

## Contract of Services - Employee

**Insert Name of Employee and The Recruitment Company Pty Ltd (TRC)**

### Preamble

- A. TRC hereby agrees to employ, and the Employee hereby accepts employment with TRC in the position set out in the Schedule on the terms and conditions contained in this Agreement.
- B. The Employee acknowledges that they are engaged on an on-hire basis for an undetermined period for the purposes of carrying out the Work for the Client of TRC commencing on the Commencement date set out in the Schedule, and terminating on the end date set out in the Schedule or subject to the provisions of this Agreement.
- C. TRC may direct the Employee to work at different locations provided that such a move does not cause undue hardship or inconvenience to the Employee.
- D. The parties accept that the nature of the Employee's role and levels of responsibility may be changed during the period of this agreement at the discretion of TRC. The terms and conditions set out in this agreement will continue to apply to the Employee irrespective of any change to the Employee's position unless otherwise agreed to in writing by the parties.

### 1.0 Position

- 1.1 The Employee will be employed in the position set out in the Schedule, reporting to the person identified in the Schedule.
- 1.2 The Employee will be based at the Location specified in the Schedule or at any other location that TRC may specify from time to time.
- 1.3 The Employee's engagement will be for an undetermined period for the purposes of carrying out the Work, commencing on the Commencement date set out in the Schedule, and terminating upon the termination of the Client's engagement with TRC or subject to the provisions of this Agreement.

### 2.0 Work

- 2.1 The employee has been hired to carry out the work described in the Schedule ("Work") whilst TRC is engaged by the Client as set out in the Schedule. This contract will conclude upon TRC's engagement with the Client coming to an end.

### 3.0 Hours of Work

- 3.1 The Employee will be required to work the hours as specified in writing by TRC as required to fulfil the inherent requirements of the position and to carry out the Work as required.

## 4.0 Remuneration

- 4.1 TRC will pay the Employee at the rate set out in the Schedule for the hours recorded in the timesheet.
- 4.2 TRC agrees to contribute to the Employee's nominated super fund in respect of superannuation for the benefit of the Employee in accordance with the TRC's obligations under the Superannuation Guarantee (Administration) Act 1992 and any regulations made pursuant thereto.
- 4.3 TRC hopes to provide the Employee with remuneration that is competitive with market rates. The Employee's remuneration is in excess of all entitlements under any award, workplace agreement or similar instrument that may apply to the Employee's employment. However, if an award, workplace agreement or similar instrument applies to the Employee's employment, then:
- (a) it applies as a matter of law and does not form part of the Employee's employment contract; and
  - (b) the Employee's remuneration and, if applicable, any benefits provided to the Employee are in satisfaction of, and can be used to set-off, all entitlements under any award, workplace agreement or similar entitlements including minimum wage, overtime, allowances, loadings and penalties.

## 5.0 Leave and Other Entitlements

- 5.1 The Employee will be entitled to be paid annual leave, personal leave and long service leave in accordance with the National Employment Standards and unused annual leave and personal leave entitlements will be paid out at the end of the Employee's engagement under this Agreement.

## 6.0 The Employee's obligations

- 6.1 During the Employee's employment, the Employee must:
- (a) act in TRC's best interests;
  - (b) not use his/her position for an improper purpose or for private benefit;
  - (c) faithfully and diligently perform his/her duties;
  - (d) comply with all reasonable directions;
  - (e) not, without TRC's prior written consent, act in conflict with TRC's interests;
  - (f) disclose to TRC, at the earliest opportunity, all potential or actual conflict of interest, and other matters likely to impact on the performance of the Employee's duties;
  - (g) on discovery, not allow a potential or actual conflict of interest to continue; or
  - (h) not, without TRC's prior consent, engage in any other employment or business.
- 6.2 The Employee will carry out the Work or such other work as is assigned to him/her from time to time in a conscientious and expeditious manner.
- 6.3 The Employee will use all skill, care and diligence in performance of the Work under this agreement.
- 6.4 The Employee warrants that he/she is competent and has the necessary skills to carry out the Work.

- 6.5 The Employee acknowledges that prior to entering into this Agreement, they have reviewed the terms and conditions of the Agreement and that they have had sufficient time to make a decision as to the fairness of the Agreement before executing this Agreement.
- 6.6 The Employee warrants that the Employee is legally eligible to work in Australia and agrees to provide evidence of this if and when required.

## 7.0 Out of Pocket Expenses

- 7.1 As the Employee carries out the Work for the Client on an on hire basis, the Employee will carry out the Work at its own cost, and unless expressly authorised by TRC, will not be entitled to be reimbursed for any out of pocket expenses incurred by the Employee in connection with the carrying out of the Work.
- 7.2 Work related expenses will be reimbursed by TRC to the Employee if:
- (a) The expense is incurred at the written request of the Client;
  - (b) The expense is properly substantiated and is associated with the Work;
  - (c) A receipt showing the provider's ABN is submitted along with details of the expense; and
  - (d) TRC's Expense Claim Form is completed (copy obtainable from TRC).

## 8.0 Occupational Health and Safety

- 8.1 TRC is required to comply with not only the National Health and Safety Legislation known as Work Safe Legislation but some states have their own individual Occupational Health and Safety legislation. The Employee must at all times ensure that they familiarise themselves and strictly comply with the relevant health and safety legislation at the Workplace.
- 8.2 The Employee acknowledges that the compliance with New South Wales and Commonwealth law relating to occupational health and safety is an important part of the contracting relationship.

## 9.0 Timesheets

- 9.1 The Employee is responsible for providing accurate timesheets and for ensuring that these are approved by an authorised approver for the Client.
- 9.2 Unless otherwise specified by the Client the Employee will complete these timesheets on TRC's electronic timesheet system or as advised by TRC from time to time.

## 10.0 Confidentiality and Ownership of Confidential Information

- 10.1 Ownership of the Client's Confidential Information will vest in the Client.
- 10.2 The Employee covenants to TRC that:
- (a) it will not, either during the operation of this Agreement or at any time thereafter, use or disclose to any person or entity any of the Confidential and/or Proprietary Information;
  - (b) it will hold the Confidential Information on trust for the true owner;
  - (c) it will use its best endeavours to prevent the unauthorised use or disclosure of any of the Confidential Information by third parties; and

(d) TRC may at its sole election assign the covenant as contained in this part.

10.3 The Employee must take all reasonable precautions to prevent any unauthorised disclosure of Confidential Information and unauthorised use of any proprietary information, including the following precautions:

- (a) the Employee must at all times store all Confidential Information safely and securely;
- (b) the Employee must immediately notify TRC in writing of any actual, threatened or suspected unauthorised disclosure of any Confidential Information; and
- (c) the Employee must take all reasonable measures to minimise any unauthorised dissemination of any Confidential Information which is in any way related to or resulting from an act or failure to act by the Employee.

## 11.0 Intellectual Property

11.1 The Employee acknowledges that:

- (a) All Intellectual Property created or conceived by the Employee as a result of the operation of this Agreement will vest in the Client and the assigns such Intellectual Property to the Client.
- (b) The Client shall have the sole right to use and exploit all such Intellectual Property without the Employee's involvement or additional compensation to the Employee.

## 12.0 Ending This Agreement

12.1 This Agreement will conclude at the termination of the Client's engagement with TRC.

12.2 The Employee and TRC may end the Agreement by giving each other written notice for the appropriate period as specified in the Schedule or such other period of notice required to match the notice given to TRC by the Client to bring an end to the Client's engagement (whichever period is greater). TRC may elect to make payment in lieu of notice. Should TRC decide to terminate the Agreement reasons will be given for terminating the Agreement and in this regard TRC's reason shall be final and no other communication shall be entered into between TRC and the Employee. The Employee acknowledges to TRC that he or she shall not enter into any negotiation or litigation with TRC relating to the termination of this Agreement.

12.3 The Employee acknowledges that as they are engaged for a specified task, they will not be entitled to redundancy pay in accordance with any applicable legislation.

12.4 TRC may terminate this Agreement without any prior written notice if:

- (a) The employee fails to carry out the Work to the reasonable satisfaction of the Client and the Client advises TRC that it requires TRC to immediately remove the Employee from the Workplace;
- (b) The employee fails to rectify any breach of this Agreement or default in performance of the Employee's obligations under this agreement within seven (7) days of TRC giving the Employee written notice of that breach or default;
- (c) The employee is guilty of misconduct in the carrying out of the Work without due diligence and skill in the carrying out the Work;

- (d) The employee acts in any manner which in TRC's opinion damages or may damage TRC's relationship with the Client or the Client's reputation; or
- (e) The employee breaches or is alleged to have breached a Workplace policy of the Client which is sufficient to warrant a workplace investigation.
- (f) The Client becomes insolvent or notifies TRC that is unable to meet its financial obligations to TRC.

12.5 If this Agreement is terminated:

- (a) TRC does not have liability to the Employee for any loss (including loss of profits and economic or consequential loss), costs, damages, compensation or any other amount in respect of that termination and in this regard the Employee releases and forever abandons any claims against TRC it may have; and
- (b) TRC may retain any money due to the Employee and use same as an offset in connection with this Agreement if the Client has notified TRC or if TRC are otherwise aware of any claim (including actual and potential) by the Client in connection with carrying out the Work. TRC may apply any money withheld by it to the reasonable resolution of any claim by the Client, and will pay the balance to the Employee once all outstanding claims have been met.

### 13.0 Non Disparagement

- 13.1 This Agreement is confidential to TRC and the Employee. The Employee or TRC may not disclose or allow to be disclosed the content of this Agreement except to the extent that the disclosure is reasonably required to give effect to this Agreement or is required by law.
- 13.2 The Employee and TRC agree that they shall not, during the course of this Agreement, mutually disparage one another so as to adversely affect the Employee and TRC's good name and reputation.

### 14.0 Disputes

- 14.1 Should any dispute arise out of this Agreement, the parties agree that they will first attempt to deal with that dispute at the workplace level. If that dispute is not resolved within seven (7) days of either party notifying the other party that the dispute has arisen, it will be referred to arbitration at the cost of the party who raised the dispute.

### 15.0 Restraints

- 15.1 In consideration of the payments made to the Employee under this Agreement, the Employee covenants to TRC as follows:
  - (a) that they will not, either in their own right or on behalf of any other person, corporation or legal entity, enter into any negotiations directly with the Client or any other third party on behalf of the Client whereby the Employee or any person, Employee or corporation on behalf of the Employee will carry out the Work for the Client without first obtaining the prior written consent of TRC. The obligations that the Employee has under this part will continue for a period of 12 months after the termination of this Agreement or any other subsequent agreement between TRC and the Employee. In the event that the court finds that the obligations for the restrictions under this part of 12 months are too

broad, the Employee agrees that they will apply in lieu of 12 months a period of six (6) months;

(b) that the Employee will not, for a period which is the aggregate of the time in which the Employee has carried out the Work or in accordance with this agreement to TRC during the previous twelve month period, purport to encourage or solicit any employee, contractor or third party with whom the Employee has had direct contact with while carrying out the Work under this agreement and who carries out services for TRC to cease providing those services to TRC or to any client of TRC where TRC receives a benefit for those persons providing those services to the Client of TRC.

15.2 The Employee will not during the time that the Employee carries out the Work under this agreement enter into any direct negotiations with any person or corporation at the workplace where the Employee carries out the Work for the purposes of the Employee or any third party on their behalf to negotiate any remuneration paid by the proprietor or business operating from that workplace. Such negotiations or arrangements shall include but will not be limited to: the amount paid for the Employee carrying out the Work at the Workplace, and the terms or conditions, including hours, in relation to the Work carried out at the workplace.

## 16.0 Miscellaneous

16.1 This Agreement can only be varied by agreement in writing.

16.2 The clauses of this Agreement contain the entire agreement between the Employee and TRC. We both acknowledge that there are no promises, terms, conditions or obligations oral or written, expressed or implied, other than those contained in this Agreement.

16.3 Each clause in this Agreement is severable from the other clauses. If a clause or part of a clause becomes unenforceable for any reason this shall not affect the validity of the remainder of the clause or Agreement.

16.4 If either the Employee or TRC grant an extension of time or indulgence to the other party this will not operate as a waiver of any rights.

16.5 This Agreement will be interpreted in accordance with the law of the state referred to in the Schedule.

16.6 By signing this Agreement, the Employee agrees and confirms, that they have read and agree to adhere to TRC's Equal Employment and Harassment and Occupational Health and Safety policies.

16.7 If the Employee accepts an assignment with TRC and its clients then it is deemed that the Employee accepts the terms of this Agreement irrespective of whether the Employee has signed it.

16.8 The address for service and deemed service of notices is as shown in the Schedule.

## 17.0 Jurisdiction

17.1 The construction, validity and performance of this agreement shall be governed by the laws of New South Wales and have exclusive jurisdiction in New South Wales and sitting in the City of Sydney in the central business district.

**18.0 Whole of Agreement**

- 18.1 This Agreement constitutes the entire agreement of the parties in respect of the matters dealt with in this Agreement and supersedes all prior agreements, understandings, arrangements and negotiations in respect of the on-hire Work.

THE  
RECRUITMENT  
COMPANY

## 19.0 Definitions

19.1 "TRC" means The Recruitment Company PTY Ltd

19.2 "Client" means the person and/or (organisation) as specified in the Schedule or as advised in writing by TRC to the Employee.

19.3 "Confidential Information" means all information concerning:

- drawings;
- maps;
- plans;
- designs;
- diagrams;
- tables;
- charts;
- specifications;
- TRC or Client documents;
- Computer material;
- Information in whatever form embodied in samples;
- Models and any other objects or matter;
- Any computer or other program or work systems;
- Procedure;
- Process;
- Formula;
- Method of production;
- Invention or other discovery;
- any Client material, whether written or electronic, that the Client identifies as confidential and/or proprietary to the Client or such material that is by its nature confidential and/or proprietary to the Client; and
- TRC's or the Client's trade secrets, Confidential and/or Proprietary Information.

which the Employee receives, becomes aware of, develops, creates or generates in the course of carrying out the Work pursuant to this Agreement.

19.4 "Employee" means the person as specified in the Schedule engaged by TRC in accordance with this Agreement.

19.5 "Workplace" means the place where the Employee carries out the work in accordance with this Agreement.

## The Schedule

Date of agreement:

Employee:

Position:

Client:

Commencement date:

End date:

Location:

Reports to:

Rate:

Pay cycle: Payroll runs every 2 week/s

Notice period: week/s

Applicable law (State): NSW

Notes:

Signed for and on behalf of: **The Recruitment Company**

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Signed for and on behalf of: **The Employee**

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_