

**Te** **Kōhanga Reo Name**

**INDIVIDUAL EMPLOYMENT AGREEMENT**

**(Fixed Term Employee)**

**INDIVIDUAL EMPLOYMENT FIXED TERM AGREEMENT**

# Fixed Term Agreement

When entering into a fixed term employment agreement, it is a legal requirement that the employee is aware of:

* the reason for the fixed term nature of the work to be undertaken
*Example: to cover an employee who is on maternity leave*; and
* the way the employment agreement will end
*Example: on a set date when the employee on maternity leave intends to return, or before this date with 4 weeks notice*; and
* the reasons for the employment agreement ending
*Example: the position is only available while the employee is on maternity leave.*

The Employer and Employee can agree to fixed term employment where:

* there is genuine reasons for doing so (such as project work or covering for a permanent employee on leave)
* The Employer advises the Employee of those reasons and how or when the employment will end, and does so prior to employing the employee.

Failure to record the fixed term arrangement in writing means that the employer will be unable to enforce the fixed term if the kaimahi chooses to contest it.

The Employer cannot employ someone on a fixed term agreement where the job is really a permanent one.

**Examples of wording to be included in fixed term agreement:**

*“The position is for a fixed term. This is because the incumbent employee has taken 4 weeks leave from 01 Jan 2023. The incumbent employee will return to work on 01 Feb 2023 and will need to be updated by you in the week ending 10th Feb 2023. As a consequence, your employment will cease 10th Feb 2023.*

**or**

*‘The position is for a fixed term. The reason for the fixed term is to reduce the backlog of filing in the Kōhanga over a period of 6 weeks. The reason for the agreement ending and the way the employment will end:*

*"On (date in 6 weeks time) without further notice being given. The finite period of 6 weeks of full time work is the maximum period the kohanga has budgeted for this work. The employment agreement will then terminate on its stated expiry date in 6 weeks time.*

## Kaimahi Initials



[Name of employee]

 [Address]

Tēnā koe [name],

**Offer of Employment**

I am pleased to offer you the position of [title] at [location] starting on the commencement date expressed in the attached individual employment agreement. I propose that the terms of employment will be those in this agreement.

You are encouraged to seek independent advice on the agreement. For information on your employment rights, you can contact Employment New Zealand by phone on 0800 20 90 20 or online at employment.govt.nz.

Please read the 90-day trial period clause in the agreement carefully.

**Employment with [**employer**] is conditional upon receipt of an acceptable New Zealand Police Vet Check prior to your employment start date. This is a requirement under the Children’s Act 2014.**

If you disagree with, do not understand, or wish to clarify anything in this offer or agreement, please get in touch with us. We can be contacted at [Put your contact details here]

If you are happy with the proposed terms and wish to accept this offer of employment, please sign the Employee Acknowledgement at Section 15 of this agreement, the Position Description, the **attached** IR330 forms and return all to me by [insert date – must be earlier than the commencement date]. If I have not heard from you by 5:00pm on this date, this offer will be automatically withdrawn.

We look forward to working with you.

Nāku noa,

[Name of Chairperson on behalf of the Employer] [Address of Chairperson]

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**Individual Employment Agreement Fixed Term Employee**

1. **The Parties**
	1. *The Parties*

The “parties” to this agreement are:

## [Name of Employer] (the “Employer”); and [Name of Employee] (the “Employee”).

The employment relationship is between the Employee and the above Kōhanga Reo. The Te Kōhanga Reo National Trust is not the Employer.

If the Employee ends work for the Employer and starts work for a different Kōhanga Reo, this

constitutes a new employment relationship.

## Position and Duties

* 1. *Position*

The Employee is being employed as [**Insert position**].

* 1. *Duties*

The Employee’s duties and responsibilities are set out in the Position Description attached to this agreement (see Schedule 1). The Employer may, after consultation with the Employee, amend the Position Description and duties associated with the position.

The Employee agrees to perform all other reasonable duties and comply with all lawful and reasonable instructions issued by the Employer.

* 1. *Reporting*

The Employee will report to a person or persons to be nominated by the Employer, from time to time.

* 1. *Place of Work*

The Employee’s main place of work is at **[address of Kōhanga].**

From time to time, the Employee may be required to work from other locations where Kōhanga

business is carried out, as directed by the Employer.

## Term of the Agreement

* 1. *Nature of the Agreement*

For the avoidance of doubt, the nature of employment and this agreement is fixed term.

* 1. *Fixed Term Agreement*

The Employee will commence work for the Employer on **[insert the commencement date]** and will continue until [**insert the end date**]. Employment will automatically end without notice or pay instead of notice, unless the Employer or the Employee ends it earlier in line with this agreement.

The Employer and the Employee agree there is a genuine reason for the fixed term and the employment to finish when the term ends.

The reason for it being fixed term, and finishing at the end of the term is [**insert reason in 1-2 sentences**].

The Employer has explained why employment will finish when the term ends, and the Employee has had an opportunity to get independent advice on this.

* 1. *~~Trial Period~~*

~~A trial period will apply for a period of 90 days after commencing employment to assess and confirm the Employee’s suitability for the position. The trial period will begin on [~~**~~insert the commencement date~~**~~] and end on [~~**~~90 days from the commencement date~~**~~].~~

~~During the trial period, the Employer may terminate the employment relationship by providing the Employee with one weeks’ notice (the notice period as detailed in the termination clauses does not apply). It may be that the actual dismissal does not become effective until after the trial period ends.~~

~~If the Employer terminates the agreement within the trial period, the Employee may not pursue a personal grievance on the grounds of unjustifiable dismissal. The Employee may pursue a personal grievance on the grounds of unjustified disadvantage, discrimination, sexual harassment, racial harassment, or duress with respect to union membership.~~

~~This clause only applies if the Employee has not previously been employed by the Employer.~~

* 1. *~~Trial Period Dismissal Without Notice for Serious Misconduct~~*

~~During the Employee’s trial period, the Employee may be dismissed without notice for any proven serious misconduct.~~

## Obligations of the Relationship

* 1. *Employer Obligations*

The Employer will:

1. Act as a good Employer in all dealings with the Employee;
2. Deal with the Employee and their representatives in good faith in all aspects of the employment relationship; and
3. Take all reasonable and practicable steps to provide the Employee with a safe and healthy work environment.
	1. *Employee Obligations*

The Employee will:

1. Comply with all reasonable and lawful instructions provided by the organisation;
2. Perform all duties with all reasonable skill and diligence and in the best interests of the Employer and the employment relationship;
3. Deal with the Employer in good faith in all aspects of the employment relationship;
4. Comply with all policies and procedures implemented by the Employer from time to time,

including attending Kōhanga hui when requested;

1. Not do anything to bring the Employer into disrepute; and
2. Take all practicable steps to perform the job in a way that is safe and healthy for mokopuna, fellow workers, and the Employee.

## Hours of Work

* 1. *Hours of Work*

The Employee normal hours of work shall be as follows: Monday [**hours of work**]

Tuesday [**hours of work**] Wednesday [**hours of work**] Thursday [**hours of work**]

Friday [**hours of work**]

Total hours cannot exceed 8 hours a day (including breaks etc.) or the pro-rated maximum hours agreed for part-time Kaimahi. Within the above total hours, mokopuna contact time cannot exceed 6 hours per day (as per the Kōhanga Reo license). Within the total hours, non-contact time can be allocated to planning, set up, closing cleaning or other associated activities with the running of the Kōhanga Reo.

The Employee agrees that any additional time outside of these hours of work, which s/he spends on his/her, tasks and responsibilities does not amount to work for the purpose of s6 of the Minimum Wage Act 1983.

The Employee may be required to work extra hours as required to meet the reasonable requirements of the position or the Employer. This may include attending hui, training, and courses outside normal hours of work.

The Employee may request a flexible working arrangement at any time. The Employer will consider all applications in accordance with the provisions in the Employment Relations Act 2000.

* 1. *Rest Breaks and Meal Breaks*

The Employee will be entitled to a 30-minute unpaid meal break on each working day of more than 4 hours and 30 minutes.

The Employee will be entitled to take paid rest breaks of no longer than 10 minutes, as reasonably necessary (as a general guideline, one rest break for every three hours worked is expected).

Breaks will be taken at reasonably practicable and convenient times for either parties, or such other time as the parties agree to. from time to time.

## Remuneration

* 1. *Salary*

An Employee who is considered within the Pay Parity FTE allocation of our Kōhanga will be paid an annual salary as per the criteria they meet for the Pay Bands (link to bands). The Employee will be paid at **[payband], [payband %],** which is a full-time annual salary of **$[annual salary amount]** per year (gross)**.** For part time Employees this annual salary amount will be prorated. Salary shall be paid [**weekly/fortnightly**] into a bank account nominated by the Employee on **Tuesday**.

The Employer will contribute in each pay period a sum equivalent to the compulsory Kiwisaver requirements. The above salary rate [**pick one:** **includes / excludes**]any current or future mandatory employer Kiwisaver contributions required by law.

6.1a *Hybrid clause – Salary and Wages*

If an Employee is in a situation where the FTE allocation does not cover all of their hours worked, they are paid a prorated salary as above in 6.1 that matches the FTE allocation of [**number of hours**]. Hours of work completed beyond this is paid at an hourly rate pay rate set by the Employer of **$[hourly pay rate]** per hour (gross)**.** The combined number of hours paid in this instance of salary and wages should not exceed 40 hours per week.

If the pay day falls on a public holiday, the wages will be paid on the working day immediately prior to the public holiday.

*6.2 Wages*

An Employee who:

-is not considered within the Pay Parity FTE allocation will be paid an hourly pay rate set by the Employer of **$[hourly pay rate]** per hour (gross)**.** Wages shall be paid [**weekly/fortnightly**] into a bank account nominated by the Employee on **Tuesday**.

The Employer will contribute in each pay period a sum equivalent to the compulsory Kiwisaver requirements. The hourly rate agreed [**pick one:** **includes / excludes**]any current or future mandatory employer Kiwisaver contributions required by law.

The Employee will submit timesheets on a timely basis for the payment of wages. Wages will only be paid for hours that are authorised by the Employer to be worked.

If the pay day falls on a public holiday, the wages will be paid on the working day immediately prior to the public holiday.

*6.3 Salary/Wage Deductions*

The Employee consents that the Employer may make reasonable deductions from the Salary/wages payable to the Employee if:

* + 1. The Employee makes a written request for a deduction;
		2. The Employer has made overpayment(s) to the Employee;
		3. The Employee has outstanding debts owing to the Employer;
		4. The Employee is in unauthorised possession of the Employer’s property; or
		5. The Employee is responsible for loss or damage to the Employer’s property, including its motor vehicles.

The Employer will consult with the Employee before any decision to deduct from wages is made.

*6.4 Review of Salary*

For Employees within the Pay Parity FTE allocation, the payband they are entitled to be paid on is based on the Employee’s role as per their employment agreement, as well as qualifications and length of experience as per the pay band criteria (link). Under pay parity moving to a higher pay band is funded by the gap funding provided by pay parity. As additional payband criteria is satisfied increases in **the payband from one payband to a higher band** should be actioned within 2 pay periods.

In addition to this performance will be reviewed once per year. Performance is a part of the criteria of the pay bands.

*6.5 Review of Wages*

Wages will be reviewed once per year.

There is no expectation that the wages will be increased as a result of such review. To ensure the continual operation of the Employer, all pay increases are subject to economic considerations, budget constraints, and performance reviews.

*6.6 Koha*

All koha received in the course of employment are the property of the Employer. Any koha received during employment shall be declared and given immediately to the Employer.

When acting in their capacity as an employee, the Employee will not, either directly or indirectly, receive or accept any koha, gratuity, emolument, or payment of any kind from any person in the course of their employment, whether for their own benefit or for the benefit of any person or entity other than the Employer.

*6.7 Reimbursement of Expenses*

The Employer will reimburse the Employee for all prior-approved, reasonable expenses incurred in the course of employment. The Employer requires a claim for any expenses to be supported by GST receipts.

In calculating reimbursement for the costs of travel via motor vehicle, the Employer will use the current IRD standard mileage rate. If the Employee wishes to claim reimbursement for vehicle travel costs, they will provide the Employer with an up-to-date vehicle logbook for the respective motor vehicle.

*6.8 Allowances in addition to salary*

Allowances above the minimum employment entitlements are funded directly by the Employer.

All allowances are subject to:

-Ongoing review by the Chairperson/Committee.

-Factor in performance and require approval by the Chairperson/Committee, including signed minutes to document the decision.

-Allowances can only be provided in the event the Kōhanga Reo can afford to do so without affecting their long term financial position.

## Holiday and Leave Clauses

* 1. *Annual Leave*

The Employee is entitled to annual leave in accordance with the provisions of the Holidays Act 2003.

Unless the Employer and the Employee agree that the Employee may take annual leave in advance, the Employee is entitled to 4 weeks’ annual leave after they have completed 12 months’ continuous employment with the Employer.

For the sake of clarity, the four weeks’ annual leave entitlement will be calculated pro rata to the length of the fixed term agreement.

Annual holidays are to be taken by arrangement with the Employer and at a time or times which will not unduly disrupt the Employer’s operations.

* 1. *Annual Closedown*

The Employee must take annual leave when the Employer customarily shuts over the Christmas-New Year period each year. The Employer will give at least 14 days’ notice of the closedown dates.

If the Employee does not have enough annual leave to cover this period, the Employer and Employee will negotiate how to handle the time off. This may include the Employee taking unpaid leave or leave in advance.

If the Employee has worked for less than 12 months by the time of the closedown, they will be paid 8% of their gross earnings to date up to the start of the closedown period (in accordance with the provisions of the Holidays Act 2003).

* 1. *Working on Public Holidays*

The Employee agrees to work on any public holiday that would otherwise be a working day for them, if required. The Employee also agrees not to work on any public holiday unless asked to do so.

If the Employee works on a public holiday, they will be paid their relevant pay for the time actually worked at the rate of time-and-a-half. They will also be entitled to time off in lieu equivalent to the hours worked.

If the Employee does not work on a public holiday, they will receive a paid day off if a public holiday falls on a day that would otherwise be a working day for them.

If the Employee is on sick leave or bereavement leave on a public holiday on which the Employee was scheduled to work, then the day will be treated as an unworked public holiday. The Employee will receive a paid day off but will not be entitled to time and a half or an alternative holiday.

* 1. *Sick Leave*

The Employee is entitled to sick leave in accordance with the provisions of the Holidays Act 2003. Following six months’ continuous employment, the Employee is entitled to a further 10 days’ sick leave for every subsequent 12 months of ongoing employment.

A maximum of 20 days’ sick leave can be accrued.

The Employer may request proof of illness or injury, such as a medical certificate, if the Employee is away from work due to illness or injury:

1. For less than three consecutive calendar days, at the Employer’s cost; or
2. For three or more consecutive calendar days, at the Employee’s cost.
	1. *Domestic Violence Leave*

The Employee is entitled to domestic violence leave in accordance with the provisions of the Domestic Violence – Victims Protection Act 2018.

**‘The Hours worked test’ - defines who can take domestic Leave.**

Employees can take paid domestic violence leave if they have worked for their employer for at least 6 months or meet one of the following conditions. These are that:

The employment has continued for 6 months. During those 6 months they have worked for at least an average of 10 hours a week. During this time, the employee must have worked either:

 1 hour each week

 40 hours each month.

These are the same conditions for getting sick leave and bereavement leave

10 days of domestic violence leave

The Employee is entitled to 10 days of paid domestic violence leave each year.

The employer can ask for proof that the employee is affected by domestic violence. The employer does not need to pay the employee until they get this proof, unless the employee has a ‘reasonable excuse’ [Family violence leave rights and responsibilities - Employment NZ](https://www.employment.govt.nz/leave-and-holidays/domestic-violence-leave/rights-and-responsibilities/)

* 1. *Parental Leave*

The Employee is entitled to parental leave in accordance with the provisions of the Parental Leave and Employment Protection Act 1987.

See [Paid parental leave - IRD](https://www.ird.govt.nz/paid-parental-leave) for information on the Paid Parental Leave entitlement funded by the Government.

* 1. *Bereavement Leave*

The Employee is entitled to bereavement leave in accordance with the provisions of the Holidays Act 2003.

The intent of this clause is to provide reasonable opportunity for the Employee to discharge any obligation and/or pay respects to a deceased person with whom the Employee has had a close association. Such obligations may exist because of blood or family ties, or because of a cultural obligation such as attendance at a tangihanga.

* 1. *Unpaid Leave*

Application to the Employer for unpaid leave will be granted at the sole discretion of the Employer on a case by case basis.

* 1. *Time off in lieu*

If the Employer requires the Employee to work hours in addition to their normal working hours, the Employee will be entitled to time off in lieu on the basis of one hour off for each additional hour or part of an hour worked.

The Employee must provide at least 3 days’ notice for taking time off in lieu.

The Employee must take their time off in lieu within 3 weeks of the start of the entitlement period. If the Employee does not apply to take time off in lieu within the entitlement period, the accumulated time will be forfeited. A maximum of 8 hours of time off in lieu can be accrued.

## Health and Safety

* 1. *Health and Safety Obligations*

The Employer and the Employee will comply with their obligations under the Health and Safety at Work Act 2015 and The Employer’s rules and policies.

The Employer will ensure, so far as is reasonably practicable:

* + 1. The health and safety of workers who work for the Employer;
		2. The health and safety of workers whose activities in carrying out work are influenced or directed by the Employer; and
		3. That the health and safety of other persons is not put at risk from work carried out by the Employer.

The Employee will:

1. Take reasonable care for their own health and safety;
2. Take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons; and
3. Comply with any reasonable instruction, policy, or procedure of the Employer relating to health or safety at the workplace.
	1. *Alcohol and Drug Testing*

Where the Employer has good reason for believing that the Employee is under the influence of illegal drugs or alcohol while at work, the Employer may require the Employee to undergo a non-invasive drug test (urine test) conducted by a registered medical professional.

In deciding whether to conduct a drug test, the Employer will consult with the Employee and consider any comments or explanation made by the Employee.

In determining the steps to be taken following a positive drug test result, the Employer will consult with the Employee and consider any comments or explanation made by the Employee.

* 1. *Medical Examination*

The Employer may request that the Employee undergo a medical examination by a registered medical practitioner, at the Employer’s cost, if the Employer reasonably believes that the Employee’s health is:

* + 1. Affecting their performance; or
		2. Affecting the health or safety of any person in the workplace.
	1. *Smoking*

Under the Smoke-Free Environments Act 1990, the Employer’s premises are totally smoke free.

If the Employee wishes to smoke during rest or meal breaks, they will smoke only off-site, in locations where they can reasonably expect to be out-of-sight of mokopuna or their whānau entering or leaving the work premises.

* 1. *Convictions*

Subject to the Criminal Records (Clean Slate) Act 2004, the Employee must inform the Employer if they are (or have previously been) convicted of any crime, whether in New Zealand or any other country.

## Other Employment Obligations

* 1. *Confidential Information*

During employment, the Employee will have access to information of a confidential, commercial, or sensitive nature. The Employee is required to treat all such information as confidential and it shall be held in the strictest confidence by the Employee both during and after their employment.

Except as required or as necessary for the proper performance of their duties, the Employee will not use, disclose, or distribute for any reason to any person or entity any information produced or acquired by the Employee in the course of employment. This includes information about the Employer’s business.

* 1. *Copyright and Intellectual Property*

Anything the Employee produces in their employment is the property of the Employer.

* 1. *Use of Telephone, Internet, and Email*

The Employee will have access to telephone, email, and internet facilities for the purpose of performing their duties of employment.

The Employee will ensure that their use of the facilities meets the protocol, ethical and social (whānau) standards of the workplace. The Employee should also comply with all internet and email policies issued by the Employer from time to time.

A reasonable level of personal use is acceptable, but it should not interfere with the Employee’s ability to complete the work they are employed to do. Use must not unduly interfere with the Employee’s obligations and must not be illegal, offensive, or contrary to the interests of the Employer.

* 1. *Privacy Obligations*

The Employer may collect and retain personal information concerning any aspect of the Employee’s employment directly from the Employee or any third party. Under the Privacy Act 1993, the Employee has rights and obligations and rights of access to and correction of personal information (except insofar as it relates to any exemption provided by the Act).

* 1. *Jury Service*

Employees called on for jury service are required to serve. If an Employee is called on for jury service, the Employer will pay the Employee in full for the first five days that the Employee would have otherwise worked.

The Employee will pay to the Employer any service payments received for performing jury service, but may retain the expenses.

* 1. *Service for Territorial or Reserve Forces or Special Service*

The Employer will comply with its obligations set out in the Volunteers Employment Protection Act 1973.

If the Employee is required to be away from work for training or service as a member of the territorial or reserve forces or for special service under the Defence Act 1990, this will be unpaid leave.

* 1. *Media*

The Employee must not make any statements to the media or any external agency about the Employer or its affairs without the express written permission of the Employer or Te Kōhanga Reo National Trust.

* 1. *Employer Policies and Procedures*

The Employee will familiarise themselves with and follow all policies and procedures of the Employer

and Te Kōhanga Reo National Trust.

The Employer may amend, cancel, or introduce policies and procedures as it considers necessary. Before any changes take effect, the Employer will notify the Employee of any changes to policies and procedures of the Employer or Te Kōhanga Reo National Trust.

If there is any conflict between any of the terms of this agreement and/or any instruction, policy, or procedure, the following order of priority shall apply (in order from high-priority to low-priority):

* + 1. The terms of this agreement;
		2. Any policies and procedures of Te Kōhanga Reo National Trust or of the Employer; and
		3. Any instructions given by the Employer.
	1. *Conflict of Interest*

The Employee agrees that there are no conflicts, retractions, or other matters which would interfere with their ability to discharge their obligations under this agreement.

The Employee is expected to devote full time energy to this position and agree that whilst the Employee is employed by the organisation, the Employee will not be engaged in any business or activity which may detract from their ability to work satisfactorily.

If, at any time, the Employee becomes aware of any potential or actual conflict between the interests of the Employee and the interests of the Employer, then the Employee will immediately inform the Employer.

Where the Employer forms the view that such a conflict does or could exist, it may direct the Employee to take steps to resolve the conflict. The Employee will comply with these instructions.

* 1. *Indemnity*

The Employer shall, to the extent permissible under the law, indemnify the Employee from and against all actions, claims and demands brought against the Employee by any third party relating to the performance of the Employee’s duties and responsibilities. This applies provided that the Employee’s actions were in good faith and did not involve recklessness, wilful neglect, or any wilful failure to carry out lawful and reasonable instructions. In all other cases, the Employee will be liable for their actions.

* 1. *Use of Surveillance Equipment*

The Employer may use surveillance equipment, such as cameras, global positioning satellite systems, voice recording, or email / internet use monitoring, for the purposes of, security (including to deter, or investigate loss or damage) monitoring /assessing safe work practice, for other health and safety purposes, training, and performance monitoring. The Employee has been made aware that such surveillance may be in operation, during the course of his or her employment, and acknowledges that information is being collected in this way. The Employer will abide by the provision of the Privacy Act 1993 when collecting and storing such information.

## Employee Performance

* 1. *Performance Objectives*

The Employer will endeavour to set performance objectives for the Employee at least annually. The Employer will consult with the Employee in doing so.

* 1. *Performance Reviews*

The Employer will endeavour to conduct a performance review of the Employee at least annually. When reviewing the Employee’s performance, the Employer will take the Employee’s performance objectives into account.

* 1. *Training and Development(Wānanga)*

The Employer may require the Employee to attend wānanga, as and when directed by the Employer.

Time off in lieu will be given where the wānanga are held outside of normal work hours.

For the purposes of training and development, the Employee may be required to attend any/all of the following training programme(s), paid for by the Employer:

1. Te Ara Tuatahi
2. Te Ara Tuarua
3. Te Tohu Mātauranga Whakapakari Tino Rangatiratanga
4. Te Takaimatua

## Redundancy

* 1. *Definition of Redundancy*

Redundancy is a situation where the position of employment of the Employee is or will become surplus to the requirements of the Employer business.

* 1. *Redundancy Process*

If the Employer considers that the Employee’s position could be affected by redundancy or made redundant, the Employer will (except in exceptional circumstances) consult with the Employee regarding the possibility of redundancy.

In the course of consultation, the Employer will provide relevant information about the proposed arrangement and provide the Employee with an opportunity to comment on the proposal. The Employer will consider and respond to any comments made by the Employee.

The Employer will consider the views of the Employee with an open mind before making a decision as to whether to make the Employee’s position redundant.

Without excluding other reasons for redundancy, the Employee’s position may be made redundant if the number of mokopuna drops to such a level that it is not possible to maintain the Employee’s employment.

Although the Employee is on a fixed term contract, there could be circumstances that mean their role might no longer be needed before the term is ended. If the Employee is made redundant, they will be paid up to their last day of work, but not for the remainder of the fixed term.

* 1. *Employment Protection Provision*

In the event the Employer’s business undergoes a restructure (as defined in the Employment Relations Act 2000) the Employer will meet with the new employer to discuss matters relating to the Employee’s continued employment, including whether the new employer will offer employment and (if so) on what terms (including whether the new employer will offer employment on the same terms and conditions of employment). If the new employer does not offer the Employee employment, the terms of this agreement will apply.

* 1. *Technical Redundancy and Restructure*

The Employee will not be entitled to compensation for redundancy or payment for any shortfall in notice if the Employer restructures its business (including an internal restructure or an external restructure where all or part of the business is sold, transferred, or otherwise disposed of), and the Employee is offered:

1. a position that the Employee accepts; or
2. employment in the same or a substantially similar capacity, on conditions of employment which are overall comparable to the Employee’s current conditions, with the Employee’s service being recognised as continuous.

## Termination of Employment

* 1. *General Termination*

The Employer may terminate employment by providing at least 2 weeks’ notice in writing to the Employee.

The Employee may resign by providing at least 2 weeks’ notice to the Employer. The Employer may accept a lesser period of notice.

The Employer may pay the Employee in lieu of some or all of the notice period.

* 1. *Termination for Serious Misconduct*

If the Employer has good reason to believe that the Employee might have engaged in serious misconduct, the Employer may initiate an investigation or disciplinary process into the Employee’s conduct.

If the Employer determines that the Employee has engaged in serious misconduct, the Employer may terminate employment without the need to provide notice.

Serious misconduct includes, but is not limited to:

* + 1. Theft or unauthorised use of the Employer’s property;
		2. Harassment or assault (verbal or physical) of any person;
		3. Dishonesty, including falsification of the Employer’s documents or records;
		4. Breach of confidentiality;
		5. Inappropriate verbal or physical contact with mokopuna;
		6. Conduct which may compromise the safety of mokopuna;
		7. Conduct which may bring the Employer or Te Kōhanga Reo National Trust into

disrepute;

* + 1. Possession of drugs or alcohol at work without good reason;
		2. Being under the influence of alcohol or drugs while at work, without good reason;
		3. Smoking in the workplace; Serious or repeated instances of misconduct;
		4. Receiving a conviction, even if it relates to conduct before the agreement commenced;
		5. Failure to inform the Employer if the Employee receives a conviction;
		6. Failure to comply with the New Zealand Police Vetting Service process;
		7. Failure to pass the Employer’s safety checking assessment; and
		8. Serious or repeated breach of this agreement or the Employer’s policies or procedures.
	1. *Misconduct*

Misconduct is a breach of the general standards of behaviour required of the Employee, which does not amount to ‘serious misconduct’.

Behaviours which amount to misconduct are detailed in the Employer’s policies.

If the Employer has good reason to believe that the Employee might have engaged in misconduct, the Employer may initiate an investigation or disciplinary process into the Employee’s conduct.

If the Employer determines that the Employee has engaged in misconduct, the Employer may issue the Employee with a warning. In serious or repeated instances of misconduct, the Employer may dismiss the Employee.

* 1. *Suspension*

Where the Employer considers it necessary, the Employer may suspend the Employee on paid special leave for an indefinite period while it investigates the Employee’s conduct or performance. The Employer will consult with the Employee before a decision to suspend is made.

If the Employee refuses to provide information and cooperate with an investigation into their conduct, the Employer may place the Employee on unpaid special leave.

Where the suspension extends beyond two weeks due to a Police investigation, prosecution, or a third-party enquiry, the suspension may also continue without pay.

In addition to the above, the Employer may suspend if the Employee is suffering from or is carrying

an infectious disease, or there is a health and safety risk to any other employee or mokopuna.

* 1. *Termination on Medical Grounds*

In the event the Employee has been continuously absent from work for 4 weeks due to illness or injury, the Employer may require the Employee to undergo a medical examination by a registered medical practitioner nominated by the Employer, at the Employer’s cost.

In assessing the Employee’s fitness for work, the Employer will consider any report provided as a result of that examination, and any other report provided by the Employee within a reasonable timeframe.

If, in the reasonable opinion of the Employer, the Employee is incapable of the proper performance of their duties by reason of illness or injury, the Employer may terminate this agreement by providing at least 2 weeks’ notice in writing to the Employee.

* 1. *Abandonment of Employment*

If the Employee has been away from work for 3 consecutive working days without notifying the Employer, and the Employer has made reasonable efforts to contact the Employee, the employment will end at the end of the third day. There is no need for notice.

* 1. *Force Majeure*

This clause sets out the duties and liabilities on the parties to this agreement in the event of circumstances or events occurring which is reasonably unforeseeable and outside of the parties control. Such circumstances or events include, but are not limited to:

1. Acts of God;
2. Earthquake, flood, fire, storm and adverse weather conditions or natural events for which provision could not reasonably have been made;
3. Riot, civil disturbance, explosion, terrorist acts, insurrection, epidemic, national emergency (whether in fact or in law) or act of war (whether declared or not); and
4. Any other like cause beyond the control of the parties.

If an event or circumstance occurs, where the Employer is unable to open or continue to operate its business, the Employer will:

* 1. Notify the Employee that the Employer will not be opening and that the Employee should not attempt to come to work;
	2. Provide, where possible, six hours’ notice that the Employee should not attend work under sub clause a. above;
	3. Where six hours’ notice is provided to the Employee there will be no obligation on the Employer to pay the Employee for that day;
	4. Where it is not possible to provide six hours’ notice, the Employer will pay the Employee [insert hours] in compensation for the reduced notice;
	5. Where the circumstance or event causing the Employer to close take place during a working day, the Employer will pay the Employee for the remainder of that working day.

If the event or circumstance prevents the Employee from returning to work for a period of more than 20 days:

1. The Employee can notify the Employer in writing of their intention to terminate their employment without notice in order to find and accept new employment;
2. The Employer can give the Employee notice of its intention to terminate the Employee’s employment on the grounds that they are unable to operate.

Termination of this Agreement under this clause does not affect any of the continuing rights or obligations on or owed by the parties under this Agreement.

* 1. *Employee Obligations upon Termination*

Upon termination of employment, or at any other time if so requested by the Employer, the Employee will immediately return to the Employer all material or property either belonging to or the responsibility of the Employer (including copies), which are in the Employee’s possession or under

their control. This includes all written and electronic (including software) information developed or used whilst employed by The Employer.

The Employee will not take any documents or copies, whether written or in electronic form, away from the Employer’s premises without the express permission of the Employer.

The Employee is also required to return all Employer property which includes but is not limited to mobile phones, laptop, credit card, and fuel cards.

Upon termination of employment, the Employee will hand over all passwords and codes for the Employer’s systems.

## Resolving Employment Relationship Problems

* 1. *Internal Resolution*

Where either the Employee or the Employer identifies a potential employment relationship problem, they should take reasonable steps to notify the other party of the matter. If a problem is identified, both parties should meet and try to resolve the problem together in accordance with tikanga Māori.

An employment relationship problem includes a personal grievance, a dispute, and any other problem relating to or arising out of the employment relationship, but does not include any problem with the fixing of new terms and conditions of employment.

* 1. *Personal Grievance*

If the Employee wishes to raise a personal grievance, they have 90 days from the time the problem occurred, or became known by the Employee, to raise the grievance with the Employer (or make reasonable efforts to do so). Personal grievances are defined under Section 103 of the Employment Relations Act 2000.

* 1. *Mediation*

If the parties are unable to resolve the employment relationship problem, the matter will be referred to the Employer who will arrange for mediation or alternative dispute resolution between the parties. Resolution may be through:

1. mediation provided by the Ministry of Business, Innovation, and Employment; or
2. alternative dispute resolution provided by any other person appointed by the Employer in accordance with tikanga Māori.

If the parties resolve the problem through mediation or alternative dispute resolution, the parties may agree for a mediator to sign any agreed statement, which will bind the parties.

* 1. *Employment Relations Authority*

If the dispute cannot be resolved using mediation, the Employee or the Employer can refer the problem to the Employment Relations Authority.

* 1. *Support Persons and Representatives*

At any time, the Employee has the right to involve and seek assistance from an advocate, an iwi representative, a lawyer, or a support person. This person can attend any/all meetings between the parties.

As soon as practicable, the Employee should inform the Employer of the contact details of their support person and/or representative.

## Other Contractual Clauses

* 1. *Variation of Agreement*

The Employer and Employee can agree to change the terms of this agreement at any time. Any changes must be in writing and agreed to by both employer and employee.

* 1. *Non-Assignment by Employee*

The Employee must personally perform the duties and responsibilities under this agreement. No subcontracting or assignment by the Employee is permissible.

* 1. *Entire Agreement*

The terms and conditions set out in this agreement are the entire employment agreement between the employer and the employee, and replace any previous written and verbal agreements.

* 1. *Severability*

If any clause of this agreement is invalid or unenforceable at any time, then such invalidity or unenforceability shall not affect the remaining clauses of this agreement.

* 1. *New Zealand Law Applies*

This agreement is governed by the laws of New Zealand.

1. **Employee Acknowledgement**
	1. *Employee Acknowledgement*

[**legal name of employer**] offers this employment agreement to [**insert employee name**]: Signed by: Date:

In signing this agreement, I [**insert employee name**] accept the terms and conditions of my employment as detailed within this offer and declare that:

* I have read, and fully understood the terms and conditions of this agreement and their implications.
* I understand that my employment is on a fixed term basis, which will end on the date specified.
* I have received a copy of this agreement.
* I was told about my right to seek independent advice on the terms and conditions of this agreement and I have been given reasonable opportunity to take that advice.
* I have raised any issues I have about the terms and conditions of this agreement and the Employer has responded to these issues.
* I have told the Employer about any existing physical and/or health conditions that might be worsened by doing the job, or might affect my ability to do the job.
* I confirm that there are no contractual or other legal reasons that could stop me from working for the Employer.
* The information I have given is true and correct to the best of my knowledge and belief, and I have not left out anything that could affect the decision to employ me.
* I am, and will remain, able to work legally in New Zealand.
* I agree to be bound by these terms of employment and any policies and procedures as implemented by the Employer from time to time.

Signed by: \_ Date:

**SCHEDULE 1**

[see attached job Description]

**DECLARATION**

**[legal name of employer]** offers this employment agreement to **[full name of employee]:**

Employer Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(on behalf of [employer])

I \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, declare that I have read and understand the conditions of employment detailed above and accept them fully. I have been advised of the right to seek independent advice in relation to this agreement, and have been allowed reasonable time to do so.

Employee Signature \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(the Employee)

Reminder:

Please note to commence employment with Te Kōhanga Reo National Trust you will need to appropriately satisfy safety check requirements (Police Vetting)