**Individual Employment Agreement: Permanent**

**Individual Employment Agreement**

**between**

**(*COMPANY NAME*) (“we”, “us”, “our”)**

**and**

**(*EMPLOYEE NAME*) (“you”)**

**The Position**

You will be employed in the position of ROLE. The duties and responsibilities are as discussed with you and set out in the Job Description attached to this agreement. These duties may be modified and updated by us from time to time following agreement and consultation with you. You also agree to perform all other reasonable duties and comply with any reasonable instructions we issue.

**Nature of the Agreement**

This position commences on the START DATE and continues until terminated as per the terms in this agreement. This agreement sets out the whole of the agreement between the parties. It replaces any previous agreements, arrangements or representations, whether written or oral, that may have been made between you and us.

**Trial Period**

A trial period will apply for the first 90 days from your first day of employment to assess and confirm suitability for the position.

During the trial period we may terminate the employment relationship by giving one week’s notice, and you may not pursue a personal grievance or other legal proceedings in respect of that termination. You may however pursue a personal grievance on grounds as specified in sections 103(1)b-g of the Employment Relations Act 2000 (such as: unjustified disadvantage; discrimination; sexual harassment; racial harassment; duress with respect to union membership; and the employer not complying with Part 6A of the Employment Relations Act 2000).

Any notice, as specified in the employment agreement, must be given within the trial period, even if the actual dismissal does not become effective until after the trial period ends. This trial period does not limit the legal rights and obligations of either of the parties (including access to mediation services), except as specified in section 67A(5) of the Employment Relations Act 2000.

**Eligibility to Work**

The employment relationship between the parties requires you to be legally entitled to work in New Zealand according to the terms of this agreement.  This employment relationship will end immediately in the event you become ineligible to work in New Zealand.

**Place of Work**

You will be based at LOCATION. This location may be varied for business reasons, and any changes shall be decided upon after consultation with you. You may also be required to travel or to work in other places according to the needs of the business.

**Hours of Work**

Your normal hours of work will be HOURS per week, normally worked <INSERT DAYS AND TIMES>. Your hours of work may be varied by mutual agreement between us or if agreement cannot be reached, by us, following a consultation process.

OPTION 1: INSERT FOR HOURLY RATE EMPLOYEES You agree and understand that you may be asked to work reasonable additional hours in addition to your guaranteed hours of work, payment for which will be as per your normal hourly rate.

OPTION 2: INSERT FOR SALARIED EMPLOYEES Any additional hours will not attract additional payment (except as required by the Holidays Act 2003). For the purposes of reasonable additional hours, you consent to averaging your working hours over a six-month period. You acknowledge that your salary compensates you for all hours worked and for remaining available to work in addition to your guaranteed hours of work.

**Remuneration**

You will be paid an hourly rate of $RATE OR an annual salary of $SALARY, which is payable WEEKLY/FORTNIGHTLY on a DAY.

**Deductions**

Where requested by you, we will deduct from your wages/salary any agreed amount for matters such as superannuation, a staff social club or union fees and pay the amount to the organisation you specify. After consulting with you, we shall also be entitled to deduct from any payment to you any amount that you owe us, including the value of any overpayment (whether for leave taken in advance or otherwise) or unreturned or damaged property.

**Entitlements under Holidays Act 2003**
Your leave entitlements under the Holidays Act 2003 are summarised in this agreement. You may obtain further information about these entitlements from the Ministry of Business, Innovation and Employment, on its website at www.employment.govt.nz or by calling 0800 800 863, or from your union (if applicable).

**Public Holidays**

There are 11 public holidays listed in the Holidays Act 2003, which are: Christmas Day, Boxing Day, New Years Day, 2 January, Waitangi Day, Good Friday, Easter Monday, ANZAC Day, the birthday of the reigning sovereign (observed on the first Monday in June), Labour Day (being the fourth Monday in October) and the relevant provincial Anniversary Day. You may be required to work on public holidays from time to time.

If you are not required to work on a public holiday and you would otherwise have worked that day, you will be paid for that day. If you are required to work on a public holiday, you will be paid at least for the time actually worked on the day plus half that amount again in accordance with section 50 of the Holidays Act 2003. In addition, if you would otherwise have worked that day, you will be entitled to an alternative holiday on pay to be taken at a later date agreed with us.

**Annual Holiday Leave**

You shall be entitled to paid annual holiday leave of four weeks per year after 12 months continuous employment with us, in accordance with the Holidays Act.

If you leave our employment before becoming entitled to enough annual holiday leave to cover the amount of annual holiday leave taken in advance, we may recover from your final pay the amount paid to you for holidays taken in advance that is not covered by your annual holiday leave entitlement.

This clause is subject to the Wages Protection Act 1983. The employee's signature will satisfy the written consent requirement of Section 5 of the Wages Protection Act 1983.

**Sick Leave**

After six months’ continuous employment you will be entitled in each subsequent period of 12 months to five days’ paid sick leave per annum. A medical certificate will be required to be produced for any sick leave taken in excess of three continuous working days. We may however request a medical certificate earlier if either you no longer have any paid sick leave available or if we otherwise pay the reasonable costs of obtaining the medical certificate and inform you as early as possible that the proof is required.

**Bereavement Leave**

After six months’ continuous employment you will be entitled to paid bereavement leave as follows:

(a) three days’ leave where you suffer a bereavement upon the death of a spouse (or partner), parent, child, brother, sister, grandparent, grandchild or spouse’s (or partner’s) parent; and

(b) one day’s leave where we accept that you have suffered a bereavement upon the death of any other person. In deciding whether you have suffered a bereavement, we will take into account the closeness of the association between you and the deceased and whether you have any responsibilities in relation to the death or funeral.

You will notify us of your intention to take bereavement leave as early as possible either beforeor on the day concerned.

**Other Leave**

Unpaid leave and study leave may also be granted at our discretion.

**Your Obligations**

You agree you shall:

1. Comply with all reasonable and lawful instructions provided to you by the us
2. Perform your duties with all reasonable skill and diligence
3. Conduct your duties in the best interests of our business and our employment relationship
4. Be devoted exclusively to your duties during working hours
5. Promote and protect our interests at all times, including passing on all relevant business information and potential opportunities that you become aware of
6. Deal with us in good faith in all aspects of the employment relationship
7. Comply with all policies and procedures (including any Codes of Conduct) implemented by us from time to time, and
8. Take all reasonable steps to perform the job in a way that is safe and healthy for yourself and your team.

**Our Obligations**

We agree we shall:

1. Act as a good Employer in all dealings with you
2. Deal with you and anyone representing you in good faith in all aspects of the employment relationship, and
3. Take all reasonable steps to provide you with a safe and healthy work environment.

**Kiwisaver**

You have the option of joining KiwiSaver, and as a new employee will be automatically enrolled into KiwiSaver. KiwiSaver is a voluntary, work-based savings initiative to help New Zealanders with their long-term saving for retirement. More information about KiwiSaver is available from <http://www.kiwisaver.govt.nz>.

**Health and Safety**

Both parties to this agreement shall comply with their obligations under the Health and Safety at Work Act 2015. You must exercise reasonable care and diligence in the performance of your duties and comply with all reasonable instructions to protect the health and safety of you and the health and safety of others.

**Confidentiality**

It will be expected of you that you exercise reasonable judgment on matters of confidentiality to the organisation. This includes during the term of your employment, and after the termination of this agreement. You agree that you will not disclose to any third party any information about the business, or our clients, employees, contractors, intellectual property or trade secrets, apart from what is necessary to perform your role or as required by law.

You agree to take all reasonable steps to prevent the improper use or disclosure of any confidential information of the nature described above and will immediately advise us of any instance of unauthorised use or disclosure of confidential information of which you become aware.

**Intellectual Property**

All work produced by yourself, alone or with others, in the performance of your duties under this agreement shall be our property, inclusive of any copyright and/or merchandising rights.

If requested, you agree that you will, whether during or after termination of your employment, do anything that we consider necessary to pass all rights, titles or interests in such intellectual property to us.

**Conflict of Interest**

You agree that there are no contracts, restrictions or other matters which would interfere with your ability to perform your role. You further agree that you will not, without our written consent, be engaged, directly or indirectly, in any business or activity that may interfere with the performance of your duties under this agreement or that may otherwise conflict with our interests.

You agree that should you become aware of any actual or potential conflicts of interest you will let us know as soon as possible, including circumstances where you are offered any gift, benefit or advantage in the course of your employment.

OPTIONAL **Restraint of Trade**

Following the termination of your employment for whatever reason you will not, without our written consent, whether on your own behalf or on behalf of any other person, company or other entity, and whether as an employee, director, contractor, or in any other capacity:

(a) for a period of six months:

(i) attempt to encourage or persuade any person, company, or other entity who during the 12 months immediately prior to the termination of your employment was a client, customer, or supplier of ours and who had dealings or contact with you, to terminate, restrict or vary their dealings with us; or

(ii) seek to solicit or carry out any work for any person, company, or other entity who during the 12 months immediately prior to the termination of your employment was a client, customer, or supplier of ours and who had dealings or contact with you; or

(iii) employ or offer to employ, or conclude or offer to conclude any contract for services with, any person who is an employee or contractor of ours; or

(b) for a period of [three months], be employed, engaged, or interested in, or otherwise associated with, any business that competes or may compete with our business in New Zealand.

You acknowledge that the above restraints are no more restrictive than reasonably necessary in all the circumstances to preserve and protect our legitimate business interests and trade connections and that the value of the remuneration referred to in this agreement is fair and reasonable consideration for your being bound by the restraints.

If any part of this clause is deemed to be unenforceable and is severed or modified for any reason, the remainder of this clause and this agreement will continue to be enforceable by the parties consistent with any severance or modifications.

**Restructuring and Redundancy**

If your employment is terminated by reason of redundancy, you will be entitled to the period of notice of termination specified in the General Termination clause below. We may make a payment in lieu of notice for all or any part of the notice period.

However, you will not be entitled to any period of notice of termination where we:

1. Transfer you to an alternative position with us on terms and conditions that are no less favourable to those that applied to you immediately prior to the transfer; or
2. Sell, transfer or contract out our business or part of our business, and the purchaser, transferee or new contractor offers you employment on terms and conditions that:
3. are no less favourable to those that applied to you immediately prior to the sale, transfer or contracting out with recognition of service as continuous for the purpose of any service-related benefits, whether or not you accept that offer; or
4. you accept.

You will not be entitled to any redundancy compensation in any circumstances.

**Employee Protection**

Prior to any “restructuring” as defined in s 69OI of the Employment Relations Act 2000, we will, as soon as reasonably practicable:

(a) Seek to negotiate with the other party to the restructuring (**Potential Employer**) about whether employees who are affected by the restructuring will transfer to the Potential Employer on the same terms and conditions of employment; and

(b) Review each affected employees’ terms and conditions of employment and advise what entitlements, if any, are available to each employee in the event that they do not transfer to the Potential Employer.

**General Termination**

Either party may terminate this agreement by giving the other party X weeks’ notice of termination. We may make a payment in lieu of notice for all or any part of the notice period.

**Termination for Serious Misconduct**

We may terminate this agreement summarily and without notice for serious misconduct on your part. This includes but is not limited to:

* Theft
* Dishonesty
* Harassment of a team member or customer
* Serious or repeated failure to follow an instruction
* Deliberate destruction of our property
* Actions which seriously damage our reputation

**Suspension**

Should we have the need to investigate any alleged misconduct, or because your presence in the workplace may represent a hazard to the health and safety of any person, we may, after discussing with you our proposal to suspend you and considering your views, suspend you from work.

You will be paid for the period of suspension, unless that period is prolonged for reasons outside our control (such as a criminal investigation or because you have failed to cooperate with our reasonable requirements), in which case you may be suspended without pay.

**Garden Leave**

We may place you on “garden leave” for all or part of your period of notice of termination. During a period of “garden leave” you will remain a paid employee of ours, but we may require you not to attend the workplace, contact any customers or other employees, or undertake any duties whatsoever.

**Termination on Medical Grounds**

If you have been absent from work for more than eight weeks because of illness, we may require you to undergo a medical examination by a registered health professional nominated by us and at our cost. You hereby give consent for us to contact that health professional to discuss the results of the medical examination. This report, and any information provided by you will be taken into account in assessing your fitness for work. We will be entitled to draw such inferences as we see fit in the event that you fail or refuse to undergo any requested medical examination. If we believe that you are unable to perform your role satisfactorily we may terminate this agreement with two weeks’ notice.

**Abandonment of Employment**

If you have been absent from work for three consecutive days without contacting us, we will make every effort to contact you. If we are unable to, and do not hear from you this agreement will automatically terminate at the end of the third day without the need for a notice period.

**Obligations on Termination**

On termination of your employment for whatever reason, or at any other time requested by us, you will immediately return to us all information, material or property (including copies of such information, material or property) that belongs to us, concerns any aspect of our business, or which we are responsible for, and which is within your possession or control.

**Dispute and Personal Grievance Procedures**

Any personal grievance, dispute over the application or interpretation of this agreement, or any other employment relationship problem which may arise will be resolved using the procedures in the Employment Relations Act 2000. Attached is a document outlining how any employment relationship problems can be resolved.

**Business Interruption**

In the event that all or part of our business operations are suspended as a result of an event beyond our control (such as an epidemic, war, natural disaster, electricity failure, strike or governmental action) (**Interrupting Event**) we may request you to undertake alternative duties, work from another location or suspend all or part of your employment. If you are suspended, we may agree that you will take accrued annual holiday leave for the period of suspension, but we will otherwise not be required to pay you for any period where you are not able to work due to the Interrupting Event.

**Privacy Obligations**

Both parties will comply with the obligations set out in the Privacy Act 1993. You must not breach the privacy of any customer or client in the course of your employment and you hereby consent to the collection of your personal information by us for purposes relating to your employment.

**Variation of Agreement**

We agree that we may vary this agreement from time to time, and that variation will only be effective and binding if it is in writing and signed by both of us.

**Severability**

The provisions in this agreement are severable, and if any clause is found to be invalid this will not affect the remaining provisions of the agreement.

**Acknowledgement**

By signing this agreement, you acknowledge that you:
(a) Have not misled or supplied false information to us in any respect, including in relation to your qualifications, experience or ability to perform any duties under this agreement, and may be summarily dismissed if found to have misled, or supplied false information to, us;

(b) Have not deliberately failed to disclose any matter that could have materially influenced our decision on whether to employ you;

(c) Were provided with a copy of this agreement and that you have read, understood and agreed to its terms; and
(d) Were advised that you were entitled to seek independent advice and have been given a reasonable opportunity to seek such advice before signing this agreement.

I, \_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_, hereby accept the above terms and conditions of employment.

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date:

Manager Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date:

**INFORMATION ABOUT RESOLVING EMPLOYMENT RELATIONSHIP PROBLEMS**

1. Discuss the problem with your employer and try and resolve the problem. Be clear about the facts and the issues.

2. Discuss the matter with whomsoever you wish, to find out what the law is and/or what the employment agreement says. You may consult a union, a lawyer or any other person or organisation that may be able to help. Clarify whether you still have a problem and exactly what it is.

3. If the problem is not resolved by discussion, you or your employer may:

* Contact the Ministry of Business, Innovation and Employment for their help, which may include mediation
* Contact the Employment Relations Authority for a decision
* If not satisfied with the Employment Relations Authority determination, go to the Employment Court for a judicial hearing

4. If you believe you have a Personal Grievance, you must raise the matter with your employer within 90 days of the action complained of, or the date you became aware of it (whichever is the later). Personal Grievances may be pursued if you believe you have any of the following complaints:

* Unjustifiable dismissal
* Unjustifiable action which disadvantages you
* Discrimination
* Sexual harassment
* Racial harassment
* Duress over membership of a union or other employee organisation

In any employment relationship problem, you have the right to be represented by a person of your choice

Should any person wish to have more detailed information, either verbally or documented, about the services and procedures available for resolving employment relationship problems, then please feel free to contact your Manager.