

# Casual Employment Agreement

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[INSERT EMPLOYEE NAME]

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**Schedule 1 Reference schedule ..... 14**

## Employment Agreement

<b>Date</b>	
<b>Parties</b>	<p style="text-align: right;"><b>[INSERT EMPLOYER NAME](Employer)</b></p> <p>The person the name and address of which is set out in Item 2 of Schedule 1.</p> <p style="text-align: right;">(You or the <b>Employee</b>)</p>
<b>Background</b>	<p>A. The Employer owns and operates the Business.</p> <p>B. You wish to enter into this Agreement whereby you will become a casual employee of the Employer.</p> <p>C. You undertake that you are fully competent and qualified to work for the Employer and provide customer service to the Employer's customers of a high professional standard and to comply with your obligations under this Agreement.</p> <p>D. The parties formalise their arrangement by executing this Agreement.</p>

## Casual Employment Agreement

### 1. Definitions and interpretations

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#### 1.1 Definitions

In this Agreement, unless the context or subject matter otherwise require:

**Agreement** means this Employment Agreement.

**Business** means any business carried on by the Employer and its Related Entities, including (without limitation) the business specified in Item 1 of Schedule 1.

**Classification** means the classification under the Modern Award as specified in Item 5 of Schedule 1.

**Commencement Date** means the date specified in Item 2 of Schedule 1.

**Confidential Information** includes all information regarding the Business, trade secrets and commercially valuable information of the Company and any Related Entities including without limitation any and all:

- (a) documentation or information received by the Employee or to which the Employee has access, in the performance of his/her duties with the Company;
- (b) training materials, manuals or other information in the Employee Handbook;

- (c) product catalogues;
- (d) client lists and databases;
- (e) Customer lists and databases;
- (f) marketing and/or business plans and strategies;
- (g) trade secrets;
- (h) financial reports;
- (i) sales reports;
- (j) pricing structures and policies for service and products;
- (k) information and documents relating to the development and/or delivery of the services of the Business;
- (l) any statistical data relating to any service or of the operation of the Business.

**Costs** means any cost (including legal and other professional costs), charge, expense, outgoing or expenditure (including but not limited to fees and disbursements payable to contractors, consultants, lawyers, accountants, auditors and other skilled people or professionals).

**Customer** means any person or other entity that obtains or has obtained the provision of goods or services at any time in connection with the Business.

**Eligible Community Service Activity** has the meaning given to that term in the Fair Work Act.

**Employee Handbook** means any manual developed by the Employer which describes the Business and operating procedures for the Business and is updated or amended, reviewed, added to or deleted by the Employer, from time to time.

**Fair Work Act** means the *Fair Work Act 2009* (Cth) and Regulations or any piece of legislation which, by the reasonable interpretation of the Employer, supersedes the Fair Work Act.

**Job Description** means the description of your position as set out in Annexure A to this Agreement.

**Location** means the location of your employment as specified in Item 2 of Schedule 1.

**Modern Award** means the industrial award specified in Item 4 of Schedule 1.

**Office Manager** means any employee of the Employer who is employed to manage and oversee a Business.

**Pay Rate** means the hourly rate of pay referred to in of Schedule 1.

**Policies** means any policies of the Employer as set out in the Employee Handbook or otherwise set out in writing by the Employer, from time to time, and includes those policies outlined in Annexure B.

**Possessions** means any possessions of the Employer and/or its Customers which is in your possession, custody or control, including (but not limited to) any motor vehicles, mobile phones, keys, security passes, equipment including computer equipment, documents and papers and all copies of such documents and papers, Confidential Information, policies, manuals, diaries, electronic and documented databases, computer programs, and multi-media presentations.

**Related Entity** has the same meaning as in the *Corporations Act 2001* (Cth).

**Standard** means the National Employment Standards and any other industrial instrument as set out in the Fair Work Act or any piece of legislation which, by the reasonable interpretation of the Employer, is deemed to be relevant to this Agreement or supersede the Standard.

**State** means an applicable state in Australia.

## 1.2 Interpretation

In the interpretation of this Agreement, unless the context or subject matter otherwise require:

- (a) singular includes plural and vice versa;
- (b) any gender includes every gender;
- (c) a reference to a person includes corporations, trusts, associations, partnerships, a Government Authority, and other legal entities, and where necessary, include successor bodies;
- (d) references to writing include printing, typing, facsimile and other means of representing or reproducing words, figures, drawings or symbols in a visible and tangible form, in English;
- (e) references to signature and signing include due execution of a document by a corporation or other relevant entity;
- (f) references to months mean calendar months;
- (g) references to statutes include statutes amending, consolidating or replacing the statutes referred to and all regulations, orders-in-council, rules, by-laws and ordinances made under those statutes;
- (h) references to sections of statutes or terms defined in statutes refer to corresponding sections or defined terms in amended, consolidated or replacement statutes;
- (i) headings and the table of contents are used for convenience only and are to be disregarded in the interpretation of this Agreement;
- (j) where any word or phrase is given a defined meaning, another grammatical form of that word or phrase has a corresponding meaning;
- (k) each paragraph or sub-paragraph in a list is to be read independently from the others in the list;
- (l) a reference to an agreement or document is to that agreement or document as amended, novated, supplemented or replaced from time to time: and
- (m) a reference to a party includes that party's executors, administrators, substitutes, successors and permitted assigns.

## 2. Policies

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- (a) As your employer, the Employer will provide reasonable and lawful directions during the employment relationship. One such direction is to comply with and diligently read the Employer's Policies as set out in the Employee Handbook or as otherwise set out by the Employer in writing.
- (b) Specifically, you are directed by this agreement to read and comply with the Employer's Policies in relation to the following:
  - (i) anti-discrimination;
  - (ii) equal opportunity, workplace harassment and bullying;
  - (iii) grievance resolution;

- (iv) dress and presentation standards; and
- (v) the Employer's occupational health and safety policy.
- (c) You are further directed to advise the Employer if any part of either the Employee Handbook or Policies is not clearly understood.
- (d) The Employer reserves the right to amend its Policies or Employee Handbook and will advise you of any amendments made.
- (e) No part of the Employer's Policies, including the Employee Handbook, are incorporated into this agreement, and the Policies and Employee Handbook are not enforceable as a component of this contract.
- (f) In the event that you do not comply with your duties and responsibilities as set out in the Policies or Employee Handbook, that will constitute a failure to follow a reasonable and lawful direction of your employer, and accordingly may result in disciplinary measures, which may include termination in appropriate cases.
- (g) In the event of a conflict between this Agreement and the Policies, the Agreement will prevail.

### **3. Appointment**

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#### **3.1 Position**

From the Commencement Date, you will be employed on a casual basis in the position listed in Item 2 of Schedule 1 in order to fulfil the role as specified in the Job Description, which is a guide only and not a complete list of duties. You must carry out any duties incidental to your position as directed by the Employer which are within the limits of your skill, competence and training.

#### **3.2 Place of Employment**

Your employment will be based at the Location, unless otherwise reasonably directed by the Employer (any relocation being subject to applicable laws).

### **4. Obligations & Responsibilities**

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#### **4.1 Your Duties**

You agree to operate and actively participate in the Business and associated activities in accordance with this Agreement, the Job Description, the Employee Handbook and otherwise as set out by the Employer from time to time in its reasonable discretion, with diligence, strict compliance with this Agreement together with legal requirements and having regard at all times to the best interests of the Employer and its Customers in order to protect and promote the Employer's reputation, goodwill and Customer relationships.

#### **4.2 Employer's Obligations**

The Employer will provide you with office support and training in accordance with the Employee Handbook.

### **5. Hours of work & breaks**

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- (a) As you are employed as a casual employee, you will have no set weekly hours of work and the Employer is not obliged to guarantee you any set hours each week.
- (b) You will be allocated work as required according to the needs of the Employer, and you can elect to accept or reject that work

- (c) The Employer's nominal retail hours are                      am to                      pm                      to                      .
- (d) Your meal break entitlements are determined in accordance with the Modern Award:

## **6. Remuneration**

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You agree that you are to be remunerated on the following terms:

### **6.1 Pay rate**

- (a) Your Pay Rate is set out in Item 3 of Schedule 1 exclusive of superannuation contributions.
- (b) Your Pay Rate is calculated in accordance with the Standard and/or your Classification under the Modern Award and will be varied, if required, should the Standard and/or Modern Award be replaced by any future legislation.

### **6.2 Penalty Rates**

Any entitlement you have to penalty rates, including casual leave loading, will be paid in accordance with the Standard and/or the Modern Award.

### **6.3 Payment Method**

Payment will be made by electronic funds transfer into an account as nominated by you to the Employer, the details of which account you assume responsibility for keeping updated and correct. Pay-slips giving details of earnings and deductions will be issued after each payment. Payment will be made on a weekly basis.

## **7. Performance evaluation and minimum performance criteria**

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- (a) The Employer conducts an annual review of your performance and your Pay Rate. Such a review will be conducted on the basis of the minimum performance criteria as set out in the Employee Handbook or as otherwise set out by the Employer in writing. Notwithstanding any such review, your Pay Rate will not fall below the requirements of the Standard and/or Modern Award applicable to your employment.
- (b) The conduct of such a review will not impose an obligation on the Employer to increase your Pay Rate.
- (c) If, in the Employer's discretion, you are to be given an increase to your Pay Rate, any such increase will be effective from the date written notice is provided to you by the Employer.
- (d) You will be expected to attend regular meetings at which the Employer will provide you with tasks and priorities in respect of your employment. The Employer will confirm the completion and progression of such tasks at subsequent meetings.

## **8. Superannuation**

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Your superannuation shall be governed by the provisions of the *Superannuation Guarantee (Administration) Act 1992* (as amended) or any future replacement legislation and the applicable regulations provided that all superannuation entitlements shall be directed on a quarterly basis to a superannuation fund of your choice and for the amount applicable to your Pay Rate. You may change your superannuation fund no more than once every 12 months of employment with the Employer, subject to agreement by the Employer.



## **9. Qualifications, Licences & Memberships**

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- (a) You acknowledge that it is an essential condition of your employment that you hold and continue to hold the licences, qualifications and/or memberships required for your employment and your position, as reasonably determined by the Employer.
- (b) Where you are required to hold a licence, qualification or membership in order to perform the duties associated with your position, you shall be required to provide to the Employer a certified copy of the licence, qualification and/or membership.
- (c) In the event of loss, suspension, cancellation, revocation or expiration of any required licences, qualifications or memberships you must advise the Employer immediately and the Employer will be entitled to suspend you for the period during which you do not hold such licence, qualification or membership. In the event that you do not hold such licence, qualification or membership for 14 days or more, the Employer may elect to end the employment and in such case, the Employer shall only pay to you your Pay Rate and accrued leave entitlements due to the date of such election.

## **10. Leave**

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You will be entitled to the following leave in accordance with the Fair Work Act and the Modern Award:

- (a) 2 days unpaid carer's leave on each permissible occasion;
- (b) 2 days unpaid compassionate leave on each permissible occasion;
- (c) leave in respect of an Eligible Community Service Activity; and
- (d) unpaid discretionary leave, at the discretion of the Employer, in the event of a serious medical condition that necessitates an extended absence from the workplace.

## **11. Termination**

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As you are a casual employee, either you or the Employer may terminate your employment at any time without notice.

## **12. Computer use**

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- (a) The Employer directs that you must only use the Employer's company network or server, internet and email facilities and computer systems and associated hardware and software for the purposes of managing the Business pursuant to this Agreement.
- (b) You acknowledge that your use pursuant to clause 12(a), and the Employer's monitoring of your use, is governed by the Employee Handbook and/or the Policies. You acknowledge that any failure by you to comply with this clause 12 may result, depending on the circumstances, in disciplinary action and/or the termination of your employment.
- (c) All information contained on computers, discs, networked systems (and their drives) and/or in email accounts is the property of the Employer.

## **13. Conflicts of interest**

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- (a) You must immediately notify the Employer in writing of any activity in which you are engaged or propose to be engaged which may require you spending working time on activities not related to your employment at the Employer or which may conflict with your employment. The Employer may, in its discretion, consent in writing to you spending such time on such an activity. Failure to notify the Employer pursuant to this clause 13 may result in disciplinary action being taken, including the termination of your employment.

- (b) During your employment you must not accept any benefit from any person other than the Employer as an inducement or a reward for any act or forbearance in connection with any matter or business transacted by or on behalf of the Employer, including any benefit arising out of a conflict of interest under clause 13(a). In the event that any such benefit is received, you shall hold the benefit in trust for and subject to the direction of the Employer. You agree that this clause 13(b) shall survive termination of this Agreement.

## **14. Confidential Information**

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### **14.1 Obligations**

- (a) You may use the Confidential Information for the sole purpose of providing services to the Employer in the course of your employment and you must not use any Confidential Information for any other purpose than that stated in this Agreement or the Employee Handbook without the Employer's express written approval.
- (b) You must not, other than in the proper performance of your duties, appropriate, copy, memorise, disclose, communicate or make available in any way to any person any Confidential Information and must not at any time for your own benefit or for the benefit of any other person, directly or indirectly, take advantage of, use or in any way exploit the Confidential Information.

### **14.2 Application**

- (a) The provisions of this clause 14 shall not apply to Confidential Information:
  - (i) that is or subsequently comes into the public domain, other than as a result of a breach of confidentiality by you; or
  - (ii) which must be disclosed to apply with any applicable law or the requirements of any regulatory body, provided that notice of such disclosure is given to the Employer prior to disclosure and that any such disclosure is limited to the greatest extent possible pursuant to the applicable law or requirements.
- (b) The restrictions contained in this clause 14 continue to apply after the termination of your employment with the Employer, irrespective of the manner in which your employment is terminated.

### **14.3 Employee's Acknowledgement**

You acknowledge that the Confidential Information is of considerable commercial value to the Employer. Any disclosure of Confidential Information in breach of this Agreement will cause the Employer damage that cannot adequately be compensated by any award of damages. The Employer shall be entitled to injunctive relief in order to restrain you from disclosure of this Confidential Information and this remedy shall be in addition to any award of damages that may be made in favour of the Employer.

## **15. Intellectual Property Rights**

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- (a) You acknowledge and agree that any discovery, invention, secret process or improvement in procedure (discovery) made, developed or discovered by you during your employment in connection with or in any way affecting or relating to the Business must be promptly disclosed to the Employer and will remain the absolute property of the Employer.
- (b) You must, if and when required by the Employer to do so, at the expense of the Employer:
  - (i) apply or join in applying with the Employer for trade marks, patents or other similar protection in Australia or in any other part of the world for any discovery; and
  - (ii) do all things necessary for vesting the said trade marks, patents or other similar protection when obtained and all right and title to and interest in the same in the Employer or its nominee as sole beneficial owner.

- (c) You waive for the benefit of everyone, including the Employer, all of your rights in any discovery and consent to the absolute and unrestricted use by the Employer, or any other person authorised by the Employer, of all such discoveries.
- (d) You agree that the obligations contained in this clause 15 shall survive termination of your employment with the Employer.

## **16. Restraint**

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- (a) To reasonably protect the goodwill of the Business, you agree that, without the prior written consent of the Employer, you will not, whether during the term of this Agreement or after termination of this Agreement (howsoever caused) canvas, induce, encourage, solicit, approach or accept any approach from any employee or contractor of the Employer or any of its Related Entities to leave the employment or engagement of the Employer or any of its Related Entities.
- (b) You acknowledge, agree and declare that the restraint set out in this clause 16 is fair and reasonable and goes no further than is reasonably necessary to protect the Employer's legitimate business interests and that the Employer is relying upon this acknowledgment in entering into this Agreement.
- (c) You acknowledge that enforcement of the restraint contained in this clause 16 is essential to protect the goodwill of the Business and agree:
  - (i) that monetary damage alone would not be adequate compensation to the Employer for a breach by you of this clause 16 and that the Employer will be entitled to seek injunctive relief in relation to each restraint contained in this clause 16; and
  - (ii) to indemnify the Employer from and against all costs, claims, losses, liabilities or expenses suffered or incurred by it in relation to any breach by you of this clause 16.
- (d) For the avoidance of doubt, this clause 16 will survive the termination of your employment (irrespective of how your employment is brought to an end).
- (e) You agree that you must not represent yourself as being in any way connected with or interested in the Business after the termination of this Agreement.

## **17. Non-Disparagement**

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You agree, during employment and at all times during and after the termination of this Agreement, not to disparage the Employer or any of its officers, employees or agents, or speak or write in terms which are likely to be injurious to the commercial, professional or personal standing of the Employer or any of its officers, employees or agents. For the avoidance of doubt, this clause 17 will survive the termination of this Agreement.

## **18. Employer's Possessions**

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- (a) You must upon the termination of your employment with the Employer, surrender to the Employer all Possessions. You undertake not to retain any copies of any Possessions and further undertake to delete, such as (but not limited to), all electronic and documented databases, computer programs and multi-media presentations belonging to the Employer from your computer, including any laptops, memory/electronic devices, CD-ROMs, DVDs or other memory storage format.
- (b) You agree that upon termination of your employment and at any other time as directed by the Employer you will provide the Employer with written confirmation that you have returned to the Employer all Possessions.

## **19. Notices**

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Any notice or other communication in connection with this Agreement must be in writing addressed to the last known address of the other Party and the notice or other communication will be deemed to be received:

- (a) in the case of a posted letter on the third day after posting;
- (b) in the case of delivery by generally recognised overnight courier, on the second day after dispatch with that courier;
- (c) in the case of personal delivery on the date of delivery; and
- (d) In the case of an email at the time the email is recorded as sent, provided no failure of transmission report is received in respect of the email;
- (e) in the case of facsimile transmission at the time recorded on the transmission report from the machine from which the facsimile was sent.

## **20. General Provisions**

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### **20.1 Waiver**

The failure of either party to require the performance of any term or condition of this Agreement, or a statement or the conduct by either party that it does not intend to currently action any breach of this Agreement, will not prevent a subsequent enforcement of such term or condition, nor be deemed a waiver of any subsequent breach, unless such waiver is provided by written notice.

### **20.2 Independent Advice**

Each party has been given the opportunity to seek independent legal advice with respect to the content and effect of this Agreement and has sought such advice as it deems necessary.

### **20.3 No Adverse Construction**

No rule of construction applies to the disadvantage of a party on the basis that the party put forward this Agreement or any part of it.

### **20.4 Severability**

- (a) Should there be a final determination by any court or government authority to the effect that any of the provisions or any part of this Agreement is invalid, such invalid provisions or part must be deleted from this Agreement and must not affect the remainder of this Agreement which must continue in full force and effect.
- (b) In the event of any invalidity the parties must use their best efforts to agree on new provisions, the economic effect of which will approximate as closely as possible that of the invalid provisions or part but without being subject to being declared invalid.

### **20.5 Force Majeure**

If the performance of this Agreement or any obligation hereunder is prevented, restricted or interfered with by reason of failure of supply, fire, explosion, breakdown, strike, labour dispute, accident, lack of transportation, epidemic, pandemic, cyclone, flood, earthquake, drought or lack of raw materials, power or supplies, or war, revolution, civil commotion, acts of God, blockade or embargo or any law, order, proclamation, decree or requirement of any government or any authority or representative thereof or any other acts whatsoever beyond the reasonable control of the parties hereto then:

- (a) the party so affected, upon giving prompt notice to the other party, shall be excused from such performance to the extent of such prevention, restriction or interference; and

- (b) the other party shall likewise be excused from performance of its obligations to the extent such obligations relate to the performance so prevented, restricted or interfered with PROVIDED THAT the party so affected must use its best efforts to avoid and to remove such causes of non-performance. The parties will resume performance of their respective obligations as soon as is practicably possible when such causes are removed.

**20.6 Governing law**

This Agreement shall be governed by and construed in accordance with the laws from time to time in force in the State of your employment and both parties hereby submit to the non-exclusive jurisdiction of the courts of that State.

**20.7 Entire Agreement**

This Agreement is the entire agreement between the parties and supersedes any prior understanding, arrangement or agreements between the parties as to the subject matter contained in this Agreement. The Agreement cannot be amended except in writing signed by all parties or as otherwise required by law.

**20.8 Survival of clauses upon termination**

The expiration or termination of this Agreement does not operate to terminate any of the continuing obligations under this Agreement and they remain in full force and effect and binding upon you.

**20.9 Delivery as a deed**

Subject to express provisions in this Agreement to the contrary, each party by signing or executing this Agreement is deemed to unconditionally sign, seal and deliver this Agreement as a deed, with the intention of being immediately legally bound by this Agreement.

**Schedule 1**  
**REFERENCE SCHEDULE**

- Item 1

Employer:  
Address:  
Business:
- Item 2

Employee Name:  
Address:  
Position:  
Location:  
Commencement Date:  
Status: Casual
- Item 3

Pay Rate: per week plus superannuation
- Item 4

Modern Award:
- Item 5

Classification:

Executed as an Agreement

Executed by )  
ACN in )  
accordance with section 127 of the )  
Corporations Act 2001

Director

Director/Secretary

Name (please print)

Name (please print)

Executed by )  
ACN in )  
accordance with section 127 of the Corporations )  
Act 2001 by its )  
attorney under power )  
of attorney no in )  
the presence of:

Witness

By executing this deed, the attorney states that  
the attorney has received no notice of revocation  
of the power of attorney.

Name (please print)

Signed, sealed and delivered by )  
in the presence of: )  
)

Witness

Name (please print)

Name (please print)

Signed, sealed and delivered )  
by in the )  
presence of: )

Witness

Name (please print)

Name (please print)

**Annexure A**  
**JOB DESCRIPTION**

Position	
Reports To	

SUMMARY OF DUTIES	
Key Duty	Responsibilities
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	•
	•
	•
	•



**Annexure B**

See attached Fair Work Information Statement