

Collective Bargaining Agreement Applicable  
to Contract Employees of Private  
Employment Agencies (“APEs”)

Final Version

COLLECTIVE BARGAINING AGREEMENT APPLICABLE  
TO CONTRACT EMPLOYEES OF PRIVATE  
EMPLOYMENT AGENCIES (“APEs”)

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Parties:

Private employment service providers (“Private Employment Agencies” or “APEs”),

the parties of the first part; and

The most representative union of the aforementioned employees,

the party of the second part.

The above parties have agreed to the following:

Title I: General Provisions

Purpose and Scope of Application

Article 1: This collective bargaining agreement governs the employment relationships between private employment service providers/operators, which are also known as “Private Employment Agencies” (“APEs”), as authorized in the Republic of Djibouti, and the persons employed thereby, so that such persons may be made available permanently or continuously to one or more “user companies.”

It is supplemented by the provisions of Law No. 133/AN/05/5<sup>ème</sup> L of 01/28/2006, corresponding to the Labor Code, as well as Decree No. 2004-0054/PR/MESN, concerning the regulation of Private Employment Agencies.

Termination and Revision

Article 2: Either of the contracting parties may terminate this agreement, in whole or in part, and at any time, by giving at least three months of advance notice.

The party seeking termination, whether in whole or in part, must advise the other contracting party through a certified letter of termination and attach a new, proposed draft agreement, within the aforementioned period of time; otherwise, the termination shall be deemed null and void.

A party may also request total or partial revision, and notice thereof must be given to the signatories of this agreement, attaching a new draft agreement regarding the matters at issue. Discussions must commence during the month following official receipt of the request for revision.

Likewise, a copy of the abovementioned letter must be addressed to the Ministry of Labor and to the Clerk of the Labor Division (*chambre sociale*) of the Court of First Instance.

#### Term of the Agreement

Article 3: This agreement is entered into for an indefinite term. It shall enter into effect from the date on which it is signed.

It shall remain in effect until the implementation, if applicable, of a new agreement that repeals the present agreement.

#### Becoming a Party to the Agreement

Article 4: Any interested employer or professional association/union of employers may later on become a party to this agreement, by giving notice thereof, by certified letter, to the contracting parties; likewise, a copy of said letter must be sent to the Ministry of Labor and to the Clerk of the Labor Division (*chambre sociale*) of the Court of First Instance.

An employer or union of employers that subsequently becomes a party to this agreement may not, however, terminate it or request revisions, even in part. It also may not withdraw as a party hereto.

#### Application of the Agreement and Acquired Advantages

Article 5: Individual employment agreements, regardless of their form, and which are executed after the effective date of this agreement, shall be subject to the provisions hereof, which are deemed to be minimum conditions of employment.

No restrictive clauses may be inserted into said individual agreements.

This agreement shall apply automatically to agreements that are underway, starting from the date on which this agreement goes into effect.

Article 6: This agreement may, under no circumstances, restrict benefits previously acquired by the employees.

#### Title II: Exercising Freedom of Association and Freedom of Thought

Article 7: The right of every employer and employee to associate freely and to act freely, in order to collectively defend their professional interests, is hereby expressly recognized. The contracting parties recognize freedom of thought and the right to freely join and belong to a trade union, as established under Title VII of the Labor Code of 2006.

In order to permit the free exercise of the aforementioned rights, the employer undertakes not to take into consideration the fact of whether or not an employee belongs to a union, nor their political opinions, philosophical opinions and religious convictions, when making decisions on matters such as hiring, the conducting or distribution of work, professional development, progression, promotion, compensation and other conditions of employment, as well as the granting of benefits, discipline, termination of an employment agreement, dismissal or advancement.

Along the same lines, the employees undertake not to take into consideration, during performance of their work, whether or not other employees are members of a particular union.

The employers undertake not to exert any pressure on or coerce their personnel, whether in favor of or against a particular union.

The employees undertake to respect freedom of thought and not to put any pressure tending to interfere with freedom of association within their department.

If one of the contracting parties disputes the reasons for an employee's dismissal, claiming that said dismissal has been carried out in violation of the abovementioned freedom of association, the parties will strive to ascertain the facts and reach, in the event of litigation, an equitable resolution.

This does not preclude the parties from exercising their rights to legally obtain damages for the harm incurred.

#### Exercising Freedom of Association

Article 8: Exercising freedom of association must not result in acts that violate any laws, regulations and practices, including those codified by this agreement.

- i) In order to facilitate the exercise of freedom of association, and provided that this does not prejudice employment operations, compensated leaves of absence, which are not deductible from paid leave, may be agreed upon at regular meetings, for up to a maximum of twelve days per year and benefitting the leaders or members of a union.

The employer may decide to make exceptions to the timeframe stipulated above.

- ii) Leave of absence requests must be filed either by the union or by the specific person, prior to the date scheduled for the absence. A document justifying the length of the absence must be produced by the employee upon his return.

- iii) An employee called upon take part in the work of joint committees, for which the meeting date, the membership and the purpose have been decided by an agreement amongst the interested parties, shall receive leaves of absence in order to sit on said joint commissions, during which he shall be paid as if he were working, within the strict limits of the duration of the work, plus travel time.

When the date of a meeting is fixed, the unions shall be made aware of the names of the participants.

Leaves of absence will be granted, under the same conditions, to employees asked to participate as union representatives in regard to the work of advisory bodies created by virtue of any legislative and regulatory texts, especially including the National Labor, Employment and Professional Development Council, the National Joint Commission on Collective Bargaining Agreements and Wages and the National Commission on Work Safety and Health.

In this case, the summons received by the employee must be provided to the Director of Human Resources or the Personnel Manager, as soon as possible after receipt thereof.

- iv) Bulletin boards reserved for union communications will be installed in each department. These boards must be placed in locations that are easily accessible to personnel, especially at entry and exit doors.

Union communications that are posted on said boards may only pertain to strictly professional matters and shall be brought, two days after the date of posting, to the attention of the Director of Human Resources or the Personnel Manager.

In the event of a dispute, the head of the Personnel Department must bring the matter before the inspector of labor and social legislation for arbitration, with said inspector having a period of 48 hours in order to make a ruling.

#### Union Representatives

Article 9: Union representatives and their alternates are appointed at each establishment included within the scope of this agreement, pursuant to the terms provided for by the legal and regulatory provisions. Union representatives are primarily tasked with collectively representing the employees in all matters related to employment conditions, namely:

- Social welfare;
- Work health and safety; and
- Application of the collective bargaining agreement in effect.

Union representatives are protected in connection with the exercise of their duties, under the conditions laid down in Articles 247 through 253 of the Labor Code of 2006.

An employee's status as a representative may not be an impediment to the improvement of his administrative status (compensation/promotion).

The special protective measures provided for in the event of the dismissal of a representative, under the abovementioned Articles 247 through 253, are extended to candidates presented by the unions, for the period between the filing of the candidacy and the election date.

Such protective measures are also maintained in favor of elected representatives, with it being prohibited for their mandates to be renewed prior to expiration of their terms, or until new elections have been carried out.

### Internal Regulations

Article 10: Internal regulations must be drafted at any public establishment employing at least 20 persons, in accordance with Articles 271 *et seq.* of the Labor Code of 2006.

### Title III. Recruitment and Employment Agreements

#### Recruitment

Article 11: No person may be recruited:

- i) if he is not a citizen of Djibouti, with the exception of foreign employees holding a work permit from the Ministry of Labor;
- ii) if he does not have his civil rights; or
- iii) if he does not meet the physical fitness conditions required for the position.

To this end, the candidate must undergo a medical examination, no later than eight days after being hired, as administered by a doctor approved by the National Social Security Fund (CNSS).

Article 12: Employees shall be recruited individually, pursuant to the labor regulations and laws in effect.

No employment agreement may contain provisions less favorable than those stipulated by law and under this collective bargaining agreement.

The individual hiring of employees may be for a fixed or indefinite term.

#### Employment Agreements

Article 13: In accordance with the provisions of Law No. 133/AN/05/5<sup>ème</sup> L of January 28, 2006, corresponding to the Labor Code, fixed-term employment agreements (CDDs) are limited to a period that shall not exceed, in any case, the total duration of 12 months, being renewable on one occasion.

Such agreements automatically end at the expiration of their terms.

Article 14: If the contractual employment relationship continues after expiration of the term of a fixed-term agreement (CDD), said agreement must necessarily convert into an employment agreement with indefinite duration (CDI).

Article 15: Any person employed under an employment agreement with indefinite duration (CDI) may not return to a fixed-term agreement (CDD) with the same agency, except in the event of dismissal.

Article 16: In the event of the replacement of a private employment agency with another agency, for the purpose of rendering services to a user company, the succession of personnel management between the two agencies must prejudice neither contractual development nor the seniority rights of employees in the service of said user company.

#### Trial Period

Article 17: The final hiring of an employee shall be preceded by a trial period, which must be stipulated in writing. During the trial period, wages must be paid at the rate corresponding to the category for which the employee was hired.

During this period, the agreement may be terminated by either party, without notice or compensation.

At the end of the trial period, and subject to the employee having met all his obligations, said employee shall be confirmed in the position for which he was hired.

#### Termination of the Employment Agreement

##### Dismissals for Economic Reasons

Article 18: Dismissals for economic reasons will be implemented for each department or personnel category, taking into account, in the following order, each employee's professional value, family status and seniority in the department.

Employees dismissed for economic reasons will have hiring priority for one year, counted from the date of dismissal.

However, the employee must advise his employer of any change of address that may take place after his departure from the company.

Prior to making any decision, an employer planning to carry out dismissals for economic reasons shall advise the labor inspector of its intentions.

If personnel reductions appear to an employer to be unavoidable, after consultation with its social partners, the employer must first seek to implement appropriate measures in order to avoid dismissals, or to limit the extent thereof.

## Dismissals for Personal Reasons

Article 19: In the case of dismissals for personal reasons, the dismissal letter must contain the rationale and justification on which the dismissal was based.

### Notification of Termination of the Employment Agreement

Article 20: Any termination of the agreement by one of the parties must be notified to the other party in writing, in a manner that provides certainty as to the date of departure from the company and the advance notice period. Dismissals carried out by the employer for personal reasons shall require 48 hours of notice. Dismissals carried out by the employer for economic reasons shall require 8 days of notice, or 21 days of notice when the planned dismissals involve more than 10 employees. The employer's termination of the agreement must always be justified.

### Prior Notice

Article 21: Should the agreement be terminated, except in cases of gross misconduct or fixed-term agreements, the party seeking to terminate the employment agreement must provide prior notice, in accordance with the following:

- 1) fifteen days for employees paid by the hour;
- 2) one month for employees, workers and laborers paid per month; and
- 3) three months for supervisors, managers and the like.

The party seeking to terminate the agreement must give prior written notice to the other party.

### Internal Promotion

Article 22: In the event of a vacant position, the employer will preferably turn to those of its employees who are capable of filling said position.

If promoted, the employee will undergo a trial period for the position that he has been called upon to fill. If the trial period is not satisfactory, the employee shall be reintegrated into his former position. This reintegration cannot be regarded as a demotion, as compared to the position he occupied before the trial period.

## Title IV: Indemnities and Bonuses

### Indemnity in Lieu of Notice

Article 23: Failure to comply with the advance notice period shall obligate the party failing to give said notice to pay the other party an indemnity equal to the compensation and benefits of all kinds that the employee would have received during the advance notice period that was not implemented.

If the employee, at the time of termination of his agreement, is responsible for an accounting of money or stock, he may not leave his employment without rendering his accounts.

During implementation of the advance notice period, the employee shall be entitled to take time off, for which he shall be paid his full wages, and for an amount of time equivalent to one working day per week, in order to search for new employment. This leave may be taken by day or in blocks at the end of the advance notice period, at the election of the employee, who shall advise the employer of his intentions in a timely manner.

During the advance notice period, whether due to a resignation or dismissal, if, at the request of the employer, the employee does not use all or part of the leave to which he is entitled in order to search for a new job, said employee shall receive, upon his departure, a supplemental indemnity corresponding to the number of hours not used.

In the event of gross misconduct, the agreement may be terminated without advance notice and without compensation. If there is a dispute, a determination as to whether there has been gross misconduct of a professional nature shall, ultimately, be left to the judgment of the competent courts.

In the case of dismissal, an employee who finds a new job may, after having so advised his employer, leave the company before expiration of the advance notice period, without having to pay an indemnity for failure to implement said period.

Either party may be released from the obligation to provide advance notice by paying the other party a compensatory indemnity, the amount of which shall correspond to the compensation and benefits of all kinds from which the employee would have benefited during the advance notice period.

If the agreement is terminated during a period of leave, the compensatory advance notice indemnity shall be doubled.

#### Dismissal Indemnities

Article 24: In the event of dismissal, an employee who has completed at least one year of continuous employment with the company shall be entitled to a dismissal indemnity, which is distinct from the advance notice indemnity.

This indemnity is composed, for each year continuously spent with the company, by a determined percentage of the overall average monthly wage for the last twelve months of actually paid-for activity, including the cash value of benefits in kind and regular overtime, within the framework of the normal working hours of the company.

The percentages are fixed as follows:

- 20% for the first five years;
- 30% for the period between the sixth and tenth years (inclusive); and
- 40% for the period extending beyond the tenth year.

The amount of this indemnity, however, shall not exceed twelve times the overall average monthly wage.

This compensation shall not be due if the dismissal was motivated by that which is characterized as gross misconduct.

#### Resignation Indemnity

Article 25: In the event of the resignation of an employee who has been with the company for more than 10 years, after complying with the regulatory advance notice period, he shall be paid an indemnity corresponding to credited service, in accordance with the provisions listed below:

Per year and up to the tenth year (inclusive):

- 25% for the first five years; and

Per year, starting from the eleventh year:

- 30% of his wages; and

- 40% for the period extending beyond the tenth year.

The amount of this indemnity, however, shall not exceed twelve times the overall average monthly wage.

#### Retirement Indemnities

Article 26: In the case of a forced retirement, the dismissal indemnity shall become a retirement indemnity granted to the employee.

#### Meal Allowance

Article 27: In the event of an express extension of the duration of the work, due to the needs of the department, for employees operating in shifts, the employer must provide meals.

#### Supplemental Pay for Overtime and Holidays

Article 28: Supplemental pay for overtime shall be provided in accordance with the employment regulations in effect.

Supplemental pay corresponding to hours worked on holidays, non-working days, paid days and weekly rest days shall be as follows:

- 8 hours paid holidays + 8 hours worked, supplemented by 50% for daytime hours; and

- 8 hours paid holidays + 8 hours worked, supplemented by 150% for nighttime hours.

#### Temporary Displacement Indemnities

Article 29: An employee who undergoes a displacement for employment reasons, without this giving rise to a transfer, shall be entitled to free transportation by the means chosen by the employer, as well as free shipping of the luggage required by virtue of his displacement.

#### Indemnity for Displacement Outside of Djiboutian Territory

Article 30: Employees required to work outside of Djiboutian territory shall be entitled to a travel indemnity, in addition to said employee's transportation costs, for which the employer will be responsible.

#### Seniority Bonus

Article 31: Employee shall receive a seniority bonus after two years of employment. The rate of this bonus, which is payable for each year of actual employment, is fixed as follows:

- 4% for every two years of service after the second year, up to a maximum of 52%.

#### Leave

Article 32: Employees shall accrue paid leave, at the cost of the employer, at the rate of two and a half working days of leave per month of actual employment.

#### Special Leave

Article 33: Employees shall be granted special leave, which is not deductible from their annual leave, for the following family events:

- a) 3 days for the marriage of the employee;
- b) 1 day for the marriage of a child;
- c) 3 days for the death of a spouse, child, father or mother;
- d) 3 days for the death of a brother or sister;
- e) 3 days for the death of a father-in-law or mother-in-law; and
- f) 3 days for the birth of a child, in the form of paternity leave.

Within the limits of the company's employment needs, special leave due to family events directly affecting the employee may be granted without the withholding of pay, for up to 16 days per calendar year, upon presentation of civil status documents and under the conditions indicated below.

If the event occurs outside the place of employment and requires the employee's displacement, the above timeframes may be extended, with the consent of both parties. This extension will not be compensated, and the displacement expenses shall borne by the employee.

In the cases of deaths under the preceding paragraph, or the birth of a child, the employee must advise the employer of the reason for his absence, at the latest within 24 hours following cessation of his work; failure to do this will be punishable. In all other cases, the employee shall provide 48 hours of advance notice.

#### Wages of Young Employees

Article 34: The wages of young employees (aged 16 to 18) may never undergo professional downgrades or reductions, on the basis of age.

Young employees (aged 16 to 18) have the same rights as the other employees in their professional category.

#### Disciplinary Sanctions

Article 35: Sanctions may be assessed against personnel for misconduct committed during employment, being classified as follows, depending on the seriousness of the misconduct:

- Warning;
- Reprimand;
- Unpaid suspension; and
- Dismissal.

These sanctions shall be decided upon by the employer.

#### Obligations of the Employees

Article 36: Employees owes all their professional activity to the employer. It is forbidden, on pain of dismissal for gross misconduct, for an employee to perform, outside of his work, any activity with a professional character, unless so authorized in writing by the employer. It is forbidden, under the same penalty, for an employee to disclose or use, for his own benefit or that of a third party, any information acquired in the course of his duties.

#### Joint Commission

Article 37: A joint interpretative and conciliatory committee is hereby established, being responsible for seeking the amicable resolution of disputes (except for individual conflicts) that may arise in regard to the interpretation and application of this agreement, as well as its annexes and amendments. The composition of the committee shall be as follows:

- 2 employer representatives;
- 2 union representatives; and
- A representative from the Ministry of Labor, who shall chair the meetings.

When the employer wishes to bring a matter before the commission, it shall give advance notice to the union.

Meetings shall be held, at the behest of the Ministry of Labor charged with Administrative Reform, in the shortest possible amount of time and, at the latest, within one month following receipt of the request.

Where the commission issues a unanimous opinion, the text thereof, as signed by each member, shall have the same legal effect as the provisions of this agreement.

Such an opinion shall be filed by either party with the Ministry of Labor charged with Administrative Reform.

Disciplinary Committee

Article 38: A disciplinary committee is hereby established, being responsible for deciding what sanctions shall be imposed on employees who commit misconduct, other than gross misconduct. This commission shall be composed of the following persons:

- 2 employer representatives; and
- 2 union representatives.

Article 39: This agreement shall take effect on the date of its signature.

Done in Djibouti, February 3, 2016.

For the APEs  
Mr. HOUSSEIN MAHAMOUD ROBLEH  
*Representative unanimously designated  
by the Private Employment Agencies*  
[Stamp and signature]

For the Employees  
Mr. ABDOURAHMAN IBRAHIM BAHDON  
*President of the most  
representative union*  
[Stamp and signature]

Inspector of Labor and Social Legislation  
Ms. KOINA OMAR DAHELO  
[Stamp and signature]