**INDIVIDUAL EMPLOYMENT AGREEMENT**

**THIS AGREEMENT** is between………………………………………………………………. ("the employer")

**AND** …………………………………………………………………………………………. ("the employee")

***Interpretation***

In this agreement, unless the context otherwise requires:

"Act" means the Employment Relations Act 2000, and its amendments;

"Employer" means the company or (as the case may be) the medical practitioner(s) who is/are named above and includes where the context permits any person (such as a manager) to the extent that such person from time to time exercises the powers or duties of the employer;

1. ***Commencement of Employment***

1.1 This individual agreement shall come into force on ……………………………………

* 1. This agreement is an individual employment agreement within the meaning of the Act between the employer and the employee.
  2. This agreement constitutes the entire agreement between the employer and employee and supersedes all previous representations, negotiations, commitments, communications, either written or oral, between the parties.

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.

1. ***Duties, Location and Employee Responsibilities***

3.1 The employee is engaged as a ………………………………………………… (position) based at ………………………………………………… (location).

3.2 The duties required for the position are generally set out in the attached job description. Duties may be amended by the employer from time to time, following consultation with the employee.

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.

3.5 The employee may be required to travel to such places, in such manner and on such occasions, as the employer reasonably requires.

**4. *Remuneration***

* 1. The employee shall be entitled to receive salary at the annual rate of ………………, such salary to be payable by *equal fortnightly instalments*, wholly or partly in arrears.

Where there is any alteration to the regular amount being paid the employee shall be supplied in writing with the details of the manner in which the salary has been calculated.

* 1. The employer will review the employee's salary on or about each anniversary of the commencement of the employee’s employment each year having regard to the employee's performance since the most recent annual review.

The employer is under no obligation to make an adjustment to the salary of the employee, following the annual review.

**5.** ***Hours and Days of Work***

* 1. The employee’s ordinary hours of work will be ……………… hours per week to be worked in accordance with the roster posted from time to time or between the hours of …………… to ……………… on …………………………………… (days).
  2. Where prior approval is sought, any hours agreed to be worked in excess of the ordinary hours of work may attract time in lieu. Time in lieu for hours worked is not an automatic entitlement and any decision will be made at the employer’s discretion.

Time in lieu is non-cumulative, and must be taken within one month of entitlement unless an alternative arrangement is agreed to with the employer. Unused time in lieu after one month or at termination of employment has no value and will not be paid out.

1. ***Leave* *Provisions***

6.1 Annual Leave

6.1.1 Upon the completion of each twelve month period of employment, the employee is entitled to four weeks’ paid annual holiday, in addition to all public 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.

6.1.2 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.

6.2 Sick Leave

6.2.1 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 at the beginning of any entitlement year.

* + 1. Sick leave may be taken in the following circumstances.
       1. The employee’s sickness or injury.
       2. Sickness of the employee’s spouse,
       3. Sickness of a person who depends on the employee for care.
    2. Where the employee needs to take sick leave, the employee will notify the employer as soon as practicable and before the commencement time on the first day of absence where practicable.
    3. The employee will, subject to section 68 of the Holidays Act 2003, provide evidence to support an application for sick leave if required by the employer. Where the employee is requested to provide a medical certificate, the medical certificate must state that the employee/dependant has been examined by a doctor and is, in the doctor’s opinion, unfit for work.
    4. Sick leave will be paid in accordance with the Holidays Act 2003 and will be paid in the normal pay cycle.
    5. If there is reason to suppose that the employee is suffering from any sickness, illness, physical and/or mental disability impacting on the employee’s ability to perform the duties to a satisfactory level, the employer may request the employee to undergo an independent medical assessment by a medical practitioner nominated and paid for by the employer. The employee agrees to authorise the nominated medical practitioner to release any reports to the employer to assist in its assessment of the situation. If the employee should refuse to undergo a medical assessment or release such report the employer will be at a liberty to assess the situation based on such information and belief as the employer has at the time of refusal.

6.3 Bereavement Leave

6.3.1 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:

6.3.2 Three days’ bereavement leave on the death of either the employee’s spouse, parent, child, brother, sister, grandparent, grandchild or spouse’s parent; and

6.3.3 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.

* + 1. Bereavement leave will be paid in accordance with the Holidays Act 2003 and will be paid in the normal pay cycle.

6.4 Public Holidays

6.4.1 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.

* + 1. 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.
    2. 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.
    3. 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)
    4. 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.

6.5 Parental Leave

6.5.1 The provisions of the Parental Leave and Employment Protection Act 1987, including the entitlement to paid parental leave as provided in that Act, shall apply.

1. ***Health and Safety***

The employer and the employee agree to give effect to and comply with the provisions of the Health and Safety in Employment Act 1992 and the regulations pursuant to this Act and any applicable Codes of Practice.

1. ***Employee’s* *Undertakings***

The employee agrees to:

1. act in good faith in all matters affecting the employment relationship;
2. respect the confidentiality of case notes, records and other material relating to patients of the business, or to the business affairs of the employer during and after employment;
3. not disclose to any unauthorised persons confidential patient or business information at any time during the term of this agreement, after its termination, or after termination of employment. Any unauthorised disclosure of information will be considered “serious misconduct”;
4. comply with any reasonable requirement to cover for absent staff and to work after hours in any emergency or other situation where the needs of the employer so require;
5. at all times be caring and sensitive to the needs of patients with whom he/she comes into contact at work;
6. take all reasonable precautions for the health and safety of themselves, their co-employees, patients and other visitors to the employer’s premises;
7. comply with all instructions of the employer relating to security, including security of any drugs kept on the premises;
8. on termination of employment immediately return any property of the employer in his/her possession.

**9.** ***Employer's Undertakings***

9.1 The employer agrees to:

1. act in good faith in all matters affecting the employment relationship;
2. take all practicable precautions for the health and safety of the employee and all other people lawfully in the premises;

(c) provide a free Hepatitis B inoculation to the employee if they wish to be inoculated;

(d) provide satisfactory lighting, heating, ventilation, cloak and toilet facilities;

1. upon termination of employment provide a certificate (which may not be a reference) setting out the nature and period of the employee's engagement.
2. ***Employer’s Rights***
   1. The employer shall be entitled to dismiss the employee summarily for serious misconduct or (as the case may be) to issue a warning in accordance with this agreement.
   2. For the purposes of this section "serious misconduct" includes (but is not limited to) dishonesty, abuse or misuse of drugs, breach of patient confidentiality, falsifying any records of the practice, and repetition of misconduct, or misconduct similar thereto.
3. ***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 B to this agreement.

**12.** ***Redundancy***

12.1 “Redundancy” means a situation where the employee’s position is surplus to the employer’s requirements.

12.2 In the event that the employer proposes to declare the employee redundant, the employer shall:

1. follow a fair procedure and consult with affected employee(s) concerning the proposed change before making any final decision and before giving notice of termination of employment;
2. give the employee such reasonable time off while working out their notice period as may be necessary to enable the employee to seek alternative employment and to undertake such counselling or other support process as the employer can reasonably provide.
   1. If the employer terminates the employee’s employment for redundancy the employer will give not less than the notice period specified in Clause 15. By agreement between the employer and the employee the employee may leave before the end of the notice period and be paid salary in lieu of notice.
   2. No additional compensation shall be payable.

**13. *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 (in addition to clause 12):

(a) 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.

(b) 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.

**14. *Variation of Terms of Agreement***

The parties may vary this agreement in writing from time to time.

**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.

**16. *Notice/Termination Period***

* 1. Two weeks’ notice of termination of employment shall be given by either party. This shall not prevent the employer from summarily dismissing an employee for serious misconduct.
  2. Where employment is terminated by either party without notice for reasons other than serious misconduct, two weeks shall be paid or forfeited in lieu of notice.
  3. If either party gives such notice, the employer shall have the option of either:-

1. Requiring the employee to work out all or part of the period of notice and providing payment in lieu of any unworked period of notice; or
2. paying the employee in respect of that period and requiring the employee to terminate employment immediately;
3. requiring the employee to take paid leave for some or all of the period of notice.
4. Policies and Procedures
   1. The employee shall comply with the employer’s policies and procedures in force from time to time, to the extent that such policies and procedures are not inconsistent with the terms and conditions of this Agreement.
   2. The employee will be consulted regarding any additions/amendments to those policies and procedures, where such additions/amendments have a material effect on employees’ conditions of employment.
   3. **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 all employees covered by this agreement may be required to undergo such checks as prescribed by Regulation.  This may include both vetting and screening processes.  An employee 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 employee but has not been completed, the employee 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.
5. ***Employee Representations***
   1. The employee warrants that:

(a) All representations, whether oral or in writing, made by the employee as to qualifications and experience in applying for this position are true and complete.

(b) The employee has not deliberately failed to disclose any matter which may have materially influenced the employer’s decision whether to employ the employee.

(c) The employee neither has made nor will make any commitments which would conflict with the performance of the employees obligations under this agreement.

18.2 In the event of any discovered breach of subclause 17.1 above, the employee acknowledges that the employer may terminate their employment for serious misconduct.

**19. *Miscellaneous***

Other Documents

The employee agrees to become familiar with, and abide by, the following documents and any amendment the employer may, at its discretion, make to those documents from time to time:

1. The job description as from time to time amended by the employer following consultation and agreement with the employee.
2. The documents (if any) listed in Schedule A.

In the case of any inconsistency between any document and this agreement the terms of the agreement will prevail.

**20. *Special Conditions***

**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

List of any other documents with which the employee is expected to be familiar and comply with

(i)

(ii)

(iii)

# SCHEDULE B

***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.