

terms of business

new zealand

This document sets out the terms and conditions (“**Terms of Business**”) upon which Randstad Limited NZBN 9429037147334 (“**Randstad**”) will introduce and supply Candidates, Contractors or Temporary Workers, as applicable, to the Client. Notwithstanding the absence of a signature from the Client, these Terms of Business are deemed to be accepted by the Client by virtue of its request for, interview with or Introduction of a Candidate, Contractor or Temporary Worker, or the passing of any information by the Client about such workers to any third party following an Introduction and shall prevail over any conflicting terms and conditions put forward by the Client.

Client Details

Client name:
Billing name:
Address:
Email address:
NZBN/NZCN:
Contact name:
Phone number:
Signed:

As an authorised representative of the Client, I accept these Terms of Business for and on behalf of the Client.

Name:
Position:
Date:

1. Definitions

For the purpose of these Terms of Business the following definitions will apply:

- “**Agreement**” means these Terms of Business and attached Fee Schedule.
- “**Candidate**” means any person Introduced to the Client by Randstad for the purpose of them being considered for employment or other engagement by the Client.
- “**Client**” means any person or corporation (or any “related” or “associated” person or corporation of them, within the meaning of those terms in the Companies Act (1993)) that Randstad introduces Candidate(s), Contractor(s) or Temporary Worker(s) to.
- “**Commencement Date**” means the date this Agreement is executed by the Client.
- “**Contractor or Temporary Worker**” means any person supplied by Randstad to the Client to provide contracting or labour hire services to the Client.
- “**Fee Schedule**” means the schedule of fees attached to these Terms of Business, or the fees as notified by Randstad.
- “**GST**” has the same meaning given to it in the Goods and Services Tax Act 1985.
- “**Guarantee Period**” means the period specified in the Fee Schedule, or the period as notified by Randstad.
- “**HSE laws**” means the relevant health and safety laws including but not limited to the Health and Safety at Work Act 2015.
- “**Introduction**”, means where Randstad supplies, orally or in writing, any information about any Candidate, Contractor or Temporary Worker to the Client (such as name, academic record, employment history or other relevant information), and “**Introduced**” has a corresponding meaning.



- **“Part-Time Placement”** means a Candidate placed with a Client where they will work less than 5 working days each week or less than the applicable standard/award fulltime hours per week.
- **“Parties”** means Randstad and the Client and their respective successors and permitted assignees, and **“Party”** shall be construed accordingly.
- **“Placement Fee”** means the fee that is payable by the Client to Randstad in the circumstances described in clause 5.2, charged in accordance with the Fee Schedule.
- **“Privacy Laws”** means the Privacy Act 1993, and any amendments and regulations made pursuant to the Privacy Act 1993.
- **“Salary Package” or “Total Annual Salary Package”** means the anticipated gross remuneration package payable to the Candidate in the first year of their employment which includes gross annual salary, applicable benefits (including Kiwi Saver), commission, bonuses, allowances, joining inducements and the costs of the provision and maintenance of a motor vehicle to or for the benefit of the Candidate.

2. Acceptance of Terms of Business

- 2.1. The Introduction of a Candidate, Contractor or Temporary Worker, will constitute acceptance by the Client of these Terms of Business (if not previously accepted).

3. Term

- 3.1 The term of this Agreement is twelve (12) months from the Commencement Date.
- 3.2 Either Party may terminate this Agreement without cause at any time upon thirty (30) days written notice or with cause at any time upon fifteen (15) days written notice. Neither the expiration, or early termination of this Agreement shall release either Party from any obligation which has accrued as of the date of termination. For the avoidance of doubt, this includes the obligation to pay a Placement Fee for the further engagement of a Contractor or Temporary Worker in accordance with clause 6.
- 3.3 Randstad may, from time to time, give the Client written notice of amendments to this Agreement. The Client shall not unreasonably withhold or delay consent to such amendment requests.

4. Fees

Permanent Staff Services

- 4.1 The Client must notify Randstad in writing if it has employed a Candidate within 48 hours after the occurrence of the event.
- 4.2 The Placement Fee is calculated as a percentage of the Salary Package as per the Fee Schedule. The Placement Fee must be paid to Randstad within 14 days of the date of the relevant tax invoice.

- 4.3 For a Part-Time Placement, Randstad will charge the Placement Fee percentage applicable to the equivalent full time Salary Package.
- 4.4 The invoice will be raised on the Candidate's start date.

Contractor/Temporary Staff Services

- 4.5 The Client agrees to pay Randstad hourly, daily or weekly fees (as applicable) for the services of the Contractor or Temporary Worker, as advised to the Client at the time the Client books the services of the Contractor or Temporary Worker, for all hours, days or weeks, actually engaged, from the time the Contractor or Temporary Worker commences duties.
- 4.6 Out of pocket expenses (such as accommodation, meals and travel) are to be agreed in advance between Randstad and the Client and will be itemised on the invoice in addition to the fees, and are payable by the Client with the balance of the invoice.
- 4.7 There will be a minimum daily booking fee of 4 hours for Contractors or Temporary Workers.
- 4.8 The Client must pay the fee to Randstad according to the number of hours worked by a Contractor or Temporary Worker.
- 4.9 Fees will be invoiced weekly and are payable to Randstad within 7 days from the date of invoice.
- 4.10 Randstad may vary the fee at any time (including retrospectively) without notice to reflect the following:
- (a) changes to CPI or market rates;
 - (b) shift penalties, overtime rates, allowances or other rates payable pursuant to any award, agreement or rate of pay applicable to Contractor or Temporary Worker; and
 - (c) Statutory charges, levies, taxes, insurances or other payments Randstad is lawfully required to make or for which Randstad may become liable in respect of providing a Contractor or Temporary Worker under these Terms of Business.

Randstad Education Division Timesheets

- 4.11 In respect of Education Division placements only, the Client must review and approve the Contractor/Temporary Worker weekly timesheets by 4pm on the Monday following submission of the timesheet to it (the **“Timesheet Review Period”**). During the Timesheet Review Period, the Client may approve or where there are reasonable grounds, reject part or all of the time recorded on the timesheet. Unless the Client has rejected the timesheet in accordance with this clause 4.11, all remaining unapproved timesheets will be deemed automatically approved at the end of the Timesheet Review Period in order to ensure timely payment to the Contractors/Temporary Worker.

If the Client later wishes to dispute an invoice in respect of auto-approved timesheets, it must notify the Credit Team (as specified on the relevant invoice) within 14 days of the date of the Invoice. The Client agrees to pay all invoices which are not notified to Randstad as in dispute within the timeframes specified here.

5. Liability to Pay Placement Fees

- 5.1 The Client will advise if a Candidate has already been introduced by another party or otherwise before scheduling an interview with the Candidate.
- 5.2 The Client will be liable to pay Randstad a Placement Fee, in accordance with these Terms of Business, in any of the following circumstances:
- (a) if in any way the employment of the Candidate is as a consequence of or is otherwise attributable to the Introduction of the Candidate by Randstad;
 - (b) if Randstad Introduced the Candidate to the Client and (in breach of confidence or otherwise) the Client passes the details of the Candidate to a third party (including its subsidiaries, affiliated or related companies) that subsequently employs the Candidate within 12 calendar months of the date of Introduction;
 - (c) the Candidate is employed by the Client (irrespective of the position in which they are employed) within a period of one year after he/she was last Introduced to the Client by Randstad;
 - (d) if the Client employs a Randstad employee, Contractor or Temporary Worker who is performing an assignment for the Client or who has performed an assignment for the Client within the past 12 months; or
 - (e) if the Client employs any permanent Randstad staff member.

6. Further Contracting or Employment of Contractor or Temporary Worker

- 6.1. If the Client engages a Contractor or Temporary Worker in any capacity, whether directly or indirectly (including where the Contractor or Temporary Worker is transferred to another supplier of recruitment services), in any instance while they are performing the relevant assignment or within 12 months after they have last performed a similar assignment for the Client, the Client must pay to Randstad the usual permanent Placement Fee in respect of the Contractor or Temporary Worker. In the event that the Placement Fee cannot be accurately established, the fee will be 160 times the hourly rate at which the Contractor or Temporary Worker was last supplied to the Client by Randstad.
- 6.2. The Client agrees to notify Randstad within 48 hours if it engages a Contractor or Temporary Worker in the circumstances outlined in clause 6.1, and to pay the relevant Placement Fee in accordance with the

Fee Schedule to Randstad within 14 days of receipt of the relevant tax invoice.

7. Retained Assignment and Executive Search

- 7.1 For any retained or executive search assignments a fee of 25% of the applicable total salary package will apply, or such other amount specified in the Fee Schedule. A non-refundable service fee of one third of the reasonable estimation of the Placement Fee will be invoiced on acceptance of a retained or executive assignment, and must be paid by the Client in order for the next stage of the recruitment process to continue.
- 7.2 An invoice for the second third of the fee will be raised at presentation of the shortlist and an invoice for the remainder of the Placement Fee will be invoiced at the time of the successful placement.

8. Fixed Term Placements

- 8.1 A Placement Fee for fixed term placements will be charged on a pro rata basis (on the basis that the full Placement Fee is payable for a period of 12 months or more). If the Candidate is subsequently offered (and accepts) a permanent position, the Client will be charged the balance of the full Placement Fee amount in accordance with these Terms of Business.
- 8.2 If the fixed term placement is extended, but not fully converted to a permanent position, the Client will be invoiced a further pro rata amount based on the additional period the Client intends the Candidate to continue. This arrangement will be repeated until the amount of the Placement Fee for a permanent placement has been invoiced and paid. For fixed term placements of less than 6 months there will be a minimum pro rata charge of 50%.
- 8.3 Randstad will endeavour to provide the Candidate with accurate details of the fixed term assignment and to provide the Client with accurate information regarding the Candidate (in terms of qualifications and experience), but cannot accept responsibility for any loss, expense, damage or delay, in connection with the Introduction of the Candidate, the Candidate's subsequent employment or otherwise.
- 8.4 The Client agrees that it will investigate references, and satisfy itself regarding any medical requirements, qualifications, and working rights as it may see fit including where such investigations are undertaken by Randstad on the Client's behalf.

9. Placement Guarantee

Permanent Placement

- 9.1. If any Candidate placed in a permanent role by Randstad leaves the Client's employment within the **Guarantee Period** Randstad will endeavour to find a replacement at no additional charge to the Client (the "**Placement Guarantee**") as long as the following conditions have been met:

- (a) the Client paid the Placement Fee within 14 days from the relevant tax invoice date;
- (b) prior to the expiration of the Guarantee Period the Client advised Randstad in writing of its intention to call upon the Placement Guarantee;
- (c) the original job description and assignment specification do not alter;
- (d) cessation of the employment was not due to restructuring of the role, retrenchment or redeployment or substantiated grievance against the Client; and
- (e) Randstad is given the exclusive recruitment opportunity to find a replacement Candidate for a period of at least 4 weeks.

- 9.2. If the Placement Guarantee conditions are not met, the Placement Guarantee is null and void.
- 9.3. If Randstad is unable to source a suitable replacement Candidate after having had a 4 week exclusive period to do so, Randstad will then (at the Client's discretion) continue to try to find a replacement Candidate or provide a credit note for the amount of the Placement Fee paid. The credit note will be valid for 12 months from the date it is raised.
- 9.4. No Placement Guarantee is provided for a Candidate who has been placed in a permanent role where a Placement Guarantee has already been called on or where the Candidate was previously engaged as a Contractor or Temporary Worker, on a fixed term placement or was previously a permanent Randstad employee.

10. Client Obligations

- 10.1 The Client undertakes to supervise the Contractor or Temporary Worker to ensure reasonable standards of workmanship. If the standards of the Contractor or Temporary Worker prove to be unsatisfactory, Randstad may reduce or cancel the charge for the time worked by the Contractor or Temporary Worker, provided that the Contractor or Temporary Worker leaves their assignment immediately and that notification is received from the Client within 4 hours of the Contractor or Temporary Worker commencing duties, and such notification is promptly confirmed in writing.
- 10.2 From the time the Contractor or Temporary Worker reports to take up duties, they are deemed to be under the direction and control of the Client for the duration of the assignment. The Client agrees to be responsible for all their acts, errors or omissions (wilful, negligent or otherwise) as though the Contractor or Temporary Worker was employed by the Client, and the Client will, in all respects, comply with all statutes, by-laws and legal requirements to which the Client is ordinarily subject to in respect to the Client's employed staff including ensuring the health and safety of the Contractor or Temporary

Worker. However, nothing contained or implied in these Terms of Business will be deemed to define the Contractor or Temporary Worker as an employee of the Client for any other purpose or purposes.

- 10.3 Randstad is to be provided with not less than eight hours notice of cancellation or postponement of any individual Contractor or Temporary Worker assignment.
- 10.4 Under the relevant HSE laws, Randstad and the Client have mutual obligations in ensuring the health and safety of Randstad Contractors and Temporary Workers. The Client acknowledges and agrees it has a duty of care to the Contractor or Temporary Worker and must ensure the provision of:
 - (a) a safe workplace;
 - (b) a safe work system;
 - (c) adequate supervision and training;
 - (d) an induction to site and equipment, including amenities and evacuation procedures; and
 - (e) elimination of hazards and controlling risks to health and safety.
- 10.5 The Client agrees to notify Randstad of any changes to the workplace, place of work or tasks to be performed by the Contractor or Temporary Worker. The Client shall not allow the Contractor or Temporary Worker to carry out work on a site or on equipment considered unsafe by any Party, or where the Contractor or Temporary Worker does not have the appropriate qualifications or previous experience and has not received adequate training.
- 10.6 The Client shall notify Randstad of any injuries to the Contractor or Temporary Worker and notify the relevant authority of any serious injuries.
- 10.7 The Client agrees to hold Randstad harmless from any penalty or cost issued or incurred by Randstad due to the negligence or breach of any statutory obligation by the Client.
- 10.8 Randstad will take every opportunity to ensure that the Contractor or Temporary Worker adheres to dress standards and presents for work wearing the appropriate clothing and footwear (where required). It is the Client's responsibility to ensure that the Contractor or Temporary Worker does not commence work unless wearing the correct personal protective equipment for the intended task.
- 10.9 The Client must so far as is reasonably practicable consult, cooperate and coordinate with Randstad, its Contractors and Temporary Workers so as to achieve effective coordination of activities to ensure optimal work health and safety risk management and enable Randstad and its Contractor's and Temporary Workers to comply with respective obligations under all relevant HSE laws.

11. Randstad Obligations

- 11.1** Randstad makes every reasonable effort to provide Contractors or Temporary Workers in accordance with Client's booking details and to ensure each Contractor or Temporary Worker provided to the Client performs their duties with reasonable standards of skill, integrity and reliability.
- 11.2** Randstad will maintain adequate insurance as required under any applicable law, at such coverage limits in accordance with good professional practice and against insurable risks which may be incurred from the recruitment services provided.

12. Limitation of Liability

Permanent Staff Services

- 12.1** Once a Candidate commences employment with the Client, the Candidate is subject to the Client's control and direction.
- 12.2** The Client agrees that Randstad shall not be liable for any acts, omissions or errors of any Candidate whatsoever, and the Client agrees to indemnify Randstad from any liabilities, losses or claims incurred or suffered as a result of the engagement of, or acts or omissions by the Candidate whatsoever.
- 12.3** Randstad's liability under these Terms of Business whether in contract, tort (including negligence) or otherwise for permanent placements, shall be limited to 100% of the fees which are paid at the time that the liability arises.

Contractor/Temporary Staff Services

- 12.4** Whilst reasonable efforts are made by Randstad to give satisfaction to the Client by ensuring reasonable standards of skill, integrity and reliability from the Contractors and Temporary Workers and to provide the same in accordance with the assignment details as provided by the Client, the Contractors and Temporary Workers are deemed to be under the supervision, direction and control of the Client from the time they report to take up duties and for the duration of the assignment. Therefore for the duration of the assignment, the Client agrees to be responsible for and indemnify Randstad from any liabilities, losses or claims incurred or suffered as a result of the acts, errors or omissions of the Client and of the Contractor or Temporary Worker, whether wilful, negligent or otherwise as though the Contractor or Temporary Worker was on the payroll of the Client.

- 12.5** Randstad's maximum liability under these Terms of Business whether in contract, tort (including negligence) or otherwise for Contractor or Temporary Worker Placements, shall be limited to 100% of the fees which are paid or payable by the Client to Randstad in the 12 calendar months preceding the event which gave rise to Randstad's liability and in no event shall exceed an aggregate total sum of NZ\$100,000 per year.

General

- 12.6** Neither Party will be liable to the other for any indirect or consequential losses, loss of profit, revenue, production, reputation or any special, punitive or exemplary damages.
- 12.7** This clause 12 survives termination of any agreement between the Parties.

13. GST

All fees (including Placement Fees) referred to in this Agreement are subject to GST.

14. Confidentiality and Privacy

- 14.1** Each Party agrees to hold information of the other that is notified as being confidential or can be reasonably regarded as being confidential, in confidence, and will not disclose such information without the consent of the other Party unless required by law or it has already been made available to the public other than through a breach of this clause 14.
- 14.2** The Client is required to respect and protect the privacy of Candidates, Contractors and Temporary Workers at all times. If the Client becomes aware of any breach of the Privacy Laws concerning information disclosed by Randstad to the Client, then the Client must notify Randstad immediately and comply with any reasonable directions of Randstad with respect to the breach.

15. Variations

Any variation to these Terms of Business must be mutually agreed by both Parties in writing.

16. Governing Law

These Terms of Business shall be governed by the laws of New Zealand.