



INDIVIDUAL EMPLOYMENT AGREEMENT

(EMPLOYER)

AND

(YOU)

This Agreement
is made on

Between

See Item 1 of the Schedule (Employer)

and

See Item 2 of the Schedule (You)

BACKGROUND

- A. The Employer has agreed to employ you and you have agreed to work for the Employer in the position described at Item 3 of the Schedule.
- B. The Employer and you have agreed to enter into this Agreement to record the terms and conditions of your employment.
- C. The Employer acknowledges its obligation to apply the applicable employment protections to you and to abide by the provisions contained in any relevant legislation.

THE EMPLOYER AND YOU AGREE THAT:

1. DEFINITIONS

Agreement means this employment agreement.

Confidential Information means all the information including trade secrets, Intellectual Property, marketing and business plans, client and supplier lists, computer software applications and programs, business contacts, finance, remuneration details, data concerning the Employer or any of its related entities or any client of the Employer's, finances, operating margins, prospect's lists, and transactions of the Employer, but does not include information in the public domain otherwise than through a breach of an obligation of confidentiality.

Employment Relations Act means the Employment Relations Act 2000.

Holidays Act means the *Holidays Act 2003*.

Intellectual Property means all present and future copyright, registered and unregistered trademarks, patent, design or rights and any other intellectual or industrial property rights, discovery, invention, secret process or improvement in procedure of any kind whether arising from statute, under common law or in equity.

Privacy Act means the *Privacy Act 1993*.

2. COMMENCEMENT AND WARRANTIES

- 2.1 This employment agreement is an individual employment agreement entered into under the Employment Relations Act 2000.
- 2.2 Your date of commencement of employment with the Employer is identified at Item 4 of the Schedule and continues until either party terminates the agreement in accordance with the terms of this agreement.
- 2.3 You agree that:
 - (a) you hold the qualifications and have the skills as represented by you to the Employer;
 - (b) you have disclosed to the Employer any restraint or restriction which may affect your performance of work;

- (c) you enter into this agreement without any form of coercion;
- (d) you are legally entitled to work in New Zealand, and agree to produce the appropriate documentation where requested by the Employer; and
- (e) you have and will maintain the licenses and qualifications necessary to fulfil your role.

3. POSITION AND TITLE

- 3.1 You are employed in the position described at Item 3 of the Schedule.
- 3.2 You may be required to perform other tasks from time to time, as reasonably requested by the Employer.

4. TRIAL PERIOD

- 4.1 You are employed under a 90 day trial period commencing on the date identified at Item 4 of the Schedule.
- 4.2 During the trial period, your employment may be terminated with one week's notice by either party, or payment in lieu of such notice.
- 4.3 If your employment is terminated during the trial period you may not pursue a personal grievance on the grounds of unjustified dismissal or other legal proceedings against the Employer in respect of the dismissal.

5. PROBATION

- 5.1 Following the completion of your trial period, your employment is probationary for a further three months of employment.
- 5.2 During the probationary period, your employment may be terminated with one week's notice by either party, or payment in lieu of such notice.
- 5.3 The Employer may, at its discretion, extend the probationary period.

6. PRINCIPAL DUTIES

- 6.1 You will be provided with an outline of your duties before commencement of your employment. These duties may be modified and updated by the Employer from time to time following agreement by you. The outline is not intended to be an exhaustive list of the duties you may be required to perform, rather an indication of the kinds of duties that fall within the scope of the position.
- 6.2 You also have general duties to:
 - (a) comply with reasonable directions given to you by the Employer;
 - (b) at all times act faithfully, honestly and diligently;
 - (c) deal with the Employer in good faith in all aspects of the employment relationship;
 - (d) ensure you are performing solely work related activities in work time;
 - (e) exhibit a professional and courteous attitude when dealing with the Employer, its customers, employees, suppliers and other members of the public; and
 - (f) act in the Employer's best interests at all times.

7. EMPLOYER POLICIES AND PROCEDURES

You agree that:

- (a) you will comply with all the Employer's policies and procedures, as amended from time to time at the sole discretion of the Employer;
- (b) the specific detail of the Employer's policies do not form a term of your agreement; and
- (c) failure to comply with the Employer's policies may result in disciplinary action, up to and including dismissal.

2. PLACE OF EMPLOYMENT

- 2.1 Your primary place of employment is described in Item 5 of the Schedule. You will be required to work at this location, and at any other reasonable location as directed from time to time by the Employer.
- 2.2 You may also be required to travel as reasonably necessary for the performance of your duties.

3. HOURS OF WORK

- 3.1 The business' normal span of hours of operation are outlined at Item 6 of the Schedule.
- 3.2 You will be required to work hours per week within the business' normal hours of operation. The Employer may offer you additional hours from time to time.

4. TIME RECORDING

- 4.1 You are required to complete regular time recordings as directed by management.
- 4.2 You are responsible for the completion of your own time record. Completing time records on behalf of another employee or permitting another employee to do so on your behalf, may result in disciplinary action, up to and including dismissal.

5. REMUNERATION

- 5.1 Your rate of pay is set out at Item 7 of the Schedule.
- 5.2 Overtime authorised by the Employer will be paid at the rate of pay set out at Item 7 of the Schedule.
- 5.3 Your pay shall be paid weekly via direct transfer into your nominated bank account.
- 5.4 You will be automatically enrolled in the KiwiSaver scheme, unless you elect to opt-out. The Employer agrees to make contributions to your KiwiSaver account in accordance with the provisions of the KiwiSaver Act 2006.

6. ANNUAL Leave

- 6.1 You will be entitled to four weeks paid annual leave after 12 months of continuous service with the Employer calculated in accordance with the provisions of the Holidays Act.
- 6.2 Additional provisions regarding annual leave are set out in the Employee Handbook.

7. SICK LEAVE

- 7.1 After 6 months employment with the Employer, you shall be entitled to 5 days sick leave for each subsequent 12 month period of service.
- 7.2 To be entitled to a period of sick leave, you must provide satisfactory documentary evidence in accordance with the Employer's policies.
- 7.3 Where you do not have access to paid sick leave entitlements, you are required to provide documentary evidence for any period of absence due to sickness in the form of a medical certificate. Any costs incurred for obtaining this evidence will be paid by you.
- 7.4 Additional provisions regarding sick leave are set out in the Employee Handbook.

8. OTHER LEAVE

All other leave will be provided to you in accordance with the Employer's policy and/or relevant legislation, whichever is more generous.

9. PUBLIC HOLIDAYS

- 9.1 You are entitled to public holidays in accordance with the Holidays Act.
- 9.2 The Employer may request you to work on a public holiday. You will be paid at a rate of time and half for all hours worked on a public holiday and may be entitled to an alternative paid holiday day at a later date determined by agreement between you and the Employer.

10. COMPANY MOTOR VEHICLE

- 10.1 You may, from time to time, be required to use company motor vehicles to enable you to efficiently perform your duties. This vehicle is provided solely for work-related use.
- 10.2 The continued provision of a company motor vehicle is conditional upon you at all times holding a valid driver's license.
- 10.3 The type of company motor vehicle provided is at the discretion of management, and may be swapped at any time in accordance with the Employer's operational requirements.
- 10.4 At the direction of the Employer, this motor vehicle must be returned to the Employer during any period of leave, whether paid or unpaid.
- 10.5 Additional rules regarding vehicles and driving are set out in the Handbook which you are expected to read and fully comply with. The Employer reserves the right to vary, alter or withdraw these arrangements and will provide reasonable notice of any such changes.

11. COMPANY FUEL CARD

- 11.1 You may be provided with a company fuel card in order to complete your duties as directed by the Employer. This fuel card may only be used for business purposes.
- 11.2 Additional rules regarding vehicles and driving are set out in the Handbook which you are expected to read and fully comply with. The Employer reserves the right to vary, alter or withdraw these arrangements and will provide reasonable notice of any such changes.

12. CONFIDENTIAL INFORMATION

You agree at all times during and after your employment with the Employer:

- (a) to refrain from directly or indirectly disclosing to a third party Confidential Information except in the proper course of carrying out your duties;
- (b) not to use the Confidential Information for any purpose other than for the benefit of the Employer;
- (c) to keep confidential all Company Confidential Information; and
- (d) to comply with the terms of this Agreement unless otherwise required by applicable laws or regulations.

13. COPYRIGHT and INTELLECTUAL PROPERTY

- 13.1 All Intellectual Property rights arising from any works created or developed by you in the course of your employment (whether alone or with others) will belong to the Employer and you agree to immediately disclose to the Employer all such works.
- 13.2 You agree that all existing Intellectual Property rights, title and interest in all works created or developed by you in the course of your employment (whether alone or with others) are vested in the Employer and upon their creation, all such rights will vest in the Employer. You agree to execute all documents and do all acts required to secure any Intellectual Property rights for the Employer.
- 13.3 For the benefit of the Employer, you consent to any and all acts or omissions (whether occurring before or after this consent is given) in relation to all works made or to be made by you in the course of your employment which might otherwise infringe your Moral rights in those works.
- 13.4 You warrant that you have consented without coercion or without relying on any representations other than those set out in this agreement.
- 13.5 For the purposes of this Agreement:
 - (a) "Intellectual Property" means all form of intellectual property rights throughout the world including but not limited to copyright, registered patent, design, trade mark and confidential information including know-how and trade-secrets.

- (b) “Moral Rights” has the meaning given to it in the Copyright Act 1994 and includes rights of integrity of authorship, rights of attribution of authorship and similar rights that exist or may come to exist anywhere in the world.
- (c) “Works” means all inventions, policies, practices, designs, drawings, plans, software, hardware, reports, documents, systems, improvements and other materials.

14. PRIVACY

You agree to comply with the obligations set out in the Privacy Act.

15. DEDUCTIONS FROM WAGES

- 15.1 You consent, pursuant to the Wages Protection Act 1983, to the Employer deducting from your pay, including holiday pay.
- 15.2 You agree that the Employer may deduct any overpayments, outstanding debts owed to the Employer, the value of any unreturned property or any property returned in a damaged state.
- 15.3 The Employer agrees that it will consult with you prior to any deduction being made with the exception of specific deductions already consented to by you.

16. SUSPENSION

The Employer may suspend you from work or from any of your standard duties and responsibilities for health and safety reasons or to enable the Employer to investigate any employment issue. The Employer will seek your comments prior to a decision being made about suspension.

17. TERMINATION OF EMPLOYMENT

- 17.1 The Employer may terminate your employment without notice or without a payment in lieu of notice for any of the following reasons, if you:
 - (a) commit any serious or persistent breach of any of the terms of the Agreement;
 - (b) are guilty of dishonesty, misconduct or neglect in the performance of your obligations under the Agreement;
 - (c) become insolvent or bankrupt or make any assignment or arrangement with your creditors;
 - (d) are convicted of any criminal offence relevant to the performance of your obligations under the Agreement;
 - (e) refuse to comply with any reasonable instruction or direction including any failure to comply with your obligations under any of the Employer’s rules, policies and/or procedures and any directions given by management of the Employer;
 - (f) fail to perform to the standard reasonably expected by the Employer, including persistent failure to achieve targets;
 - (g) obtain a medical assessment result that is not satisfactory to the Employer and which objectively results in you being unable to perform your duties set out in the Agreement;
 - (h) abuse alcohol or drugs whilst on the Employer’s premises, or just prior to commencing work on the premises, which adversely affects your ability to carry out your duties; or
 - (i) engage in physical abuse or display unreasonable verbal aggression.
- 17.2 Following completion of your trial and/or probationary period, at any time during the operation of the Agreement, the Employer may terminate your employment by providing three weeks’ written notice.
- 17.3 Following completion of your trial and/or probationary period, you may terminate this Agreement at any time by providing the Employer with three weeks’ written notice.
- 17.4 In the event you are absent from work for three consecutive working days without any notification to the Employer, this agreement shall automatically terminate on the expiry of the third day without the need for notice of termination of employment.

- 17.5 The Employer may, at its discretion, make payment to you in lieu of all or part of this notice period. On termination, you are also entitled to payment for any untaken annual leave entitlements calculated in accordance with the provisions on the Holidays Act.
- 17.6 During the whole or any part of the notice period, the Employer is under no obligation to assign you duties or functions or to provide any work to you and may direct you not to attend work during all or part of the notice period.
- 17.7 On termination of employment for any reason, you must immediately return to the Employer all property, documents and items relating to the business of the Employer which you have in your possession or control. This includes, but is not limited to, any car, equipment, papers, keys, reports, computers, information, programs, records and documents, intellectual property and other information, in whatever form, relating in any way to the Employer or its clients.
- 17.8 On termination of employment for any reason, you must also irretrievably delete any Confidential Information stored on any computer, magnetic or optical disk or memory, and all matter derived from those sources in your possession, custody, care or control outside the Employer's premises.
- 17.9 You will repay to the Employer the balance of any loans or advances made by the Employer against your pay or leave entitlements, or any money otherwise owed to the Employer by you. The Employer is authorised to deduct from your final pay any moneys owing to the Employer on termination.
- 17.10 You agree and acknowledge that if you do not give the required notice to the Employer, this will necessitate the Employer replacing you at short notice and this will result in an extra cost to the Employer. As such, you agree that if you do not give the required notice period of three weeks you consent to the Employer deducting the sum equivalent to the costs incurred by the Employer as a consequence for the unworked notice period from any money owed to you or to the Employer otherwise recovering the sum.

18. NON SOLICITATION AND NON COMPETE

- 18.1 From the date your employment ends, you agree not to solicit or attempt to solicit business from any client for the duration of two years.
- 18.2 From the date your employment ends, you agree not to solicit, attempt to solicit, entice or encourage any employee of the Client or the Employer to leave their engagement with the Employer for the duration of two years.
- 18.3 From the date your employment ends, you agree not to interfere or attempt to interfere with the relationship between the Employer and its Clients, employees or suppliers for the duration of two years.
- 18.4 From the date your employment ends, you agree not to engage or prepare to engage in a business that competes with the business of the Employer for the duration of twelve months within fifty (50) kilometres from the location described in Item 5 of the Schedule.
- 18.5 In this provision Client means any person, firm or company who at any time during the period of 12 months prior to the termination of your employment was a Client of the Employer in respect of the part or parts of the business in which you were employed.
- 18.6 The restrictions in this clause apply to conduct which is either direct or indirect (eg done through an agent of any kind) and regardless of whether the conduct is engaged in for your own benefit or for the benefit of any other person or entity.
- 18.7 Each of the above obligations are separate and independent obligations. In the event that one or more of the obligations are found to be unenforceable, the remaining obligations will continue to apply.
- 18.8 You acknowledge that each of the above restrictions are reasonable and necessary to protect the Employer's legitimate interest.
- 18.9 You acknowledge that you will be liable in damages (including punitive or special damages) arising out of the breach of any of the terms of this provision.

19. REDUNDANCY

If your position is made redundant, you shall not be entitled to any redundancy payment.

20. RESTRUCTURING

20.1 In the event of you are an affected employee during a restructuring, as defined in the Employment Relations Act, the Employer will as soon as is reasonably practicable, taking into account the commercial requirements of the business, negotiate with the potential new employer the impact of the restructuring on the affected employees' positions.

20.2 The Employer will negotiate with the potential new employer regarding:

- (a) Whether or not the new employer proposes to offer affected employees the opportunity to transfer on the same terms and conditions;
- (b) If some or all affected employees will not transfer on the same terms and conditions, whether there will be any other potential opportunities for employment for them with the new employer; and
- (c) The proposed date for commencement of employment with the potential new employer (if applicable).

20.3 You agree to the Employer disclosing to the potential new employer on a confidential basis, as part of the abovementioned negotiations, relevant information such as details of the Employee's terms and conditions of employment, job description, skill-set, experience and qualifications.

20.4 If you are not employed by the potential new employer, for whatever reason then:

- (a) The Employer will consult with the you and consider whether there are any opportunities for redeployment within the Employer's business, if any part of it is being retained by the Employer; and
- (b) The Employer will provide any entitlements specified in the redundancy provision of this agreement and will consult with the Employee about any further entitlements that may be made available.

20.5 Where the Employee's position is terminated in a restructuring and the potential new employer offers employment to the Employee on terms which are the same or substantially similar, there shall be no entitlement to redundancy compensation.

21. RESOLUTION OF EMPLOYMENT RELATIONSHIP PROBLEMS

21.1 If any employment issues arise, those should be raised with the Employer as soon as possible so that they can be resolved, in accordance with the Employer's grievance procedure.

21.2 If the matter is not resolved either party can seek assistance from the Ministry of Business, Innovation & Employment's mediation service. If the issues are not resolved at mediation, they may be referred to the Employment Relations Authority.

21.3 If the issue is a personal grievance, the Employee must present that grievance within 90 days of the event giving rise to the grievance, or after further time if allowed by the Employer or where the Employment Relations Authority grants an extension of time.

22. ASSIGNMENT

22.1 You may not assign or transfer the rights and benefits under this Agreement.

22.2 The Employer may assign its rights and obligations under the Agreement to any person, business, company or entity.

23. GOVERNING LAW

The Agreement shall be governed by the jurisdiction of the courts in the location as described at Item 8 of the Schedule.

24. VARIATION OF TERMS

The terms of the Agreement may be varied from time to time by mutual agreement in writing between the parties.

25. SEVERABILITY

If any of the terms and conditions of the Agreement are void, or become voidable by reason of any statute or rule of law then that term or condition shall be severed from the Agreement without affecting the enforceability of the remaining terms and conditions.

26. ENTIRE AGREEMENT

The contents of the Agreement constitute the entire agreement between you and the Employer. Any previous agreements, understandings, and negotiations on this subject matter cease to have effect.

27. ACKNOWLEDGEMENT

The Employee acknowledges:

- (a) that they have been advised of their right to take independent advice on the terms of this agreement;
- (b) that they have been provided with a reasonable opportunity to take that advice; and
- (c) that they have read these terms of employment and understand these terms and their implications.

SIGNED BY AN AUTHORISED OFFICER OF THE EMPLOYER

AUTHORISED OFFICER

WITNESS

TITLE OF AUTHORISED OFFICER

NAME OF WITNESS (PRINTED)

TITLE OF AUTHORISED OFFICER

SIGNED BY YOU

EMPLOYEE

WITNESS

DATED

NAME OF WITNESS (PRINTED)