



TERMS OF BUSINESS: CLIENT NAME (ABN:)

This document sets out the legal basis upon which we provide our services. It governs:

- The introduction of job candidates for permanent roles (see Part A), and also

Definitions, more general terms are set out in Part B.

PART A – PERMANENT PLACEMENTS

Fees

1. Subject to the more specific descriptions contained in this document, we provide our services on two broad bases: first, where our entitlement to our fee is dependent on a candidate we introduce being employed. We will call this being engaged on a *Contingent* basis; second, where our entitlement to our fee is progressively earned at various stages of the recruitment process. We will call this being engaged on a *Retained* basis. Different rates apply to each form of engagement: see 5.1 and 5.2 below.
2. Our long-term clients typically engage us on Retained basis: this mode tends to foster a more consultative relationship between our clients and us. As a default you engage us on a Contingent basis and may elect to engage us on a Retained basis.
3. Different rates also apply when we act on a Contingent basis when we are engaged exclusively compared to where you engage other providers of recruitment services or are advertising for a role yourself: see 5.1.1 and 5.1.2 below.
4. Subject only to clause 11 below, our full fee (whether we are engaged on a Contingent basis or Retained basis) is payable if within 12 months of a candidate being introduced by us:
 - 4.1. You employ the candidate or the candidate accepts your offer of employment (even if not expressed in a formal written employment contract),
 - 4.2. A related entity employs the candidate, and/or
 - 4.3. A third party employs the candidate after you or a related entity provides that third party with information about the candidate.
5. Our fee is calculated as a percentage of the candidate's remuneration package plus G.S.T as set out in the tables below. The tables also set out our Guarantee periods (see clause 17 below):
 - 5.1. Fee on Contingent engagement (non-exclusive at a default):

5.1.1. Exclusive engagement

Remuneration package	Percentage	Guarantee period
Up to \$65000	15%	3 months
\$65001 - \$100000	18%	3 months
\$100001 and over	22%	3 months

5.1.2. Non-exclusive engagement

Remuneration package	Percentage	Guarantee period
Up to \$65000	18%	3 months
\$65001 - \$100000	22%	3 months
\$100001 and over	25%	3 months



5.2. Fee on Retained engagement:

Remuneration package	Percentage	Guarantee period
Up to \$65000	15%	6 months
\$65001 - \$100000	18%	6 months
\$100001 and over	22%	6 months

6. Where we are engaged on a Retained basis, our fee is progressively payable in three instalments as follows:

6.1. Stage 1: *Commencement fee* equating to one third of the fee applicable to the proposed or estimated remuneration package for the given role. This is payable on your engagement of us on a Retained assignment;

6.2. Stage 2: *Short list fee* equating to one third of the appropriate fee scale applicable to the proposed or estimated remuneration package. This is payable when a short-list of candidates we present to you is not rejected in accordance with clause 8 below.

6.3. Stage 3: *Placement fee* equating to the balance of the fee, calculated by applying the appropriate fee scale to the actual remuneration package of the relevant candidate less any instalments (Stage 1 and Stage 2) already paid. This is incurred in the circumstances set out in clause 4 above.

Note: For the purposes of Stage 1 and Stage 2, if you do not instruct us with a proposed remuneration package for a given role, we may estimate the remuneration package based on our impressions of things such as (i) the market rate for comparable roles with other employers, (ii) the remuneration historically paid to candidates whose skills or experience seem to align with the given role (based on information you have provided to us).

7. The number of candidates potentially available for employment by a particular organisation changes with time and depends on the type of role the organisation is looking to fill. Typically, the greater the skill or experience specificity or specialisation required by an organisation, the fewer the pool of potential candidates. It is possible that, at a particular given time, there are no candidates on the market for a new job who have the skills or experience that seem to meet client criteria or who are on the market at a remuneration level proposed by a client. For this reason, we make no promise that we will introduce any, or any minimum number, of candidates.

8. When we are engaged on a Retained basis, you may reject a short-list of candidates we present to you by giving us written notice within 48 hours of its presentation. Rejecting a short-list of candidates means that you are not interested in (further) meeting with or (further) considering those candidates for the given role. If you reject a short-list in accordance with this clause, you need not pay the *Short list fee*: see clause 6.2. When you reject a short-list, you must also instruct us as to whether you want us to continue searching for other candidates with a view to the preparation of a further short-list.

9. It is frequently the case that candidates are on the job market for a short period of time and that they are considering multiple opportunities at any given time: a short-list of potentially available candidates can quickly become dated and the probability that listed candidates are available for your employment dwindles. For this reason, where a short-list is not rejected within the timeframe set out in clause 8 above, if you instruct us to search for or introduce additional candidates, on giving those instructions you must pay us an additional *Short list fee*: see clause 6.2. This additional *Short list fee* shall not be taken into account in any calculation of any *Placement fee*: see clause 6.3.

10. For the avoidance of doubt, our entitlement to our fee does not depend on: a candidate being employed in the same role as that for which he or she was introduced by us; the mode of employment, for example whether the candidate is engaged as a contractor or through a service company as opposed to being employed in a traditional sense; whether a candidate has a probationary period or is on trial; and/or the duration of the candidate's employment. Our fee (and any instalment on it) is non-refundable.

11. The only exception to your obligation to pay our fee in the circumstances described in clause 4 above is where the following conditions are all met:

11.1. The candidate is already known to you – this is not satisfied where the source of your knowledge is social media, networking sites or internet searches;



11.2. You are actively considering the candidate for employment in the same role as that for which he or she was introduced by us – this is not satisfied where you have not been in contact with the candidate in the 2 weeks prior to introduction; and

11.3. Within 3 business days of the introduction by us but, in any event, before meeting with the candidate, you notify us in writing that the candidate is already known to you and is being actively considered for potential employment and that notification includes details of how and when the candidate became known to you.

11.4. You do not instruct us to perform any service for you in relation to that candidate (such as making arrangements for the candidate to meet with you).

For the avoidance of doubt, unless these conditions are met, you are obliged to pay the fee where another provider of recruitment services separately introduces the candidate to you, and whether or not you are liable to pay a fee to another provider relating to the candidate.

12. If you employ a candidate on a casual or part-time basis but, within a year of commencement of that employment, that is changed to full-time employment, you must pay us an amount equivalent to the fee calculated on the full-time remuneration package (plus G.S.T) and the amount you have already (or should have already) paid us with respect to that candidate's initial employment.

13. Where a candidate is given the use of a 'company car', that contributes to the candidate's remuneration package by the greatest of \$18,000.00 and the actual cost to you of that car apportioned over the relevant year period.

14. Apart from Stage 1 and Stage 2 instalments when we are engaged on a Retained basis (see 6.1 and 6.2 above), the liability for our fee (and any Stage 3 instalment) arises at the earlier of:

14.1. The candidate (directly or indirectly) accepting an offer of employment (formal or informal) by you, the related entity or relevant third party,

14.2. The candidate (directly or indirectly) entering into an employment contact or agreement with you, the related entity or relevant third party, and

14.3. The actual commencement date of the candidate.

We will call the earlier of these the 'fee accrual'.

15. You must notify us in writing ("the Notification") of the fee accrual and the remuneration package (including, if we request it, by providing us with copies of documents evidencing it) so we can calculate the fee. Provided you give us the Notification within 2 business days of the fee accrual, our fee (plus G.S.T) is payable within 14 days of the date of the invoice we will send to you. If you fail to give us the Notification in this timeframe, *the Guarantee (clause 17) does not arise* and the fee (and G.S.T) will be deemed as due and payable on the earlier of two weeks following the relevant introduction and the date of the fee accrual.

16. If we are engaged on a Contingent basis and you cancel our engagement:

16.1. After any candidates have been introduced to you but before you meet any such candidates, you must pay us a service fee equal to 5% (plus G.S.T) of the proposed or estimated (by us) Package;

16.2. After you have met any candidate introduced by us but before any candidate employment, you must pay us a service fee equal to 10% (plus G.S.T) of the proposed or estimated (by us) Package.

16.3. If we are engaged on an exclusive basis and you cancel our engagement in circumstances of a breach of exclusivity (which includes through direct advertising and internal referrals), then you must pay us a service fee equal to the whole fee calculated according to clause 5.1 above based on the proposed or estimated (by us) Package"

You must notify us immediately of any cancellation.

Guarantee



17. We understand that no organisation likes a situation where they have paid a fee for the employment of someone who either resigns after a short while or whose employment is otherwise terminated. Because of this (and subject to clause 18 below), where a candidate is employed by you and then leaves your employment for any reason (whether that be at the initiation of you or the candidate) within three (3) months of commencing such employment, we will use reasonable efforts to locate and introduce a replacement candidate for the vacated position at no additional fee ("the Guarantee").
18. The Guarantee is qualified or to be understood in the following way:
 - 18.1. The termination of a candidate's employment does not discharge your obligation to pay any accrued fee or entitle you to a refund of any amount already paid to us;
 - 18.2. If you fail to:
 - 18.2.1. Pay us our fee (or any instalment) when due and payable, and/or
 - 18.2.2. Notify us of the termination of a candidate's employment within 7 days of its occurrence and, within that same 7 days, that you require us to endeavour to find a replacement candidate, then the Guarantee and your rights associated with it are discharged.
 - 18.2.3. The Guarantee does not arise unless you give us the Notification in accordance with clause 15 above;
 - 18.2.4. The Guarantee does not apply where the candidate whose employment terminated was him/herself a replacement candidate.
 - 18.2.5. The Guarantee operates with respect to the specific role that has been vacated. There is no entitlement to call on the Guarantee where the candidate's employment terminated due to or for reasons associated with work shortage, redundancy, workplace relocation, restructuring, candidate death, severe candidate illness not evident to us at the time of our introduction of the candidate or a misrepresentation by you about the role, the workplace and/or candidate benefits.
 - 18.2.6. If, because of 18.1 - 18.2.5 above we are not required to search for a replacement candidate but we nonetheless do so at your request, if the replacement candidate is employed on a higher remuneration package than the original candidate, you must pay us the difference between the fee that would be payable were the replacement subject to a fresh engagement and the amount paid with respect to the original employed candidate.
 - 18.2.7. You must pay our costs associated with advertising for additional candidates.

Candidate suitability

19. You are most familiar with your organisation, its culture and operating requirements and the best judge about whether any particular candidate is suitable for a given role. As such a decision to employ any introduced candidate is wholly yours, as is the responsibility to satisfy yourself about a candidate's suitability.
20. We endeavour only to introduce candidates you are likely to want to meet and principally do so by reference to what information a candidate provides about him/herself and what information you provide us about your organisation and role-related criteria. You accept that candidates can provide false or misleading information about themselves and that we do not warrant the truth of that information. You agree that when we provide information about a candidate, we are simply passing that information along rather than vouching for its accuracy.
21. If you want us to obtain candidate references or criminal background checks, you must instruct us to do so and, in the case of criminal background checks, you must pay any associated costs.
22. You are responsible for ensuring candidates have necessary work permits and qualifications and can meet OH&S and medical requirements for any role they are engaged in.



23. We are not liable for any loss or damage cause to you by any act, omission or non-performance of a candidate that we have introduced.

PART B – TERMS APPLICABLE TO ALL INTRODUCTIONS AND MISCELLANEOUS TERMS

24. These terms can be accepted in writing, orally and/or by conduct.

25. Examples of acceptance of these terms by conduct include the following: (i) asking us to source or introduce any candidate(s) (including any that you already know), (ii) meeting with or making arrangements to meet with any candidate(s), (iii) asking us to undertake any checks on a candidate, (iv) passing on candidate's personal information to a related entity or third party, (v) employing a candidate introduced by us. These things are to be understood as your unequivocal acceptance of the terms.

26. Your acceptance of these terms constitutes an acceptance of them in their entirety. This means (for example) that if we first deal with you by introducing contract candidates and at some later stage deal with you in relation to a permanent role, then these terms will govern the introduction of candidates for that permanent role.

27. Clause 4, subject to the single exception in clause 11, is absolute and its terms specifically exclude: (a) any implied terms or qualifications; (b) any requirement of causation; and (c) consideration of the extent to which we, subsequent to our introduction of a candidate, are instructed to provide services in relation to a candidate. Clause 4 is unaffected by clause 16.

28. Where in this document you are required to do something within a specified time or your rights are time-conditional, time is of the essence.

29. If you, a related entity or third party at your instigation employs any Consultant of ours at any time in the period from when you first start dealing with us until 12 months after you last have dealings with us, then you must pay us a fee of \$25,000 plus G.S.T, immediately due and payable. For the purposes of this clause, a "Consultant" is any person who, at any time during the relevant period, is employed by us as a recruiter or the like. This applies whether or not the Consultant had ceased to be employed by us at the time of employment by you, a related entity or the third party.

30. You must pay us interest at the rate of 2.0% per month on any overdue amount from the date when payment was due to the date of actual payment (whether before or after judgment) and all costs and expenses (including all legal costs on a full lawyer and client basis, disbursements and fees, all internal costs and any debt recovery agent's fees) incurred in the collection, or attempted collection, of any sums due. Where we engage the services of any debt collection or commercial agent to provide us any assistance, you agree that our costs for such services are fixed at 15% of the amount overdue. These amounts can be recovered as though part of the principal amount owing. In the case of amounts overdue for 28 days or more on account of contract candidates on assignment, you are additionally liable an amount equal to the greater of \$50.00 or 2.5% of the amount overdue.

31. You are not permitted to claim any set-off in relation to amounts you owe us.

32. Amendments to these terms shall only apply where they have been authorised and confirmed in writing by us. Any later agreement shall not be understood as replacing these terms or operating so that these terms merge in the later agreement: amendments are simply variations. Further, a later agreement to reduce any amount payable under these terms shall only be effective if in writing and is to be understood as conditional and as a discount and otherwise payable within the timeframes set out in this document. If an agreed reduction is not so paid, the non-discount amount is immediately due and payable.

33. The law of New South Wales governs our agreement, which incorporates these terms, and you submit to the jurisdiction of the courts of that State. Any failure by you to pay any amounts due to us is a cause of action that accrues in NSW.

Definitions

34. In these terms and conditions of business the following definitions apply:



exclusivity means you the client agrees to use our services only and no other agency or person to source and place candidates in positions, assigned to us, by you under these Terms and by way of the provision of a job description. If you directly or indirectly, through public platforms such as Facebook, SEEK or any other public platform or through your own efforts or the efforts of any other person, you then fill any of the positions assigned to us by you, then the fee as outlined in clause 5.1 above will be due and payable to us immediately.

candidate means a person who is potentially available for employment. This means, amongst other things, that someone is still a candidate if engaged on a different basis for which the candidate was introduced.

client or you: these terms set out the general basis upon which we provide our services. If a person/entity has been provided with these terms, that person/entity is our client. For example, if the reader of these terms receives them as an attachment to an email and the reader is an employee of a company who is or is considering dealing with us in relation to the provision of recruitment services, that company is our client.

employment means employment in the typical sense, as well as other engagements (both direct and indirect, such as where someone works through a service or payroll company). It should be understood broadly.

introduced (or similar) means, in relation to a candidate, that information has been passed to a person (say the client or a related entity) about the candidate. This information might even include that a candidate is potentially available for employment by that person or potentially available for engagement or assignment by that person. It includes, but is not limited to, the furnishing of a candidate's résumé or other personal information. It also includes where you identify a candidate to us and we later (i) make arrangements for the said person to meet with you, (ii) assist you in employing the said person and/or (iii) assist you in working out whether you might like to employ the person. If not earlier.

meet/meeting (or similar) means where the client and/or a related entity or third party (to whom the client or related entity has introduced a candidate or candidate) engages in any direct communication or contact with a candidate introduced by us with a view to the possible employment or engagement (through assignment or otherwise) of the candidate. This includes, but is not limited to, conducting an interview of the candidate.

related entity means a "related entity" and "related body corporate" with reference to the Client as defined by the *Corporations Act 2001*, as varied from time to time.

remuneration package – this is an important concept: it is what you would have to pay a candidate assuming he or she was employed for a year. Where a related entity or third party employs a candidate, it is what you or that other entity would have to pay the candidate assuming he or she was employed for a year. It is based on the first year. In most cases, this will just be a candidate's starting salary (expressed on a per annum basis) plus superannuation. Items that add into working out the remuneration package include (i) all forms of income, (ii) superannuation, (iii) the provision of motor vehicles (see clause 13 above), (iv) guaranteed commission or bonus, (v) fees and (vi) other benefits (such as housing). Where a candidate is employed indirectly, such as where the candidate's services are to be provided through a service company that bills you (or a related entity or third party, as the case may be) for providing the said candidate's services, the remuneration package is both what is payable directly to the candidate (if anything) plus what is payable to the billing entity (eg. the service company), calculated as though the candidate were working a 35 hour week for 48 weeks of a year. Where a candidate is employed in a commission only position, whether directly or as a contractor or agent, the fee payable will be \$15000 per annum + GST.

we/us means SALEXO CONSULTING PTY LIMITED ACN: 163 747 779 ABN: 75 163 747 779