**Employment agreement**

Dated 24th January 2012 Rev 27th January 2020

**Parties**

|  |  |
| --- | --- |
| **Employer** | **[EMPLOYER]****of**  |
| **Employee Accountant** | **[EMPLOYEE]****of** |

**Background**

A EMPLOYER has offered the EMPLOYEE the opportunity to promote EMPLOYER Services to potential EMPLOYER Clients and to provide Information Processing Services.

B The EMPLOYEE has agreed to promote EMPLOYER Services and provide Information Processing Services according to the terms of this agreement.

**Agreed terms**

**1. Definitions**

In this document:

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| --- | --- |
| **Term** | **Definition** |
| **[BRAND][EMPLOYEE]** | refers to the brand of EMPLOYER |
| **Client** | refers to an EMPL Client |
| **Confidential Information** | means all information, ideas, concepts, data, know-how and trade secrets (whether or not in a material form) |
| **EMPLOYER** | [EMPLOYER] |
| **EMPLOYEE** | [EMPLOYEE] |
| **EMPLOYER Client** | means clients that request the provision of the [EMPLOYER] Services by [EMPLOYEE] and the Information Processing Services by the [EMPLOYEE] Accountant. This does not include clients who approach [EMPLOYER] directly for the provision of services |
| **EMPLOYER Agreement** | means the agreement that [EMPLOYEE] requires each of its Clients to enter into with [EMPLOYEE] prior to the provision of the [EMPLOYER] services by [EMPLOYEE] |
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| **EMPLOYER Services** | means the services provided by EMPLOYER to EMPLOYER Clients including the preparation and lodgment of the EMPLOYER Client’s tax return electronically  |
| **Information Processing Services** | means the collection, verification and collation of EMPLOYER Client information and submission of EMPLOYEE information by the EMPLOYEE to EMPLOYER to enable EMPLOYER to provide the EMPLOYER Services |
| **Intellectual Property** | means all present and future intellectual or industrial property rights anywhere in the world (whether registered, unregistered or unregistrable), including without limitation any invention, idea, concept, discovery, data, database, formula, scientific or technical information, copyright, patent, trade mark, service mark, design, trade secret, knowhow, trade or business or company name, indication or source or appellation of origin or other proprietary right or right of registration of such rights |
| **Moral Rights** | has the meaning given to that term in part IX *Copyright Act 1968* (Cth) and includes:1. the right of attribution;
2. the right not to have authorship falsely attributed; and
3. the right of integrity of authorship
 |
| **Personal Information** | means information or an opinion (including information or an opinion forming part of a database), whether recorded in a material form or not, about a natural person whose identity is apparent, or may reasonably be ascertained, from the information or opinion including any information relating to the tax affairs of the person |
| **Privacy Act** | means the *Privacy Act 1988* (Cth) |
| **Privacy Laws** | means: 1. the Privacy Act;
2. the National Privacy Principles (NPPs) contained in schedule 3 to the Privacy Act; and
3. all other applicable laws, regulations, registered privacy codes, privacy policies and contractual terms in respect of the Processing of Personal Information.
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| **Quality Control** | has the meaning that as an experienced professional in the field of accounting the EMPLOYEE will take due care to ensure adherence to EMPLOYER Quality Assurance System guidelines, part of which include successful completion of the EMPLOYEE training modules and compliance with the CPA requirements regarding supervision and control of information and tax advice.  |
| **Related Body Corporate** | has the meaning given to that term by section 9 *Corporations Act 2001* (Cth) |
| **Remuneration** | has the meaning set out in Schedule 1 |
| **Tax Advice Fees** | fees charged to Client for tax advice (written) and other advice by EMPLOYER  |
| **Tax Return Fees** | fees charged to Client by EMPLOYER for the preparation and lodgment of tax returns, exclusive of GST |
| **Term Commencement** | is the date set out in Schedule 1 |
| **Training CPD 14% fees** | Means 14% of gross salary for compulsory professional association and CPD Training fees payable by [EMPLOYEE] |
| **Transaction Fees** | fees charged to Client for transaction and processing services including trust administration and Fast Refund services  |
| **Workplace** | refers to the [EMPLOYEE]’s place of residence or where they intend to do business for [EMPLOYER] |

**2. Interpretation**

2.1 In this document:

1. a reference to a clause, schedule annexure or party is a reference to a clause of, and a schedule, annexure or party to, this document and references to this document include any schedules or annexures;
2. a reference to legislation or to a provision of legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaces, and includes any subordinate legislation issued under it;
3. a reference to a person includes a corporation, trust, partnership, unincorporated body, government and local authority or agency, or other entity whether or not it comprises a separate legal entity;

a reference to ‘month’ means calendar month.

**3. National Employment Standards**

3.1 The EMPLOYEE and EMPLOYER are bound by the National Employment Standards (NES) set out in the *Fair Work Act 2009.* This agreement does not restrict the EMPLOYEE’s rights and entitlements as provided for by the NES.

3.2 The EMPLOYEE can access a copy of the NES by asking our human resources department.

**4. Type of engagement**

4.1 The EMPLOYEE is engaged as an employee. This means that:

1. the EMPLOYEE will be engaged as and when required by EMPLOYER;
2. the EMPLOYEE’s employment will come to an end at the completion of each engagement and the EMPLOYER is not obliged to offer the EMPLOYEE, and the EMPLOYEE is not obliged to accept, any subsequent engagements; and
3. EMPLOYER can give the EMPLOYEE no guarantee about continuing work.

**5. Period of employment**

5.1 The EMPLOYEES’ first engagement will commence on the Term Commencement and continue until terminated in accordance with clause 18 of this document.

5.2 Any future engagements will be negotiated between EMPLOYER and the ACANT.

**6. Hours of work**

6.1 The EMPLOYEES’ hours of work are as required to satisfy Client expectations in regards to the service provided, up to a maximum of 38 hours a week plus reasonable additional hours as required.

6.2 If the EMPLOYEE has any concerns about the reasonableness of the work requirements that the EMPLOYEE is requested to work, the EMPLOYEE may raise this with EMPLOYER at any time.

**7. Warranties**

7.1 The EMPLOYEE represents and warrants to EL, and it is a condition of this agreement, that:

1. the EMPLOYEE has obtained the consent of each EMPLOYER Client to perform the Information Processing Services and to access and view all information held by EMPLOYER about each EMPLOYER Client;
2. the EMPLOYEE has obtained the written authorization of each EMPLOYER Client to submit the EMPLOYER Client’s tax information to EMPLOYER in order for EMPLOYER to provide the EMPLOYER Services;
3. the EMPLOYEES’ have the necessary facilities, equipment, software and qualified personnel available to provide the Information Processing Services to EMPLOYER Clients;
4. all work performed by the EMPLOYEE under this agreement will be carried out and completed with due skill and care and to the best industry standards by qualified personnel trained and skilled in the performance of the specific services involved, in a propped and workmanlike manner and using materials suitable for the purpose;
5. except in the case of fraud or deception on the part of the EMPLOYER Client, all information provided by the EMPLOYEE to EMPLOYER in connection with an EMPLOYER Client that will be relied upon by EMPLOYER for the provision of EMPLOYER Services will, to the best of the EMPLOYEES’ knowledge be complete and accurate;
6. the EMPLOYEE to the best of its knowledge, has not withheld from EMPLOYER any document, information or other fact material to the decision of EMPLOYER to enter into this agreement; and
7. the EMPLOYEE did not rely upon any representation made to the EMPLOYEE by EL.
8. All client fees for accounting, advice given and preparation of tax returns will be charged by EMPLOYER and no fees will be charged to the EMPLOYER client by the EMPLOYEE in any capacity whatsoever in full compliance with tax agent regulations.
9. The EMPLOYEE agreed to be registered as a non-business agent under the EMPLOYER tax agent license with the Tax Practitioner Board as required by EMPLOYER from time to time.

**8. Duties**

8.1 The EMPLOYEE’s duties are those set out in the Position Description in Schedule 2; and

During the EMPLOYEE’s employment, the EMPLOYEE must immediately disclose to EMPLOYER any interest of the EMPLOYEES’ that may conflict with EMPLOYER’s interests.

8.2 Unless otherwise agreed and recorded in Schedule 2, while employed by EL, the EMPLOYEE must not:

1. perform the EMPLOYEES’ duties other than for EMPLOYER or on EMPLOYER’s behalf without EMPLOYER’s prior written permission, including engaging in any another employment, business or profession; or
2. engage in any activities that may lead to a conflict of interest, including accepting any benefit as an inducement or reward for an act or omission for the benefit of another person.

8.3 The EMPLOYEE warrants that they have the expertise and qualifications necessary to perform their duties, and agrees that they will undertake any training, education or other activity necessary to maintain their expertise and qualifications during their employment in accordance with applicable tax agent legislation.

8.4 The EMPLOYEE warrants that they have, or are capable of achieving, a level of professional body recognition, such as Tax Agent registration. The EMPLOYEE will be given due notice to complete registration and if unable to achieve this, EMPLOYER reserves the right to remove the EMPLOYEE from the use of system, processes and client access.

8.5 The EMPLOYEE warrants that in executing this agreement or in performing the EMPLOYEES’ duties under the agreement, the EMPLOYEE is not in breach of any other contract. The EMPLOYEE indemnifies EMPLOYER against any claim made in relation to the breach of this provision by the ACANT.

8.6 The EMPLOYEE acknowledges that EMPLOYER may direct the EMPLOYEE to withdraw their services from any nominated Client at the sole discretion of EMPLOYER and agrees that immediately upon receiving such a direction, the EMPLOYEE will:

1. notify the Client that EMPLOYER declines to continue providing the services; and
2. provide EMPLOYER with written confirmation that the services have been withdrawn.

**9. Remuneration**

9.1 The Remuneration will be based on Schedule 1.

9.2 The EMPLOYEES’ Remuneration will be paid by electronic funds transfer by the 15th of the month after the Client payment, into an account nominated by the EMPLOYEE or as otherwise negotiated.

9.3 Unless a higher contribution rate is agreed, EMPLOYER will make superannuation contributions for the EMPLOYEES’ benefit at a rate that satisfies EMPLOYER’s statutory obligations into:

1. a superannuation fund of the EMPLOYEES’ choice, provided that the fund and the EMPLOYEES’ nomination complies with relevant legislation; or
2. if the EMPLOYEE does not nominate a fund, a superannuation fund of EMPLOYER’s choice.

9.4 The EMPLOYEES’ performance will be reviewed annually or at other times determined by EL. The EMPLOYEE must participate fully in any performance review. The EMPLOYEES’ Remuneration may be reviewed as part of those reviews.

9.5 The EMPLOYEES’ Remuneration under this agreement is not a rate of pay for ordinary hours on which penalties or other entitlements under an industrial instrument may be calculated.

9.6 The EMPLOYEE authorizes us to deduct from their Remuneration:

1. any sum payable to the EMPLOYER on termination of their employment;
2. any overpayment of wages;
3. any wages to which the EMPLOYEE is not entitled due to unauthorized absences; or
4. any money paid to the EMPLOYEE in error or by way of loans.

9.7 The fees for business clients being any accounting work, written advice given, and attendance to completion of tax returns other than individual tax returns will be decided jointly by EMPLOYER and the EMPLOYEE and agreed to by the client in a letter of engagement.

**10. Leave**

10.1 Currently, for a casual employee leave entitlements include:

1. parental leave and unpaid community service leave (subject to potential make-up payments that may be available for jury duty) and flexible work arrangements in accordance with the *Fair Work Act 2009;*
2. long service leave as prescribed under the *Industrial Relations Act 1999 (Qld)*
3. two days unpaid carer’s leave per permissible occasion; and
4. two days unpaid compassionate leave per permissible occasion.

10.2 Entitlements to leave are subject to legislative rights and requirement EMPLOYER’s policies and procedures, such as requirements about notice and documentary evidence.

10.3 As a casual employee, you are not entitled to paid annual leave or personal leave.

10.4 If the EMPLOYEE intends to be absent from duty for recreational purposes the EMPLOYEE must advise EMPLOYER of their intention to take recreation leave in a timely enough manner to allow EMPLOYER to arrange for the compensation of Client needs in regards to the business.

**11. Expenses**

11.1 Providing the EMPLOYEE has obtained the written authorization of EMPLOYER in advance, EMPLOYER will reimburse the EMPLOYEE for all reasonable expenses properly incurred by the EMPLOYEE in the performance of the EMPLOYEES’ duties, subject to:

1. EMPLOYER’s policies and procedures; and
2. the provision of receipts or other evidence of payment and of the purpose of each expense, in a form reasonably required by EL.

**12. EMPLOYEES’ obligations**

12.1 Unless otherwise agreed, the EMPLOYEE must not, in any capacity, directly or indirectly, for 12 months after their employment with EMPLOYER ends:

1. induce, encourage or solicit any of EMPLOYER’s customers, Clients or suppliers with whom the EMPLOYEE has had contact in the 12 months preceding the termination of their employment, to end or restrict their trade relationship with EMPLOYER; or

12.2 The EMPLOYEE must provide a suitable vehicle for the purposes of carrying out their duties.

12.3 The EMPLOYEE must provide a suitable personal computer with secure internet access for the purposes of carrying out their duties.

12.4 The EMPLOYEE must provide a suitable scanner to copy and upload Client data and information that is paper based.

12.5 The EMPLOYEE must maintain access to a telephone for the purposes of carrying out their duties.

12.6 Ensure that each Client that obtains the EMPLOYER Services enters in to and complies with the terms of the EMPLOYER Client Agreement.

12.7 All vehicles and equipment utilized in the course of carrying out the EMPLOYEES’ duties must be secured and maintained in accordance with EMPLOYER’s policies and procedures.

12.8 The EMPLOYEE acknowledges that the EMPLOYEES’ remuneration has been determined with reference to the requirement that the EMPLOYEE provide the resources outlined in clause 10.2-10.7.

12.9 The EMPLOYEE must not divulge their allocated username and password to any party. Failure to maintain the username and password in a confidential manner may result in access restrictions, removal or contract cancellation.

12.10 The EMPLOYEE will ensure a letter of engagement is signed by EMPLOYER clients and the client will be and EMPLOYER client for tax agent related matters and accounting as stated in letter of engagement. Any service not being undertaken by EL, for example BAS lodgment will be specified.

12.11 The EMPLOYEE acknowledges that they are not to receive payment for tax related service as an employee of EMPLOYER and that all payments are to be remitted to EL.

12.12 The EMPLOYEE acknowledges that EMPLOYER has legal liability to EMPLOYER clients who rely on professional advice which can arise from breach of contract (failure to exercise care and skill), professional negligence (negligent mis-statements), breach of fiduciary duty, breach of statutory provisions (Trade Practices Act 1974 e.g. misleading and deceptive conduct and Corporations Act 2001) and that all EMPLOYER advice will be provided inwriting and approved by EMPLOYER head office accountants and not the EMPLOYEE.

12.13 In case where the EMPLOYEE derives income from a like business the EMPLOYEE will maintain a strict division of duty so there is no confusion in the clients mind as to when the EMPLOYEE is acting in their role as an employee of EMPLOYER in accordance with ethical and professional obligations.

**13. Confidential Information**

13.1 The EMPLOYEE must:

1. keep confidential all Confidential Information;
2. comply with all measures established by EMPLOYER to safeguard Confidential Information from access or unauthorized use or disclosure; and
3. use their best endeavours to prevent the unauthorized use or disclose of Confidential Information by any person.

13.2 The EMPLOYEE must not use or disclose any Confidential Information or make a copy or any other record of any Confidential Information except as stated in the EMPLOYEE Confidential Information Policy.

**14. Privacy**

14.1 The EMPLOYEE must use all Personal Information in relation to any of EMPLOYER’s Clients, suppliers, ACANTs, contractors or agents in accordance with the Privacy Laws and only for the purposes of performing the EMPLOYEES’ duties.

14.2 The EMPLOYEE agrees that Clause 13.1 will apply in relation to any of EMPLOYER’s Clients, suppliers, employees, contractors or agents, regardless of any relationship that may exist between the EMPLOYEE and that third party.

14.3 The EMPLOYEE must notify EMPLOYER immediately if they become aware of a breach of a Privacy Law including in connection with any act or omissions of any EMPLOYEE agent or sub-contractor of either party or EMPLOYEE of a sub-contractor or agent.

14.4 The EMPLOYEE must notify EMPLOYER immediately if they become aware of a breach of a Privacy Law including in connection with any act or omissions of any EMPLOYEE agent or sub-contractor of either party or EMPLOYEE of a sub-contractor or agent and the employ must report any information they become aware of on social network sites. The EMPLOYEE is prohibited from publishing any information on social network site like Twitter, Facebook, etc. with respect to this contract and/or the employment relationship which is strictly confidential.

**15. The working environment**

15.1 To help EMPLOYER’s business operate lawfully, safely and efficiently, EMPLOYER has standards, policies and procedures which set out how all employees are to conduct themselves and processes which are required to be followed by the EMPLOYEE.

**16. Workplace health and safety**

16.1 The parties will co-operate to ensure the safety of the EMPLOYEE the Workplace and any visitors to the Workplace.

16.2 EMPLOYER’s Workplace Health and Safety policies shall apply to the Workplace.

**17. Intellectual Property**

17.1 The EMPLOYEE agrees that any and all rights and interests they may have in any Intellectual Property produced, invented or conceived by the EMPLOYEE is vested with EMPLOYER without any requirement to make payment to the EMPLOYEE.

17.2 The EMPLOYEES’ obligations under this clause continue after termination of their employment.

**18. Termination of employment**

18.1 The EMPLOYEES’ employment may be terminated by either party at any time with seven day’s notice.

**19. Obligations owed to related bodies corporate**

19.1 The EMPLOYEE may, from time to time, perform duties for or in connection with a Related Body Corporate of ours or EMPLOYER, and the EMPLOYEE may have access to information relating to that entity that is confidential, in this instance the EMPLOYEE is obligated to adhere to the policies and procedures regarding confidential information, intellectual property, moral rights and protection of goodwill.

**20. Entire agreement**

20.1 This document supersedes all previous agreements about its subject matter and embodies the entire agreement between the parties.

20.2 To the extent permitted by law, any statement, representation or promise made in any negotiation or discussion has no effect except to the extent expressly set out or incorporated by reference in this document.

**21. Governing law and jurisdiction**

21.1 Queensland and Australian law govern this document.

21.2 Those laws which monitor individuals assigned authorization to market their skills under the Tax Practitioners Boards.

**22. Security**

22.1 EMPLOYER reserves the right to request a financial Services history check which may include Criminal history check, Right to Work in Australia check, Bankruptcy check, Professional Recognition check and Academic Qualifications check.

22.2 Upon signing this agreement, the EMPLOYEE is confirming to the EMPLOYER they have the right to work in Australia for the EMPLOYER.

**23. Further provisions**

23.1 The EMPLOYEE agrees to abide by the policies, procedures and quality assurance documentation in line with this agreement.

23.2 A copy of the most recent EMPLOYEE Agreement can be found on the EMPLOYEE services website and EMPLOYER reserves the right to make changes to the agreement from time to time and any changes will take effect immediately when published to the website. It is the responsibility of EMPLOYEE to check the website often and comply with all terms of the most recent agreement or raise any concerns immediately.

**Execution**

EXECUTED as an agreement

Signed by

**EMPLOYER**

ABN

on / /
by its duly authorized officer in the presence of:

 Signature of Authorized Officer

Signature of witness Full Name of Authorized Officer

Name of witness (print) Office Held

Signed by

**EMPLOYEE**

on / / Signature of **EMPLOYEE**

in the presence of:

Signature of witness

Name of witness (print)

Schedule 1: Employment Details

|  |  |
| --- | --- |
| **Term Commencement** | **[DATE]** |
| **Remuneration** (clause 9) | **The EMPLOYEE will be paid the higher of the following**a) An EMPLOYEE who has their tax agent licence receives 75% of Tax Return Fees less adjustments for payroll tax and superannuation and workers compensation. b) An EMPLOYEE who holds a BAS Agent licence receives 70% of Tax Return Fees less adjustments for payroll tax and superannuation and workers compensation. c) An EMPLOYEE who hold a tertiary qualification but does not hold a tax agent licence receives 60% of Tax Return Fees less adjustments for payroll tax and superannuation and workers compensation. d) An EMPLOYEE who does not hold a tax agent licence receives 50% of Tax Return Fees less adjustments for payroll tax and superannuation and workers compensation. EMPLOYEE is required to complete an average minimum of 1 tax return per working hour. For the avoidance of doubt the EMPLOYEE will not be entitled to a portion of Transaction Fees and Tax Advice Fees. EMPLOYER will receive all fees paid by the client by way of cheque, credit card, electronic transfer or any other means. The EMPLOYEE will not bank any client’s fees or client tax refunds or adjustments and will forward immediately any amount received directly to EMPLOYER and note the details in the client website correspondence. **Note-** EMPLOYER reserves the right to adjust its portion of fees in all cases and if non-adherence to the quality assurance system occurs.  |

Schedule 2: Position Description (clause)

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| --- | --- |
| **Position** | Tax Accountant |
| **Reporting to** | EMPLOYER Manager |
| **Duties** | **Duties*** Prepare and review for lodgement individual, partnership, company, trust, and super fund tax returns
* Answer emails and web messages within 12 hours
* Answer Client queries via email, web, or telephone
* Ensure supporting communications and documents are available to support tax returns
* Ensure adherence to the Quality Assurance System
* Ensure Tax Practitioners Board enquiries are fulfilled
* Ensure practitioners adherence to pricing structures listed in the Quality Assurance System
* Adherence to the CPA Quality Control Manual
* Ensure all tax rAcantted client documents are uploaded to the EMPLOYER websites where appropriate to create online evidence and an online audit trail of client supporting documents
* Ensure client tax file numbers and records are not compromised
* Ensure all tax returns are signed by the client
* Maintain confidentiality of EMPLOYER web access and passwords and physical security of computers and client records
* Ensure all client advice is in writing and approved by head office before submission to the client.
 |
| **Permitted outside employment****Tax Agent No** | (Please list any other employment here)(Please list your Tax Agent Licence or BAS licence here) |