

GENERAL TERMS AND CONDITIONS OF TRADING

DEFINITIONS

"**Busicom Solutions**" means BI Australia Pty Ltd, ABN 50 635 713 996 and any subsidiaries or related entities, and where relevant, its employees, agents and contractors.

"**Client**" means any person or entity to which Busicom provides services and where the context permits, its servants, agents, employees, contractors and authorized persons and Client Related Entity.

"**Agreement**" means the terms and conditions of business set out herein and any variations made to these terms by Busicom Solutions.

"**Candidate**" is any person, who has sought or obtained placement with a Client of Busicom.

"**Claim**" means a claim, demand, remedy, suit, injury, damage, loss, Cost, liability, action, proceeding or right of action.

"**Personal Information**" means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

"**The Privacy Laws**" means Privacy Act (Cth) 1988 (and amendments including the Privacy Amendment (Private Sector) Act 2000 (Cth).

1. TEMPORARY/ CASUAL CANDIDATE.

- 1.1. Busicom Solutions will use all reasonable endeavours to provide an appropriate and compatible Candidate as requested by the Client. Testing and reference checking are carried out by Busicom Solutions as far as is practicable.
- 1.2. The Client must base any decisions to employ a Candidate wholly on its own enquiries and judgement.
- 1.3. Busicom Solutions does not accept any responsibility for a Claim arising from or related to, whether directly or indirectly, any misstatement as to a Candidate's qualifications, lack of skill, negligence, dishonesty, or misconduct of the Candidate provided.
- 1.4. In the event that a selected Candidate leaves the employ of Busicom Solutions, Busicom Solutions will endeavour as far as is practicable to supply a replacement Candidate for the consideration of the Client.
- 1.5. Busicom Solutions will use all reasonable endeavours to attempt to provide a replacement Candidate to the Client in a timely manner. Busicom Solutions does not accept any responsibility for any claim arising from or related to any failure to provide a Candidate or the failure to provide a replacement Candidate for all or any part of the booking.
- 1.6. It is the responsibility of the Client to supply all necessary plant and/or office equipment (including safety equipment) for a Candidate.
- 1.7. Busicom Solutions shall be responsible for all wages, remuneration or payments made to or on behalf of a temporary/casual Candidate including superannuation, workers compensation and payroll tax.

2. PERMANENT CANDIDATE.

- 2.1. Busicom Solutions will use all reasonable endeavours to provide appropriate and compatible Candidates as requested by the Client. Testing and reference checking are carried out by Busicom Solutions as far as is practicable.
- 2.2. The Client must base any decisions to employ a Candidate wholly on its own enquiries and judgement.
- 2.3. Busicom Solutions does not accept any responsibility for any Claim arising from or related to any misstatement as to a Candidate's qualifications, lack of skill, negligence, dishonesty, or misconduct of the Candidate provided.
- 2.4. Permanent Candidate placements including temporary/casual to Permanent are calculated as per clause 2.6.
- 2.5. Once a Candidate is placed as an employee with a Client, the Client is that person(s) employer and has sole responsibility for the employee. Busicom has no liability or obligations in respect

of the Client's employee, including, without limitation, in respect of the termination of employment of the employee for any reason by the Client.

- 2.6. Busicom Solutions' fees are calculated as a percentage of the candidate's gross equivalent annualised remuneration package (plus GST) which will be taken to include base salary and all other benefits or allowances which represent remuneration in other forms, such as superannuation, subsidised housing loans, bonuses, commissions etc. Motor vehicles provided to staff will be valued at a minimum of \$15,000 per annum or as agreed in the pad rage. Where a placement is part-time, the salary will be equated to the full-time equivalent and the fee shall be charged on that salary.

The fees for permanent placements are calculated as follows:

- Salaries from \$30,000 to \$49,999. 14.5%
- Salaries from \$50,000 to \$79,999. 13.0%
- Salaries from \$80,000..... 7.5%
- Salaries from \$150,000..... 20.0%

GST will be charged in addition to the fee.

Where the amount of annualised commencing remuneration is not readily ascertainable it will be calculated as a multiple of 1500 times the hourly charge (plus GST) at which the temporary/contractor was last supplied to the client.

These fees are to be paid at the time specified in any invoice Busicom Solutions issues to the Client.

- 2.7. In the event that a selected Candidate leaves the employ of the Client within three months for reasons other than retrenchment, Busicom Solutions will endeavour as far as is practicable to supply a replacement Candidate for the consideration of the Client.
- 2.8. Busicom Solutions will use all reasonable endeavours to attempt to provide a replacement Candidate to the Client. Busicom does not accept any responsibility for any claim arising from or related to any failure to provide a Candidate or the failure to provide a replacement Candidate for all or any part of the booking.
- 2.9. If the remuneration package of the replacement Candidate increases from the original Candidate, the invoiced amount will be adjusted appropriately and the Client must pay the difference to Busicom.
- 2.10. The Client must not discuss and must keep strictly confidential the fees charged by Busicom Solutions to the client, or any change to the fees.

3. TEMPORARY/CASUAL TO PERMANENT ARRANGEMENTS.

- 3.1. The Client agrees not to offer and/or not to employ directly, whether by the Client, its subsidiaries or related companies or entities, a Candidate provided to the Client by Busicom Solutions within 12 months from the date of the last day that the person was engaged by the Client.
- 3.2. If after the expiration of one thousand eight hundred (1800) continuous hours of hire, the Client wishes to offer employment to or directly employ a Busicom Solutions Candidate, Busicom Solutions shall waive the restriction set out in clause 3.1 herein and shall not require the Client to pay a placement fee in relation to the direct employment of Candidate.
- 3.3. If the Client directly employs, whether by the Client, its subsidiaries or related companies or entities, a Candidate provided to the Client by Busicom Solutions (whether in the same role or some other role) or a Candidate who was introduced to the client (whether directly or indirectly) even if such Candidate was not placed with the Client, prior to the expiration of one thousand eight hundred (1800) continuous hours of hire, or within the 12 month period referred to in clause 3.1 herein, the Client must pay to Busicom Solutions a placement fee calculated in accordance with Busicom's standard fees for Permanent Placements.
- 3.4. The Client shall be liable to pay the placement fee referred to in clause 3.3 herein, even if the Client company, its subsidiaries or related companies or entities employ the Candidate prior to the proposed date for commencement of the assignment and/or placement by Busicom Solutions of the Candidate with the Client and even if the Candidate was only introduced to the Client but did not successfully obtain a placement or assignment.
- 3.5. The Client must pay to Busicom Solutions, as a liquidated debt payable on demand, the placement fee payable under Clause 3.3

and/or 3.4 herein.

- 3.6. Once a Candidate is placed as an employee with a Client, the Client is that person(s) employer and has sole responsibility for the employee. Basicom has no liability or obligations in respect of the Client's employee, including, without limitation, in respect of the termination of employment of the employee for any reason by the Client.

4. COMPLIANCE WITH LEGISLATION.

- 4.1. The Client agrees and acknowledges that it is required to provide a Candidate with a safe workplace which complies with all relevant Work Health and Safety legislation.
- 4.2. The Client is responsible for ensuring the health and safety of the Candidate while the Candidate is providing services to the Client at the Client's premises or such other place as required by the Client, and must satisfy all its obligations in relation to the Candidate under applicable work, health and safety legislation, discrimination and sexual harassment legislation. This includes, but is not limited to, the following:
- providing all necessary induction and other training and issuing all necessary policies, procedures and directions;
 - immediately notifying Basicom Solutions of any work, health and safety risks or discrimination or harassment issues in connection with the provision of services by a Candidate.
 - Requiring a Candidate to perform only those tasks that the Candidate is skilled and trained to perform; and
 - immediately notifying Basicom Solutions if there are any changes in the tasks that the Candidate is assigned to perform for the Client;
- 4.3. Basicom Solutions reserves the right to visit the site and carry out a risk assessment accompanied by the Client at a time convenient to the Client.
- 4.4. Basicom Solutions reserves the right to refuse to supply a Candidate to the Client or to remove a Candidate from the Client if the Client places a Candidate at unreasonable risk of injury or harm or if in the sole opinion of Basicom Solutions the Client places a Candidate in an environment which undermines their health and safety.
- 4.5. If Basicom Solutions exercises its rights under clause 4.4 herein, it shall not be liable for any claim by the Client brought as a result of Basicom Solutions' actions and Basicom Solutions shall not be liable to redeploy a Candidate to the Client until such time as it is of the opinion that the Client has rectified or remedied the unsafe practices or environment.
- 4.6. It is the responsibility of the Client to provide adequate training to all Candidates for use of specific machinery or equipment and Basicom Solutions does not warrant that any Candidate supplied to the Client is suitably qualified to operate any such machinery in a safe or competent manner.
- 4.7. While Basicom Solutions will endeavour to provide Candidates that are suitable for specific training, it is the sole responsibility of the Client to provide Candidates with site/job induction relevant to the Client's requirements and site/job induction in relation to occupational health and safety.
- 4.8. The responsibility for protecting the Client's confidential information and intellectual property lies solely with the Client. Basicom Solutions is not liable for any claim arising from the misuse by a Candidate of the Client's confidential information and intellectual property;
- 4.9. The Client is responsible for ensuring that a Candidate is adequately covered by any insurance policy held by the Client in respect of the Client's business.

5. PUBLIC LIABILITY.

- 5.1. Basicom maintains current insurance policies with regards to applicable workers compensation, public liability of \$20,000,000 and professional indemnity of \$5,000,000. This can be provided upon request of the client.
- 5.2. The Client shall hold and maintain public liability insurance for a sum of no less than ten million dollars (\$10,000,000) and if directed to by Basicom Solutions give a current certificate of currency issued by the insurer to Basicom Solutions or if requested by Basicom Solutions, a copy of the current insurance policy issued by the insurer.

6. SUPERVISION.

Basicom Solutions supplies a Candidate to work under the care, control and supervision and direction of the Client and its supervisors and the Client warrants that it will at all times provide such care, control supervision and direction to a Candidate so as to ensure, as far as is reasonably practicable, the health and safety of a Candidate.

7. INVOICING AND PAYMENT.

- 7.1. Basicom Solutions operates under a weekly payroll and invoicing system from Monday to Sunday. Individual hours worked by a Candidate up to midnight Sunday must be confirmed by 9am Monday.
- 7.2. The Client undertakes to have each timesheet authorised by an appropriate person.
- 7.3. **Payment terms are strictly 30 days from date of invoice.**
- 7.4. Basicom Solutions reserves the right to charge interest at an annual rate of twelve (12) percent for all invoices not paid within thirty (30) days of the date of issue. Interest shall be calculated daily and shall be charged to the Client's account on a monthly basis.
- 7.5. Basicom may vary the fee at any time without notice in light of the following:
- changes to CPI or market rates;
 - variations to any award or industrial agreement or rate of pay applicable to Candidate
 - any statutory charges, levies, taxes or other payments Basicom is lawfully required to make or for which Basicom may become liable in respect of providing a Candidate this agreement.
- 7.6. The Client agrees and undertakes to pay to Basicom on demand all liabilities, losses, penalties, costs, charges and expenses including legal costs and disbursements (on a solicitor and own client basis), that Basicom incurs in enforcing or exercising rights after a breach of the this Agreement occurs including but not limited to a failure by the Client to pay any monies payable to Basicom.
- 7.7. The Client agrees to verify and sign or where the Basicom Solutions Online Timesheet facility is in use, authorise via this medium, the Employment Business timesheets each week. Signature or online verification of the timesheets by the Client constitutes acceptance that the Candidate has worked satisfactorily for the hours indicated on the timesheets. Failure to authorise the timesheets does not alter the Client's liability to pay for hours worked by a Candidate.
- 7.8. Time is of the essence in relation to payment and Basicom Solutions may require earlier payment or cash upon delivery of the services if in the unfettered opinion of Basicom Solutions, the Client's credit worthiness is uncertain or is unacceptable to Basicom Solutions.
- 7.9. The Client must pay to Basicom Solutions all amounts due in full without any set off or deduction whatsoever.
- 7.10. If the Client fails to pay on time then without prejudice to any other remedy available to it, Basicom Solutions may,
- Terminate this contract; or
 - Suspend supply of services until all outstanding amounts have been paid by the Client; or
 - Set off any other payments the Client has made against all amounts due by the Client to Basicom Solutions.

8. MINIMUM PERIOD OF HIRE.

There is a minimum hire period of four hours per person per day, however some Awards and work environments will dictate a longer period. The Client is required to confirm the minimum hire period at the time labour is ordered.

9. INDEMNITY

- 9.1. Basicom Solutions makes every effort to maintain a high standard of Candidates and to provide proper details of their qualifications and experience. However, as these details are based on information provided to Basicom by the Candidate, their referees, and other third party organizations, Basicom Solutions is not liable for any errors, omissions, inaccuracies or incorrect conclusions in respect of a Candidate. Clients are responsible for the final recruitment decision and must satisfy themselves as to the suitability of the Candidate.
- 9.2. Basicom Solutions is not liable for any loss, damage, costs or

Claim (whether direct or indirect) which may be suffered by the Client, or for which the Client may become liable, arising from:

- a) the introduction by Basicom Solutions of Candidates (or delay in any such introduction); or
- b) the failure of a Candidate to accept an offer of employment or placement

9.3. The Client indemnifies Basicom Solutions (and keeps Basicom Solutions indemnified) on a full indemnity basis in respect of all losses, liabilities, costs or claims arising from or related to:

- a) the actions or omissions of a Candidate, performing an assignment for the Client, whether wilful or negligent and whether or not occurring at the Client's premises or the place where the assignment is performed;
- b) any failure or alleged failure of a Candidate, to duly perform his or her obligations;
- c) personal injury or death of a Candidate, or any other person howsoever arising from, or related to the performance by a Candidate of his or her obligations; and
- d) damage to any property arising from, or related to the performance by a Candidate, of his or her obligations.

9.4. The Client further indemnifies Basicom Solutions (and keeps Basicom Solutions indemnified) on a full indemnity basis in respect of any Claim related to the Candidates assignment with the Client, including but not limited to termination of the assignment by the Client.

10. INSTRUCTION BY CLIENT

10.1. The Client must clearly instruct Basicom Solutions in relation to the requirements of the assignment and duties for the Candidate to be provided.

10.2. It is the responsibility of the Client to advise of union membership requirements at the time labour is ordered for hire.

10.3. It is the responsibility of the Client to provide Basicom Solutions with relevant information on Award pay rates, over Award payments, site agreement rates and allowances such as dirt, meal, site etc.

10.4. The Client must immediately notify Basicom Solutions in writing of the following:

- (a) If there is any change to the duties or systems of work to be performed by a Candidate;
- (b) If the Client becomes aware that the Candidate intends to cease work for the Client;
- (c) If the Candidate fails to attend work for the Client for a period exceeding one day;
- (d) If the Candidate's assignment is terminated for any reason or the Client ceases to require the Candidate to attend work;
- (e) any other matter which may be relevant, whether directly or indirectly, to the wages and conditions payable by Basicom Solutions to Candidate.

10.5. The Client is responsible for ensuring that it maintains a system to verify the hours worked by a Candidate and that it does verify the hours for each Candidate as set out in any invoice issued by Basicom Solutions to the Client.

10.6 Any claim for loss, damage, error or misdescription in an invoice issued by Basicom Solutions related to the hours claimed by any Candidate must be notified in writing to Basicom Solutions within three (3) business days of receipt of an invoice by the Client from Basicom Solutions, time being of the essence.

10.7 If no claim for loss or damage is made within the period specified in subclause 10.6 then the Client is deemed to have accepted and authorised the information forming the basis of the invoice including the amount of the invoice and to the fullest extent permitted by law, even if that invoice has been paid by the Client.

10.8 Despite any term of this agreement, the Client waives any claim for loss, claim, liability or damage against Basicom Solutions and Basicom Solutions will be discharged from all liability whatsoever, whether in contract, tort, equity or under any statute:

- (a) in connection with an invoice issued to or paid by the Client unless notice is given to Basicom Solutions by the Client strictly in accordance with clause 10.7 herein; and
- (b) Arising from or related to, whether directly or indirectly, any failure by the Client to comply with clause 10.4 herein.

11. AMENITIES.

The Client is responsible for providing sufficient site accommodation, tool lock-ups and all other amenities required by the relevant Award, AWA or industrial agreement.

12. INTRODUCTION

12.1. If a Candidate or his or her details are introduced to or passed on to the Client (including the transfer of a candidate's details to the Client's database), and that introduction or transfer results in the Permanent employment or engagement on a temporary or casual basis of the Candidate, the Client must pay Basicom the appropriate fee in accordance with these Terms of Business and Basicom's standard fee structure.

12.2. If the details of a Candidate, who has been introduced by Basicom Solutions to a Client, are passed onto a third party who subsequently employs the Candidate, the Client will be liable for the appropriate placement fee in accordance with these Terms of Business and Basicom's standard fee structure.

13. GUARANTEE

13.1. Basicom may, at its sole discretion require one or more persons to guarantee the obligations of the Client to Basicom.

13.2. Where Basicom requires such a guarantee, Basicom shall not be required to provide any services to the Client until the guarantee is provided to the satisfaction of Basicom.

13.3. Any such guarantee provided will be on the basis of the terms and conditions of the Guarantee set out below.

13.4. **"Guaranteed money"** means all amounts which at any anytime for any reason or circumstance are payable, are owing but not currently payable, are contingently owing or remain unpaid by the Client in connection with this agreement or any transaction contemplated by it, whether at law, in equity under statute or otherwise.

13.5. **"Guaranteed Obligations"** means all of the express or implied obligations to which the Client is subject in connection with this Agreement or any transaction contemplated by it.

13.6. The Guarantor acknowledges that Basicom Solutions has entered into this Agreement at the Guarantor's request.

13.7. The Guarantor and, where there is more than one of them, jointly and each of them severally unconditionally and irrevocably guarantees payment to Basicom Solutions of the Guaranteed Money and unconditionally and irrevocably guarantees the due and punctual performance by the Client of the Guaranteed Obligations.

13.8. If the Client does not pay the Guaranteed Money on time and in accordance with the Terms, then the Guarantor agrees to pay the Guaranteed Money to Basicom Solutions on demand from Basicom Solutions.

13.9. If the Client does not duly and punctually perform the Guaranteed obligations in accordance with this Agreement then the Guarantor agrees to perform the Guaranteed Obligations on demand from Basicom Solutions.

13.10. The Guarantor, as a separate undertaking, indemnifies Basicom Solutions against Basicom Solutions' loss arising from the Client's breach of this Agreement.

13.11. This guarantee is a continuing security and extends to all of the Guaranteed Money and other money payable under this guarantee and to all Guaranteed Obligations. The Guarantor waives any right it has of first requiring Basicom Solutions to proceed against or enforce any other right, power remedy or security or claim for payment from the Client or any other person before claiming from the Guarantor under this guarantee.

13.12. This clause 13 is an essential term of this Agreement.

14. REPLACEMENT GUARANTEE

Should the performance of a contractor/temporary employee prove not to meet the requirements of the assignment as agreed, we will replace the temporary at no charge for the first four hours on a booking of less than one month, and at no charge for the first day on

bookings of one month and over, providing we receive notification within 36 hours of commencement.

15. TERMINATION

If full payment is overdue by more than 14 days or any proceedings related to insolvency is taken or you make any arrangement or composition with creditors then we may treat ourselves as being discharged from this agreement and (without prejudice to any other remedy) any fees will become immediately due and payable.

16. GOVERNING LAW

This Agreement and the supply of the services will be governed and construed in accordance with the laws of the State or Territory in which this Agreement is entered into and the parties hereby agree to submit to the exclusive jurisdiction of a competent court in that State or Territory of Australia.

