Key Employee/Executive Employment Agreement

Review checklist

A Key Employee/Executive Employment Agreement template is used when a company wishes to formalize the terms and conditions of employment for a key executive or employee. This type of agreement is typically employed when hiring or promoting individuals in leadership positions or roles critical to the organisation's success.

|  |  |  |  |
| --- | --- | --- | --- |
| **Item** | **Question** | **Guidance notes**  | **Answer** |
| **General provisions** |
|  | **Short form name** | *Use a concise, descriptive "short form name" for this document. The short form name should clearly identify the document type (e.g., Service Agreement, Purchase Agreement, License Agreement, etc.)* |  |
|  | **Data room number** | *What is the data room number of this document? If there is no data room number, then insert "Not applicable".* |  |
|  | **Parties** | *For each party (an “entity”), identify:** *full legal name*
* *entity type (organisation or person)*
* *registered address*
* *company/organisation number (if applicable)*
* *whether the entity is acting alone or as a trustee*
* *if the entity is acting as a trustee, identify the trust name and number (if applicable)*
 |  |
|  | **Document date** | *Identify the agreement date or date the agreement was entered into. If no date is provided in the agreement, insert 'Undated'. Look for dates in various locations within the document, including the header, footer, and signature blocks. Enter dates in a consistent format (e.g. DD/MM/YYYY or MM/DD/YYYY).* |  |
| **Employment details** |
|  | **For each related party, answer the following:** | *Who are the parties that are related?* |  |
| *What is their relationship? E.g.:*1. *An entity that controls a company is a related party of the company*
2. *The parties are both controlled by the same holding company*
3. *Director of Company is related to the Company*
4. *Spouse and children of the Company Director are related to Company*
5. *Directors of an entity that controls the company are related parties of a company.*

*Spouse and children of a Director of an entity that controls the company are related to Company.* |  |
| *Is the agreement on commercial, arm’s length terms?* |  |
|  | **What is the employee’s position title?** |  |  |
|  | **What is the employee’s position type?** |  |  |
|  | **What is the employee’s location of work?** |  |  |
|  | **Employee base remuneration as quoted in the agreement (excluding superannuation or pension)** |  |  |
|  | **Is the employee entitled to superannuation/pension in addition to their base remuneration/salary?** |  |  |
|  | **Is the superannuation/pension above the minimum amount required by law?** |  |  |
| **Term and termination rights** |
|  | **Start date of agreement** |  |  |
|  | **Start date of agreement** |  |  |
|  | **Initial term of the agreement** |  |  |
|  | **For each option to extend the term, answer the following:** | *Start date of option* |  |
| *End date of option* |  |
|  | **Early termination rights (other than for breach or default)** | * 1. *Company who has the early termination rights*
 |  |
| * 1. *Select the applicable early termination right (other than for breach or default). E.g.:*
		+ *Termination for convenience (no cause)*
		+ *Termination for an insolvency event*
		+ *Termination for force majeure*
		+ *Termination by agreement between the parties*
	2. *Does an early termination payment apply?*
 |
| * 1. *Describe how much notice must be given to terminate*
 |
| **Transfer restrictions** |
|  | **Change of control** | 1. *Identify the specific Company or Group Company (by name) to which the restriction or prohibition applies*

*If a different change of control provision applies to each party, then record this by adding another change of control "collection".* |  |
| 1. *Definition of change of control*
 |  |
| 1. *Select the option that best describes the change of control restriction or prohibition. E.g.:*
	* + *Counterparty is notified*
		+ *Certain standard conditions must be met*
		+ *Consent of the counterparty is obtained and the counterparty must consent if certain standard conditions are met*
		+ *Consent of the counterparty is obtained and the counterparty can withhold consent in certain limited circumstances*
		+ *Consent of the counterparty is obtained*
		+ *Consent of the counterparty is obtained in the counterparty's discretion*
		+ *Consent of the counterparty is obtained which cannot be unreasonably withheld or delayed*
		+ *Consent of the counterparty is obtained which cannot be unreasonably withheld if certain conditions are met*
		+ *Amendments to the agreement are required*
		+ *Comply with requirements set by law / statute*
		+ *Right to terminate the agreement*
		+ *Triggers a payment obligation*
		+ *Strictly prohibited (cannot occur)*
 |  |
| 1. *Exceptions to the change of control restriction*
 |  |
| **Additional employee benefits (incentives)** |
|  | **For each employee incentive, answer the following:** | 1. *What employee incentive applies to this employee?*
 |  |
| 1. *Describe the employee incentive*
 |  |
| 1. *Describe the eligibility criteria for the employee incentive*
 |  |
| **Leave entitlements** |
|  | **For each leave entitlement, answer the following:** | 1. *Type of leave entitlement*
 |  |
| 1. *Amount of leave entitlement*
 |  |
| **Confidentiality and intellectual property rights** |
|  | **Is the Employee required to keep certain information confidential?** |  |  |
|  | **Does any pre-existing IP the Employee brings to the job assign to the Employer?** |  |  |
|  | **Does any IP created by the Employee during their employment belong to and assign to the Employer?** |  |  |
| **Miscellaneous** |
|  | **Does the agreement contain an exclusivity, restraint and/or non-compete provision?** |  |  |
|  | **Does the agreement adhere to local employment laws?** | *Explain how the employment contract doesn't adhere to local employment laws* |  |
|  | **Related documents** | *Describe any documents related to this document that have been disclosed (including amendments)* |  |
|  | **Missing related documents** | *Describe any documents related to this document that haven’t been disclosed* |  |
|  | **Missing and/or ineligible pages** | *Specify any missing and/or ineligible pages of the document* |  |
|  | **Document execution** | *Identify a party(s) that haven’t executed the document fully and correctly* |  |
|  | **Governing law** | *What is the governing law of the document?* |  |
|  | **Other onerous or unusual provisions** | *Identify any provisions in this document that could be considered unusually onerous, burdensome or unfavorable to one party, or that deviate significantly from standard practices.**For each such provision:*1. *State what party(s) the provision applies to;*
2. *Briefly summarise the key aspects that make it onerous or unusual;*
3. *Quote the relevant excerpt from the document.*
 |  |