

SPECIAL CONDITION

All Employees



1. EMPLOYEE ENTITLEMENTS

The rights, entitlements and accruals of the Vendor's employees of the Business (which in this Special Condition excludes any Directors of the Vendor) shall be dealt with as follows.

2. PURCHASER TO EMPLOY TRANSFERRING EMPLOYEES

- 2.1 The Purchaser acknowledges receipt of the relevant information contained in clause 3 of this Special Condition and agrees to provide a list of Proposed Employees who will be provided employment to the Vendor no later than 14 days prior to settlement.
- 2.2 The Purchaser offers, by way of written correspondence (including email) to employ all the Proposed Employees (being the current Vendor's employees of the Business) as detailed in the Purchaser's list of Proposed Employees referred to in clause 2.1.
- 2.3 The form of the Purchaser's written offer shall provide (unless otherwise agreed between the Vendor and the Purchaser) that the Purchaser:
 - 2.3.1 will assume liability for the Proposed Employees entitlements (generally);
 - 2.3.2 recognise continuity of service in relation to the Proposed Employee (generally);
 - 2.3.3 will employ the Proposed Employee with effect from the Date of Possession.
- 2.4 A condition of the Purchaser's written offer shall (unless otherwise agreed between the Vendor and the Purchaser) be that the Proposed Employee accepts the Purchaser's offer and resigns their employment in writing as an employee of the Vendor with effect from the Settlement Date, within 5 days of the Purchaser making the offer.
- 2.5 The Purchaser must communicate to the Vendor any response to its written offer from a Proposed Employee within 2 days of receipt of such response and those Proposed Employees who accept the Purchaser's written offer shall be referred to as Transferring Employees in this Special Condition.
- 2.6 The Vendor shall accept any resignation by a Transferring Employee (with effect from the Settlement Date) upon receipt of a letter of resignation or (as agreed between the Vendor and the Purchaser) terminate the Transferring Employees employment with the Vendor in accordance with the relevant contract, award or agreement upon notification from the Purchaser that the Transferring Employee has accepted the Purchaser's offer with the Vendor.

3. EMPLOYEE DETAILS

The relevant information that the Vendor must provide to the Purchaser more than 14 days prior to settlement includes but is not limited to:

- 3.1 a written summary comprising a list of all the Transferring Employees of the Vendor's Business to identify them, dates of birth, gender, positions, titles, classifications, wages, salaries, the relevant contract, award or agreement (if any) affecting each of them, the date of commencement of their employment (and reason for termination where possible if broken employment) together with details of any accrued annual, personal, parental, long service, or other leave entitlement.

4. SALARY AND WAGES ACCRUED BEFORE SETTLEMENT

The Vendor shall pay to the Transferring Employees all their salary and wages accrued as employees of the Vendor in the Business (up until the Settlement Date) and shall indemnify the Purchaser in respect of any claim by a Transferring Employee for such salary and wages.

5. LEAVE ENTITLEMENTS

The Purchaser shall assume liability for the long service leave, annual leave, annual leave loading, personal leave and parental leave entitlements of the Transferring Employees accrued as employees of the Vendor that arise under any legislation, award, agreement or otherwise and shall indemnify the Vendor against all claims for such entitlements.

6. ADJUSTMENTS FOR EMPLOYEES TO OCCUR AT SETTLEMENT

At Settlement there will be deducted from the Purchase Price an amount equal to 75% of:

- 6.1 the total accrued and untaken annual leave entitlement of the Transferring Employees for which the Purchaser assumes liability at the Settlement Date.
- 6.2 the total accrued and untaken personal leave entitlement, with the exception of sick leave entitlements, of the Transferring Employees for which the Purchaser assumes liability at the Settlement Date.
- 6.3 the total accrued and untaken long service leave entitlement of the Transferring Employees for which the Purchaser assumes liability at the Settlement Date.

The Transferring Employees shall for the purpose of the adjustment be deemed to have accrued an entitlement to long service leave if they have had more than 7 years service with the Vendor's Business as at Settlement (being the aggregated continuous service with the Vendor and any prior owner of the Business). The balance of the Purchase Price which is payable by the Purchaser to the Vendor in accordance with clause 4 of this Agreement shall be adjusted in respect of the amounts determined in accordance with this Special Condition.

Note: The Vendor shall be responsible for the calculation of such adjustments. Since the Purchaser will receive a tax deduction when the employee entitlements are paid, the Vendor will limit this allowance to the Purchaser to 75% (the applicable rate for a company with a turnover below \$50,000,000 per annum) of the employee entitlements, assuming the Purchaser is a company.

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7. INDEMNITY BY VENDOR

The Vendor shall indemnify the Purchaser and keep the Purchaser indemnified against any action or claim by any of the current Vendor's employees of the Business relating to an injury or illness incurred prior to the Date of Possession and made pursuant to:

- 7.1 the contract of employment of any employee (including any salary, wages, and fringe benefits tax payable thereon);
- 7.2 any award or agreement;
- 7.3 any legislation or regulations including but not limited to claims for workers compensation.

8. INDEMNITY BY PURCHASER

The Purchaser shall indemnify the Vendor and keep the Vendor indemnified against any action or claim by any of the current Vendor's employees of the Business relating to an injury or illness incurred after the Date of Possession and made pursuant to:

- 8.1 the contract of employment of any employee (including any salary, wages and fringe benefits tax payable thereon);
- 8.2 any award or agreement;
- 8.3 any legislation or regulations including but not limited to claims for workers compensation.

9. WARRANTIES - EMPLOYEES

- 9.1 The Vendor warrants to the Purchaser that each of the following facts, matters and things are true and correct in all respects as at the Date of Possession and shall remain in full force and effect after the Settlement Date notwithstanding that Settlement may have been effected:
 - 9.1.1 between the date of this Agreement and the Date of Possession the Vendor will not make any material changes to the terms of employment (including but not limited to remuneration) of the Proposed Employees or the number of employees that work in the Business;
 - 9.1.2 the Vendor has complied with all obligations imposed on the Vendor by all legislation, regulations, awards and agreements in relation to each of the current Vendor's employees.
- 9.2 The Directors who are specified at the end of this Special Condition and the Vendor shall indemnify the Purchaser in respect of all liabilities which may be incurred by the Purchaser as a result of a breach of any of the above warranties in respect of the current Vendor's employees.

10. WARRANTIES - RETURN TO WORK, SUPERANNUATION AND WORK HEALTH AND SAFETY ACT 2012

The Vendor warrants to the Purchaser that all amounts due and payable for:

- 10.1 Return To Work payments and levies pursuant to the *Workers Rehabilitation and Compensation Act 1986*;
- 10.2 employee superannuation (whether pursuant to any contractual obligation, legislation or otherwise);
- 10.3 pursuant to the *Work Health and Safety Act 2012* and all industrial health and safety regulations;

in respect of the Vendor's employees as at the Date of Possession have been or will be paid up to and including the Date of Possession.

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