

[NAME OF EMPLOYER]

CASUAL INDIVIDUAL EMPLOYMENT AGREEMENT

AGREEMENT made this _____ day of _____ 20_____

PARTIES

1. [NAME OF EMPLOYER] ("Employer")
2. _____ ("Employee")

TERMS OF EMPLOYMENT

The terms of employment are as follows:

1. **Commencement/term:** The position will commence on the first day of work offered (if any). The Employee acknowledges that the position is a casual "as required" position. No minimum level of work, pattern of hours, or days of work is guaranteed by the Employer.
2. **Remuneration:**
 - (a) The Employee shall be paid a wage of \$_____ per hour gross.
 - (a) The Employee shall be paid at the rate of \$_____ per bin ("bin rate") (provided that payment at the bin rate shall not equate to less than \$14.25 per hour). **(DELETE ONE)**
 - (b) The Employee will only be paid for hours worked or for approved paid leave hours. The Employee will need prior approval to work hours in excess of usual work hours.
 - (c) The Employee shall be paid for any hours worked _____ (pay period) in arrears. Payment shall be made by _____ (pay method).
3. **Work hours:**
 - (a) Under the terms of this agreement, the Employer *may* offer work to the Employee from time to time, whether for a few hours, a day or a week. Whether work is available and the amount of work available will depend on the changing requirements of the Employer. If work is offered there is no guarantee of the hours that will be available on any particular day, unless specifically agreed in advance. Once an agreed period of work has ended, the Employer is not obliged to offer further work to the Employee. The Employee's employment will end at the end of each agreed period of work. However, the terms of this agreement will continue to apply to any further periods of work agreed.
 - (b) The Employee acknowledges that any work offered is subject to favourable weather as set out in clause (e) below and is subject to the Employer's picking and packing requirements, which may change at any time.
 - (c) The Employee will be offered work **[by a telephone call from or verbal discussion with the Employer]**.
 - (d) The Employee is not obliged to accept, or remain available for, further periods of work offered.
 - (e) If the Employer has offered work to an Employee for a certain day, which the Employee has accepted, but on the day in question it is not possible to carry out the work due to weather conditions (including but not limited to rain, frost or heavy dew), the Employee will no longer be required to work on this day and will not be paid. The Employee also acknowledges that if he/she commences work on a particular day but is required to cease work due to weather conditions (including but not limited to rain, frost or heavy dew), he/she will only be paid for the actual hours worked.
4. **Rest / Meal breaks**
 - (a) The Employee shall be entitled to the following rest breaks and meal breaks:
 - (i) One paid 10 minute rest break where the Employee works between two and four hours;
 - (ii) One paid 10 minute rest break and one unpaid 30 minute meal break where Employee works between four and six hours; or
 - (iii) Two paid 10 minute rest breaks and one unpaid 30 minute meal break where the Employee works between six and eight hours.
 - (b) Where the Employee works more than eight hours, the calculation of break entitlements shall begin again at the beginning of each eight hour period of continuous work.
 - (c) The Employee acknowledges that flexibility is required in relation to the taking of lunch and other breaks in order to meet the requirements of the Employer's business.
5. **Place of work:** The Employee shall work at the Employer's premises at _____ or at such place or places within the greater Bay of Plenty region as directed to meet the requirements of the Employer's business. The Employee shall be required to provide his/her own transport to and from work. Other locations may be agreed between the Employer and Employee at the time work is offered.
6. **Termination and suspension:** The minimum period of notice for termination by either party shall be **2 working days notice**. The Employer may give pay in lieu of all or part of the notice period. If the agreed period of work is 2 working days or less, the agreement may not be terminated early except by the Employer where there are grounds for immediate termination, such as serious misconduct. The Employer will be entitled to suspend the Employee where it is reasonable and appropriate to do so, including when the Employer has grounds for suspecting serious misconduct by the Employee or where there is a health and safety risk. Suspension will be on pay during any period the parties have agreed the Employee will work and shall not prevent employment expiring at the end of the agreed period of work.
7. **Time records:** If required by the Employer, the Employee shall keep an accurate record of time worked and shall submit a time sheet to the Employer in a form, and at the times, required by the Employer.

8. **Job description:** The Employee is employed as a [REDACTED]. The Employee shall be required to [REDACTED] (insert duties) as well as any other duties reasonably required by the Employer. Other duties may be agreed between the Employer and Employee at the time work is offered.
9. **Essential requirements for the role:**
- (a) The following are essential qualifications/requirements for the position:
 - (i) Legally entitled to work in New Zealand; and
 - (ii) [REDACTED].
 - (b) By signing this agreement, the Employee confirms he/she has these qualifications/meets these requirements. The Employee agrees to provide proof of the above on request. The Employee will inform the Employer immediately of any change in or potential risk to the above qualifications/requirements. If the Employee does not meet these essential requirements or ceases to do so during his/her employment, the Employer may terminate employment.
10. **Supervisor:** The Employee shall be required to report to [REDACTED]. The Employer may change the supervisor from time to time.
11. **Public Holidays**
- (a) The Employee shall be entitled to public holidays in accordance with the Holidays Act 2003.
 - (b) If a public holiday falls on a day that would otherwise be a working day for the Employee and the Employee does not work that day, the Employee shall be entitled to be paid their relevant daily pay for that day (or their average daily pay, if applicable). If a public holiday falls on a day that would not otherwise be a working day for the Employee and the Employee does not work that day, the Employee is not entitled to be paid.
 - (c) The Employee agrees to work public holidays that fall on a day that would otherwise be a working day for the Employee, if required by the Employer. If the Employee is required to work on a public holiday, the Employee will be paid at the rate of time and one half of the Employee's relevant daily pay (or average daily pay, if applicable) in relation to the time actually worked.
 - (d) The Employee shall be entitled to an alternative paid holiday to be taken on a day as agreed between the Employer and the Employee where a public holiday falls on a day that would otherwise be a working day for the Employee and the Employee is required to work on that public holiday.
 - (e) The Employer shall in its discretion be entitled to pay the Employee's "average daily pay" under the Holidays Act 2003 in any case where relevant daily pay is usually paid and/or is referred to in the above sub-clauses, if:
 - (i) the Employee's daily pay varies within the pay period in which the holiday falls; or
 - (ii) it is not possible or practicable to determine the Employee's relevant daily pay.
12. **Determination of what would otherwise be a working day**
- (a) For the purposes of public holiday, bereavement and sick leave entitlements, where it is unclear the Employer will endeavour to agree with the Employee whether a day would otherwise have been a working day for the Employee, taking into account this agreement (including but not limited to clauses 3(b) and e) and other relevant factors including:
 - (i) the Employee's work patterns;
 - (ii) the fact the Employee works for the Employer only when work is available;
 - (iii) the reasonable expectations of the Employer and the Employee that the Employee would work on the day concerned; and
 - (iv) whether, but for the day being a public holiday or a day the Employee took sick or bereavement leave, the Employee would have worked on the day concerned.
 - (b) If the Employer and Employee can't agree on whether a day would otherwise have been a working day, either party may seek a determination from a Labour Inspector.
13. **Annual Holidays:** Because the Employee works on a basis that is so intermittent or irregular that it is impracticable for the Employer to provide annual holidays, the Employee agrees that:
- (a) The Employee shall be paid annual holiday pay at a rate of 8 percent of the Employee's gross earnings (less PAYE) with and on top of the Employee's regular pay; and
 - (b) The Employer shall provide for such payment to be an identifiable component of the Employee's regular pay.
14. **Qualification for bereavement and sick leave:**
- (a) As employment is not continuous, the Employee shall not qualify for bereavement or sick leave unless the Employee has worked for the Employer over the previous 6 months for:
 - (i) An average of 10 hours a week; and
 - (ii) No less than 1 hour in every week or no less than 40 hours in every month.
 - (b) If the Employee qualifies for sick and bereavement leave:
 - (i) the Employee is entitled to 5 days paid sick leave over the following year in accordance with the Holidays Act 2003. After each further year, the Employee may qualify for a further 5 days sick leave, if the Employee continues to meet the above minimum hours requirements. Untaken sick leave may be carried over each year up to a maximum of 20 days entitlement.
 - (ii) The Employee is entitled to 3 days bereavement leave on the death of a close family member as defined in the Holidays Act 2003 and 1 day's bereavement leave on the death of another person if the Employee has, in the Employer's opinion taking into account relevant factors under the Holidays Act 2003, suffered a bereavement.

- (c) If the Employee qualifies for sick and bereavement leave, the Employee will only be able to take that leave where the relevant day would otherwise be a working day for the Employee and will be subject to the usual obligations under the Holidays Act 2003 (such as to provide proof of sickness or injury on request).
- (d) Further information on leave entitlements may be requested from the Employer or obtained from the Ministry of Business Innovation and Employment at www.ers.dol.govt.nz or by phoning 0800 20 90 20.
15. **Proof of Sickness or Injury**
- (a) If the Employee is unable to attend work due to sickness or injury, the Employee shall let the Employer know as soon as practicable beforehand. This should be by personally speaking with the person the Employee reports to, unless the Employee is unable to do so.
- (b) If the Employee is absent due to sickness or injury for a period of less than 3 consecutive calendar days, the Employer may require the Employee to provide a medical certificate as proof of sickness or injury, if the Employer requests this promptly and agrees to meet the Employee's reasonable expenses in obtaining it.
- (c) If the Employee is absent due to sickness or injury for a period of 3 or more consecutive calendar days, the Employer may require the Employee to provide a medical certificate as proof of sickness or injury at the Employee's cost.
- (d) The Employer may withhold payment for any paid sick leave entitlement until satisfactory proof is provided.
16. **Health and Safety:**
- (a) The Employer will take all practicable steps to provide a safe and healthy working environment for the Employee. The Employee must use his or her best endeavours to ensure that no action or inaction on their part causes harm to themselves or any other person. The Employee must comply with any health and safety procedures specified by the Employer and must notify the Employer if the Employee becomes aware of any unsafe practice or situation in the workplace.
- (b) The Employee will be required to work outdoors, carry out physical work and work in close proximity to machinery as part of his/her duties. The Employee confirms that, other than as disclosed in writing before signing this agreement, the Employee has no mental or physical illness/disability/injury that would mean that:
- (i) in carrying out his/her duties in the role there may be a risk of harm to him/herself or others (including that the duties might aggravate the illness/ disability/injury); or
- (ii) to carry out the duties satisfactorily he/she might require special support or facilities.
- (c) The Employee shall report all accidents and/or injuries to the Employer within 24 hours of any accident or injury occurring. Failure to do so may be deemed serious misconduct and may result in summary dismissal.
- (d) The Employee shall notify the Employer within one working day of filing any work related claim with the Accident Compensation Corporation.
- (e) The Employee must not bring any illegal or prescription drugs or any alcohol into the workplace and must not consume or be under the influence of any drugs or alcohol while on duty at work or during work hours, unless they are drugs lawfully prescribed to the Employee by a registered medical practitioner and the Employee has been advised by such practitioner that it is safe for the Employee to take the drugs and perform his or her work duties.
- (f) Smoking is not permitted in the workplace, including (but not limited to) any common internal area, any work vehicle and any outdoor area where others are working or taking a break.
- (g) Compliance with this clause and with the Employer's health and safety policies and procedures is a key responsibility of every employee. Failure to do so may be deemed serious misconduct and may result in summary dismissal.
17. **Damage / misuse of Employer's property or equipment**
- (a) The Employee acknowledges that they have a duty to exercise reasonable care when working and must seek to protect the Employer's property, equipment and business to avoid any harm or damage.
- (b) If the Employer becomes aware of any damage or misuse of its property or equipment, it may elect to conduct a full and fair investigation in accordance with this agreement to establish the cause of any damage or misuse.
- (c) If the Employee is found to have caused any damage or misused the Employer's property or equipment either negligently or on purpose, the Employer may seek to recover damages from the Employee. This may include the cost of fixing or replacing the property or equipment and/or any lost income as a result of the property or equipment being out of service. A non-exhaustive list of examples of conduct under this clause are the employee acting contrary:
- (i) to health and safety polices/obligations; or
- (ii) drug and alcohol provisions of this agreement or any policy that the Employer introduces; or
- (iii) training manuals.
18. **Sexual Harassment/Discrimination**
Sexual or other forms of harassment, and any form of discrimination, in relation to co-workers or any other persons will not be tolerated in the workplace.
19. **Policies/house rules:** The Employee shall comply with any house rules or policies introduced by the Employer from time to time. Failure to comply with these may result in disciplinary action including summary dismissal.

20. **Confidentiality:** The Employee shall treat as confidential, and must not disclose, any confidential information (eg information of a confidential nature relating to the Employer, its business or customers of the business) that the Employee becomes aware of in the course of employment.
21. **Employee Protection Provision**
- (a) In the event of a restructuring, as defined in Part 6A, subpart 3 of the Employment Relations Act 2000 (being the sale, transfer, or contracting out of all or part of our business), where the Employee is an "affected employee", the Employer will:
 - (i) 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.
 - (ii) Negotiate with the potential new employer regarding:
 - (1) Whether or not the new employer proposes to offer affected employees the opportunity to transfer on the same terms and conditions;
 - (2) 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
 - (3) The proposed date for commencement of employment with the potential new employer (if applicable).
 - (b) The Employee agrees to the Employer disclosing to the new employer on a confidential basis, as part of those negotiations, relevant information such as details of the Employee's terms and conditions of employment, job description, skill-set, experience and qualifications.
 - (c) If the Employee is not employed by the potential new employer, for whatever reason then:
 - (i) the Employer will consult with the Employee 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
 - (ii) 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.
 - (d) 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.
22. **Redundancy:** As employment is on a casual basis, no continuing work is guaranteed and there is no entitlement to redundancy compensation.
23. **Deductions:**
- (a) The Employee agrees the Employer may deduct from any wages (including any holiday pay) due to the Employee any moneys owed to the Employer.
 - (b) Agreed deductions shall include, but not be limited to, loss incurred by the Employer due to damage to its property by the Employee, any loans made to the Employee, any amounts owing for personal expenses incurred by the Employee (for example, rent or personal amounts on the Employer's accounts or credit card) and the replacement cost of any of the Employer's property taken or not returned by the Employee before finishing work.
 - (c) By signing this agreement, the Employee consents to the above deductions under the Wages Protection Act 1983.
24. **Company property:** Except where the prior consent of the Employer has been obtained the Employee shall not:
- (a) Use any of the Employer's property for personal use or any use other than in the performance of the Employee's duties under this agreement; and
 - (b) Shall not remove any of the Employer's property from the Employer's premises.
25. **Resolution of employment problems/personal grievances:**
- (a) If any employment issues arise, those should be raised with the Employer as soon as possible so that they can be resolved. If the matter is not resolved either party can seek assistance from the Ministry of Business Innovation and Employment's mediation service. If the issues are not resolved at mediation, they may be referred to the Employment Relations Authority.
 - (b) If the issue is a personal grievance, the Employee must raise 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.
26. **Privacy Act 1993**
- (a) The Employee has provided personal information to the Employer during the application process and will continue to do so during employment. The Employer collects personal information about the Employee as is lawful and necessary for the purposes of managing and monitoring employment and stores it at its premises (in hard copy and electronic form). The Employee authorises the Employer to collect/store/use/disclose personal information about him/her as necessary and lawful for the purposes of employment, the Employer's business and record keeping.
 - (b) Under the Privacy Act 1993 ("the Act"), you are entitled to request access to and correction of your personal information held by the Firm. Further information about your rights under the Act is available from the Privacy Commissioner or at www.privacy.org.nz.
27. **Entire agreement:** Unless otherwise provided, this agreement sets out the full terms and conditions of the employment relationship between the parties and replaces any previous agreements or understandings. The

agreement may be reviewed by the Employer at its discretion. No variations to this agreement shall be enforceable unless recorded in writing and signed by both parties.

28. **Warranty:** The Employee warrants that:

- (a) The Employee has not been convicted of any offences by a court and does not have any pending criminal or other charges other than as disclosed to the Employer in writing prior to entering into this agreement;
- (b) The Employee is legally entitled to work in New Zealand and has the other essential requirements/qualifications set out above; and
- (c) All information provided in support of the application for employment was true and correct.

The Employee acknowledges that any misrepresentation in the application for employment, including any failure to disclose information requested, will amount to serious misconduct and may result in summary dismissal. Nothing in this agreement requires the Employee to inform the Employer of any criminal conviction which the Employee is legally entitled to conceal under the Criminal Records (Clean Slate) Act 2004.

SIGNED BY THE EMPLOYER AND EMPLOYEE:

Acknowledgement by Employee: The Employee acknowledges that before entering into this agreement, the Employee was:

- 1. Provided with a copy of this agreement by the Employer and made aware employment is on a casual basis; and
- 2. Advised by the Employer that he/she is entitled to seek independent advice about the intended agreement; and
- 3. Given a reasonable opportunity to seek independent advice about the agreement before signing it; and
- 4. Advised by the Employer of his/her entitlements under the Holidays Act 2003 and that the Employee can obtain further information about his/her entitlements from their union (if applicable) or from the Ministry of Business Innovation and Employment.

SIGNED by the Employee:

SIGNED for and on behalf of **[EMPLOYER]** by:
