



On-Hire Agreement (Conditions of Assignment)

THIS AGREEMENT is made on _____ the _____ in the year _____.

BETWEEN **Chandler Pacific Pty ACN 138 816 618, ABN 50138816618 of Level 9, 10 Queen Street, Melbourne Vic 3000**

AND _____ ACN _____, ABN _____ of (Address)

1. Definitions:

1.1 "assignment" means the on-hire placement of one or more of our workers to perform work at your premises or anywhere else as specified by you and approved by us;

1.2 "assignment description" means the description of the work to be performed as set out in a document that specifies:

- (a) the services to be provided by each of our workers;
- (b) the job description of each of our workers;
- (c) the time and date upon which the assignment is to commence;
- (d) the time and date upon which the assignment is to terminate;
- (e) the location where the work is to be performed;
- (f) any other material or relevant description of the work to be performed or the arrangements relating to it;

1.3 "conditions of assignment" mean these conditions as may be varied and as they apply to assignments;

1.4 "GST" has the same meaning as in the GST Act.

1.5 "GST Act" means the *A New Tax System (Goods and Services Tax) Act 1999*.

1.6 "material degree" connotes, when used with reference to any breach, act, error, or omission alleged to have caused or contributed to damage, loss or injury of any description, that it can be established by the evidence, on the balance of probabilities, that some causal connection or contribution exists between the relevant breach, act, error or omission and the relevant damage, loss or injury - provided that the causal connection or contribution is not trifling;

1.7 "schedule" means the schedule attached to this agreement, which may be substituted from time to time;

1.8 "our worker" means one of our employees or independent contractors;

1.9 "related body corporate" has the same meaning as in the *Corporations Act 2001*;

1.10 "relevant jurisdiction" means the Australian state or territory jurisdiction in which work in accordance with the assignment is to be performed;

1.11 "taxable supply" has the same meaning as in the GST Act;

1.12 "tax invoice" has the same meaning as in the GST Act;

1.13 "us", "our" or "we" refers to the supplier named in the schedule;

1.14 "you" or "your" refers to the client named in the schedule and, where the context indicates, a related body corporate of that client.

2. Application

2.1 These conditions of assignment apply when you ask us to undertake an assignment. They become effective when you return a signed copy of this document to us, or accept one of our workers on assignment, after having received a copy of this document.

2.2 These conditions of assignment will remain in force for all future assignments, until our agreement has been validly terminated (excepting that some clauses may survive the termination of this agreement, where indicated).

3. Our Charges

3.1 Our charges will be based upon the number of hours our workers work on assignment as recorded in your time sheets. You agree to complete time sheets accurately and to submit them to us promptly.

3.2 The hourly rates that we will charge you are set out in the schedule.

3.3 Chandler can unilaterally amend its rates and permanent placement fees by sending the Client amended schedules in relation to Chandler's rates and permanent placement fees. The amended rates and/or fees will apply from the date the Client receives the amended schedule or from the date that the amended schedule is stated to commence, whichever is the later.

3.4 When Chandler is engaged by the Client to provide permanent staff or Chandler prospectively supplies permanent staff to the Client, a permanent placement fee will apply (exclusive of GST) which are based on a percentage of the total salary package (inclusive of superannuation and other benefits such as Motor Vehicle Allowance) of the permanent staff member and shall be paid to Chandler by the Client within 7 days of the staff member becoming a permanent staff member of the Client. The percentage is set out in the schedule.

3.5 A 12 week guarantee applies to all permanent placements. If a candidate is deemed unsuitable or decides not to stay with your business within 12 weeks of their start date then Chandler will replace them free of charge.

4. Invoices

4.1 You will not pay any of our workers directly for work they perform, expense they may incur or allowance to which they may be entitled in respect of their assignment.

4.2 You agree to pay our invoices within 7 days of their presentation to you. Payments are to be made as described in the schedule.

4.3 You agree to pay us interest at the rate (if any) stipulated in the schedule on any payment not made as required by clause 4.2.

5. Relationships

5.1 You acknowledge that we are not performing the services set out in the assignment description; but are instead the supplier of our workers, at your request, to perform the work that you have described in the assignment description.

5.2 Whilst they are on an assignment to you, workers who are our employees, will be under your day-to-day control, and you will be responsible for their supervision and direction in a manner consistent with our obligations to them.

5.3 We reserve all other rights to control the employment relationship of our workers who are our employees, including the right to terminate the employment relationship for any reason that we think fit.

5.4 If you are not satisfied with one of our workers and want a replacement, you agree that you will:

- (a) speak to us directly about replacement of our worker;
- (b) not communicate anything to our worker indicating that their on-hire assignment will be cancelled or words to that effect.

5.5 If you are not satisfied with one of our workers, but do not want our worker replaced, you may speak to our worker in order to give any reasonable instruction provided that you contact us as soon as reasonably practicable to discuss the matter.

5.6 The Client agrees that after one of Chandler's workers has completed an assignment with the Client, the Client shall not attempt to contact Chandler's worker directly or indirectly to offer them work. Should the Client employ, either directly or indirectly a worker of Chandler within six months of their introduction to the Client by Chandler or cessation of an assignment with the Client (whichever is later), the Client agrees to pay to Chandler a permanent placement fee as set out in clause 3.4 above.

6. General matters and other responsibilities:

6.1 You agree:

- (a) to provide us with full and accurate information about the job requirements relevant to the assignment by means of an assignment description;
- (b) not to on-hire or resupply our workers to any other person;
- (c) not to allocate tasks or responsibilities to our workers or require our workers to perform or participate in work, other than in accordance with the relevant assignment description;
- (d) not to request our workers to perform or participate in any work or use any equipment with which our workers, or their employees or agents, are unfamiliar or in respect of which they are unqualified or have not received adequate training;
- (e) to supervise, instruct and direct our workers properly at all times whilst they are on assignment to you;
- (f) to supervise, instruct and direct your own employees and contractors properly at all times whilst our workers are on assignment to you;
- (g) to comply with your obligations to our workers pursuant to relevant legislation, including legislation regarding workplace or occupational health and safety, discrimination and harassment.
- (h) to maintain a safe work environment and safe systems of work;
- (i) to establish safe work practices;

- (j) to communicate safe work procedures to each of our workers;
- (k) to comply with safety standards;
- (l) to maintain plant and equipment;
- (m) to provide induction, training and safety consumables to our workers where appropriate;
- (n) to inform our workers and us promptly of any unusual workplace risk or practice or of any change in site or safety conditions that may present a hazard to our workers;
- (o) comply with our reasonable requests to ensure the workplace health and safety of our workers and to rectify promptly any deficiency in the provision of a safe work environment or safe systems of work, that in our reasonable opinion would pose a threat to the safety of one of our workers or to any other person who may attend a place at which work is or may be performed by one of our workers under an assignment;
- (p) to ensure that our workers will be covered by the following insurance policies, or other suitable and permissible statutory indemnity or self insurance arrangement whilst working on assignment to you:
 - (i) public liability;
 - (ii) professional indemnity;
 - (iii) workers compensation under applicable legislation in the relevant jurisdiction if the legislation casts that responsibility on you;
 - (iv) compulsory third party motor vehicle insurance; and
 - (v) fully comprehensive motor vehicle insurance;
- (q) to provide us with evidence of the currency and suitability of all insurances, statutory indemnity or self insurance arrangements that extend cover to our workers;
- (r) to notify us immediately of any event that may give rise to a claim under any insurance policy, statutory indemnity or self insurance arrangement that relates to our workers whether such policy, indemnity or arrangement be held or established by you or by us;
- (s) to report to us any performance issues in relation to our workers in a written format, so that we can manage the feedback process to our workers;
- (t) to forward to us promptly a written notification of any workplace incident that may give rise to a claim by, against or involving our workers;
- (u) to ensure that our workers are advised of free training available as well as other courses and conferences available to them;
- (v) abide by all laws that cast upon you any obligation to do, or refrain from doing, any thing, or to make or pay any payment, deduction, premium, levy, allowance, compensation, damages, interest or costs in respect of or in connection with the engagement of our workers under these conditions of assignment or any work done by them whilst on assignment to you;
- (w) maintain the confidentiality and privacy of information we provide to you about our workers, whether written or verbal, including the fact that they may be looking for work;
- (x) to pay any statutory charges, levies and taxes for which we may become liable in respect of performing our obligations under these conditions of assignment by

reason of such statutory charges, levies or taxes being introduced after the acceptance of the offer to supply services;

(y) to release us from all claims which you or any other person claiming through you now have or has or might have in the future, in respect of our liability for any damage, loss or injury to or death of our workers, or any other person, to the extent that our liability is not required by law to be covered by insurance or other suitable and permissible statutory indemnity or self insurance arrangement, or if not so required is not covered thereby;

- 6.2** You will assist where practicable, with the rehabilitation of our workers by way of providing such workers, through us, with suitable work (including light duties) once the workers are able to return to work, if one of our workers suffers an injury that is compensable under any law relating to workers' compensation or occupational health and safety.
- 6.3** In the event that the work contemplated by clause 6.2 is of a lesser value, classification or remuneration than the work principally contracted for under the assignment, we will discount our charges to reflect the fair value of the work. If there should be any disagreement as to the fair value of the work, the amount charged will be as determined by a person nominated by the President for the time being of RCSA Limited or his or her nominee to act as an expert and not as an arbitrator.
- 6.4** You acknowledge that as we are a member of the RCSA, you will not require us to do or refrain from doing any act in breach of the RCSA's Code for Professional Practice or any other ethical requirement of the RCSA placed upon us.
- 6.5** You will abide by any obligations placed upon you by any competent body legislating, imposing, awarding, approving, determining or certifying any provision which would entitle one of our workers to elect permanent employment with you, or that would compel you to offer such employment.
- 6.6** If requested, you are to provide us with access to the minutes of any committee, that is or may be established for consultation, or to exercise any statutory function or responsibility, with respect to occupational health and safety in any workplace in which one of our workers is required to perform work, as we may request from you.
- 6.7** You must allow us (or any of our workers) when we deem it appropriate, the opportunity to be included as a representative to, member or observer of, or to consult with, or to participate in, any of the committees referred to in Clause 6.6.

7. Our responsibilities

7.1 We are responsible for the following in relation to our workers whilst on assignment to you:

- (a) the payment of all amounts due to our workers under the terms of any relevant industrial instrument or contract;
- (b) if our worker is an employee, the payment or leave entitlements, including but not limited to annual leave, sick leave, parental leave and long service leave;
- (c) subject to these conditions of assignment, the deduction of all appropriate Federal and State taxation, including but not limited to income tax, fringe benefits tax and payroll tax;
- (d) workers' compensation under applicable legislation in the relevant jurisdiction, unless the legislation casts that responsibility on you;

(e) the payment of an amount as superannuation into a superannuation fund to avoid the imposition of a charge under the *Superannuation Guarantee Charge Act 1992* (Commonwealth); and

(f) such other matters or things as may be negotiated between you and us and as are set out in the schedule.

8. Exclusions and Indemnity:

8.1 We make no representation or guarantee that any of our workers will achieve a certain level of performance, achieve a certain outcome, solve a particular problem or attain a specific goal.

8.2 It is agreed that our workers will not attend work if:

(a) their ability to function effectively and safely is limited, in which case we may replace them with another worker; or

(b) it reasonably appears that the working environment is or has become unsafe for any reason, including that you:

(i) have not established safe work procedures; or

(ii) are not complying with safety standards; or

(iii) are not maintaining plant and equipment; or

(iv) are not complying with any health or safety legislation or regulations;

8.3 Subject to clause 8.5 we will not be liable to you in respect of any damage, loss or injury of whatsoever nature or kind, however caused, whether by our negligence or the negligence of one of our workers, their servants or agents or otherwise, which may be suffered or incurred, whether directly or indirectly, in respect of the services provided under these conditions of assignment.

8.4 You agree to indemnify us to the full extent of our liability to any party for all damage, loss or injury of whatsoever nature or kind, howsoever nature or kind caused by its negligence of one or more of its Employees or Independent Contractors, their servants or agents or otherwise, which may be suffered or incurred, whether directly or indirectly, in respect of any work performed for or on behalf of you, but only to extent permitted by law.

8.5 You agree to indemnify us to the full extent of our liability for all damages, compensation (including damages and compensation for personal injury to or the death of one of our workers or to any other person whatsoever), expenses, interest, and costs that we may have to pay to any person, as a result of any damage, loss or injury that has been caused by or contributed to, in any material degree, whether directly or indirectly, by:

(a) a breach by you of any of your obligations under these conditions of assignment;

(b) any act, error or omission of yours or your employees, agents or servants or your clients including, without limitation, any act, error or omission that may contravene the provisions of any equal opportunity legislation.

8.6 Where any Act of Parliament implies in these conditions of assignment any term and that Act voids or prohibits provisions in a contract excluding or modifying the application or exercise of or liability under such term, such term shall be deemed to be included in these conditions of assignment. Our liability for any breach of such term shall be limited, however, at our option to any one or more of the following:

(a) providing the services again; or

(b) the payment of the cost of providing the services again.

9. Termination and breach

9.1 Subject to clause 9.2, an assignment will end at the date specified in the assignment description.

9.2 We can terminate an assignment without notice and without incurring any liability to you for reasons that include, but are not limited to:

- (a) a breach of these conditions of assignment; or
- (b) failure to pay any amounts outstanding to us.

9.3 If you terminate an assignment other than as provided in these conditions of assignment, you agree that you will indemnify us for any liability, damages, compensation, expenses, or costs that we may incur as a result of any proceedings which may be commenced or claims that may be made by one of our workers arising out of, or in any way related to the termination of the assignment.

10. General matters:

10.1 Variation

(a) Any variation to these conditions of assignment or to an assignment description must be in writing and agreed to by the parties except in so far as these conditions of assignment expressly permit one party to vary these conditions of assignment or an assignment description unilaterally.

10.2 Waiver etc

(a) If we do not take action to enforce or require strict or prompt compliance with our obligations under these conditions of assignment, this will not affect or in any way limit our rights to exercise remedies we have in respect of breaches.

10.3 GST

(a) If all or part of the consideration is or is deemed to be consideration for a taxable supply, the GST payable in respect of that consideration must be paid to us as an additional amount either on the due date for payment of the consideration or on the date on which we deliver a tax invoice in respect of the relevant taxable supply, whichever occurs last.

10.4 Jurisdiction

(a) These conditions of assignment are governed by and will take effect in accordance with the laws in force in the jurisdiction named in the schedule.

10.5 Severance

(a) If a provision of this agreement, or of any conditions of assignment, is declared to be invalid, unenforceable, illegal or contrary to public policy, such invalidity, unenforceability or illegality will vitiate the provision only, and that provision will be deemed deleted or modified to the extent necessary to render the remainder of the provisions valid or enforceable, and will not otherwise in any way vitiate any other provision of this agreement.

10.6 Entire agreement

(a) These conditions of assignment represent the entire agreement between us in relation to its subject matter. By signing this document you acknowledge that neither we nor anyone acting on our behalf have or has made any warranties or

representations to you in relation to the matters covered by the agreement which are not fully set out in these conditions of assignment and that before signing the agreement you have read it together with the schedule and have understood them.

11. Address for Service:

- (a) The addresses and numbers for service are initially:

CLIENT

NAME:

TITLE:

COMPANY NAME:

ADDRESS:

PHONE:

FAX:

CHANDLER

NAME:

PERRY DE SILVA

TITLE:

DIRECTOR

ADDRESS:

Level 9, 10 Queen Street, Melbourne, VIC, 3000

PHONE:

(03) 9656 9777

FAX:

(03) 9656 9799

- (b) A party may from time to time change its address or numbers for service by notice to the other party.

As a duly authorised representative of the organisation state below, I hereby acknowledge that I have read, understand and agree to these Terms of Business.

Signed for and on behalf of:

(Name of Organisation)

ABN: _____

Signature: _____

Title: _____

Name in Full: _____

Date: _____