

**WE KNOW**

# HUMAN RESOURCES

## SAMPLE

# INDIVIDUAL EMPLOYMENT AGREEMENT

(FULL TIME/PART TIME OF INDEFINITE DURATION)

This sample Individual Employment Agreement complies with the requirements of the Employment Relations Act 2000 as amended. It contains a number of provisions, and in some cases, alternatives to provisions, which individual organisations may or may not wish or need to include. In other instances it may require elaboration or additional provisions. Remember, it is a sample. It should not simply be used as a template but should be adapted to meet the unique needs and culture of your organisation.

In particular, it should be noted that in many cases, when dealing with the 'Hours of Work' requirements it may be necessary to include an '**availability provision**'. For further details *you are strongly advised to consider our [Quick Guide – Hours of Work and Availability Provisions](#)*.

From 6 May 2019 only employers who employ fewer than 20 employees (at the beginning of the day on which the employment agreement is entered into) may lawfully use the 90-day trial. This sample agreement contains an alternative 'Probationary Period' provision which may be utilised by organisations of any size.

It is important (particularly where you propose to utilise the 90-day trial provision) that –

- the proposed employment agreement is provided to the prospective employee at the same time as an offer of employment is made, stipulating that the offer is conditional upon the employee signing an employment agreement.
- the prospective employee is advised of their right to seek independent advice about the intended agreement and given a reasonable opportunity to obtain it *before* signing the agreement (this is a statutory requirement). What constitutes a 'reasonable opportunity' will vary according to specific circumstances.
- you ensure that the agreement is finalised and signed (and every page initialled) before employment commences – not afterwards!
- You retain a copy of every employment agreement or intended agreement (this is a statutory requirement).
- NOTE: The 90-day trial cannot be used where there has been a previous employment relationship between the parties.
- When terminating employment in reliance of the 90-day trial notice must be given and failure to do so will remove the protection from personal grievance that the provision otherwise affords.

© Canterbury Employers' Chamber of Commerce, March 2019

This document and any accompanying information is subject to copyright and has been provided for the sole benefit of the recipient member on the condition that it may not be reproduced or distributed in any form to other parties. In the case of 'template' or 'sample' documents, their reproduction or distribution must be confined to use within the member's own business and not made available to third parties whether in payment of a fee or otherwise. **IMPORTANT – DISCLAIMER** – The Canterbury Employers' Chamber of Commerce accepts no liability for any action taken, or consequences arising from any use of the material or any reliance made on the material.

If you need further assistance with the preparation of your employment agreements please contact the Employment Relations Advisers on 03 366 5096 or email [info@cecc.org.nz](mailto:info@cecc.org.nz)

*[insert organisation name/ logo here]*

# Individual Employment Agreement

**NB. NOT SUITABLE FOR FIXED TERM or CASUAL EMPLOYMENT**

This is an **Individual Employment Agreement**. Once both of us have signed the agreement it will be binding (enforceable) between us and the terms within it cannot be changed unless we both agree.

It is written in 'plain English'; however, because it must also meet the requirements of New Zealand employment law, it does include some terms which have specific meaning according to relevant legislation. 'Relevant legislation' includes (but is not restricted to) – Employment Relations Act 2000; Holidays Act 2003; Health and Safety at Work Act 2015. Unless the agreement states otherwise, where terms are used that have a particular meaning under the relevant legislation, that meaning shall apply.

Your employment agreement must be read in conjunction with our **Code of Conduct**, **our Health and Safety Policy (including our Drug and Alcohol Policy)** and **other policies** which we may reasonably introduce and amend from time to time in consultation with you.

**By signing this Employment Agreement you acknowledge that you have been provided with copies of the above documents (or a link to them) and agree to comply with their requirements.**

## 1. Parties to this Agreement

**[insert legal name of employer]** (referred to as 'We' or 'Us' or 'Our')

And

\_\_\_\_\_ (referred to as 'You' or 'Your')

Collectively, both parties are referred to as 'Both of us' or 'we both'

## 2. Nature and duration of Employment

This Employment Agreement is for a **[full-time/part-time]** position of indefinite duration.

### 3. Commencement of Employment & Trial/Probationary Period; Position Description, Work Location

a) Employment (and the trial period where applicable) shall commence on [insert date] except that if for any reason you are not able to physically commence work on that day your employment shall commence on the first day you actually work.

b) *(Optional: can be used by Employers having fewer than 20 employees and where there has been no previous employment relationship)*

Your employment is subject to a 90-day trial period. You agree that during this period we may elect to terminate your employment by giving you not less than [insert #] days'/weeks' notice. If we do terminate your employment during this time (regardless of whether the notice period ends within or outside the trial period) you will not be entitled to bring a personal grievance or other legal proceedings in respect of the termination of your employment.

Where we elect to give notice terminating employment under this provision we shall be entitled, at our sole discretion and as an alternative to you working out the notice period, to pay you wages/salary in lieu of requiring you to attend work for all or part of this period.

*(Alternative optional clause when 90-day trial not permitted)*

Your employment is subject to the satisfactory completion of a [insert number of days/weeks/months] probationary period for the purposes of establishing your suitability, in all respects, for the role in which you have been employed.

- i The probationary period shall commence on the first day work actually commences. If the period is interrupted as a result of the employee being unable to work continuously for longer than [insert # days], the probationary period shall be extended by the same amount of time.
- ii During this period we shall monitor your performance and periodically provide feedback to you.
- iii Feedback shall include but will not necessarily be limited to advice of the areas in which you are assessed as meeting the required standards at that time and those areas which may require further improvement.
- iv We will discuss the ways in which any area identified for improvement can be achieved and the nature of any assistance which may be reasonably required to assist you to achieve the required standards.
- v If we have serious concerns about your ability to substantially achieve and maintain the required standards (in whatever respect) within the term of the probationary period, we will formally raise those concerns with you and follow a process, in good faith, which may result in you being warned that your continued employment is in jeopardy.
- vi Where a warning is issued it shall clearly identify the specific issues to be addressed and state the nature of the improvement(s) required by you. It will set out the period, reasonably determined by us in consultation with you, after which a further and final review will be carried out.

- vii **Should you subsequently fail to attain the required standards, employment may be terminated, on notice, in accordance with **clause 16** of this agreement or such lesser period as we agree.**
  - viii **In limited circumstances, as an alternative to termination of employment and solely at our discretion, we may agree to the extension of the probationary period upon terms set by us.**
  - ix **In all other cases employment shall be confirmed following the satisfactory conclusion of the probationary period.**
- c) The position title and position description are set out in **Schedule 1**. In addition to the duties set out in Schedule 1, you agree that you may be required to undertake such other duties from time to time as we may reasonably require.
  - d) You will be required to work from our premises situated at or from the work location(s) set out in **Schedule 2**. (*Optional as applicable*: From time to time we may require you to work in other areas of the country and this may entail you being away from home for limited periods.)

#### **4. Our obligations to You**

- a) We will act in good faith; and
- b) We will take all reasonably practicable steps to provide you with a safe and healthy work place; and
- c) We will provide you with work to the extent set out in this agreement; and
- d) We will pay you the agreed remuneration and endeavour to do so on the same day each [week/fortnight] and if that is not possible because of reasons beyond our reasonable control, as soon as practicable after that time; and
- e) We will respond to any grievance promptly and by following a fair process; and
- f) Comply with the terms of this agreement.

#### **5. Your obligations to Us**

- a) You will act in good faith; and
- b) You will work at all times in accordance with safe practices and not act in any manner which exposes either yourself or any other person to risk of harm; and
- c) You will at all times work diligently, conscientiously and in our best interests; and
- d) You will be ready to start work at the appointed times and be available to work extra hours if we reasonably require in accordance with the terms of this agreement; and
- e) You will comply with any reasonable restrictions prohibiting or restricting secondary employment where they are included in this agreement.
- f) You will comply with our reasonable instructions (and those of our representatives) and act in accordance with our workplace policies and rules as implemented and varied by us from time to time as we reasonably deem necessary; and
- g) You will keep current any licences/permits/visas required in order to carry out your normal work with us and notify us immediately if these lapse or are suspended or withdrawn for any reason (or are in danger of being suspended/withdrawn/not renewed for any reason); and
- h) You will not act in a manner which could actually or potentially adversely affect our reputation regardless of whether such act or acts occur within or outside work hours.

- i) Otherwise comply with the terms of this agreement.

## 6. Conflict of Interest/ Secondary Employment

- a) You are permitted to undertake secondary employment or activities (whether paid or unpaid) except in circumstances where an alternative employer or activity is in direct competition with us or otherwise where our commercially sensitive information or reputation or intellectual property rights could be compromised, as a result of such employment/activity or your ability to safely perform the full range of duties under this agreement could be adversely affected.
- b) You shall promptly inform us of any circumstances which could reasonably give rise to a conflict of interest as a breach of this clause will be treated as serious misconduct and may result in the summary termination of your employment with us.
- c) Where we both are unable in good faith to agree about the existence or potential existence of a conflict of interest we shall be entitled to make a determination of the matter and shall attempt to resolve the conflict in a manner acceptable to both of us, however, should that not be possible, we may consider terminating your employment.

## 7. Your Hours of Work; Meal and Rest breaks

- a) Your hours of work and arrangements for meal and rest intervals shall be as provided in **Schedule 2**
- b) So far as possible you are expected to make non-urgent dental and medical appointments outside of working hours. Where this is not possible you will contact your supervisor in advance to arrange an acceptable time.

## 8. Your Pay

- a) Details of the remuneration we will pay you for work performed under this agreement are set out in **Schedule 2**.
- b) **Provided that you have signed and supplied us with all necessary time sheets by the time stipulated by us** you will receive payment each **[week/fortnight]**, in arrears, by direct credit into a nominated bank account held in your name. Whilst we will try to ensure that payment is made on the same day each pay period, we will not be responsible for delays in payment being credited to your account for reasons beyond our reasonable control.
- c) We may change the pay period (duration and or day of the week) if we consider it necessary for any reason. If we do so we shall provide you with not less than one month's notice of the change.
- d) You agree that we may make deductions from your salary/wages (including holiday pay) and in any subsequent pay period(s), in the following circumstances and after consulting with you where it is practicable to do so –
  - i. Where an overpayment has been made; or
  - ii. Where you have failed to give us the required notice to terminate your employment or
  - iii. If you are indebted to us for any reason; or
  - iv. if you fail to return our equipment or clothing or other property held by you.

- e) Upon termination of employment all remuneration including any holiday pay due, less any lawful deductions, shall be payable on the next regular pay day following the date of termination.

**9. Temporary Disruptions - If We can not provide You with work under some circumstances we are not obliged to pay you**

- a) If, at our reasonable discretion, we or our clients or person in control of the work premises decide that it is necessary, by reason of material safety, climatic, operational or economic considerations, to wholly or partially close the place of work at or from which you are currently engaged, you shall not be entitled to receive remuneration (or any other compensation) in respect of the period of the temporary closure.
- b) Where practicable we shall consult with you if you are directly affected by any decision to temporarily close the workplace with a view to considering alternative arrangements for the duration of the temporary closure. These may include, for example, relocating to another work-site, taking annual holidays, alternative holidays, or making other arrangements acceptable to both of us. Consultation shall be undertaken in a timely manner but not necessarily in advance of the decision to temporarily close the workplace.
- c) For the purposes of this clause "temporary closure" shall mean a period or periods not exceeding 15 working days in relation to each event.
- d) No decision to temporarily close the place of work in accordance with this provision shall affect your continuity of employment in relation to any service related entitlements or benefits provided by this agreement.

**10. Your Health & Safety**

- a) We take your health and safety and that of all employees very seriously. For this reason it is vitally important that you adhere at all times to the rules and procedures set out in our Health & Safety Policy, this agreement and those specific to any work site. A failure to do so could result in disciplinary action up to and including summary dismissal.
- b) You must at all times carry out work in accordance with safe practices and refrain from acting in any manner likely to cause injury or harm either to yourself or any other person.
- c) All accidents, whether or not resulting in actual injury must be reported to your supervisor and recorded in the accident/incident register provided by us. Failure to do so will be regarded by us as misconduct and may jeopardise any entitlement to first week compensation you have under the Accident Compensation Act 2001.
- d) Safety is everybody's business. We expect you to help us and your workmates by remaining alert, and by identifying and promptly reporting any potential hazards which you believe have not or are not being effectively managed.
- e) You agree that we may introduce such policies and procedures as we reasonably deem necessary for us to meet our statutory obligations and to enhance health and safety in general.
- f) (**Optional:** We provide you with appropriate personal protective equipment ('p.p.e.') to enable you to carry out your work safely. This equipment is listed in **Schedule 3** and remains the property of the company. You agree to use the p.p.e. provided. P.p.e. issued by us shall be replaced as required on a fair wear and tear basis. It is your responsibility to look after the equipment issued to you – you agree to pay the costs (after allowing for fair wear and tear) of replacing lost items.

## 11. Your Holidays and Leave

Information about your entitlements under the Holidays Act 2003 can be obtained at <https://www.employment.govt.nz/leave-and-holidays/>.

The following provisions are inclusive of your statutory entitlements; not in addition to them. Your Annual holidays and other leave entitlements (including the calculation of associated payments) shall be as provided under the Holidays Act 2003. The following is provided for your information only.

### a) Annual Holidays

- i. You are entitled, upon the completion of each year of employment with us, to 4 weeks annual holidays. Both of us may agree to allow annual holidays to be taken in advance but this is at our sole discretion.
- ii. Unless we both otherwise agree you must take your annual holidays within 12 months of becoming entitled to them. Annual holidays shall be taken at such time or times as we both agree; however, if both of us are unable to agree, we shall be entitled to direct you to take annual holidays provided that we give you not less than 14 days notice.
- iii. We may agree, at your written request, to allow you to exchange up to one week of your annual holidays each year for cash – but again this is at our sole discretion and we are not obliged to provide reasons for our decision.
- iv. Payment for annual holidays is calculated *at the higher of* your Average Weekly Earnings over the preceding 12 months OR your Ordinary Weekly Pay, as at the beginning of your annual holidays or any part of them.

### OPTIONAL SUB-CLAUSE

- v. We close down for [ ] weeks each year at [insert date/month]. You are required to take annual holidays during the closedown. We will provide you with a minimum of 14 days' notice of the commencement and duration of the closedown. If you have been employed for less than one year at the time of the closedown, you will not be required to work during the closedown and you will be paid holiday pay at the rate of 8% of your gross earnings from the date your employment started to the date of the closedown (reduced by the amount of holiday pay (if any) paid in respect of holidays taken in advance) \*. From then on, your anniversary date for the purpose of determining holiday entitlements will be the first day of the closedown\*.

*\*We may nominate an alternative date which is reasonably close to the beginning of the closedown period.*

### b) Public Holidays/Alternative Holidays

- i. You are entitled to public holidays in accordance with the Holidays Act 2003. These holidays shall be paid holidays provided that they fall on days which would otherwise be working days for you. Unless we otherwise agree, these days shall be –

Christmas Day; Boxing Day; New Year's Day; The Second of January; Good Friday; Easter Monday; Anzac Day; Labour Day; The Birthday of the Reigning Sovereign; Waitangi Day; The day observed as the anniversary of the province (Canterbury Show Day).

The Holidays Act 2003 provides particular rules around the observance of the Christmas/New Year public holidays and also with respect to Anzac Day and Waitangi Day.

- ii. Both of us may agree, in writing, to transfer any of these days to another day provided it is to a day and for a period of 24 hours that would ordinarily be a working day (excluding annual holidays). If we do so, sub clauses iii. and iv. shall apply only to the day that we have both agreed shall be observed as the holiday i.e. the transferred day.
- iii. Subject to sub clause i. public holidays will be paid at your “relevant daily pay” (or where applicable, your “average daily pay”). You agree that we may require you to work on a public holiday (if it would otherwise be a working day for you) in which case you will be paid the portion of your relevant daily pay that relates to the time actually worked, plus half that amount again.

OR

Subject to sub clause i. public holidays will be paid at your “relevant daily pay” (or where applicable, your “average daily pay”). If you are required by us to work on a public holiday and you agree to do so you will be paid the portion of your relevant daily pay that relates to the time actually worked, plus half that amount again.

- iv. If we require you to work on a public holiday and that day would otherwise be a working day for you, we shall, in addition to paying you for time worked on the public holiday, provide you with an **alternative holiday** to be taken on a day agreed by both of us or failing agreement, on a day determined on a reasonable basis by us, in which case we will give you not less than 14 days’ notice.
- v. Alternative holidays shall be paid at your relevant daily pay (or where applicable, at your average daily pay).

#### c) Sick Leave & Bereavement Leave

- i. After completing six months of current continuous service with us you will be entitled to sick leave and bereavement leave as provided under the Holidays Act 2003. We have summarised these entitlements below.
- ii. Sick leave – after 6 months and upon the completion of each *subsequent* 12 months current continuous service you will be entitled to 5 days sick leave. Sick leave not taken shall accumulate up to a maximum of 20 days. Sick leave may be used when either you, your spouse (or partner) or a person who depends on you for care is sick or injured.
- iii. Bereavement leave – after 6 months you will be entitled to the following bereavement leave –
  - 3 days on each occasion on the death of your spouse or partner; parent; child; sibling; grandparent; grandchild; spouse or partner’s parent.
  - 1 day on each occasion on the death of any other person where we accept, taking into account relevant factors, that you have suffered a bereavement.



- iv. Proof of sickness/bereavement – before being required to pay you we shall be entitled to require you to provide reasonable proof of sickness/bereavement. If the period of sickness is for less than 3 consecutive calendar days we shall pay the cost of your obtaining a medical certificate. We will notify you when such proof is required.
- v. Notification – you will make every reasonable effort to contact your immediate supervisor or other designated person before your normal time for commencing work on every day that you will be absent due to sickness or bereavement. We may elect to waive this requirement in the case of bereavement after the first day of leave. **'Texting' is not acceptable unless you have first made all reasonable attempts to establish direct contact.**
- vi. Sick and bereavement leave shall be paid at your relevant daily pay (or average daily pay where applicable).

## **12 Parental Leave**

You are entitled to parental leave in accordance with the provisions of the Parental Leave and Employment Protection Act 1987, as amended. Further information about this statutory benefit can be found at <https://www.employment.govt.nz/leave-and-holidays/parental-leave/>

## **13 Domestic Violence Leave (From 1 April 2019)**

You are entitled to domestic violence leave in the circumstances and to the extent set out in subpart 5 of Part 2 of the Holidays Act 2003 (as amended). If intending to take domestic violence leave you must notify us as early as possible before you are due to start work and if that is not practicable as early as possible thereafter.

Further information about domestic violence leave can be found at [\[insert link when available\]](#)

## **14 Medical Assessments and Reports**

- a) If we have concerns about your health or welfare for any reason relevant to your employment or to the business, we can require you to undergo an independent medical assessment by an appropriately qualified practitioner of our choosing and at our expense. You agree that we may ask the practitioner any questions that we believe in good faith are relevant to our employment relationship.
- b) You agree that we may request the practitioner to provide us with such written reports about your health or welfare as we may reasonably require and to utilise such reports in such ways as we reasonably believe are necessary to assist us in making decisions about your health, safety or welfare, or the health, safety and welfare of any third party and the impact those may have on your continued employment. You may request a copy of any such reports and we shall comply with the provisions of the Privacy Act in making such requests.

## **15 What We will do if We are proposing to sell or contract-out (“restructure”) part of the business in which You are employed**

- a) If we enter into a contract or arrangement with another party whereby our business or part of it is to be undertaken by that party (the “new employer”) and as a consequence your position could become redundant (surplus to our requirements) we shall first attempt to establish, in negotiations with that party, the extent to which your position may be affected and whether

there is an opportunity for you to transfer to that party and if so upon what terms and conditions.

- b) If it is established, following this process, that your position will be affected as a result of a decision to restructure we shall meet with you (and your representative or support person if you elect to have one) to inform you of the outcome of these negotiations and the extent to which they relate to your position.
- c) If we have been able to arrange for you to transfer to the new employer you will be given the option of whether or not to transfer upon such terms as may be offered.
- d) If we have not been able to arrange for you to transfer to the new employer, or you decide that you do not wish to transfer, your position may become redundant and where necessary we shall adopt the process set out in **clause 16 d)**.

## 16 Ending Employment

- a) **Termination on notice.** Either of us may terminate our employment relationship by giving **[insert #]** weeks' notice. At our sole discretion we may require you not to work and instead pay you wages in lieu of notice regardless of whether we or you give notice. If you fail to provide us with the required notice, we shall be entitled to deduct from any outstanding wages or holiday pay, an amount equivalent to the wages that would have been payable in respect of the period by which the notice falls short of that required.
- b) **Termination without notice.** We are entitled to terminate your employment without notice (and without payment in lieu of notice) where you have committed serious misconduct.
- c) **Abandonment of Employment.** If you are absent from work without our consent and without notifying us in advance of your absence for a continuous period of 3 working days you will be deemed to have abandoned your employment without notice. You may as a result forfeit wages as provided in sub clause a). We will endeavour to contact you during this period and in good faith consider any reason you may subsequently provide as to why employment should not be considered as abandoned.
- d) **Redundancy.**
  - i. Where your position becomes superfluous to our needs as a result of business downturn, the introduction of new technology, restructuring (including restructuring as set out in **clause 15**) or any other genuine commercial reason we shall be entitled to terminate your employment.
  - ii. Before making a decision to terminate employment as a result of redundancy we shall consult with you in good faith, providing you with all relevant information, with the purpose of identifying, where practicable, any viable alternatives to the termination of your employment.
  - iii. If, following consultation, we are unable to offer any suitable, alternative employment, we shall terminate your employment by giving you not less than **[insert #]** weeks' notice or at our election pay you wages in lieu of notice.
  - iv. You agree that you will not be entitled to any compensation or other entitlements beyond those provided by this agreement.
- e) **You must return any company property.** On the termination of employment for any reason you agree to immediately deliver to us all tools, clothing, keys, vehicles, phones, computers, documents, records or plans in whatever form in your possession (including any copies or extracts) which belong to us.

## 17 We may suspend your employment

You agree that we will be entitled to suspend your employment, on pay, if we are investigating an allegation of serious misconduct against you and until such time as our investigation has been concluded or for such lesser period as we decide. You agree to remain contactable and available to attend any meetings required by us whilst you remain on suspension. Before making a decision to suspend you we shall endeavour to consult with you and take your views into account.

## 18 You must keep confidential information confidential!

- a) During your employment with us you may acquire knowledge and information relating to our business which is confidential. *Confidential information* includes but is not limited to, information concerning our business affairs, contracts, property, employees and clients – whether or not it is recorded or memorised and which is or may be of use to any competitor.
- b) You agree that you will not at any time during your employment or afterwards, directly or indirectly disclose confidential information to any other party without our express and prior approval.
- c) The restriction imposed under sub clause b) shall cease to apply to information which becomes publically known (other than as a result of your breaching this undertaking).
- d) We will view any breach of this clause as serious misconduct and may result in your employment being terminated without notice.

## 19 What we both will do if we have a disagreement arising from or about the terms of our employment relationship

- a) Notwithstanding both of us having the best intentions, we acknowledge that sometimes genuine disputes or disagreements can arise during the course of an employment relationship. These are generally referred to as an **employment relationship problem**.
- b) We both undertake to work to resolve any such disputes promptly and constructively.
- c) It is important that any grievance or dispute either of us may have be raised and discussed with the other as soon as possible.
- d) Often, prompt, informal discussion will dispose of any problem but we recognise that there may be occasions when that may be inappropriate or may not fully resolve matters. In such circumstances we may both agree that the services of a Mediator (for example, a Mediator from the Mediation Service of the Ministry of Business, Innovation and Employment) may be helpful in resolving our problem.
- e) You are welcome to have your own support person or representative present at any discussions. We may do the same. You should also consider obtaining advice from others including your union (if applicable), the Employment Relations Service (0800 209020) or a lawyer.
- f) You need to be aware that, unless we otherwise agree, if you wish to raise a **personal grievance\***, you must do so **within 90 days** of the event giving rise to the alleged grievance occurring or coming to your notice (whichever is the later). Not raising a personal grievance within this period means that we are not obliged to acknowledge your grievance and unless we agree, you will be obliged to obtain the leave of the Employment Relations Authority to proceed and pursue any remedies. To raise a personal grievance you must adequately specify the nature of the alleged grievance and provide us with sufficient details in order that we can meaningfully address the matter.
- g) If it is not possible to resolve an **employment relationship problem** between us, either of us may seek to have the matter determined by the Employment Relations Authority by lodging a Statement of Problem with the Authority. The Authority will carry out an investigation in

accordance with the requirements of the Employment Relations Act and make a determination settling the matters in dispute. If either of us is unhappy with the Authority's determination we may appeal against all or part of the Authority's determination – or seek a new hearing – in the Employment Court.

- h) An employment relationship problem does not include any dispute about fixing new terms and conditions of employment.

\* <http://employment.govt.nz/er/solvingproblems/resolving/pg.asp>

*Further information about resolving employment relationship problems can be obtained from your union (if applicable), a lawyer or the Ministry of Business Innovation and Employment - <https://www.employment.govt.nz/resolving-problems/>*

## **20 Making changes to our Agreement**

- a) Both of us may agree to vary the terms of this agreement at any time.
- b) No variation shall be effective unless it has been recorded in writing, has been signed by both of us and records the operative date upon which the variation shall become effective.

## **21 Acknowledgements and disclosures**

- a) You agree that this agreement replaces any previous agreement, whether verbal or written, between both of us but shall not extinguish the terms of any conditional offer of employment.
- b) You acknowledge that before signing this agreement we provided you with a reasonable opportunity in which to obtain independent advice about its terms and that any questions that you may have had have been answered to your satisfaction.
- c) You confirm that you have told us about any matter which might reasonably have affected our decision to employ you and in particular you have fully disclosed to us details of any convictions (or pending charges) for crimes associated with dishonesty, assault or the supply or taking of illicit substances (except any convictions that you are not required to disclose under the Criminal Records (Clean Slate) Act 2004).
- d) You confirm that you have not misrepresented your level of skills, knowledge or experience that we have reasonably relied upon in employing you for this position.
- e) You acknowledge that if, in contravention of c) and or d) above, you have failed to disclose information or have misrepresented yourself, this will be regarded as serious misconduct and your employment may be terminated without notice.

**SIGNED:**

---

(For **[insert name of organisation]** )

---

**[Print employee's name here]**

**DATED:**

*\*in addition to signing above, both parties must initial every page.*

[insert organisation logo]

## SCHEDULE 1

[insert employee's name here]

### POSITION DESCRIPTION:

---

**TITLE:**

**REPORTS TO:**

---

**KEY TASKS/RESPONSIBILITIES/OUTPUTS:**

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

[Add as required]

## SCHEDULE 2

### YOUR COMMENCING REMUNERATION:

*[OPTION 1 – to be used in conjunction with Options A and B under “Hours of Work”]*

You shall receive an annual salary of \$ [REDACTED]. You agree that this salary (and any subsequently agreed salary) fully compensates you for the hours worked and required in order to meet your duties and responsibilities under the terms of this agreement.

*[OPTION 2 – to be used in conjunction with Options C & D under “Hours of Work”]*

\$ [REDACTED] PER HOUR

Unless otherwise provided you will be entitled to be paid only for hours actually worked. Except where we require you to work on a public holiday, all hours worked will be paid at this rate or as otherwise provided under the terms of this agreement.

The following additional payments and benefits will be provided: *(By way of example only)*

- 1) **Tool allowance** – [X] cents per hour worked. NB not payable for holidays or leave.
- 2) **Working away from home** – When we require you to work at sites which necessitate you being away from home overnight we will provide you with accommodation and pay you an **incidentals allowance** for **each night that you are required to be away from home**. You will be responsible for providing all meals and any other incidental necessities during this time.

The current incidentals allowance is \$ [REDACTED] per night.

3)

4)

5)

### KIWISAVER:

If you are eligible and not already enrolled, you will be automatically enrolled to KiwiSaver. This is a requirement of the KiwiSaver Act 2006. You are able to ‘opt out’ from this scheme if you wish and are not already enrolled but must do so in the period between the 13<sup>th</sup> and 55<sup>th</sup> day of commencing employment .

Further details about KiwiSaver have been provided to you (See Guide for Employees KS3).

*Option A*

If you are a member of KiwiSaver we will pay the Compulsory Employer's contribution (currently 3% of your gross earnings) less Employer Superannuation Contributions Tax. We will deduct your nominated Employee contribution (minimum of 3% of gross earnings) from your wages each pay period.

*Option B – to be used where the Employer operates a 'Total Remuneration' policy*

You agree that the remuneration we have agreed and specified above is inclusive of the Employer's contribution of 3% of your gross earnings to KiwiSaver or other approved Superannuation Scheme as required under the terms of the KiwiSaver Act 2006 (as amended).

## **HOURS OF WORK**

[OPTION A – **Example** - Salaried Employee]

- a) There are no set hours of work but you are generally expected to attend staff meetings and attend the normal place of work to the extent required to meet agreed performance objectives and the requirements set out in your Position Description. You are required to provide us with a record of your daily hours, including start and finish times to enable us to comply with statutory record-keeping requirements.
- b) You will be entitled to meal and rest breaks as provided under the Employment Relations Act 2003. It is agreed that breaks shall be taken at such times as we reasonably direct having regard for the need to maintain normal services.
- c) In order to effectively perform the requirements of your position, you agree to work all hours reasonably required and necessary to perform your job effectively. It is agreed that the salary set out in **Schedule 2** fully compensates you for being available and for performing such additional hours as may be required.

[OPTION B – **Example** – Salaried Employee – Required hours PLUS additional availability to complete objectives]

- a) Your normal hours of work will be **37.50** hours per week, to be worked between the hours of **9:00am to 9:00pm** on 5 days of the week, Monday to Friday inclusive.
- b) You will be entitled to meal and rest breaks as provided under the Employment Relations Act 2003. It is agreed that breaks shall be taken at such times as we reasonably direct having regard for the need to maintain normal services.
- c) In order to effectively perform the requirements of your position, you agree to work all additional hours reasonably necessary to perform your job effectively, provided that you shall not be required to work more than **12** hours on any day. You agree that the salary set out in **Schedule 2** fully compensates you for being available and performing such additional hours as may be required.

[OPTION C – **Example** - Agreed hours only; employee cannot be required to work beyond ‘agreed hours’ – no availability provision]]

- a) Your agreed ordinary hours of work will be 40 hours per week, to be worked between 8:00am to 4:30pm on 5 days of the week, Monday to Friday inclusive.
- b) You will be entitled to meal and rest breaks as provided under the Employment Relations Act 2003. It is agreed that breaks shall be taken at such times as we reasonably direct having regard for the need to maintain normal services.
- c) We shall be under no obligation to offer additional hours of work (‘overtime’); nor will you be under an obligation to work additional hours should they be available and offered by us. If you agree to work overtime you be paid at the rate of \_\_\_\_\_ for each hour worked beyond 8 hours on any day (provided that 40 hours have been worked in that week).

[OPTION D – **Example** - Agreed hours PLUS required to be available to work beyond ‘agreed hours’]

- a) Your agreed ordinary hours of work will be 40 hours per week, to be worked between 8:00am to 4:30pm on 5 days of the week, Monday to Friday inclusive.
- b) You will be entitled to meal and rest breaks as provided under the Employment Relations Act 2003. It is agreed that breaks shall be taken at such times as we reasonably direct having regard for the need to maintain normal services.
- c) In addition to the above daily hours you agree to be available to work up to 2 hours overtime if required by us and provided that we have given you not less than \_\_\_\_\_ hours’ notice prior to the commencement of overtime. In consideration of this undertaking you shall be paid \$\_\_\_\_\_ for each hour of overtime worked. You agree that for the purposes of s67D Employment Relations Act 2003 this arrangement shall constitute an availability provision for which we have genuine reasons and that this provides reasonable compensation. Nothing in this clause prevents us both agreeing to work additional overtime if required by us.

**WORK LOCATION:**

Your normal place of work shall be [insert location]. We may require you to work at or from other locations from time to time within \_\_\_\_\_.



## **SCHEDULE 3**