



## Definitions

Under these Terms:

- **“Agreement”** means these terms of business;
- **“Maxima”** means **The Maxima Group ABN 90 212 392 953**, its officers, servants, agents and sub-contractors.
- **“Employee”** means any employee of Maxima provided to the Host Employer by Maxima under this Agreement and **“Employees”** has a corresponding meaning.
- **“Fee”** shall mean the cost of the services as agreed between Maxima and the Host Employer subject to clause of this Agreement.
- **“The Host Employer”** means any person or persons or corporation for whom the services are provided.
- **“Services”** means all services supplied by Maxima and includes any advice or recommendations. This shall include but is not limited to the provision of staff on a permanent, fixed term contract or temporary basis, or other such employment related services.

### 1. Terms of Payment

Invoices issued by Maxima for the Fees must be paid by the Host Employer (7) days from the date of the invoice.

### 2. Period of Hire (On-hire Employees)

The period of hire of the Employee will be in accordance with the relevant award agreement.

### 3. Substitution

Maxima reserves the right to withdraw any one or more of the casual/temporary Employees from service with the Host Employer and to substitute another Employee equally skilled and experienced in his/her place.

### 4. Period of Hire (apprentices)

The period of hire of the Employee, if a trainee/apprentice will be as specified under the Contract of Training.

### 5. Termination of Hire (On-hire Employees)

- 5.1. If the Employee has been employed for less than 3 months, one (1) days' notice must be given. For periods of employment greater than 3 months, notice of termination will be subject to negotiation between the Host Employer and Maxima. Reasonable notice must be given for termination of temporary and casual hire in accordance with the award termination notice.

- 5.2. If for any reason the Host Employer wishes to terminate an Employee on the same day as the commencement date, this must be in consultation with Maxima.
- 5.3. Any shorter period of notice than that provided for in this clause will incur a charge to the Host Employer.

## **6. Supervision**

- 6.1. All Employees are placed under the care and supervision of the Host Employer.
- 6.2. The Host Employer shall not expose the Employees to the risk of any harm or personal injury and warrants that it in every respect meets all obligations and requirements imposed by any law regulating the health and safety of workers in the workplace. The Host Employer agrees to provide Employees with such amenities as are required to be provided by any law providing for the protection and comfort of workers engaged in the same or similar class of work.
- 6.3. The Host Employer agrees to indemnify Maxima against any loss or damage suffered by Maxima occasioned as a result of any injury or death of an Employee of Maxima whilst subject to the direction of the Host Employer as to the work to be performed and the manner in which it is to be performed by the Host Employer. The Host Employer is to include all Employees in the Host Employer's own public liability insurance cover.

## **7. Obligations of Maxima**

- 7.1. Maxima will:
  - (a) provide nominations for placement by matching as far as is reasonably practicable an Employee to the job based on the job description supplied by the Host Employer and skills reported/performed by the Employee;
  - (b) maintain regular contact with Employees during their placement with the Host Employer;
  - (c) deduct the requisite amounts of income tax, union dues and all other applicable deductions as required by Australian law, to ensure payment of any other statutory taxes, superannuation contributions and/or levies as required by Australian law and to maintain workers' compensation insurance for all Employees;
  - (d) provide basic induction to the Employee prior to placement and provide copies of Maxima's OHS&W Guidelines, injury reporting procedure and details of the job and working conditions as supplied by the Host Employer pursuant to clause 6, to the Employee in writing prior to placement; and
  - (e) comply with the National Privacy Principles and any privacy laws by taking reasonable steps to protect any information Maxima holds from misuse, loss, unauthorised access, modification or unintended disclosure.

## **8. Obligations of the Host Employer**

- 8.1. The Host Employer will:
  - (a) provide an accurate and clear description of its requirements and notify Maxima of any significant changes to that description during the term of placement;

- (b) induct Employees into the organisation and encourage integration into the consultative mechanisms of the organisation. Induction must include safe operating procedures (SOPs), reporting procedures and equipment maintenance procedures and the Host Employer must properly inform Employees of any specific requirements for the job which the Employee has been hired to perform;
- (c) supply Maxima with a copy of their induction plan, SOPs, reporting procedures and equipment maintenance procedures; and any further amendments to these procedures;
- (d) notify Maxima of any fundamental changes to the workplace work practices or procedure, plant equipment, materials or substances that may place the health and safety of Employees at risk;
- (e) formally notify Maxima, prior to the end of each pay cycle, of any changes to the duties of the Employee(s) which will require adjustment of classification and/or payment of higher duties or allowances. Maxima will not be liable for any accumulated back pay arising from the failure of the Host Employer to comply with this requirement;
- (f) provide Employees with appropriate supervision, information, instruction and training in accordance with Occupational Health, Safety & Welfare legislation. In some instances where certain medical requirements are necessary, this will be conducted in consultation with Maxima, the Host Employer and the Employee;
- (g) provide access to Maxima to visit Employees and to provide the Employees reasonable access to communication facilities for the Employees to contact Maxima;
- (h) report any injuries occurring to the Employees to Maxima immediately. For minor injuries and near misses, contact with Maxima must be made within 24 hours;
- (i) provide feedback to Maxima on the performance of Employees during the placement;
- (j) effect and maintain insurance cover in respect of any claims which may be made against the Host Employer that arise as a result of the Host Employer's occupation of premises, and otherwise in respect of any act or omission in respect of machinery, equipment or vehicles used by an Employee, and to indemnify Maxima against any such claims; and
- (k) comply with the National Privacy Principles and privacy laws by taking reasonable steps to protect any personal information regarding Employees from misuse, loss, unauthorised access, modification or unintended disclosure.

## **9. Fees**

9.1. The Fees payable by the Host Employer to Maxima for the provision of the Services shall comprise:

- (a) an hourly rate charge as quoted by Maxima, which shall include wages and allowances for all statutory charges including workers compensation, payroll tax, superannuation, etc;
- (b) allowance payments which will be charged as additional items where applicable, eg. Site allowance, dirt money, meal allowance, etc; and

- (c) travel costs associated with any Host Employer-authorized travel during assignments, which will be invoiced at the hourly rate and/or the kilometre allowance designated by the appropriate award or agreement.
- 9.2. All rates and conditions are subject to change without notice when affected by a variation in Award or Agreement conditions and will be adjusted from the date of implementation of the variation decision.
- 9.3. Maxima provides a half-day guarantee. If the Host Employer is dissatisfied with a Maxima Employee, there will be no charge if Maxima is notified within half a day of the commencement of the assignment.

## **10. Timesheets**

Timesheets for Employees, containing such detail as may be reasonably required by Maxima, must be forwarded by fax or alternative electronic means by the Host Employer to Maxima by 2.00pm on Monday afternoon each pay period. The Host Employer will be invoiced for the hours authorised on the timesheet.

## **11. Testing & Reference Checking**

- 11.1. Testing and background checking relating to Employee's qualifications and experience are carried out by Maxima as far as it is practical to do so. Details of Employee's qualifications and experience are based on information made available by Employees and their referees. Therefore, no responsibility can be accepted by Maxima for errors, omissions or incorrect conclusions.
- 11.2. Whilst Maxima makes every effort to maintain high standards of integrity and reliability among our casual/temporary staff and apprentices, no liability will be accepted for any loss, damage or other costs irrespective of how they may be caused which the Host Employer may suffer or become liable for arising out of, or in connection with, the introduction by Maxima of an Employee to the Host Employer.

## **12. Casual to Permanent Employment**

- 12.1. It is the intention of the parties that all Employees will remain the employees of Maxima during the term of this Agreement.
- 12.2. Where any casual Employee is being considered for permanent employment by the Host Employer, Maxima requires seven (7) days notice. If the Host Employer wishes for a casual Employee to become a permanent Employee, a placement fee in line with the Maxima's current Schedule of Fees will be payable.
- 12.3. The Host Employer undertakes not to offer employment to the Employees nor engage any Employees in service of the Host Employer or any related party during the term of this Agreement and for a period of three months thereafter. If the Host Employer seeks to recruit an Employee to its staff within three (3) months of the last completed casual assignment, the Host Employer must pay a placement fee. The Host Employer shall be liable for and will indemnify Maxima and/or its Employees against any losses, claims, demands or adverse actions suffered by Maxima and/or its Employees arising out of any offers of employment made to Maxima's Employees

### **13. Warranties**

- 13.1. The only conditions and warranties which are binding on Maxima in respect of advice, recommendations, information or services supplied by it to the Host Employer are those imposed and required to be binding by law (including the Trade Practices Act 1974).
- 13.2. To the extent permitted by law, the liability, if any, of Maxima arising from the breach of the conditions or warranties referred to in clause 13.1 are, at Maxima's option, limited to and completely discharged by supplying the advice, recommendations, information or services again.
- 13.3. Except as provided in this clause 13., all conditions and warranties implied by law in respect of the state, quality, condition of the services which may, apart from this clause, be binding on Maxima, are excluded.
- 13.4. Except to the extent provided in clause 13.1, Maxima has no liability (including liability in negligence) to any person for any loss or damage, consequential or otherwise, suffered or incurred by that person in relation to advice, recommendations, information or services and any loss or damage, consequential or otherwise, suffered or incurred by that person caused by, or resulting directly or indirectly from, any failure, defect or deficiency of any kind of the advice, recommendations, information or services.
- 13.5. Maxima accepts no liability to any person for any claim, loss, expense, damage or delay arising from any failure to provide staff for all or part of the period for which the Host Employer requires the Services.

### **14. Liability for Workplace Injuries to Employees**

- 14.1. Maxima shall be liable for any compensable disability, under the relevant State or Territory Workers Compensation and Rehabilitation legislation, suffered by its temporary Employees/ apprentices which arises out of performance of duties with the Host Employer.
- 14.2. However, in the event that Maxima or any Employee of Maxima should suffer injury, loss or damage as a result of a negligent act or oversight by the Host Employer, then the Host Employer shall be liable for and will indemnify Maxima and/or its Employees against any claims, demands, actions or losses suffered by Maxima and/or its Employees.

### **15. Third Party Liability**

- 15.1. Subject to clause 14.1, whilst the Employee is acting under the directions of the Host Employer, the Host Employer shall be liable for all of their acts, omissions or defaults and shall indemnify Maxima against all actions, suits, proceedings, claims, demands, losses, damages, compensation, sums of money, costs (including solicitor and client costs), charges and expenses arising directly or indirectly out of their use by the Host Employer.
- 15.2. The Host Employer shall provide evidence of a current public liability insurance policy for an amount not less than \$10,000,000 in respect of any one claim.

**16. Termination**

- 16.1. Either party may terminate this Agreement. However, notification must be given fourteen (14) days prior to termination. Once the agreement has been terminated, all current Employees of Maxima would cease to be employed with the Host.
- 16.2. This Agreement may be terminated by Maxima immediately if it has reasonable grounds to suspect that the Host Employer is in breach of its obligations to provide a safe workplace for the Employees.

**17. Acceptance**

Acceptance of Employee on site constitutes acknowledgement of this Agreement.

**18. General**

- 18.1. If any provision of this Agreement shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 18.2. This Agreement and any contract to which they shall apply shall be governed by the laws in force, and subject to the jurisdiction of the courts within the relevant states and territories of Australia where the services are provided.
- 18.3. Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, drought, storm or other event beyond the reasonable control of either party.