



**Crowne Plaza Auckland**

**Holiday Inn Auckland Airport**



**Multi-Employer  
Collective Agreement**

**1.05.22 - 30.06.2023**



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# MULTI EMPLOYER COLLECTIVE EMPLOYMENT AGREEMENT

1 MAY 2022 – 30 JUNE 2023

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## PARTIES TO THE AGREEMENT

Between Goodearth Hotels NZ (Auckland) Ltd trading as Holiday Inn Auckland Airport Hotel  
("the Employer")  
&  
Colwall Property Investment Ltd trading as Crowne Plaza Auckland  
("the Employer")

And Unite Incorporated  
("the Union")

## Application

- A. This Agreement is made pursuant to part 5 of the *Employment Relations Act 2000* and applies to Employees who are:
- employed by the Employer;
  - a member of the Union; and
  - covered by the coverage clause.

This Agreement consists of the Agreement and the relevant Employer Schedules (Schedules A, B, C, D and E).

## Coverage Clause

- B. This Agreement covers all Employees who are employed by the Employer and are members of the Union, except those who are employed in:
- Management; or
  - Bands 1,2,3,4,5 & 6.

## Term of Agreement

- C. This Agreement shall be binding on the parties from 1 May 2022 – 30 June 2023.

## Section A ADMINISTRATION

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### 1. Employee obligations

- 1.1 The Employee agrees to comply with all the Employer's policies, rules and guidelines whether comprised in the Employer's house rules or otherwise as may from time to time apply, except where the same are inconsistent with the provisions of the Agreement.
- 1.2 The Employee agrees to carry out and comply with all reasonable and lawful directions given by the Employer or any other person from time to time authorised by the Employer to give such directions.
- 1.3 The Employee agrees to diligently and faithfully serve the Employer and to use his/her best endeavour to promote and protect the interests of the Employer.

- 1.4 The Employee agrees to devote the whole of his/her effort and attention to the discharge of the Employees duties as an Employee of the Employer at all times during the usual hours of work and at such other times as the Employee's services may be reasonably required.

## 2. Definitions

- 2.1 **IHG** Intercontinental Hotels Group.
- 2.2 **Day** A Day will run from midnight to midnight.
- 2.3 **Exceptional circumstances** Being circumstances, which are "very unusual" or outside of the ordinary insofar as the normal operations of the Employer are concerned, (for example, a prolonged power cut).
- 2.4 **Extra Time** Is Additional Hours at the request of the Employee and mutually agreed to by the Employer, paid at ordinary time rate. Any Extra hours will be communicated electronically to all Employees.
- 2.5 **Mutual Agreement**
- 2.5.1 Shall mean an agreement reached by discussion between the Employer and the Employee. All such agreements shall be recorded in writing and held on file. Such agreements shall be available to the Employee concerned.
- 2.5.2 May be reviewed quarterly or earlier at the request of either the Employer or the Employee.
- 2.6 **Night** If the Employee commences before midnight and his/her majority of usual hours for that roster go beyond midnight; the Employee shall have a Day running from midday to midday.
- 2.7 **Shift** Is any period of work for which an Employee is rostered for the Day.
- 2.8 **Spouse/ Partner** Shall include a spouse/partner in a de-facto relationship including same sex relationships.
- 2.9 **Week** A week shall be a period of seven consecutive days of 24 hours as operated by each particular Employer and this Week shall be the pay Week (for the purpose of calculating the Employee's pay, which will be paid on a weekly basis).
- 2.10 **Where Practicable** Means where the normal operations of the Employer permit.

3. **Copy of Agreement** A copy of this Agreement will be provided to the Union; Chief Executive of the Ministry of Business, Innovation and Employment; and Employee.

## 4. **Ability to Lawfully Work for the Employer**

- 4.1 If the Employee's legal right to work in New Zealand is temporary this role is conditional on the Employee being able to work legally for the Employer. If, after following a fair process, the Employer decides this condition is not met, the Employee's job will automatically end without notice or pay instead of notice. The Employee will have no right to continue working for the Employer or to be subsequently employed by the Employer if they are to obtain a new valid and current New Zealand visa or permit nor will they be entitled to receive any compensation from the Employer as a result. The Employee must tell the Employer about any changes to, or information that may change, their right to work legally for the Employer. The Employee must not work if they are not legally able to do so.

## Section B

## PAY AND BENEFITS

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### 1. Training

- 1.1 The Employer operates an in-house training program comprising of 'on' and 'off' the job modules. This program and amendments thereof are deemed to form a part of the Agreement. The objective of the program is to develop competent Employees and provide career opportunities for the Employee.
- 1.2 An Employee appraisal will be carried out during the probationary period on commencement for new Employees and thereafter every 12 months, where required, or at the request of either the Employer or the Employee.
- 1.3 A record of competence and training will be held on file by the Employer for the Employee and copies will be provided on request to the Employee.
- 1.4 All training undertaken at the direction of the Employer will be paid for at ordinary time rates, provided that it is relevant to the Employee's particular job.
- 1.5 It is the responsibility of the Employer that all staff serving alcohol should complete a host responsibility course within 6 months of commencement of employment.
- 1.6 It is the responsibility of the Employer that all food handling staff should complete a safe food program within 6 months of commencement of employment.

### 2. Remuneration

- 2.1 The Employee will be paid the wage rate set out in Schedule C, in line with the remuneration clause in Schedule A and the wage guideline in Schedule B.
- 2.2 Where the Employee is on an hourly rate, they will be paid for every hour worked and pro-rata for any part hour worked. Where the Employee is salaried, the Employee's salary shall cover all hours worked.
- 2.3 This agreement shall not operate in any way to reduce any individual's pay, terms or conditions.

### 3. Uniforms and Equipment

- 3.1 Subject to Schedule A, the Employer shall supply and launder the appropriate uniform for the Employee having regard for the type of work undertaken.
- 3.2 Safety shoes, where required, are provided by the Employer and must be worn by the Employee. Socks and stockings, where worn by the Employee, must be in accordance with the Employer's dress requirements, as amended from time to time.
- 3.3 Where the Employee fails to return any part of a uniform or hotel equipment on termination of employment, or loses, or significantly damages, any part of a uniform or hotel equipment during employment, the Employer shall be entitled to deduct the reasonable cost for replacement from their wages:
- For uniforms – the original cost of the uniform to the Employer, less one-twelfth for each month that it has been issued. For hotel equipment – the original cost of the equipment, less an allowance for depreciation of 20% per annum for fair wear and tear.
- Where genuine damage or loss before termination of employment occurs, through no fault of the Employee, no deduction will be made.
- 3.4 Chef Tools – the Employer may in its sole discretion, upon the recommendation of the Executive Chef, pay for a replacement knife of a Chef. The General Manager will

make the final decision in whether to make such payment. Assessment of knives and safety shoe replacement will be requested by the Employee. Unite to be involved when required

**3.5** Unpleasant Duties – the Employer may make a payment in its sole discretion of \$30.00 gross to an Employee who is required by their duties to complete an unpleasant task. Such payments will be authorised at the discretion of the Executive Housekeeper/Guest Facilities Manager. Unpleasant duties are as defined in policy.

**3.6** The Employer agrees to provide increased protective wear, longer thicker gloves, thicker masks and throw away aprons for any unpleasant duties.

#### **4. Payment of Wages**

**4.1** Wages will be paid weekly by direct credit into no more than two bank accounts nominated by the Employee within 48 hours of the end of the pay Week.

**4.2** The Employee will be supplied each Week with a statement detailing the calculation for the earnings and deductions made from the wages.

**4.3** The Employer may take an agreed amount from an Employee's pay if the Employee has requested it, or agreed to it, in writing. The Employee can withdraw their consent, or change the amounts, by giving written notice. The Employer will also take amounts as required by law, e.g. tax, student loan repayments, ACC, child support and KiwiSaver. And any other deductions that may be requested will be consulted with Employee prior to deduction

## **Section C**

## **HOURS**

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### **1. Hours of Work**

**1.1** The Employer will roster the Employee on for a minimum number of hours each week as outlined in Schedule C. The timing of working hours will be set out in a roster.

**1.2** The Employer will let the Employee know at least one week in advance of the new roster, unless there are exceptional circumstances. The Employer will make sure the Employee has two days off in a row within a reasonable period when the roster is set except in exceptional circumstances.

**1.3** Where the Employee is on an hourly rate, the Employer may offer more hours, and the Employee can decide whether to accept the offer of extra hours.

**1.4** Extra hours will be offered to existing Employees with the appropriate skills to perform the work, appropriate reliability, attendance in home departments, and Health & Safety considerations to current working hours and rest periods.

### **2. Span of Hours**

**2.1** The usual hours of primary employment for the Employee shall be worked Where Practicable within a span of 13 consecutive hours. Only in Exceptional Circumstances should the span of ordinary hours exceed 13 in any one Day.

**2.2** There must be a minimum of an 8 hour time span between back-to-back shifts. In Exceptional Circumstances where the 8 hour time span does not occur, the shortfall will be paid for at time and one quarter rates until 8 hours has elapsed since the previous shift's finishing time.

### **3. Extra Time**

## **Extra Work at Request of Employee**

- 3.1 Subject to clause 5 below and Schedule A, where, at the request of the Employee, the Employer makes extra work available to the Employee outside or in excess of his/her usual scheduled hours, any extra hours worked pursuant to such a request shall be paid at ordinary time rates.

## **4. Cancellation of Shift**

- 4.1
- 4.1.1 If the Employer is to cancel an Employee's rostered shift the Employee will be paid the following compensation:
- 4.1.2 Full expected wage or salary if the Employee received less than 12 hours notice – unless mutually agreed upon in writing by both the Employer and Employee.
- 4.1.3 Half of the Employees expected wage or salary if the Employee is provided with 12 to 24 hours notice.
- 4.1.4 No compensation will be payable if the Employee is provided with 24 hours or more notice

## **5. Overtime**

### **5.1 Work on Rostered Days Off**

- 5.1.1 Subject to Schedule A, the working of 8 ordinary Days straight over a 2 Week period shall only be by Mutual Agreement and the seventh and eighth Days shall not be paid at time and a half.

## **6. Meal Breaks and Rest Breaks**

6.1	Hours worked	Meal Breaks	Rest Breaks
	2-4 hours	Nil	1 x 15 minute
	4-6 hours	1 x 30 minute	1 x 15 minute
	6-10 hours	1 x 30 minute	2 x 15 minute
	10-12 hours	1 x 30 minute	3 x 15 minute
	12-14 hours	2 x 30 minute	3 x 15 minute
	14-16 hours	2 x 30 minute	4 x 15 minute

- 6.2 The Employee is entitled to paid rest breaks and unpaid meal breaks to give the Employee time out, e.g. for food, drink, rest or personal errands. Breaks will be taken at suitable times during the Employee's work.

- 6.3 Should the meal or rest break be interrupted for work reasons, the Employee shall be allowed to extend their next break by the equivalent time of the interruption(s).

## **7. Rosters**

- 7.1 A roster of days on, including times, and Days off for the Employee shall be displayed in each department at least 7 Days in advance.
- 7.2 Changes within 7 Days may only be made by Mutual Agreement.
- 7.3 Heads of Department will endeavour to allocate weekends as rostered days off on a fair and consistent basis.
- 7.4 Finishing times will be included on rostered when they are displayed.

## **8. Time Sheets/Wage Records/Employee Records**

### **8.1 Time Sheets**

**8.1.1** All hours worked will be recorded electronically via the in-house Biometric Scanning System.

**8.1.2** The Employee must scan their finger image at the beginning and end of each shift. Any alteration must be agreed upon in writing by the Employee with the exception being unauthorised Overtime subject to Schedule A. Where an Employee, through negligence, fails to sign the time sheet, the Employer is at liberty not to pay wages until such time that the Employee ratifies the time sheet and then only at the next pay cycle. Total hours worked will then be authorised by the Manager of the relevant department.

### **8.2 Wage Records**

The Employer shall keep a time and wages record in which the following shall be correctly recorded:

- i. The name of the Employee covered by this Agreement.
- ii. The grade and employment classification of the Employee.
- iii. The hours worked by the Employee including starting and finishing times, recorded on authorised electronic time sheets in the payroll system available to the Employee. Meal break times shall be at mutual agreement between the Employer and Employee on each shift.
- iv. Alternative Holiday Days and taking of those Days.

### **8.3 Employee Records**

These records will only be disclosed under the provisions of the *Privacy Act 2020* and the *Employment Relations Act 2000*, as amended.

## **Section D**

## **LEAVE**

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### **1. Public Holidays**

#### **1.1**

Employees shall be entitled to up to 12 public holidays per calendar year. Except as provided below, public holidays shall be in accordance with the Holidays Act 2003, the Anzac Day Act 1966 and the Waitangi Day Act 1976 (and any subsequent amendments to these Acts). Unless otherwise mutually agreed between the Employer and the Employee, the public holidays referred to above shall be as follows:

- |                 |                                      |
|-----------------|--------------------------------------|
| ■ 1 January     | ■ Birthday of the reigning sovereign |
| ■ 2 January     | ■ Labour Day                         |
| ■ Waitangi Day  | ■ 25 December                        |
| ■ Good Friday   | ■ 26 December                        |
| ■ Easter Monday | ■ Anniversary Day                    |
| ■ Anzac Day     | ■ Matariki                           |

#### **1.2**

Public Holidays, as listed above, will be observed on the Days on which they actually fall with the exception of Christmas and New Year public holidays. Where these holidays fall on a Saturday and/or Sunday they will be observed on these Days for Employees for whom this would be a normal Day of work. For Employees who would not normally work on a Saturday and/or Sunday observance would be transferred to the following Monday and/or Tuesday. This clause does not allow any Employee to become entitled to more than four public holidays during this period.

#### **1.3**

The Employee may be required to work on a public holiday in accordance with the applicable work roster, in which case he/she shall be paid for all time worked at his/her relevant daily pay, plus half that rate again for time actually worked on the public holiday.

**1.4** Subject to Schedule A, where the public holiday would otherwise be a working day for the Employee, the Employee shall be entitled to an alternative holiday (e.g. worked 7 out of the previous 13 weeks or pro rata if the Employee has worked less than 13 weeks), within twelve months of this public holiday. Where Mutual Agreement cannot be reached within twelve months of the entitlement arising, the Employer may require the Employee to take the alternative holiday after giving 14 days notice and consulting the Employee.

**1.5** Where the Employee is usually employed on the Day of the Week on which a public holiday falls, but is not required to work on that Day, the Employee shall be paid for the number of hours usually worked by the Employee on that Day, at the relevant daily pay rate if that would otherwise be a working day for them (e.g. worked 7 out of the previous 13 weeks or pro rata if the Employee has worked less than 13 weeks).

**1.6** Any time worked on a Public Holiday shall be paid for at time and a half rates of pay except for 25 December, which shall be paid for at double time rates. Double time rates of pay are in excess of the Employer's requirement under the Holidays Act 2003.

## **2. Annual Leave**

**2.1 General** At the end of each completed 12 months of continuous employment, the Employee shall be entitled to the minimum amount of annual holidays as prescribed by the Holidays Act 2003, which shall be taken when agreed between the Employer and the Employee.

**2.2 Timing** Unless the Employer observes a customary annual closedown as specified in Schedule A, the time at which annual leave is to be taken shall be by Mutual Agreement. The Employee may elect to take at least two Weeks paid annual holiday in one continuous period. For leave balances exceeding one year's entitlement, the Employer, in the absence of a Mutual Agreement regarding timing, may direct the Employee to take leave. The Employer will give not less than 14 calendar Days notice of the date on which the Employee is to begin any period of annual leave.

**2.3 Payment** Payment of annual holidays shall be at the greater of the Employee's ordinary weekly pay at the commencement of the leave or the Employee's average weekly earnings for the 12-months immediately before the end of the last pay period before the leave is taken. The Employee may agree to have holiday pay paid during the holiday.

**2.4 Public Holidays During Annual Leave** Should any public holiday occur during the Employee's period of paid annual leave, then the Day concerned shall not count as an annual leave Day, but will be treated as a public holiday.

**2.5 Form of Payment** Payment for annual holidays will be by direct credit on a weekly basis or by full payment.

**2.6 Leave Applications** Where the Employee has submitted an application for leave (in writing on the relevant form) the Employer shall, where possible, respond to that application within 14 days of receipt.

## **3. Sick Leave**

**3.1** Subject to Schedule A, the Employee shall be entitled to Sick Leave in accordance with the Holidays Act 2003.



- 3.2** The Employee is required to give the maximum amount of notice of an absence due to illness possible, preferably at least 2 hours prior to the usual starting time. Please refer to the “Advising of Illness and Absenteeism” Policy in your team handbook.
- 3.3** In cases of genuine illness, and where entitlement exists, sick leave will be paid. The Employer may require a medical certificate of proof of sickness or injury in accordance with the Holidays Act 2003 and its amendments if the Employer has a reasonable belief that there may be the need for that proof. In such cases, the Employer will meet the reasonable costs of obtaining the medical certificate of proof of sickness or injury.
- 3.4** Sick leave may be taken where the Employee is sick or injured, the Employee’s spouse/partner is sick or injured or where a person who depends on the Employee for care is sick or injured.
- 3.5** The Employer may request that the Employee provides a medical certificate (or equivalent reasonable proof) to certify that their return to work, following incapacitation, will not create any health, safety or hygiene issues.
- 3.6** Sick leave shall not be paid in respect of any statutory holiday or any other Day for which the Employee is already receiving pay.
- 3.7** If the amount of sick leave being taken by the Employee causes difficulties for the Employer and raises with the Employer the question of whether or not the Employee’s Agreement is being frustrated by this sick leave, then at the Employer’s initiative, there will be consultation between the Employer, the Employee, and if requested, with the Employee’s representative/support person. The nature of the problem will be determined and the appropriate steps will be taken to resolve the matter. These steps may include obtaining further medical advice at the Employer’s expense.
- 3.8** For any absence of more than one Day the Employee is encouraged to notify the Employer of the expected date of his/her return to work. The purpose of the notification is to enable the Employer to secure a replacement Employee as necessary.
- 3.9** In cases of incapacity due to work-related injury with the Employer, if the Employee has accumulated sick leave entitlement, then he/she is entitled to make up the difference between the 80% weekly compensation payment and their usual weekly earnings. For non-work related injury, the Employer may at its discretion allow the Employee to use accumulated sick leave in the same fashion.
- 3.10** Where the Employee suffers a long-term disability by way of sickness, illness or injury, which renders him/her incapable whether mentally or physically of performing his/her duties for the Employer, and that Employee has no further sick leave available, then the Employer may terminate this Agreement at any time. The Employer will not terminate this Agreement without first consulting with the Employee, considering re-deployment/re-training or rehabilitation, obtaining an independent medical opinion as to the Employee’s medical condition, providing sufficient warning as to the options available to the Employee, providing an objective standard of health to be maintained by the Employee to undertake his/her position and generally acting as a fair and reasonable Employer in the circumstances. Termination of this Agreement will be provided on 14 days notice. The intention of this clause is to maintain the Employee’s employment Where Practicable.

#### **4. Bereavement Leave**

- 4.1** Having completed at least one month’s continuous service with the Employer, the Employee is entitled to a minimum of 3 days paid bereavement leave on the death of the Employee’s:

- |                  |                  |
|------------------|------------------|
| ■ Spouse/Partner | ■ Brother/Sister |
| ■ Parent         | ■ Parent-In-Law  |
| ■ Grandparent    | ■ Brother-In-Law |

- Child
- Grandchild
- Sister-In-Law

#### 4.1.1

On the end of an Employee's pregnancy by way of a miscarriage or stillbirth; or  
On the end of another person's pregnancy, by way of miscarriage or stillbirth, if the Employee:

- Is the person's spouse or partner;
- Is the person's former spouse or partner and would have been the child's biological parent;
- Had undertaken to be the primary carer of the child; or
- Is the spouse or partner of the person who had undertaken to be the primary carer of the child.

#### 4.2

Having completed at least three month's continuous service with the Employer, the Employee is also entitled to one days paid bereavement leave through the death of another person where the Employer accepts the Employee has suffered bereavement through the death of another person, taking into account the relevant legislative factors.

### 5. Domestic Violence Leave

In accordance with the Holidays Act 2003, Employees affected by family violence will be entitled to a maximum of 10 days paid leave each year (Domestic Violence Leave) and/or may also request in writing a short-term (up to two month) variation of their working arrangements for the purpose of assisting the Employee to deal with the effects of being affected by family violence (Flexible Working Arrangements).

The Employer will respond to a request no later than 10 working days after receiving it. Unused Domestic Violence Leave does not carry over from year to year and is not paid out on termination of employment.

An Employee is entitled to Domestic Violence Leave regardless of how long ago the family violence occurred and even if the family violence occurred before they became an Employee. An Employee must notify their Employer as early as possible before they are due to start work of the intention to take Domestic Violence Leave; or if that is not practicable, as soon as possible after that time.

The Employer may require proof that an Employee is or has been affected by domestic violence before paying for Domestic Violence Leave or making a decision on an application for Flexible Working Arrangements. A request for proof will be made within three days of receiving a request for Flexible Working Arrangements.

### 6. Parental Leave

The Employer shall hold a copy of the current parental leave legislation with the relevant details and shall make such information available to the Employee on request. The Employer will explain to the Employee upon request his/her rights and obligations under the current parental leave legislation.

### 7. Jury Service Leave

Where the Employee is obliged to undertake jury service, the difference between the fees (excluding reimbursement payments) paid by the court and the Employee's usual daily pay shall be made up by the Employer provided that the Employee produces the court expenses voucher to the Employer and that the Employee returns to work if rostered to do so immediately on any Day they are not actually serving on a jury or required as a witness. These payments shall be made for up to a maximum of 5 days in respect of one period of jury service per annum.

### 8. More Information

Further details about your holiday and leave entitlements under the *Holidays Act 2003* can be obtained from your union (where applicable) or the Ministry of Business, Innovation and Employment (Employment New Zealand).  
To contact Employment New Zealand:  
Telephone: 0800 20 90 20

## Section E

# TERMS AND CONDITIONS

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### 1. Terms of Employment

#### 1.1 General

**Full-time Employment** (30 or 40 hours per Week) Can only be varied by Mutual Agreement between the Employer and the Employee in times of protracted and unforeseen periods of poor trading for the Employer.

**Part-time Employment** (less than 30 hours per Week) Subject to below, the Employer guarantees a minimum of 11 or 20 hours of work per week on an ongoing basis. The hours of the Employee may vary from Week to Week. The Employee shall receive pro-rata wages and benefits and daily proportionate allowances of full-time Employees.

The Employee, if rostered on, shall work a minimum of 3 consecutive hours on any Shift, except where the Employee lives within a 5 kilometre radius of the Employer, in which case, the minimum may be reduced to 2 consecutive hours on any Shift.

Nothing in this Agreement, or in the employment relationship between the Employer and Employee, will be deemed as anything other than establishing this relationship as being that of a part-time Employee, subject to the clause below.

Where a part time Employee works on average for more than 40 hours per week for a period of over 12 months, starting from the commencement date of this Agreement, then that Employee shall be entitled to request from the General Manager that their status is changed to be a full time Employee. The request from the Employee shall not be unreasonably withheld by the Employer.

#### 1.2 Variation of this Agreement

The Employer, following consultation and agreement with the Employee and Union, may from time to time alter any of the terms and conditions that are specified in the Agreement. Any alteration to the Agreement will be recorded in writing and signed by both parties.

### 2. Confidentiality/Copyright

#### 2.1 Confidentiality

During the course of employment within the Employer or any Employer within IHG in New Zealand, the Employee will be exposed to certain confidential information. It is a condition of employment that this information be kept strictly confidential by the Employee both during and after employment with the Employer. Without limitation, this may include any information about guests, contracted rates, hotel/operation operating statistics and business plans.

#### 2.2 Copyright

Similarly, the Employee agrees that all the intellectual property of the Employer shall remain with the Employer. All computer software, patents, commercial processes and the like developed by the Employee or under the Employee's control in their period of employment shall remain the property of the Employer.

### 3. Probationary Period

#### 3.1

All new Employees must serve a satisfactory probationary period for the first three months of employment before the Employee's part-time or full-time employment pursuant to this agreement is confirmed.

- 3.2 One month and two months respectively after the Employee's commencement date, the Employer may review the Employees work performance. Where a review is carried out, any deficiencies will be advised to the Employee orally, and may at the discretion of the Employer, be recorded in writing. The Employee will be advised by the Employer of the steps required to achieve satisfactory work performance and assisted in achieving such work performance where practicable.
- 3.3 At the end of the three-month probationary period, the Employer may:  
3.3.1: confirm the Employee's part-time or full-time employment pursuant to this Agreement;  
3.3.2 extend the probationary arrangement for a further period of up to three months, whereupon the provisions of this clause will apply as if there had not been a previous probationary arrangement; or  
3.3.3 terminate the Employee's employment on one Week's notice or payment in lieu thereof. Termination of the Employee's employment may take place up to one week after the expiry of the first or second probationary arrangement.
- 3.4 Nothing in this clause limits the Employer's right to terminate employment on other grounds during the probationary period.
4. **Disciplinary and Summary Dismissal Procedure** The Employer's disciplinary and dismissal procedures are outlined in Schedule D. When required by either the Employee or Employer, a third party may be present at any interview. The Employer may at its discretion record any disciplinary or dismissal procedures in writing and maintain on the Employee's personal file. These procedures are subject to the Employment Relations Act 2000, as amended.
5. **Termination of Employment**
- 5.1 Notice of termination of employment shall be given by the Employer in writing as set out below.
- 5.2 14 calendar Day's notice for waged employees and one month's notice for salary employees.
- 5.3 Where 14 calendar Day's or one month's notice is not given then 10 Days ordinary pay shall be paid or forfeited, as the case may be, by the defaulting party.
- 5.4 Final pay shall be direct credited to the Employee's bank account/s by Mutual Agreement on the pay Day after termination.
6. **Abandonment of Employment**
- 6.1 Where the Employee is absent from work for a continuous period of 2 work days, without the consent of the Employer and without good cause, or without reasonable notification to the Employer, he/she shall be deemed to have terminated his/her employment; provided that where the Employee was unable through no fault of his/her own to notify the Employer, he/she shall not be deemed to have abandoned his/her employment.
- 6.2 It shall be the duty of the Employee to make all reasonable efforts to contact the Employer during the period of any absence not notified.
7. **Restructuring**
- 7.1 **Restructuring:** the purpose of this provision is to provide protection to affected Employees for their employment in circumstances where the Employer's business is

restructured and the whole or part of it is sold, transferred or contracted out to an acquiring Employer. This includes:

- 7.1.1** That the Employer 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 the Employee and his/her representative.
- 7.1.2** The matters relating to the affected Employees' employment, that the Employer 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.
- 7.1.3** The Employer shall use its best endeavours to see that the Employee is transferred, where practicable, on the same or no less favourable employment terms and conditions as exist at the date of change from the Employer to the acquiring Employer.

## **8. Employee Protection Provision**

**8.1** Employees are entitled to certain protections in restructuring situations set out in the Employment Relations Act.

**8.2** **Vulnerable workers**

Some Employees who do certain jobs, as set out in the Employment Relations Act Schedule 1A, can have their jobs transferred to the new Employer. This happens if their work is to be performed by the new Employer, unless the new Employer is exempt. Their rights and entitlements are set out in Subpart 1 of Part 6A of the Act.

**8.3** **All other Employees**

This clause applies in the event that the Employer proposes to restructure (as defined in section 69OI of the Employment Relations Act 2000), and the work the Employee performs may or will be performed for or by a new Employer.

The Employer will start talks as soon as they can with the new Employer about the impact of the restructuring on the Employee. This will include negotiating whether the Employee can transfer to the new Employer, and if so, whether this will be on the same terms and conditions.

The Employer will:

- schedule talks with the new Employer
- tell the Employee about the upcoming talks and the intended timeframes



- tell the Employee what will generally be discussed
- arrange for senior representatives of the Employer to engage in the talks with the new Employer
- subject to any statutory, commercial confidence or privacy issues, give the new Employer all information about affected Employees, including details of terms and conditions of employment
- encourage the new Employer to offer all affected Employees jobs with generally the same or better terms and conditions
- report back to the Employee on the outcome of the meetings to the extent they relate to the Employee.

Whether the Employee is offered ongoing employment, and on what terms and conditions, will ultimately be the decision of the new Employer.

If the Employee does not transfer to the new Employer, the Employer will determine what entitlements (if any) are available to the Employee by discussing with the Employee:

- whether there are any options available to remain in employment with the Employer
- their redundancy entitlements under this agreement (if any), and what this could mean for the Employee, including notice arrangements
- whether the Employer can offer any additional support to the Employee, eg a reference.

The Employer will consider the Employee's comments and confirm in writing the outcome of these discussions to the Employee.

## **9. Occupational Health and Safety**

**9.1** The Employer and Employee will meet their obligations under the Health and Safety at Work Act 2015.

**9.2** The Employer's duties include:

- providing and maintaining a safe working environment for Employees and others in the workplace
- providing and maintaining facilities for the welfare of the Employee while at work
- providing all necessary training and instructions to Employees
- making sure machinery and equipment is safe
- making sure working arrangements are not hazardous
- providing procedures to deal with work emergencies
- making sure health and safety Employee engagement and participation processes are in place
- consulting and cooperating with other businesses operating in the same workplace(s) to keep everyone safe and healthy.
- providing recommendations for support services to overcome any illness or injury

**9.3** The Employee will follow the Employer's health and safety rules and procedures. The Employee will take reasonable care to look after their own health and safety at work, their fitness for work, and the health and safety of others.

Examples of how the Employee can take reasonable care include:

- following all reasonable health and safety rules and instructions
- participating in health and safety discussions
- exercising their right to refuse to do unsafe work
- taking reasonable care that their actions (or inactions) do not cause harm, or risk of harm, to themselves or others
- not reporting for duty under the influence of alcohol or drugs that impair their performance or fitness for work
- wearing all necessary personal protective equipment and clothing.

**9.4** The Employee must report any potential risks, incident/accident and near misses so the Employer can investigate, and eliminate or minimise harm or risk of harm.

**9.5** Failure to follow reasonable health and safety rules may be considered serious misconduct.

**9.6** To make sure the work environment is safe and healthy, the Employer may carry out drug, alcohol or medical testing in the following situations:

- 9.6.1**
- 1) After an incident or near miss in which someone was or could have been injured.
  - 2) If the Employer believes a reasonable cause exists, eg if an Employee's actions, appearance or behaviour suggest they may be under the influence of alcohol or drugs.

**9.6.2** A reliable external agency will carry out the testing.

**9.6.3** The Employee agrees to:

- 1) not be impaired or potentially impaired (as defined in the Drug & Alcohol Policy) by drugs (including prescription medication) or alcohol when at work, travelling for work or representing the Employer
- 2) be tested for drugs or alcohol if asked
- 3) follow the testing procedures and not tamper with, or try to tamper with, the test or its results
- 4) agree to the results being given to the Employer.

**9.6.4** If the Employee does not meet any of these requirements, this might be considered serious misconduct.

**10. Sexual/Racial Harassment** The parties to this Agreement acknowledge that both sexual and racial harassment in the workplace by management, fellow Employees, guests, suppliers and tradesmen is totally unacceptable and undertake that they will take whatever steps are necessary, as laid out in the Employer's procedures, to prevent such practices.

**11. Disputes of Rights and Personal Grievances**

**11.1** From time to time Employees may have a need to query issues concerning their Agreement. The following is the recommended procedure:

**11.1.1** Consult with a supervisor for information and advice. Where any issue is unresolved;

**11.1.2** Consult with the Employer's Head of Department who will use their best endeavours to resolve any issue. Where any issue is still unresolved;

**11.1.3** Consult with the Employer's Human Resources Manager. Where any issues still unresolved;

**11.1.4** Consult with the Employer's General Manager.

**11.2** At any stage of the above process the Employee is encouraged to invite a support person/representative to take part in the process.

**11.3** The Employee can invoke the formal dispute of rights or personal grievance procedures as provided for in the *Employment Relations Act 2000*, as amended. A copy of these may be obtained from the Human Resources Manager.

**11.4** The Employee has 90 days from the date that a personal grievance arises, or when he/she first becomes aware of a personal grievance, in which to raise that personal grievance with the Employer.

**11.5** The institutions that will deal with the Employee's personal grievance, dispute, employment relationship problem or wage arrears claim will be the Mediation Service

of the Ministry of Business, Innovation and Employment initially, and subsequently the Employment Relations Authority.

The contact details for Employment New Zealand Mediation Services are:

Website: <https://www.employment.govt.nz/resolving-problems/steps-to-resolve/mediation/>

Service Centre on 0800 20 90 20

**12. Employer Policy, Rules and Manuals**

- 12.1** All Employer policies/rules, handbook and manuals are expressly agreed to form part of this Agreement. The Employer may alter such policies, rules and manuals, as the circumstances require. In any case of alteration, one months' notice of change shall be given by the Employer, at the end of which time the alterations shall become binding on the Employee.

- 13. Choice of Forum** This Agreement is made in New Zealand and its construction, validity and performance shall be determined under New Zealand law. Any personal grievance, dispute or other action that is to be mediated, arbitrated or litigated shall be submitted to the appropriate New Zealand body, tribunal or court.

- 14. Accident Compensation Act 2001** The Employee agrees to comply with all relevant provisions of the Accident Compensation Act 2001 and any relevant regulations and subsequent amendments to this legislation. The Employees privacy rights will be respected as much as possible.

- 15. Smoke-free Environments Act 1990** Both the Employer and Employee will comply with the provisions of the Smoke-free Environments Act 1990 and any regulations and amendments to this legislation. The Employer will maintain a copy of the Smoke-free Environments Act 1990 and any relevant regulations and amendments, which will be available for viewing by the Employee. If the Employee is uncertain as to his/her obligations under this legislation, he/she should discuss this with the Employer's Human Resource Manager

- 16. Good Faith** Both the Employer and the Employee will comply with their obligations of good faith pursuant to the Employment Relations Act 2000, as amended, the code of good faith, implied duties at common law and any agreement reached between the parties.

## **Section F                      Unions**

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- 1. Union Membership Dues** The Employer shall deduct membership dues from the wages of members of the Union who are bound by this Agreement each pay period. The Employer shall remit all deducted fees to the Union office on the 20<sup>th</sup> of each month. Such remittance shall be made as a single bulk direct credit to the Union's bank account with an identifying reference. The Union shall provide the Employer with each member's written authorisation for this deduction.

- 2. Union Meetings** The Employer must allow every Union member employed by the Employer to attend at least two Union meetings (each of a maximum of two hours' duration) in each calendar year. The Union must give the Employer at least 14 days' notice of the date and time of any Union Meeting.

The Union must make such arrangements with the Employer as may be necessary to ensure that the Employer's business is maintained during any meeting. The Employer must allow a Union member employed by the Employer to attend a Union meeting for up to two hours on ordinary pay. The Union must advise the Employer of the duration of the meeting, and subsequently confirm in writing the names of members who attend.

3. **Paid Education Leave** The Union is entitled to allocate employment relations leave to eligible Employees in accordance with the *Employment Relations Act 2000*.
- Union Conference: Two delegates may attend a two-day annual union conference on full pay.
4. **Industry Discussions** The parties agree that during the term of the Agreement (clause C, page 1 above), that while the Agreement remains valid and in force, this does not preclude the Employer from entering into discussions with the Union along with other Hotels/the Tourism Industry Association in relation to developing an industry standard. If as a result of these industry discussions, the Employer agrees to alter any aspect of this Agreement during its term, then this will be undertaken pursuant to section E, clause 1.2 (variation) of the Agreement
5. **Union Notice Board** The Employer will provide a notice board, dedicated to displaying Union information.
6. **Role of the Union** The parties (Employer and Employee) agree that all Employees have a right to choose to join the union and work together with other Employees to ensure their collective interests are maintained. The parties (Employer and Employee) agree to work cooperatively on matters of mutual benefit and act in good faith when dealing with matters under dispute.
- The Employer shall allow reasonable time for delegates to carry out their duties, including recruitment, on behalf of their fellow union members provided this does not unduly disrupt the Employer's business operations.
- At the request of a union member, a union representative may accompany an Employee during a disciplinary process.
7. **Access Protocol** Union staff shall be entitled to enter the Employer's premises at reasonable times including under the terms of the attached "Hotels Access Protocol" to speak with Employees to carry out union business.
8. **Genuine Choice Forms** All new Employees whose work is within the coverage clause of this agreement will be provided with the already agreed form on which they must choose either:
- be employed on an Individual Employment Agreement; or
  - join Unite and be covered by the Collective Agreement.
- If the Employee elects to join Unite, fees deductions will commence and the form will be provided to the Unite office. This form will be kept on the Employees file.
9. **New Roles** Hotel HR Manager to check that all other waged roles and rates are included in the current wage grids.

THIS Agreement has been executed by the parties on the DATE.

SIGNED for and on behalf  
of the Union by its duly  
authorised representative

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date:

SIGNED for and on behalf  
of the Employer by its duly  
authorised representative  
**“Crowne Plaza Auckland”**

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date:

SIGNED for and on behalf  
of the Employer by its duly  
authorised representative  
**“Holiday Inn Auckland  
Airport”**

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date:



# SCHEDULE A

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## ADDITIONAL CLAUSES TO THE COLLECTIVE AGREEMENT CROWNE PLAZA AUCKLAND

### PARTIES TO THE SCHEDULE

Between Colwall Property Investment Ltd trading as Crowne Plaza Auckland  
("the Employer")

And Unite Incorporated  
("the Union")

### 1. Remuneration

- 1.1 The Employee will be paid the wage rate set out in Schedule C.
- 1.2 The Employer will undertake wage reviews based on the following:
- Performance of the Employee, based upon completion of training modules and the recommendation of the Employee's Manager;
  - the trading performance of the Hotel; and
  - Promotion.
- 1.3 In addition, an annual wage review will be undertaken each year in March and will be backdated to the first Wednesday in January same year. There is no guarantee of a wage increase when each annual review is carried out, except in the case of a promotion. Such review will be recorded in writing and maintained on the Employee's personal file.

### 2. Public Holidays

- 2.1 If an Employee has worked on a given day of the week for 7 out of the previous 13 weeks, then the Employer will consider that to otherwise be a working day (or a majority of weeks worked if their employment is less than 13 weeks). This section does not operate to reduce any entitlements or obligations under the Holidays Act. Employees may discuss with the Employer whether a given day was otherwise a working day.

### 3. Sick Leave

- 3.1 After 6 month's continuous service with the same Employer, the Employee shall be entitled to 10 days' sick leave per annum, on the basis of their relevant daily pay in accordance with the Holidays Act 2003 and its amendments. Sick leave shall accumulate up to 20 Days by carrying forward from one year to another any unused sick leave.

### 4. Redundancy

Redundancy is where an employee's role is no longer required. If after following a good faith restructuring process the employee's role is made redundant, the Employee will be given notice as set out in Section E of the Employment Agreement. The Employee may be required to either work out that notice period or will be paid in lieu, at the employer's discretion. The Employee will not be entitled to any redundancy compensation.

# SCHEDULE B

## PAY RATES CROWNE PLAZA AUCKLAND

### PARTIES TO THE SCHEDULE

Between Colwall Property Investment Ltd trading as Crowne Plaza Auckland  
("the Employer")

And Unite Incorporated  
("the Union")

Wage reviews printed in this document will be reviewed on an annual basis in line with the wage review process outlined in Schedule A, Clause 1, Remuneration.

All Union members employed at Crowne Plaza Auckland on (ratification date) will be paid at least \$22.75 gross per hour.

<b>Bands 7</b> Reservations Supervisor Food & Beverage Supervisor Accounts Clerk Housekeeping Supervisor Front Office Supervisor Conference & Event Coordinator Future Leader Senior Chef de Partie Chef de Partie Business Development Executive Marketing Coordinator	<b>The employer will offer a salary to the employee at the commencement of employment which will not be less than \$48,256 gross per annum.</b>
<b>Bands 8</b> Food & Beverage Team Leader Housekeeping Team Leader Demi Chef Maintenance Team Leader	<b>The employer will offer a wage to the employee at the commencement of employment which will not be less than \$21.95 gross per hour.</b>
<b>Bands 9 &amp; 10</b> Storeperson Commis Chef Kitchen Steward Handyperson Food & Beverage Attendant Room Attendant Public Area Attendant House Person Reservations Sales Agent Laundry Attendant Porter Guest Experience Specialist Night Cleaner Night Porter Night Auditor Human Resources Administrator	<b>The employer will offer a wage to the employee at the commencement of employment which will not be less than \$21.20 gross per hour.</b>

The above rates are minimum starting rates. Workers may be paid above these rates and joining the Union will not decrease a workers' wages.

# SCHEDULE D

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## CODE OF CONDUCT

In any organisation such as ours, it is necessary to set rules governing the conduct and procedures to ensure the smooth running of the Employer's business. Conduct which threatens personal health, safety and well being or the security of our Employees, or which endangers plant, property, our products or services, is unacceptable. In addition, we cannot tolerate any action, which might damage our relationship with existing and potential customers or suppliers.

### 1.0 House Rules

#### 1.1

#### Misconduct – Warning Offences

The following actions are considered misconduct, any instance of which may, following appropriate investigation, make the Employee liable to disciplinary action:

- |                            |   |
|----------------------------|---|
| <b>Health &amp; Safety</b> | ■ failure to observe safety rules/procedures or working/acting in an unsafe manner (this includes failing to report an accident, fire or known hazard to the department manager or designate).  |
| <b>Property</b>            | ■ irresponsible or unauthorised use of Employer property or the property of any other person/s.<br>■ accepting gifts for services rendered in contravention of the Employer's policy on tips and gratuities.  |
| <b>Work</b>                | ■ persistent absenteeism, lateness or poor time keeping.<br>■ repeated failure to achieve stated objectives or required work standards.<br>■ failure to complete stipulated hours of work, or leaving the assigned task, interfering with or preventing another Employee from carrying out his/ her work.<br>■ deliberate avoidance of duties (including sleeping on duty during working hours).<br>■ using abusive language or behaving in an offensive manner towards any other person/s on the Employer's premises, or while engaged on the Employer's business (this includes the circulation of offensive notices, posters, fax messages, graffiti or E-mail). |
| <b>Other</b>               | ■ any other action which, by its nature and in the light of reasonable community standards, can be regarded as misconduct.  |

**Serious Misconduct – Dismissal Offences**

The following actions are considered serious misconduct, any instance of which may, following appropriate investigation, make the Employee liable to be dismissed:

- |                            |   |
|----------------------------|---|
| <b>Health &amp; Safety</b> | <ul style="list-style-type: none"> <li>■ actions causing injury to any other person/s, including violence/assault and also including threats or intimidation towards any other person/s.</li> <li>■ unauthorised consumption of alcohol on the Employer's premises or during working hours.</li> <li>■ possession or consumption of illegal drugs and/or abuse of solvents on the Employer's premises or during working hours.</li> <li>■ being in an intoxicated state during working hours because of consuming drugs, alcohol, or solvents resulting in inability to adequately/safely perform duties.</li> <li>■ unsafe behaviour causing extreme risk to any other person/s including misuse of fire or safety equipment.</li> <li>■ harassment of any other person/s – such as sexual, religious, gender, nationality, or any other form of such unacceptable behaviour and attitude by the Employee to another person.</li> <li>■ unauthorised carrying or possession of a firearm or weapon on the Employer's premises during working hours.</li> </ul> |
| <b>Property</b>            | <ul style="list-style-type: none"> <li>■ being in unauthorised possession or wilfully damaging the Employer's property.</li> <li>■ being in unauthorised possession or wilfully damaging the property of any other person/s.</li> <li>■ unauthorised copying of the Employer's software for private purposes.</li> <li>■ being in an area without authority.</li> </ul>   |
| <b>Work</b>                | <ul style="list-style-type: none"> <li>■ persistent refusal to perform normal duties or persistent refusal to comply with the lawful and reasonable instruction/s of the Employer.</li> <li>■ unauthorised disclosure of confidential information (either hotel/operation information or personal information).</li> <li>■ requesting, storing, downloading and/or distributing objectionable material from the Internet.</li> <li>■ misrepresenting the Employer for personal gain or seeking or accepting unsolicited bribes or inducements.</li> <li>■ negligence, incompetence, or disobedience, which seriously jeopardises safety, property or the good conduct of the Employer's operations.</li> <li>■ falsification of the Employer's documents or records (including employment applications and time-keeping records), making false claims, declarations or reports.</li> </ul>  |

- Other**
- actions which bring the Employer into disrepute.
  - any other action that, by its nature and in the light of reasonable community standards, can be regarded as serious misconduct.

## **2.0**

### **Misconduct/Poor work performance Procedure**

#### **2.1**

This procedure is subject to the Employment Relations Act 2000, as amended. Where misconduct as set out in clause 1.1 above or poor work performance occurs, and if informal corrective methods are inappropriate or fail to bring about the required improvements in behaviour or performance, the Employer's misconduct/poor work performance procedure provides 5 levels of formal action:

- counselling and retraining
- verbal warning
- written warning
- final written warning
- termination/dismissal

##### **2.1.1**

#### **Counselling and Retraining**

- In cases of misconduct/poor work performance, formal disciplinary action should only be undertaken after the Employee has had the opportunity of counselling and/or retraining and also a review of expected work and performance standards.
- The counselling form shall remain in force for 6 months.
- In cases of continued poor work performance/ misconduct, the following steps will apply:

##### **2.1.2**

#### **Verbal Warning**

A Verbal Warning will be issued in cases:

- of persistent poor work performance (when informal corrective methods have failed to produce any improvements); or
- where an incident of misconduct is sufficiently serious to warrant a formal level of disciplinary procedure.

The Verbal Warning will be fully explained to the Employee and should be issued in the presence of a support person if they choose to have someone present.

The Employee will be given a written confirmation of the Verbal Warning, with a copy placed on his/her personal file. Should no further misconduct or work performance problem occur within the following 6 months, the Verbal Warning will be cancelled.

##### **2.1.3**

#### **Written Warning**

A Written Warning will be issued in cases:

- of persistent poor work performance (when the Employee is already on a Verbal Warning); or
- where another instance of misconduct has occurred (when the Employee is already on a Verbal Warning).
- where the work performance/ misconduct is sufficiently significant to warrant going straight to a Written Warning.



The Written Warning will be fully explained to the Employee and should be issued in the presence of a support person of the Employee if they choose to have someone present.

A copy of the Written Warning will be given to the Employee, with another copy placed on his/her personal file. Should no further misconduct or work performance problem occur within the following 9 months, the Written Warning will be cancelled.

#### **2.1.4 Final Written Warning**

A Final Written Warning will be issued in cases:

- where persistent poor work performance continues following a Written Warning; or
- where another instance of misconduct occurs when the Employee is already on a Written Warning; or
- where the work performance/misconduct is sufficiently serious to warrant going straight to a Final Written Warning.

The Final Written Warning will be fully explained to the Employee and should be issued in the presence of a support person of the Employee if they choose to have someone present.

A copy of the Final Written Warning will be given to the Employee, with another copy placed on his/her personal file. Should no further behaviour or performance problem occur within the following 12 months, the Final Written Warning will be cancelled.

#### **2.1.5 Termination/Dismissal**

Should verbal and/or formal warning/s not have the desired effect, and the misconduct or poor work performance continue, a decision on whether or not to terminate the Employee's employment will need to be made.

If misconduct or continued poor work performance has occurred, following the issuing of an earlier Final Written Warning, then appropriate action is likely to be Termination by Notice which is one (1) week

### **3. Suspension**

In some circumstances, the Employer may need to insist that the Employee leave the workplace while an investigation is carried out on the grounds of safety, or to allow everyone concerned time to carefully consider their respective positions.

A period of stand-down should be the minimum duration necessary for a proper investigation, preferably no longer than 10 work days (unless the circumstances otherwise require a longer period of time). Any such period of stand-down will be on full base wages. A stand-down is not to be regarded as a disciplinary measure in itself – it is merely a step in the investigation process.

### **4. Summary Dismissal Procedure**

**Step 1** The Employer will initially advise the Employee of the specific allegation, the seriousness of the situation, and provide the Employee with an opportunity to refute the allegation or explain the alleged serious misconduct. The Employer will advise the Employee that this could lead to summary dismissal.

- Step 2** If the Employee's initial explanation is not satisfactory, the Employer will inform the Employee that the allegations will be investigated further and that the Employee has the opportunity to seek advice and representation from an appropriate person. The Employee may be suspended, on pay, (pursuant to clause 3 above) to allow a full investigation to take place.
- Step 3** The Employer convenes a meeting to be attended by the Employee and his/her adviser, plus a representative from management. The Employer will Inform the Employee and representative of the allegation of serious misconduct including any statement of problems caused by the action/behaviour.
- Step 4** The Employer seeks the Employee's explanation Where appropriate the Employer may adjourn the meeting to allow time to give the explanation due consideration, or to conduct further investigations. This could also include another period of suspension of the Employee.
- Step 5** When the Employer is satisfied that the matter has been fully investigated, the Employee may be allowed a further reasonable and adequate opportunity to further explain.
- Step 6** The Employer will consider the Employee's previous work record and length of service. The Employer will also consider all practicable alternatives to dismissal. If the Employer is satisfied there is just cause to dismiss; the Employee must be informed of the decision to dismiss. The decision will be confirmed in writing.

If serious misconduct has occurred, the appropriate action is likely to be Summary Dismissal (i.e. dismissal without notice).

# SCHEDULE E

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## PLAIN LANGUAGE EXPLANATION

1. **Introduction:** This document constitutes the Employer's Plain Language Explanation of the services available for the resolution of employment relationship problems, including a reference to the period of 90 days within which a personal grievance must be raised. This document complies with the requirements of sections 54(3)(a)(iii) and 65(2)(a)(vi) of the Employment Relations Act 2000 (**Act**), and is to be read as part of the Agreement.
2. **Definitions:** The relevant definitions under the Act, which the Employee will need to be aware of in the context of the Plain Language Explanation, include:
  - (a) *Employment Relationship Problem:* Includes a personal grievance, a dispute, and any other problem relating to or arising out of an employment relationship, but does not include any problem with the fixing of new terms and conditions of employment (for example, bargaining or seeking a variation to an employment agreement).
  - (b) *Personal Grievance:* Means any grievance that the Employee may have against the Employer because of a claim that the Employee had been unjustifiably dismissed (actually or constructively), disadvantaged in the Employee's employment by an unjustifiable action of the Employer, discriminated against, sexually harassed, racially harassed or subject to duress in relation to membership/non membership of a union.
  - (c) *Dispute:* Is a dispute about the interpretation, application, or operation of an employment agreement.
3. **Steps to Help Resolve an Employment Relationship Problem:**
  - (a) *First Step: Resolution with the Employer:* The Employee should first take the employment relationship problem to the person to whom the Employee reports. By doing this, it is hoped that the employment relationship problem will be dealt with in a manner that is appropriate to both parties, with the emphasis on allowing the Employee to continue on in employment with the Employer having resolved the Employee's employment relationship problem. If the relationship problem exists between the Employee and the person they report to, they may take the matter to another senior leader with whom they feel comfortable, or to Human Resources.
  - (b) *Second Step: Mediation Service of the Ministry of Business, Innovation and Employment/Alternative Disputes Resolution:* If the employment relationship problem is not resolved to the Employee's satisfaction within a reasonable period of time of raising it, either the Employee or the Employer may:
    - (i) refer the employment relationship problem to the Mediation Service of the Ministry of Business, Innovation and Employment. This is an informal institution that provides mediation services to Employees and Employers alike; or
    - (ii) agree to an independent mediator, arbitration or alternative dispute resolution process to help resolve the employment relationship problem.
  - (c) *Third Step: Employment Relations Authority:* If the Mediation Service of the Ministry of Business, Innovation and Employment, independent mediation, arbitration or alternative dispute resolution processes cannot resolve the employment relationship problem, then this can be referred through to the Employment Relations Authority. The Employment Relations Authority is an investigative body that has the role of resolving employment relationship problems by establishing the facts and making a determination according to the substantive merits of the case.

(d) *Fourth Step: Employment Court/Court of Appeal:* If the employment relationship problem is not resolved at the Employment Relations Authority, then the Employee or the Employer may pursue their claim to the Employment Court and ultimately the Court of Appeal.

(e) *General:*

- (i) The Employee may use the services of a representative, including the Employee's union, to assist in the above process.
- (ii) The Employer and the Employee (and their representative) must act in good faith in the raising of, and pursuing, an employment relationship problem through the above steps.
- (iii) The Employer and the Employee must comply with the procedures developed under the Act and any Regulations pursuant to it for the process of pursuing an employment relationship problem.

4. **Time Limits (Personal Grievance):** The Employee must raise the Employee's personal grievance with the Employer within the period of 90 days, beginning with the date on which the action alleged to amount to a personal grievance occurred or came to the notice of the Employee, whichever is the later. The Employer may consent to the personal grievance being raised after the expiry of that period (section 114 of the Act). This period may be extended to three years, if the Employee can prove "*exceptional circumstances*" (section 115 of the Act).

5. **Independent Advice:** Before signing this Agreement, the Employee has the right to obtain independent advice on its terms and conditions. Such independent advice may be sought from a solicitor, friend, Citizen's Advice Bureau, community law centre or union. The Employer will allow sufficient time for the Employee to do this.

6. **Contact Details:**

Website: [employment.govt.nz/](http://employment.govt.nz/)

Information Relations info line: 0800 20 90 20