**Casual Employment Agreement**

This is an individual agreement pursuant to the
Employment Relations Act 2000

Between

**[Employer]**

carrying on the business of [describe the Business] at [Location]
(the **Employer**)

And

**[Employee Name]**

(the **Employee**)

# Application

## This agreement is made between the Employer and Employee named above.

## The terms and conditions provided for in this agreement supersede and replace any terms and conditions of employment that may have applied prior to the date of the application of this agreement.

## Employment under this agreement commences on [insert date of first engagement] (the Start Date) and will cover each casual engagement.

# Position

## The position is that of [position title]. The Employee’s place of work is currently [Location].

## The Employee is expected to at all times, use their best endeavours to [purpose of role].

# Duties

## The Employer will employ the Employee to undertake the responsibilities and duties as set out in the position description in Schedule One of this agreement. Such duties and responsibilities may be modified from time to time by the Employer. Significant changes will only be made with the agreement of both parties.

## During the hours of work for each engagement, the Employee will devote the whole of their time to the duties specified and will carry out those duties faithfully and responsibly.

# Term of the Agreement

## The terms and conditions of this agreement will come into force from the Start Date and will apply to each casual engagement.

## The Parties agree the nature of the relationship is a casual ‘as and when required’ employment relationship. From time to time the Employer will engage the Employee to perform work on a casual basis and for a specified period.

## Each time the Employee agrees to perform work offered under this agreement will be treated as a separate period of engagement.

## The Employee acknowledges they have no expectation of regular and ongoing work with the Employer. Work is not guaranteed, and the Employer is under no obligation to provide it.

## The Employer agrees to provide reasonable notice to the Employee when offering work.

## The Employee will not be obliged to accept any work offered by the Employer. The Employee will be expected to work if an engagement is accepted by them.

# Trial Period

## The Employee is engaged on an initial trial period of 90 days in terms of sections 67A & B Employment Relations Act 2000 starting from the beginning of the day the employee starts work.

## At or before the end of the trial period, the Employer may:

### confirm the Employee’s appointment; or

### confirm the Employee’s appointment and impose a probation period for such period as the Employer considers necessary to enable a further assessment of the Employee to be made, at which time the Employer will inform the Employee of the reasons for the probation period; or

### terminate the employment of the Employee by giving the Employee such notice, being not less than [1] day, or payment in lieu of notice, as the Employer may in the circumstances decide.

## Before considering termination under sub-clause 5.2(c), the Employer will discuss it with the Employee.

## If the Employer does terminate the employment during the trial period the Employee is not entitled to bring a personal grievance or other legal proceedings in respect of that termination. The employee will be given notice of the termination before the end of the trial period.

# Hours of Work

## The Employee is employed on an ‘as and when required’ basis and has no fixed hours of work. Hours of work for each engagement will be agreed between the Employee and the Employer in advance of the engagement. The normal hourly rate will be paid for all work undertaken by the Employee.

# Remuneration

## The hourly wage for this position is contained in Schedule Two at the end of this agreement.

## The Employee will be paid by direct credit to the bank of the Employee's choice.

## Where requested by the Employee, the Employer shall deduct from their salary/wages any agreed amount specified by the Employee. The Employee authorises the Employer to make lawful deductions from the Employee's pay in accordance with the Wages Protection Act 1983.

## Specific deductions will be made after consulting with the Employee, including deductions from Salary/Wages for leave taken in advance, cost of unreturned property of the Employer, any protective clothing or tools, or any debt owing to the Employer, whatever it may be.

# Performance and Remuneration Review

## The Employer may conduct a review of the Employee's position, duties, performance and remuneration, from time to time.

## The Employee’s views will be sought, but the decision of the Employer on the outcome of the annual review will be final.

## In reviewing the Employee's performance the Employer will:

### Meet with the Employee at least once a year.

### Record in writing the outcome of each review, including any comments made by the Employee and any changes deemed to be appropriate to the review process.

# Annual Holidays

## As engagements under this agreement are on an ‘as and when required’ basis, with no certainty of hours or continuity of work, the Employee will be paid 8% ‘pay as you go’ holiday pay, in accordance with the provisions of the Holidays Act 2003. This is added to each period and will be detailed on the Employee’s payslip. The Employee has no other entitlement to annual leave.

# Public Holidays

## The Employee is entitled to 12 days paid public holidays if the public holiday falls on a day which would normally be a working day for the Employee. The recognised public holidays are Christmas Day, Boxing Day, New Year’s Day, 2 January, Waitangi Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Matariki, Labour Day, and Regional Anniversary Day.

## Should a public holiday fall on a Saturday or Sunday, it will be observed on the next working day(s) thereafter.

## If the Employer offers the Employee work on a public holiday and the Employee undertakes the engagement, the Employee will be paid at a rate of one and a half times their ordinary rate of pay for any hours worked that day. In addition, if the day would otherwise be a working day for the Employee during that period of engagement, the Employee will be allowed one day's leave on ordinary pay. This will be added to the Employee's leave entitlements.

# Sick Leave

## As the Employee is employed on a casual ‘as and when required’ basis, there is no entitlement to sick leave, unless over the period of six months, hours worked average at least 10 hour a week, and no less than 1 hour in every week, or no less than 40 hours in every month.

## If the Employee meets the criteria above, the Employee will, for the 12 month period of employment beginning at the end of the 6 month period outlined at 11.1 above, and for each ensuing period of 12 months where the criteria at 11.1 above is satisfied, be entitled to 10 days’ sick leave on pay calculated at the rate of the Employee’s ordinary rate of pay, for the hours normally worked.

## The Employee may carry over up to 10 days’ sick leave to a maximum of 20 days’ current entitlement in any year.

## Accumulated sick leave cannot be exchanged for cash payment nor form any part of final payment to the Employee upon resignation or termination.

## The Employee will notify the Employer, as soon as possible on any day that the Employee wishes to take sick leave of their intention to take such leave. The Employee should notify the Employer they are sick by phoning the Employer.

## No Employee will be entitled to be paid sick leave for any day for which the Employee is paid earnings related compensation under the Accident Compensation Act 2001.

## No Employee will be entitled to be paid sick leave on any day not normally worked by them.

## The Employer may require the Employee to produce proof of sickness or injury for sick leave. If proof is required within the first 3 days of the Employee taking sick leave the Employer will pay reasonable expenses.

## An Employee may also use their sick leave entitlement in the event of the sickness of:

### a spouse/partner; or

### a person who depends on the Employee for care is sick or injured.

## Any leave taken for these purposes will be treated as though it were the Employee's own illness.

## Any claim for sick leave of a dependant will, if required, be supported by a medical certificate.

# Bereavement/Tangihanga Leave

## As the employment is on a casual ‘as and when required’ basis, there is no entitlement to bereavement leave, unless over the period of 6 months, hours worked average at least 10 hours a week, and no less than 1 hour in every week, or no less than 40 hours in every month.

## If the Employee meets the criteria above, the Employee will, for the 12 month period of employment beginning at the end of the 6-month period outlined at 12.1, and for each subsequent 12 month period where the criteria at 12.1 is met, be entitled to paid bereavement/tangihanga leave in accordance with the Holidays Act 2003 whereby the Employee is entitled to:

### Up to three days bereavement/tangihanga leave in the instance of the death of the Employee’s spouse or partner, parent, child, brother or sister, grandparent, grandchild or the parent of their spouse / partner; or

### Up to three days bereavement/tangihanga leave if the Employee, or the Employee’s spouse or partner, lose a child through miscarriage or stillbirth (or as provided for in the Holidays Act 2003); or

### Up to one day’s bereavement/tangihanga leave in the instance of the death of any other person, if the Employer accepts that the Employee has suffered a bereavement as a result of the death.

## Any claim for bereavement/tangihanga leave will, if required, be supported by satisfactory documentary evidence.

## Bereavement/tangihanga leave will be paid for at the Employee's ordinary rate of pay for the normal number of hours that the Employee normally works on the day(s) taken as bereavement/tangihanga leave.

## No Employee will be entitled to be paid bereavement/tangihanga leave for any day for which the Employee is paid earnings related compensation under the Accident Compensation Act 2001.

## No Employee will be paid bereavement/tangihanga leave on any day not normally worked by them.

# Family Violence Leave

## As the employment is on a casual ‘as and when required’ basis, there will be no family violence leave, unless over the period of 6 months, hours worked average at least 10 hours a week, and no less than 1 hour in every week, or no less than 40 hours in every month.

## If the Employee meets the criteria above, the Employee will, for the 12 month period of employment beginning at the end of the 6-month period outlined at 13.1, and for each subsequent 12 month period where the criteria at 13.1 is met, be entitled to 10 days’ family violence leave on pay in accordance with the Holidays Act 2003.

## The Employee can take family violence leave if:

### The Employee is affected by family violence; or

### A child living with the Employee is affected by family violence.

## The Employee will notify the Employer, as soon as possible on any day that the Employee wishes to take family violence leave of their intention to take such leave. The Employee should notify the Employer they are taking family violence leave by phoning the Employer.

## Any claim for family violence leave will, if required, be supported by evidence.

## The Employee may not carry over any family violence leave they do not take in the previous 12-month period.

## Family violence leave cannot be exchanged for cash payment nor form any part of final payment to the Employee upon resignation or termination.

## If the Employee has used all their family violence leave, or does not qualify, the Employer may at its discretion allow the Employee to take annual leave or unpaid leave.

## Family violence leave will be paid for at the Employee's ordinary rate of pay for the normal number of hours that the Employee normally works on the day(s) taken as family violence leave.

## No Employee will be paid family violence leave on any day not normally worked by them.

# Parental Leave

## Parental leave will be granted in accordance with the provisions of the Parental Leave and Employment Protection Act 1987.

# Confidentiality

## The Employee will not, either during the term of this agreement or at any time thereafter, except so far as may be necessary for the proper performance of the Employee's duties under this agreement, or as may be required by law:

### Disclose to any person any information relating to clients of the business, or the nature or financial situation of the business, or other confidential information or trade secrets relating to the business, which has come to the Employee's knowledge in the course of the performance of their duties under this agreement;

### Use or attempt to use any such information for the Employee's own personal benefit, or the benefit of any other person or organisation.

# Company Policies and Procedures

## The Employee will comply with any operating procedures or policies in place, as amended from time to time. A copy will be made available to the Employee, and the Employee is required to familiarise themselves with the information.

## No statements are to be made or interviews given to media representatives or on social media about the Employer without the express written permission of the Employer.

# Abandonment of Employment

## Where the Employee is absent from work for three consecutive days during a period of engagement without the consent of the Employer or without notification to the Employer, they will be deemed to have terminated their employment unless a reason satisfactory to the Employer can be given.

# Termination of Employment

## This provision applies during each period of engagement. At the conclusion of each period of engagement there is no obligation on the Employer to offer further work and there is no obligation on the Employee to accept further work.

## One weeks’ notice of termination of employment will be given by either party during or before a period of engagement, unless a lesser period of time is agreed on in writing by both parties. This will not affect the Employer's right to summarily dismiss the Employee for serious misconduct, when an Employee will be entitled to payment up to the day of dismissal only.

## If the Employee leaves the Employer's service without notice and without good cause, they will forfeit payment otherwise entitled to under the notice period.

## The Employer retains the right to make payment in lieu of notice for any part or all of the notice period.

# Suspension

## During or before a period of engagement, the Employer has the right to suspend the Employee on pay pending the outcome of any fact finding or disciplinary investigation required (after hearing from the Employee).

# Redundancy

## Redundancy means an Employee’s employment is terminated as being surplus to existing requirements by reason of the closing down, reorganisation, restructuring, contracting out, sale, transfer or cessation, of the whole or part of the Employer's operation, or amalgamation of the Employer's operation with the operation of another Employer.

## If, either prior to or during an agreed engagement, the Employer believes the Employee’s position is redundant, the Employer will consult with the Employee. If the Employee is made redundant, notice will be provided in accordance with the termination provision of this agreement. No redundancy compensation will be payable.

# Employee Protection Provision

## The Employer may sell or transfer all or part of its business or enter into a contract or arrangement for the business to be undertaken by another person (**New Employer**). If the above should occur, this will be regarded as a restructuring (**Restructuring**).

## In order to provide protection of the Employee’s employment where a Restructuring is proposed or actioned clauses 21.3(a) to (c) will have effect. These provisions are for the purpose of compliance with the Employment Relations Act 2000, as amended.

## In the event of a Restructuring which results in the Employee no longer being required to perform his/her work for the Employer and where the Employee’s type of work is, or is to be performed by the employees of the New Employer, the following process will be followed by the Employer:

### The Employer will notify and consult with the Employee about any Restructuring proposal as soon as reasonably practicable, and provide the Employee with information and an opportunity to comment, subject to requirements to protect privacy and commercially sensitive information.

### The Employer will use its best efforts to negotiate with the proposed New Employer in an endeavour to secure an offer of employment from the New Employer on the same or similar terms and conditions and to treat the Employee’s employment as continuous. The Employer may involve the Employee in these discussions/meetings which will address whether the Employee will transfer to the New Employer and if so on what terms and conditions.

### The Employee will be informed as soon as is practicable of:

* + - 1. any offer the New Employer intends to make to the Employee;
			2. the likely date of transfer;
			3. the anticipated impact on the Employee’s employment.

## If the New Employer offers the Employee employment, the Employee will be given a reasonable opportunity to elect whether or not to accept that offer and will be advised of the date by which the Employee must decide whether or not to transfer to the New Employer.

## If the Employee is offered employment on the same or similar terms (or terms the Employee is prepared to accept) with the New Employer the Employee’s employment is treated as continuous, and the Employee’s termination of employment will be a technical redundancy with no redundancy compensation payable.

## In the event that there is a Restructuring and the Employee is not offered employment by the New Employer, the following conditions and process apply:

### the Employer will explore redeployment options for a period of two weeks unless the Employer agrees in its discretion to consult for a longer period;

### the Employee will be provided with notice of termination as provided for in this employment agreement. No redundancy compensation will be payable.

# Force Majeure

## Neither party will be liable to the other for any failure to perform the party’s obligations under this agreement by reason of extraordinary circumstances beyond the party’s reasonable control, including (but not limited to) natural disaster, health epidemic or pandemic, governmental actions or war (‘force majeure event’). The party affected must:

### notify the other party as soon as practicable after the force majeure event occurs, and provide information concerning the force majeure event, including an estimate of the time likely to be required to overcome it;

### take all reasonable steps to overcome the force majeure event and minimise the loss to the other party; and

### continue to perform that party’s obligations as far as practicable.

# Alteration to this Agreement

## By the agreement of the parties in writing, any of the clauses in this agreement may be amended or new clauses added during the term of this agreement.

# Personal Grievance and Disputes

## Any personal grievance as defined by the Employment Relations Act 2000 or any dispute over the interpretation, application or operation of these terms and conditions will be resolved in accordance with the provisions set out in the attached plain language explanation document.

**Declaration**

I understand and agree to abide by the terms of this agreement and any applicable policies.

I understand that this document supersedes and replaces any and all previous arrangements that may have existed between the Employer and myself.

I, declare that:

### I have read, understood the terms and conditions and received a copy of this agreement.

### I have been informed of my relevant entitlements under the Holidays Act 2003 and how to obtain further information if need be.

### I was given the opportunity to seek independent advice and/or explanations of any term or condition which I did not understand prior to signing the agreement.

### I do not have any disability, medical condition, injury or illness which would affect my ability to carry out my duties and responsibilities under this agreement.

### I will immediately inform the Employer of any disability, medical condition, injury or illness that I may incur in the future which may affect my ability to carry out my duties and responsibilities under this agreement.

### The information provided by me is true and correct to the best of my knowledge and belief.

### I understand that if the Employer discovers that I have supplied any false information or have misled the Employer in any way, this agreement may be terminated immediately.

**SIGNED** on behalf of the Employer by )

Date:

**SIGNED** by the Employee )

Date:

**Schedule One**

Position Description

[Insert Position Description]

**Schedule Two**

Remuneration and Benefits

The Employee will be paid an hourly rate of $[x] (gross) per hour.

**KiwiSaver**

The Employee has the option of joining KiwiSaver, and as a new Employee will be automatically enrolled in KiwiSaver. KiwiSaver is a voluntary work-based savings initiative to help New Zealanders with their long-term saving for retirement.

The Employer will make the minimum compulsory Employer contributions in accordance with the KiwiSaver Act 2006. The Employee’s contribution will be deducted from the Employee’s pay. Both Employee deductions and Employer contributions will be set out in the Employee’s payslip.

If the Employee decides to opt out, or takes a contributions holiday, the Employer will stop making deductions on behalf of the Employee and Employer contributions will also stop.

More information about KiwiSaver, including what Employers and Employees need to do to start a savings scheme, is available from <http://www.kiwisaver.govt.nz>.

**Employment Relations Problem Procedure**

The Employment Relations Act seeks to promote a productive working relationship. One of the ways it does this is to provide ways for Employers and Employees to solve problems that come up at work.

What do we mean by an Employee relationship problem? It can be anything arising out of your employment relationship except for bargaining over new terms and conditions. The most common problem is where you have a personal grievance. Please see our definition below. There can also be a dispute about the entitlements or obligations of your employment agreement.

**The first step is to let your Employer know there is a problem as soon as possible.**

Problems are easier to fix if you do something early. Once a problem occurs bring it to the attention of your Employer as soon as reasonably possible. We would encourage you to do so in writing. If you wish to you can get someone to represent you.

There are specific points you need to know about personal grievances.

If you have been dismissed then you have the right to obtain a written statement of the reasons for your dismissal as long as you make a request within 60 days. We then have to respond to you within 14 days from the time your request is received.

This means you need to let your employer know about your personal grievance:

* **within 12 months of when you become aware of the problem if the personal grievance is in respect of sexual harassment as defined by the Employment Relations Act, and;**
* **within 90 days of when you become aware of the problem in respect of any other personal grievance.**

If you don’t then you may not be able to take the grievance any further.

If you have any questions about what to do, the mediation service can give you information.

**The second step is to discuss and try to fix the problem.**

Discussions should then take place between you and your Employer as soon as practical. If the Employer’s response resolves the problem then that is the end of the matter.

**If the problem is not resolved through discussions with your Employer, the third step is mediation.**

A confidential mediation service provided by the Ministry of Business, Innovation and Employment to help Employees and Employers settle their problems. Anything said during mediation is confidential and cannot be used outside of mediation.

If an agreement is reached then normally the mediator writes up the terms of settlement and signs them.

Of course an agreed settlement might not be reached. In that case there is the option of asking the mediator to make a final and binding decision. Before this can happen it is necessary that you, your Employer and the mediator agreed to resolve the problem in this way.

Any signed settlement or mediator decision is final and binding and can be enforced if it is not honoured. There is no right of appeal as the parties have agreed to the problem being fixed this way.

**If mediation is not successful then you can refer the problem to a member of the Employment Relations Authority.**

There is no formal process for how the member makes a decision. The Authority has the right to ask questions and gather information in any way that is reasonable. A purpose of the Act is to keep this process from being too legalistic so that practical and rapid answers can be arrived at.

The decision of the Authority is final and binding unless it is challenged in the Employment Court.

Any challenge goes to the Employment Court.

Challenges to the Employment Court are either on the papers or by way of a full hearing where the Court hears all of the evidence.

“**Personal Grievance**” means any grievance that an Employee may have against the Employee’s Employer or former Employer because of a claim -

a. that the Employee has been unjustifiably dismissed; or

b. that the Employee’s employment, or one or more conditions of the Employee’s employment (including any condition that survives termination of the employment), is or are or was (during employment) that has since been terminated) affected to the Employee’s disadvantage by some unjustifiable action by the Employer; or

c. that the Employee has been discriminated against in the Employee’s employment; or

d. that the Employee has been sexually harassed in the Employee’s employment; or

e. that the Employee has been racially harassed in the Employee’s employment; or

f. that the Employee has been subject to duress in the Employee’s employment in relation to membership or non-membership of a union or Employees organisation.