

PIRTEK AFRICA TEMPLATE EMPLOYMENT CLAUSE EXAMPLES IN RESPECT OF THE PROTECTION OF PERSONAL INFORMATION ACT 4 OF 2013

Note: these clauses should be considered for inclusion in employment agreements of Pirtek Africa (Pty) Ltd staff.

1. PROCESSING OF PERSONAL INFORMATION

[POPIA consent clause for an employment agreement]

- 1.1. The Employee is hereby informed and accordingly consents that the Employer may during the course of employment with the Employer collect personal information of the Employee, which includes, but is not restricted to, personal, identifying, contact, residential, financial, medical, biometric, correspondence, criminal, educational, employment and behavioural information, as well as any assessments, evaluations and interpretations in respect of any of the aforesaid (hereinafter referred to as "Personal Information" as read with and otherwise contemplated in terms of the Protection of Personal Information Act 4 of 2013 ("POPIA")) and which Personal Information, subject to clause [1.5] the Employer may collect, store, delete, outsource, transfer or otherwise process, as the context and circumstances may require from time to time, as contemplated in terms of POPIA.
- 1.2. The Employee is hereby further informed and accordingly consents that Personal Information shall be collected for purposes as required in terms of his/her employment relationship with the Employer or as otherwise required by law. Such Personal Information shall only be processed by the Employer or an authorised third-party operator for purposes relating to the aforesaid employment relationship, or any other third party where required in terms of applicable law, or where any additional information not incidental to the aforesaid employment relationship (if applicable) is processed by the Employer in accordance with the circumstances, upon prior consent of the Employee.
- 1.3. The Employee hereby acknowledges and accordingly consents that the Employer may outsource the processing of his/her Personal Information to third party operators from time to time and transfer his/her Personal Information abroad, as the relevant circumstances incidental to the employment relationship may require, in accordance with the relevant provisions of POPIA.
- 1.4. The Employee undertakes to inform the Employer of any change of his/her physical address, identifying information and/or contact details for the duration of this employment agreement.
- 1.5. The Employee shall be entitled to request reasonable access to the Personal Information held by the Employer, in accordance with sections 23 and 24 of POPIA, as well as the correction, reduction or deletion thereof, as the relevant circumstances may require.

2. PROCESSING OF PERSONAL INFORMATION

[Alternative POPIA consent clause for the outsourcing of personal information to an operator]

- 2.1. The Employee hereby acknowledges that the Employer utilizes the services of a third-party operator to capture, process and store the personal information of the Employee provided to the Employer pursuant to this employment agreement and further acknowledges and consents that their personal information will be made available to such third-party operator in accordance with the provisions of this employment agreement.

3. CONFIDENTIALITY

[POPIA confidentiality clause for an employment agreement]

- 3.1. The Employee acknowledges that he/she may, during the course of his/her employment with the Employer, gain access to, become acquainted with or come into the possession of private, sensitive and confidential information of the Employer, whether in oral, written, electronic or another form, which includes but is not limited to information relating to the Employer's business, trade secrets, financial methods, 'know how', research and development, strategies, financial position, financing techniques, financial projections, profit margin information, corporate information, transactions, current and/or future business plans and models, software, policies and procedures, marketing methods, client lists, client details, client matter information, information databases, incentive and reward schemes, remuneration structures, personnel information, associated entities, business processes and systems, suppliers and service providers, strategic partners, business associates, security information, training materials, personal information as contemplated in terms of POPIA relating to the Employer, other employees, clients and any other third parties in the possession of the Employer, as well as other information which relates to the Employer and is not in the public domain and could reasonable be assumed to be private and confidential information of the Employer regardless of whether such information is designated as 'confidential information' at the time of its disclosure (hereinafter referred to as "Confidential Information").
- 3.2. The Employee undertakes for the duration of this employment agreement as well as after termination thereof, except as specifically required for the execution of his/her tasks and duties, not to directly or indirectly, utilize, disclose, allow access to or make public to any unauthorized person or third party for any reason whatsoever the Confidential Information or derive any economic value, benefit or profit from the use of such Confidential Information, save as expressly authorized by the Employer, or required by any applicable law or court to be disclosed, and then only to be disclosed to the extent required by such law and subject where possible, to a similar undertaking of confidentiality as contained in this clause [3.2] (*Confidentiality*).

- 3.3. Without derogating from the generality of the exceptions stipulated in clause [3.2], it is hereby recorded for the avoidance of any doubt, that the Confidential Information shall not include -
- 3.3.1. information which was known to the Employee prior to its receipt from the Employer;
 - 3.3.2. information which is or lawfully becomes generally available to the public;
 - 3.3.3. information which is lawfully acquired from third parties who have a right to disclose such information;
 - 3.3.4. information which by mutual agreement is released from confidential status; and
 - 3.3.5. information which is required to be disclosed in response to a valid order of court or other governmental agency or if disclosure is otherwise required by law, and the Employee shall provide the Employer with prompt written notice if such disclosure is required, and shall limit the disclosure to the minimum necessary to comply with the law.
- 3.4. The onus of proof shall at all times rest on the Employee to establish that any information falls within the exclusions referred to in clause [3.3] above.
- 3.5. The Employee hereby indemnifies and holds harmless the Employer from and against all claims, losses, damages, liabilities, costs and expenses (including without limitation reasonable expenses of investigation and reasonable legal fees on an attorney and client scale, and pre- and post-judgement interest and penalties) arising from any breach of this clause [3.5] by the Employee.