

# Harcourts Employment Agreement

(Fixed Term Employee)

## Private & Confidential

### 1 PARTIES TO AGREEMENT

The parties to this agreement are;

..... (referred to as "the Company")

and

..... (referred to as "you")

### 2 THIS AGREEMENT

- 2.1 This document forms the entire employment agreement between you and the Company. Any prior agreement, agreement or arrangement, written or verbal, is replaced by this agreement
- 2.2 Matters contained in the Harcourts Group Operating Manuals or Operating Manuals of the Company will also form part of your terms and conditions of employment. These matters may be varied at the Company's sole discretion following notice to you of such intention.
- 2.3 This agreement may be amended at any time by mutual agreement between you and the Company, with such agreement recorded in writing and signed by both parties.
- 2.4 This Agreement is made pursuant to the Employment Relations Act 2000 (**Act**) and any subsequent amendments to that legislation.

### 3 TRIAL PERIOD

- 3.1 You must serve a satisfactory trial period not exceeding 90 days starting from the Date of Commencement set out in the Second Schedule of this Agreement. During this trial period the Company may terminate your employment following a good faith process, but not necessarily requiring the Company to review or provide feedback on your performance.
- 3.2 If the Company does terminate your employment under this clause within the 90 day trial period, you are not entitled to bring a personal grievance or other legal proceedings in respect of the dismissal, subject to clause 3.3 below.
- 3.3 This does not prevent you from bringing a personal grievance or legal proceedings on any of the grounds below:

- 3.3.1 that your employment, or one or more conditions of your employment (including any condition that survives termination of the employment) is or are or was (during employment that has since been terminated) affected to your disadvantage by some unjustifiable action by the Company;
  - 3.3.2 that you have been discriminated against in your employment;
  - 3.3.3 that you have been sexually harassed in your employment;
  - 3.3.4 that you have been racially harassed in your employment;
  - 3.3.5 that you have been subjected to duress in your employment in relation to membership or non-membership of a union or employees organisation; or
  - 3.3.6 that the Company has failed to comply with the requirement of Part 6A of the Act.
- 3.4 You will not have a legitimate expectation that you are to be offered part-time or full-time employment pursuant to this Agreement unless you have satisfactorily completed the trial period to the approval of the Company.
- 3.5 This clause is made pursuant to sections 67A and 67B of the Act.

#### **4 NATURE & TERM OF AGREEMENT**

- 4.1 This is a fixed term employment agreement pursuant to section 66 of Act. The reason for this fixed term agreement is set out in the Second Schedule to this agreement. This agreement will come into force, and terminate on the dates specified in the Second Schedule to this agreement unless earlier terminated in accordance with clause 18 of this agreement.
- 4.2 Nothing in this agreement shall prevent the parties from entering into a subsequent employment agreement or independent contractor agreement. However, it is agreed that nothing in this agreement implies any intention to renew it on its expiry, and that any such renewal will be binding only where such agreement is in writing signed by both parties.

#### **5 DEFINITIONS**

- 5.1 “*day*” means the period between midnight in any day and the following midnight
- 5.2 “*week*” means the period commencing on Monday (12.01 am) until midnight Sunday.
- 5.3 “*fortnight*” means two weeks and constitutes a pay period.
- 5.4 “*month*” means a calendar month
- 5.5 “*continuous service*” means a period of unbroken employment with the Company, from the date of commencement of employment up to the current time.
- 5.6 “*confidential information*” means, but is not limited to, knowledge or information which you may acquire or may have already acquired concerning the business affairs, strategic plans, operating methods, know-how, property, suppliers, distributors, contractors or principals of the Company and which knowledge or information is not readily available in the public domain other than as a result of a breach of this agreement by you.

#### **6 DUTIES**

- 6.1 The duties to be undertaken by you include those, which are set out in the First Schedule to this agreement. It is expected these will be performed to the required standards and in accordance with the instructions of the Company.
- 6.2 These duties may be amended from time to time at the Company’s discretion to reflect the changing requirements of your position, provided that such work is carried out as part of the Company’s business, is within

your capabilities, and is introduced following reasonable consultation with you.

- 6.3 In order to meet the Company's operational requirements you agree that you are required to work within the geographical area referred to in the First Schedule to this agreement and that you may be required to work at differing locations within this area.
- 6.4 You will be expected to comply with the Real Estate Agents Act 2008 and any rules or regulations made under it, including the Real Estate Agents Act (Professional Conduct and Client Care) Rules 2009 as amended from time to time.

## **7 CONFIDENTIALITY**

- 7.1 You will not at any time or for any reason, whether during the term of this agreement or after its termination, use or disclose to any person any confidential information except so far as may be reasonably necessary to enable you to fulfil your obligations under this agreement or where such disclosure has been expressly approved by the Company.
- 7.2 Upon termination of this agreement (for whatever reason) you will immediately hand over to the Company all company records, documents or equipment of whatsoever nature or description in your possession or control.

## **8 HOURS OF WORK**

- 8.1 Your ordinary hours of work will be 7.5 hours per day, worked between the hours of 8.00 a.m. and 8.00 p.m. on any 5 days of the week between Monday and Sunday (both inclusive).
- 8.2 Your days of work and hours of work each day are as set out in the Second Schedule to this agreement. These may be varied from time to time by the Company following consultation with you. Where a change to the ordinary hours is made, other than in exceptional circumstances, at least one weeks notice will be given.
- 8.3 You will work such extra hours and on such days of the week (including weekends) as may be reasonably required by the Company to ensure that work is completed in an efficient and timely manner. Where the Company requires such extra hours to be worked, as much notice as is reasonably possible will be given.
- 8.4 Your basic salary will be deemed to include compensation for all hours worked in excess of 75 hours per fortnight.

## **9 REST PERIODS AND MEAL BREAKS**

- 9.1 A paid 10-minute break will be allowed for both morning and afternoon tea. The times for taking such breaks will be advised by your manager.
- 9.2 A one hour unpaid lunch break will be allowed at such time as agreed with your manager.

## **10 SALARY**

- 10.1 Your salary is specified in the Second Schedule to this agreement.
- 10.2 Your salary covers payment for overall performance of your duties and all hours worked necessary to achieve these. Accordingly, no overtime will be paid.
- 10.3 Salaries will be paid fortnightly in arrears or partly in arrears by direct credit to your bank account.
- 10.4 On termination of employment, all outstanding monies and holiday pay owing will be paid without undue delay. The Company will be entitled to deduct monies owed by you to the Company from any final payment.

## **11 STANDARD OF DRESS**

- 11.1 The nature of the Company's business is such that a high standard of personal appearance and presentation is essential. Accordingly, you will ensure that these standards are met at all times.

## **12 AMENITIES & FACILITIES**

- 12.1 Amenities and facilities will be provided in accordance with the requirements of the Health and Safety in Employment Regulations 1995 and any subsequent amendments to that legislation.

## **13 ANNUAL HOLIDAYS**

- 13.1 Your annual leave entitlement will be calculated at 8% of your gross earnings and will be paid as a separate part of your remuneration as set out in the Second Schedule to this Agreement.
- 13.2 Your entitlement to annual holidays will otherwise be in accordance with the Holidays Act 2003 and any subsequent amendments to that legislation.

## **14 STATUTORY / PUBLIC HOLIDAYS**

- 14.1 Statutory/public holidays shall be allowed in accordance with the Holidays Act 2003, and any subsequent amendments to that legislation, which provides for 11 whole holidays in each year, which shall, where they fall on days that would otherwise be working days for you, be holidays on pay in addition to annual holidays. These holidays shall be:

Christmas Day  
Boxing Day  
New Year's Day  
Second day of January  
Good Friday  
Easter Monday  
Anzac Day  
Labour Day  
The Birthday of the Reigning Sovereign  
Waitangi Day  
The day of the Anniversary of the Province (or some other day in its place)

- 14.2 You may be required by the Company to work on a statutory/public holiday and agrees to do so if required.

- 14.3 Should you work for the Company on a statutory/public holiday the following will apply:

14.3.1 You shall be paid time and a half for the hours actually worked on that day (this amount being calculated in accordance with the Holidays Act 2003, and any subsequent amendments to that legislation); and

14.3.2 Where the statutory/public holiday would otherwise be a working day for you, you shall be entitled to an alternative holiday to be taken on a day, which would otherwise be a working day for the Employee as agreed between the Company and you.

- 14.4 Failing such agreement the alternative holiday may be taken on a day to be determined by the Company in accordance with the Holidays Act 2003, and any subsequent amendments to that legislation. The Company must give you at least 14 days notice of the requirement to take an alternative holiday.

## **15 SICK LEAVE**

- 15.1 After six months of continuous employment you are entitled in each subsequent 12 month period, to up to five days sick leave. Sick leave may be taken if you are sick or injured, or your spouse is sick or injured, or a person who depends on you for care is sick or injured.

- 15.2 You may carry over, to any subsequent 12 month period of employment, any sick leave that has not been taken

by the end of the period to which it relates. You may carry over up to 15 days sick leave to a maximum of 20 days current entitlement in any year.

- 15.3 The Company may require a medical certificate or other evidence from you to support your claim for sick leave in accordance with the Holidays Act 2003 and any subsequent amendments to that legislation.
- 15.4 If you intend to take sick leave you must notify the Company of your intention as early as possible before you are due to start work on the day you intend to be taken as sick leave or, if that is not practicable, as early as possible after that time.
- 15.5 Your entitlement to sick leave will otherwise be in accordance with the Holidays Act 2003 and any subsequent amendments to that legislation.

## **16 BEREAVEMENT LEAVE**

- 16.1 After six months of current continuous employment with the Company you shall be entitled to bereavement leave where you suffer a bereavement;
  - 16.1.1 On the death of your spouse, parent, child, brother or sister, grandparent, grandchild, or spouse's parent; or
  - 16.1.2 On the death of any other person where the Company accepts that you have suffered bereavement as a result of a death.
- 16.2 You shall be entitled to three days bereavement leave for each bereavement on the death of a person referred to in clause 16.1.1 above and one day's bereavement leave in accordance with clause 16.1.2 above.
- 16.3 The provisions of this clause are inclusive of and not in addition to the leave entitlements contained in the Holidays Act 2003 and any subsequent amendments to that legislation.

## **17 EMPLOYEE/EMPLOYER OBLIGATIONS IN RELATION TO LEAVE AND HOLIDAYS**

- 17.1 The Company and you shall deal with each other in good faith in relation to leave and holidays.
- 17.2 You acknowledge that the Company has informed you about your entitlements under the Holidays Act 2003 and any subsequent amendments to that legislation and that you can obtain further information about your entitlements from your Union (if you are a member) or the Department of Labour.

## **18 SAFETY, HEALTH & WELFARE**

- 18.1 The Company will comply with the provisions of the Health and Safety in Employment Act 1992 and any subsequent amendments to that legislation. All reasonable precautions for the health and safety of all employees will be taken.
- 18.2 It will be the responsibility of the Company to ensure that the workplace meets required standards and that adequate and sufficient safety equipment is provided.
- 18.3 It will be your responsibility to work safely and to report any hazards, accidents or injuries to the Company as soon as possible.
- 18.4 Any safety equipment, protective clothing or company uniform required by the Company to be worn or used by you must be worn or used.

## **19 TERMINATION OF EMPLOYMENT**

- 19.1 The following clauses set out the agreed reasons and procedures for termination of this agreement.

- 19.2 **Fixed Term:** This agreement will automatically cease at the expiry of the fixed term. You will have no right to seek compensation off the Company at the expiry of the fixed term or thereafter.
- 19.3 **Resignation:**
- 19.3.1 When resigning, you must give the period of notice as set out in the First Schedule to this agreement, in writing. If agreed to by the parties in writing, this period of notice may be reduced. The Company may require you to take paid garden leave during the period of notice.
- 19.3.2 Should you give less than the required notice pursuant to the First Schedule to this agreement, the Company shall be entitled to recover from you as a debt due to it a sum equal to your remuneration for the period by which the actual notice was less than the required notice. This amount may be deducted from your final pay, including holiday pay.
- 19.4 **Misconduct:** The Company's disciplinary policy in the Third Schedule to this agreement specifies the actions of employees that the Company considers being misconduct and the agreed procedure for termination of this agreement for reasons of misconduct. The notice requirements are set out in the First Schedule to this agreement.
- 19.5 **Substandard Work Performance:** The standards of work performance required by the Company of you are provided for in this agreement, and more particularly, your job description set out in the First Schedule to this agreement. The notice requirements are set out in the First Schedule to this agreement. The Company's disciplinary policy in the Third Schedule to this agreement specifies the agreed procedure for termination of this agreement for reasons of substandard work performance.
- 19.6 **Serious Misconduct:** The Company's disciplinary policy in the Third Schedule to this agreement specifies the actions of employees that the Company considers being serious misconduct and the agreed procedure for termination of this agreement for reasons of serious misconduct.
- 19.7 **Long Term Sickness/Illness/Injury:**
- 19.7.1 Where you suffer a long term disability by way of sickness, illness, injury or the like, which renders you incapable, whether mentally or physically, of performing your duties for the Company, and you have no further special leave owing, then the Company may terminate this agreement, subject to clause 18.6.2 below.
- 19.7.2 The Company will not terminate this agreement without first undertaking a good faith process.
- 19.7.3 Termination of this agreement for reason of long term sickness, illness or injury will be provided on the notice set out in the First Schedule to this agreement.
- 19.8 **Redundancy:**
- 19.8.1 If your position becomes superfluous to the Company's needs, then this agreement may be terminated by reason of redundancy. The expiry of the fixed term of this agreement does not constitute redundancy.
- 19.8.2 The Company will not pay redundancy compensation to you. You will be entitled to notice as set out in the First Schedule to this agreement. You may be required to either work out that notice period or will be paid in lieu, at the Company's discretion.
- 19.8.3 Where your position has been terminated by reason of redundancy, the Company will follow a good faith process.
- 19.9 **Restructuring:** The purpose of this provision is to provide protection to affected employees for their employment in circumstances where the Company's business is restructured and the whole or part of it is sold, transferred or contracted out to an acquiring employer. This includes:

- 19.9.1 That the Company will follow a good faith process when negotiating with any acquiring employer about restructuring of the business to the extent that it relates to affected employees. This process may include:
- (a) discussions with the acquiring employer as to the employment opportunities;
  - (b) provision of relevant information to the acquiring employer; and
  - (c) Where appropriate, and subject to commercial sensitivity and all matters of confidentiality, discuss the proposal with you and your representative.
- 19.9.2 The matters relating to the affected employees' employment, that the Company will negotiate with the acquiring employer, may include the following elements of the position:
- (a) status;
  - (b) remuneration;
  - (c) responsibility;
  - (d) terms/conditions;
  - (e) continuity of employment; and
  - (f) duties.
- 19.9.3 The Company shall use its best endeavours to see that you are transferred, where practicable, on the same or no less favourable employment terms and conditions as exist at the date of change from the Company to the acquiring employer.
- 19.10 **Technical Redundancy:** If your role is redundant as a result of the Company's business or a part thereof, being sold, transferred, merged, amalgamated or otherwise acquired and you are offered alternative employment on substantially the same terms and conditions of employment, then you will not be entitled to any redundancy compensation.
- 19.11 **Abandonment of Employment:** In the event that you are absent from work for a period of three consecutive workdays without the written consent of the Company, or for no good reason, you shall be deemed to have terminated your own employment without notice.
- 19.12 **Suspension:**
- 19.12.1 Where there appears to have been serious misconduct, the Company may elect to suspend your employment either on full pay or no pay. Before the Company elects to suspend your employment, you will be given the opportunity to explain the circumstances of the incident at issue, after which a decision will be made as to whether suspension is appropriate or not.
- 19.12.2 During the period of suspension, the Company will undertake the procedure set out in the Company's disciplinary policy to determine what, if any, disciplinary action is required. If the appropriate disciplinary action is dismissal, then you will be paid up until the time of dismissal, after which no further remuneration will be payable.
- 19.12.3 If the final decision is that dismissal is not appropriate, then you may resume your position with the Company immediately, subject to any disciplinary findings.
- 19.13 **Representation/Support:** You are entitled to have representation/support at any stage in the disciplinary process. It is your obligation to obtain and pay for your own representative.
- 19.14 **Obligations on Termination:**

19.14.1 On termination of his/her employment from the Company, for whatever reason, you shall:

- (a) pay any accounts owing to the Company or authorised by the Company, to be deducted from your final pay;
- (b) immediately deliver up all documents and records belonging to the Company;
- (c) not retain in your possession or control any copies of documents or records, or property of the Company; and
- (d) immediately return any other property to the Company in good condition, fair wear and tear accepted, for example keys and equipment.

## 20 INFORMATION PROVIDED

20.1 This agreement is made on the understanding that all information provided by you in respect of your qualifications and experience are true and correct, and that you have not deliberately failed to disclose any matter which may have influenced the Company's decision to offer you employment with it, or continue such employment.

## 21 GENERAL

### 21.1 Reimbursement:

21.1.1 The Company will reimburse you with any reasonable expenses necessarily incurred as a result of your undertaking your duties and responsibilities under this agreement, subject to the paragraph below.

21.1.2 Such reimbursement will only be made if the Company approves the expenses prior to being incurred, the expenses are within reasonable limits and an invoice or receipt is produced to establish the amount claimed.

### 21.2 Legislative Requirements

21.2.1 Both parties will comply with all legislative requirements, including but not limited to the following clauses.

21.2.2 **Smoking:** Both parties will abide by the requirements of the Smoke-free Environments Act 1990 and any subsequent amendments to that legislation, and the Company's total smokefree workplace policy.

#### 21.2.3 Human Rights:

(a) Both parties will comply with the provisions of the Human Rights Act 1993 and any subsequent amendments to that legislation.

(b) You will immediately report (to the person to whom you report to), any incident of racial or sexual harassment that occurs to you.

(c) The Company has a sexual harassment policy in place, which will be complied with by both parties, and any incident of sexual harassment will be dealt with according to this policy.

21.2.4 **Privacy:** Both parties will comply with the provisions of the Privacy Act 1993 and any subsequent amendments to that legislation. The Company will not release personal information about you unless you provide your written consent.

21.2.5 **Wage Protection:** The parties will comply with the provisions of the Wage Protection Act 1983 and any subsequent amendments to that legislation. For the purposes of this Agreement and your employment, you expressly give your written consent to the Company deducting any money legally due



and owing by you to the Company from your remuneration, including monies received upon termination of employment.

21.2.6 **ACC:**

- (a) Both parties agree to comply with the relevant provisions of the Accident Compensation Act 2001 and any Regulations and subsequent amendments to this legislation.
- (b) You further agree to provide any relevant personal information to the Company and to the Company's accident insurance provider and/or ACC to assist the Company to comply with its statutory obligations under this legislation and its contractual obligations with its insurer and/or ACC.

24.2.7 **KiwiSaver:** The Company will comply with its obligations under the KiwiSaver Act 2006 and join you to a KiwiSaver scheme with the default provider on commencement of employment. The Company will provide relevant information where reasonably required.

24.2.8 **Breast Feeding:** The Company acknowledges your right to breast feed your baby at work and will provide both reasonable time and facilities to allow for this.

**21 EMPLOYMENT RELATIONSHIP PROBLEMS**

21.1 Employment Relationship Problems between you and the Company shall be settled in accordance with the procedure set out in the Fourth Schedule to this agreement. The Company's plain language explanation is contained in the Fourth Schedule to this Agreement.

**THIS** agreement has been executed by the parties on the..... day of ..... 20.....

**SIGNED** for and on behalf of  
the Company .....

I, the Employee, declare that:

- (i). I have read and understand the conditions of employment detailed above and accept them fully; and
- (ii). I have read and understand the Harcourts Operating Manual/s and I agree to comply with the contents thereof;  
and
- (iii). Prior to the signing of this agreement, I have been offered the opportunity to seek independent advice regarding this agreement and that I have been given a reasonable opportunity to seek that advice.

**SIGNED** by the employee .....

**POSITION DESCRIPTION**

**Position Title:** Sales Consultant - Scholarship

**Reports to:** Business Owner / Manager

**Functional Relationships:** Other sales consultants/ administrators/ Harcourts NZ

**Geographical Location:**

**Notice:** 1 months' written notice.

**KEY PURPOSE**

- To create success for the buying and selling public.
- To generate new business and deliver a high level of customer and client service, the Harcourts Way.

**Responsibilities (First six weeks of Scholarship Programme)**

1. Complete the National Certificate in Real Estate – Salesperson (NCRE) through the Harcourts Academy. (First six weeks)
2. While completing the NCRE you will be required to turn up to the office from the hours of 8.30am till 5.30pm
3. While your primary responsibility in the first six weeks is to complete the NCRE you are required to carry out any other tasks that the manager may reasonably require of you to maintain the smooth running of the office
4. Attend the Harcourts and You – Traditions Day.
5. Complete a personal profile with your manager or marketing manager.

**Responsibilities: (Remainder of Scholarship Programme)**

1. Attend the Harcourts Sales Program – six days in total
2. Follow the tasks required in the iStart24 Programme
3. Attend all sales meetings, regional events as instructed by the business owner or manager of your office
4. Generate Leads
5. List Property for Sale
6. Market property for sale
7. Provide service to buyers and sellers
8. Complete sales effectively
9. Be an active contributor to the Harcourts team.
10. Any other tasks required to grow your skills as a successful real estate sales consultant

**Knowledge and Skill Requirements:**

**Attitude/Personality Requirements:**

**Term of Agreement**

This agreement will come into force on [date] 2012 and subject to clause 3 and 19 it will terminate on [date] 2013.

**Reason for Fixed Term Agreement**

The Company has genuine reasons based on reasonable grounds for specifying that the agreement is for a fixed term, namely: You have been employed as part of a scholarship programme to provide training, knowledge, support and leadership to open doors into the real estate profession.

You acknowledge and accept that this is a genuine reason based on reasonable grounds for entering into a fixed term employment agreement.

**Way Employment Will End**

Your employment will end on [date or event]

**Reason for Employment Ending**

Your employment will end on [date or event] because this is when the training programme will be complete.

**Hours of Work**

Your hours of work are from ..... am to ..... pm, on .....day to .....day, commencing .....(Day, Month, 2012) and terminating .....(Day, Month 2013).

**Salary**

Your salary is \$ 40,000.00 per annum plus 25% of commission sales.

**Other Benefits**

- National Certificate in Real Estate - Salesperson (all course expenses paid).
- REAA Real Estate Salesperson's License - 1st Year (all course expenses paid).
- Harcourts & You - Traditions Day (all course expenses paid).
- Harcourts, Getting Started The Harcourts Way, 4 day real estate training course (all course expenses paid).
- Harcourts, Succeeding The Harcourts Way, 2 day real estate skills course (all course expenses paid).
- iStart24 Programme - The industry leading 24 week daily sales support programme (all course expenses paid).
- \$1,000 investment towards a personal profile and marketing collateral.
- Access to New Zealand's leading real estate technology - Harcourts One.
- Attendance to New Zealand's largest real estate conference in 2013 - the Harcourts Conference.

**Annual Leave**

8% of gross earnings. This will be paid as a regular part of your pay.

***Discipline & Dismissal Procedure***  
***(Based on the Harcourts Group/Company Manual)***

**1. *Purpose of this Section***

The Company has a right to expect a reasonable standard of performance and conduct from staff. Similarly, staff have a right to expect fair treatment.

This section sets out examples of conduct that are not acceptable to the Company and which, if continued, could result in discipline and/or dismissal.

Poor work performance is not acceptable either, and if the required standards of performance are not achieved and maintained, then discipline and/or dismissal may also result.

It is important that both staff and managers are aware of the Company's policy in this regard, and in particular the steps that will be taken in the event of unsatisfactory conduct or poor work performance.

This section sets out the procedure that will be followed. This is to ensure that staff are made fully aware of the consequences of their actions, and that those responsible for managing the performance of others handle matters of discipline and/or dismissal in a way that is fair and procedurally correct.

**2. *Intent***

The intention of these procedures is to ensure that staff receive fair and reasonable treatment. The Company's objective is *not* to punish unless necessary, but rather to encourage the required standards of conduct and levels of performance.

**3 *Misconduct***

The following are examples of poor performance or misconduct, which may, after the appropriate warnings set out in paragraph 5 below, lead to dismissal. The list should not be regarded as all-inclusive, and other actions not specified but of a similar nature may also be included:

- failure to perform work to a required standard;
- failure to report late arrival or absence to a supervisor
- unauthorised absence
- reporting to work in such a condition that duties are not performed properly or safely
- boisterous, disruptive or irresponsible behaviour
- leaving assigned place of work without permission
- insubordination
- poor time-keeping
- regularly arriving late for work or from lunch or tea breaks
- careless or indifferent performance of duties
- being discourteous to other workers or clients
- aggressive or argumentative behaviour
- poor or unsatisfactory performance or work quality
- waste of time or materials
- misuse or abuse of company property or equipment
- breach of the company's email policy

#### **4 Serious Misconduct**

Where acts of serious misconduct are carried out, summary dismissal without notice or warning may result.

Serious misconduct means conduct of a nature which, in the opinion of the Company, will be damaging to its interests or reputation and which is incompatible with the employee's ability to faithfully carry out his/her duties with the Company.

Offences regarded as serious misconduct will include, but not be confined to, the actions listed below:

- bringing drugs or alcohol to work and/or consuming the same at work
- verbal abuse or fighting or assaulting others at work
- deliberately disobeying a supervisor's reasonable instructions or walking off the job
- unauthorised possession or removal of any property or copyrighted material belonging to the Company or its clients, suppliers or other employees
- sexual harassment
- negligence or conduct seriously injuring the business
- falsification of time sheets, attendance records, medical certificates, employment records, or any other company or client document or record
- any action which could result in a payment to which the employee is not entitled
- the recording of any factually incorrect data on an employment application form or the deliberate omission or concealment of relevant information from such a form
- failure to follow cash or till-handling procedures
- disclosure of confidential information
- wilful damage to property, equipment etc
- intimidation of another worker or client
- refusal to obey a lawful and reasonable instruction
- failure to honour any conflict of interest or confidentiality conditions
- serious breach of the Company's email policy

#### **Systems Security**

Any breach of the Company's Security Management Policy and Procedures may be regarded as serious misconduct, as may any of the following specific acts:

- introducing unauthorised software or hardware at any premises of the Company;
- accessing, or trying to access, computer equipment by unauthorised means;
- give your password to any other employee;
- use the Company's computer system in any manner that is calculated to disrupt its normal operation;
- deliberately using an unauthorised password in order to enter or attempt to enter a system known to contain information to which you are not entitled to have access;
- using any software known to have been illegally acquired on any equipment operated by the Company;
- use information related to the Company's systems for anything other than authorised purposes;
- failure to make use of such computer virus detection mechanisms as the Company may from time to time provide to minimise the prospect of computer virus protection

#### **5. Formal Discipline Procedures**

##### **5.1 First Infringement**

**Verbal Warning:** Discussion with the employee regarding the alleged instance of misconduct or non-performance. If warranted, a verbal warning will be given which will outline the nature of the problem, the improvement required, and the consequence if no improvement is forthcoming. This warning will last for 12 months.

##### **5.2 Second Infringement**

**Written Warning:** An interview involving the employee and the manager will take place. If warranted, a written warning will be issued after the meeting, with a copy held on file. Both the employee and the manager may elect to have a representative or witness present at the meeting. Any written warning issued will remain in force for 12 months unless otherwise agreed.

### **5.3 *Third Infringement***

**Final Written Warning:** An interview involving the employee and the Manager will take place. If warranted, a final written warning will be issued after the meeting, with a copy held on file. Both the employee and the Manager may elect to have a representative or witness present at the meeting. Any final written warning issued will remain in force for 12 months unless otherwise agreed.

### **5.4 *Fourth Infringement (or in instances of serious misconduct)***

**Dismissal:** An interview involving the employee and the manager will take place. Representation or the attendance of witnesses will be allowed as above. If further investigation is required, the employee may be suspended on pay while this is carried out.

Where a decision to dismiss has been brought about by a fourth infringement, termination will be effected by the giving of notice, or payment in lieu of notice. Where a decision to dismiss has been brought about as a result of serious misconduct, summary termination of employment without notice will take place and *no* pay in lieu of notice will be given.

***Procedure for Resolving Employment Relationship Problems***

- (a). An “*employment relationship problem*” is any problem relating to or arising out of our employment relationship. It includes personal grievances and disputes about the interpretation of this agreement but does not include any problems relating to or arising from fixing new terms and conditions of employment (e.g. bargaining, agreement variation).
- (b). This clause sets out the procedure to be followed and services available to help us resolve any employment relationship problem that might arise between us during the term of this agreement.
- Step 1 The problem should be referred to the person to whom you report in the first instance in order that the problem can be dealt with speedily and effectively. If for some reason you do not wish to refer it to the person to whom you report, you may refer it instead to the person to whom they report.
- If the problem relates to a personal grievance (which is defined below) you must provide a written statement setting out the nature of the grievance, the facts you rely upon and the remedy you seek to achieve.
- (NB A personal grievance must be raised within 90 days of the event giving rise to it – failure to do so may mean that we are not obliged to give the matter further consideration).
- Step 2 If the problem is not resolved to your satisfaction within 21 days of your having raised it, you or we, as your Employer may refer it to the Mediation Service of the Department of Labour.
- (To help resolve employment relationship problems that cannot be satisfactorily dealt with at employer or management level, the Department of Labour provides a variety of mediation services. The Department has telephone, fax, Internet and e-mail services where relevant information can be found or that indicates where relevant information can be found. The Department also publishes pamphlets, booklets, brochures and codes that may be of assistance. Where further help is needed, the Department has mediation specialists who will help find the best way to resolve a particular problem.).
- Alternatively, if you do not wish to refer the matter to the Department of Labour, we may agree to refer the matter to other alternative dispute resolution providers but if we do so it will not preclude the problem from being later referred to the Mediation Service or Employment Relations Authority.
- Step 3 If settlement is not reached through mediation (or through any alternative agreed procedure), an application can be made to the Employment Relations Authority which will resolve the matter if it is satisfied that we have first attempted to resolve the problem in good faith through mediation.
- (c). Personal Grievance means any grievance that an employee may have against the employee’s employer or former employer because of a claim –
- That the employee has been unjustifiably dismissed; or
  - That the employee’s employment, or one or more conditions of the employee’s employment (including any condition that survives the termination of employment), is or are or was affected to the employee’s disadvantage by some unjustifiable action by the employer; or
  - That the employee has been discriminated against in the employee’s employment; or
  - That the employee has been sexually harassed in the employee’s employment; or
  - That the employee has been racially harassed in the employee’s employment; or
  - That the employee has been subjected to duress in the employee’s employment in relation to membership or non-membership of a union or employees organisation.
- d) To contact the Department of Labour call their free Industrial Relations Line: 0800 800 863