

**Hire employees in the United States**  
simply, compliantly, and hassle-free

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# What you need to know for employing in the US

Employ remote teams worldwide with Omnipresent's Employer of Record (EOR) service. We combine human expertise with automation to deliver your compliance, payroll, benefits, and HR support needs.

\*This fact sheet focuses on the federal government regulations of the United States. For insights on state-level regulations, feel free to contact Omnipresent with your specific questions. It's worth noting that states like California and New York have been known to implement much stricter requirements on employers.



**Currency:** United States dollar (\$, USD)



**Language(s):** English



**Employer costs:** Average



**Termination:** Simple



**Onboarding Timeline:** ~13 calendar days



**Payroll Frequency:** Fortnightly

# Benefits

What we offer	Mandatory	Supplementary
Healthcare (Public)	✓	
Healthcare (Private)	✓	
Dental Insurance		✓
Vision Insurance		✓
Retirement & Pension (Public)	✓	
Retirement & Pension (Supplementary)(401K)		✓
Accident Insurance*		
Disability Insurance**	✓	
Illness Insurance*		✓
Life Insurance**	✓	
Workers' Compensation	✓	✓
Wellbeing		✓
Employee Assistance Programs		✓
*benefit is voluntary and 100% employee-paid ** coverage increase is voluntary and 100% employee-paid		

## Health

State medical benefits are provided through qualifying health care plans, as prescribed under the Patient Protection and Affordable Care Act (PPACA) and contributions to MediCare.

In addition, employers are required to offer supplementary Health Insurance in the US.

We offer three different packages, which include: private healthcare, dental, vision, life insurance and disability insurance.

## Retirement

Retirement benefits are provided through the Old Age, Survivors, and Disability Insurance (OASDI) programme (known locally as Social Security), administered by the Social Security Administration. It is not a requirement to offer supplementary Retirement benefits in the USA, however it is very common for employers to offer supplemental retirement benefits to employees through 401K plans and traditional pension plans. We offer a limited supplementary pension plan (401K) where the employee can choose to contribute to their retirement, but the employer does not.

# Employment Contracts

In the United States, we offer indefinite and part-time salaried\* contracts across all states. We currently do not offer the provision of fixed-term contracts\*\*. Please also note that we only hire employees whose roles, job description and salary/remuneration qualify them as being exempt from receiving overtime payments.

\*Salaried status means that the amount of pay an employee receives is the same for each pay period and does not depend on the number of hours they work each week. We won't be tracking hours, the employee has a fixed salary, and the "hours of work" will be specified in the contract. The salary won't change if they work more hours or less hours as they are "exempt".

\*\*Employees on fixed term contracts are not "at-will" workers. As such, if these workers are dismissed before the expiration of their contract, they may be entitled to the compensation they would have received if they had worked to the contract's end date.

## Contract Requirements

Omnipresent provides a written employment agreement to the employee and maintains an 'at-will' employment relationship with the employee. The at-will concept of employment law in the U.S. allows the employer to dismiss an employee for any reason, and without warning, as long as the reason is not illegal.

Executives and high-level managers tend to have written employment agreements that will address: duties, compensation, restrictive covenants, and may include termination severance and prior notice obligations.

Omnipresent ensures that all necessary key employment terms are included in the employment contracts we provide.

**Contract language:** English

**Signature requirement:** Digital

**Backdating:** Not possible as per Omnipresent's policy



## **Contract Customisation**

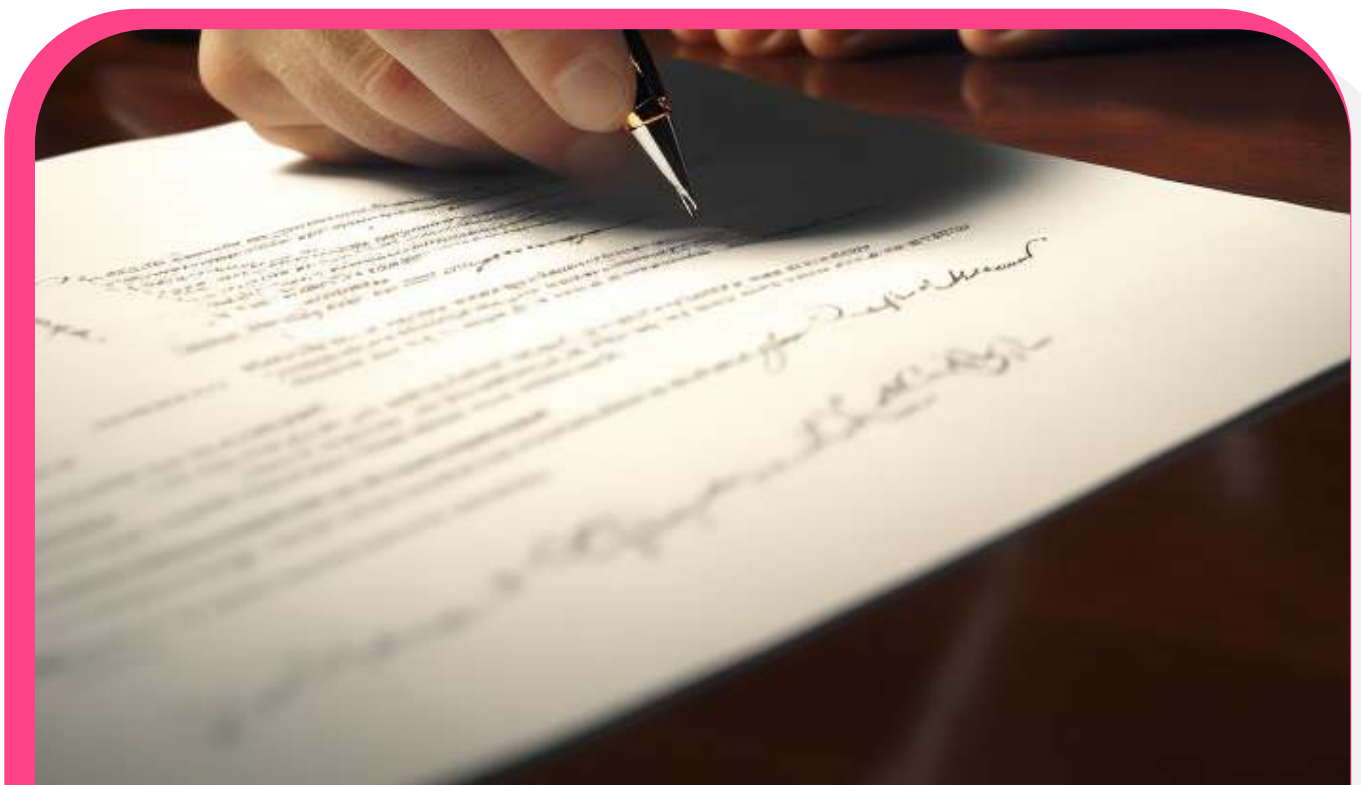
We provide optional clauses for customisation when adding an employee to our platform. This allows you to tailor certain contract aspects, such as unlimited time off or extra-legal sick days. However, certain contract elements cannot be customised due to compliance risks or Omnipresent's operational restrictions and business policy. Examples of this include the payment of overtime for non-exempt employees, the implementation and enforcement of restrictive covenants, and stylistic changes.

## **Probation**

Omnipresent does not facilitate the inclusion of a probation period in its U.S. employment contracts. This is because:

- Probation periods are not necessary due to our reliance on the at-will employment concept in the U.S.
- Generally, probationary periods are deemed to be inconsistent with at-will employment. Employers who implement probationary periods are unlikely to be able to rely on the at-will employment concept.

Please note that the only exception to our policy regarding the implementation of a probation period is in the case of a transfer of the employment relationship or where a high level executive member of staff is being engaged.



# Onboarding

## **Timeline**

Our normal onboarding timeline for the United States is ~13 calendar days. The onboarding steps involved are: Platform Setup, Right-to-Work Check, Employment Contract, Benefits and Payroll enrollment.

## **Registration & Approvals**

The employer must report newly hired or rehired employees within calendar days from the hiring date. Omnipresent will take care of this if you hire your employees under our OmniEntity.

## **Immigration & Visas**

Omnipresent cannot sponsor visas in the U.S. However, there are still visa options that don't involve sponsorship and our partner Jobbatical can offer paid pre-assessment for verifying visa alternatives under a very narrow framework only for highly qualified individuals.

## **Right-to-Work**

Employers must carry out right to work (RTW) checks on all prospective employees before they are employed.

Employers and employees must complete the U.S. Citizenship and Immigration Services' Employment Eligibility Verification form (Form I-9) for onboarding.

Our Local Payroll Provider sends emails directly to the employees to solicit the required forms to fill out for their particular state.

## When moving your employees from another EOR to Omnipresent

If the employee has previously worked for you, whether in another country or through another EOR provider, we can recognise their length of service. This recognition of seniority will need to be mentioned in the employment contract.

# Leaves

### Annual Leave Entitlement

The United States has no federal law requiring that employees be provided with vacation time. Instead, it's a benefit decided on a State-by-State or an individual basis between employees and employers.

We can offer unlimited time off in the United States.

### Annual Leave Carryover

If employees are granted annual leave they can carry a maximum of 240 hours of annual leave from one leave year to the next. All states, with the exception of California, Colorado, Montana, and Nebraska, permit employers to specify a date by which employees must use any accumulated vacation time.

### Maternity, Paternity & Adoption Surrogate Leave

There aren't any nationally mandated paid benefits for maternity leave in the United States. Numerous states have enacted family leave legislation which requires employers to provide employees with the most generous leave entitlements under either the Federal Family and Medical Leave Act (FMLA) or the applicable state law. The Federal Family and Medical Leave Act (FMLA) requires employers to provide up to 12 weeks unpaid leave for both parents after the birth or adoption of a child. An employee's eligibility to receive FMLA is dependent on various factors, such as the employee's period of continuous employment and the amount of hours worked. Besides the federal regulations, some states require paid parental leave (e.g. New York entitles the birth parent to 12 weeks of paid leave and short term disability benefits).



## Sick Leave

The Fair Labor Standards Act (FLSA) does not require payment of sick leave on a federal level. An increasing number of States require that employers provide paid sick leave to employees. Nevertheless, it is customary for employers to agree to provide paid time off in the event of sickness.

## Public Holidays 2023

The United States currently has 11 federal holidays\*.

1. New Year's Day
2. Martin Luther King Jr. Day
3. Washington's Birthday
4. Memorial Day
5. Juneteenth
6. Independence Day
7. Labour Day
8. Columbus Day
9. Veterans Day
10. Thanksgiving Day
11. Christmas Day

\*While all current federal holidays have also been made public holidays in all 50 states, each state is not bound to observe the holidays on the same dates as the federal holidays. Many states also have additional holidays that are not observed by the federal government.



# Payroll & Tax

## Payroll Cycle

The payroll cycle in the United States is semi-monthly, or twice a month. This occurs on the **15th and the last day of the month**.

- Payroll runs from the 1st of the month to the 15th and from the 16th to the end of the month.
- Payroll cut-off date is 6th of the month (any changes to payroll or variables must be shared with Omnipresent by this date).
- Payment date is the last working day of the month (this is when employees will receive their salary payment).

## Extra Payments (Bonus, Commission etc.)\*

There are no mandatory extra payments in the United States. You can grant voluntary bonuses that are taxed as salary.

## Hourly Wage

Omnipresent is unable to accept employees on an hourly wage.

## Minimum Wage

Omnipresent only supports "exempt" employees - mainly salaried non-hourly wage employees.

Exempt employees stand in contrast to non-exempt employees, who must be paid at least the minimum wage, and overtime when they work more than the standard 40-hour workweek.

An employee may classify as exempt depending on various factors governed by Federal and State law.

## Standard Work Schedule

The Standard work schedule in the United States consists of 8 hours per day and 40 hours per week, with the work week running from Monday to Friday.

## Employer Costs

The employer costs depend on a variety of employee variables. A guiding number is **~12%** of the employee salary. To get a more detailed estimate based on the employee salary use the [OmniCalculator](#), or contact us for further information.

# Terminations

## Termination Process

Before proceeding with a termination (including verbal discussion with the employee about the risk of termination) you must first get in touch with Omnipresent. We will then provide guidance on next steps. You can read our [full guidance here](#).

To initiate a termination, you need to submit a termination request through the OmniPlatform after which our relevant teams will assess the case and plan a compliant termination process.

## Involuntary Termination

In almost all states\*, an employer can terminate an employee for any non-discriminatory, non-retaliatory reason, at any time, with or without notice, and with or without cause. However, in order to carry out the termination compliantly, provide relevant employment forms and final payments to the employee, Omnipresent requires advanced notice of a client's request to terminate an employee.

\*In Montana work at-will laws only apply during a probation period that is a standard six months unless otherwise established at the time of employment. Upon conclusion of the probationary period Montana employers must have valid cause in order to terminate one's employment.

## Severance Pay

Other than as provided by contract or in an employer's severance plan or policy, there is generally no statutory right to severance pay under federal or state law. It is customary however, to provide some form of additional payment, especially to more senior employees.

## Notice Period

There is no legally binding termination notice period required in the United States.

When a large number of employees will be terminated in a short period of time, there are both federal and state laws that require advance notice of the dismissals if certain criteria are satisfied.

# Invoice Schedule

## **Setup Fees:**

Once Terms are signed, Omnipresent begins deploying resources for the setup process.

Trigger [*Employee Details Added*]

## **Deposits:**

Payable when the local employment contract is ready for signature. The deposit enables Omnipresent to move forward securely to sign the local employment contract with the employee.

Trigger [*Employee Details Added*]

## **Initial Salary Prepayment:**

The first month's estimated labour costs are invoiced on the first day of employment.

Trigger [*Employment Start Date*]

## **Ongoing monthly Employment Costs and Fees:**

Thereafter, we invoice monthly in arrears for labour costs - once the final payroll, taxes, insurance, social security contributions, expenses and deductions have been calculated. Each monthly invoice will include our monthly service fee, deposit insurance (if applicable), and an FX fee (if applicable).

Trigger [*Payroll Date*] Typically the last working day of the month, but varies by country.





## Explore how Omnipresent simplifies global team growth.

Explore the effortless solution for your global hiring, payment, and management needs with Omnipresent. We simplify complex processes like onboarding, legal contract drafting, expense management, benefits allocation, and a whole lot more. Start your journey towards compliant international business practices.

**TALK WITH AN EXPERT**

