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**Terms of Business (to be read with application terms)**

**COMPANY NAME:**

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1. These Terms of Business:
  - (a) are between VIP People Limited (**VI**People) and the Client, \_\_\_\_\_
  - (b) are deemed to be accepted when the Client accepts the services provided by VI
  - (c) not only apply to temporary worker(s) (**Worker**) placements, but to all placements of VI
  - (d) supersede all prior discussions between the parties and shall be binding on the successors and assigns of each party.
2. VI
3. VI
4. VI

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**WORKERS**

**Fees and structure of fees**

**1. Permanent Fees**

- a) The "Appointment Fee" (being the Appointment Fee as noted and calculated in accordance with the Fee schedule) that has been provided by a VI
- b) If the client terminates the Permanent Placement Services after the Company has provided the Client with a shortlist of Candidates for the position as requested by the Client, the Client may be required to pay the Company a cancellation fee of 25% of the total Appointment Fee that the Company reasonable considers would have been payable in respect of the position had a candidate accepted an employment offer by the Client (noting that such payment is in addition to any other amounts due under these Terms at the time of termination), which fee the parties acknowledge is fair and reasonable.
- c) "Annual Gross Remuneration" as noted in the Fee schedule is based on the amount of the Candidates remuneration during the first twelve months of their employment and includes all taxable items, including, but not limited to, wages and salary, taxable

allowances, bonuses, commissions and employer KiwiSaver contributions. Motor vehicles will be taken to be the equivalent of \$15,000 in remuneration per year. The Appointment Fee for part time positions will be calculated on the full-time annual salary equivalent.

- d) If the Client terminates the employment of a Candidate after the Candidate has accepted an offer of employment in writing, the relevant Appointment Fee remains payable and is not refundable.
- e) **Guarantee**  
If a client or candidate ends employment within ninety (90) days a guarantee period applies as per Fee schedule that was provided by a VIPeople consultant. Please refer to clause 2a (Guarantee Period) on your Fee schedule.
- f) If VIPeople is unable to source a suitable replacement worker in four (4) weeks after the worker or client has ended their employment, VIPeople will issue a credit note based on the end date of the relevant worker's employment tenure. If the client decides to put the role on hold a credit note is valid on file for twelve (12) months.

## **2. Temporary Fees**

- a) The Client will pay an hourly rate for each Worker plus allowances (Fees) as agreed verbally or otherwise between VIPeople and the Client prior to each assignment.
- b) The Worker must be engaged for a minimum period of 4 hours per day. If a Worker is engaged for less than 4 hours per day, the Fee for such Worker will remain at a fee equal to 4 hours at the agreed hourly rate.
- c) Unless contained in any other documentation, all Fees shall:
  - Include all statutory obligations for Workers (including ACC and leave) and recruitment, termination and administration costs).
  - Exclude GST, payments for day in lieu or time and a half, out of pocket expenses, consumables, travel, accommodation, taxation (including fringe benefits) and other fees, and all such fees shall be in addition to the Fees for the assignments provided by VIPeople.
- d) VIPeople reserves the right to vary the hourly rate (and allowances such as out of pocket expenses, consumables, travel, accommodation) (if any) at any time by giving 30 days written notice to the Client.
- e) If the Client requires a Worker to work on a statutory holiday, the Client accepts that they will be required to pay VIPeople for the hours worked by the Worker on that day at a pre-agreed rate that allows for the Worker to be paid at a minimum rate of time and half. Where the Worker is also entitled to a day in lieu for working on the statutory holiday, the Client agrees that a further eight hours may be charged to cover payment of the day in lieu for the Worker.
- f) The Client must, no later than mid-day on a Monday, confirm the hours worked by a Worker. This confirmation must include hours worked by a Worker for the preceding week Monday to Sunday and must be provided in an electronic format or by way of a timesheet. This can be confirmed by email, VIPeople will invoice the Client weekly at the agreed rate plus allowances, if any, plus GST.
- g) All Workers are employees of VIPeople and are paid directly by VIPeople. VIPeople reserves the right to substitute a Worker for another should the need arise.

### **3. Vacancy Cancellation Fee**

If you have appointed us to find a candidate for you and any of the following applies:

- a) You ask us to suspend recruiting the candidate (for any reason whatsoever) for longer than 4 weeks; or
- b) You cancel our appointment (for any reason whatsoever including if you find a candidate yourself or via another third party); or
- c) We reasonably consider that your original recruitment brief to us has changed in a significant way and as a result we consider that we will be required to commence the recruitment process again (each being a "Vacancy Event")

You agree to pay us a Vacancy Cancellation Fee which will be calculated as follows:

- d) If the Vacancy Event occurs prior to us presenting you with a Shortlist – a Vacancy Placement Fee equal to 25% of the anticipated placement fee will be payable.
- e) A "Shortlist" is deemed to be when a decision is made to interview one or more accepted candidates. The Vacancy Cancellation Fee applies to permanent roles, as well as fixed term contracts of 6 months or longer in tenure.

### **4. Transfer of worker to client**

- a) A worker is employed by VIPeople. If a Client has colluded, facilitated or encouraged a Worker to move from the employment with VIPeople to employment with the Client or with a third party, or colluded with, facilitated or encouraged any third party to employ a Worker provided by VIPeople while under contract or within 6 months after the completion of the most recent engagement, the Client will be liable for the VIPeople recruitment fee (**Recruitment Fee**).
- b) The Recruitment Fee payable is based upon the Recruitment Fee Schedule provided to the client.
- c) Offshore workers on visas who are employed by VIPeople cannot transfer to the Client, or a sub-contractor of the Client, at any time without written permission from VIPeople. If the Client, or the Client's sub-contractor, employs an offshore worker on a work visa who was previously engaged by the Client via VIPeople, the Client will become liable for a Recruitment Fee of not less than 20% of the Worker's annual salary or \$15,000.00 plus GST, whichever is the greater.
- d) A Worker transferring to employment with the Client will not commence work with the Client, unless and until the Client's account with VIPeople is paid in full as per the signed Credit Application.
- e) The Client must not on-hire or re-supply the Worker to any other person.

## HEALTH AND SAFETY

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1. The Client must:
  - a. maintain its own Health and Safety Policy and Plan and hazard identification and control processes;
  - b. provide VIPeople with full and accurate description as to each engagement;
  - c. not allocate tasks or responsibilities to a Worker other than in accordance with the relevant engagement description;
  - d. not request a Worker to perform or participate in any work or use any equipment with which the Worker is unfamiliar or in respect of which they are not qualified or have not received adequate training;
  - e. supervise, instruct and direct the Worker properly at all times while they are on an engagement;
  - f. supervise, instruct and direct the Client's own employees and contractors correctly in relation to the Worker during an engagement;
  - g. promptly inform VIPeople if work conditions change during the course of the specific engagement of a Worker;
  - h. comply with obligations owed to the Worker pursuant to all relevant legislation, including workplace, occupation health and safety, discrimination and harassment, except where those obligations are expressed to be the sole responsibility of VIPeople under these Terms of Business;
  - i. report to VIPeople in writing in relation to any performance issues in relation to a Worker;
  - j. promptly inform VIPeople of any workplace incident that may give rise to a claim by, against or involving a Worker;
  - k. provide access to VIPeople to inspect the work site to ensure the conditions are safe and consistent with VIPeople understanding of the site, the job requirement, the hazards and controls;
  - l. maintain the confidentiality and privacy of information VIPeople provide to the Client about the Worker.

## PAYMENT

1. All fees are payable in accordance with clause 10 under the signed Credit & Account application and these Terms of Business.
2. If payment is not made by the due date, interest will be charged at the rate of 15% per annum calculated daily on the balance owing from the due date to the date of payment in full, plus an administration fee of 0.5% or \$500, whichever is greater, charged on the total outstanding balance at the due date. This additional fee is charged to cover the additional costs of managing the overdue payments.
3. The Client may not set off any payments owed to VIPeople against any payments owed by VIPeople to the Client or any claims which the Client may have against VIPeople.
4. Any and all costs incurred by the VIPeople in the enforcement or attempted enforcement of its rights and remedies under these Terms of Business or otherwise are payable by the Client. All debt collection costs incurred by VIPeople for the collection of any of the Client's unpaid invoices shall be paid by the Client. VIPeople reserves the right to demand full settlement of the Client's account in full if any part of it remains overdue for more than 7 days.
5. Without limiting all or any of its rights contained in these Terms of Business, VIPeople reserves the right to withdraw any Worker from any engagement with the

Client for non-payment of any fees that become due for payment.

6. In accepting any payment from the Client, VIPeople will not be bound by any condition or qualifications of terms which the Client attaches to such payments. Any payments expressed to be in full and final settlement will only be accepted by VIPeople as such if VIPeople communicates specific acceptance in writing to the Client of those terms, otherwise any payment will only be accepted as part payment of the total amounts due to VIPeople.

## **INSURANCE**

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1. A Worker will be under the direction and the control of the Client from the time of commencement of duties for the duration of the engagement. The Client is responsible for all acts, errors or omissions whether wilful or negligent or otherwise of the Worker and VIPeople does not accept any liability for any loss, expense or damages arising from any failure by a Worker howsoever arising.
2. The Client agrees that under no circumstances will VIPeople be liable for any losses or damages to the Client caused by a Worker while engaged by the Client. The Client hereby indemnifies and agrees to keep indemnified VIPeople against all losses and damages.
3. A Worker will not be covered for any other losses or damages under VIPeople insurance policies. The Client is responsible to update and amend its own insurance policies to cover any circumstances that may arise while a Worker is engaged by the Client.
4. If VIPeople cannot supply a Worker to the Client when requested, VIPeople accepts no liability for any losses or damage to the Client as a result of non-supply.
5. VIPeople accepts no liability whatsoever for any debts to the Client incurred by a Worker.
6. A Worker will not be required to use their own motor vehicle during an engagement for the Client's engagement, but if required to do so, the Client will be liable for any loss, costs or damage suffered by a Worker to the extent that such loss, cost or damage are not covered by any insurance policy held by or on behalf of a Worker.
7. The Client agrees to indemnify VIPeople for any representations made by the Client to a Worker and/or actions by the Client impacting on the worker, including but not limited to, any loss or costs incurred as a result of any personal grievance by a Worker against VIPeople pursuant to the Employment Relations Act 2000 arising out of representations made by the Client to a Worker and/or actions by the Client impacting on the Worker, while engaged by the Client or otherwise.

## **TIME SHEETS**

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1. The Client will prepare and provide to VIPeople no later than midday by the following Monday in each week a weekly timesheet, for the previous week, signed on behalf of the Client, setting out all hours worked by the Worker.
2. The timesheet must confirm the hours worked by a Worker for the preceding week, Monday to Sunday, and must be provided in an electronic format or by way of a timesheet. This can be confirmed by email.
3. If the Client fails to complete and provide a weekly timesheet (or provide a record in any other such form as agreed to by VIPeople) signed on behalf of the Client on a

weekly basis in accordance with any requirements specified by VIPeople then VIPeople will invoice the Client the greater of the maximum hours specified as part of any assignment or the number of hours stated by the Worker as being worked. A late filing fee of \$50 per timesheet may also apply.

## **GENERAL PROVISIONS**

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1. No waiver by VIPeople of any breach of these Terms of Business will be deemed to be a waiver of any other or any subsequent breach. VIPeople's failure to enforce any provision of these Terms of Business will not be interpreted as a waiver of that provision.
2. The Client will not at any time use or disclose any information relating to the business of VIPeople nor any Worker or candidate that VIPeople considers is confidential without first obtaining written consent from VIPeople.
3. These Terms of Business are intended to supplement VIPeople's account application and any formal health and safety documentation that VIPeople has in place.
4. If the Client provides any personal protective equipment (PPE) or any other equipment to any VIPeople workers or employees, without first obtaining agreement in writing from VIPeople, the Client will be liable for any and all costs associated with that PPE or equipment.
5. Where purchase order numbers are required by the Client to support the request for a Worker and these purchase order numbers are to be displayed on VIPeople tax invoices, then the Client must formally supply the purchase order number to VIPeople no later than Monday 5pm for the preceding week (Monday to Sunday). VIPeople takes no responsibility for purchase order numbers supplied after engagements for the preceding week have been invoiced and will not add purchase order numbers retrospectively to any tax invoices. Should the above process not be adhered to VIPeople will refute any attempted justification of late payment due to absence of purchase order numbers.
6. No variation or modification or substitution of these Terms of Business by the /client will apply unless accepted by VIPeople in writing.
7. The Client has the right to access and correct information about it held by VIPeople. This right extends to the Client's directors (if any), shareholders (if any) and any guarantor.
8. VIPeople is not required to verify or check that any person using the Client's account with VIPeople has the Client's authority to do so. The Client may not refuse to pay fees to the Client's account on the basis that the person using the Client's account did not have the requisite authority.
9. If there is more than one person named as the account holder, each such person's liability under these Terms of Business is joint and several.

**MIGRANT WORKERS**

1. Clients wanting to employ migrant workers must be able to provide Immigration New Zealand evidence of non-participation of any of the following:
  - a) Client is NOT on the labour inspectors stand down list, NOT subject to immigration stand down, NOT received a prison sentence for any immigration offences,
  - b) HOLD no convictions for any offence under the immigration act 2009 or the crimes act 1961, Declared they have no immigrations cases pending.
2. Clients are aware of the migrant’s visa conditions
3. Clients cannot request migrants to work inconsistently with their employee agreement and visa conditions.

**Client to sign this declaration**

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**DECLARATION**

**I confirm that:**

- I have read and understood the Terms of Business and I accept them fully.
- I have received a copy of these Terms of Business.
- I am an authorised signatory of the Client.

<b>Signed by/on behalf of the Client:</b>	<b>Signed by/on behalf of VIPeople:</b>
Signed: _____	Signed: _____
Name: _____	Name: _____
Title: _____	Title: _____
Address: _____	Address: _____
Date: _____	Date: _____