

[Company logo]

ONGOING EMPLOYMENT CONTRACT

PRIVATE & CONFIDENTIAL

ENTERED INTO BETWEEN

[Name of company]

AND

[Name of employee]

ON

[Date]

Dear *[Name of employee]*,

EMPLOYMENT CONTRACT

This letter sets out the terms of your employment with the **Company**. In this letter, words in bold type have the meaning described in the definitions section at the end of the letter.

1 EMPLOYMENT

1.1 Commencing position

[Name of employer] will commence employing you in the position of *[position title]* on a full-time basis, reporting to *[Employee's manager]*, starting on *[commencement date]*.

Your modern award classification is *[relevant classification or if award-free, do not include this sentence]*.

1.2 Acknowledgement

You acknowledge and agree that:

- a. you have a lawful right to work in Australia and to perform the duties and responsibilities of employment contemplated by this letter;
- b. you will immediately notify the **Company** of any circumstance that might prejudice this right at any time during your employment by the **Company**; and
- c. in order to enable the **Company** to verify at any time that you have this right, you will provide to the **Company** upon request sufficient evidence to establish this fact.

1.3 Hours

Except in the case of absence because of ill health, incapacity, accident or approved leave, you will devote the whole of your time, attention and abilities exclusively to the **Company's** business during the hours when the **Company** is open for normal business and such other hours as may be reasonable and necessary for you to perform your duties in a satisfactory manner. If you consider that you are being required to work unreasonable hours or a job that you are doing requires you to work hours that you consider are unreasonable, you should raise this with your manager in the first instance.

1.4 Location

Initially, you will work at the **Company's** premises at *[location]*. However, the **Company** may direct you to perform work at other locations if such a direction does not impose unreasonable hardship on you.

1.5 Probationary employment

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- a. You will initially serve a 6-month period of probation.
- b. During the probationary period, either the **Company** or you may terminate your employment with one week's notice in writing.

1.6 Permanent employment

If your employment continues after the expiration of the probationary period, it will be ongoing, subject to the right of either the **Company** or you to terminate your employment under clause 10.

1.7 Duties and responsibilities

You will:

- a. exercise the powers and discretions, hold the responsibilities and perform the duties and tasks as are conferred, delegated or specified by the **Company** from time to time;
- b. perform those responsibilities and duties honestly and in a proper and efficient manner;
- c. use your best endeavours to promote and enhance the interests, welfare, business, profitability, growth and reputation of the **Company**;
- d. not intentionally do anything that is or may be harmful to the **Company**;
- e. report to the **Company** promptly, or to such person as the **Company** from time to time determines, at all reasonable times, all information and explanations as required in connection with matters relating to your employment or the business of the **Company**; and
- f. comply with all lawful and reasonable directions given to you by the **Company**.

1.8 Company policies

- a. You must be familiar with and observe the **Company's** policies as varied from time to time.
- b. Nothing in the **Company's** policies gives rise to a legal right or benefit enforceable by you.

1.9 Inconsistency with industrial laws

If the **Company** is subject to obligations in respect of your employment arising under any **industrial laws** and any such obligation is inconsistent with a term of this letter, the term of this letter will not operate to the extent of that inconsistency.

2 REMUNERATION

2.1 Amount

The **Company** will pay you an annual remuneration package that comprises:

- a. base salary of \$**[figure]** gross;

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- b. superannuation contributions as required by law;
- c. car allowance of \$**[figure]** gross.

Your remuneration package includes payment for all amounts of overtime, allowances, penalties and loadings to which you may become entitled under **industrial laws**.

2.2 Method of payment

The **Company** will pay base salary and allowances into your nominated bank account/s fortnightly 2 weeks in arrears **[or replace with other pay arrangement]**.

3 EXPENSES

The **Company** will reimburse you in accordance with **Company policy** for expenses you properly incur in the course of your employment.

4 COMPANY DEBTS

If you owe money to the **Company**, forfeit the right to monies already paid or you are paid more than you are entitled to be paid, the **Company** may withhold (to the extent permissible by **industrial laws**) the amount forfeited, or the amount of the debt or overpayment, from any amounts otherwise payable to you, including salary or reimbursement of expenses.

5 LEAVE

5.1 Entitlement

You will be entitled to paid and unpaid leave in accordance with the *Fair Work Act 2009 (Cth)*. A summary of these entitlements is set out below. You will also be entitled to paid public holidays under the *Fair Work Act* and long service leave under the applicable legislation in your state or territory.

5.2 Annual leave

You will be entitled to 4 weeks' paid annual leave per year of service with the **Company**. Annual leave accrues on a pro rata basis and is cumulative. Annual leave is to be taken at times agreed with the **Company**. The **Company** will not unreasonably refuse to authorise your taking of annual leave.

The **Company** may require you to take a period of paid annual leave if reasonable. A requirement will be reasonable if you have accrued excessive annual leave or the **Company's** business is being shut down for a period.

Upon the termination of your employment you will be entitled to payment in lieu of any untaken annual leave.

5.3 Personal/carer's leave

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You will be entitled to paid personal/carer's leave of 10 days per annum, which may be taken as:

- a. sick leave for absences due to personal illness or injury; or
- b. carer's leave to provide care or support to a member of your immediate family or household who requires support because of an illness or injury or because of an unexpected emergency.

Personal/carer's leave accrues on a pro rata basis and is cumulative. The **Company** may require you to provide a medical certificate from a registered health practitioner or a statutory declaration evidencing the reason for that personal/carer's leave.

You will be entitled to unpaid carer's leave of up to 2 days on each occasion when a member of your immediate family or household requires support because of an illness or injury or because of an unexpected emergency. This entitlement only applies if you are not entitled to paid personal/carer's leave.

5.4 Compassionate leave

You will be entitled to paid compassionate leave of 2 days:

- a. for the purpose of spending time with a member of your immediate family or household who has contracted an illness or sustained an injury that poses a serious threat to that person's life; or
- b. after the death of a member of your immediate family or household.

Compassionate leave may be taken as a single period of 2 days or as two separate periods of 1 day each. You must provide any evidence of the illness, injury or death that the **Company** reasonably requires.

5.5 Community service leave

In accordance with the *Fair Work Act* National Employment Standards and **[relevant state or territory legislation]**, you will be entitled to take:

- unpaid leave to participate in a voluntary emergency management activity; or
- paid and/or unpaid leave to undertake jury service.

5.6 Parental leave

Once you have completed at least 12 months of continuous service with **Company**, you will be entitled to take up to 12 months of unpaid parental leave in association with:

- a. the birth of a child (by you or your spouse or de facto partner); or
- b. placement of a child with you for adoption,

where you have a responsibility for the child's care.

If your spouse or de facto partner also intends to take parental leave, you may take up to 8 weeks concurrently with your spouse or partner.

You must give the **Company** written notice of taking unpaid parental leave at least 10 weeks before starting the leave or, if that is not practicable, as soon as practicable. At least 4 weeks before the intended start date, you must confirm the start and end dates of the leave. The **Company** may require you to supply evidence relating to the leave.

You may take paid annual or long service leave in conjunction with unpaid parental leave.

(Female employees only) You are entitled to take unpaid special maternity leave if you are unfit for work because you have a pregnancy-related illness. If you have an entitlement to paid personal/carer's leave, you may take that leave instead of taking unpaid special maternity leave. The **Company** may require you to give evidence of your illness.

You are entitled to up to 2 days of unpaid pre-adoption leave to attend any interviews or examinations required to obtain approval for your adoption of a child, unless the **Company** considers you could instead take some other form of leave and directs you to do so.

You may request an extension of unpaid parental leave for up to 12 months. You may also request to work a flexible work arrangement until your child reaches school age. Conditions apply to these requests.

The **Company** may refuse such requests on reasonable business grounds.

6 CONFIDENTIALITY

6.1 Confidential information

In the course of your employment, you will become privy to **confidential information** of the **Company** or its **clients**, whether in written, computerised or oral form.

6.2 Obligations of confidence

You will, both during your employment and for so long as the **confidential information** remains confidential after the termination of your employment (unless it ceases to be confidential due to your breach of this clause):

- a. not at any time, either directly or indirectly, disclose or communicate to any person any **confidential information** that may come to your knowledge during or in the course of the employment, unless expressly authorised by the **Company** or required by law or court order;
- b. use your best endeavours to prevent disclosure or publication of the **confidential information** where that disclosure or publication is not authorised by the **Company**;

- c. if required by law or court order to disclose any **confidential information**, advise the **Company** of that fact and take all lawful steps to confine disclosure of the **confidential information** and preserve its confidentiality, including taking steps to allow the **Company** or its agents to do so;
- d. not use or attempt to use **confidential information** for your own purposes or for any purposes other than for the purposes of the **Company** or in any manner which may injure or cause loss directly or indirectly to the **Company** and/or its business; and
- e. acknowledge and agree that, without prejudice to any other remedy that the **Company** may have, the **Company** will be entitled to injunctive and other equitable relief to prevent or cure any breach or threatened breach of this clause.

7 RESTRAINT

7.1 Restraint

You will not during each **restraint period** in each **restraint area**, by any means whatsoever directly or indirectly:

- a. attempt in any manner to persuade a **client** to cease dealing with or to reduce the dealings which that **client** has customarily had or contemplated having with the **Company**;
- b. attempt in any manner to persuade a **supplier** to cease dealing with or to reduce the dealings that the **supplier** has customarily had or contemplated having with the **Company**;
- c. attempt in any manner to persuade any employee or contractor of the **Company** with whose skills and abilities you have become familiar in the course of your employment to cease providing services to the **Company** and/or to provide services to you or another person;
- d. carry on, advise, provide services to or be engaged in any capacity, whether as a consultant, employee, contractor, director, shareholder or otherwise, in any activity that is the same or similar to the services you provided in the course of your employment with the **Company**, which activity is competitive with any business carried on by the **Company**.

7.2 Interpretation

Each of the covenants contained in this clause resulting from each **restraint period** and each **restraint area** constitutes and is to be construed and will have effect as a separate, distinct, severable and independent provision from the other covenants (but cumulative in overall effect) and clause 11.3 will apply.

7.3 Acknowledgement

You acknowledge and agree that, without prejudice to any other remedy that the **Company** may have, the **Company** will be entitled to injunctive and other equitable relief to prevent or cure any breach or threatened breach of this clause.

8 INTELLECTUAL PROPERTY

8.1 Acknowledgements

You acknowledge and agree that:

- a. all intellectual and industrial property rights in **confidential information** and any modifications and enhancements to **confidential information** are owned by the **Company**;
- b. any **inventions** or **works** created during and in the course of the employment and the entire copyright throughout the world in all **works** are owned by the **Company**;
- c. the **Company** owns all **inventions** and **works** absolutely and without further payment by the **Company** to you and to the extent necessary, you irrevocably assign to the **Company** all your present and future rights, title and interests in and to all **inventions** and **works**;
- d. you must immediately disclose to the **Company** (and to no other person) all the details of any **inventions** or **works** created by you during your employment.

8.2 Consent

You:

- a. consent to the **works** being changed, copied, edited, added to, taken from, adapted and or translated in any manner or context by the **Company**, and any person authorised by the **Company** to do so, for any purpose related to the **Company's** business, notwithstanding that such conduct may amount to derogatory treatment of the **works** within the meaning of the *Copyright Act 1968 (Cth)*; and
- b. acknowledge that the consent in clause 8.2(a) above is given genuinely and is not given because any person:
 - (i) applied duress to you (or your representative) to give that consent; or
 - (ii) made a false and misleading statement to you in relation to the giving of that consent.

8.3 General

You must, both during your employment and thereafter:

- a. do all such acts and things as the **Company** may request reasonably to secure to the **Company** ownership or registration rights in the **inventions** or **works**, and you hereby grant to the **Company** the right to use your name to obtain any protection of the **inventions** or **works**; and
- b. not engage in any conduct that may damage the **Company's** intellectual property or industrial rights.

9 OTHER BUSINESS INTERESTS

This document is a starting point to help you develop a document appropriate to your individual situation. It will need to be tailored to your specific circumstances in light of any applicable laws that apply in your jurisdiction. You should seek your own advice about the necessary amendments.

- a. During your employment you will not undertake or carry on, or be employed by, or be directly or indirectly concerned or interested in (other than merely by holding up to 5% of shares issued in a public **Company**) any business other than the **Company's** business.
- b. You will not have any association or interest outside the **Company** that is incompatible and/or inconsistent with the **Company's** interests.

10 TERMINATION OF EMPLOYMENT

10.1 Termination by the Company

Subject to clause 10.3, the **Company** may terminate the employment by giving you 1 months' notice in writing, or 5 weeks' notice in writing if you are aged over 45 years and have served the company for more than 5 years.

Note: The *Fair Work Act* provides that if at the end of the day notice is given you are aged over 45 years and have served the company for at least 2 years you will be entitled to an additional week of notice. However, you will only be entitled to 5 weeks of notice if you have completed more than 5 years of continuous service.

10.2 Resignation

If you resign, you must give 1 months' notice in writing. If you decline to serve part or all of that notice period without agreement of the **Company**, you will forfeit your right to be paid for that period of notice that you refused to serve (and clause 4 will apply).

10.3 Summary termination

The **Company** may terminate your employment immediately by giving written notice to you and without being required to provide any compensation or payment in lieu of notice if you:

- a. engage in serious or gross misconduct;
- b. breach a fundamental condition and/or commit a fundamental breach of the conditions of your employment;
- c. commit an act of fraud or dishonesty;
- d. engage in any conduct which, in the reasonable opinion of the **Company**, might tend to injure the reputation or business of the **Company**;
- e. fail or refuse to comply with any lawful direction given to you by the **Company** through its authorised representative.

10.4 During the notice period

If either the **Company** or you give notice of termination under this agreement, the **Company** may:

- a. pay you an amount of base salary in lieu of part or all of that period not served by you; or
- b. require you to serve part or all of that period without attending work and/or performing duties.

10.5 Acts following termination

Upon the termination of your employment, you must immediately repay all outstanding debts and loans to the **Company** and return to the **Company** any of the following items in your possession:

- a. any document, whether in computerised form or otherwise, relating to any matter within the scope of the business of the **Company**, or to **confidential information** or any other aspect of your employment;
- b. all keys and passes belonging to the **Company**;
- c. all software and associated materials belonging to or licensed to the **Company**; and
- d. all other property belonging to the **Company**;

and you will provide the **Company** with a letter certifying that all such items have been returned.

11 GENERAL PROVISIONS

11.1 Entire agreement

This letter constitutes the entire agreement between you and the **Company** regarding the matters set out in it and supersedes any prior representations, understandings or arrangements between the parties, whether oral or in writing.

11.2 Variation

If your position, job location or remuneration package change during your employment, the other provisions of this agreement will continue to apply to your employment unless varied by mutual agreement in writing.

11.3 Severance

If any clause or any part of any clause in this agreement is in any way unenforceable, invalid or illegal, it is to be read down so as to be enforceable, valid and legal. If this is not possible, the clause (or where possible, the offending part) is to be severed without affecting the enforceability, validity or legality of the remaining clauses (or parts of those clauses) of this agreement, which will continue in full force and effect.

11.4 Governing law and jurisdiction

- a. The laws applicable in **[applicable state or territory]** govern your employment and this agreement.
- b. The parties submit to the non-exclusive jurisdiction of the courts of **[applicable state or territory]** and any courts competent to hear appeals from those courts.

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12 DEFINITIONS

In this agreement:

client means any person who is or was a **client** of the **Company** with whom in the course of the last 12 months of your employment you have dealings;

Company means *[name of employer]*;

Company policies means the policies of the **Company** relating to your employment;

confidential information includes information about the following matters that are confidential to the **Company**:

- a. any **client**;
- b. the number, nature or mix of products or services provided by the **Company**;
- c. any person who the **Company** or you have approached or canvassed during the employment as a potential **client**, including their names, addresses, requirements and preferences concerning the products or services produced or that may reasonably be provided by or through the **Company**;
- d. marketing or business plans or strategies;
- e. techniques, procedures or methods devised by the **Company** or required to be used in the operation of its business, including the training of its personnel;

industrial laws means any applicable industrial award, enterprise agreement or industrial legislation;

inventions means all **inventions**, discoveries and novel designs;

restraint period means each of the following periods commencing immediately after termination of your employment:

- a. 12 months
- b. 9 months
- c. 6 months
- d. 3 months;

restraint area means the following geographical region:

- a. Australia,
- b. *[each state and territory in which the employer carries on business]*;

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By **TANDA**

supplier means any person who supplies services to the **Company** with whom in the course of the last 12 months of your employment both the **Company** and you have dealings;

works means all **works** and other subject matter in which copyright exists.

Date:.....

SIGNED for and on behalf of

[Name of employer] by

..... *[Name of signatory]*

I acknowledge and declare that I have read and fully understand the terms and conditions contained in this agreement and accept that I will observe them fully during my employment:

..... **Signature of employee**

..... *[Employee name]*

Date:.....

..... **Signature of witness**

..... *[Witness name]*

Date:.....