

Ambition Group

1. Engagement

These Terms of Business (“**Terms**”) are between Ambition Recruit Pty Limited, ABN 69 087 937 380 and People with Ability Pty Ltd (Trading As “AccountAbility”, ABN 42 091 909 045 (“**we/us/our**”) and yourself, when you accept our services as our client (“**you/your**”).

These Terms will apply to candidates presented by us to you (“**candidate(s)**”).

You will be regarded as having agreed to these Terms if you:

- (a) sign these Terms; or
- (b) give us written or verbal instructions to supply candidate(s); or
- (c) interview a candidate we introduced to you; or
- (d) employ or otherwise engage a candidate we introduced to you; or
- (e) refer a candidate we introduced to you to a third party who then employs or otherwise engages that candidate.

These Terms must be read in conjunction with an addendum letter (if provided by us) and/or our written confirmation that outlines the details of our engagement, type of assignment you have requested and other relevant information pertaining to that particular engagement (“**Engagement Letter**”).

We provide recruitment services relating to the employment of staff (Permanent Recruitment), fixed term contractors (Fixed Term Recruitment) and temporary contracting recruitment (Contracting Recruitment).

2. Permanent Recruitment

2.1 Notification

You agree to notify us immediately in writing if a candidate introduced by us accepts your offer of permanent employment.

2.2 Your Employee

Any candidate employed by you in accordance with these Terms is your employee and you are responsible under any statute, regulation, by-law, ordinance or other determination of any government agency with the force of law in Australia for:

- (a) All of the entitlements of the candidate, including but not limited to payment of salary, annual leave, personal/carer’s leave, and long service leave (Employee Entitlements); and
- (b) All of the obligations of an employer, including but not limited to obligations contained under the *Fair Work Act 2009 (Cth)* or relevant state Industrial legislation (Employer Obligations), in relation to that candidate.

2.3 Fees and Payment

- (a) You must pay us fees relating to Permanent Recruitment (**Perm Fee**) in accordance with these Terms, unless otherwise specified in a relevant Engagement Letter. The Perm Fee payable is calculated based on an agreed percentage of the candidate’s annual commencing salary package. Annual commencing salary will be taken to include cash salary, superannuation, allowances, guaranteed bonuses and commissions, and non-cash benefits, which form an integral part of the remuneration package. The provision of a motor vehicle will be valued at the cashed-out equivalent of the vehicle.

Perm Fee(s) will be calculated as follows:	
Salaries up to \$70,000	16%
\$70,001 to \$140,000	18%
\$140,001 to \$200,000	21%
\$200,001 or search assignment	25%

- (b) The Perm Fee is payable whether you engage us on a retained or exclusive or standard basis.
 - i. **Retained assignment:** Retained assignment services require an exclusive agreement where you will pay us in three stages as detailed in the Retained Assignment document. The Retainer Fee is payable within 7 days from the date of issue of the relevant invoice.
 - ii. **Exclusive basis:** Exclusive basis: If you agree to engage us on an exclusive basis you agree to only brief us and not to accept introductions of candidates in any form from other external suppliers and the Engagement Fee is payable in accordance with Clause 2.3(b)(i) within 7 days from the later of: A) date of the retainer or B) issue of the relevant invoice. Please note that when we are engaged on an exclusive basis, a cancellation fee of 5% of the budgeted first year salary package (inclusive of superannuation) will apply to any role that

is cancelled by the client after first stage interviews are conducted by the client.

- iii. **Standard basis:** If our engagement by you is non-exclusive, our fees are payable in accordance with Clause 2.3(c).
- (c) You acknowledge that you must pay us the Perm Fee when an offer of employment is made to and accepted by a candidate. Our invoice for the Perm Fee will be issued to you after the date the candidate is to commence their employment with you and is payable within 14 days of the date of issue.
- (d) Part-time Permanent Recruitment placements will not be pro-rated and will be charged at the same rate as full-time Permanent Recruitment placements.

3. Temporary Contracting Recruitment

3.1 Our Respective Obligations

- (a) Subject to Clauses 3.1(b), 3.1(c) and 3.2, any candidate supplied by us to you under Contracting Recruitment is our employee and we are responsible for Employee Entitlements as set out in Clause 2.2 in relation to that candidate.
- (b) You must ensure that all workplace health and safety legislation is complied with in relation to the candidate while on assignment at your premises, or at any other premises as you may direct. This includes induction and training required for the candidate to comply with your OH&S policies and procedures.
- (c) You must ensure that all state and federal equal opportunity legislation is complied with in relation to the candidate, including in relation to discrimination and harassment, and ensure compliance with all general protections in Part 3-1 of the Fair Work Act 2009.

3.2 Supervision

You are responsible for the direct supervision and management of the candidate in the performance of the assignment, and the achievement of outcomes required of the assignment.

3.3 Fees

- (a) Our Contracting Recruitment fees are invoiced for the time period actually worked by our candidate and will be at the agreed margin.
- (b) Our fees include an allowance for applicable statutory charges, including superannuation, payroll tax and workers compensation which will be charged in addition to the set margin.
- (c) We may vary our fee to allow for changes in conditions of any federal or state Awards, Australia workplace agreements, collective agreements, Greenfield agreements and individual transitional employment agreements (Industrial Agreements), and statutory or other charges we may be lawfully required to make. These include, but are not limited to, penalty rates that may apply under an Award or Industrial Agreement for work performed outside normal business hours as specified in the Award or Industrial Agreement.
- (d) Where a candidate has been placed by us to you on a contractual basis and you wish to engage that candidate on a permanent basis, the permanent placement fee as set out in clause 2.3 will apply.

3.4 Timesheets

Our candidate will periodically submit timesheets to you for approval. By signing or approving electronic timesheets you confirm that the work has been completed to your satisfaction by the candidate and you will accept our fees for the period worked.

3.5 Payment Terms

Our fees are invoiced when we have made payment to our candidate for the period worked and are payable by you within 7 days of the date of our invoice.

3.6 Termination

- (a) You may terminate a Contracting Recruitment assignment by giving us notice in writing of the duration specified in a relevant Engagement Letter (**Notice Period**).
- (b) We may terminate a Contracting Recruitment assignment without further notice if you are in breach of these Terms and fail to remedy the breach within 14 days of us notifying you in writing.
- (c) Where the Contracting Recruitment assignment is terminated for any reason, you will be liable to pay us the fee in respect of all hours worked by the candidate up to and including the time of termination. This will include all Notice Period(s) that the candidate is subject to, or which is required to be given, including any “gardening leave”.

3.7 Assignment Variation

You shall not at any time during an assignment require the candidate to undertake work that falls materially outside the original job brief and specification unless we have given our consent in writing.

4. Fixed Term Recruitment

4.1 Engagement

We will only consider Fixed Term Recruitment (Fixed Term) requests for

periods of thirteen (13) weeks or more. Fixed Term contracts of 12+ months will be calculated at permanent rates.

4.2 Your Employee

Any candidate employed by you under Fixed Term is your employee and you are responsible for the Employee Entitlements and Employer Obligations as set out in clause 2.2 in relation to that candidate.

4.3 Fees and Payment

(a) You must pay us a fee (**Fixed Term Fee**) which will be calculated as a percentage of the candidate's annual commencing salary (or annualised equivalent) in accordance with the Fee Schedule below.

Fee Schedule:	
4 – 8 months	30%
9 – 11 months	25%

For example, the fee for a candidate with a salary of \$120,000 p.a. on a 10 month contract will be $\$120,000 \times 10/12 \times 25\% = \$25,000$

- (b) If the term of the Fixed Term is extended by you, additional fees will be payable at the same rate, in accordance with services rendered for a period of up to, and including 52 weeks.
- (c) Our Fixed Term Fee must be paid within fourteen (14) days of the date our invoice.
- (d) There is no guarantee period for Fixed Term Recruitment.

5. Replacement Guarantee

- (a) Our Replacement Guarantee period for Permanent Recruitment is 12 weeks from the candidate's start date.
- (b) The Replacement Guarantee means that we will use our reasonable commercial endeavours to find a replacement candidate for the position and it will only apply if:
 - i. You have paid our fees in accordance with these Terms; and
 - ii. Your request to replace the candidate is given to us within one (1) week of the candidate's termination; and
 - iii. Your request to replace the candidate is given to us exclusively and in the case of Permanent Recruitment for not less than one (1) month following your request; and
 - iv. The original job specification is unchanged; and
 - v. In the case of Permanent Recruitment, either you or the candidate terminates their employment; or
 - vi. In the case of Fixed Term assignment is for 52 weeks or more.
- (c) The Replacement Guarantee will not apply:
 - i. If termination is the result of a change in the job specification, your structure, operations or workplace conditions; or
 - ii. If you engaged the candidate through us in a temporary capacity in accordance with our Contracting Recruitment prior to accepting a position under our Permanent or Fixed Term Recruitment; or
 - iii. To replacement candidates placed in employment with you in accordance with this Replacement Guarantee.
- (d) If the remuneration package of the replacement candidate differs from the original candidate, the amount invoiced will be adjusted accordingly.
- (e) You may not transfer the Replacement Guarantee to any other placement or service provided by us.
- (f) The Replacement Guarantee will not apply to Contracting Recruitment.

6. General Provisions

6.1 No Warranties and Indemnities

- (a) Although we will conduct interviews and submit details of candidates we believe are appropriate to the job specification you provide, we make no warranty as to the suitability of any candidate to a particular position. You are responsible for ensuring the candidate is suitable to the position to which they are appointed.
- (b) Notwithstanding any other provision of these Terms, we are not liable for any loss suffered by you arising from the introduction of any candidate, any delays in the recruitment process, any errors, omissions or inaccuracies in the information provided to us by third parties, including (but not limited to) information as to a candidate's qualifications and experience and information contained in a candidate's reference, the failure of a candidate to accept an offer of employment, the failure of a candidate to perform their obligations under your employment or control, or any actions or omissions of a candidate. We shall have no liability (whether for breach of contract, under indemnity, negligence, common law, tort, equity, under statute or in restitution, or on any other legal or equitable basis) to you for

loss of use, profit, revenue, business, data, contract or anticipated benefit or saving, or for any delay, financing costs or increase in operating costs or for any special, indirect or consequential loss. Otherwise, our maximum aggregate liability (whether for breach of contract, under indemnity, negligence, common law, tort, equity, under statute or in restitution, or on any other legal or equitable basis) to you is limited to the fees paid to us by you.

6.2 Candidate Ownership

- (a) If you choose to interview a candidate presented by us to you or on-refer such candidate to a third-party then you acknowledge that the candidate has been introduced by us subject to these Terms, and that any previous interactions, communications or employment relationships have no bearing on our introduction or the fees payable according to these Terms.
- (b) If you interview a candidate and then within the following twelve (12) months:
 - i. Employ that candidate in permanent work, then the terms relating to Permanent Recruitment as indicated at Clause 2 will apply. These include (but are not limited to) the fees payable for Permanent Recruitment services,
 - ii. Engage that candidate on a contract, then the terms relating to Fixed Term Recruitment or Contracting Recruitment as indicated at clauses 3 and 4 (as the case may be) will apply. These include (but are not limited to) the fees payable for Fixed Term Recruitment or Contracting Recruitment in accordance with clauses 3 or 4 as the case may be.
- (c) A fee (at our standard rates current at the time) will also be payable by you if you refer a candidate introduced by us to another party who subsequently employs or otherwise engages that candidate.
- (d) Our entitlement to a fee will continue for a period of twelve (12) months from the date we introduced the candidate to you, or the date the candidate completed an assignment with you, whichever is the later.
- (e) This clause 6.2 applies when a candidate introduced by us to you introduces another candidate ("**Referred Candidate**") to you and that introduction results in permanent employment or contractual engagement of the Referred Candidate. For the avoidance of doubt, you must pay in full the appropriate fee in accordance with these Terms in relation to each such engagement of any Referred Candidate.

6.3 Confidentiality & Privacy

- (a) Introductions made by us are confidential, and you may not disclose to any other party any information relating to the introduction, the candidate or their subsequent employment without our express written consent.
- (b) You agree to comply with the provisions of the *Privacy Act (Cth) 1988* regarding the use of personal information and will not use personal information except for the purpose of considering a candidate for an assignment.

6.4 Goods & Services Tax

Unless otherwise noted, all fees (including advertising and expenses) quoted by us and payable under these Terms are exclusive of GST, which we will add to our invoice at the prevailing rate.

6.5 Default Interest

If you fail to pay any amount payable under these Terms on the due date for payment, you must pay interest on the amount unpaid at the interest rate of 12% per annum. Interest is payable in respect of the period from the due date for payment until the actual date of payment of that amount.

6.6 Variation

This Agreement may only be amended or supplemented in writing signed by the Parties.

6.7 Severability

Any provision in these Terms are invalid or unenforceable in any jurisdiction is to be read down for the purposes of that jurisdiction, if possible, so as to be valid and enforceable, and is otherwise capable of being severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions of these Terms or affecting the validity or enforceability of that provision in any other jurisdiction.

6.8 Governing Law

These Terms are governed by the laws of the State of New South Wales. Each Party irrevocably submits to the non-exclusive jurisdiction of the courts of the State of New South Wales.

Signed by the client:

Signature: _____
Name: _____

Position:	
Date:	