

Employment Contract

(007/v1.2)

PARTIES

Employer: Maxwell Recruitment Pty Ltd ACN 141 260 979 ATF Maxwell Family Trust
17 Callistemon Close, Warabrook NSW 2304

AND

Employee: You

RECITALS

The Employer has offered and agreed to employ the Employee on the terms and conditions comprised in this Agreement and the Employee has accepted and agreed to be employed by the Employer as an irregular casual employee on the terms and conditions set out in this Agreement.

1. DEFINITIONS & INTERPRETATION

1.1 In this Agreement, the following words have the following meanings unless the contrary intention appears or the context otherwise requires:

- a) **Act** means the Fair Work Act 2009 (Ct.), as in force or amended or replaced from time to time.
 - b) **Agreement** means this employment contract.
 - c) **assignment** means the project or the services to be performed for a Client of the Employer as identified in a SAC.
 - d) **Client of the Employer** means a Client of the Employer as defined under this agreement, with whom the Employer has an agreement to provide on-hired employees and to whom the Employee may be assigned to work from time to time.
 - e) **Employee** means you.
 - f) **Employer** means Maxwell Recruitment Pty Ltd ACN 141 260 979 ATF Maxwell Family Trust.
 - g) **NES** means National Employment Standards.
 - h) **NMW** means the Australian National Minimum Wage (for the purposes of the Act's transitional provisions and only if required by law, the NMW may also mean the pay scales under the Australian Pay and Classification Scales) that applies to the Employee's position of employment under this Agreement from time to time.
 - i) **Workplace Instrument** means an award, modern award (and any individual flexibility arrangement made under a modern award), enterprise award, notional agreement preserving a state award (NAPSA), enterprise NAPSA, enterprise agreement (and any individual flexibility arrangement made under an enterprise agreement), registered industrial instrument, registered workplace agreement (including a collective agreement) and, for the avoidance of doubt, shall include any individual flexibility arrangement made in accordance with a modern award or enterprise agreement.
 - j) **Workplace Law** means an award, modern award (and any individual flexibility arrangement made under a modern award), enterprise notional agreement preserving a state award (Enterprise NAPSA), registered industrial instrument, registered workplace agreement, enterprise agreement (and any individual flexibility arrangement made under an enterprise agreement), rule, order or legislative requirement which, but for this Agreement, would govern the Employee's employment with the Employer.
 - k) **Regulations** means the Fair Work Regulations 2009 (Cth), as in force and amended or replaced from time to time.
 - l) **SAC** means a Summary of Assignment Conditions document issued to the Employee by the Employer, which document details conditions of the Employee's employment with the Employer.
- 1.2 In this Agreement, the following rules of interpretation apply unless the contrary intention appears or the context otherwise requires:
- a) **Headings and Contents:** Headings and sub-

headings are included for the sake of ease of reference and none of the terms of this Agreement are to be construed or interpreted by reference to such headings or sub-headings;

- b) **References to Persons:** a reference to any "person" refers to any entity, including persons and corporations;
- c) **Parties:** any reference to a party includes its successors and permitted assigns;
- d) **Joint and Several Liability:** Where two or more entities comprise the Supplier or the Client under this Agreement, or where any obligation in this Agreement is to be undertaken by two or more entities, the covenants and obligations to be performed by them bind them jointly and each of them severally;
- e) **Plurals and Genders:** Words importing the singular or plural number include the plural and singular numbers respectively and words of each gender include any other gender;
- f) **Including:** The words "include" and "including" shall be interpreted as meaning "including, but not limited to", unless the context provides otherwise;
- g) **Statutes and Regulations:** References to statutes, regulations, ordinances or by-laws are deemed to extend to all statutes, regulations, ordinances or by-laws amending, consolidating or replacing the same;
- h) **Independent Obligations:** The respective obligations of the parties to this Agreement, whether positive or negative, are construed upon the basis that each obligation is a separate and independent obligation made by one party in favour of the other party.

2. DURATION AND SCOPE OF THE AGREEMENT

2.1 This Agreement shall commence when the Employee commences work for the Employer on assignment with a Client of the Employer. In addition or in the alternative to indicating its acceptance by way of the Employer's online Employment Form, the Employee will be deemed to have accepted the terms of this Agreement if the Employee accepts any work on assignment with a Client of the Employer after having received a copy of this Agreement or viewed it in any form, such as in soft copy or otherwise electronically and/or online, and the parties agree that this Agreement shall have full force and effect whether entered into by way of a hardcopy document or in an electronic form or otherwise.

2.2 This Agreement shall apply to all work performed by the Employee on assignment with a Client of the Employer.

2.3 This Agreement and any SAC issued to the Employee from time to time in relation to an assignment with a Client of the Employer shall together form terms and conditions of the Employee's employment and be read in conjunction with each another. Furthermore, the terms and conditions of the Employee's employment with the Employer comprise any other agreements, acknowledgements, acceptances, undertakings and obligations of the Employee arising under any forms or other documents provided by the Employer to the Employer, including any written or electronic or online forms or documents.

2.4 This Agreement shall be read in conjunction with any Workplace Instrument that applies to the employment of the Employee, however, such Workplace Instrument shall not form part of, or be read in to, this Agreement in any way whatsoever, provided that, where there is any inconsistency between this Agreement and any Workplace Law, the Workplace Law shall apply to the extent of the inconsistency.

2.5 If the provisions of any Workplace Instrument apply to any employment entered into in accordance with this Agreement, then so far as is permissible at law, such Workplace Instrument is not to be implied or imported into this Agreement or any other contract of employment entered into in accordance with this Agreement.

2.6 If the provisions of any Workplace Law requires the payment or grant to the Employee of any amount by way of wages, penalties, allowances, benefits, contributions, or any other entitlement whatsoever, whether financial or non-financial in nature, the same will, to the maximum extent permitted by law, be absorbed in and set off against the remuneration to which the Employee is entitled pursuant to this Agreement and the rates, entitlements and benefits set out in any job description and/or SAC that applies under or relates to this Agreement.

3. EMPLOYMENT STATUS AND ENGAGEMENT

3.1 The Employee acknowledges and agrees that they are employed strictly as a casual on-hired employee, which means that:

- a) the Employee is employed as a casual employee on an occasional, non-systematic and/or irregular basis;
 - b) the Employee receives a casual loading as specified in the SAC, in lieu of paid leave and any other entitlements associated with permanent employment;
 - c) this Agreement (in conjunction with the relevant instruments referred to in clause 2 of this Agreement, such as the SAC) governs the terms and conditions of employment for every assignment performed by the Employee for the Employer;
 - d) termination of an assignment by the Employer does not of itself constitute termination of the Employee's employment or of this Agreement;
 - e) the Employer may direct where and how the Employee shall perform work on any particular assignment and the Employee agrees to comply with all such directions;
 - f) the Employer may vary in any way or terminate assignments of the Employee without giving any reasons for doing so and the Employee acknowledges and agrees that they have no right to ongoing employment on any assignment;
 - g) there is no obligation upon the Employer to offer any assignments, future or ongoing, to the Employee and no level of regularity or duration of work whatsoever is promised by the Employer to the Employee;
 - h) there is no obligation upon the Employer to offer the same or similar terms and conditions of assignment when commencing a new assignment, or a new assignment position within an existing assignment;
 - i) the Employer retains control of the Employee in relation to the performance of work on any assignment or otherwise;
 - j) the Employee shall receive and comply with all day-to-day instructions issued by authorised representatives of Clients of the Employer so as to facilitate the performance of any contract for services between the Employer and any Client of the Employer;
 - k) the employment relationship is and remains between the parties to this Agreement and no employment relationship exists or shall be created between the Employee and any Client of the Employer to whom the Employee may be under assignment to perform work without the prior written consent of the Employer; and
 - l) any right, entitlement or benefit or privilege that accrues in respect of the Employee's service will accrue in accordance with the relevant law that governs the relevant service.
- 3.2 A SAC may be provided to the Employee in writing or verbally or in soft copy or otherwise in electronic form and any SAC may be varied from time to time and from one assignment to another and one assignment position to another at the sole discretion of the Employer.

4. TERMINATION OF EMPLOYMENT

4.1 Unless otherwise agreed in writing, the Employee may terminate this Agreement and the employment relationship arising under this Agreement by giving one hour's notice of his or her intention to terminate to the Employer.



4.2 Unless otherwise agreed in writing, the Employer may terminate this Agreement and the employment relationship arising under this Agreement by giving one hour's notice (or payment in lieu of such notice) to the Employee.

4.3 Nothing in this Agreement shall affect the right of the Employer to dismiss an Employee without notice where the Employee is guilty of serious misconduct. For the purposes of this clause 4.3, serious misconduct includes:

- (a) any wilful, or deliberate, behaviour by an Employee that is inconsistent with the continuation of employment, including:
- (i) theft;
 - (ii) fraud (including falsifying time records);
 - (iii) assault;
 - (iv) attendance at the workplace under the effects of alcohol or prohibited drugs and/or returning a positive (or non-negative) result in any drug/alcohol screening test in relation to alcohol or prohibited drugs;
 - (v) the Employee refusing, whether by act or omission, to carry out the Employer's lawful and reasonable instructions; or
 - (vi) the Employee not complying with the policies and procedures of the Employer or a Client of the Employer; or
- (b) conduct that causes imminent, and serious, risk to:
- (i) the health, or safety, of any person, including the Employee; or
 - (ii) the reputation, viability or profitability of the Employer's business or a Client of the Employer.

4.4 If the Employee is absent from work under an assignment for a period of three consecutive rostered-on shifts without the consent of the Employer, and without notification to the Employer, then the Employee shall be deemed to have terminated this Agreement and the employment relationship arising under this Agreement by repudiation.

4.5 Upon termination of this Agreement, the Employee shall immediately return to the Employer all documents, publications, and manuals (whether such documentation be in hard copy or soft copy) and any corporate uniforms and any other property, which are in the Employee's possession, and which came into the Employee's possession as a consequence of their employment under this Agreement.

5. HOURS OF WORK

5.1 Ordinary hours of work for the Employee shall not exceed 38 hours per week on average over 26 weeks or such other relevant times/periods as otherwise prescribed by any Workplace Law.

5.2 Any additional hours of work above the ordinary hours described in clause 5.1 of this Agreement are all hours worked outside ordinary hours, including any hours worked on Saturdays, Sundays or Public Holidays. It is agreed that the Employer may require the Employee to work reasonable additional hours in accordance with the Act.

5.3 All additional hours shall be paid at the Employee's hourly rate of pay applicable under clause 6 of this Agreement, including any overtime loading as agreed in advance and in writing or as required pursuant to any applicable Workplace Instrument or by any applicable Workplace Law.

6. REMUNERATION

6.1 When performing work on assignment for a Client of the Employer, the Employee shall receive an hourly rate or rates of pay not less than that provided for under the NMW and otherwise as advised by the Employer.

6.2 The Employee shall be advised verbally and/or in writing by the Employer of the applicable hourly rate of pay for the work being performed by the Employee in respect of any assignment and this shall occur prior to the commencement of work on any particular assignment.

6.3 By commencing work on assignment, the

Employee accepts the rate(s) of pay advised by the Employer pursuant to clause 6.2. The Employee acknowledges that the payment of a rate of pay on any assignment shall not provide the Employee with any right to payment of the same such rate of pay on other assignments.

6.4 Unless otherwise agreed in writing by the Employer, or required by any applicable Workplace Law, the rate of pay provided for in clause 6.1 (and advised under clause 6.2) shall be payable for all hours worked by the Employee pursuant to this Agreement as a flat hourly pay rate, including all allowances, penalty rates and overtime except as otherwise agreed and notified in writing by the Employer. To the extent permitted by law, nothing in this Agreement shall import the terms of any Workplace Instrument in to this Agreement.

6.5 If the Employee's employment is deemed or found to be at law other than on a casual basis, the Employer may set off against all amounts or entitlements owing to the Employee as a result of such deeming or finding the difference between the amount(s) paid to the Employee based on the Employee's hourly rate together with any casual loading and the amount(s) that would have been payable to the Employee had the Employee been paid at the minimum hourly rate required by law for their employment other than on a casual basis.

7. LEAVE

7.1 The Employee shall be entitled to unpaid carers' leave and parental leave in accordance with the NES.

7.2 The Employee shall be entitled to long service leave, where applicable, in accordance with the relevant legislation.

7.3 Subject to clauses 7.1 and 7.2 of this Agreement, the Employee shall have no other entitlements to leave whatsoever.

8. PUBLIC HOLIDAYS

8.1 The Employee is entitled to public holidays in accordance with the NES.

8.2 The Employee may be required to perform work on public holidays from time to time in accordance with the provisions of the Act. An employee is entitled to be absent from a public holiday provided the absence meets the requirements of section 114 of the Act.

8.3 The Employee is only entitled to payment for time actually worked on a public holiday.

8.4 All hours worked on a public holiday in clause 8.1 of this Agreement shall be paid at the Employee's hourly rate of pay applicable under clause 6 of this Agreement, including any public holiday loading as agreed in advance and in writing or as required by any applicable Workplace Instrument or Workplace Law.

9. SUPERANNUATION

The Employer will comply with its obligations under the appropriate legislation relating to the remittance of superannuation contributions. All such contributions will be remitted to the complying superannuation fund nominated by the Employee, and of which the Employee advises the Employer, prior to entering into this Agreement. If no such fund is nominated by the Employee, then such contributions will be remitted into any complying superannuation fund nominated by the Employer. The amount of all such superannuation contributions will form part of the Employee's remuneration.

10. READINESS FOR ASSIGNMENTS

The Employee authorises the Employer to complete, at the Employer's discretion, a criminal record or police check, qualification checks and/or any additional reference checks deemed appropriate by the Employer prior to considering providing any assignment to the Employee.

11. WORK HEALTH AND SAFETY

11.1 The Employee must comply with the requirements of the relevant work health and safety legislation in the State or Territory in which the Employee is working. Additionally, the Employee must obey and comply with all lawful instructions and rules, all policies and processes and all procedures as amended from time to time and in place at the direction of the Employer and/or Clients of the Employer relating to work health and safety.

11.2 The Employee must promptly advise the Employer of any change in his or her capacity, physical or psychological, to work safely and without risk to their health, including, but not limited to, advising of any injury or illness suffered by the Employee or any change in medication the Employee is taking (prescribed or otherwise).

11.3 The Employee must promptly notify the Employer if a Client of the Employer requests or directs the Employee to perform duties that are outside of the scope of the relevant assignment. The Employee must not commence any such new duties prior to obtaining authority from a representative of the Employer.

11.4 The Employer may, at its discretion, direct the Employee to complete a medical assessment - including drug and alcohol testing - prior to the commencement of any assignment or in the course of any existing assignment where it is reasonably required to determine the capacity of the Employee to perform the work required on assignment safely and without risk to the Employee's health. Additionally, the Employee acknowledges that the Employer may require them to participate, in the Employer's sole discretion, in random on-site and off-site drug and alcohol testing.

12. OBSERVANCE OF POLICIES AND PROCEDURES

12.1 The Employee shall observe all lawful policies and procedures as amended from time to time and in place at the direction of the Employer and Clients of the Employer provided such policies and procedures have been brought to the attention of the Employee.

12.2 Where there is any inconsistency between the lawful policies and procedures of the Employer and those of Clients of the Employer, the Employer's policies and procedures shall take priority over those of the Client of the Employer to the extent of such inconsistency, unless otherwise agreed or stated.

13. PAYMENT OF WAGES

The Employer shall electronically deposit the Employee's wages payable pursuant to clause 6 of this Agreement into a financial institution account nominated by the Employee. The Employee's wages shall be paid in arrears and on a weekly basis unless the payment of such wages is delayed owing to circumstances beyond the control of the Employer. Such circumstances beyond the control of the Employer may include, but are not limited to, the following:

- (a) malfunctioning of any relevant systems, electronic or otherwise, of the Employer and/or the Employee's nominated financial institution; or
- (b) failure by the Employee to complete time sheets in accordance with instructions provide by the Employer or any relevant Client of the Employer.

14. EMPLOYEE NOTIFICATION

14.1 The Employee will notify the Employer of any grievances in relation to an assignment or its employment under this Agreement. The Employee shall not raise such grievance with a Client of the Employer unless authorised to do so by the Employer, or where it relates to threats to health and safety of the Employee.

14.2 The Employee must notify the Employer as soon as reasonably possible of any offer of employment made to the Employee directly by the Client of the Employer or any approach to the Employee by the Client of the Employer to discuss potential direct employment with the Client.



14.3 The Employee must notify the Employer of any inability of the Employee to attend work or commence work on time at least one hour prior to the commencement of any shift relating to an assignment. A message left on a mobile telephone and/or notification to a fellow employee or the Client of the Employer shall not constitute notification for the purposes of this clause 14.3.

14.4 The Employee will immediately notify the Employer of any damage to property or injury caused to others by the Employee in the course of employment and/or an assignment.

14.5 The Employee will notify the Employer, as soon as reasonably practicable, of any change to the Employee's personal details provided to the Employer.

14.6 The Employee will notify the Employer of all and any hours worked on assignment including any hours worked over and above those set out in the SAC, if any.

14.7 The Employee will notify the Employer, as soon as reasonably practicable, of any decision to commence work for another employer where such other employer may reasonably be considered a competitor to the Employer or any Client of the Employer. A competitor to the Employer or any Client of the Employer shall be any organisation or body which currently provides, or is proposing to provide, the same products or services as provided by the Employer or Client of the Employer.

15. TIMESHEETS

The Employee shall fill out, complete and transmit or deliver timesheets to the Employer in accordance with the directions of the Employer. The Employee shall complete all such timesheets accurately and the Employee acknowledges that any false information provided by the Employee in any timesheets may result in immediate termination of this Agreement by the Employer and termination of the Employee's employment.

16. DRESS

16.1 The Employee shall present for work on all assignments with a neat and orderly dress and appearance and the Employee shall dress in accordance with any reasonable directions of the Employer and the Client of the Employer.

16.2 In regard to any items of PPE provided to the Employee by the Employer, the Employee acknowledges that such items of PPE are provided at the following costs to the Employer:

- a) high visibility cotton shirt, \$25.00;
- b) high visibility cotton shirt with reflective tape, \$35.00;
- c) work pants/jeans, \$25.00;
- d) safety boots slip on, \$50.00;
- e) safety boots lace up, \$70.00;
- f) winter jacket, \$70.00; and
- g) safety lock, \$20.00.

16.3 On one (1) occasion only after one (1) month from the commencement of the Employee's first assignment, the Employer agrees to provide to the Employee on the Employee's request, free of charge, a "PPE Pack" comprising of three (3) high visibility cotton shirts (with reflective tape if the Employer determines that the Employee's work at the time requires it).

16.4 The Employee acknowledges and agrees that, on the issue of any items of PPE from the Employer to the Employee at the Employee's request in addition to that provided for under clause 16.3 (by way of the "PPE Pack"), the Employer shall have the right and is authorised to deduct from the Employee's wages the cost of such additional items of PPE based on the PPE costs amounts set out in clause 16.2.

16.5 The Employee acknowledges that:

- a) any items of PPE provided by the Employer is for the Employee's primary benefit; and
- b) that the deductions authorised by the Employee under clauses 16.3 and 16.4 are reasonable in all the circumstances and permitted deductions for the

purposes of section 324 of the Fair Work Act 2009 (Cth).

17. CONFIDENTIALITY AND OWNERSHIP

17.1 Ownership of all inventions, improvements, designs, creations, developments any other intellectual property relating to or deriving from any of the work performed by the Employee pursuant to this Agreement shall be the property of the Employer and/or the relevant Client of the Employer and the Employee acknowledges that it has no rights in relation to such property.

17.2 The Employee will not use or attempt to use any confidential information of the Employer or Clients of the Employer in any manner and for any purpose other than in the proper conduct of the business of the Employer and Clients of the Employer in accordance with any relevant assignment.

17.3 The Employee shall not make improper use of its employment or position under any assignment, or of information (including confidential information) that may be acquired by virtue of their assignment or employment, to gain advantage for them self (or any other person) to the detriment of the Employer or Clients of the Employer.

17.4 During the course of the Employee's employment with the Employer, the Employee may learn or be exposed to confidential information about the Employer and/or Clients of the Employer and their businesses. Unless the Employee obtains express written permission from the Employer to do so, the Employee must not disclose or use any such confidential information he or she obtains other than as directly and reasonably required in the proper conduct of their duties under this Agreement. All confidential information pertaining to the business of the Employer and Clients of the Employer must be kept strictly confidential by the Employee. This obligation under this clause 17.4 applies during this Agreement and after termination of this Agreement, including following the cessation of any assignment and at all times after the Employee's employment with the Employer ends. Failure of the Employee to comply with this clause 17.4 may result in disciplinary action, which may include termination of the Employee's employment under this Agreement and/or any assignment.

17.5 The Employee acknowledges that the Employer has or may have duties to its Clients to keep their confidential information confidential, and the Employee must not do or omit to do anything, either during or after their employment with the Employer, that shall cause, directly or indirectly, the Employer to breach such obligations and the Employee hereby indemnifies the Employer for any claims, actions, suits, losses and damages for which the Employer may suffer or become liable by reason of such breach to the extent such breach is caused or contributed to by the Employee.

17.6 The Employee must immediately inform the Employer of any suspected or actual unauthorised use, publishing, copying or disclosure of any of the Employer's or its Clients' confidential information of which the Employee may become aware.

17.7 Upon termination of the Employee's employment under this Agreement, the Employee will lose any rights to have or to use any of the Employer's or its Clients' confidential information and the Employee must return to the Employer, within 48 hours of the termination, any confidential information in the Employee's possession or control and all copies or records thereof.

17.8 For the purposes of this clause 17, "confidential information" means all information of the Employer and its Clients (including their related bodies corporate) that is confidential in nature and/or may reasonably be considered to be confidential, including trade secrets, client lists, technical data, specifications and drawings, production processes, financial and pricing information (and including all intellectual property rights in such information and material), whether disclosed orally, in writing, electronically or by other means and whether

disclosed after or before the date of this Agreement and whether or not marked as "confidential".

18. ASSIGNMENT

The Employer may only assign or transfer this Agreement with the Employer's prior consent in writing, which the Employer may withhold in its absolute discretion. The Employer may assign or transfer this Agreement to any entity whatsoever at any time and from time to time in its absolute discretion.

19. WAIVER

If the Employer does not take action to enforce or require strict compliance with the Employee's obligations and responsibilities under this Agreement, or if the Employer grants the Employee any extension or indulgence in the performance of the Employee's obligations, this shall not in any way operate as a waiver of any of the Employer's rights under this Agreement and the Employee acknowledges that the Employer shall be entitled in such circumstances to exercise all its rights under this Agreement and at law, which rights shall be fully available to the Employer.

20. JURISDICTION

This Agreement shall be governed by and will take effect in accordance with the laws in force in the State of New South Wales, Australia, and the parties irrevocably submit to the jurisdiction of the Courts of New South Wales and the Courts of Appeal from them.

21. SEVERANCE

If any of the terms of this Agreement are held to be invalid in any way, or unenforceable, such terms shall be severed from this Agreement and, to the extent permitted by law, the remaining terms will remain in full force and effect and not be affected or impaired.

22. ENTIRE AGREEMENT

To the extent permitted by law, this Agreement, and any SAC and any other documents and terms and conditions which are expressly incorporated into and to be read in conjunction with this Agreement document, embody the entire understanding and the whole agreement between the parties relative to the subject matter contained in this Agreement.