# This is a sample agreement. If you are unsure whether it suits your circumstances, please seek advice.

# PERMANENT EMPLOYMENT AGREEMENT

**PARTIES**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(the employer or we)

AND

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(the employee or you)

**TERM OF EMPLOYMENT**

This individual employment agreement replaces all previous understandings or agreements, commences on [insert date] and will continue indefinitely until terminated by either party in accordance with the terms of this agreement.

This agreement may be varied or updated in writing between us at any time.

**POSITION**

You are employed as [insert title] at our premises at [insert address] or at locations as directed by us.

Your duties were discussed with you during your job interview and are set out in the attached job description. We may, however, after consultation, require you to perform other duties which may reasonably be expected of you.

**TRIAL PERIOD**

You are employed on a trial basis under section 67A of the Employment Relations Act 2000 for the first 90 calendar days of your employment. During this trial period your employment may be terminated on [insert number] [hours/days/weeks’] written notice to you. You may be paid out in respect of such notice period, in lieu of working.

You understand and agree that under section 67B of the Employment Relations Act 2000 you may not bring a personal grievance or legal proceedings in respect of such dismissal.

This clause does not prevent your dismissal without notice for serious misconduct.

**ALTERNATIVE CLAUSE**

**PROBATIONARY PERIOD**

You are employed on a probationary basis for the first [insert number] calendar days to assess your suitability for the position. During the probationary period your performance will be assessed. You will be provided with guidance, feedback and any necessary support. Where concerns arise about your performance, this will be discussed with you promptly and you will be warned if your employment is at risk.

Your employment may be terminated without notice during the probationary period, for serious misconduct.

**HOURS OF WORK**

Your normal hours of work will be from [insert time] am to [insert time] pm [insert day of week] to [insert day of week]. You agree to work overtime as required.

Operations may require us to extend working hours in some weeks and reduce hours in other weeks. While we agree to act reasonably, you agree to adjust your working hours as required, after consultation with you and after reasonable notice has been given to you.

**OR roster with guaranteed minimum hours**

Your hours of work are rostered, and you will work at least [insert number] hours per [insert week, fortnight, month or length of roster period]. Rosters will be provided to you at least 7 days in advance, unless there are exceptional circumstances. You will have at least [insert number] consecutive days off within a reasonable period.

You agree to work overtime as required.

**OR roster with NO guaranteed minimum hours**

Your hours of work are rostered at least 7 days in advance, unless there are exceptional circumstances. You will have at least [insert number] consecutive days off within a reasonable period.

You agree to work overtime as required.

**REST AND MEAL BREAKS**

You are entitled to [insert arrangements, eg. one unpaid meal break of 30 minutes and two paid rest breaks of 10 minutes each per 8 hours of work].

OR

Your rest and meal breaks will be as directed by your manager.

OR

In view of the nature of your work rest and meal breaks cannot be reasonably provided, and you agree that you will be compensated in lieu of such breaks, with time off in lieu [or insert other compensatory measure agreed]

**REMUNERATION**

Your rate of pay will be $ [insert number] per hour, payable [insert pay period, eg weekly, 2 weekly, monthly] into your bank account. This rate also applies to overtime.

In the event of an overpayment of wages to you, we may recover the overpayment from any subsequent payment due to you, provided that you are advised in advance of the recovery.

Deductions may be made from your remuneration for time lost through illness, accident or default, for your failure to provide notice of termination, non-return of our property, for any damages suffered by us which were caused by your negligence, and in respect of any other deduction agreed by you in writing.

You agree that if this agreement is terminated and you have been paid any holidays or leave in advance, we may deduct such holiday or leave pay from your final pay. For the avoidance of doubt, the provisions of this agreement are express and sufficient authorisation from the employee to the employer to deduct from wages and holiday pay in accordance with the Wages Protection Act 1983.

**OR salary**

You will be paid an annual salary of $ [insert number], paid [insert pay period, eg weekly, 2 weekly, monthly], into your bank account. Your salary includes payment for all hours worked.

In the event of an overpayment of wages to you, we may recover the overpayment from any subsequent payment due to you, provided that you are advised in advance of the recovery.

Deductions may be made from your remuneration for time lost through illness, accident or default, for your failure to provide notice of termination, non-return of our property, for any damages suffered by us which were caused by your negligence and in respect of any other deduction agreed by you in writing.

You agree that if this agreement is terminated and you have been paid any holidays or leave in advance, the employer may deduct such holiday or leave pay from your final pay. For the avoidance of doubt, the provisions of this agreement are express and sufficient authorisation from the employee to the employer to deduct from wages and holiday pay in accordance with the Wages Protection Act 1983.

**ALLOWANCES**

You will be paid an allowance of $ [insert amount] per [insert circumstances], payable [insert when payment is to be made, eg ‘with your weekly pay’].

**ANNUAL HOLIDAYS**

In accordance with the Holidays Act you are entitled to 4 weeks paid annual holidays per year after 12 months of continuous employment with us.

Holidays may be taken at a mutually agreed time and you should refer to our House Rules, which explain when the business shuts down and how to apply for annual holidays. You are entitled to take up to two weeks of your holidays at one time.

**PUBLIC HOLIDAYS**

You are entitled to 11 paid public holidays per year as provided for in the Holidays Act, in addition to your annual holidays. If a public holiday falls on a day that would otherwise be a working day for you, you will be paid for that day.

You may be required to work on a public holiday if that day would otherwise be a working day for you. For working on such a day you will be paid in accordance with the Holidays Act. At present that is time and a half for the time actually worked on the day, plus another paid day off (an alternative holiday). The alternative holiday must be taken on a day agreed between us or failing agreement, as reasonably directed by us on two weeks’ notice.

If you are asked and agree to work on a public holiday that would **not** otherwise be a working day for you, you will be paid in accordance with the Holidays Act. At present that is time and a half for the time actually worked on the day. You will not be entitled to an alternative holiday in respect of this day.

**On Call arrangements on public holidays**

You may be required to be on call on public holidays. If you are on call you will receive $[insert amount] for being on call. If you are called out, you will also be paid as set out below.

**Otherwise a working day**

If it is otherwise a working day for you and you are required to restrict activities to the extent that you cannot enjoy a full holiday, you will receive an alternative holiday, even if you are not called out. If you are called out, you will also get time and a half for the hours worked.

If it is otherwise a working day for you and you are not restricted, eg if you can refuse a callout, and you are called and accept the callout, you will be paid time and a half plus an alternative holiday.

**Not otherwise a working day**

If it is not otherwise a working day for you and you are required to restrict activities to the extent that you cannot enjoy a full holiday, you will receive [insert payment], even if you are not called out. If you are called out, you will also get time and a half for the hours worked.

If it is not otherwise a working day for you and you are not restricted, eg if you can refuse a callout, and you are called and accept the callout, you will be paid time and a half for the hours worked.

**SICK LEAVE**

After 6 months of continuous employment you become entitled to five days paid sick leave for the following 12 months, and for every 12 months thereafter, as provided for in the Holidays Act. This covers you, your spouse and any person dependent on you.

The unused portion of this leave automatically accumulates to a maximum of 20 days. Unused sick leave is not paid out on termination of this agreement.

**BEREAVEMENT LEAVE**

After 6 months of continuous employment you may take paid bereavement leave, as provided for in the Holidays Act. On the death of your spouse, parents, children, grandparents, grandchildren, brother or sister, or your spouse’s parents, you may take up to three days per bereavement. On the death of any other person you may take one day if we agree that you have suffered bereavement.

**PARENTAL LEAVE**

You are entitled to parental leave in accordance with the Parental Leave and Employment Protection Act 1987.

**PERSONAL GRIEVANCES AND DISPUTES**

If any employment issues arise between us, you must let your manager know immediately so that we can try and resolve it with you then and there. If the matter cannot be resolved, we will seek assistance from the Ministry of Business, Innovation and Employment’s Mediation Service. If mediation does not resolve the matter either, it can be referred to the Employment Relations Authority.

A personal grievance should be raised within 90 days. If your employment agreement contains a trial period clause, you may not raise a personal grievance on the grounds of unjustified dismissal. You may raise a personal grievance on other grounds as specified in sections 103(1)b-g of the Employment Relations Act.

**HOUSE RULES AND DISCIPLINARY CODE AND PROCEDURE.**

You are subject to our house rules and disciplinary code and procedure, which are attached and may be amended from time to time.

You may be suspended with or without pay if a serious employment relationship problem arises between us. You will be consulted before suspension.

**HEALTH AND SAFETY AND DRUG AND ALCOHOL TESTING**

You accept our Health and Safety policies and procedures and undertake to remain familiar with any changes that may be made.

You agree to comply with all your statutory health and safety obligations, and with all directions and instructions regarding health and safety. You specifically agree to take all reasonable steps to ensure that you do not undermine your own health and safety, or the health and safety of any other person, while at work. This includes being under the influence of drugs and alcohol at work. You agree to undergo drug and alcohol testing by a medical practitioner in the circumstances set out in our Health and Safety policies.

**MOTOR VEHICLE**

If you use your private motor vehicle on business-related trips, we will reimburse you at [insert rate].

**OR**

We will provide you with a vehicle for work purposes only. The car must be parked at our premises during non-work time. We will meet all maintenance and running costs, including fuel and insurance. The vehicle allocated to you may be replaced from time to time.

**OR**

We will provide you with a vehicle for work purposes, and for the purpose of travelling between home and work. We will meet all maintenance, insurance and running costs (including fuel relating to work use). The vehicle allocated to you may be replaced from time to time.

**OR**

We will provide you with a vehicle, which you may make private use of. We will meet all maintenance, insurance and running costs including fuel. The vehicle allocated to you may be replaced from time to time. You must keep a record of work and non-work mileage, and provide this when requested.

**MOBILE PHONE**

We will reimburse you for all business-related calls made on your mobile phone.

**OR**

You will be provided with a mobile phone, of which you may make [insert ‘limited’ or ‘reasonable’] personal use.

**INTELLECTUAL PROPERTY**

We are the sole owners of all original work that you produce for us under this agreement or with the aid of our facilities or equipment. This includes, without limit, the copyright on and all other intellectual property in all such work.

**CONFIDENTIAL INFORMATION**

Except as required in the course of your duties under this agreement, authorised by your manager or required by law, you may not divulge to anyone, or use in any way, any information that comes to your knowledge as a result of your employment with us. This includes, without limit, information about our business. This restriction remains after you leave our employ.

You agree, upon request, to sign a statutory declaration that you have returned all our documents, and that you will not disclose any of our information, or use it for your own purposes.

**OR (in place of the CONFIDENTIAL INFORMATION clause above) -**

**FOR SALES AND SENIOR EXECUTIVE STAFF ONLY**

**RESTRICTIVE COVENTANTS**

We have successfully carried on business over some time and have built up substantial and valuable goodwill, trade secrets and confidential information in our business. The development of such goodwill, trade secrets and confidential information has required expenditure of considerable time, effort and money by us. You agree that in these circumstances and in return for employment for the benefits set out in this agreement, it is fair and reasonable for you to enter into the obligations set out in this clause, to protect our existing business and goodwill, and our trade secrets and confidential information.

1. **Confidential information**

You may not disclose to any person, or make use of, personal details of another employee, obtained during the course of your employment.

You may not during the term of this agreement or after its termination, use or disclose to anyone, including employees who are not entitled to it, any of our confidential information or trade secrets, unless it is necessary for your work.

You may not use confidential information about our business, or information gained through your employment, to your benefit, as distinct from our benefit.

You may not use confidential information in any way that could harm us.

You agree, upon request, to sign a statutory declaration that you have returned all our documents, and that you will not disclose any of our information, or use it for your own purposes.

1. **Non solicitation**

You may not, during your employment or for twelve months after termination of employment, solicit, try to entice away from us any other employee or client or customer or prospective client or customer or discourage another employee from being employed by us.

1. **Restraint of trade**

You may not, during this agreement and for [insert number] months after termination, establish, buy, or obtain an interest (either directly or indirectly) in, or work for any company or business in competition with us. This prohibition applies within a radius of [insert number] kilometres of our business.

Each obligation contained in this clause will be a separate obligation and will remain in force and effect even though some of the obligation or obligations, or part thereof, may be invalid to any extent.

If this clause is held invalid for any reason, the remainder of this agreement will not be affected.

**TERMINATION OF EMPLOYMENT**

This agreement may be terminated by either party giving [insert number] weeks’ notice or such other period as may be mutually agreed at the time, in writing. We may, at our sole discretion, pay you in lieu of some or all of the notice period.

We are not obliged to accept longer notice than that set out in this agreement, and neither are we liable to pay out more than the notice required in this paragraph, if we do not require you to work out the notice period.

Where you do not give the required notice, you agree that we may deduct from your final pay an amount equal to the notice not given. Where your final pay does not cover this amount, you agree to pay the shortfall immediately upon demand.

This clause does not prevent your dismissal without notice, for serious misconduct.

**Termination on Medical Grounds**

Where you have been, or in the opinion of a registered medical practitioner will be, absent from work for more than 3 months because of illness or injury, we may require you to undergo a medical examination by a registered medical practitioner nominated by us, at our cost.

In assessing your fitness for work, we will take into account (and provide you with a copy of) any report provided to us as a result of that examination, and any other medical report that you may provide to us. If (having considered such reports) we are of the reasonable opinion that you are incapable of performing your duties because of the illness or injury, we may terminate your employment after consultation with you, after giving you written notice as set out in this agreement.

**ABANDONMENT OF EMPLOYMENT**

If you have been absent from work without approval from your manager for three consecutive days, you will be deemed to have abandoned your employment. We will make reasonable efforts to contact you.

**REDUNDANCY AND EMPLOYMENT PROTECTION**

If your position is made redundant, you will be given the notice set out in the Termination clause after we have advised you of the possibility of redundancy, have given you an opportunity to make suggestions or comments on how to avoid redundancy and have considered such comments or suggestions. No redundancy entitlements are due to you under those circumstances.

If your position is made redundant but the work you have been doing is to be done by a new employer, you may have the option of transferring to the new employer.

In our negotiations with the new employer, we and the new employer will consider such a transfer, and whether this would be on existing terms and conditions of employment. If transfer is possible, but on reduced terms and conditions, we will agree with the new employer that you have at least four working days to consider whether to transfer, and that you may bargain directly with the new employer about this, during this period.

If you choose not to transfer, you will be given the notice set out in this clause after we have advised you of the possibility of redundancy, have given you an opportunity to make suggestions or comments on how to avoid redundancy and have considered such comments or suggestions. No redundancy compensation is due to you under those circumstances.

If you transfer, you will not be entitled to redundancy entitlements from us.

**ENTIRE AGREEMENT**

This agreement is the complete agreement between the parties.

**SEVERABILITY**

The various provisions of this agreement are severable and if any provision is held to be invalid or unenforceable by any court of competent jurisdiction, then such invalidity or unenforceability shall not affect the remaining provisions of this agreement.

**NON ASSIGNMENT BY EMPLOYEE**

You must personally perform the duties and responsibilities under this agreement and you may not subcontract or assign any of it.

**PARTIES’ SIGNATURES**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Employee Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Employer Date

**EMPLOYEE ACKNOWLEDGEMENT AND DECLARATION**

I acknowledge that I have been advised of the right to seek independent advice on this agreement, and was given a reasonable opportunity to get such advice.

I have read these terms of employment and understand these terms and their implications.

I agree to be bound by these terms of employment and the employer’s policies and procedures as implemented by it from time to time.

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