



TERMS AND CONDITIONS – LABOUR HIRE (Personnel)

Please Note: Read these terms and conditions carefully as they are binding upon you. It is Paull & Warner Resources (Personnel) PTY Ltd.’s policy to strictly enforce the terms of its agreement in the event of any dispute.

This Agreement (the **Labour Hire Agreement**) is made between Paull & Warner Resources (Personnel) (PWR) Pty Ltd and: The Client.

1. Introduction

- 1.1. The Client may from time to time require the labour of additional persons.
- 1.2. PWR conducts a business involving the assignment (an assignment) of Employees to perform work at other business (Labour Services).
- 1.3. The Client and PWR have reached an agreement on the general terms and conditions which apply to the Client upon requesting PWR to provide the Labour Services of its Employees to the client.
- 1.4. To the extent than any Assignment is on foot at the time of the Labour Hire Agreement is signed, this Labour Hire agreement applies to any such Assignment, unless otherwise agreed.
- 1.5. The Client is bound by this Labour Hire Agreement in respect of each Assignment upon receipt of PWR’s acceptance as provided in clause 2.2 in respect if the Assignment.
- 1.6. PWR will not be bound by any additional or conflicting terms and conditions in respect of any Assignment unless those terms and conditions are expressly agreed to in writing by a Director of PWR.
- 1.7. PWR may change the terms and conditions of the Labour Hire Agreement at any time by giving the Client new terms and conditions, which will apply on and from the date of provision of the new terms and conditions, unless the Client notified PWR otherwise and terminates any Assignment on foot at that time pursuant to clause 5 within 48 hours of receiving the notice of change.

2. Provision of Labour Services

- 2.1. If the Client wishes PWR to provide an Assignment of the Labour Services of an Employee, ideally the request for Labour Services should be in writing to PWR, no less than 7 days before the proposed commencement of the Assignment, providing:
 - 2.1.1. The proposed period of the Assignment;
 - 2.1.2. The number of employees required to the Assignment;
 - 2.1.3. the Labour Services to be provided by the Employee(s) during the Assignment;
 - 2.1.4. Any training requirements of the Employee(s) required in order to perform the Labour Services;
 - 2.1.5. The equipment, if any, to be provided by the Client or required to be provided by PWR in respect of the performance of the Labour Services;
 - 2.1.6. The matters set out in clause 3.5 below; any other relevant information that may be required by PWR in order to affect the Assignment.
- 2.2. PWR will use its best endeavour to ensure that the Employee(s) provided to the Client for each Assignment:
 - 2.2.1. Have the necessary clearance for work, education, training and skill requirements stipulated by the client in respect of the Assignment for which they are requested;
 - 2.2.2. Are able to safely perform the Labour Services;
 - 2.2.3. Perform the Labour Services to the best of their skill and ability, for the Client’s benefit, and in a timely manner.
- 2.3. The Client shall provide a site induction for all Employees.

3. The Fee

- 3.1. PWR will charge the Client a fee (the Fee) for each Assignment.
- 3.2. The Fee Quoted will be calculated by the estimated number of hours required to complete the Assignment, multiplied by the applicable Hourly Rate payable for the Employee(s) providing the Labour Hire Services to the Client.
- 3.3. The Fee Invoiced will be calculated by the actual number of hours required to complete the Assignment, multiplied by the applicable Hourly Rate payable for the Employee(s) providing the Labour Hire Services to the Client. The Invoice will be accompanied by an Employee Timesheet confirmed and signed by a Client Representative.

4. Minimum Period of Assignment

- 4.1. The minimum period of any Assignment is 12 hours.

5. Termination of Assignment

- 5.1. The Client must give PWR at least 5 Business Days’ notice of the termination of an Assignment, if the Assignment is deemed long term. If the Assignment is short term, the Client must give PWR at least **12 hours’ notice** of the termination of an Assignment.
- 5.2. PWR may terminate an Assignment immediately without prior notice if the Client:
 - 5.2.1. The Client fails to provide a valid PO for the total value of the Quote provided prior to the commencement of the Assignment, or
 - 5.2.2. The Client fails or refuses to pay the Fee invoiced on 30-day terms, within 14 Business Days of payment being due, or
 - 5.2.3. The Client breaches clause 7 of this Labour Hire Agreement; or
 - 5.2.4. There is any change which prevents PWR from effecting the Assignment, or which causes a material change to the erecting of an Assignment.

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6. Retention of Employee(s) by Client

- 6.1. If the Client (or any entity or body corporate related to or associated with the Client) has contact with an Employee through or in connection with an Assignment and employs or engages any current or former Employee (either directly or indirectly) during an Assignment or within 6 months of the expiration of the Assignment, then PWR's placement Agreement will apply.
- 6.2. The Placement Agreement
 - 6.2.1. The Client agrees to provide PWR with 3 months ongoing employment on a fixed roster for the Employee(s) prior to the employee(s) signing on full time with the Client.
 - 6.2.2. The Client must notify PWR immediately, where a candidate who has been introduced to the Client accepts an engagement.
 - 6.2.3. Should there be no communication in relation to the retention of an Employee(s), PWR reserves the right to charge the Client the equivalent amount of 3 months retention at the standard hourly rate.
- 6.3. The Client agrees that it will not offer to retain or engage any Employee whether directly or indirectly or permit any other person to offer to retain or engage any Employee, during an Assignment to the Client without seeking prior permission in writing from PWR.
- 6.4. Fixed-Term Transition Option. Where PWR consents to the Client's engagement of a PWR Employee, the Client must provide the individual with a minimum three-month fixed-term contract (or an equivalent guaranteed roster), unless otherwise agreed in writing by PWR.
- 6.5. Non-Solicitation. The Client must not, during any Assignment and for 12 months following its conclusion, solicit or encourage any PWR Employee to cease employment with PWR or accept employment or engagement with the Client or any third party.
- 6.6. Survival of Obligations This clause 6 survives termination or expiration of this Agreement and any individual Assignment.

7. Occupational Health and Safety and Other Matters

- 7.1. The Client is responsible for providing a safe and healthy workplace and safe systems of work for all Employees.
- 7.2. The Client acknowledges and agrees that it will:
 - 7.2.1. Comply with all applicable occupational, health and safety, environmental and associated legislation, regulations and codes of practice;
 - 7.2.2. Provide a comprehensive structured site and job safety induction for each Employee;
 - 7.2.3. Provide adequate instruction and training to each Employee.
 - 7.2.4. Advise PWR prior to any change in the nature of the tasks undertaken, equipment operated, and chemicals (or other consumables) used by Employees.
 - 7.2.5. Adequately supervise each Employee at all reasonable times.
 - 7.2.6. Promptly advise PWR of any incidents and injuries involving any Employee and
 - 7.2.7. Assist in the rehabilitation of Employee(s) injured at the Clients' site by provision of suitable alternative duties.
- 7.3. PWR may, from time to time, attend the Client's site for the purpose of carrying out occupational health and safety inspections, safety/toolbox meetings with its employees on site and the investigation of incidents and injuries.
- 7.4. The Client is also responsible for providing a workplace that complies with all other legal requirements relating to the work environment.
- 7.5. If any issue arises concerning the performance of any Employee or any potential or alleged misconduct of any Employee, the Client must immediately advise a Senior PWR Manager and the Client must provide PWR with reasonable access to the Employee in question and reasonable cooperation to enable PWR to deal with the matter as PWR considers appropriate.

8. Inspections, Permits and Approvals

- 8.1. The Client must comply with all laws applicable to each site at which Employee(s) are utilised, the property, plant and equipment made available by the Client and the use of Employee(s) by the Client. Without limiting the generality of this requirement, the Client is responsible for all inspections, permits and approvals required by law and for enforcing that all plant and equipment made available by the Client (including motor vehicles and machinery) is registered where required and meets all applicable standards required by law.

9. Insurance

- 9.1. During the period of any Assignment of Employee(s) to the Client, the Client must have adequate insurance to cover:
 - 9.1.1. Loss or damage to the Client's property or the property of other persons including machinery, motor vehicles and other plant and equipment and all which may be operated or handled by any Employee(s) and
 - 9.1.2. Death or personal injury (to the Client's personnel or any other person) caused or contributed to by an Employee(s) whilst on hire to the Client. The insurance must cover Paull & Warner Resources Pty Ltd and its employees.

10. Timesheets

- 10.1. The Client will ensure that each Employee maintains a timesheet recording the number of hours worked, and when those hours were worked.
- 10.2. The timesheet must be co-signed by the Client's authorised representative at the end of each week, being a Sunday.
- 10.3. Each countersigned time sheet must be returned to PWR before 10:00am every Monday morning.

11. Payment to Employees

- 11.1. PWR is responsible for the following in relation to the Employee during each and any Assignment to the Client:
 - 11.1.1. Payments of all amounts due, under the terms of any relevant industrial instrument or employment contract.
 - 11.1.2. Payment of annual leave, personal leave and long service leave as and where applicable
 - 11.1.3. Deduction of all appropriate taxation, including income tax and fringe benefits tax and payment of payroll tax.
 - 11.1.4. Monitoring performance through a performance appraisal system.

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12. Invoices

- 12.1. PWR will render invoices weekly upon receipt of any timesheets in respect of the Employee who have prepared those timesheets.
- 12.2. The Client must pay all invoices within 30 days from date of invoice or within such longer terms as agreed in special cases in writing by a PWR Director.
- 12.3. As per clause 5.2, should the Client fail or refuse to pay the Fee invoiced to the Client within 14 Business Days of payment being due, PWR reserves the to issue out a letter of demand for the outstanding amount. Legal costs and interest may be added to the debt.
- 12.4. Failure to pay the invoice in full when due may incur a late settlement fee of 4% of the amount outstanding for each month or part month during which it is overdue until payment has been made in full.

13. Review of Rates

- 13.1. Paull & Warner Resources Pty Ltd may vary this Labour Hire Agreement and the Hourly Rates from time to time
- 13.2. If there is any change which substantially affects:
 - 13.2.1. PWR’s provision of any Assignment to the Client or
 - 13.2.2. The cost of any Assignment
- 13.3. The affected party must give the other party notice of the change as soon as practicable, and the parties may agree on any variation to this Labour Hire Agreement as is necessary or else the Assignment may be terminated in accordance with clause 5.
- 13.4. Where PWR advises the Client in writing of a change to this Labour Hire Agreement or any applicable Hourly Rate, the Client is taken to accept those changes unless the Client advises otherwise within 48 hours of receiving the notice of change.

14. GST

- 14.1. Unless GST is expressly included, the consideration to be paid or provided under any other clause of this Labour Hire Agreement for any supply made under or in connection with this Labour Hire Agreement does not include GST.
- 14.2. To the extent that any supply made under or in connection with this Labour Hire Agreement is a taxable supply, the GST exclusive consideration to be paid or provided for that taxable supply in increase by the amount of any GST payable in respect of that taxable supply and that amount must be paid at the same time and in the same manner as the GST exclusive consideration is to be paid or provided.
- 14.3. To the extent that a party to this Labour Hire Agreement is required to reimburse or indemnify another party for a loss, cost or expense incurred by that other party, that loss, cost or expense does not include any amount in respect of GST for which that other party is entitled to claim an input tax credit.
- 14.4. To the extent that any consideration payable to a party under this Labour Hire Agreement is determined by reference to a cost incurred by a party or is determined by reference to a price, value, sales, revenue or similar amount, the GST exclusive amount of that cost, price, value, sales, revenue or similar amount must be used.

15. PWR limitation of Liability

- 15.1. The Client is responsible for the care and supervision of all Employees whilst on hire to the Client.
- 15.2. PWR is not liable for any loss or damage to any property or for the death or personal injury (to the Client’s personnel or another person) caused or contributed to by an Employee (whether by negligence or otherwise) during any Assignment to the Client.

16. Indemnity

- 16.1. Without limiting PWR’s liability to law or in tort, the Client agrees to indemnify and keep indemnified, PWR, its directors, officers, agents and assigns against any liability for any claims made against PWR or Employees arising out of or in connection with:
 - 16.1.1. Any breach by the Client of the Labour Hire Agreement or
 - 16.1.2. Any loss, damage or injury suffered by a third party, caused by any negligence or deliberate act, by an Employee in the course of performing work during an Assignment
- 16.2. Any liability under this clause 16 will be a debt due by the Client to PWR.

17. Personnel

- 17.1. Whilst PWR will use all reasonable endeavours to meet the Client’s requirements and ensure the quality of Employees, PWR is not liable for any loss or damage (including consequential loss or damage)
 - 17.1.1. If PWR is unable to supply Employees required by the Client at any time or
 - 17.1.2. Arising from any negligence, dishonesty, carelessness or lack of skill of any Employee.
- 17.2. To the extent that PWR’s liability cannot be limited as provided in this clause or clause 15 PWR’s liability is limited to
 - 17.2.1. PWR supplying the goods or services again or
 - 17.2.2. PWR paying the actual market value cost of replacing the goods or supplying the service again.

18. Severability

- 18.1. If any provision of this Labour Hire Agreement is unenforceable, or void then it is severed and the rest of the Labour Hire Agreement will remain in force.

19. Entire Understanding

- 19.1. This Agreement and any PWR invoice or PWR proforma that are attached constitute the entire agreement for the supply of services and supersede all prior representations or statements whether oral or written, made by or on behalf of PWR. The Client acknowledges that, except as set out in this Agreement, the Client does not enter into this agreement as a result of or in reliance on any promise, representation, advice, statement or information of any kind given to offered by PWR, whether in answer to any enquiry or not. The parties exclude all implied terms, if any provision of this agreement is determined by a court to be invalid or void or voidable then the remaining provisions shall not be affected.

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20. Definitions and Interpretations

20.1. Definitions

20.1.1. Unless the contract otherwise requires, the following terms have the meaning given below in the Labour Hire Agreement:

- **Assignment:** means each and every provision of an Employee or Employees to the Client for the purposes of performing the Labour Services.
- **Business Days:** means any day except Saturday or Sunday or a day that is a public holiday throughout Western Australia.
- **Client:** means the person, firm or body corporate together with any subsidiary or associated company as defined by the Corporations Act 2001 (Cth) Paull & Warner Resources Pty Ltd provide Employees on temporary assignment.
- **Employee:** includes all personnel assigned by PWR to provide Labour Services to the Client in connection with an Assignment.
- **Fee:** has the meaning provided in clause 3.
- **GST:** has the meaning provided in the GST Act.
- **GST Act:** means the A New Tax System (Goods and Services) Act 1999 (Cth)
- **Hourly Rate:** means the standard hourly rate of pay payable in respect of an Employee performing an Assignment as determined in accordance with clause 3.
- **Labour Services:** means the work performed by an Employee(s) for the Client during an Assignment as agreed by the parties for the purposes of each Assignment.
- **Placement Agreement:** means the terms and conditions notified by PWR to the Client upon which a Client may engage an Employee.

20.2 Interpretation

20.2.1 Reference to:

- A person includes a body corporate;
- A party includes the party’s executors, administrators, successors and permitted assigns;
- The singular included the plural and the plural included the singular;
- A statute, regulation or provision of a statute or regulation (Statutory Provision) included:
 - That Statutory Provision as amended or re-enacted from time to time
 - A statute, regulation or provision enacted in replacement of that statutory provision.

21. Acceptance:

21.1. I hereby understand and accept the terms and conditions set out by PWR

Name of Client Representative	Signature of Client Representative	Date

22. PWR Acknowledgement:

Name of PWR Representative	Signature of PWR Representative	Date