

## Agreement for Temporary On-Hire Employment on Assignments as Required



This document is to be signed by the Temporary Employee upon registering for temporary on-hire employment assignments with Optimal Workforce ABN 83 668 998 (“Optimal Workforce”).

Optimal Workforce supplies on-hired employee services by commercial arrangements with its clients (“Assignments”) for which we charge a fee to our clients that may include a fee payable by the Client if you subsequently obtain work from the Client or a third party otherwise than through us. Please read the following carefully and sign this form to confirm your understanding of the terms and conditions of your temporary Assignments.

The terms and conditions of this Agreement will come into force upon you **signing this**

### **Agreement.**

#### PARTIES

Employer: Optimal Workforce ABN 83 668 998 (the Employer) AND

Employee: You (the Employee)

CONTENTS: This agreement is set out in the following manner:

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# Agreement for Temporary On-Hire Employment on Assignments as Required



## DEFINITIONS

**Agreement** means this contract

**Assignment(s)** means the project or the services to be performed for a Client of the Employer as identified in a Summary of Assignment Conditions (SAC).

**Contract** means this contract

**Client** means a client of the Employer with whom the Employer has an agreement to provide on-hire worker services and to whom the Employee may be assigned to work from time to time

**Parties** means the Employer and Employee

**SAC** means Summary of Assignment Conditions

**we/us/our** means the Employer

**you/your** means the Employee.

### 1. Duration and Scope of the Agreement

1.1 This Agreement shall commence when you commence work with a Client for us on a casual assignment basis.

1.2 You will be deemed to have accepted the terms and conditions of this Agreement, regardless of whether you have signed it, upon the commencement of an Assignment with a Client.

1.3 The terms and conditions of any Assignment will be confirmed within a separate SAC (Summary Assignment Confirmation) which shall be issued to you prior to the commencement of an Assignment. The commencement of an Assignment will be taken as an implied acceptance of the terms and conditions of that particular Assignment as contained within the applicable SAC.

1.4 This Agreement shall apply to all Assignments performed by you and there shall be no actual, or implied, contractual relationship between the Parties in between Assignments other than any ongoing obligations and covenants contained within this Agreement.

1.5 This Agreement, together with any SAC relating to a particular Assignment, shall form the terms and conditions of your casual employment.

1.6 This Agreement shall be read in conjunction with any modern award or enterprise agreement. Where there is any inconsistency between the Agreement and any modern award or enterprise agreement, the provisions of the Agreement will prevail.

### 2. Employment on Assignment Basis

Once you have registered, Optimal Workforce may from time to time, offer you work on Assignments. The details (including the start date) of any offer of work on an Assignment will be set out and advised to you in an Assignment Description. This will be in the form of the SAC.

You may from time to time, accept offers of work on Assignments. You have the right to refuse or accept any offer of work on an Assignment made by us.

An offer of work on an Assignment is accepted by you, either by:

- signing and returning a copy of the Assignment Description;
- informing us that you accept the Assignment Description; or
- commencing work in accordance with the Assignment Description that was advised to you.

Each acceptance of an offer to work on an Assignment will create a separate contract of employment incorporating the terms and conditions of this Agreement. The contract of employment ceases at the end of the employment to which the contract relates.

Optimal Workforce (or its clients) may sometimes terminate an Assignment before its nominal end date. In this event, your employment on the Assignment will come to an end automatically.

On completion of an Assignment, Optimal Workforce is under no obligation to offer future Assignments.

### 3. Employment Status and Engagement

3.1 You are employed as a casual on-hire employee, which means that:

- a. you are employed as a casual employee;
- b. you shall receive a casual loading, as specified in the SAC, in lieu of paid leave, redundancy pay and other entitlements associated with permanent employment;
- c. this Agreement governs the terms and conditions of employment for each Assignment performed by you;
- d. the termination of an Assignment for whatever reason does not in itself constitute the termination of your

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employment;

e. we may direct where and how you perform work on any particular Assignment;

f. we may change or terminate an Assignment without reason;

g. you have no right to ongoing employment, or the continued engagement upon a particular Assignment;

h. we are under no obligation to offer you any future Assignment;

i. we are under no obligation to offer the same or similar terms and conditions when commencing a new Assignment, or undertaking a new position within an existing Assignment;

j. we retain overall control of your employment including all matters associated with your conduct and performance while working on an Assignment;

k. you are required to comply with all reasonable instructions issued by an authorised representative of the Client so as to facilitate the proper performance of an Assignment;

l. the employment relationship is and remains between the Parties to this Agreement and no employment relationship exists, or shall be created, between you and any Client; and

m. any right, entitlement, benefit or privilege that accrues in respect of service will accrue in accordance with the relevant law that governs that service.

### **4 Award Based Employment**

As a temporary on-hire employee, some conditions of your employment may be governed by a relevant modern award or may be set by a separate award, site or enterprise agreement; but the conditions as stated in that award, site or enterprise agreement do not form part of your common law contract of employment. On -hired employees are covered by the National Employment Standards regardless of employment arrangements that are in place at the host client's organisation. Modern awards are industry or occupation based.

### **5 Client to Direct Work Activities**

You accept that you are under the care, direction and supervision of Optimal Workforce's clients during the period of any Assignment in regard to defined working arrangements and the manner and proficiency of your work. You acknowledge the right of Optimal Workforce's clients to direct your work activities.

### **6 Pre-Employment Screening**

You acknowledge that you are required to complete a range of pre-employment screening with Optimal Workforce prior to being offered any positions. You understand that pre-employment screening is vital to ensure you are prepared for your role. You accept that you will not be considered for a role unless you have read and signed our WHS document, and, if required, have provided at least two previous employer *bona fide* referees. You understand that referees' reports about you may be confidential.

### **7 Dress Code**

You shall present for work in a neat and professional fashion, or in accordance with any reasonable directions provided by us or a Client.

### **8 Checks**

You authorise and consent to us completing, at our sole discretion, a criminal record or police check, qualification checks and/or any other additional reference checks prior to considering whether to offer you a new Assignment or Assignment position.

### **9 Visa Verification (Work Rights)**

Most temporary visa holders have work rights, although some classes of visas have restrictions. You acknowledge that Optimal Workforce will validate your visa/work rights. You also acknowledge and you understand that you are required to provide evidence of residency status in Australia, by way of Optimal Workforce sighting original documentation in the form of immigration documents, birth certificate or citizenship certificate.

### **10 Adherence to Orders, Policies and Procedures**

You agree to obey all lawful and reasonable orders of Optimal Workforce's clients including orders about the use of safety equipment, the wearing of protective clothing and noise protection devices, and about methods of performing work tasks.

You will adhere to all Optimal Workforce's policies and procedures (including all Work Health and Safety policies of Optimal Workforce and Workforce's clients) as amended from time to time and those of the clients of Optimal Workforce that have been brought to your attention. You acknowledge that the client's policies and procedures take effect immediately upon accepting an Assignment.

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Where there is inconsistency between policies and procedures of Optimal Workforce and the Client, you understand and acknowledge that Optimal Workforce policies and procedures shall override those of the Client unless otherwise agreed or stated by Optimal Workforce.

You are required to fully comply with our internal policies, or those of a Client, which apply to your employment or Assignment as varied and amended from time to time. You acknowledge and agree that any such policies and procedures take effect as if directions given by us, and not as a mutually enforceable obligation.

### 11 Employee Notification

11.1 You will promptly notify us of any grievances in relation to an Assignment, or your employment more generally. You shall not raise any such grievance directly with a Client unless authorised by us in advance, or where it relates to a direct and imminent threat to your health and safety or that of another person.

11.2 You must notify us as soon as reasonably possible of any offer of employment made to you by a Client, or of any approach made to you by a Client concerning the possibility of direct employment.

11.3 You must notify us, or an appointed representative, of your inability to attend work or commence work on time, as soon as possible prior to the commencement of any shift. Notification by text or email is expressly prohibited.

11.4 You will immediately notify us of any damage to property or injury you have caused to others in the course of employment and/or an Assignment.

11.5 You will notify us as soon as reasonably possible of any change to personal details relevant to the maintenance of accurate employment records.

11.6 You will notify us of any and all hours worked on an Assignment including any hours worked over and above those outlined within a SAC.

11.7 You will notify us, as soon as reasonably possible, of any decision to commence work for any other party which may reasonably be considered a competitor of ours, or a Client. For the purposes of this clause a competitor shall be viewed as any organisation which currently provides, or is proposing to provide, the same products or services as us or a Client.

### 12 Work Health & Safety (Injury Management and Obligations)

You acknowledge that Optimal Workforce is responsible for statutory workers compensation insurance and, if you suffer any injury (or near miss) during an Assignment, you will report and provide an accident statement of all injuries and incidents (including near misses) directly to your contact officer at Optimal Workforce and the client supervisor.

You will advise Workforce and the client supervisor on the commencement of an Assignment or at any time during the Assignment if it appears that the working environment is or has become unsafe for any reason, including that the:

- Client has not performed a Work Health and Safety Induction on commencement of your Assignment
- Client has not communicated its Work Health & Safety Policy and Procedures
- Client has not maintained the company equipment
- Client has not provided any PPE

**You understand that you must not use any equipment that you are not familiar with or you are unqualified to use and have not received adequate training to use. You understand and have an undertaking that you will wear the appropriate clothing and footwear before commencing the Assignment.**

You must use your best endeavours to comply with the requirements of the relevant work health and safety legislation in the State or Territory in which you are working. This includes obeying all lawful instructions and complying with any lawful rules, processes and procedures as amended from time to time.

You must advise us of any change in your capacity, either physical or psychological, to work safely and without risk to health, including but not limited to any injury, illness or medication you are taking (prescribed or otherwise).

You must notify us if any party requests or directs you to perform unsafe tasks.

We may at our sole discretion, direct you to complete a medical assessment either prior to the commencement of your employment, or during the course of your employment, where it is reasonably required to determine your capacity to perform work safely without risk to health and safety.

### 13 Hours of Work

Your ordinary hours of work will not exceed 38 hours per week any additional hours will be paid at the award rate for overtime.

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### 14 Remuneration

You shall be advised, either verbally and/or in writing, prior to the commencement of an Assignment of the applicable hourly rate of pay for the work being performed. This hourly rate shall not be less than the minimum modern award rates applicable to the work being performed or, in the absence of an applicable award, the national minimum wage. This hourly rate of pay shall be inclusive of any applicable casual loading.

The payment of a particular rate of pay on a particular Assignment shall not give rise to a right to the ongoing payment of this rate of pay on future alternative Assignments.

If your employment is deemed or determined to be upon anything other than upon a casual basis, we reserve the right to set off against all amounts or entitlements owing to you as a result of such deeming or finding, the difference between the amount(s) paid to you based upon your hourly rate together with any casual loading and the amount(s) that would have been payable to you had you been paid at the minimum hourly rate required by law.

If your base rate of pay is provided for in a relevant award, site or enterprise agreement it will be paid in accordance with that award, site or enterprise agreement. If it is not provided in an award, site or enterprise agreement, it will be paid as set out in the relevant Assignment Description.

Where overtime, shift penalties or other allowances are provided for in a relevant award, site or enterprise agreement, such payments will be calculated according to the terms of that award, site or enterprise agreement.

On any Assignment you will be paid by Optimal Workforce for a minimum of three hours, or such other minimum period stipulated by a relevant award, site or enterprise agreement.

If you are engaged as a casual employee, your remuneration by Optimal Workforce is on a casual hourly basis according to your classification and only applies to actual hours worked. You acknowledge that your hourly rate as a casual employee includes a casual loading determined by the relevant modern award, site or enterprise agreement. This loading is instead of entitlements to leave and other matters from which casuals are excluded.

Your hourly rate is subject to change from the effective implementation date of any decision by an authorised tribunal to amend wage rates.

### 15 Public Holidays

15.1 The following days are public holidays: New Year's Day, Australia Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day, Boxing Day together with and any other government gazetted public holidays in the relevant state or territory in which work is being performed.

15.2 From time to time you may be required to perform work on public holidays, in order to satisfy the conditions of an Assignment. You shall not be deemed rostered to work on a public holiday unless expressly directed to do so by us.

15.3 All hours worked on a public holiday shall be paid in accordance to Award rate.

### 16 Timesheets

You shall complete and submit timesheets as directed by us. The submission of any false, misleading or incomplete timesheets is viewed as serious misconduct and may result in the termination of your employment without notice.

Payment for your work will be made by Optimal Workforce on a weekly basis on receipt of a signed authorised timesheet from you, correctly completed and with appropriate authorisation by the approved client supervisor, or by some other method defined by Optimal Workforce.

You understand that it is your responsibility to provide a signed authorised Optimal Workforce timesheet signed by both you and the Client to the Optimal Workforce office and you acknowledge that your payment may be delayed if the timesheet is not provided.

You understand that future payments may be adjusted if actual working hours or other details differ from information provided on authorised timesheets received by Optimal Workforce and you further agree to allow Optimal Workforce to deduct any overpayment from future payments.

### 17 Method of Payment

Payment to you by Optimal Workforce will be made by Electronic Funds Transfer to the bank account nominated by you unless otherwise agreed.

17.1 We will pay your wages into your nominated bank account on a weekly basis on Wednesdays following the week

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actually worked. We reserve the right to alter or vary the frequency of any such payments at our sole discretion subject to the provision of one month's notice.

### **18 Superannuation**

You understand that superannuation contributions are paid quarterly into your superannuation account. Payment of superannuation is governed by the appropriate legislation, award, and site or enterprise agreement. We will comply with all obligations under the appropriate legislation relating to the payment of superannuation contributions. All such contributions will be remitted to Kinetic Superannuation Fund unless you otherwise advise us of your nominated complying fund by completing the ATO Superannuation Standard Choice Form.

You acknowledge that you are entitled to superannuation guarantee contributions if you are 18 years old or over and paid \$450 or more (before tax) in a month. If you are under 18 years old, you understand that you must work more than 30 hours per week to be entitled.

### **19 Tax File Employment Declaration**

You agree to complete a Tax File Employment Declaration Form (from the Australian Taxation Office) with Optimal Workforce. You understand that if you don't provide your TFN on the form, Optimal Workforce must withhold tax at the highest rate plus Medicare levy from your pay, unless you supply information that you qualify for an exemption.

You understand that you have **28 days** to provide your TFN to Optimal Workforce before your employer must start deducting tax from your pay at the highest rate plus Medicare levy. If you have applied for a TFN but have not received it yet, print **X** in the relevant box in question 1. on the form.

The remaining questions cover your personal details and information that may affect how much tax you pay (for example, if you are claiming a zone or dependent spouse tax offset or have a Higher Education Loan Programme [HELP] debt). Optimal Workforce uses the information you provide to work out how much tax to withhold from your payment.

\* Please note the TFN Declaration is not an application for a Tax File Number.

### **20 Inability to Attend Assignment**

You agree to notify the Optimal Workforce office as soon as practicable, but no later than the normal start time on any day, that you are unable to attend during any period of an Assignment.

### **21 Confidentiality and Ownership**

You agree to keep confidential any information obtained during your Assignment with Optimal Workforce's clients, including client details, trade secrets and other confidential information that Optimal Workforce and/or its clients specifically requires you not to divulge.

21.1 Ownership of all inventions, improvements, designs, creations, developments and all other intellectual property relating to or deriving from any of the work performed by you shall at all times remain our property or that of the relevant Client.

21.2 You acknowledge and agree that during the course of your employment you will learn confidential information about our business and that of a Client. All matters pertaining to our business, or that of a Client, must be kept strictly confidential.

21.3 These obligations apply both during and after the termination of your employment for whatever reason. Failure to strictly comply with this ongoing obligation may result in disciplinary action, which may include termination of an Assignment or your employment.

21.4 For the purpose of this clause, confidential information shall include any information that is not available to the public.

### **22 Restraint**

During the term of this Agreement, and for a period of 26 weeks from its termination or the end of your last Assignment (whichever is earlier), you agree that you will not seek or accept a direct offer of work, whether temporary, contract or permanent, from any client, former client, agent of or employment services supplier to a client or former client, employee or former employee of Optimal Workforce to whom you are introduced without first notifying Optimal Workforce.

### **23 Termination of Employment**

23.1 Unless otherwise agreed in writing the parties may terminate the employment relationship upon one hour's notice.

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23.2 Nothing in this Agreement shall affect our right to dismiss you without notice for reasons of serious misconduct. For the purposes of this clause, serious misconduct shall include, but is not limited to:

(a) Willful, or deliberate, behaviour that is inconsistent with the continuation of employment, including:

- (i) theft;
- (ii) fraud (including falsifying company documents or records);
- (iii) assault;
- (iv) bullying and or harassment;
- (v) attendance upon the workplace whilst under the effects of alcohol or prohibited drugs;
- (vi) failure to perform any lawful and reasonable instructions issued by us or a Client; or
- (vi) failure to comply with our internal policies and procedures or those of a client; or

(b) Conduct that causes imminent and serious risk to:

- (i) a person's health or safety; or
- (ii) our reputation, viability or profitability.

23.4 In the event that you are absent from work for a period of three consecutive rostered shifts without our express consent, or without prior notification, it shall be deemed that you have abandoned your employment.

23.5 Upon the termination of your employment for whatever reason, or earlier upon request, you shall immediately return any and all documents, publications, manuals, uniforms and other property whatsoever which is in your possession.

## 24 Resolving Employment Relationship Problems

If any employment issues arise, they should be raised with Optimal Workforce as soon as possible so that they can be resolved. Employees and employers may also seek information about minimum terms and conditions of employment from the Fair Work Ombudsman. You can contact them on 13 13 94 or visit their website at [www.fairwork.gov.au](http://www.fairwork.gov.au).

## 25 Variations

Any variations to this Agreement must be confirmed in writing.

## 26 Declarations

You declare that the employment related information, which you have provided to Optimal Workforce, is true and correct and you are allowed legally to work in Australia.

You declare that you will not accept any offer by Optimal Workforce to employ you to work as a temporary on-hire employee unless:

- You have read and fully understand the terms and conditions of your employment; and
- You are able to perform the duties described and meet all additional requirements; and
- You accept Optimal Workforce and/or its client's reasonable and lawful rules covering, medical requirements, safety regulations, time of attendance at work and any other conditions on the work site to which you are assigned from time to time.

Document Title	OW Temp Agreement	Content Owner	Human Resources	Document Author	Legal
Last revised	Aug 2023	Document Version	V1. 8. 2023	Revision Date	Aug 2025