



**Your Position**

## **EMPLOYMENT AGREEMENT**

THIS EMPLOYMENT AGREEMENT is made BETWEEN:

**BULLEEN ART & GARDEN CENTRE (BAAG)** ('the Company')

AND:

**Your Name** ("the Employee")

### **1. Duties and accountability**

A description of the position requirements has been provided. If amendment or variation is consistent with the Employee's skills, qualifications, experience and expertise this position description may be amended or varied at the Company's discretion.

This agreement should be read in conjunction with the Bulleen Art and Garden Staff Info Pack. The staff info pack outlines the general conditions of your employment and the expectations of a BAAG employee. In signing this agreement you acknowledge that you have read the terms and conditions as stated in this agreement, the staff info pack and the policies and procedures and you agree to work in accordance with these.

### **2. Probation period**

A probation period will apply for the first six months of employment. At the conclusion of the probation period, employment may be:

- Made ongoing; or
- Terminated in accordance with the notice required under the Termination of Employment provisions of this Agreement.

If the Company decides not to continue employment beyond the end of the probation, employment will end at that time.

The period of probation will not affect any qualifying period under the Workplace Relations Act 1996 (Cth) or the Fair Work Act 2008 (Cth) (collectively and separately, the Act).



### 3. Salary

Your base remuneration rate will be \$your pay rate per hour. This rate is exclusive of the employer-provided superannuation, penalty rates, allowances and leave entitlements as outlined in this agreement and the Bulleen Art and Garden Staff Info Pack.

Your wage shall be paid directly by electronic funds transfer into a bank/building society account nominated by the Employee. It is the Employee's responsibility to keep the Company advised of their correct banking details.

#### Superannuation

Superannuation payments will be made consistent with the Superannuation Guarantee (Administration) Act 1992.

Upon request, the Company will make additional voluntary contributions on the Employee's behalf to a nominated superannuation fund. Such payments will be made as a salary sacrifice.

#### Annual Salary Review

At a rate not less than that of the annual FWC (Fair Work Commission) award rate increase, your base remuneration rate will be reviewed each year based on current performance of the individual and the business.

### 4. Variation of the Award (Award flexibility)

Under Clause 7 of the General Retail Industry Award 2010 an employer and an individual employee may agree to vary the application of certain terms of the award to meet the genuine needs of the business.

The terms that may be varied are:

- arrangements for when work is performed;
- overtime rates;
- penalty rates;
- allowances; and
- leave loading.

Under this Agreement the following Award provisions have been varied to meet the specific needs of the business and ensure that you are better off overall when compared with your entitlements under the Award:

- salary rates;
- leave loading;
- penalty and overtime rates;
- flexible working hours

### 5. Ordinary Hours of Work



Ordinary hours of work and rostering are as outlined within the General Retail Industry Award 2010 except for where otherwise stated in this agreement

The rate of pay for ordinary hours worked after 6pm (Monday to Friday), Saturdays and Sundays will be at the rate of 125% of your base wage rate calculated hourly.

Saturday and Sunday penalty rate payments shall only be paid for time worked on those days and will not be paid during periods of leave or on termination payments.

### **Public Holidays**

Full time and Part time Employees normally rostered to work on a Public Holiday and who actually work on a public holiday shall be paid in addition to the ordinary time earnings a penalty of 125% for those hours worked. Where a Full time or Part time employee is not normally rostered to work on a public holiday and they elect to work on that day they shall be paid at a penalty rate of 225% for those hours worked.

Provided that the minimum payment on any Public Holiday shall be three hours at the appropriate penalty rate.

A Full time or Part time employee who works an average 5 days per week; whose non-working day falls on a holiday; or a Part time employee who works an alternating roster and the public holiday falls on a day on which the employee works in any week of their roster cycle, shall by mutual agreement, be entitled to one of the following:

- payment of an additional day's wages;
- an addition of one day to the employee's annual leave;
- another day may be allowed off with pay to the employee within twenty-eight days after the holiday falls, or during the week prior to the holiday.

For the purpose of this subclause, Easter Saturday, Easter Sunday, or any other public holiday that occurs on a weekend day are excluded as a holiday.

For the purpose of this subclause, for Full time employees, "day" shall mean 7.6 hours for an employee working 20 days in a 28 day cycle. In respect of Part time employee "day" shall mean the average number of hours rostered for that day of the week, for the employee over the current and previous roster of four weeks.

### **Overtime Rate**

Overtime shall be paid at the rate of time and half (150%) for all ordinary hours worked in excess of 86 hours during any fortnightly pay cycle by Full time and Part time employees

### **Authorisation of Overtime**

All work in excess of rostered hours by over 15 minutes on any day, must be authorised and signed for by a senior manager on the staff member's timecard.

### **Seasonal Variation of Hours of Work**



Staff may elect to reduce their rostered hours of work during the months of January, February, May, June, July or August in each year. Such requests must be made in writing and are subject to Company approval.

### **Role flexibility**

From time to time, you WILL be required to carry out a wider range of tasks outside of your position descriptions.

### **Standing Down of Employees**

After a period of one week; BAAG shall have the right to deduct payment for any day an employee cannot be usefully employed because of any cause for which BAAG cannot reasonably be held responsible. BAAG will endeavour to spread whatever work is available fairly among staff and to initiate projects where staff could be profitably employed. Staff would be given the option of using their annual leave in such circumstances.

### **6. Leave entitlements**

Your leave entitlements are as by the National Employment Standards (NES) as outlined in the Staff Info Pack. Leave loading is incorporated into your base wages rate.

### **7. Compensation for all award entitlements**

Specific conditions within this agreement supersede conditions within the Bulleen Art and Garden Staff Info Pack or any Award or industrial instrument.

The remuneration and other benefits provided by the Company compensates the Employee for all entitlements or benefits they may have pursuant to any Award, or other industrial instrument. This includes, but is not limited to, additional payments beyond as outlined in this Agreement and the Staff Info Pack for reasonable overtime, weekend and holiday loading, allowances, travelling expenses, penalty payments, and any other entitlement, unless specifically noted in this Agreement.

Accordingly, there will be no additional payment during periods of annual leave or for overtime payments for said reasonable additional hours or any other entitlement outlined in any award, or other applicable industrial instrument.

At the completion of each 6-month period (1<sup>st</sup> January – 30<sup>th</sup> June and 1<sup>st</sup> July – 31<sup>st</sup> December), analysis of any variance between the Bulleen Art and Garden Agreement and the relevant Award will be undertaken. In the event of a variance for which the employee would be better off under the Award, a pay adjustment to correct the variance will be made within 3 pay periods.

### **8. Qualifications**

When a particular licence or qualification (such as a forklift or truck driving licence) is required to undertake a role at BAAG, the Employee confirms that they:

- Hold the qualifications, skills and experience as represented (including in job application) to the Company; and
- Have the necessary skills to perform their Duties.



The Employee agrees to maintain their professional qualifications by undertaking all training, licensing, registration, certification and other regulatory requirements necessary to perform their Duties.

#### 9. Pre-existing and acquired injuries

The Employee acknowledges that you must advise the Company of all pre-existing and/or acquired injuries or diseases that you suffer from, of which you are aware, and which could be affected by your proposed employment and/or could affect your ability to carry out the requirements of the role.

The Employee acknowledges that a description of your proposed employment has been provided.

If the Employee fails to disclose or makes a false or misleading disclosure about any such pre-existing or acquired injury or disease then section 82(8) of the Accident Compensation Act 1985 (Vic) will apply and the Employee will not be entitled to workers' compensation under that Act for any recurrence, aggravation, acceleration, exacerbation or deterioration of that injury or disease.

The Employee is required to provide details of all such injuries and diseases.

#### 10. Termination of Employment

The Employee or the Company may terminate the employment at any time giving notice of termination as per the table below or by the Company making a payment of in lieu of notice per the table below.

The period of termination by either the company or the Employee is as per the National Employment Standards, which is detailed below:

<b>Period of continuous service</b>	<b>Period of Notice</b>
Up to 1 year	1 week
1 year and up to 3 years	2 weeks
3 years and up to 5 years	3 weeks
5 years and over	4 weeks

In addition to the above notice, if the Employee is over 45 years of age at the time we give notice, with not less than two years' service, the Employee will be provided with an additional week's notice.

The Company may terminate the employment at any time without notice if:

- The Employee is guilty of serious misconduct (defined as breach of any employment related law or policies published by the Company from time to time);
- The Employee is in material breach of a provision of this Agreement, including confidentiality undertakings;
- A court finds the Employee guilty of the criminal offence bankruptcy.

If the Employee wishes to terminate their employment they are required to provide the Company with prior notice in accordance with the table above.



Once notice is given, the Company may elect to terminate the employment and pay out the notice period (or any remaining part of the notice period).

### **Obligations on termination**

Upon termination of the Employee's employment for whatever reason, the Employee must immediately deliver to the Company all Confidential Information and any copies thereof howsoever stored and wherever located and any keys, credit cards and other property of the Company which may be in the Employee's possession or under the Employee's control.

The Company may set off any amounts the Employee owes the Company against any amounts the Company owes the Employee at the date of termination except for amounts the Company is not entitled by law to set off.

The Employee agrees with the Company that after the date of termination of employment, the Employee will not:

- Encourage any person who is an employee or agent of the Company to leave the employment of the Company;
- Seek to interfere with a relationship between the Company and its clients, Employees or suppliers in the conduct of the Company's Business.
- Solicit the custom or business of any person whom at any time during the last year before the termination of employment shall have had dealings with the Company in relation to its business.

In this clause:

- The relevant period is agreed to be 12 months, but if this is considered to be unreasonable, the parties agree that this period can be substituted with the greater of the following periods considered to be reasonable: 9 months; 6 months; 3 months.
- The relevant area is agreed to be the whole of Australia, but if this is considered to be unreasonable, the parties agree that this geographic area can be substituted with the greater of the following areas considered to be reasonable: the State or Territory in which they are employed; within a 50 kilometre radius of the Location.

### **11. Entire agreement**

The terms and conditions referred to in this agreement constitute all of the terms and conditions of employment and replace any prior understanding or agreement between the Employee and the Company.

The terms and conditions referred to in this agreement may only be varied by a written agreement signed by both the Employee and the Company.

### **12. Warranties**

The Employee agrees that:

- The terms of this Agreement are reasonable in all of the circumstances.
- Reasonable opportunity has been provided prior to the execution of this Agreement to obtain independent legal advice as to the nature, effect and extent of this Agreement.



- That their qualifications, skills and experience represented by the Employee to the Company are true and accurate, and that they have sufficient skills to carry out the Position;
- No promise, representation or inducement has been made other than as set out in this Agreement;
- The Company has provided the Employee with a copy of the Fair Work Information Statement;
- The Company is relying on these warranties in executing this Agreement.

### 13. Severability

If the whole or any part of this Agreement is invalid, unenforceable, illegal, void or voidable for any reason, this Agreement will be construed and be binding on the parties as if the invalid, unenforceable, illegal, void or voidable part had been deleted from this Agreement or read down to the extent necessary to overcome the difficulty.

### EXECUTED AS AN AGREEMENT

#### On behalf of the Company:

Name:

Signature:

Date:

#### On behalf of the Employee:

Name:

Signature:

Date:

