



Betta People PTY LTD

ABN 64 168 670 862

**Terms of Business
Between**

**For the supply of permanent and
temporary employees**

February 2018

1. When do these Terms & Conditions apply?

- 1.1. These Terms and Conditions apply in relation to the provision of
 - a) permanent employees; and
 - b) temporary employees and contractors; by Betta People.
- 1.2. You will be regarded as having agreed to all of these terms and conditions if You:
 - a) interview a person for employment who we introduce to You; or
 - b) employ or engage a person we introduce to You; or
 - c) refer a person we introduce to You to a third party who then employs or engages that person; or
 - d) employ or engage a person already working for You under these Terms and Conditions on a new assignment. This applies in relation to any person we introduce to You within 12-months prior the date of Your interview, employment or reference.
- 1.3. If the terms of any letter detailing an individual assignment or temporary contract or job specification differ from these Terms and Conditions, then these Terms and Conditions will apply in so far as there is any conflict.
- 1.4. Any additional services, other than temporary recruitment or contracting or permanent recruitment will be acknowledged in a separate statement of work between You and Betta People.

2. Definitions in this Agreement:

- 2.1. "Candidates" mean those prospective permanent employees we suggest to You for engagement for an assignment or role You have sent to us.
- 2.2. "Contingent Fee" means those elements of the Recruitment Fees as relating to a search for an appropriate permanent employee for a particular assignment and set out in the annexure to this agreement.
- 2.3. "Betta People Temporary Employee" means anyone supplied by Betta People to meet Your order for staff for a particular temporary assignment, including a contractor, or a nominated representative of an independent contractor.
- 2.4. "Recruitment Fees" means the fees set out in the annexure to this agreement as are relevant to the nature of the Betta People employee or contractor You wish to recruit together with any further details supplied in the form of a confirmation of assignment.
- 2.5. "Retainer Search Fee" means those elements of the Recruitment Fees as relating to an ongoing arrangement to supply candidates to You for different assignments and set out in the annexure to this agreement and including the Retainer Fee, Interim Fee and Completion Fee.
- 2.6. "You" means the legal entity to whom these Terms and Conditions have been sent, or any group company or related entity (as those terms are defined by current legislation) who requests the provision of services by Betta People in connection with Your arrangement with us.
- 2.7. "We" and "Betta People" means Betta People Pty Ltd Ltd **ABN 64168670862**

Permanent Recruitment

3. Payment of Fees – Permanent Employees

- 3.1. If You wish Betta People to supply You with a permanent employee You should provide Betta People with a job assignment specification and Betta People will provide You with further detail in relation to the relevant Recruitment Fees.
 - 3.2. Recruitment Fees are payable by You to Betta People when You:
 - a) employ or engage a person we introduce to You, or
 - b) refer a person we introduce to You to a third party who then employs or engages that person;
 - 3.3. Recruitment Fees apply in relation to any person we introduce to You within 12 months' prior the date of the employment or engagement.
 - 3.4. You agree to notify Betta People and provide us with agreed remuneration details as soon as possible when any person we introduce to You is employed or engaged by You or a third party.
 - 3.5. You agree to pay for the following additional items within 14 days of invoice, where requested by You or previously agreed in writing and whether or not You employ a person introduced by us:
 - a) specific advertising, including related artwork and production charges;
 - b) medical checks;
 - c) out-of-pocket expenses incurred by candidates attending interviews; and
 - d) any other special services of a similar nature.
 - 3.6. Betta People reserves the right to vary the Recruitment Fees from time to time by written notice to you.
4. Terminating or Deferring Your arrangement with Betta People
- 4.1. Betta People reserves the right to charge for out-of-pocket expenses (advertising, couriers, profiling, etc.) and our consultants' time, should the position be cancelled or withdrawn.
 - 4.2. Cancellations of advertising work will only be made if given in reasonable time to claim a full refund from the relevant press.
 - 4.3. Contingent Search: If You make an offer of employment or engagement in writing and subsequently withdraw it after acceptance by the candidate (through no fault of the candidate), the applicable Contingent Search Fee will remain payable.
 - 4.4. Retainer Search: Where instructions are given by You to us on a Retainer Search basis and You subsequently terminate the instructions:
 - a) the Retainer Fee and Interim Fee, together with any other agreed costs under clause 3.5 above will become payable immediately. If, within three months from cancellation, You request us to commence the identical assignment, a credit will be allowed against the initial Retainer Search Fee.
 - b) In the event that You hire an additional candidate submitted within the short list on a Retainer Search assignment, the appropriate Contingent Fee is payable to us.

- 4.5. If Your hiring decision is deferred, Recruitment Fees are due and payable if any candidate referred by Betta People is employed by You, in any position, within twelve (12) months of the initial introduction.
5. Replacement guarantee for permanent employees
- 5.1. Should the engagement of any Candidate terminate up to thirteen (13) weeks from the date of engagement (including notice period), Betta People will endeavour to seek a replacement Candidate at no extra cost to You provided that:
- the first Candidate leaves of his/her own volition and not due to any restructuring or redundancy measures; and
 - our invoice has been settled within fourteen (14) days of the invoice date;
 - this guarantee only applies to the first and second Candidates' engagement, not to that of any subsequent replacements beyond this.
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- 5.2. Betta People reserves the right not to replace the original candidate in the event of employer misconduct which includes sustainable allegations of sexual harassment, discrimination, misrepresentation of the position, failure to provide safe working conditions, unfair dismissal or the refusal of post-placement servicing by a Betta People consultant.
6. Liability for Candidates
- 6.1. Whilst we will exercise reasonable skill and care in the selection of Candidates, we are not liable for any acts or omissions of Candidates.
- 6.2. We give no warranty (either expressed or implied) in respect of any Candidate introduced, and accept no liability for any failure of a Candidate to perform or to comply with his/her terms of employment or for any loss, expense, damage or delay howsoever arising from the introduction of the Candidate to You or from his/her engagement by You.
- 6.3. Insofar as we or any Candidate provides details of a Candidates medical history, present state of health, previous terms and conditions of employment, names and addresses of previous employers, periods of employment, circumstances in which previous employment terminated, criminal convictions, personal details, ability to work in Australia, visas, work permits, qualifications or education generally, we shall have no liability for any loss damage or cost related to the fact that such details are found to be incorrect or misleading.
- 6.4. Except as required under the current Trade Practices Act we make no representations and give no warranties expressly or impliedly and to the suitability of a Candidate for a particular position. The offer of employment to a Candidate and the consequences thereof following the introduction of that Candidate by You are entirely at Your own risk.
- 7.3. Betta People may vary the Recruitment Fees at any time without notice in the event of:
- variations to any award or agreement or rate of pay set by Fair Work Australia (or other body) applicable to Your Betta People Temporary Employee, or;
 - insurance premiums or any statutory charges, levies, taxes or other payments Betta People is lawfully required to make or for which Betta People may become liable in respect of providing a Betta People Temporary Employee under these Terms of Business.
- 7.4. You must pay the Recruitment Fees to Betta People according to the number of hours or days as agreed to have been worked by the Betta People Temporary Employee for You. If You approve the timesheet of a Betta People Temporary Employee, You are approving the hours worked and stating that the work on the timesheet has been done to Your satisfaction.
- 7.5. You must pay Betta People for any approved expenses incurred by a Betta People Temporary Employee in performing an assignment. You must not make any payments directly to the Betta People Temporary Employee. Betta People will reimburse the Betta People Temporary Employee directly for such expenses provided You supply Betta People with original tax invoices to support expense claim reimbursements and confirmation of approval.
- 7.6. Betta People has responsibility for the payment in relation to Betta People Temporary Employees of (where applicable):
- remuneration;
 - payroll tax and other taxation required by the Australian Taxation Office;
 - workers compensation payments;
 - superannuation guarantee charges.
- 7.7. Betta People may replace Betta People Temporary Employees on 24 hours' notice to You (not applicable to staff provided through Betta People Executive).
- 7.8. Orders placed for Betta People Temporary Employees will incur a minimum 4-hour booking fee.
- 7.9. Betta People Temporary Employees are subject to and have the benefit of awards and other agreements negotiated with Betta People only. The receipt by Betta People Temporary Employees of benefits detailed under any other award or agreement applicable to You or Your workplace, is strictly subject to Betta People's prior agreement.
8. Replacement guarantee for Betta People Temporary Employees and Contractors
- 8.1. If You reasonably consider any Betta People Temporary Employee to be unsuitable for the assignment, Betta People will endeavor to seek a replacement Betta People Temporary Employee and You will not be charged for the first four hours of their time.
- This guarantee only applies up to the first two Betta People Temporary Employees engaged for an assignment, not The assignment is for a minimum of seven hours duration; and
 - Betta People is notified within four hours of the commencement of the assignment; and
 - You have no amounts outstanding to Betta People.
- 8.2. Betta People reserves the right not to make the replacement in the event of employer misconduct which includes sustainable allegations of sexual harassment, discrimination,

Temporary Recruitment

7. General Conditions and Fees – Temporary Employees and Contractors

- 7.1. Upon receipt of an assignment specification from You, Betta People will provide You with the relevant Recruitment Fees.
- 7.2. Your order of a Betta People Temporary Employee is taken to mean that You will accept both these Terms and Conditions and the Recruitment Fees for that assignment.

- 8.2. Betta People reserves the right not to make the replacement in the event of employer misconduct which includes sustainable allegations of sexual harassment, discrimination,

misrepresentation of the position, failure to provide safe working conditions, unfair dismissal or the refusal of post-placement servicing by a Betta People consultant.

9. Supervision and Management of a Betta People Temporary Employee or Contractor

9.1. Betta People Temporary Employees will be employed by Betta People but will perform services under Your direction, control, and supervision. You acknowledge that You have direct supervision and management of Betta People Temporary Employees in the carrying out of each assignment for You, the conditions under which the assignment is performed, and the outcome of a Betta People Temporary Employee's performance.

9.2. Management of performance issues is the responsibility of Betta People. You should only communicate directly with Betta People Temporary Employees in relation to performance or behavioural issues if:

- a) it is life threatening or of a serious nature; and
- b) You immediately notify Betta People of the issue and Your intention to communicate with the Betta People Temporary Employee.

9.3. You agree not to discuss Recruitment Fees and associated information with Betta People Temporary Employees.

9.4. You may not change the hours of work or location of work, the duties or the tasks carried out by Betta People Temporary Employees which You specified in the assignment, unless You first advise us. We reserve the right to change the Recruitment Fees where hours, duties or location have been changed.

10. Cancellation of an assignment / Wet Weather

10.1. If You wish to cancel an assignment prior to its scheduled commencement You must notify Betta People in reasonable time for Betta People to advise the Betta People Temporary Employee of the cancellation or You may remain liable to pay for the minimum 4-hour booking fee.

10.2. Once the assignment has commenced, unless otherwise stated in the agreed details of the assignment, You must provide Betta People with the following periods of notice to end the assignment for any reason:

- a) 10 hours for an assignment of up to and including 12 weeks;
- b) 7 days notice for an assignment exceeding 12 weeks.

10.3. You must pay the Recruitment Fees for all hours worked by the Betta People Temporary Employee up to the time that the Betta People Temporary Employee leaves the assignment.

10.4. Only Betta People may direct Betta People Temporary Employees to:

- a) discontinue work;
- b) be removed from the workplace; and
- c) have their assignment terminated.

11. Insurance

11.1. Betta People will maintain the following insurance policies in relation to Betta People and Betta People Temporary Employees:

- a) Workers' Compensation as required by law; and
- b) Public Liability for at least \$1 million.

11.2. You are responsible for ensuring that the Betta People Temporary Employee is adequately covered by any insurance policy held by You in respect of Your business.

12. Occupational health and safety and employment conditions

12.1. You are responsible for meeting all Your obligations under relevant Occupational Health & Safety ("OHS") laws whilst the Betta People Temporary Employee provides services to You at Your premises. These obligations include, but are not limited to:

- a) ensuring that the work environment is safe. This includes being able to demonstrate that hazards have been identified and risks controlled in all plant and equipment, materials and substances, and any activities to be undertaken by Betta People Temporary Employees;
- b) verifying that Betta People Temporary Employees have the necessary skills, experience and, where required, licenses, to perform the services safely;
- c) providing adequate induction, safety training and supervision to Betta People Temporary Employees and ensuring that the services are being conducted safely;
- d) informing Betta People and the Betta People Temporary Employees if there are any changes to the workplace or the tasks to be performed and not transferring Betta People Temporary Employees to any other role or service without first consulting with Betta People and ensuring that the Betta People Temporary Employees have the knowledge, understanding and skills to perform the newly required tasks;
- e) notifying Betta People and any relevant authorities immediately of any work-related incidents or injuries to Betta People Temporary Employees and permitting Betta People be involved in any subsequent incident or injury investigation.

12.2. You must not do anything that may cause us to be in breach of employment conditions agreed with Betta People Temporary Employees, including enterprise agreements and awards.

12.3. We reserve the right to increase Recruitment Fees where changes to statutory on-costs or award provisions apply, and by agreement with You, to review the salaries of Betta People Temporary Employees who have provided continuous services to You for more than one (1) year.

12.4. In the event of industrial action or a dispute that involves or affects Betta People Temporary Employees, You agree to assist us and do all things reasonably required by Betta People to resolve the industrial action or dispute. This includes giving Betta People or its representatives, access to our employees at Your site, and to Your staff where they may be relevant to resolution of a dispute or complaint.

12.5. You agree to provide a return to work/limited duty program to Betta People Temporary Employees with restrictions resulting from occupational injuries/illnesses

13. Liability and indemnities

13.1. You agree that Betta People is a provider of temporary employees and contractors assigned to work at Your business and location under Your direction. As such, Betta People has no responsibility for the means or methods used by Betta People Temporary Employees to perform their work. Betta People is not liable on any legal or equitable basis, including in negligence, for any acts or omissions of Betta People Temporary Employees other than as provided in clause 13.2.

13.2. Subject to clause 13.3, 13.4 and 13.5, Betta People indemnifies You against any claim, liability, cost, loss or damage suffered or incurred as a result of:

- a) a breach of this agreement by Betta People; or
- b) bodily injury, death, or property damage arising from the negligence of Betta People or Betta People Temporary Employees occurring within the scope of their assignment; except to the extent caused or contributed to by Your own act or omissions or the acts or omissions of Your employees. This will be Your sole and exclusive remedy with respect to the acts, errors or omissions of Betta People or Betta People Temporary Employees.

13.3. You indemnify Betta People against any claim, liability, cost, loss or damage suffered or incurred as a result of any cause other than as provided in clause 13.2.

13.4. Consequential Loss: Notwithstanding anything to the contrary in these Terms and Conditions, Betta People shall have no liability whatsoever to You, whether arising under or in connection with the contract or the performance or non-performance thereof or anything incidental thereto (and whether for breach or repudiation of contract, by way of indemnity, by statute (to the extent that it is possible to exclude such liability), in tort (arising in respect of negligence, bailment or otherwise), or on any other basis in law or equity) for loss of use, production, profit, revenue, business, data, contract or anticipated benefit or saving, or for any delay or for any financing costs or increase in operating costs or for any special, indirect or consequential loss or damage.

13.5. Limitation of Liability: Notwithstanding anything to the contrary in these Terms and Conditions, the total aggregate liability of Betta People to You, whether arising under or in connection with the contract or the performance or non-performance thereof or anything incidental thereto (and whether for breach or repudiation of contract, by way of indemnity, by statute (to the extent that it is possible to exclude such liability), in tort (arising in respect of negligence, bailment or otherwise), or on any other basis in law or equity) is limited to the Recruitment Fees.

14. Hiring a Betta People Temporary Employee or Contractor permanently

14.1. If You wish to hire a Betta People Temporary Employee on a permanent basis, a placement fee is payable to Betta People prior to an offer of employment being made to the Betta People Temporary Employee (Placement Fee). The Placement Fee will be specified by Betta People at the time of hiring and will be based on our permanent fee structure.

14.2. The Placement Fee is payable by You in the event of the acceptance of an offer of a permanent job from You or any company related to You (division, subsidiary or parent company) to any Betta People Temporary Employee who has performed any Services for You during the previous 12 months.

14.3. Our Replacement Guarantee (Clause 5.1) and Performance Guarantee (clause 8.2) do not apply when a Betta People Temporary Employee becomes a permanent employee.

General Provisions

15. Payment Terms and GST

15.1. Invoices for permanent employees are issued monthly and are payable within 7 business days of the date of invoice.

15.2. Invoices for Betta People Temporary Employees are issued weekly and are payable within 5 business days of the date of invoice.

15.3. Any invoiced sums remaining unpaid after 5 business days from the date of our reminder to You to pay will incur interest at a rate of 10% per annum.

15.4. All fees are quoted exclusive of GST, which is payable at the prevailing rate in addition to the invoiced sum upon the same date that the invoice is due.

16. Confidentiality

16.1. Whilst Betta People employs measures to ensure Betta People Temporary Employees adhere to current privacy laws and maintains confidentiality and non-disclosure of information for all our clients, the responsibility for protecting Your confidential information and intellectual property lies solely with You. Betta People is not liable for any claim arising from or relating to Your confidential information and intellectual property.

16.2. All information (written or verbal) regarding candidates must be treated by You as confidential and must not be disclosed to any third party. If a candidate introduced by Betta People subsequently gains employment as a result of any such disclosure to a third party, a placement fee will be due and payable by the client who received the initial introduction.

17. Disputes

17.1. Pre-condition to Court Proceedings: If a dispute arises out of, or relates to, this agreement including any dispute with respect to breach of termination or claim in tort, in equity or under statute ('Dispute') a party may not commence any Court proceedings relating to the Dispute unless it has complied with the paragraphs below (except where the party seeks urgent interlocutory relief).

17.2. Notice of Dispute: A party to this Agreement claiming that a Dispute has arisen must give written notice to the other party specifying the nature of the Dispute.

17.3. Informal Dispute Resolution: On receipt of that notice by the other party, the parties must endeavour to resolve the Dispute as speedily as possible using informal dispute resolution techniques such as mediation, expert evaluation of determination, or similar techniques mutually agreed upon.

17.4. Mediation Rules – A Fallback: If the parties do not agree within fourteen (14) days of receipt of notice (or such further periods as agreed in writing by both parties) about:

- a) the dispute resolution technique and procedures to be adopted;
- b) the timetable for all steps in those procedures; and
- c) the selection and compensation of the independent person required for such technique, then the parties agree to mediate the Dispute in accordance with the Mediation Rules for the applicable State.

18. Illegality and Force Majeure:

18.1. If any provision or term of these Terms and Conditions or any part thereof becomes or is declared illegal, invalid or unenforceable for any reason whatsoever, such provisions, terms and parts will be deemed to be deleted from these Terms and Conditions provided always that if any such deletion substantially affects or alters the commercial basis of these Terms and Conditions the parties will negotiate in good faith to amend and modify the relevant provisions, terms and parts of these Terms and Conditions as may be necessary or desirable in the circumstances.

18.2. If we are prevented from or delayed in the performance of these Terms and Conditions by an act of God or by or in consequence of war, riot, civil commotion or military or usurped power by any strike, lock-out, stoppage, accident, fog or storm, we shall not thereby be liable to You for any breach of obligation under these Terms and Conditions and time for performance of our obligations, shall be extended accordingly.

19. Amendment

These Terms and Conditions may not be amended or supplemented except in writing by a Director of Betta People (Australia) Ltd.

20. Governing Law

These Terms and Conditions shall be governed by and construed in accordance with the Laws of the state or territory where the Betta People Temporary Employee or Candidate is to be employed.

Recruitment Fees – Permanent positions and Buy-outs

Total Annual Gross Remuneration Percentage of Total Annual Gross Remuneration payable as Recruitment Fees

i) Permanent Recruitment Fees

Up to \$119,999	10%
\$120,000 to \$179,999	7%
\$180,000 or over	5%

Unless otherwise negotiated

“Total Annual Gross Remuneration” means total annual remuneration, including base salary, employer superannuation contributions (including compulsory contributions), allowances, inducement or sign-on payments, anticipated commission and bonus earnings and non-salary benefits such as provision of a car. The value of all non-salary benefits will be reasonably determined by Betta People. Where a Candidate is placed in a part-time role the Total Annual Gross Remuneration will be calculated based on a pro-rated full-time equivalent salary.

- Contingent Fee** - If you engage Betta People on a non-exclusive contingent basis to provide you with Candidates for specified assignment, the “Contingent Fee” payable is as set out in the table above (i) and is payable immediately upon the successful candidate signing their employment contract.
- Retainer Search Fees** – If you engage Betta People on an exclusive basis to provide you with Candidates for various assignments on an ongoing basis, the “Retainer Search Fee” payable is as set out in the table above (i) and is payable as follows:

- One- third of the total estimated fee upon acceptance of the assignment (“Retainer Fee”);
- One-third of the total estimated fee upon presentation of the shortlisted Candidates, or 30 days after acceptance of the assignment, whichever is the sooner (“Interim Fee”); and
- The balance upon successful completion of the assignment being when the candidate accepts an offer (“Completion Fee”).

3. Buy- Out Fee – Where a Betta People Temporary Employee or contractor is transferred to a permanent or other employment status or contracts directly with You, the Recruitment Fees payable are as set out in the table below (ii).

ii) Temporary Employee Buy-out fees

Length of service of employee	Fee Payable (%) (of Total Annual Gross Remuneration)
< 3 months service	10%
3 – 6 months service	7%
6 – 12 months service	5%
12 + months service	NIL

Unless otherwise negotiated

I/we have read and agree to the Betta People Terms and Conditions of Business as stated above. Signed for and on behalf of

By authorised person _____

Signature _____

Position title _____

Date _____

Betta People Pty Ltd

Authorised person _____

Signature _____

Position title _____