



## EMPLOYMENT AGREEMENT BETWEEN PINNACLE FOODS & HOSPITALITY GROUP AND EMPLOYEE

### 1 The Parties

#### 1.1 Individual Employment Agreement

The parties to this employment agreement are:

1. **Pinnacle Foods & Hospitality Group**, the "Employer"; and
2. \_\_\_\_\_, the "Employee".

### 2 The Position and the Duties

#### 2.1 Position

The Employee is being employed as \_\_\_\_\_.

#### 2.2 Duties as set out in the job description which may be modified from time to time by the Employer

The Employee shall perform the duties set out in the Job Description attached to this agreement. These duties may be modified and updated by the Employer from time to time following agreement with the Employee. The Employee also agrees to perform all other reasonable duties and comply with reasonable instructions issued by the Employer.

#### 2.3 Reporting

The Employee shall report to **Executive Chef** or to any other representative of the Employer designated from time to time by the Employer.

## 2.4 Performance Objectives

The Employer shall, in consultation with the Employee, set the Employee objectives at least on an annual basis. These objectives shall be taken into account by the Employer when assessing the Employee's performance.

## 2.5 Performance reviews

The Employer shall conduct a performance review of the Employee on at least an annual basis. This review shall be taken into account in any salary reviews.

## 2.6 Secondment

In the event the Employer considers that a secondment (such as to a client or customer or project) would be in the best interests of the Employer, the Employee shall comply with all reasonable requests to carry out that secondment.

## 3 Nature and Term of the Agreement

### 3.1 Fixed Term Individual Employment Agreement

This Employment Agreement is an individual employment agreement entered into under the Employment Relations Act 2000. The parties agree that this is a fixed term employment agreement. This agreement will commence on **Mar 22, 2016**, and will end on **Mar 21, 2017**. The Employer has genuine reasons based on reasonable grounds for specifying that the employment agreement is to end at this time, namely **pending level of achievement on performance reviews**. The parties also confirm that the Employee has been advised by the Employer when discussing this agreement, the reasons for the employment ending in this way.

### 3.2 Probation

A probation period will apply for the first **six months** of employment to assess and confirm suitability for the position. The employer will provide guidance, feedback and any necessary support to the employee. Both parties will promptly discuss any difficulties that arise, and the employer will appropriately warn the employee if he or she is contemplating termination. Any termination must comply with the termination clause in this agreement. This probation period does not limit the legal rights and obligations of the employer or the employee, and both parties must deal with each other in good faith.

### 3.3 Probation Periods

A probation period will apply for a period of **NOT EXCEEDING 180 CALENDAR DAYS** employment to assess and confirm suitability for the position. Parties may only agree to a trial period if the employee has not previously been employed by the employer.

During the probation period the employer may terminate the employment relationship, and the employee may not pursue a personal grievance on the grounds of unjustified dismissal. The employee may pursue a personal grievance on grounds as specified in the Employment Act (such as: unjustified disadvantage; discrimination; sexual harassment; racial harassment; duress with respect to union membership; and the employer not complying with the Relations Act).

Any notice, as specified in the employment agreement, must be given within the trial period, even if the actual dismissal does not become effective until after the trial period ends. This trial period does not limit the legal rights and obligations of the employer or the employee (including access to mediation services), except as specified in the Employment Act.

## 4 Obligations of the Relationship

### 4.1 Obligations of the Employer

The Employer shall:

- (i) Act as a good Employer in all dealings with the Employee
- (ii) Deal with the Employee and any representative of the Employee in good faith in all aspects of the employment relationship, and
- (iii) Take all practicable steps to provide the Employee with a safe and healthy work environment.

### 4.2 Obligations of the Employee

The Employee shall:

- (i) Comply with all reasonable and lawful instructions provided to them by the Employer
- (ii) Perform their duties with all reasonable skill and diligence
- (iii) Conduct their duties in the best interests of the Employer and the employment relationship
- (iv) Deal with the Employer in good faith in all aspects of the employment relationship
- (v) Comply with all policies and procedures (including any Codes of Conduct) implemented by the Employer from time to time, and
- (vi) Take all practicable steps to perform the job in a way that is safe and healthy for themselves and their fellow employees.

## 5 The Place of Work

### 5.1 Flexible Location

The parties agree that the Employee shall perform their duties at **My Farmhouse Kitchens**, and at any other reasonable location to which they may be directed from time to time by the Employer.

## 6 Hours of Work

### 6.1 Full Time Hours with an obligation to perform overtime as necessary but without extra payment

The Employee's normal hours of work shall be **44 hours** per week, between the hours of **8 am and 8 pm** on **Tuesdays to Saturdays**. The Employee may also be required to perform such overtime as may be reasonably required by the Employer in order for the Employee to properly perform their duties. The Employee's salary fully compensates them for all hours worked.

### 6.2 Variation to Hours of Work

The Employee's hours of work may be varied as follows:

- (i) By mutual agreement between the Employee and the Employer; or
- (ii) If agreement cannot be reached, by the Employer, following consultation with the Employee, provided that the Employee's minimum hours of work are not reduced below **40** hours and that any increase in hours of work is reasonable.

When seeking to vary the Employee's hours, the Employer shall act reasonably, and shall take into account the Employee's personal circumstances and commitments.

## 7 Wages/Salary/Allowances

### 7.1 Wages Paid in accordance with a performance pay process/structure

The parties agree that the Employee's salary shall be determined in accordance with the following breakdown:

**7.1.1** Cover essential costs of production (all official transport and communications)

**7.1.2** Apply 1% of sales revenue as outright monthly pay paid out at the end of 2nd week of every month, and

**7.1.3** Enjoy 20% share of the profits with your sub-team. The organization has five teams: The Corporate, Directorship and Investors, Operations (includes accounts, administration and operations), Business Development (marketing, sales, PR and HR) and Production.

**7.1.4** The Employee's pay shall be paid **twice a month on insert day on which payment**

will be made into a bank account nominated by the Employee.

### **7.2 Bonus at the Employer's Discretion**

The parties agree that the Employee may, at the Employer's sole discretion, be paid a bonus at the end of **six months**.

### **7.3 Payments Recognising Qualifications or Skills Acquired on the Job**

The Employee shall be entitled to receive the following payments, upon achievement of the following qualifications/skills:

**Acquirement of skills that allows the employee to achieve the next standard of performance**

### **7.4 Review**

The Employer agrees to review the Employee's salary/wages on the 12 month anniversary of this employment agreement and every 12 month anniversary thereafter. The parties agree that the Employee shall not have any necessary entitlement to an increase, but, the Employer agrees to conduct this review in good faith and to consult with the Employee during the review.

### **7.5 Reimbursement of Expenses**

The Employee shall be entitled to reimbursement by the Employer of all expenses reasonably and properly incurred by the Employee in the performance of their duties, provided the Employee produces appropriate receipts to the Employer when requesting reimbursement.

## **8 Holidays and Leave Entitlements**

### **8.1 Short Form Clause on Annual Leave which is more favorable than the entitlement in the Holidays Act**

The Employee shall be entitled to paid annual leave as set out in this clause. This clause is in substitution for and not in addition to the entitlements in the Holidays Act:

- (i) The Employee shall be entitled to six weeks annual leave per year;
- (ii) The Employee's entitlement shall accrue on a pro-rata basis during each month of their employment from the first day of their employment.

If the employee leaves their employment before becoming entitled to enough annual holidays to cover the amount of annual holidays they took in advance:

- the employer may recover the amount paid to the employee for holidays taken in advance that is not covered by the employees annual holiday entitlement.

This clause is subject to the Wages Protection Act 1983. The employee's signature will satisfy the written consent requirement of section 5 of the Wages Protection Act 1983.

### **8.2 Payment for work on a Public Holiday**

The employee shall be entitled to be paid for the time actually worked on a Public Holiday at the rate of time and a half of their relevant daily pay, or time and a half of the portion of average daily pay (if applicable) that relates to time actually worked on the day

### **8.3 Sick Leave as set out in the Holidays Act**

The Employee shall, after 6 months employment with the Employer, be entitled to 5 days sick leave for each subsequent 12 month period of service. Sick leave can be taken where the Employee is sick or where the Employee's spouse or a person who is dependent on the Employee is sick or injured.

Sick leave entitlements can be accumulated from year to year up to a maximum entitlement of 20 days.

### **8.4 Medical Certificate Required for Sick Leave**

Where the Employee has taken sick leave and has been absent from work for at least three consecutive calendar days, the Employer shall be entitled to require the employee to provide proof of entitlement to sick leave, at the employee's cost.

The Employer shall also be entitled to require the employee to provide proof of entitlement to sick leave within the three consecutive calendar days, at the employer's cost. The employer will inform the employee as early as possible that such proof will be required and agree to meet any reasonable expenses in getting this proof.

### **8.5 Bereavement Leave as set out in the Holidays Act**

The Employee is entitled after 6 months employment to paid bereavement leave of up to three days in relation to the death of their parent, grandparent, sibling, child, grandchild, spouse, or parent of their spouse.

The Employee is entitled to one days paid bereavement leave if the Employer considers the Employee has suffered a bereavement through the death of another person.

### **8.6 Annual Closedown**

The Employer may closedown all or part of its operations regularly once a year and require the Employee to take leave during the period of the close down, even where this requires the Employee to take leave for which they are not fully reimbursed. The Employer shall provide the Employee with at least 14 days advance notice of the closedown.

## **9 Other Entitlements/Benefits**

### **9.1 Personal Development**

At the completion of each 12 month period of service with the Employer the Employee shall be entitled to **2% of all sales** by way of a grant to attend a course or training which has been approved by the Employer, such approval not to be unreasonably withheld.

## **10 Health and Safety**

### **10.1 General Health and Safety Obligations**

Both the Employer and the Employee shall comply with their obligations under the Health and Safety in Employment Act 1992. This includes the Employer taking all practicable steps to provide the Employee with a healthy and safe working environment. The Employee shall comply with all directions and instructions from the Employer regarding health and safety and shall also take all reasonable steps to ensure that in the performance of their employment they do not undermine their own health and safety or the health and safety of any other person.

### **10.2 Health and Safety Policies**

The Employee shall ensure they are familiar with the Employer's health and safety policies, and any modifications to those policies that may be introduced from time to time.

### **10.3 Medical Examination**

The Employer shall be entitled to require the Employee to undergo a medical examination, at the Employer's cost, by a registered medical practitioner nominated by the Employer.

Such requirement should be used where the Employer has reasonable grounds for concern that the Employee's health is affecting their safety at work, or the safety of others in the workplace.

## **11 Other Employment Obligations**

### **11.1 Confidential Information**

The Employee shall not, whether during the currency of this agreement or after its termination

for whatever reason, use, disclose or distribute to any person or entity, otherwise than as necessary for the proper performance of their duties and responsibilities under this agreement, or as required by law, any confidential information, messages, data or trade secrets acquired by the Employee in the course of performing their services under this agreement. This includes, but is not limited to, information about the Employer's business.

### **11.2 Copyright and other Intellectual Property**

All work produced for the Employer by the Employee under this agreement or otherwise and the right to the copyright and all other intellectual property in all such work is to be the sole property of the Employer.

### **11.3 Conflicts of Interest**

The Employee agrees that there are no contracts, restrictions or other matters which would interfere with their ability to discharge their obligations under this agreement. If, while performing their duties and responsibilities under this agreement, the Employee becomes aware of any potential or actual conflict between their interests and those of the Employer, then the Employee shall immediately inform the Employer. Where the Employer forms the view that such a conflict does or could exist, it may direct the Employee to take action(s) to resolve that conflict, and the Employee shall comply with that instruction. When acting in their capacity as Employee, the Employee shall not, either directly or indirectly, receive or accept for their own benefit or the benefit of any person or entity other than the Employer any gratuity, emolument, or payment of any kind from any person having or intending to have any business with the Employer.

### **11.4 Privacy Obligations**

The Employer and the Employee shall comply with the obligations set out in the Privacy Act 1993. The Employee must not breach the privacy of any customer or client in the course of their employment.

## **12 Restructuring and Redundancy**

### **12.1 Definition of Redundancy**

Redundancy is a situation where the position of employment of an employee is or will become surplus to the requirements of the Employer's business.

### **12.2 Redundancy Process**

In the event the Employer considers that the Employee's position of employment could be affected by redundancy or could be made redundant, the Employer shall, except in exceptional circumstances, consult with the Employee regarding the possibility of redundancy and, before a decision to proceed with redundancy is made, whether there are any alternatives to dismissal (such as redeployment to another role). In the course of this



consultation the Employer shall provide to the Employee sufficient information to enable understanding and meaningful consultation, and shall consider the views of the Employee with an open mind before making a decision as to whether to make the Employee's position of employment redundant. Nothing in this clause limits the legal rights and obligations of the parties.

### **12.3 Notice of Termination due to redundancy**

In the event the Employee's employment is to be terminated by reason of redundancy, the Employee shall be provided with **two month's** notice in writing. This notice is in substitution for and not in addition to the notice set out in the general termination clause.

### **12.4 Compensation - Formula based on years of service**

In the event the Employee's employment is terminated on the basis of redundancy, the Employee shall be entitled to redundancy compensation on the basis of the following formula: **3% of sales after paying out costs.**

### **12.5 Technical Redundancy**

Where the Employee's position of employment is redundant by reason of the sale or outsourcing or merger or transfer of any part of the Employer's business or operations, the Employee shall not be entitled to redundancy compensation if they are offered similar employment by the purchaser, transferee or merged entity, on terms of employment which are no less favourable than the Employee's terms of employment at the time of the sale or outsourcing.

## **13 Termination of Employment**

### **13.1 Termination of trial period**

The employer may terminate the trial period by providing **three day's** notice to the employee within the trial period

### **13.2 General Termination**

The Employer may terminate this agreement for cause, by providing **one month** notice in writing to the Employee. Likewise the Employee is required to give **one month** notice of resignation. The Employer may, at its discretion, pay remuneration in lieu of some or all of this notice period.

### **13.3 Termination for Serious Misconduct**

Notwithstanding any other provision in this agreement, the Employer may terminate this

agreement summarily and without notice for serious misconduct on the part of the Employee. Serious misconduct includes, but is not limited to:

- (i) theft;
- (ii) dishonesty;
- (iii) harassment of a work colleague or customer;
- (iv) serious or repeated failure to follow a reasonable instruction;
- (v) deliberate destruction of any property belonging to the Employer;
- (vi) actions which seriously damage the Employer's reputation.

### **13.4 Suspension**

In the event the Employer wishes to investigate any alleged misconduct, it may, after discussing the proposal of suspension with the Employee, and considering the Employee's views, suspend the Employee on pay whilst the investigation is carried out.

### **13.5 Termination on Medical Grounds**

In the event the Employee has been absent from work for **one week** which should represent an extended break from employment because of illness, the Employer shall be entitled to require the Employee to undergo a medical examination by a registered medical practitioner nominated by the Employer, at the Employer's cost. In assessing the Employee's fitness for work, the Employer shall take into account any report provided as a result of that examination, and any other medical report provided by the Employee within a reasonable time-frame. If, in the reasonable opinion of the Employer, the Employee is incapable of the proper performance of their duties by reason of illness, the Employer may terminate this agreement by the provision of at least **one week** notice.

### **13.6 Abandonment of Employment**

In the event the Employee has been absent from work for three consecutive working days without any notification to the Employer, and the Employer has made reasonable efforts to contact the Employee, this agreement shall automatically terminate on the expiry of the third day without the need for notice of termination of employment.

### **13.7 Obligations of Employee on Termination**

Upon the termination of this agreement for whatever reason, or at any other time if so requested by the Employer, the Employee shall immediately return to the Employer all information, material or property (including but not limited to computer disks, printouts, manuals, reports, letters, memos, plans, diagrams, security cards, keys, and laptop computers) either belonging to or the responsibility of the Employer and all copies of that material, which are in the Employee's possession or under their control.

## **14 Resolving Employment Relationship Problems**

### **14.1 Short Form**

If any employment issues arise, those should be raised with the Employer as soon as possible so that they can be resolved. If the matter is not resolved either party can seek assistance from the Ministry of Business, Innovation & Employment's mediation service. If the issues are not resolved at mediation, they may be referred to the Employment Relations Authority.

If the issue is a personal grievance, the Employee must present that grievance within 90 days of the event giving rise to the grievance, or after further time if allowed by the Employer or where the Employment Relations Authority grants an extension of time.

If the employee's employment agreement contains a trial period clause, they may not raise a personal grievance on the grounds of unjustified dismissal. The employee may raise a personal grievance on other grounds as specified in sections 103(1)b-g of the Employment Relations Act, and in the trial period clause of this agreement.

## **15 Acknowledgement of the Agreement**

### **15.1 Variation of Agreement**

The parties may vary this agreement, provided that no variation shall be effective or binding on either party unless it is in writing and signed by both parties.

### **15.2 Non Assignment by Employee**

The Employee must personally perform the duties and responsibilities under this agreement and no subcontracting or assignment by the Employee is permissible.

### **15.3 Entire Agreement**

Each party acknowledges that this agreement contains the whole and entire agreement between the parties as to the subject matter of this agreement.

### **15.4 Severability**

The various provisions of this agreement are severable and if any provision is held to be invalid or unenforceable by any court of competent jurisdiction, then such invalidity or unenforceability shall not affect the remaining provisions of this agreement.

### **15.5 Deductions from Salary/Wages**

Where requested by the Employee, the Employer shall deduct from their salary/wages any agreed amount for matters such as superannuation, a staff social club or union fees and pay the amount to the organisation specified by the employee. The Employer shall also be entitled to deduct from any salary payment payable upon termination of employment any overpayment

made to the Employee for leave taken in advance.

**15.6 Employee Acknowledgment**

The Employee acknowledges that:

- (i) they have been advised of their right to take independent advice on the terms of this agreement
- (ii) that they have been provided with a reasonable opportunity to take that advice
- (iii) that they have read these terms of employment and understand these terms and their implications, and
- (iv) that they agree to be bound by these terms of employment and the Employer's policies and procedures as implemented by the Employer from time to time.

**16 Declaration**

**16.1 Declaration**

I, **Pinnacle Foods & Hospitality Group**, offer this employment agreement to **Ernest Lesedi N Mosweu**.

**Signed by:**..... **Date:**.....

I, \_\_\_\_\_, declare that I have read and understand the conditions of employment detailed above and accept them fully. I have been advised of the right to seek independent advice in relation to this agreement, and have been allowed reasonable time to do so.

**Signed by:**..... **Date:**.....