

Labour hire agreement

This labour hire agreement is dated [*date*]

between:

Company Name (ACN xxx) of address (Company)

and:

WYMAP PEOPLE PTY LTD (ABN 83 157 784 542) of Suite 2003, Level 2, 376 Bay Street Brighton Le Sands, NSW 2216 (Agency)

THE PARTIES AGREE

1 Definitions and interpretation

- (a) The following definitions will apply for the purpose of this agreement:

Agreement means this labour hire agreement.

Fees means the fees set out in schedule 1.

Related Body Corporate has the meaning given to this term under the Corporations Act 2011 (Cth).

Maximum Number means the number of workers specified in schedule 1.

Minimum Hours means the number of hours specified in schedule 1.

Placement Fees means the fees specified in paragraph (c) schedule 2

Services means the services set out in schedule 1.

Site means any place at which the Company requests the provision of services.

Specifications means the requirements set out in the third column of the table in item 6 of schedule 1.

Term means the time from the commencement date specified in schedule 1 to the termination of this agreement in accordance with clause 11.

Work means the type of work specified in schedule 1.

Worker Role means the relevant roles specified in the table in item 6 of schedule 1

Worker means any person who is an employee, agent or contractor of the Agency and whose services are provided by the Agency to the Company.

- (b) Headings are for convenience only and do not affect the interpretation of this agreement.

2 Supply of Workers

2.1 Supply of Workers

- (a) From time to time, the Company may request that the Agency supply a specified number of Workers, each of whom are suitable for performing the Work (**Company Request**).
- (b) The Company may request up to the Maximum Number of Workers at any one time.
- (c) The Agency will provide Workers subject to the Minimum Hours of notice from receiving the Company's Request.
- (d) The Agency agrees that all Workers will be suitable for carrying out the Work.
- (e) The minimum charge for a Worker is 4 hours of Fees a day.

2.2 Replacement of Workers

- (a) If not satisfied with the services provided by a particular Worker, the Company will notify the Agency as soon as possible. The Agency, subject to clause 2.2(b), must replace that Worker with another Worker as soon as possible, but no later than 48 hours from the time of the Company's notification.
- (b) The Company must pay the Agency a minimum of 4 hours' Fees for any Worker who has been replaced with another Worker in accordance with clause 2.2(a). The Agency will withdraw any further charges associated with a Worker who has been replaced, for any period after a notice has been given pursuant to clause 2.2(a).

3 Relationship between the parties

- (a) The Company engages the Agency to provide the Services as an independent contractor.
- (b) Neither the Agency, nor any worker, is the Company's employee, partner, legal representative, agent, joint venturer or franchisee.
- (c) Neither the Agency, nor any Worker, has any right or authority to:
 - (i) bind the Company;
 - (ii) assume or create any obligations for, or on behalf of, the Company; or
 - (iii) make any representations or warranties for, or on behalf of, the Company.
- (d) No contractual relationship will exist between the Company and the Workers.
- (e) The Workers are not entitled to any benefit from the Company that is usually attributable to an employee.

4 Insurances

- (a) The Agency must obtain and maintain at all times during the Term of this agreement:
 - (i) public liability insurance to provide cover of at least \$10,000,000,00

- (ii) workers' compensation insurance which covers every Worker;
 - (iii) third party and property damage insurance to provide cover of at least \$10,000,000.00; and
 - (iv) any other insurance that the Agency considers necessary to ensure that the interests of the Agency, the Company and any Related Bodies Corporate of the Company are protected against any liability incurred through the performance of this Agreement.
- (b) All policies of insurance required to be obtained and maintained by the Agency pursuant to clause 4(a) must be taken out with an insurance office approved to undertake insurance business in Australia under the Insurance Act 1973 (Cth).
- (c) The Agency must provide to the Company copies of the certificates of currency for each insurance policy referred to in clause 4(a) within 21 days of a request made by the Company.

5 Agency's specific obligations

- (a) The Agency will be solely responsible, and will solely bear the liability, for:
- (i) the payment of remuneration to the Workers, including salaries and wages, superannuation, annual leave, sick leave, long service leave and other benefits to which workers may be entitled under any contract of service or under any rule, statute, common law or industrial instrument (as defined in relevant legislation);
 - (ii) the payment of all taxes and duties in respect of such remuneration and benefits;
 - (iii) compliance, and the cost of compliance, with all statutory, award or other legal or contractual requirements with respect to employees, agents, servants and contractors;
 - (iv) the maintenance, and the cost, of obtaining appropriate workers' compensation policies to provide coverage for the Workers.
- (b) Neither the Company, nor any Related Bodies Corporate of the Company, will have any responsibility for:
- (i) the payment of salary or wages to any Worker;
 - (ii) the payment of any payroll tax, PAYG tax instalments or superannuation guarantee charge associated with the employment of any Worker;
 - (iii) annual leave, personal/carers leave or long service leave which may accrue to any Worker; or
 - (iv) any other benefits to which any Worker may otherwise become entitled under any industrial instrument, statute or common law.

6 Fees

6.1 Fees

- (a) In consideration for the Agency providing the Services, the Company must pay the Agency the Fees.

- (b) If the Company employs any Worker supplied to the Company by Agency or its related Bodies Corporate within 12 months of that Worker performing Work for the Company, Company must pay the Placement Fees to Agency within 7 days of that Worker commencing employment with the Company. .

6.2 GST and invoicing

- (a) For the purpose of this clause:

GST means a goods and services tax, or similar value added tax, levied or imposed under the GST Law; and

GST Law means the same as in A New Tax System (Goods and Services Tax) Act 1999 (Cth).

- (b) The Agency will issue an invoice to the Company on a weekly basis. The invoice must:
 - (i) state the rate being charged by the Agency and the basis on which it has been calculated;
 - (ii) state the total amount payable by the Company;
 - (iii) comply with the GST Law; and
 - (iv) comply with other laws, including state or territory laws or regulations specifically applicable to the provision of the Services and any other requirements reasonably required by the Company.
- (c) The Fees (plus applicable GST) must be paid by the Company within 7 days after receiving the invoice.

6.3 Payroll tax

- (a) Legislation may provide that, as a client of the Agency, the Company is liable for any payroll tax payable when it uses a Worker. The Agency is authorised to collect and pay payroll tax on behalf of the Company if, under any applicable payroll tax legislation, that liability falls on the Company. This clause applies even if no employment relationship arises between the Company and any Worker.
- (b) The Fee is inclusive of any payroll tax whether it is paid by the Company or the Agency. If the Company is required to pay payroll tax, the Fee will be adjusted accordingly.
- (c) If the Company wishes the Agency to collect and remit payroll tax on its behalf in accordance with clause 6.3(a), it will sign an authorisation form to be provided by the Agency.
- (d) Payroll tax is not subject to GST. Accordingly should the Company elect for the Agency to collect and remit payroll tax on its behalf, the amount of payroll tax will be itemised separately on all documentation including the invoices.

6.4 Documentations

- (a) The Agency agrees to provide the Company with a weekly report showing:
 - (i) the number of Workers supplied by the Agency to the Company (**Supplied Workers**);

- (ii) the dates on which the Supplied Workers were supplied to the Company;
 - (iii) the total number of hours worked by the Supplied Workers on each of the dates on which their services were supplied to the Company; and
 - (iv) the locations at which the Work was performed by each Supplied Worker.
- (b) The Agency agrees to provide all documentation reasonably requested by the Company, in order to enable the Company to verify any information contained in an invoice.
- (c) If the Agency fails to provide the Company with any documentation required or requested pursuant to this clause, the Agency agrees that the Company may withhold any disputed payment until the documentation is provided.

7 Work health and safety

- (a) The Company must:
- (i) make all reasonable attempts to ensure that all work carried out pursuant to this agreement by Workers complies with all work health and safety requirements of the state or territory in which the Work is carried out;
 - (ii) ensure that risk assessments of all activities involved in the Work have been undertaken before Worker undertakes the Work;
 - (iii) ensure that the Workers are not exposed to risks to their health or safety or to hazards arising from the provision of Work;
 - (iv) ensure that any equipment or facilities provided for use in the provision of Work are safe and without risks to health and safety when properly used;
 - (v) ensure that systems of work and the working environment are safe and without risks to health; and
 - (vi) provide such information, instruction and supervision as necessary to ensure that the Work is provided and carried out by Workers without hazards or risks to health and safety;
 - (vii) ensure Workers receive adequate training to ensure tasks are undertaken in a manner that minimises the risk to the Workers' health and safety and the health and safety of others; and
 - (viii) ensure Workers do not undertake any tasks for which they have not received adequate training.
- (b) The Agency must ensure that all of the Workers supplied:
- (i) have the skills, qualifications, licences and physical attributes the for the relevant Work Roles;
 - (ii) exercise reasonable care in selecting Workers for the Work and the conditions under which the Work is carried out;

- (c) The Agency must notify the Company of any injury sustained by any of the Workers on the Company's premises, or any injury sustained by any of the Workers during the time in which their services were being supplied to the Company.

8 Confidentiality

- (a) The Agency must maintain the confidentiality of, and not disclose, any trade secret, confidential information or commercially sensitive information about the Company or any of its Related Bodies Corporate obtained while providing services to the Company, other than when required by law or when the information falls into the public domain.
- (b) The Agency must ensure that each of the Workers maintains the confidentiality of, and does not disclose, any trade secret, confidential information or commercially sensitive information about the Company or any of its Related Bodies Corporate obtained while providing services to the Company, other than when required by law or when the information falls into the public domain.
- (c) This clause will survive termination of this agreement

9 Intellectual property rights

- (a) All intellectual property rights in materials developed or created by the Agency or Workers while they are providing Work, on the Company's time, or using the Company's resources (including its confidential information), whether such materials were created during business hours or not, will vest in the Company, and neither the Agency nor the Workers will have any claim to or interest of any nature in such intellectual property rights. The Agency will do, and will ensure that all Workers do, whatever is necessary and sign any document required by the Company to ensure that such intellectual property rights are vested in the Company.
- (b) The assignment to the Company of all present and future intellectual property rights under this agreement is without restriction as to use or territory, is in perpetuity and is effective without any further payment to the Company or the Workers, whether by way of royalty or otherwise, in consideration for the assignment.
- (c) The Company must ensure that each of the Workers supplied to the Company agree to the terms of this clause before those Workers are supplied to the Company.

10 Warranties, indemnities and releases

- (a) Both parties warrant and agree that:
 - (i) they have the right, power and authority to enter into and perform their respective obligations in accordance with this agreement;
 - (ii) all corporate and other necessary action has been taken by each of them to authorise the signing and performance of this agreement; and
 - (iii) this agreement is valid and legally binding on them in accordance with the terms of this agreement.
- (b) The Agency warrants and agrees that it:
 - (i) has the requisite skills, experience, resources and infrastructure to provide and perform the Services;

- (ii) holds and will continue to hold during the Term, all relevant authorisations required by law to provide the Services; and
 - (iii) will comply with any applicable industrial awards or agreements that apply in respect of its employment, or contracting, of the Workers.
- (c) The Agency indemnifies the Company and its Related Bodies Corporate and keeps each of them indemnified from and against all liability, loss, damage, penalty, charge, claim, harm, injury, costs or expenses of any kind whatsoever (including consequential loss) (**Loss**) incurred or suffered directly or indirectly from or in connection with:
- (i) any breach of this agreement by the Agency;
 - (ii) the termination of this agreement because of a breach by the Agency;
 - (iii) any wilful, unlawful or negligent act or omission of the Agency;

except to the extent that any Loss is solely and directly caused by the negligence of the Company or any of its Related Bodies Corporate.

- (d) The Company indemnifies the Agency and its Related Bodies Corporate and keeps each of them indemnified from and against all liability, loss, damage, penalty, charge, claim, harm, injury, costs or expenses of any kind whatsoever (including consequential loss) (**Agency Loss**) incurred or suffered directly or indirectly from or in connection with:
- (i) any injury to or death of a natural person and any loss of or damage to a third party's real or personal property caused or contributed to by the Company or any of the Workers;
 - (ii) any loss of or damage to real or personal property of the Company, caused by or contributed to by the Workers;
 - (iii) any claim, action, demand or proceeding by a third party against the Agency or any of its Related Bodies Corporate caused by or contributed to by any of the Workers whilst performing Work for the Company or by any wilful, unlawful or negligent act or omission of the Workers whilst they are performing Work for the Company; or
 - (iv) any claim, action, demand or proceeding by a third party against the Agency or any of its Related Bodies Corporate arising directly or indirectly out of a breach of this Agreement by the Company.

except to the extent that any Agency Loss is solely and directly caused by the negligence of the Agency or any of its Related Bodies Corporate.

- (e) For the purposes of clause 10(c), the Company has entered into this agreement as principal and also as agent for each of its Related Bodies Corporate. The terms and conditions of clause 10(c) will also extend to protect the Company's Related Bodies Corporate.
- (f) For the purposes of clause 10(d), the Agency has entered into this agreement as principal and also as agent for each of its Related Bodies Corporate. The terms and conditions of clause 10(d) will also extend to protect the Agency's Related Bodies Corporate.
- (g) Under no circumstances is the Agency or its Related Bodies Corporate liable or responsible in any way to the Company or any other person for any loss, damages, costs, expenses or other claims (including consequential damages and loss of profits or loss of revenues), as a

result, direct or indirect of any defect, deficiency or discrepancy in the Work performed by Workers or Services including in their form, content and timeliness of deliveries, failure of performance, error, omission, defect, including, without limitation, for and in relation to any of the following:

- (i) any Services supplied to Company;
 - (ii) any delay in supply of the Services or Workers; or
 - (iii) any failure to supply Services or Workers.
- (h) This clause will survive termination of this agreement.

11 Termination

- (a) The Company may terminate this agreement immediately and without the payment of any compensation if:
 - (i) the Agency engages in misconduct or gross negligence;
 - (ii) the Company or any Worker commits any action or inaction which damages the reputation, or has the potential to damage the reputation, of the Company;
 - (iii) the Company goes into receivership or liquidation; or
- (b) Either party may terminate this agreement at any time by giving 30 days' notice in writing to the other.

12 Assignment

- (a) The Agency may not assign this agreement or any of its obligations under this agreement or otherwise transfer the benefit of this agreement or a right or remedy under it, without the prior written consent of the Company.
- (b) The Company authorises the Agency to supply Workers employed by the Agency's Related Bodies Corporate in satisfaction of its obligations under the agreement

13 Force majeure

- (a) If circumstances beyond the Agency's control prevents or hinders its provision of the Services or Workers, the Agency is free from any obligation to provide the Services or Workers while those circumstances continue. The Agency may elect to terminate this agreement or keep the agreement on foot until such circumstances have ceased.
- (b) Circumstances beyond the Agency's control include, but are not limited to, unavailability of materials or components, strikes, lockouts, riots, natural disasters, fire, war, acts of God, Government decrees, proclamations or orders, transport difficulties and failures or malfunctions of computers or other information technology systems or Communicable Diseases.

In the clause "Communicable Diseases" means any disease which is:

- (a) infectious, or contagious, or can be spread from person to person or from animals to humans, or can be transmitted by means of any substance and/or agent from any organism to another organism or to any human;
- (b) transmissible by airborne transmission, or bodily fluid transmission, or transmission from or to any surface or object, solid, liquid or gas or between organisms;
- (c) can cause or threaten damage to human health or human welfare or can cause or threaten damage to, deterioration of, loss of value of, impair marketability of or result in loss of use of tangible or intangible property;
- (d) a human listed disease under the Biosecurity Act 2015 (and any similar Australian legislation and/ or legislation that amends or replaces that Act).

14 Miscellaneous

- (a) This agreement may only be amended in writing.
- (b) This agreement is governed by the laws of New South Wales.
- (c) This agreement constitutes the entire agreement between the parties as to the subject matters.

SCHEDULE 1

1 Commencement date

The commencement date is xxxx or the date Executed as an agreement if later.

2 Services

The Agency will supply Workers to carry out Work, as requested from time to time by the Company.

3 Work

The work carried out by the Workers is:

(a) Job title

(b) Job title

(c) Job title

4 Maximum Number of Workers

xxx number of Workers

5 Minimum Hours

4 hours

6 Specifications

Worker Role	Types of Specifications	Specifications
(a) xxxx	Qualifications	xxxx
	Skills	xxxx
	Licences	xxxx
	Physical Attributes	Able to meet the physical requirement inherent to the role including frequent manual handling, lifting up to circa 20kg, shift work. Drug and Alcohol negative.