

PRODUCT DESCRIPTION: FIXED-TERM EMPLOYMENT

This contract should be used sparingly. Fixed-term employment agreement is a highly specialized form since it lies more on the exception than the rule.

This means that when there is doubt as to propriety on the use of this agreement, it shall be resolved by labor authorities in favor of employees. For instance, as between the claim that the employee is fixed-term and regular, the labor tribunal will most likely rule that the employee is regular if there is doubt in the terms used in the agreement.

The sample template here minimizes if not eliminates doubts since this was crafted in accordance with the legal requirements.

Our jurisprudence had likewise settled the legitimacy of fixed-term employment. In the landmark case of *Brent School, Inc. v. Zamora* (260 Phil. 747, 756-757, 763-764 (1990).) the Supreme Court held that regular employment rules have no application to fixed-term employment. The latter is a relationship where a fixed period of employment was agreed upon knowingly and voluntarily by the parties, without any force, duress or improper pressure being brought to bear upon the employee and absent any other circumstances vitiating his consent, or where it satisfactorily appears that the employer and employee dealt with each other on more or less equal terms with no moral dominance whatever being exercised by the former over the latter.

The Court laid down the following indicators under which fixed-term employment could not be construed as a circumvention of the law on security of tenure:

(a) The fixed period of employment was knowingly and voluntarily agreed upon by the parties without any force, duress, or improper pressure being brought to bear upon the employee and absent any other circumstances vitiating his consent; or

(b) It satisfactorily appears that the employer and the employee dealt with each other on more or less equal terms with no moral dominance exercised by the former or the latter. (*OKS Designtech, Inc. vs. Caccam, G.R. No. 211263, August 05, 2015*).

Thus, following the above rules, the fixed-term agreement is best for instances where the regular employee has gone on maternity leave. This indicates the replacement as temporary in nature since after the maternity the employee returns to work. The company cannot afford to have two regular employees for the same post. This is the reason why fixed-term contract is the best to use here.

It also applies to similar circumstances where temporary assumption of duties of a regular position is necessary. It is much safer not to extend if the term has arrived since this form of contract should strictly follow the rules.

In the template, the following are indicated:

1. Parties to the agreement;
2. Whereas clauses;
 - a. Term
 - b. Duration
 - c. Voluntariness
3. Commencement Clause
4. Just and Authorized cause for dismissal or termination
5. Place of posting
6. Duties and responsibilities
7. Compensation and benefits

8. Consent under Data Privacy Law
9. Signature
10. Acknowledgment