

SamuelsTM
Donegan

Terms & conditions of business

In this Agreement the terms (“Our” or “Us” or “We”) refer to Samuels Donegan ABN 23 629 516 954

- 1.0 These Terms & Conditions of Business govern the terms of our engagement for the provision of permanent, fixed term and/or timesheet contracting recruitment services to you. Unless we expressly agree otherwise in writing your acceptance of these terms and conditions will be established by either;
- (a) Your acknowledgement of receipt of candidate details or resume; or

(b) Your interviewing or engaging a of candidate introduced to you by us.

Pricing Structure

2.0 Candidate’s Remuneration Package	Percentage Fee
Under \$150K	18%
\$151 - \$200K	20%
\$201K - \$250K	22%
\$251K - \$300K	24%
Above \$301K	26%

Permanent Placements

- 3.0 Our fees for permanent placements are based on the full time equivalent of the Candidate's Annualised Total Remuneration Package. For the purposes of these Terms and Conditions, "Candidate's Annualised Total Remuneration Package" means the candidate's gross annual remuneration package which includes base salary, statutory payments of superannuation, guaranteed bonuses, sign-on bonuses, supplied motor vehicles (valued at \$15,000 if not otherwise specified by you) or motor vehicle allowance, or any other such guaranteed allowances.

Replacement Guarantee

- 3.1 A replacement guarantee is provided by us except in the case of on hire timesheet employees, fixed term placements and contract buyouts. All permanent placements are guaranteed for a period of 3 months from date of employment ("Guarantee Period") subject to the conditions below.
- 3.2 A replacement guarantee applies if you employ a candidate that we introduce to you and that candidate resigns or you lawfully terminate their employment within the Guarantee Period and you have notified us in writing of that resignation or termination within same. In those circumstances you must specify in writing that we are exclusively appointed to introduce further candidates to you in relation to the vacated role. Provided that the requirements in 3.4 have been met, you will have 3 months from the date you notified us of the candidate's resignation or termination to appoint a replacement candidate introduced by us. A credit will not be provided in any circumstances.
- 3.3 In the rare event that a candidate signs their employment contract but is unable to commence, the placement fee remains due for services rendered. However, we will replace the candidate in accordance with our Replacement Guarantee.
- 3.4 For the replacement guarantee to be honoured:
- (a) Your organisation must have paid all invoices within 14 days of the invoice date;
 - (b) We have been notified within the Guarantee Period;
 - (c) The placed candidate has not been retrenched because of business; conditions, a change in structure/management or similar;
 - (d) We reserve the right to not provide a replacement should the placed candidate have ethical or legal concerns;
 - (e) The scope of the role has not changed;
 - (f) Your organisation has represented itself and the role honestly;
 - (g) Where the total remuneration package of the replacement candidate is lower than the original placed candidate, there will be no adjustment to our invoice;
 - (h) We reserve the right not to provide a replacement in the event of employer misconduct;
 - (i) There is only ever one replacement offered (ie, in the extraordinary event that the second placement leaves the organisation within the guarantee period, we will not replace).

Fixed Term Placements

- 4.0 Should you wish to hire a candidate on a fixed term employment contract (where the candidate is employed and payrolled by your company), our Fixed Term placement fees are calculated in the same way we recruit for a permanent placement and the fee is then pro-rated for the duration of the contract (to a maximum of 12 months). There is a minimum fee of \$5,000 plus GST for the initial placement. Please note that a replacement guarantee is not provided for fixed term placements.

Extension to a Fixed Term Contract

- 4.1 Each time a fixed term contract is extended, an additional fee is payable and calculated as per the pricing structure (to a maximum total contract duration of 12 months).

Fixed Term Contract Buyouts

- 4.2 Where a fixed term contractor is offered and accepts a permanent position with you, then a final fee will be due and calculated in the same way we recruit for a permanent placement (based of the annualised remuneration package offered for the permanent position) less any fee(s) already paid to us for this contractor. Please note that a replacement guarantee is not provided for fixed term contract buyouts.

Payment Terms

- 5.0 Unless a prior Agreement exists, our payment terms are strictly 14 days from date of invoice. Overdue invoices affect your replacement guarantee. Where any part of the placement fee remains unpaid after 14 days, no replacement guarantee will be offered. Please note that a replacement guarantee is not provided for fixed term placements.
- 5.1 Under no circumstances will a refund be provided for permanent, fixed term or timesheet contracting services.

Liabilities

- 5.2 While we believe that the personal information we hold, use and disclose on our candidates is accurate and relevant, it is based on information provided to us by third parties and we do not make any express or implied representation or warranty as to its accuracy or completeness. Unless expressly stated to the contrary, our comments on the candidates in candidate reports are based on having conducted a structured interview. You are solely responsible for ensuring the suitability of a candidate for a position and the decision to employ any candidate introduced by us.
- 5.3 We will not be held liable should any information in the candidate's CV be factually or partially incorrect.
- 5.4 We will not be liable in law or equity for any indirect losses, damages, costs or compensation you may suffer because of the introduction or any delay in the introduction of candidates or the failure of a candidate or candidates to accept your offer.
- 5.5 We assume no liability or obligations in respect of a candidate once they have been placed as your employee. You are solely responsible for the candidate as the candidate's employer

Indemnity

- 5.6 You agree to indemnify us from any claim, loss, liability, damages, costs, or compensation arising from the acts or omissions (including wilful or negligent acts) of any candidate you have employed following our introduction, including any damage to property in your custody, care, or control, except where such claim arises from a breach of this Agreement or misconduct by Samuels Donegan.
- 5.7 You agree to indemnify us against any liability, cost damages or losses incurred as a result of breach of any disclosure of information by you or your employees in breach of the confidential protocols laid out in this Agreement.

Timesheet Contracting

Timesheet Fees & Charges

- 6.0 These will be billed weekly as approved by your signature of the on hire timesheet employee's weekly online timesheet. You agree to pay Samuels Donegan the hourly or daily charge plus GST which will be advised at the time the on hire timesheet employee is appointed. Payment terms are seven (7) days.

Timesheets Buyouts

- 6.1 Should you wish to offer an on hire timesheet employee ongoing employment with your organisation, a fee will be charged and payable within 14 days of invoice date. This fee depends on the longevity and the tenure of the on hire timesheet employee and is in line with our permanent pricing structure and discounted in the following way:

Duration of assignment with client	Discount % applicable
<4 months	0%
4 - 6 months	25%
6 - 9 months	50%
9 - 12 months	75%

Please note that a replacement guarantee is not provided for timesheet buyouts.

Payroll Only

- 6.2 If you have self sourced a candidate for a short or long term coverage position and would like to have them payrolled, we can facilitate this through our inhouse payroll team at a reduced fee which will be advised upon request.

Liability & Indemnity

- 6.3 Whilst we endeavour to select on hire timesheet employees who are suitable for your contract position and organisation, we cannot accept liability on behalf of ourselves, our servants or agents for any loss or damage or other costs, irrespective of how they are caused, which you may suffer, or for which you may become liable arising out of, or in connection with the introduction of the candidate and subsequent employment with your organisation.
- 6.4 Clients are responsible for the final recruitment decision and must satisfy themselves as to the suitability of the candidate and authenticity of the candidates' qualifications and experience. We are not liable for any claim regarding the protection of confidential information and intellectual property as this responsibility lies expressly with you, the Client.

Reference Checking

7.0 We will conduct one reference check as part of our service unless otherwise agreed.

General Terms

8.0 Please note we do not pro-rata our fee for part time placements.

8.1 You acknowledge that we do not guarantee or warrant the quality of any candidate we introduce to you and that any employment of the candidate is solely based on your own decision and independent judgement.

8.2 We are deemed to have introduced a candidate to you, if one or more of the following apply:

- (a) we introduce, or otherwise provide information relating to, a candidate to you;
- (b) you become aware of a candidate as a result of any information that we give you;
- (c) a candidate becomes aware of you as a result of any information that we give a candidate.
- (d) we place a Candidate with you on a temporary, fixed-term, permanent or any other engagement.

8.3 If, within:

- (a) 12 months of the Candidate first being introduced to you by us; or
- (b) 12 months of the completion or termination of any temporary, fixed-term or other placement arranged by us,

you engage, employ, re-employ, retain or otherwise use the services of the Candidate in any capacity (including as an employee, contractor, consultant, temporary worker or fixed-term employee), we will be entitled to invoice you for such placement. This clause also applies should the candidate be employed by a related party through your introduction. A related party includes a party that, in respect of you, is associated or related pursuant to the Corporations Act 2001 (Cth).

8.4 Once the candidate has signed the Employment Contract, if either you or the candidate decide that they will no longer commence employment, it is your responsibility to communicate and manage this process in accordance with the obligations set forth in the Employment Contract.

GST

8.5 All rates are quoted exclusive of GST.

8.6 The GST component will be clearly shown on our invoice and is payable with our fee under our usual payment terms. In the event that one party makes a taxable supply under this Agreement, the other party must pay to the first party an amount equal to the amount that the first party must remit as GST in respect of that taxable supply so that when the first party remits the GST payable on the taxable supply under this Agreement in accordance with its obligations under the GST. Act, the first party will retain the GST exclusive price expressed in this Agreement.

Additional Expenses

- 8.7 Where we incur expenses in the recruitment process (that you have approved) including (but not limited to) flights, accommodation, police check, working with children check, psychological testing costs, we will on charge to you, without margin or markup by us.

Equal Opportunities

- 8.8 Samuels Donegan is committed to equal opportunities and expects its clients to comply with all anti-discrimination legislation regarding the selection and treatment of candidates.
- 8.9 Samuels Donegan will take all possible steps to ensure a diverse applicant pool, with candidates from various backgrounds and identities.
- 8.10 Samuels Donegan is committed to inclusion and will ensure a process that does not discriminate or seek to exclude (directly or indirectly) any candidates from minority groups.

Modern Slavery

- 8.11 We warrant that:
- (a) to the best of our knowledge and belief as at the date of this Agreement, we and each of our Related Party does not, and will not, use any form of Modern Slavery in performing its obligations under this Agreement;
 - (b) we will immediately notify you in writing if we become aware of any actual, reasonably suspected or anticipated risk that Modern Slavery will be used by it or any of our Related Parties in relation to the performance of any obligations under this Agreement; and
 - (c) we will provide you with a written report or current Modern Slavery Statement, upon request and at our own expense, addressing our measures to identify the risks of Modern Slavery practices in our operations within a reasonable period of time of being requested by you in order to enable you to fulfil your obligations under the Modern Slavery Act.
- 8.12 For the purposes of this clause:
Modern Slavery has the meaning given to that expression in the Modern Slavery Act.
Modern Slavery Act means the Modern Slavery Act 2018 (Cth).

Privacy & Confidentiality

- 9.0 When introducing candidates to you, we provide you with information on a strictly confidential basis. You must ensure that this information is not disclosed to third parties unless you have obtained our consent. This includes conducting reference checks with any current or past employers or the candidate's social media connections without the permission of the candidate or us. Any contact with candidates is to be made through us. You are required to respect the private information of the candidate pursuant to the applicable Privacy laws.

