

TERMS OF BUSINESS AGREEMENT

Labour Hire

1. Parties bound by the agreement

- 1.1. This agreement is made between Hotelstaff Pty Ltd (ACN 007 019 696) located at Level 14, 390 St Kilda Road, Melbourne, Victoria, 3004 ("Hotelstaff") and the Client named in the Schedule in the section entitled "Name of Legal Entity" ("the Client") attached to this agreement.
- 1.2. The terms of this agreement will apply on and from the earlier of the date that the Client:
 - 1.2.1. returns a signed copy of this agreement to Hotelstaff, or
 - 1.2.2. accepts or requests a Hotelstaff employee on an Assignment, or
 - 1.2.3. receives a resume of a potential candidate after being given a copy of this agreement.
- 1.3. This agreement will continue to remain in force until it has been terminated in writing by either party pursuant to clause 18 (Termination of Agreement). It should be noted that some clauses, where indicated, will survive the termination of this agreement.

2. Coverage & definitions

- 2.1. This agreement governs the relationship between the Client (including its subsidiaries, related entities or agencies) and Hotelstaff regarding the provision of Casual Staffing Solutions.
- 2.2. The listed expressions in bold print have the meaning set out opposite them:

Assignment / Casual Staffing Solution	means the placement of one or more casual Hotelstaff employees at an agreed rate to work at the Client's premises or venue, as specified by the Client. The employment relationship remains with Hotelstaff.
Client	means the party named in the Schedule in the section entitled "Name of Legal Entity", including all of that party's subsidiaries, related entities or agencies.
Employee	means individuals employed by Hotelstaff and on-hired to Client to work on a casual basis under a Casual Staffing Solution.
Employer /Hotelstaff	means Hotelstaff Pty Ltd (ACN 007 019 696) Level 14, 390 St Kilda Road, Melbourne, Victoria, 3004.
GST	has the meaning given to that term in A New Tax System (Goods and Services Tax) Act 1999 (Cth).
Personal Information	has the meaning given to that term in the Privacy Act 1988 (Cth).
Industrial Instrument	means any Enterprise Agreement, Modern Award or legal industrial instrument governing the terms of employment and relationship between the Client and their employees, which the Client must notify to Hotelstaff prior to any Assignment.
Work Equipment	means any plant, equipment, tools, stationery and other property or items (including personal protective equipment) required to enable our Employee to perform their work safely and efficiently.

3. Minimum conditions of employment for Casual Staffing Solutions

- 3.1. Hotelstaff recognises that each Client may have an existing Industrial Instrument governing the terms and conditions of its employees. Hotelstaff agrees to communicate the terms and conditions of any Industrial Instrument to all Employees working as part of a Casual Staffing Solution.
- 3.2. The rates of pay of an Employee, working for a Client as part of a Casual Staffing Solution, will be based on the Industrial Instrument applicable to the Client and the role (which the Client must notify to Hotelstaff). The default instrument

applied will be the *Hospitality Industry (General) Award 2020*. The Client agrees to ensure that all employment terms and conditions meet the minimum National Employment Standards, comply with any Industrial Instrument and all employment requirements under the *Fair Work Act 2009* (Cth) or any other relevant legislation.

- 3.3. The Client agrees to advise Hotelstaff immediately in writing of any change to the relevant Industrial Instrument and the conditions of employment. If the Client does not advise Hotelstaff immediately in writing of any changes in the conditions of an Employee's employment and a resulting back payment to the Employees is required, the Client agrees to pay Hotelstaff in respect of all amounts owing to the Employee/s from the date of the applicable change.
- 3.4. Should a rate increase occur because of a national wage increase and/or an increase in a relevant Industrial Instrument then Hotelstaff retains the right to pass this increase on to the Client and adjust rates of pay applied to Casual Staffing Solutions.

4. Minimum hours of work for Casual Staffing Solutions

- 4.1. The minimum hours of work for a Casual Staffing Solution provided to the Client by Hotelstaff is a minimum of four (4) hours per Assignment, regardless of wage level unless a higher minimum engagement is required in the relevant Industrial Instrument.
- 4.2. Where an Employee, provided to the Client for an Assignment, is required for less than the minimum hours specified above then regardless of the hours worked by the Employee, the Client will be charged for the minimum hours per Assignment in accordance with clause 4.1 above.

5. Roster Alterations & Cancellations for Casual Staffing Solutions

- 5.1. Hotelstaff recognises that from time-to-time changes in rosters or cancellations may occur due to changes in the Client's business demands.
- 5.2. Where a change to a roster or staffing requirement is communicated to Hotelstaff more than six (6) hours prior to the commencement of an Assignment, no penalty will apply, unless the circumstances in clause 5.3 apply.
- 5.3. Where the Client notifies Hotelstaff of a change to a roster or staffing requirement after 16:00 for an Assignment beginning between 00:00 and 10:00 on the following day, Hotelstaff will be entitled to charge the Client for that Assignment at a rate no less than the minimum hours per Assignment in accordance with clause 4.1 above.
- 5.4. Where:
 - 5.4.1. a change to a roster or staffing requirement is communicated to Hotelstaff with less than six (6) hours' notice prior to the commencement of an Assignment; or
 - 5.4.2. the change to a roster or staffing requirement is not communicated to Hotelstaff, Hotelstaff will be entitled to charge the Client for that Assignment at a rate no less than the minimum hours per Assignment in accordance with clause 4.1 above.

6. Timesheets for Casual Staffing Solutions

- 6.1. Subject to clause 4.1 of this agreement, where an Employee is on hired to a Client, charges will be based on the number of hours worked by the Employee engaged to provide services to the Client plus any applicable allowances or penalties that may be applied according to the relevant Industrial Instrument. Where an Employee is engaged by the Client for a period of time that includes a part of an hour (for example, 5 and a half hours), that part of an hour will be rounded up to the nearest hour.
- 6.2. The Client must monitor breaks in accordance with the relevant Industrial Instrument. Where breaks have not or

cannot be applied, an additional penalty will be applied to the hourly rate of pay in respect of that Employee.

- 6.3. Hours worked by an Employee are to be recorded on a Hotelstaff timesheet, signed by the Employee, and verified by a nominated Client representative. The Client must ensure that all timesheets are completed accurately, and hours worked recorded legibly.

7. Insurance cover for Casual Staffing Solutions

- 7.1. Hotelstaff agrees to meet all insurance obligations required by law, including workers' compensation insurance, professional indemnity and public liability insurance for all of the Employees provided to the Client as part of a Casual Staffing Solution.
- 7.2. The Client agrees to meet any insurance obligation as required by law.
- 7.3. This provision survives the termination of this agreement.

8. Conversions

- 8.1. A conversion fee will be charged by Hotelstaff to the Client where any of the following occurs: -
- 8.1.1. an Employee placed as part of an Assignment in the previous twelve (12) months with the Client, is offered employment (of any type) or is otherwise engaged by the Client to work directly for the Client, or
- 8.1.2. Hotelstaff introduces or refers an Employee to a Client, and that Employee commences employment with the Client within twelve (12) months from the date of the introduction or referral, or
- 8.1.3. the Client introduces a Hotelstaff Employee to a third party, who employs or engages the Employee in any capacity whatsoever, or
- 8.1.4. consultants, guest chefs or other third parties not bound by this agreement working with or for a Client employ or engage the Employee in any capacity whatsoever.
- 8.2. The conversion fee shall be applied, regardless of the basis of employment upon which the Employee is employed (ie casual, temporary, fixed term or permanent) or engaged (ie consultant or contractor).
- 8.3. The conversion fee will be equal to 15% of the relevant worker's annual remuneration (including any incentives, allowances and superannuation), regardless of their hiring or engagement arrangement.
- 8.4. No candidate replacement guarantee provisions are applicable in the case of a conversion.
- 8.5. Unless otherwise agreed, invoices for conversions will be due on the first day of employment relationship or engagement with the Client or third party covered by clause 8.1 above.
- 8.6. Clause 8 survives the termination of this agreement for a period of 12 months following such termination.

9. Privacy and confidentiality

- 9.1. Hotelstaff abides by the Australian Privacy Principles. Any information contained in this agreement, including but not limited to Personal Information of an Employee, is strictly confidential and may not be disclosed to any third party without Hotelstaff's prior written consent. This provision survives the termination of this agreement.
- 9.2. The Client agrees to preserve the privacy of Personal Information concerning any of our Employees, whose Personal Information has been provided to the Client or accessed by the Client, to a standard not less than that prescribed by the *Privacy Act 1988* (Cth).
- 9.3. The Client agrees that if the Client is provided Personal Information concerning any of Hotelstaff's Employees to which any European or other foreign privacy protection applies, Hotelstaff may decline to provide Hotelstaff's Employees' Personal Information to the Client unless the Client first agrees to additional contractual provisions reasonably required in accordance with those protections.

10. Quality checks

The Client acknowledges and agrees that Hotelstaff is not liable in any way for any negligent or dishonest act of any Employee or the lack of expertise of the individual Employee referred to the Client as part of any Casual Staffing Solution.

11. Safe Workplace

- 11.1. Once an Employee begins work with the Client and they are under the supervision, control and management of the Client, the Client agrees to ensure that the Client's workplace complies with all applicable workplace safety laws in the state or territory in which the Client operates. The Client also agrees that the Client's workplace is safe and without risk to health.
- 11.2. The Client must undertake all steps that are reasonably practicable to ensure that the Client provides safe systems of work and provides and maintains all plant, operating equipment and tools in the Client's workplace.
- 11.3. The Client must ensure that each Employee is safely inducted into the workplace and that all potential hazards are clearly identified, understood and controlled by the Client and that the Employee understands all the potential hazards associated with the Client's workplace.
- 11.4. The Client must advise Hotelstaff immediately of any incident or accident involving, or any injury sustained by, a Hotelstaff Employee who has been provided to the Client by Hotelstaff.
- 11.5. The Client must immediately advise Hotelstaff in the event that the Client has failed or is unable to comply with any of its obligations under any applicable workplace safety legislation and agrees that in no circumstances will an Employee work in any situation that is unsafe or potentially unsafe.
- 11.6. The Client agrees that, if requested by Hotelstaff to provide evidence that the Client is complying with its obligations under any applicable workplace safety legislation applicable to the state or territory in which the Client operates, that the Client will immediately provide such evidence.
- 11.7. The Client agrees to allow Hotelstaff to access the Client's workplaces on an annual basis (or any more frequent basis as required by Hotelstaff and notified to the Client from time to time) to assess the safety of those workplaces and conduct any inquiries following an incident.

12. Overtime

- 12.1. The Client agrees to pay to Hotelstaff all service charges relative to overtime accrued under a relevant Industrial Instrument by the Employee if attributable to any Assignment.
- 12.2. This includes overtime accrued by the Employee at another Assignment which was accrued,
- 12.2.1. as a result of a change in rostering initiated by the Client, such as an uncommunicated roster extension; or
- 12.2.2. as a result of a specific request of an Employee by the Client.

13. Related Costs

- 13.1. The Client agrees to pay to Hotelstaff all service charges relative to the related costs below if attributable to an Assignment including all:
- 13.1.1. costs for obligatory medical examinations and specialised tests that are necessary to complete any stage of the recruitment process;
- 13.1.2. costs for skills and qualification tests and training including the costs incurred for verification tests on workers' level of skills and qualifications;
- 13.1.3. costs for expenses incurred for travel when required for a specific Assignment where negotiated.
- 13.1.4. costs for introduction and orientation programmes, including on-site or online job orientation and training, for example on occupational safety and health or general site introductions;
- 13.1.5. costs of obtaining government clearances, including obligatory police and security clearances; and
- 13.1.6. costs of lodging and sustenance during extended Assignments.

14. Invoices

- 14.1. The agreed fee schedule between Hotelstaff and the Client forms part of and is incorporated into this agreement.

- 14.2. Hotelstaff will invoice the Client for the services provided. All service charges relating to Casual Staffing Solutions will be invoiced on a weekly basis. It is expected that the Client will review all time sheets prior to their submission to Hotelstaff and ensure that each time sheet is a true reflection of the hours worked by the Employee.
- 14.3. All service charges relating to conversions pursuant to clause 8 of this agreement will be invoiced within seven (7) days of the relevant date set out in the applicable clause.
- 14.4. Hotelstaff reserves the right to charge interest on any monies outstanding beyond thirty (30) days from the date of the invoice. Interest will be calculated and charged at the rate of 13% from the date at which the invoice became due until the day it is actually paid by the Client and accrues monthly.
- 14.5. The Client is liable for all legal costs and disbursements that may be incurred by Hotelstaff in the recovery of fees or other amounts owing to Hotelstaff under this agreement.

15. Withdrawal of Employees

Hotelstaff reserves the right to withdraw any Employee put forward for a Casual Staffing Solution if any of the terms and conditions of this agreement are not met.

16. Additional Client Responsibilities

- 16.1. The Client must not, without Hotelstaff's consent, require the Employees to perform any work beyond the skill level and classification or of a type different to that which we agree they are to perform.
- 16.2. The Client must not direct the Employees to perform work at any place that has not been subject to prior agreement by Hotelstaff.
- 16.3. The Client must not on-hire, second or lend the Employees to any other person or organisation without our prior, written consent.
- 16.4. The Client must supervise, instruct and direct the Employees properly at all times whilst they are provided to the Client, including times outside their working hours when they are accommodated, travelling, or engaged in social activities within the scope of the Client's legal responsibility.
- 16.5. The Client must report to Hotelstaff any adverse conduct or performance issues that arise in relation to our Employees so that we can manage any feedback, counselling or disciplinary processes with them directly.
- 16.6. The Client must familiarise themselves with industrial instruments under which our Employees perform their work and supervise our Employees in accordance with their provisions.
- 16.7. The Client must provide all Work Equipment at the Client's expense, other than Work Equipment which Hotelstaff agrees that Hotelstaff, or the Employees, will provide.
- 16.8. The Client agrees to consider Hotelstaff's Human Rights Policy and advise if elements of the Client's supply chain or business practices are inconsistent with the policy's commitments.

17. Variations to the agreement

- 17.1. This agreement shall not be altered, modified or amended in any way except by written agreement between both parties or as otherwise provided for in this agreement.
- 17.2. The hourly rates for Casual Staffing Solutions will be reviewed and updated annually and the updated rates will form part of his agreement.

18. Termination of the agreement

Document Information

Effective	01/06/2021	Version	KHQ3.113.08.21	Authorised	SZPRINC, Nathan
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- 18.1. Either party may terminate this agreement by giving the other party seven days' notice in writing.
- 18.2. Hotelstaff may terminate this agreement immediately without notice if the Client:
- 18.2.1. materially breaches a term of this agreement or commits a breach of this agreement which cannot be remedied;
- 18.2.2. commits multiple or recurring breaches of this agreement, whether or not remedied;
- 18.2.3. fails to maintain any insurance policy that it is required to maintain under this agreement;
- 18.2.4. is the subject of an Insolvency Event;
- 18.2.5. ceases, or indicates that it is about to cease, carrying on its business;
- 18.2.6. there is a change in the person or persons in effective control of the Client, including any change in the underlying beneficial ownership of Client.
- 18.3. For the purposes of this clause, **Insolvency Event** means anything that reasonably indicates that there is a significant risk that the Client is or will become unable to pay its debts as they fall due. This includes:
- 18.3.1. a meeting of the Client's creditors being called or held;
- 18.3.2. a step being taken to make the Client bankrupt or to wind the Client up;
- 18.3.3. the appointment of a controller or administrator as defined in section 9 of the *Corporations Act 2001* (Cth);
- 18.3.4. the Client entering into any type of arrangement with, or assignment for the benefit of all or any of its creditors;
- 18.3.5. the Client being made subject to a deed of company arrangement; or
- 18.3.6. a step being taken to have a receiver, receiver and manager, liquidator or provisional liquidator appointed to the Client or any of its assets.
- 18.4. Notwithstanding any other provision, the termination of this agreement does not discharge any obligations by either party specifically outlined in the agreement to survive the termination of this agreement and will not under any circumstances discharge the Client's obligation to pay all outstanding amounts owed to Hotelstaff pursuant to this agreement.

19. Indemnity

- 19.1. The Client must indemnify, keep indemnified and hold Hotelstaff and its affiliates harmless from any and all loss, claims, liabilities, damages, expenses and/or costs, including legal costs, arising out of or in connection with:
- 19.1.1. any damage to any property, or death or personal injury to any person, directly or indirectly contributed to by the Client or any of its employees, representatives, agents, contractors, subcontractors and assigns;
- 19.1.2. any breach of this agreement or any law or regulation by the Client or any of its employees, representatives, agents, contractors, subcontractors and assigns; and
- 19.1.3. any fraud, wilful misconduct or negligence by the Client or any of its employees, representatives, agents, contractors, subcontractors and assigns.

20. Signatories to the agreement

The parties acknowledge that the terms and conditions outline above in this agreement form the entire agreement between the parties. The Client represents to Hotelstaff that any person whose signature appears below is duly authorised to bind the Client in relation to the terms and conditions of this agreement.