

Employment Agreement – Fixed Term

** THIS DOCUMENT HAS BEEN DRAFTED FOR THE SOLE PURPOSE OF PROVIDING A SAMPLE FOR THE HELICOPTER ASSOCIATION OF CANADA. PRIOR TO USE MEMBERS MUST OBTAIN INDEPENDENT LEGAL ADVICE REGARDING THE PROPER USE OF THIS DOCUMENT TO ENSURE ITS ENFORCEABILITY AND COMPLIANCE WITH APPLICABLE LAW. **NOTHING CONTAINED HEREIN SHOULD BE INTERPRETED AS LEGAL ADVICE ****

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Version: September 26 2013

MEMBERS ARE ENCOURAGED TO ATTEND THE TRAINING ON THESE DOCUMENTS AT THE ANNUAL GENERAL MEETING IN NOVEMBER 2013.

Fixed-Term Employment Agreement

A fixed-term employment agreement should be considered when engaging an employee for a specific period of time. A fixed-term employment agreement stipulates the end date of employment. Once the term is complete, the fixed-term employment relationship ends.

When to Use a Fixed-Term Employment Agreement

The fixed-term employment agreement should be considered in the following circumstances:

- Hiring an individual to replace an employee on leave (i.e. maternity / parental leave)
- Hiring an individual to assist with a particular project where the start date and end date of the project are known
- Hiring an individual for a defined period of time to cover a busy season
- Any situation where there is a logical “conclusion” to the relationship

Risks in Using a Fixed-Term Employment Agreement

Operators should be cautioned in using a fixed-term agreement:

- Fixed term contracts should not be renewed again and again – otherwise a court could determine that the employment relationship is of indefinite duration and the employer will lose the benefit of the notice of termination clause
- An employee must not work a single day beyond the duration of the fixed term contract, to do so will attract a finding of an indefinite employment relationship and the employer will lose the benefit of the notice of termination clause.
- **If an operator wants to extend the period of time of the fixed-term agreement it is recommended to prepare a new agreement with a new start date and end date.**

Making the Offer

Once the decision has been made to extend a fixed-term offer of employment to a candidate, the following steps should be followed:

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- Send the candidate a copy of the fixed-term employment agreement with a covering letter or email addressing the following:
 - Ask the candidate to review the offer
 - Indicate to the candidate that he/she should seek whatever advice they wish
 - Indicate to whom the candidate should direct any questions to
 - State that if the candidate finds the offer acceptable, he/she should sign and return a copy of the agreement at least one week prior to the start date of the agreement.
- A candidate must have at least one (1) week to review the agreement and the employer must have the signed agreement before any work/training is performed for the employer. Failure to have the agreement signed and returned before the work/training is commenced could render the agreement unenforceable.

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[place on letterhead]

DATE

NAME
ADDRESS

Dear NAME:

On behalf of COMPANY, I am pleased to offer you the position of XXX. This is a term position; the start date of the term will be the first day of training, scheduled for DATE, and provided you successfully complete the training to the satisfaction of COMPANY your contract will end on DATE. Please note this offer does not constitute a guarantee of employment should you not be successful in completing the training. This position reports to the XXX, or other such person COMPANY may assign.

The terms and conditions of your employment are as set out below:

1. You will ...(describe core responsibilities)...Other Work may be reasonably assigned to you from time to time, including including XXXX (specific to COMPANY).

OR

The general duties of this position are described in the job description attached as Schedule “A”. Please note that COMPANY retains the right to revise and alter this job description reporting arrangements and work location from time to time, upon notice to you, in accordance with operational requirements, provided that the general nature of responsibilities are not significantly diminished. Such alterations will not constitute termination of employment or constructive dismissal.

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2. Your work location (Base) will be XXXX. As a COMPANY TITLE you will be expected to uphold the professional image of the company by keeping the helicopters in clean condition and conducting yourself in a professional manner
3. Your earnings will consist of an annual Base Salary of \$XX.XX (pro-rated based on the term of this agreement). . In addition to this Base Salary, you will also receive the following:
 - a. You are also entitled to Flight Pay per flight hour in the amount of \$XX/per Revenue Hour for the TYPE and \$XX/per Revenue Hour for the TYPE. Flight Pay is inclusive of any overtime owing as determined at the end of the Averaging Period as defined below. (INCLUDE ANY OTHER ELEMENTS OF PAY)
 - b. (IF APPLICABLE) You will also be provided with a travel allowance in the amount of \$XXX.
 - c. You will be paid XX (i.e weekly, bi-weekly, monthly), on the XX day of each month. Your earnings will be subject to normal statutory deductions.

OR

Your Flight Pay per Revenue Flight Hour shall be XXX/hour. The number of Revenue Flight Hours multiplied by your Flight Pay per Revenue Flight Hour shall be known as your Wages Paid for Work Performed. You acknowledge that compensation for Other Work and overtime is included in the Wages Paid for Work Performed. You will be paid on the XX day of each month. Your earnings will be subject to normal statutory deductions.

OR

You will be compensated at the rate of \$XX per day (your Daily Rate) for each day of the contract after you have successfully completed your training. For each day of training you will be compensated at the rate of \$XX. You acknowledge that compensation for Other Work and overtime is included in the Daily Rate for Work Performed. You will be paid on the XX day of each month. Your earnings will be subject to normal statutory deductions.

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4. Hours of work are determined by operational demands, as regulated by CARS. The nature of our business necessitates an irregular distribution of hours. As a result we operate on a fifty-two (52) week averaging schedule.
5. At the end of each fifty-two (52) week averaging period, any overtime will be determined by assessing what if any hours were worked in excess of the Standard Hours of Work (2080) less any reductions arising from circumstances described in paragraph 6 below. Note that any overtime worked during the Averaging Period is compensated (in accordance with paragraph 3 (a) and (c) above) OR (in the Wages Paid for Work Performed).
6. The Standard Hours will be reduced by 8 hours for each day in the averaging period which is a day:
 - of annual vacation with pay;
 - of bereavement leave with pay;
 - of leave of absence with pay under subsection 205(2) of the Code (reassignment due to pregnancy);
 - general or other holiday with pay; or,
 - that is normally a working day in respect of which the employee is not entitled to regular wages (for example, when an employee is off on unpaid sick leave).
7. You are required to complete and remit a Monthly Crew Work Record that details the actual number of hours worked per day. (FOR FCMs: For the purposes of this agreement, actual hours worked in a day shall include: 1) all Flight Time; 2) one additional hour to represent pre and post flight duties; and 3) actual hours worked to complete any other assigned duties. (FOR ENGINEERS: For the purposes of this agreement, actual hours worked in a day shall include: 1) actual hours spent doing maintenance or repair on the aircraft and completing the associated paperwork; 2) actual hours worked that were required to maintain the serviceability of the aircraft; and 3) actual hours worked to complete any other assigned duties. An hour worked does not include time spent on-call or on stand-by, even when on location with a client. Travel to and from your assigned place of operation from your nightly accommodation is also not considered ‘hours of work’. If you have any questions about the proper recording of hours of work in general or for a specific assignment please ask XXXX.

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8. You will be provided with two (2) weeks of vacation per year, payable at 4% of the wages earned in the previous twelve month period. After six (6) years your entitlement will increase to three (3) weeks, payable at 6% of the wages earned in the previous twelve month period.

OR

In light of the operational schedule, and by signing below, you agree to waive your entitlement to vacation time. You will be paid 4% of your annual wages on each pay representing your vacation pay. This will increase to 6% of your annual wages after six (6) years of employment.

9. As a fixed term employee, you are not eligible to participate in the Group Benefit plan. (BENEFITS CAN BE OFFERED BUT NOT NECESSARY)
10. Either party may terminate this Agreement upon four (4) weeks' notice at any time by providing written notice. COMPANY reserves the right to waive this notice, in whole or in part, by providing payment of regular wages for the period so waived. (CAUTION AGAINST SUCCESSIVE TERM CONTRACTS)
11. Your employment may be terminated at any time for cause, which includes but is not limited to; dishonesty, incompetence, wilful and blatant violation of safety, conduct incompatible with pilot duties and contravention of Canadian Aviation Regulations (CARS), without notice or payment in lieu of notice or severance pay whatsoever, except payment of outstanding wages and vacation pay to the date of termination.
12. You shall be subject to any and all COMPANY policies, including the Company's Safety Management System, the Company Operations Manual, and the Maintenance Control Manual, as may be introduced, amended, cancelled or altered from time to time at the sole discretion of COMPANY.
13. You will at all times during and after your employment with COMPANY maintain in strictest confidence any confidential information you obtain about COMPANY, any COMPANY employee, or COMPANY client.

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14. During the term of your employment and for a period of twelve (12) months following the termination of this agreement, regardless of the circumstances of such termination, you will not, without the prior written consent of XXX either directly or indirectly, on your own behalf or in the service or on behalf of others:
 - (a) Solicit, divert or appropriate, or attempt to solicit, divert or appropriate for any purpose competitive with the interest of XXX, any customer which was, or is generating revenues for XXX during the year immediately preceding the date of termination of this Agreement.
15. During the term of your employment and for a period of twelve (12) months following the termination of this agreement, regardless of the circumstances of such termination, you will not, without the prior written consent of XXX either directly or indirectly, on your own behalf or in the service or on behalf of others:
 - (a) Solicit, divert or hire away, or attempt to solicit, divert or hire away, any person who, at any time during the ninety (90) calendar days prior to the termination of your employment, has been employed by XXX in any capacity or has been retained by XXX as a contractor.
16. This Agreement shall be governed by and construed in accordance with the laws of the Province of XXX and the laws of Canada applicable therein. This Agreement may only be amended by written agreement of both parties.
17. In the event that any provision of this Agreement is determined to be void or unenforceable in whole or in part, such determination shall not invalidate the remaining portions of the provision or this Agreement which shall remain in full force and effect.
18. In the event of dispute arising under this Agreement the parties agree to remit the matter to final and binding arbitration in accordance with the Ontario *Arbitration Act, 1991*.
19. There shall be no waiver or breach of any term or condition of this Agreement unless the waiver is in writing signed by the party who has not committed the breach. A waiver with respect to a specific breach shall not affect any rights of the parties relating to other or future breaches.
- 20.

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21. You acknowledge that this contract replaces any and all previous employment agreements, written or unwritten as well as any written or unwritten representations or statements made by any person to you concerning employment with COMPANY.
22. These terms and conditions of employment constitute the entire agreement between us. There are no oral or written representations, warranties, forms, conditions, undertakings or collateral agreements, expressed or implied or statutory other than as expressly set forth in this document.

I trust you will find the conditions of the offer of employment acceptable, but should you have any questions or require clarification, please do not hesitate to contact me. If you are agreeable to the terms of the offer, please indicate your acceptance of the offer by signing and dating this letter below and returning it to me by no later than DATE. I also encourage you to obtain legal advice should you so desire.

XXX, I am pleased to offer you employment with COMPANY and hope that you will find the position to be both challenging and rewarding. Welcome to the team!

Sincerely,

XX
TITLE

I hereby understand, acknowledge and accept the terms and conditions outlined above and have been provided with ample opportunity to obtain independent legal advice in connection with this contract:

NAME

Date

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Schedule A

Description of Responsibilities

NOTE THAT THE BELOW HAS BEEN INCLUDED AS A GUIDE ONLY AND SHOULD BE AMENDED BASED ON ACTUAL DUTIES.

Deployed Engineer/Apprentice

- Communicate with the pilot with respect to maintenance-related problems and snags, looming inspections, etc.
- Resolve snags and carry out aircraft inspections after the day's flying is complete. Inspections may be carried out on a progressive basis or all at once. The number of hours required will depend on the assistance that is available (apprentice(s) or engineer(s)) and the nature of the snag/inspection.
- Carry out associated paperwork including Journey Log and Maintenance Log entries (Engineers-only).
- Communicate with the company base to report hours, request parts and supplies, consult on the resolution of specific problems, etc.
- May include work in the evenings and occasionally overnight when inspections are required.
- Conduct the Daily Inspection of the Aircraft at the end of each flight-day.
- May be called upon to do other tasks including but not limited to, building sling loads, coordinating cargo transportation, ground travel to receive necessary parts, fueling the aircraft during operations, etc.
- May be called upon to accompany a pilot on short maintenance test flights
- Join the pilot on a ground-run of the aircraft following maintenance and prior to a maintenance test flight
- Carry out other duties assigned

Base Engineer/Apprentice

- Communicate with the Director of Maintenance with respect to maintenance related problems and snags, looming inspections, etc.
- May be called upon to communicate with deployed pilots or base pilots calling the base

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- Occasionally may be called upon to communicate with customers to coordinate operations or to resolve problems with an aircraft
- May be called upon to accompany a pilot on short maintenance test flights
- Regularly called upon to join the pilot on a ground-run of the aircraft following maintenance and prior to a maintenance test flight
- Resolve snags and carry out aircraft inspections and maintenance as assigned.
- Carry out associated paperwork including Journey Log and Maintenance Log entries
- May be called upon to pick-up or deliver parts – sometimes involving travel on the roads over long distances
- May be called upon occasionally to assist deployed Engineers on specific maintenance activities
- Communicate with the Director of Maintenance, request parts and supplies, consult on the resolution of specific problems, etc.
- Carry out other duties assigned by the Director of Maintenance, including other work on the base during assigned shifts

Base Pilot

- May be required to carry out other duties in and around the hangar (i.e. assist with maintenance, wash aircraft, sweep the hangar, etc.)
- Pilot is required to check the suitability of weather prior to each flight and to ensure facilities are available for flight following (i.e. company flight notification, or flight plan)
- Prior to each flight the pilot must ensure that the aircraft is ready to fly and is suitably-equipped for the mission (i.e. sling gear, water bucket, nets, etc.)
- Responsible to complete the daily inspection prior to each flight assignment
- Assist others to move the aircraft into the hangar or out of the hangar as required
- Responsible to clean the aircraft and conduct a pre-flight inspection of the aircraft after each day's flight assignment and to secure the aircraft at the end of each day (i.e. tie-down, covers etc.).
- Complete paperwork after each day's flying assignment including Journey Log entries, Flight Invoices for the customer's review and signature, complete Flight Time & Duty Time tracking paperwork, communicate with Engineer or with the Base with respect to anomalous operations and running aircraft times
- Carry out other duties assigned

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Deployed Pilot

- Responsible to complete the daily inspection prior to each flight assignment
- Check suitability of the weather prior to each flight assignment. This may be carried out on-line or on the phone
- Responsible to clean the aircraft and conduct a pre-flight inspection (Daily Inspection or “DI”) of the aircraft after each day’s flight assignment and to secure the aircraft at the end of each day (i.e. tie-down, covers etc.).
- Meet and communicate with the customer each morning regarding the day’s flight assignments and may also be required to be formal customer liaison at other times
- Prior to each flight ensure that the aircraft is ready to fly and is suitably-equipped for the mission (i.e. sling gear, water bucket, nets, etc.).
- Flight duties may include dropping crews in the field and returning to camp or remaining in the field with the crews between flights
- Complete paperwork after each day’s flying assignment including Journey Log entries, Flight Invoices for the customer’s review and signature, complete Flight Time & Duty Time tracking paperwork, communicate with Engineer or with the Base with respect to anomalous operations and running aircraft times
- Carry out other duties assigned

Pilot-Engineer

- The work description for this type of work would include all of the items in the Deployed Pilot AND Deployed Engineer scenarios, described above.