clause becomes unenforceable for any reason this shall not affect the validity of the remainder of the clause or Agreement.
- 13.4 If either the Contractor or TRC grant an extension of time or indulgence to the other party this will not operate as a waiver of any rights.
- 13.5 This Agreement will be interpreted in accordance with the law of the state referred to in the Schedule.
- 13.6 By signing this Agreement, the Contractor agrees and confirms, that they have read and agree to adhere to TRC's Equal Employment and Harassment and Occupational Health and Safety policies.
- 13.7 If the Contractor accepts an assignment with TRC and its clients then it is deemed that the Contractor accepts the terms of this Agreement irrespective of whether the Contractor has signed it.
- 13.8 The address for service and deemed service of notices is as shown in the Schedule.

14.0 Jurisdiction

- 14.1 The construction, validity and performance of this agreement shall be governed by the laws of New South Wales and have exclusive jurisdiction in New South Wales and sitting in the City of Sydney in the central business district.

15.0 Whole of Agreement

- 15.1 This Agreement constitutes the entire agreement of the parties in respect of the matters dealt with in this Agreement and supersedes all prior agreements, understandings, arrangements and negotiations in respect of the on-hire Services.

16.0 Definitions

- 16.1 "TRC" means The Recruitment Company PTY Ltd, ABN 53 093 041 831.
- 16.2 "Client" means the person and/or (organisation) as specified in the Schedule or as advised in writing by TRC to the Contractor and the place where the Contractor will carry out the Services.
- 16.3 "Confidential Information" means all information concerning:
- drawings;
 - maps;
 - plans;
 - designs;
 - diagrams;
 - tables;
 - charts;
 - specifications;
 - TRC documents or Client documents;
 - Computer material;
 - Information in whatever form embodied in samples;
 - Models and any other objects or matter;
 - Any computer or other program or work systems;
 - Procedure;
 - Process;
 - Formula;
 - Method of production;
 - Invention or other discovery;
 - any Client material, whether written or electronic, that the Client identifies as confidential and/or proprietary to the Client or such material that is by its nature confidential and/or proprietary to the Client;
 - TRC's trade secrets, Confidential and/or Proprietary Information and the Client's trade secrets; and
 - other information designated as confidential and/or proprietary by TRC
- which the Contractor receives, becomes aware of, develops, creates or generates in the course of rendering Services pursuant to this Agreement.
- 16.4 "Contractor" means the person as specified in the Schedule engaged to provide the Services to the Client of TRC in accordance with this Agreement and includes their employees, contractors or agents.
- 16.5 "Contract period" means the period of time specified in the Schedule.
- 16.6 "Workplace" means the place where the Contractor renders Services in accordance with this Agreement.

The Schedule

Date:

Client:

Contact:

Contract period:

Services:

Rate (inc. Super):

Pay period:

Payroll runs every 2 weeks

Notice period:

weeks

Applicable law (State):

NSW

Notes:

EXECUTED AS AN AGREEMENT

Signed for and on behalf of:

The Recruitment Company

Name:

Signature:

Date:

Signed for and on behalf of:

Signature:

Date:

The Recruitment Company

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The 'Contractor'