

PRIVATE EMPLOYMENT AGENCIES (PrEA)

PRO FORMA

FIXED TERM CONTRACT OF EMPLOYMENT (FOR NON-STANDARD EMPLOYMENT)

(1.0) Preamble

(1.1) This contract of employment is applicable to persons in atypical / non-standard employment.

(2.0) Nature of Employment

(2.1) This employment is of a temporary nature;

(2.2) The parties to this contract are the Temporary Employment Services Provider and the employee; and it is hereby specifically recorded that for the first continuous 3 (three) months of each new work assignment, the employee is not deemed to be the employee of the client. Thereafter, in certain limited circumstances, the employee may be deemed to be the client's employee (a temporary employee) for purposes of alleged unfair dismissal and organisational rights. Notwithstanding this the Temporary Employment Services Provider is still the primary employer and responsible for giving effect to the rights and obligations contained in the Labour Relations Act;

(2.3) Both parties shall complete Annexure "A", the assignment brief, in respect of each new work assignment;

(2.4) Each new assignment brief, Annexure "A", supercedes the previous one;

(2.5) Upon completion of the period detailed in Annexure "A", an employee is not entitled to payment of wages or benefits for any period thereafter unless employee has accepted and is employed on a new work assignment

(3.0) Duration of Work / Employment

(3.1) Employment will commence, and shall cease once the specific work is completed in terms of the duration of the project, or a specific section thereof, or a portion thereof, whichever being the first to materialise.

-(OR)-

(3.2) Employment will cease on _____ (Date). (Note that if point 3.2 is omitted, point 3.1 above will apply with respect to termination of this contract).



- (3.3) On completion of the assignment as per Annexure "A", the Contract will automatically terminate. Such termination shall not be construed as dismissal, but shall be the completion of the contract.
- (3.4) Notwithstanding clause (3.3) above, employment may also terminate as a result of mutual agreement, any Collective Agreement, or any other legal grounds, whichever is applicable. Notwithstanding the provisions of the above, the employer shall have the right to terminate this contract prior to its expiry, for any reason recognised as sufficient in law, including a reason relating to the employee's conduct or capacity or to the client's operational requirements.
- (3.5) The notice period in regard to termination or layoff will be in accordance with the relevant Collective Agreement, Section 38 of the Basic Conditions of Employment Act, as amended, Bargaining Council Agreement, Sectoral Determination, or alternatively, the relevant Labour Legislation.
- (3.6) The employer cannot be expected to guarantee the future renewal or extension of this Contract; hence the employee specifically agrees that there is no legitimate expectation on the part of the employee regarding future renewal or extension of this Contract of Employment. This contract cannot be deemed to be permanent as there is a justifiable reason for the temporary nature thereof.
- (3.7) Although the employee may be under the direct supervision and/or control and/or instruction of the client in his/her daily activities, it is clearly understood and specifically agreed by the employee that he/she remains an employee of the employer.
- (3.8) The employee acknowledges that he/she may not be eligible for further work assignments after the normal retirement age of _____; or which age may be linked either to the client's or to the employer's normal retirement age.

(4.0) General Conditions of Employment

- (4.1) The employee acknowledges that he/she may be subject to a probationary period, as specified in Annexure "A", which may vary in duration, according to the work assignment.
- (4.2) The employee confirms that he/she is suitably qualified and competent to perform the work for which he/she is employed, in terms of the work assignment. It is a further condition of employment that the employee will at all times comply with his/her obligations with regard to health, fitness, licensing, and statutory requirements, and agrees to provide the employer with proof of same from time to time. Any misrepresentation thereof will be considered to be a breach of this contract on the part of the employee and, therefore, may lead to termination of employment.
- (4.3) The employee undertakes to perform his/her duties to the best of his/her ability, and in terms of the standards set down by the employer and client. In amplification thereof, the employee agrees to do everything in his/her power to promote and develop the business of the employer and/or the client; and shall use reasonable care and skill in the performance of his/her duties.



- (4.4) The employee undertakes to promote and uphold a relationship of trust with the employer and/or the client.
- (4.5) The employee agrees to be bound by all the employer's and clients' terms and conditions, including all the employer's and/or clients' safety and security policies, regulations, and instructions, as well as the disciplinary and grievance procedures.
- (4.6) Operational requirements may from time to time dictate that the employee's working hours be decreased or amended. The employee agrees to any variation of working hours as may be necessary from time to time, and agrees to accept any adjustment to his/her remuneration as a result. The employer reserves the right to reduce the employee's working hours with a pro rata reduction in pay, on reasonable notice should this prove necessary due to its operational requirements, provided that the introduction of short-time or temporary lay-off shall be subject to the provisions of any applicable labour legislation and / or Collective Agreement.
- (4.7) If the employee is not able to attend work due to illness, he/she shall inform the employer of his/her absence before the start of the shift on the first working day of the illness. Failure to do so will be regarded as misconduct.
- (4.8) The employee agrees that he/she may be required to work overtime and/or shifts from time to time, on reasonable notice, and that the applicable remuneration as per the Basic Conditions of Employment Act or collective agreement will apply. The employee specifically agreed that overtime is an inherent requirement of the job and further agrees to work overtime within the requirements of the labour legislation and / or any binding Collective Agreement.
- (4.9) The employee undertakes to report to the employer's office following the termination of the assignment, from where the employee will await assignment to the next suitable assignment.
- (4.10) The employee specifically agrees that if he/she is offered an alternative position at similar remuneration at an alternative client, this shall not be regarded as a dismissal.
- (4.11) The employee bears the onus to provide the employer with details of any change of status, such as a change in their contact details, health, licences, and criminal status.
- (4.12) The employee agrees that the employer, or anyone acting on its behalf, shall be entitled to process your personal information (including special personal information), including but not limited to conducting criminal and/or civil record checks and/or other checks (such as reference, qualification, or credit checks) from time to time, at its discretion.
- (4.13) The employee agrees that the employer, or anyone acting on its behalf, shall be entitled to retain and use your personal information (including special personal information) as the Company may from time to time require for its legitimate business purposes.
- (4.14) The employee furthermore agrees that the employer, or anyone acting on its behalf, may transfer his/her personal information (including special personal information) to any associated Company or any other person, whether in South Africa or anywhere else in the world.



(5) Remuneration

- (5.1) The remuneration (inclusive of benefits) which is paid to the employee as stipulated in Annexure "A" is based on a consideration of the nature and extent of the employer's considered factors which may, without limitation, include any of the following factors: length of service, experience, merit, performance, the nature of employment, and any other justifiable factor(s). The mere fact that the employee may be conducting work of the same value as that of an employee of the employer and/or the client, does not imply that there is entitlement to equal remuneration. The fact that the employee is a temporary employee is in itself a fundamental consideration in respect of the remuneration characteristics.
- (5.2) Payment of remuneration to the employee shall be made on the allocated pay day, as stipulated in Annexure "A" by way of electronic transfer directly into the employee's nominated bank account. The remuneration and benefits will only be paid or accrued for actual hours worked. The employee understands this and agrees thereto.
- (5.3) The rule of "no work no pay" will be applied in all instances, including but not limited to, work stoppage, unauthorised absences, and lay-offs / short time, and periods between work assignments.
- (5.4) The employee specifically acknowledges that the employer is authorized to recover any monies paid in error to the employee.
- (5.5) Deductions to an employee's wages shall be subject to the relevant Labour Legislation, and shall include, but are not limited to:
- (5.5.1) A debt or salary advance specified in an agreement signed by the employee;
 - (5.5.2) Monies recovered for loss or damage to property; provided it is proven that the employee was negligent, that the deductions shall not exceed the actual amount of the loss or damage; and that any one deduction shall not exceed one quarter of the employee's remuneration.
- (5.6) The existing employer's policy, rules and regulations, shall not be less favourable than the provisions of this agreement, and not less favourable than the general conditions of employment as contained in any Agreement, if applicable.

(6.0) Leave

Public holidays, annual leave, sick leave, maternity leave, and family responsibility leave shall be determined in accordance with the relevant agreement or Collective Agreement or Labour Legislation.

- (6.1) The employee agrees that annual leave may be taken by agreement with the employer, and will be paid in accordance with accumulated worked hours or shifts.



(7.0) Time and attendance

The employee agrees to register his/her attendance at the commencement and conclusion of the work or shift, in compliance with the practice at the client's site.

(8.0) Hours of work

Ordinary hours of work and overtime shall be determined by the employer's, or the client's occupational requirements, in accordance with the relevant Labour Legislation.

(9.0) Confidentiality

- (9.1) By virtue of the employee's employment with the employer, and his/her placement with the client, he/she may become possessed of and have access to the employer's and the client's confidential information and trade secrets. The employee agrees that he/she shall hold confidential any and all information concerning the employer's and/or the client's business, and any other information which he/she is exposed to during the course of his/her employment. The employee shall not divulge any of the aforementioned information to any person, whether during the operation of his/her contract of employment, or thereafter, unless required by law to do so.
- (9.2) Any and all documentation produced by the employee during the course of his/her employment shall remain the property of the employer, or the client; and shall not be used or divulged by the employee for any purpose other than in the performance of his/her contractual duties, or unless required by law to do so.
- (9.3) Any breach of confidentiality on the employee's part constitutes serious misconduct and may result in disciplinary action being taken against him/her.

(10.0) Uniforms and Protective Clothing

- (10.1) Notwithstanding that any uniform, protective garment, and/or protective equipment may be issued to the employee by the employer or the client, it remains the property of the employer or client, whichever is applicable; and the employee will be responsible for the maintenance of such attire and/or equipment, and will be personally liable for the cost of repair or replacement for loss or damage to same; other than normal wear and tear.
- (10.2) The employee will be required to return the items referred to in clause (10.1) above, immediately upon termination of his/her employment with the employer.
- (10.3) In cases where the employee has fully paid up the value of the uniform; then such uniforms shall remain the property of the employee.

(11.0) Security

- (11.1) The employee agrees to subject himself / herself to any relevant verification checks, including, but not limited to, criminal and ITC checks.



- (11.2) The employee agrees to the search of his/her person, goods, or motor vehicles. The employee consents to submit to the search in terms of the employer's and/or the client's security regulations; and includes, but is not limited to, breathalyzer, urinary tests, drug tests, and polygraph tests.
- (11.3) The employee understands and accepts that any items or equipment provided to him/her to fulfil his/her work duties, shall remain the property of the employer and/or the client.
- (11.4) The employee agrees that the ownership of any electronic communication devices such as computers, notepads, smart phones, vests in the employer and/or the client, and agrees that the employer and/or client may from time to time monitor usage in terms of the RICA Communications Act.

(12.0) Unprotected industrial action

- (12.1) The employee agrees not to incite or participate in any form of unprotected industrial action, including, but not limited to, strikes, work stoppages, pickets, protests, marches, go slows, etc; where such action is not in accordance with the relevant provisions in the Labour Relations Act, as amended. The employee acknowledges that any such unprotected industrial action will constitute a serious breach of contract.

(13.0) Acknowledgment

The employee acknowledges by his/her signature hereto, that he/she understands and accepts the contents of this contract.

DONE AND SIGNED AT _____

ON THIS _____ DAY OF _____

(EMPLOYER)

(WITNESS FOR EMPLOYER)

DONE AND SIGNED AT _____

ON THIS _____ DAY OF _____

(EMPLOYEE)

(WITNESS FOR EMPLOYEE)

ANNEXURE "A" – WORK ASSIGNMENT AGREEMENT

Employee's personal details:

Surname

First Name/s

Identity Number

Contact Numbers

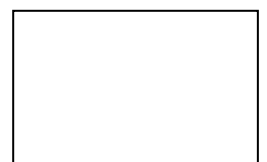
Postal Address

Physical Address

Employer's contact person and contact details

1. The employer hereby offers, and the employee hereby accepts the employment relationship under one or more of the conditions listed below. These are just some examples of justification for the fixed term contract of employment and by no way intended to limit any other types of justification:

- (1.1.1) Business flexibility based on the operational requirements of the business**
- (1.1.2) Replacement of another absent employee**
- (1.1.3) A temporary increase in the volume of work**
- (1.1.4) Work conducted by a student in order to acquire work experience**
- (1.1.5) A training and development contract**
- (1.1.6) A non-citizen in possession of a work permit for a defined period**
- (1.1.7) A project of limited duration**
- (1.1.8) Seasonal work**
- (1.1.9) Work under an official public works programme or similar job creation scheme**
- (1.1.10) Work that is funded by an external source for a limited period**
- (1.1.11) Work where the client has outsourced a grade**
- (1.1.12) Outsourced category**



2. The employer will assign the employee to _____ (the client) to perform duties at _____, the premises of the client.
3. The employee is employed as _____ and shall perform his/her duties under the supervision of the client.
4. The employee shall commence the work assignment on _____.
5. A probationary period of _____ days / weeks / months shall be applicable to this work assignment. In the event of the employer and / or the client reasonably finding within the probationary period that the employee's skills are not satisfactory and do not meet the specific work requirements and/or standards of the client, then the employee's work assignment shall be dealt with in terms of the probationary requirement.
6. The employee's hours of work shall be _____. The hours of work may be varied from time to time at the sole discretion of the employer and / or the client.
7. The employee shall be entitled to a meal interval of at least _____ minutes that shall be unpaid.
8. The remuneration (inclusive of benefits) which is paid to the employee is based on a consideration of the nature and extent of the employer's considered factors which may, without limitation, include any of the following factors: length of service, experience, merit, performance, the nature of employment, and any other justifiable factor(s). The mere fact that the employee may be conducting work of the same value as that of an employee of the employer and/or the client, does not imply that there is entitlement to equal remuneration. The fact that the employee is a temporary employee is in itself a fundamental consideration in respect of the remuneration characteristics.
9. The employee shall be paid R_____ per hour / per week / per fortnight / per month (delete whichever is not applicable). Overtime shall be paid in accordance with the applicable legislation / agreements. Payment of remuneration shall be made by the employer.
10. Benefits will include annual leave, sick leave and family responsibility leave as determined in accordance with the relevant legislation / agreements.
11. The employee acknowledges and understands that he/she will only be employed by the employer for the duration of him/her being assigned to perform work at the client.
12. Pay day shall be _____



13. Other relevant conditions of service associated with this work assignment:

14. Employment shall cease once the specific work is completed in terms of the duration of the project, or a specific section thereof, or a portion thereof, whichever being the first to materialise.

-(OR)-

Employment will cease on the following date: _____.

15. Employment may also cease as a result of mutual agreement, any Collective Agreement, or any other legal grounds, whichever is applicable.

Employer: _____

Employee: _____

Print Name: _____

Print Name: _____

Witness: _____

Witness: _____

Print Name: _____

Print Name: _____

Date: _____