**FIXED TERM LOCUM EMPLOYMENT AGREEMENT**

**THIS AGREEMENT** is between ("the practice")

**AND** ("the locum")

Medical Council Reg No ..............................

MPS or other indemnity provider No ..............................

**1. *Period of Agreement***

This agreement shall be for the period from to (both inclusive), provided that either party may terminate this agreement on giving week’s written notice to the other. The locum acknowledges that he/she has no expectation of permanent employment with the employer.

The reason for the fixed term is..............

1. **Trial Period (delete one, or both)**

*Trial Period 1*

2.1 The employee agrees to enter into a trial period pursuant to section 67A of the Employment Relations Act 2000 as per the following:

2.1.1 The trial period shall be for \_\_\_days [insert number of days - 90 days or less] and will start at the beginning of the employee’s employment;

2.1.2 During the trial period the employer may dismiss the employee; and

2.1.3 If the employer does dismiss the employee, the employee is not entitled to bring a personal grievance or other legal proceedings in respect of the dismissal.

2.2 The employee has been advised of their right to seek independent advice about the implications of this provision prior to agreeing to this trial provision.

*Trial Period 2*

2.1 Employment is subject to a trial period of three months.The purpose of that period is to assess the employee's suitability for the position and to provide an opportunity for induction and initial training.

2.2 The employer will review the employee's progress throughout the trial period and discuss any concerns or shortcomings with the employee. Additional support will be given if necessary, but if in the course of the trial period in the employer's opinion the employee is not making adequate progress or is not suitable for the position (and formal warnings have been given), the employer may terminate the employment on notice as stated in 3.3.4 below.

2.3 At the conclusion of the trial period and at the employer’s discretion the employer will assess performance to date and will either:

* + 1. Confirm the employee in the position; or
    2. Extend the trial period for a set period to provide a further opportunity to address shortcomings and/or meet the standards required; or
    3. Give the employee the opportunity to try an alternative position with or without a further trial period; or
    4. Where the employee has failed to meet the standard required, having been given sufficient opportunity to address shortcomings, terminate the employment on notice of two weeks.

***3 Work Duties and Location***

The employee is engaged as a ………………………………………………… (position) based at ………………………………………………… (location). A detailed outline of the position is attached to this agreement in the form of a job description. The parties agree that this is a flexible statement of the duties and the employee agrees that he/she is prepared to take on any reasonable and lawful task, as directed by the employer or any manager on behalf of the employer from time to time, to further the interests and objectives of the employer.

* 1. The employee will during working hours (unless prevented by ill health or accident and except during holidays permitted by this agreement) devote the whole of the employee’s time, attention and abilities to carry out the employer’s duties to the best of the employee’s abilities and according to the instructions given by the employer from time to time.
  2. The employee will use their best endeavours to promote, develop and extend the employer’s business, interests and reputation and not do anything to its detriment.
  3. The employee may be required to travel to such places, in such manner and on such occasions, as the employer reasonably requires.

1. ***Hours and Days of Work***

The locum's hours and days for carrying out the services under this agreement shall be:

**5. *On Call Requirements***

The locum agrees to make himself/herself available for the following on call requirements:

**6. *Relationships with Others in the Practice***

6.1 The locum's responsibilities in relation to partners and staff of the practice are:

* + - 1. Partners/Associates

* + - 1. Practice Manager

* + - 1. Receptionists/Practice Nurses

**7. *Continuing Medical Education***

7.1 The locum undertakes to participate in continuing medical education, which may consist of either or both:

7.1.1 reaccreditation with the Royal New Zealand College of General Practitioners; or

* + 1. peer review.

**8. *Basis of Payment***

* 1. The practice will pay the locum at the rate or rates of payment specified below:

$ per morning session

$ per afternoon session

$ per night session

$ per weekend

$ per week

$ per on call session

**8A. *Alternative Basis of Payment***

8.1 The practice will pay the locum whichever is the greater of:

8.1.1 $............ per calendar month (or pro rata in the case of services provided for only part of a calendar month); or

8.1.1 .......% of gross fees charged by the locum per calendar month.

8.2 Where, and to the extent that, the locum's payment relates to any service(s) for which payment is to be received from a District Health Board or the Accident Rehabilitation and Compensation Insurance Corporation the practice may, at its reasonable discretion, defer making payment for such services pending receipt of the monies from whichever of those entities is responsible for making the payment.

* 1. The practice will give the locum such reasonable access to its books as may be necessary for the purpose of satisfying himself or herself of the correctness of any calculation and payment.

**9. *Method of Payment***

The practice will pay the locum

**10. *Locum's Responsibilities***

The locum will:

* 1. Abide by the NZMA Code of Ethics.

10.2 Not disclose to any other person any confidential information about the practice.

10.3 Keep and render to the practice accurate accounts of all professional visits paid and all patients attended and all other business done by him/her for the practice and of all monies he/she shall have received or paid on the practice's account and forthwith pay any monies so received to the practice.

10.4 Not attend any of the practice's patients otherwise than on the practice's behalf and as a locum.

10.5 Attend all cases promptly and exercise all reasonable care and skill in the treatment given and prescribed.

10.6 Comply with all proper requirements of the Ministry of Health, District Health Board, or any other body as to claims for payment of fees and any other matter, and to that end the practice shall give the locum such details of the claims and payments procedures and any other requirements relevant to the locum's practice which apply between the practice and any such body as may be necessary to enable the locum to familiarise himself/herself with such procedures and requirements.

10.7 Hold and maintain an annual practising certificate.

10.8 Join and maintain membership of, the Medical Protection Society or other.

**11. *Annual Leave***

* 1. Upon the completion of each twelve month period of employment, the employee is entitled to four weeks’ paid annual holiday, in addition to all statutory holidays and inclusive of the provisions of the Holidays Act 2003. Annual holidays will be paid in accordance with the Holidays Act 2003 and will be paid in the normal pay cycle unless otherwise agreed between parties.
  2. The times at which leave is taken will be determined by mutual agreement, or failing that at the employer’s discretion after consultation and provided that no less than 14 days notice is given.

**12. *Sick Leave***

12.1 Sick leave is allowed for in accordance with the Holidays Act 2003. Where the employee has worked for six months with the employer they shall be entitled in each ensuing period of 12 months, to five days sick leave on full pay. Sick leave may accumulate to a maximum of 20 days entitlement in any year.

12.2 Sick leave may be taken in the following circumstances:

12.2.1 The employee’s sickness or injury.

12.2.2 Sickness of the employee’s spouse,

12.2.3 Sickness of a person who depends on the employee for care.

12.3 If the locum is paid solely on the basis of gross fees charged (clause 8(A)(2) ), then the payment for each day of sick leave taken (and which the locum is entitled to) shall be determined by averaging the daily payment earned by the locum for the previous four weeks.

**13. *Bereavement Leave***

13.1 Bereavement leave will be allowed for in accordance with the Holidays Act 2003. After six months current continuous service, the employer will allow the employee to take:

* + 1. Three days bereavement leave on the death of either the employee’s spouse, parent, child, brother or sister, grandparent, grandchild or spouse’s parent; and
    2. One day’s bereavement leave for the death of any other person if the employer accepts that the employee has suffered a bereavement as a result of the death.

13.2 If the locum is paid solely on the basis of gross fees charged (clause 8(A)(2) ), then the payment for each day of bereavement leave taken (and which the locum is entitled to) shall be determined by averaging the daily payment earned by the locum for the previous four weeks.

**14. *Public Holidays***

14.1 Public holidays are allowed for in accordance with the Holidays Act 2003. Each employee shall be entitled to 11 whole holidays which shall, where they fall on days that would otherwise be working days for the worker, be paid holidays in addition to annual holidays.

14.2 Such public holidays are: Christmas Day, Boxing Day, New Year's Day, 2 January, Good Friday, Easter Monday, ANZAC Day, Labour Day, the Sovereign's birthday, Waitangi Day and the appropriate provincial anniversary.

* 1. Due to the nature of the employer’s business, the employee may be required to work on any of these public holidays. Where the employer requires an employee to work on any of the said public holidays, the employer may on notice of at least 5 working days require the employee to work on the public holiday.

14.4 Where a public holiday falls on a day that would otherwise be a working day for the employee, and the employee is directed to, and does work on that day, the employee will be paid the portion of the employee’s relevant daily pay that relates to the time actually worked on the day plus half that amount again (time and a half).

14.5 If the employee works on a public holiday that is a normal working day for the employee, then the employee will also be granted an alternative day’s holiday, at their relevant daily pay, for the day chosen. An alternative holiday will be taken at a time mutually agreed between the employer and employee. An employee will not be entitled to an alternative holiday if they work on a public holiday that is not a normal working day for the employee.

**15. Suspension**

15.1 If the employer decides to investigate an instance of possible serious misconduct, they may, after consulting the employee, suspend the employee until the employer decides what disciplinary action to take. Normally, any suspension will be on full pay. However, in circumstances where the suspension has been or is likely to be prolonged (for instance where there is an intervening criminal investigation or where the employee fails or is unable to take full part in the investigation process), the employer may, again after consulting the employee, suspend the employee without pay.

1. Vulnerable Children Act 2014
   1. Where employers are required under the Vulnerable Children Act 2014 to safety check employees who will have contact with children, the parties agree that the locum will be required to undergo such checks as prescribed by Regulation.  This may include both vetting and screening processes.  A locum who refuses to participate in the required safety checks or who does not pass such required screening may have their employment terminated.
   2. If a New Zealand Police Vetting check has been conducted on the locum but has not been completed, the locum agrees not to treat any person under the age of 18 unless they are accompanied by a parent, caregiver, guardian or a senior staff member.

**17. *Restraint of Trade Clause***

17.1 The locum agrees not, for a period of one year after the determination of this agreement, to treat as a medical practitioner, either on his or her own account or in a firm or as an employee or locum of another medical practice, any person whom he or she has treated while engaged in the practice except for his/her immediate relations, nor will he/she solicit, procure, direct or otherwise be instrumental in the diversion of any patients from the practice to any other practice.

17.2 Consideration for this restraint of trade has been included in the employee’s remuneration package.

**18**. ***Business Sale, Transfer or Contracting Out***

* 1. In the event that the employer is restructuring in terms of section 69L of the Employment Relations Act (i.e. is selling, transferring or contracting out all or part of its business to a new entity with the result that the work the employee performs is no longer required to be performed in-house), the following provisions will apply:

18.1.1 The employer will enter into discussion with the new entity and will encourage it to offer you employment on unchanged terms and conditions and recognise your service as continuous. However, the final decision on these matters rests entirely with the new entity.

18.1.2 You are free to choose whether or not to accept any offer of employment that may be made by the new entity. The employer may also offer you alternative employment, which you are free to accept or reject.

**19. *Information on Services Available for the Resolution of Employment Relationship Problems***

Employment relationship problems will be dealt with in accordance with the problem resolution process attached as Schedule A to this agreement.

**20. *No Partnership***

Nothing in this agreement shall entitle or expose either party to any of the rights or liabilities of a partner nor constitute the relationship of partners between them.

**21. *Acknowledgement***

I ………………………………… (employee) acknowledge that I fully understand the terms and conditions in this individual employment agreement, was given a reasonable opportunity to seek independent advice before I entered into the agreement, and was not induced to enter into this agreement by any undue influence or duress by ………………………………… (employer).

Employee's Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Employer's Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

For and on behalf of the Employer

Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SCHEDULE A**

***Information on Services Available for the Resolution of Employment Relationship Problems***

The employer and employee can save time and help preserve their working relationship by solving their own problems as far as possible.

The following are suggestions for what the employee might do if they think there is a problem, and what help is available.

1. Clarify the problem
2. The employee should make sure there really is a problem by checking facts and ensuring nothing has been assumed or misunderstood. The employee might discuss the apparent problem with family, friends or advisers and find out what the laws and/or what this employment agreement says.
3. The employee can:

* Contact Ministry of Business, Innovation and Employment’s Infoline
* call free 0800 20 90 20
* visit the website at www.dol.govt.nz
* Get pamphlets/fact sheets from Employment Relations Service offices.
* Talk to a Union, a lawyer, community law office, industrial relations consultant, or other adviser.
  1. Discussion with the Employer

The employee can arrange to discuss the facts with the employer to clear up any assumptions or misunderstandings, and try and find a solution. The employee may bring a friend, relative, or colleague to support them in the discussion at any time.

1.3 What are the Next Steps?

If the problem cannot be solved by discussion, either the employee or the employer can do some or all of the following things:

1. Contact Employment Relations Infoline, who may provide information and/or refer both parties to mediation;
2. participate in mediation provided by the Employment Relations Service (or the employer and employee can agree to use their own private mediator);
3. if there is agreement, a mediator provided by the Employment Relations Service can sign the agreed settlement, and that will be binding. Otherwise both parties can choose to have the mediator provided by the Employment Relations Service decide the matter, and if so, that decision will be binding;
4. if mediation does not resolve the problem, either or both parties can take the problem to the Employment Relations Authority for investigation;
5. the Employment Relations Authority may direct both parties to mediation or it can investigate and make a determination about the problem;
6. any party dissatisfied with the determination of the Authority, can take the problem to the Employment Court for a judicial hearing. (The Court may also tell both parties to go back and have more mediation).

1.4 Personal Grievances

1. If the employee considers that there are grounds for raising a personal grievance (for unjustified dismissal, unjustifiable disadvantage, discrimination, duress, sexual or racial harassment), the employee must notify the employer within 90 days of the action occurring or coming to the employee’s notice, otherwise the claim may be out of time.
2. The employee must let the employer know what the grievance is about, by either telling the employer, or putting the grievance in writing, so the employer can respond to the claim.
3. If the grievance is raised out of time, the employer may reject it, in which case the employee can ask the Employment Relations Authority to allow the grievance to be raised out of time but only if there are exceptional circumstances.