

[DRAFT - ON EMPLOYER LETTERHEAD]

[Insert date]

[Insert Employee's name]

[Insert address]

[Insert address]

PRIVATE & CONFIDENTIAL

Dear [insert name]

EMPLOYMENT AGREEMENT

This is a very simple outline for an Employment Agreement. It is suitable for an employer to use when an employer engages a permanent employee in a junior role and intends for the terms and conditions of employment to be primarily governed by the Fair Work Act 2009 (Cth) and applicable modern award.

We recommend obtaining legal advice before issuing this Employment Agreement so it can be tailored to your business and the particular circumstances of the role. The drafting notes throughout this document flag areas of the Employment Agreement that we can help you to develop to better protect your business.

A well-drafted contract lays the foundation of your employment relationship - defining rights, obligations, and safeguards. In today's evolving legal landscape, it's vital to stay up-to-date and compliant.

Burn Legal Australia has a more comprehensive employment agreement that we can tailor to your business needs - ensuring your contracts are current, compliant, and useful. If you'd like the full-length version of this contract, or a review of the template contract you currently use, please get in touch: <https://calendly.com/rohanburn/free-employer-advice-call>

[Employer name] (the “**Employer**”, “**we**”, “**us**” or “**our**”) is pleased to offer you employment on the terms and conditions detailed below (“**Employment Agreement**”).

The *Fair Work Act 2009* (Cth) (the “**FW Act**”), as well as the [Clerks – Private Sector Award 2020] (“**Award**”) apply to your employment as a matter of law and do not form part of this Agreement.

1. POSITION

Employers generally want more flexibility built into this clause to enable variations to be made to the Employee's position without giving rise to a breach of contract or redundancy. We can help you draft language that allows for reasonable changes to duties, location and reporting lines without triggering legal disputes.

- 1.1. This Employment Agreement and your employment with us commences on [date].
- 1.2. You are employed on a permanent [full-time] basis.
- 1.3. You are employed in the position of [insert], or such other position as may be required by the Employer from time to time.

- 1.4. You will principally work from [location].
- 1.5. Your employment includes a six-month probation period. During this time, either party may end the Employment Agreement (for any reason) with one week's written notice.

2. DUTIES AND RESPONSIBILITIES

This clause refers to the duties and responsibilities contained in a position description while also preserving the Employer's ability to direct the employee to perform other duties within their skills and experience.

A detailed position description is useful for setting clear expectations, managing performance and supporting disciplinary processes.

- 2.1. You will report to [insert] and perform duties that can be reasonably expected of someone employed in your position.
- 2.2. Your duties include, but are not limited to, the duties and responsibilities set out in the **attached** position description. You may be required to perform other duties, responsibilities or positions assigned to you by us from time to time which are within your skills, experience and expertise.
- 2.3. During your employment, you must:
 - (a) faithfully serve the Employer;
 - (b) carry out your duties to the best of your ability;
 - (c) act honestly and in the best interests of the Employer;
 - (d) comply with all laws relevant to your employment, including laws relating to work health and safety, anti-discrimination and sexual harassment;
 - (e) comply with the Employer's policies and procedures which we will make available to you (but do not form part of this Agreement);
 - (f) comply with any lawful and reasonable directions we give you;
 - (g) not conduct yourself in any way, both during and outside of working hours, that harms or may harm the reputation of the Employer; and
 - (h) not perform any work or activities that may conflict with the interests of our business.

3. HOURS OF WORK

Employers often include more details in these clauses about ordinary hours, span of hours, and flexibility for rostering changes. Some modern awards require more detail to be included about working arrangements and break times, particularly for part-time employees. This clause can be expanded to include averaging arrangements, rules for when overtime will be authorised, and provisions addressing the "right to disconnect".

- 3.1. You will work an average of [38] ordinary hours per week, plus reasonable additional hours as required.
- 3.2. You will usually work [insert span of hours].
- 3.3. You will be paid additional remuneration for additional hours approved in advance by your manager in accordance with the minimum rates prescribed in the Award.

4. REMUNERATION

Consider including a set-off (offset) clause to protect against underpayment claims and clarify how allowances, overtime, and penalty rates are handled. A well-drafted set-off clause is one of the most valuable protections in an employment contract. It allows an above-award salary to satisfy award entitlements such as overtime, penalties and allowances, but only if the clause is drafted effectively.

Employers often add provisions for salary reviews, bonus schemes, and salary deductions for authorised purposes. We can help you structure pay arrangements to meet compliance, reduce risk, and provide flexibility. Ask us about options for annualised wage arrangements, a guarantee of annual earnings for high-income employees, and protecting against underpayment claims.

- 4.1. You will be paid \$[insert] per hour.
- 4.2. From time to time, you may be entitled to overtime, penalty rates, allowances and other monetary entitlements in accordance with the Award.
- 4.3. We will make the minimum mandatory superannuation contributions to you in accordance with legislation.
- 4.4. You will be reimbursed for reasonable business expenses incurred in the proper performance of your duties and for which receipts are provided.

5. LEAVE

The clause on leave can be kept minimal, but some employers prefer a clearer summary of NES entitlements (annual, personal/carer's, compassionate, family and domestic violence, parental, community service, long service leave etc) and public holiday requests.

We also recommend including provisions that align with company policies around leave requests (for example, whether medical certificates are required and how much notice should generally be provided for annual leave requests).

- 5.1. You will be entitled to leave in accordance with applicable legislation. Your leave entitlements arise from legislation and do not form part of this Employment Agreement.

6. TERMINATION

Consider providing for a longer notice period for more senior employees.

Termination clauses can also include more detailed gardening leave arrangements that would apply during the notice period and give the employer more flexibility with how the employee serves out their notice period.

The clause dealing with situations of serious misconduct may also need to be expanded to better suit the circumstances of the employment.

- 6.1. We may terminate this Employment Agreement immediately and without notice or payment in lieu of notice if you engage in serious misconduct, including (without limitation) if you:
- (a) commit any serious or persistent breach of any of the provisions of this Employment Agreement or the Employer's policies or procedures;
 - (b) fail to comply with the Employer's lawful and reasonable direction;
 - (c) cause serious and imminent risk to the health and safety of another person or to the reputation, viability or profits of the Employer's business, or
 - (d) wilfully or deliberately behave in a way that's inconsistent with continuing your employment.
- 6.2. This Employment Agreement may be terminated by either party by providing the other party with written notice in accordance with the National Employment Standards in the FW Act.
- 6.3. If either party provides notice of termination, the Employer may:
- (a) direct you to perform amended duties (or no duties) during the notice period; and
 - (b) provide you with payment in lieu of the notice period (or part of it).
- 6.4. You must return any of our property and Confidential Information on termination of the employment.

7. CONFIDENTIAL INFORMATION AND INTELLECTUAL PROPERTY

The definition of Confidential Information should be expanded based on the nature of your business. Depending on the employee's access to confidential information, the clause may also need to be more prescriptive about how confidential information is protected.

Similarly, if employees are involved in developing intellectual property for the business, the clause can be strengthened with moral rights waivers, detailed IP assignment provisions. We can help you safeguard your business assets and protect trade secrets. Ask us about tailoring confidentiality and IP clauses for creative or technical roles.

- 7.1. During and after the employment ends, you agree not to use or disclose confidential information relating to the business.

- 7.2. Confidential information – including trade secrets, pricing structures, business plans, financial information, documents you create while employed, and information about clients and suppliers – is the Employer’s property. You must use your best endeavours to prevent the unauthorised disclosure or use of our confidential information.
- 7.3. Notwithstanding, confidential information may be disclosed if:
- (a) we have given you consent to do so;
 - (b) you are using the information appropriately to do your work for the Employer;
 - (c) the information is already publicly available; or
 - (d) the disclosure is required by law.
- 7.4. Anything you invent, develop or create in the course of your employment, remains the Employer’s intellectual property (including designs, copyright, trademarks, patents).
- 7.5. You must not use or reproduce any intellectual property owned by the Employer without the Employer’s consent. This includes after your employment ends.

8. GENERAL PROVISIONS

Employers often include more detailed clauses addressing variation, severability, and survival of key obligations after termination.

- 8.1. This Employment Agreement is governed by the law in force in **[New South Wales]**.
- 8.2. An amendment or variation of any term of this Employment Agreement must be in writing and signed by each party.
- 8.3. The terms and conditions contained in this Employment Agreement will continue to apply to the employment notwithstanding any change to your position, duties, responsibilities, reporting lines, hours of work, remuneration or location of work, unless otherwise agreed in writing.
- 8.4. The parties acknowledge that this Employment Agreement states all the express terms agreed by the parties about its subject matter and is an entire agreement. It supersedes all prior agreements, understandings, negotiations and discussions in respect of its subject matter.

9. [OPTIONAL CLAUSES]

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It may also be appropriate for the employment contract to include clauses relating to:

- *Post-employment restrictions, including with respect to non-competition, non-solicitation and non-interference*
- *Suspension*
- *Workplace Health and Safety*
- *Privacy*
- *Workplace Surveillance*
- *Dispute resolution*
- *Fixed term engagements*
- *Guarantee of annual earnings*
- *Company car allowance*
- *Independent medical examinations*
- *COVID-19 vaccinations*
- *Professional and trade qualifications and warranties*

Signed by: [Employee Name]

Signature of Employee

Date

Signed by: [Employer]

Signature of Employer representative

Name of Employer representative