

SCHEDULE "E" -- SAMPLE EMPLOYMENT AGREEMENT

THIS AGREEMENT made this _____ day of _____, 20____,

BETWEEN

NAME1
(hereinafter referred to as the **Employer**)

OF THE FIRST PART;

- and -

NAME2
(hereinafter referred to as the **Employee**)

OF THE SECOND PART;

WHEREAS;

The Employer agrees to employ _____ as his/her
(Print Attendant Name)
Employee and _____ hereby accepts employment
(Print Attendant Name)
with the Employer.

NOW THEREFORE IN CONSIDERATION of the mutual covenants contained below and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree that the employment of the Employee by the Employer shall be in accordance with the following terms and conditions:

1. **JOB DESCRIPTION**

The Employee shall provide services to the Employer as described in the job description, attached to this Agreement as Appendix 1. The Employer may amend the job description from time to time, upon reasonable notice to the Employee.

2. **TERM**

2.1 This Agreement shall be deemed to have commenced on the _____ day of _____, 20____, shall supersede any earlier
(Date of hire)
agreements, and shall continue until terminated.

3. REMUNERATION

- 3.1 The Employer shall remunerate the Employee for his/her services under this Agreement at the starting wage of \$ _____ per hour plus statutory benefits.
- 3.2 Outside of regular hours of service, Special Arrangements* may be negotiated under this Agreement between the Employer and the Employee. Under Special Arrangements, an hourly wage rate will not apply and the Employee will be remunerated as follows:
**[NOTE TO EMPLOYER: If you require Special Arrangements; (e.g., paying someone for overnights (night turns) or for on-call availability), make it clear, when you write this Section, that the Employee's remuneration for Special Arrangements is separately negotiated and outside the regular hourly wage established in Section 3.1 above. In other words, an employee cannot claim an hourly wage AND collect a lump sum payment while working overnights.]*
- 3.3 The Employer may review and re-calculate the Employee's wage at the beginning of each calendar year, taking into consideration, among other factors, funding available to the Employer to employ the Employee, cost of living, length of service, and performance. However, the Employer shall be under no obligation to increase the Employee's wage.
- 3.4 Wages due to the Employee shall be paid on every second Friday for hours worked up to and including the previous Sunday.
- 3.5 Deductions and Contributions:
- a. The Employer shall withhold from each payment the statutory deductions for Employment Insurance (EI) and Canada Pension Plan (CPP) premiums, and Federal and Provincial income tax.
 - b. The Employer shall make the required Employer contributions to EI and CPP premiums on behalf of the Employee and shall remit these together with the Employee deductions to the Receiver General for Canada, as required.
 - c. The Employer shall make all contributions and deductions to the appropriate authorities as required by law.**

***[NOTE TO EMPLOYER: You must register with the Workplace Safety and Insurance Board (WSIB) within 10 calendar days of hiring your first attendant. Use the forms which will be provided to you by CILT at an appropriate time. You will then be sent information about WSIB remittances.]*

4. PROBATION AND PERFORMANCE EVALUATIONS

- 4.1 Permanent employment shall be subject to successful completion of a probationary period of three (3) months from date of hire. The first performance evaluation shall be begun at the end of the second month of employment, so as to be complete at the end of the probationary period.
- 4.2 Subsequent performance evaluations shall take place annually.
- 4.3 If a performance evaluation reveals that an employee's work requires improvement, there shall be a further performance evaluation done within three (3) months of the initial evaluation to assess whether improvement is satisfactory. If this or any other performance evaluation reveals insufficient improvement in the employee's work since the last evaluation, continued employment shall be at the discretion of the Employer.
- 4.4 If the Employee is terminated during, or immediately following, the initial three (3) month probationary period, s/he shall not be entitled to any notice or pay in lieu of notice. If the Employee is terminated during, or immediately following, the additional three (3) month probationary period, s/he shall be entitled to one week's notice or, at the Employer's discretion, pay in lieu of notice, together with any applicable benefits for that period.

5. PERFORMANCE AND SUPERVISION

- 5.1 The Employee shall follow the direction of the Employer, learn his/her routine and exercise reasonable care, skill, and diligence in performing the services set out herein.
- 5.2 The Employee shall perform the duties required of him/her by the Employer and shall act in accordance with all reasonable, lawful direction given to him/her by the Employer.
- 5.3 The Employee shall be provided with all necessary information regarding the policies and procedures of the Employer and his/her operations required in the performance of the services set out herein.

6. CONFIDENTIALITY

- 6.1 The Employee shall keep confidential any information obtained about the Employer, the Employer's family or the Employer's routine activities of living in the course of his/her employment, except where that information is required for the functioning of the Employer, in which case, the Employee shall give the information only to the party which requires the information.

6.2 Upon direction by the Employer, the Employee shall keep confidential any other matters concerning the Employer.

7. TERMINATION

7.1 The Employer may terminate the services of the Employee under this Agreement as follows:

- a. for cause by providing the Employee with notice, or pay in lieu of notice, according to the minimum standards set out in the *Employment Standards Act (ESA)*, as amended or replaced from time to time, unless the circumstances of cause are such that no notice, or pay in lieu of notice, are required. For clarity, the ESA provides for one week's notice, or pay in lieu of notice, per year worked to a maximum of eight weeks
- b. because the Employer no longer wishes to maintain a position with substantially similar duties, or substantially alters the job description so that the Employee is not competent to perform the position as newly defined; or
- c. without cause.

7.2 If the discharge is for either of the reasons given in subparagraphs 7.2b or 7.2c, above, the Employer shall provide the Employee with minimum notice in accordance with the requirements of the *Employment Standards Act, 2000*, as amended or replaced from time to time. Notwithstanding the foregoing, the Employer may, at its sole option, pay to the Employee an amount of the Employee's wages then in effect that is equal to the notice to which the Employee is entitled under the terms of this paragraph, along with any additional compensation to which the Employee is entitled, in lieu of such notice. The amount of compensation paid shall be reduced by the amount of notice given. The parties agree that this shall constitute the sole notice or payment in lieu of notice to which the Employee is entitled if the Employee's employment with the Employer is terminated pursuant to subparagraphs 7.2b or 7.2c, above. Pay in lieu of notice shall be subject to all tax withholdings and statutory deductions required by law.

7.3 The Employee agrees and understands that any notice, separation pay, or benefits delivered by the Employer in excess of his/her statutory entitlements under the ESA shall be conditional upon the execution of a Full and Final Release in a form satisfactory to the Employer.

7.4 The Employee may terminate this Agreement upon no less than 7 days' written notice to the Employer.

8. HOURS OF WORK

- 8.1 The Employer, in consultation with the Employee, shall from time to time establish a schedule of hours to be worked by the Employee.
- 8.2 Time records shall be signed and kept by the Employee in a form determined by the Employer.

9. HOLIDAYS

- 9.1 The Employee acknowledges that (s)he may be required to work his/her regular shift if it falls on any of the following public holidays:

- New Year's Day
- Family Day
- Good Friday
- Victoria Day
- Canada Day
- Labour Day
- Thanksgiving Day
- Christmas Day
- Boxing Day

The Employee agrees to this requirement as a condition of employment.

Initial

- 9.2 In the event that the Employee is required to work on any one or more of the public holidays listed above, then, if the Employee qualifies in accordance with the requirements of the *Employment Standards Act, 2000*, the Employee shall be paid public holiday pay (as defined in the *Employment Standards Act, 2000*) and premium pay calculated at the rate of 1.5 times of the Employee's regular rate of pay for each hour worked on the public holiday.

10. VACATION

- 10.1 Subject to paragraph 10.4, vacation entitlement is as follows:
- a. The Employee who has worked less than five years for the Employer is entitled to at least two weeks' vacation time for each 12 months of employment.
 - b. The Employee who has worked five or more years for the Employer is entitled to at least three weeks' vacation time for each 12 months of employment.

The running of the 12-month vacation entitlement period shall begin on the date that the Employee commences employment with the Employer, and thereafter on the annual anniversary date of the commencement of the Employee's employment.

- 10.2 Upon the termination of the Employee's employment with the Employer, the Employee shall be entitled to payment of all accrued but unpaid vacation pay of an amount that is calculated at the rate of 4%, in the case of 10.1 a., and 6%, in the case of 10.1 b. of the Employee's regular rate of pay then in effect.
- 10.3 The Employee is also entitled to vacation pay, which shall be calculated, in the case of 10.1 a., at the rate of 4% of the gross wages earned by the Employee during the period of time for which vacation time is accrued, and in the case of 10.1 b., at the rate of 6% of the gross wages earned by the Employee during the period of time for which vacation time is accrued. The Employer shall pay to the Employee, and the Employee agrees to accept payment of, his/her vacation pay on each pay cheque in respect to the wages earned for that pay period. _____ (**initial**).
- 10.4 During the three (3) month probationary period, the Employee will only be eligible for vacation benefits of four per cent (4%), not vacation time. The Employee's vacation schedule shall be arranged by agreement between the Employee and the Employer to conform to the work requirements of the Employer. Approval for vacation time shall not be unreasonably withheld.
- 10.5 Vacation time shall accrue to the Employee during an unpaid leave of absence at the Employees regular vacation time accrual rate.

11. PERSONNEL RECORDS

- 11.1 A personnel file for the Employee shall be kept in the office of the Employer. The file shall contain the following (defined as "Employee Information"):
- a. copies of all letters of agreement and contracts between the Employer and the Employee and the attached schedules;
 - b. time sheets and time records;
 - c. payroll information including but not limited to T4s and TD1s;
 - d. termination and other notices; and
 - e. any other information respecting employment and performance.

- 11.2 As part of the Direct Funding Program, the Employer may be required to submit the Employee Information to the Centre for Independent Living Toronto to enable CILT to ensure that funds are being disbursed in accordance with the Direct Funding Agreement signed by the Employer.
- 11.3 By signing this Agreement, the Employee acknowledges the Employee Information may be provided to CILT, at CILT's request, for the purpose of verifying the disbursement of funds, and the Employee is consenting to the release of the Employee Information to CILT.

12. AMENDMENT

The terms and conditions of this Agreement may be amended at any time only by the mutual written agreement of the parties hereto.

13. ENTIRE AGREEMENT

This Agreement shall comprise the entire agreement and understanding between the Employer and the Employee with respect to the subject matter in this Agreement and supersedes any prior agreement, representation or understanding with respect thereto.

14. SEVERABILITY

Each covenant and provision contained in this Agreement shall be severable, separate and distinct and the unenforceability in whole or in part of any covenant or provision of this Agreement shall be deemed not affect or impair the validity or enforceability of any other covenant or provision of this Agreement.

15. GREATER RIGHTS

If the Employment Standards Act, Ontario, as amended, or any successor legislation provides for rights in excess of what is set out in this Agreement, then the right provided for under that Act, or its successor legislation, prevails.

16. GOVERNING LAW

This Agreement is governed exclusively by the law of Ontario. The parties acknowledge that they are subject to the jurisdiction of the courts of Ontario and agree to bring any legal proceeding in respect of this Agreement to such courts.

IN WITNESS WHEREOF the parties hereto have executed this Agreement the day and year first written above.

SIGNED, SEALED AND DELIVERED)
in the presence of)
_____))
Witness)) EMPLOYER
_____)

SIGNED, SEALED AND DELIVERED)
in the presence of)
_____))
Witness)) EMPLOYEE
_____)

The Employee acknowledges that (s)he has read and understands the foregoing and that the Employer has advised him / her that the foregoing substantially alters, removes, supplants and supersedes his common law rights. The Employee acknowledges that the Employer has referred him specifically to Article 7 and has advised him to seek independent legal advice prior to executing this Agreement.

SIGNED, SEALED AND DELIVERED)
in the presence of)
_____))
Witness)) EMPLOYEE
_____)

APPENDIX "1" - ATTENDANT JOB DESCRIPTION**Purpose:**

To assist the Employer, who has a physical disability, with attendant services.

Accountability:

The Employer.

Requirements:

1. Willingness to perform personal and household tasks.
2. Physical ability to lift and transfer the Employer.
3. Punctuality, reliability and dependability.
4. Ability to work cooperatively with the Employer, other members of the household, and with other employees.
5. Good communication skills, both oral and written, and ability to accurately follow directions from the Employer.
6. Ability to maintain confidentiality and to be worthy of the trust required to provide personal services in the Employer's own home.

Duties:

1. Provide services as required and directed by the Employer, including, but not limited to, the following:
 - (a) Mobility assistance with transferring, lifting, positioning, turning in bed, exercising, driving;
 - (b) Assistance with dressing and undressing, eating, medications, special equipment, toileting or bowel and bladder routines, catheterization, colostomy or ileostomy care, maintenance of a tracheotomy and respiratory equipment;
 - (c) Personal hygiene assistance with washing, bathing, showering, shaving, brushing teeth, grooming, feminine hygiene, care of skin, changing non-sterile dressings;
 - (d) Assistance with communications, errands, escorting, shopping, banking;
 - (e) Housekeeping assistance with meal preparation, dish washing, laundry, shopping and chores, including but not limited to dusting,

vacuuming, washing floors, changing sheets, and cleaning the fridge, stove, bathroom, closets, drawers and cupboards;

- (f) Assistance with maintaining and ordering supplies;
 - (g) Maintenance and upkeep for personal and household equipment and appliances;
 - (h) Nurturing assistance with the physical requirements of parenting;
 - (i) Other similar tasks that would be performed by oneself from time to time were it not for a physical disability.
2. Provide services in the home and elsewhere, consistent with the Employer's choices, lifestyle and privacy.
 3. Respond immediately to emergencies, e.g. washroom assistance or injury, and advise the Employer of other unusual or emergency situations.
 4. Be aware of and report any hazards concerning employee health and safety to the Employer promptly.
 5. Record the date and time starting and ending each shift.
 6. Ensure that keys entrusted to you are kept secure and at hand.
 7. Perform other duties as requested.

Expectations:

1. To carry out the above duties in a professional manner.
2. To know the Employer's personal routines and follow them efficiently and with appropriate care.
3. To arrive for work punctually and to remain on duty until essential activities have been completed and the Employer is comfortable and safe.
4. To conduct yourself in a manner consistent with the health and safety of the Employer, other members of the household, other staff and yourself.
5. To be able to perform certain tasks without direct supervision.
6. To dress in a clean and presentable manner.

**RELEASE OF INFORMATION AUTHORIZATION/CONSENT BY
ATTENDANT**

I, _____,
(Employee's Full Name)

am an attendant to _____ (Self-Manager's Full Name), a recipient of funds received through the Self-Managed Attendant Services – Direct Funding Program (the **Program**).

The Program is administered by the Centre for Independent Living in Toronto (**CILT**) pursuant to a Direct Funding Agreement (the **DF Agreement**).

I understand that CILT reserves the right to review certain records pertaining to my employment in order to ensure that funds are being disbursed in accordance with the DF Agreement. This includes:

- Time sheets in respect of attendant services;
- Cancelled cheques and bank payroll records;
- Records of deductions from salary and remittances of the Receiver General of Canada, including T4s and T4 Summaries; and
- Such other records pertaining to my employment as may be necessary to ensure compliance with the DF Agreement (collectively, the **Employee Information**).

By signing this Release, I authorize the Self-Manager to release the Employee Information to CILT for the purposes of ensuring compliance with the DF Agreement.

I understand that the Employee Information shall be kept in strict confidence within CILT and not be disclosed unless written permission is given to do otherwise or as is required by law. I understand why I have been asked to provide this consent to the disclosure of personal information. I understand that I may revoke this consent in writing at any time.

This shall be sufficient authority for so releasing the above-mentioned Employee Information to CILT.

(Employee Name)

Date (MM/DD/YYYY)

(Witness) Signature or Mark

Date (MM/DD/YYYY)