

Employment Agreement (Indefinite Term)

by and between

YYY GmbH

and

Mr/Ms XXX

Model employment agreement for an executive position
at a company in the technology/science sector.

The template is based on German law.

The author accepts no responsibility if this template is used
without obtaining individual legal advice.

Employment Agreement (Indefinite Term)

Between YYY

[address]

(„COMPANY“)

and

Mr/Ms XXX, born on the,

[address]

(„Employee“)

the following Employment Agreement is hereby concluded:

§ 1 Beginning of Employment, Title of Employee

The Employee shall be employed and hired by COMPANY as [Position/Function]. Employment shall commence on the [Date]. Place of employment and the regular place of performance shall be [Place/City]. COMPANY shall have the right to deploy the Employee at another place of work (outside of [Place/City]) or assign the Employee to another field of activities and responsibility should this be required by the operating rationale of the company (“betriebliche Erfordernisse”); such deployment or reassignment shall take into due consideration the interests and shall also take account of the qualifications of Employee.

§ 2 Termination of Employment

This Employment Agreement shall end automatically (without any notification being necessary) at the end of the month in which Employee reaches the regular retirement age according to the provisions regarding the statutory pension fund (“Regelaltersgrenze der gesetzlichen Rentenversicherung”).

§ 3 Notification Periods

(1) The first six months of the employment shall be a probationary period (“Probezeit”). During this probationary period both parties may terminate this Employment Agreement without having to give any reasons on eight weeks notice with effect to the fifteenth or to the end of a calendar month. After the probationary period both parties may terminate this Employment Agreement by giving ... months notice with effect to the end of a calendar month. In case COMPANY must obey a longer statutory notification period the same notification period shall apply to Employee. The right to terminate the Employment agreement for important cause shall remain unaffected.

- (2) Notifications shall be in written form to be valid.
- (3) COMPANY shall have the right – while having to pay the contractual remuneration to employee – to discharge Employee for the time between notification and the effective termination, unless Employee can claim a predominant legitimate interest to be engaged in the operational procedures.
- (4) Neither party may terminate this Employment Agreement prior to [DATE].

§ 4 Remuneration

- (1) Remuneration shall be paid in 12 monthly salaries. The monthly gross salary shall be EUR, starting with the month of, This monthly salary compensates Employee for his/her entire activities including overtime and work on weekends, holidays or at night, as long as such overtime does not exceed 25 percent of the contractual weekly work hours. There shall be no bonuses paid for such overtime.
- (2) The remuneration shall be paid by bank transfer on the last day of the current month to a bank account of a German bank to be named by Employee.
- (3) Should COMPANY pay any bonuses (gratifications, holiday allowances, premiums for outstanding achievements etc.) in addition to the regular monthly salary, such extra payment shall be deemed fully voluntary and shall in no case create any obligation to make such extra payments in the future, even if such voluntary payments are made repeatedly and without additional allusion by COMPANY that such extra payments do not create an obligation for the future.

§ 5 Working Hours / Overtime

- (1) The weekly working hours are adjusted to the operational needs of COMPANY. Currently, the employees work 40 hours per week (excluding breaks). The core time is between 09 a.m. and 3 p.m. COMPANY shall have the right to change the working hours should operational requirements make this necessary.
- (2) Employee is obligated to work overtime if necessary; this may include weekends or holidays. Such overtime shall be compensated by granting paid leave.
- (3) Employee is obligated to undertake necessary business trips.

§ 6 Vacation

- (1) Employee is entitled to the statutory 20 days vacation per calendar year.

- (2) In addition to this mandatory statutory minimum vacation, COMPANY contractually grants an additional ... vacation days. After three full years of employment COMPANY grants one additional vacation day and after full five years yet another vacation day. Vacation leaves shall be taken in longer periods, if possible. Where COMPANY grants the Employee to take a vacation there shall be first ceded the statutory vacation days, then the contractual vacation days. In regard to the contractual vacation days the parties hereby agree that these contractual vacation days shall lapse after the transfer period (Übertragungszeitraum) even if Employee was not able to go on vacation e.g. for reason of sickness or other.
- (3) By planning and applying for vacation Employee must duly consider the operational requirements of COMPANY. Employee shall apply for vacation leave by submitting a written form (Urlaubsantrag) which are available at the human resources department. During the vacation Employee shall not undertake any activities which contradict the purpose of the vacation.

§ 7 Hindrance / Death

- (1) Employee is obligated to inform COMPANY immediately in cases of sickness or any other hindrance to perform his/her contractual working duties. In case of sickness the Employee is obligated to submit to COMPANY within three days a doctor's written confirmation that Employee is unable to work because of sickness and an estimate for how long Employee will probably be unable to work.
- (2) Should Employee die during the term of this Employment Agreement his/her spouse and/or descendants are entitled to the salary (§ 4) for the month during which Employee has died plus the two following months.

§ 8 Confidentiality, Contractual Penalty

- (1) Employee shall keep all company secrets as well as any other sensitive information concerning company matters strictly confidential during and after his/her employment at COMPANY, both vis-a-vis third parties as well as vis-a-vis other company employees who are not directly involved in the respective field of work.
- (2) Upon termination of this Employment Agreement Employee shall immediately and proactively hand back to COMPANY any and all company material, particularly all documents and any copies or notes Employee may have made.
- (3) If Employee breaches his/her obligations pursuant to § 8 (1) or § 8 (2) Employee shall have to pay to COMPANY a contractual penalty of one gross monthly salary (§ 4 (1)) for each individual case of breach which shall be due immediately. The right of COMPANY to claim further damages shall remain unaffected.

- (4) The confidentiality obligations of Employee are further specified in the confidentiality declaration (Geheimhaltungserklärung) which is attached hereto as Appendix A and which constitutes an integral part of this Employment Agreement.
- (5) Employee is obligated to keep the content of this Employment Agreement confidential both during and after the employment.

§ 9 Non-Competition Clause, Secondary Employment

- (1) During the term of this Employment Agreement Employee shall not hold any stake or interest – directly or indirectly – in an enterprise which is a direct competitor of COMPANY. Employee may, however, hold minor shares or stocks of corporations as long as these stocks do not give Employee any significant influence on the management of such corporation.
- (2) During the term of this Employment Agreement any secondary employment or other activity for remuneration which may affect this employment requires the prior written consent of COMPANY. Employee shall notify COMPANY of any such other activity to enable COMPANY to evaluate whether such activity may affect this employment.

§ 10 Advanced Training, Restitution Obligation

- (1) COMPANY shall bear the costs for advanced training of Employee if and as far as agreed upon in regard to each individual training activity. This includes course and examination fees, travel expenses and boarding costs according to company guidelines and regulations. Compensation requires submittal of original bills and receipts.
- (2) Employee is obligated to retribute any payments which COMPANY has made according to § 10 (1), if the employment ends within 6 months after the end of the individual training activity due to reasons caused by Employee if Employee has attained a job related advantage for his future career through the training measure. COMPANY can claim immediate restitution of 50 percent of the payments made and is entitled to offset this restitution claim against seizable claims of Employee.

§ 11 Inventions

Employee shall immediately notify COMPANY in writing of any invention, observing the relevant company regulations regarding inventions. The statutes of the German Act on Employee Inventions (Arbeitnehmererfindergesetz) shall apply.

§ 12 Company Regulations / Operating Agreements

All Company Regulations (Betriebsordnung) and valid Operating Agreements (Betriebsvereinbarungen) shall apply and may be reviewed by Employee at the human resources department (Personalbüro).

§ 13 Exclusion Clause, Forfeiture

- (1) Any and all claims resulting from this Employment Agreement must be raised in writing within three months from the moment of them falling due. Otherwise these claims expire.
- (2) In case the recipient of this demand note rebuts this claim in writing or in case the recipient does not react at all within three months, the demanded claim shall forfeit unless the claim is enforced by taking it to court within three months after the rebut or within three months after expiry of the three months reaction period.
- (3) This cut-off period shall not apply to such claims that are based on an intentional or grossly negligent violation of any duties or obligations by the other contractual party or one of its subsidiaries. This cut-off period shall also not apply to such claims which are based on or result from bodily injury or death of one contractual party which was caused by negligent conduct of the other contractual party or one of its subsidiaries.

§ 14 Written Form Clause, No Side Agreements

- (1) Any changes of or amendments to this Employment Agreement must be in writing to become effective. This includes any alteration of this written form clause.
- (2) There are no oral side agreements.

§ 15 Governing Law

This Employment Agreement shall solely be governed by and construed in accordance with the laws of Germany.

§ 16 Severability

Should any provision of this Employment Agreement be or become legally invalid or if there is any void that needs to be filled, the validity of the remainder of the agreement shall not be affected thereby.

Invalid provisions shall be replaced by common consent with such provisions which come as close as possible to the intended result of the invalid provision. In the event of gaps such provision shall come into force by common consent which comes as close as possible to the intended result of the agreement, should the matter have been considered in advance.

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XXX

....., as of.....

.....
YYY GmbH
Represented by its Managing Director

....., as of

Appendix 1: Confidentiality Declaration (Geheimhaltungserklärung)