

SAMPLE INDIVIDUAL EMPLOYMENT AGREEMENT

This sample Individual Employment Agreement complies with requirements of the Employment Relations Act 2000 and amendments. 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.

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

- the employment agreement is provided to the prospective employee at the same time as an offer of employment is made and it is made clear that the offer of employment is conditional upon the employee signing an employment agreement.
- the prospective employee is given a reasonable opportunity to obtain independent legal advice *before* signing the agreement.
- you ensure that the agreement is finalised and signed (and every page initialled) before or at the time employment commences – not afterwards!
- You retain (mandatory from 1/7/11) a copy of every employment agreement or intended agreement.
- NOTE: The 90-day trial can not be used where there has been a previous employment relationship between the parties.

If you need further assistance with the preparation of your employment agreements please contact the Employment Relations Advisers on 03 366 5096.

INDIVIDUAL EMPLOYMENT AGREEMENT

(NO APPLICABLE COLLECTIVE AGREEMENT)

This Agreement is made pursuant to s.65, Employment Relations Act 2000 between:

_____ (“the Employer”)

AND

_____ (“you”)

1. POSITION AND DUTIES AND COMMENCEMENT

- a. You are employed as _____[state position]
- b. Your position description and duties are set out in **Schedule 1** to this agreement. You will also be required to perform all other duties which may reasonably be required by your Employer from time to time.
- c. In carrying out your duties, you are required to comply with all your Employer’s policies, rules and lawful instructions and at all times act in the best interests of the Employer.
- d. It is agreed that your employment shall commence on the first day of work, being

2. TRIAL PERIOD [OPTIONAL]

- a. Your employment is subject to the satisfactory completion of a **trial period**:
 - i. Of [insert # days] duration (being a period that is no longer than ninety days) and that
 - ii. You agree that during this trial period the employer may at any time terminate your employment and that
 - iii. If your employment is terminated you will not be entitled to bring a personal grievance or any other legal proceedings in respect of the termination of your employment other than as provided for in s67B (3) of the Employment Relations Act 2000.
- b. You acknowledge that, during the agreed trial period, no provision of this employment agreement or any employer policy regarding the employer’s obligations in relation to performance, conduct, training, or any other matter which would be relevant to the continuation of your employment, will apply to your employment and that the employer retains the right to terminate your employment without notice for misconduct. The parties acknowledge that s4(1A) (b) of the Employment Relations Act requires us both to be active, constructive, responsive and communicative in our dealings with each other.
- c. Notwithstanding any contrary provision in this agreement (save that provided in sub clause b. above), during the course of the trial period [insert days/weeks] notice of termination may be given by either of us at any time. At its absolute discretion the employer may elect to pay wages/salary in lieu of this period and require you not to work out the notice period.

- d. You acknowledge that you have been given a reasonable opportunity to discuss this provision and been advised of the right to seek independent advice.

3. DURATION OF AGREEMENT

- a. You are employed on a permanent basis. Your employment will continue until it is terminated in accordance with the terms of this agreement.

4. HOURS OF WORK

- a. Your normal hours of work will be _____ hours per week, to be worked between _____ (insert time) to _____ (insert time) on _____ days of the week, _____ (insert day) to _____ (insert day) inclusive.
- b. You will be entitled to one _____ minute unpaid meal interval and two _____ minute paid rest intervals each day. You agree that these breaks will be taken at times as directed by your Employer having regard for the need to maintain normal services.

[IMPORTANT NOTE: From 1 April 2009 meal and rest intervals have been required by law. For details of these requirements (which vary depending upon the duration of work periods) and to ensure that the terms of this agreement comply with these requirements members are strongly advised to obtain our Quick Guide – “Breaks and Infant Feeding”]

- c. In order to effectively perform the requirements of your position, you agree to work all additional hours reasonably required by your Employer or necessary to perform your job effectively.

5. LOCATION

- a. Your principal place of work will be the Employer’s premises at _____ (insert address).
- b. You may be required to work at such other locations as your Employer may reasonably require.
- c. You may be required to undertake some travel to meet the requirements of your role.

6. REMUNERATION

EITHER
FOR WAGED EMPLOYEES

- a. You shall be paid a wage of \$_____ per hour. You shall be paid only for time actually worked, unless this agreement specifically provides otherwise. *[OPTIONAL: It is agreed that this hourly rate shall be inclusive of the employer’s contribution of _____% to KiwiSaver or other approved Superannuation Scheme as required under the terms of the KiwiSaver Act 2006 (as amended).]*

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b. Overtime is any time worked in excess of _____ hours per week. Overtime shall be paid at the rate of \$ _____. "Time worked" means all time actually worked and **INCLUDES/EXCLUDES** approved leave entitlements.

OR

FOR SALARIED EMPLOYEES

c. You shall receive an annual salary of \$ _____. **[OPTIONAL: It is agreed that this salary shall be inclusive of the employer's contribution of _____% to KiwiSaver or other approved Superannuation Scheme as required under the terms of the KiwiSaver Act 2006 (as amended).]**

b. Your salary is deemed to cover all hours required to be worked in order to meet the requirements of your position. This is subject to any payment you will be entitled to for working on a public holiday. You are not entitled to be paid for any overtime worked.

c. Your **wage/salary** will be reviewed annually around _____ or at such other time as may be determined by the Employer. There is no obligation on the Employer to increase your wage or salary as part of this review.

d. Your **wage/salary** will be paid **weekly/fortnightly/monthly** in arrears, by direct credit to your bank account. The pay period is from _____ to _____ with payment being made on the following _____. At its sole discretion the Employer shall be entitled to alter the pay period and/or day upon which payment is made. Provided that the Employer shall first consult with the Employee and provided further that unless otherwise agreed, the Employer shall provide not less than one month's notice prior to any change taking effect.

e. The Employer will be entitled to make a deduction from your wages, salary or any holiday pay owed to you, after consultation with you, in the following circumstances:-
i. where there has been an overpayment to you; and/or
ii. where time has been lost due to your default, sickness or leave without pay; and/or
iii. where you have failed to give proper notice to terminate your employment under clause 13; and/or
iv. if you are indebted to the Employer for any reason.

You expressly consent to the Employer recovering any such overpayment or debt by making deductions from your wages, salary or holiday pay in subsequent pay periods or from any final payment due to you on termination.

[NOTE TO EMPLOYER: If you intend to withhold salary or wages to cover losses incurred through damage to property, loss of production or other losses incurred through the default of the employee, the specific circumstances you wish to cover must be set out in a separate sub-clause. The CECC can draft these clauses for you as part of our consultancy service]

7. KIWISAVER **[OPTIONAL]**

The Employer operates a 'total remuneration' policy with respect to the KiwiSaver scheme. It is therefore agreed that the remuneration payable under the terms of this agreement (including any variations) shall be inclusive of any applicable Employer contribution required under the terms of the KiwiSaver scheme.

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- a. Upon commencing employment an eligible Employee will be automatically enrolled In KiwiSaver if not already a member of that or any other qualifying scheme. If you do not wish to belong to KiwiSaver, you may opt out from Day 13 and up until Day 55 of starting employment in accordance with the provisions of the KiwiSaver Act 2006 and any KiwiSaver employee contributions deducted from your salary/wages will be refunded. (The refund may be made by the employer or the Department of Inland Revenue depending on the timing of the deduction).
- b. An eligible employee who has initially opted out of the scheme may opt in to KiwiSaver at any subsequent time.
- c. The Employer will make compulsory contributions towards Employee Kiwisaver accounts as prescribed by law.

LEAVE ENTITLEMENTS

NB – Further information about leave entitlements can be obtained from the Employment Relations Service of the Ministry of Business, Innovation & Employment on 0800 20 90 20 or www.ers.govt.nz

8. ANNUAL HOLIDAYS

- a. Annual Holidays shall be allowed in accordance with the Holidays Act 2003. You are entitled to 4 weeks annual holidays on the completion of each year of employment. Your annual holidays will be paid at the greater of your “ordinary weekly pay” or “average weekly earnings” (as defined by the Act).

OPTIONAL CLAUSE

- b. The Employer’s business closes down each year at _____.
You are required to take your annual holidays during the closedown. If you have been employed for less than one (1) year at the time of the closedown, you will not be required to work during the closedown. 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*. From then on, your anniversary date for the purpose of determining holiday entitlements will be the first day of the closedown*.

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

- c. You must take your annual leave in the 12 months after you become entitled to take it. The timing of your annual leave must be agreed by the Employer. If we are not able to agree on a time for you taking annual leave, the Employer may require you to take your annual holiday by giving you at least 14 days’ notice. You are not entitled to accumulate holidays from year to year without the express written approval of the Employer.

OPTIONAL CLAUSE

- d. We may agree, in writing, that you will be paid out up to one week of your annual holidays in each year. The inclusion of this provision does not constitute such agreement. If you do request part of your annual holidays to be paid out you must –
 - i. do so in writing (specifying how much of your annual holiday entitlement you wish to be paid out), and
 - ii. may do so on one or more separate occasions until a maximum of one week is paid out in each entitlement year.

Within a reasonable time of receiving your written request the Employer shall -



- i. consider your request
- ii. advise you in writing whether or not your request has been accepted, and
- iii. if accepted, shall pay you as soon as practicable after that decision has been made in accordance with the Holidays Act 2003.

The Employer shall not be required to provide you with a reason for declining any such request.

[NOTE TO EMPLOYERS: Employers may adopt a policy in relation to requests for annual holiday to be paid out. The CECC can draft this policy for you as part of our consultancy service.]

9. PUBLIC HOLIDAYS

- a. You are entitled to public holidays in accordance with the Holidays Act 2003. The following 11 days in each year will be holidays on pay in addition to annual holidays where they fall on days that would otherwise be working days for you.

- | | |
|----------------------------------|--|
| i. Christmas Day | viii. Labour Day |
| ii. Boxing Day | ix. The Birthday of the Reigning Sovereign |
| iii. New Years Day | x. Waitangi Day |
| iv. The Second day of January | xi. The day of the anniversary of the province (or the day locally observed as that day) |
| v. Good Friday | |
| vi. Easter Monday | |
| vii. Anzac Day | |

- b. Subject to the requirements of the Holidays Act 2003 we may agree, in writing, to transfer any of the above holidays to another calendar day or period of 24 hours. If we do so, the provisions in sub-clauses c and d shall apply only to the day observed as the transferred holiday.

- c. If you are not required to work on a public holiday, but that day would otherwise be a working day for you, you will be paid your “relevant daily pay” or where applicable, your “average daily pay” (as defined by the Holidays Act 2003) for that day. If you are required to work, you are entitled to be paid the higher of:-

- i. The portion of your relevant daily pay that relates to the time you actually worked, minus any penal rates, plus half that amount again

OR

- ii. The portion of your relevant daily pay, (including any penal rates), that relates to time you actually worked.

A “penal rate” is an identifiable additional amount payable to compensate you for working on a particular day of the week, or on a public holiday but does not include an additional payment for a 6th or 7th day of work.

- d. If you are required to work on a public holiday and that day would otherwise be a working day for you, you will be entitled to an alternative day’s holiday on pay. The alternative holiday shall be taken on a day agreed between you and the Employer, however, failing agreement it shall be taken on a day determined on a reasonable basis by the Employer provided the Employer shall give you not less than 14 days’ notice.

10. SICK LEAVE

- a. Once you have been working continuously for the Employer for 6 months, you are entitled to 5 days' paid sick leave, which you can take when:-
 - i. You are sick or injured;
 - ii. Your spouse or de facto partner is sick or injured; or
 - iii. Someone who depends on you for care is sick or injuredYou will become entitled to a further 5 days paid sick leave on the completion of each subsequent 12 months of continuous employment thereafter (i.e. after 18 months, 30 months etc.)
- b. You must make every effort to notify the Employer before your normal starting time for work on any day that you are sick or injured. Failure to do so may be considered misconduct.
- c. The Employer is entitled to ask you for a medical certificate to support your claim for sick leave if you are absent for 3 or more consecutive calendar days, whether or not the days would otherwise be working days for you. The Employer may also require proof of sickness or injury if you have been absent for less than 3 consecutive calendar days in which case the Employer shall inform you as early as possible that proof is required and agrees to meet your reasonable expenses in obtaining such proof.
- d. You may accumulate unused sick leave up to a maximum of 20 days.
- e. Sick leave shall be paid at your 'relevant daily pay' or, where applicable, your 'average daily pay' as defined by the Holidays Act 2003.
- f. Unused sick leave has no value other than for the taking of sick leave and will not be paid out at any time.
- g. The Employer may agree, at its sole discretion, to allow you to take paid sick leave in advance provided that any such leave shall be deducted from your entitlement or alternatively that payment made in respect of such leave shall be deducted from any remuneration (including holiday pay) due on termination of employment.
- h. The sick leave entitlements set out above are inclusive of, and not in addition to, the provisions in the Holidays Act 2003.

11. MEDICAL ASSESSMENT AND REPORTS

- a. Where the Employer has concerns about your health or welfare for any reason relevant to your employment or to the business, it can require you to undergo an independent medical assessment by an appropriately qualified practitioner of the Employer's choosing and at its expense. You agree that the Employer may ask the practitioner any questions that it believes in good faith are relevant.
- b. You agree that the Employer may request the practitioner to produce such written reports about your health or welfare as it requires and to utilise such reports in such ways as it reasonably believes are necessary to assist it 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 the Employer shall comply with the provisions of the Privacy Act (as amended from time to time) in complying with such requests.

12. BEREAVEMENT LEAVE

- a. Once you have been working continuously for the Employer for 6 months, you are entitled to three (3) days' paid bereavement leave each time you suffer a bereavement on the death of your:-
- | | |
|-------------------------------|--|
| i. Spouse or de facto partner | v. Grandparent |
| ii. Parent | vi. Grandchild |
| iii. Child | vii. Spouse's or de facto partner's parent |
| iv. Sibling | |
- b. Once you have been working continuously for the Employer for 6 months, you are entitled to one (1) day's bereavement leave on the death of any other person, provided the Employer accepts, taking into account relevant factors, that you have suffered a bereavement.
- c. Bereavement leave shall be paid at your 'relevant daily pay' or, where applicable, your 'average daily pay' as defined by the Holidays Act 2003
- d. You must make every effort to notify the Employer before your normal starting time for work on any day that you will be absent due to bereavement.
- e. The Employer is entitled to require you to provide reasonable evidence to support your claim for bereavement leave.
- f. The bereavement leave entitlements set out above are inclusive of, and not in addition to, the provisions of the Holidays Act 2003.

13. PARENTAL LEAVE

You are entitled to parental leave in accordance with the provisions of the Parental Leave and Employment Protection Act 1987, as amended from time to time. Further information about this statutory benefit and eligibility for parental leave can be found at <http://www.ers.govt.nz/parentalleave/>

14. TERMINATION OF EMPLOYMENT

- a. **Termination on Notice**
- (i) Except where otherwise provided you may terminate this employment agreement at any time on the giving of _____ weeks' notice.
- (ii) The Employer may terminate this agreement for cause at any time on the giving of _____ weeks' notice.
- (iii) The Employer, at its discretion, is entitled to require that you not work all or part of your notice period (whether notice has been given by you or by the Employer) and to make a payment in lieu of outstanding notice.
- (iv) If you fail to give the required amount of notice, the Employer will be entitled to deduct from your wages, salary or holiday pay a sum equivalent to the amount of notice you have failed to provide.
- b. **Termination without Notice**
- Notwithstanding clause 14(a)(ii) above, the Employer will be entitled to terminate your agreement without notice if you have committed serious misconduct.

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- c. **Abandonment of Employment** – If you are absent from work for a continuous period of three (3) or more working days without the consent of the Employer, or without notifying the Employer of your absence, you will be deemed to have terminated your employment without notice. You may forfeit wages as provided for in clause 14 a iv. above. The Employer will consider any representation you may provide as to why your employment should not be regarded as having been abandoned.
- d. **Return of Company Property** – On the termination of your employment, for any reason, you must immediately deliver to the Employer all tools, clothing, samples, products, keys, documents, records, plans, papers, computer disks or any other property in your possession (including any copies or extracts) which is the property of the Employer.

[NOTE TO EMPLOYERS: Consider the inclusion of a Garden Leave clause. The CECC can draft appropriate clauses for you as part of our consultancy service]

15. SUSPENSION

If the Employer is investigating an allegation of serious misconduct against you, the Employer is entitled to suspend you on full pay until the investigation is concluded. The Employer will consult with you before suspending you. You must remain contactable and available for meetings if required by the employer whilst on suspension.

16. REDUNDANCY AND RESTRUCTURING: EMPLOYEE PROTECTION PROVISION

- a. **Definitions** - For the purposes of this provision –

“restructure” and “restructuring” means entering into a contract or arrangement under which the Employer’s business (or part of it) is undertaken for the Employer by another person, or the sale or transfer of the Employer’s business to another person (subject to the exclusions set out in s69L Employment Relations Act 2000).

“redundancy” and “redundant” means a situation in which the Employer has staff (excluding casual employees) surplus to its requirements for whatever reason, whether arising from the restructuring of the whole or any part of its business, the adoption of new technology or a change in demand for its products or services or where the Employer otherwise requires a reduction in its permanent workforce.

“new employer” means the person to whom or which the contract or arrangement under which the business is to be restructured has been transferred (not being the Employer party to this employment agreement).

- b. **Restructuring** –

If the Employer proposes to restructure the business and as a result you may become redundant, the following process shall apply –

- i. The Employer shall first attempt to establish, in negotiations with the new employer, the extent to which your position may be affected by the restructuring. The Employer will also discuss with the new employer whether there is any opportunity for you to transfer to the new employer, and if so, on what terms and conditions.

- ii. Where it is established that your position will be affected as a result of a proposal to restructure, the Employer shall meet with you (and your representative should



you wish to have one) to inform you of the outcome of the negotiations with the new employer to the extent that it relates to your position.

- iii. If the Employer has been able to arrange for you to transfer to the new employer, you will be given the option of whether or not to transfer to the new employer.
- iv. If the Employer has not been able to arrange for you to transfer to the new employer, or you decide not to transfer to the new employer, your position may be made redundant.

c. Redundancy

- i. Where the Employer proposes to implement a redundancy, the Employer shall, where practicable, consult with those employees affected or likely to be affected (together with their representatives, if applicable) as a result of the redundancy.
- ii. In the event that your position is declared by the Employer to be redundant after consultation with you, the Employer will give notice of termination in accordance with clause 14(a)(ii). The employer may elect to pay your salary or wages in lieu of you working your notice or part of your notice.

OTHER

(NO REDUNDANCY COMPENSATION PAYABLE)

- iii. If you are made redundant, you will not be entitled to any compensation or other entitlements beyond the express terms of this agreement.

OR

(REDUNDANCY COMPENSATION PAYABLE)

- iii. If you are made redundant, in addition to your notice period, you will be entitled to:-
 - *insert description of entitlements. These may include, for example, redundancy compensation, the provision of references or certificates of service, time off to attend job interviews, and/or access to outplacement support/counseling. Advice should be sought on the drafting of such provisions*
- iv. The entitlements provided in clause 15(c)(iii) above shall not apply if you are offered work by your existing Employer or in the case of sale or transfer, by a new employer, upon substantially similar terms and conditions of employment.

17. TEMPORARY RELIEF FROM OBLIGATION TO PAY REMUNERATION

- a. Notwithstanding anything to the contrary, the terms of this agreement shall not require the employer to pay remuneration when, at its reasonable discretion, the employer decides that it is necessary, by reason of material safety, climatic, operational or economic considerations, to temporarily close, whether wholly or partially, the place of work in or from which the employee is ordinarily engaged.
- b. In such instances the employee shall not be entitled to receive remuneration (or any other compensation) in respect of the duration of the temporary closure.
- c. Where practicable the employer shall consult with employees affected by any decision to temporarily close the workplace with a view to determining, where practicable and subject to the parties' agreement, alternative arrangements for the duration of the temporary closure. These may include, for example, permitting the employee to take annual holidays, alternative

holidays, working from home, making up time lost or making other arrangements acceptable to both parties. Consultation shall be undertaken in a timely manner but not necessarily in advance of the decision to temporarily close the workplace.

- d. For the purposes of this clause “temporary closure” shall mean a period or periods not exceeding 15 working days in relation to each event.
- e. No decision to temporarily close the place of work in accordance with this provision shall affect the employee’s continuity of employment in relation to any service related entitlements or benefits provided by this agreement.

18. EMPLOYMENT RELATIONSHIP PROBLEMS

An employment relationship problem is any problem relating to or arising out of your employment relationship. It includes personal grievances and disputes about the interpretation, application or operation of this agreement but does not include any problems relating to or arising from fixing new terms and conditions of employment. All employment relationship problems between you and the Employer will be dealt with in accordance with the plain language explanation of the services available for the resolution of employment relationship problems specified in **Schedule Two** of this agreement.

19. HEALTH AND SAFETY

- a. You agree to carry out your work in accordance with safe practice and will not do anything or omit to do anything to expose you or any other person to sickness or injury.
- b. You must report all accidents, whether or not resulting in an injury to your manager. Failure to do so will be considered to be misconduct and could also jeopardise any entitlement to first week compensation you may have under the Injury Prevention, Rehabilitation and Compensation Act 2001.
- c. If you lodge a work-related personal injury claim with ACC, you agree to provide the Employer with a copy of the completed claim form as soon as possible.
- d. Where suitable protective clothing and equipment is provided by the Employer, you must wear and/or use the clothing and equipment in accordance with the Employer’s instructions. Failure to do so may result in disciplinary action. You should report to your manager any defects or wear and tear in the clothing or equipment.

20. CONFLICT OF INTEREST

- a. You shall not, during your employment, enter into any other employment agreement or relationship or activity (whether paid or unpaid) that could bring you into conflict with the obligations and undertakings arising from this employment agreement or which could adversely affect your duty of fidelity to the Employer. Any breach of this clause will be treated as serious misconduct and may result in termination without notice in accordance with clause 13(b) of this agreement.
- b. You shall promptly inform the Employer of any circumstances which could cause you to be in breach of this clause.

21. CONFIDENTIAL INFORMATION

- a. During the course of your employment, you may acquire knowledge and information relating to the Employer’s business which is confidential. Confidential information includes, but is not limited to information concerning the business affairs, property, staff, officers, agents or



customers of the Employer *[together with ADD HERE if required further categories of confidential information relevant to your business]*

- b. You shall not, either directly or indirectly, use or disclose such confidential information without the prior express approval of the Employer.
- c. This clause applies to all confidential information, whether or not it is recorded or memorised and includes information which is or may be of use to any competitor of the Employer.
- d. This restriction will apply throughout your employment and after termination of employment, for whatever reason. The restriction will not apply to confidential information that becomes publicly known (other than by you breaching this clause).
- e. Any breach of this clause during your employment will be treated as serious misconduct and may result in termination without notice in accordance with clause 13(b) of this agreement.

[NOTE TO EMPLOYER: Consider including appropriate Restraint of Trade clauses to protect your staff and customers from being poached or your business being disrupted in other ways by a departing employee. The CECC can draft such clauses for you as part of its consultancy service.]

22. VARIATION OF AGREEMENT

The terms of this agreement may be varied by mutual agreement. Any such variation must be in writing.

23. WHOLE AGREEMENT

Unless otherwise agreed, this agreement replaces any previous agreement, arrangement or undertaking which existed between the parties, whether oral or in writing, express or implied.

24. DECLARATION

- a. I have read and understood the terms of this agreement.
- b. I have been advised that I am entitled to take independent advice about the terms of this agreement and I have been provided with an adequate opportunity to take such advice before signing this agreement.
- c. I confirm that at the time of entering into this agreement, I am not suffering from emotional distress and am not affected by any other condition which might affect my understanding of the terms of this agreement or the implications arising from them.

Signed: _____ (the Employee)

Dated: _____

Signed: _____ (the Employer)

Dated: _____

SCHEDULE 1

POSITION DESCRIPTION



SCHEDULE 2

SERVICES AVAILABLE FOR THE RESOLUTION OF EMPLOYMENT RELATIONSHIP PROBLEMS

- a) An “employment relationship problem” is any problem relating to or arising out of our employment relationship. It includes personal grievances and disputes about the interpretation, application or operation of this agreement but does not include any problems relating to or arising from fixing new terms and conditions of employment (eg. bargaining, contract variation).
- b) A “Personal Grievance” is any claim by an employee against the employee’s employer or former employer that the employee has (in relation to the employee’s employment) been:-
- unjustifiably dismissed;
 - unjustifiably disadvantaged with respect to conditions of employment;
 - discriminated against on prohibited grounds;
 - sexually harassed;
 - racially harassed; or
 - subjected to duress in relation to membership or non-membership of a union or employees organisation.
- c) This schedule sets out the procedure to be followed and services available to help us resolve any employment relationship problem that might arise between us during the term of this agreement. It is agreed that this process shall constitute “reasonable steps” for the purpose of s.114, Employment Relations Act 2000.

Step 1 – The problem should be referred to your Manager/Supervisor in the first instance in order that the problem can be dealt with speedily and effectively. If the problem relates to a personal grievance (see definition above) you (or your representative) must raise it by providing a written statement setting out –

- i) the nature of the grievance,
- ii) the facts relied upon, and
- iii) the remedy you seek to achieve.

If for some reason you do not wish to raise the problem with your Manager/Supervisor you (or your representative) can refer it instead to another Manager.

(NB A personal grievance must be raised within 90 days of the action giving rise to it or coming to your attention - whichever is the later. If you fail to do so, we shall not be obliged to give the matter further consideration unless you make an application to the Employment Relations Authority for leave to raise it outside of the 90-day period)

Step 2 – If the problem is not resolved to your satisfaction within 21 days of raising it, it may be referred by either of us -

- i) to the Mediation Service of the Ministry of Business, Innovation & Employment (contact details are given below), or
- ii) we may agree to refer the matter to Arbitration or other alternative dispute resolution providers but if we do so it will not preclude the problem from being referred to the Mediation Service or Employment Relations Authority.

Step 3 – If settlement is not reached through mediation (or through any alternative agreed procedure), an application can be made to the Employment Relations Authority which will resolve the matter if it is satisfied that we have first attempted to resolve the problem in good faith through mediation.

d) To contact the

Employment Relations Service, Ministry of Business, Innovation & Employment:

Telephone – 0800 209 020

Fax – (03) 365 0443

e-mail – info@ers.govt.nz

website – www.ers.govt.nz

Mediation Services:

Telephone – (03) 964 7820

Fax – (03) 964 7821

Employment Relations Authority:

Telephone - 0800 209 020 (by referral)

