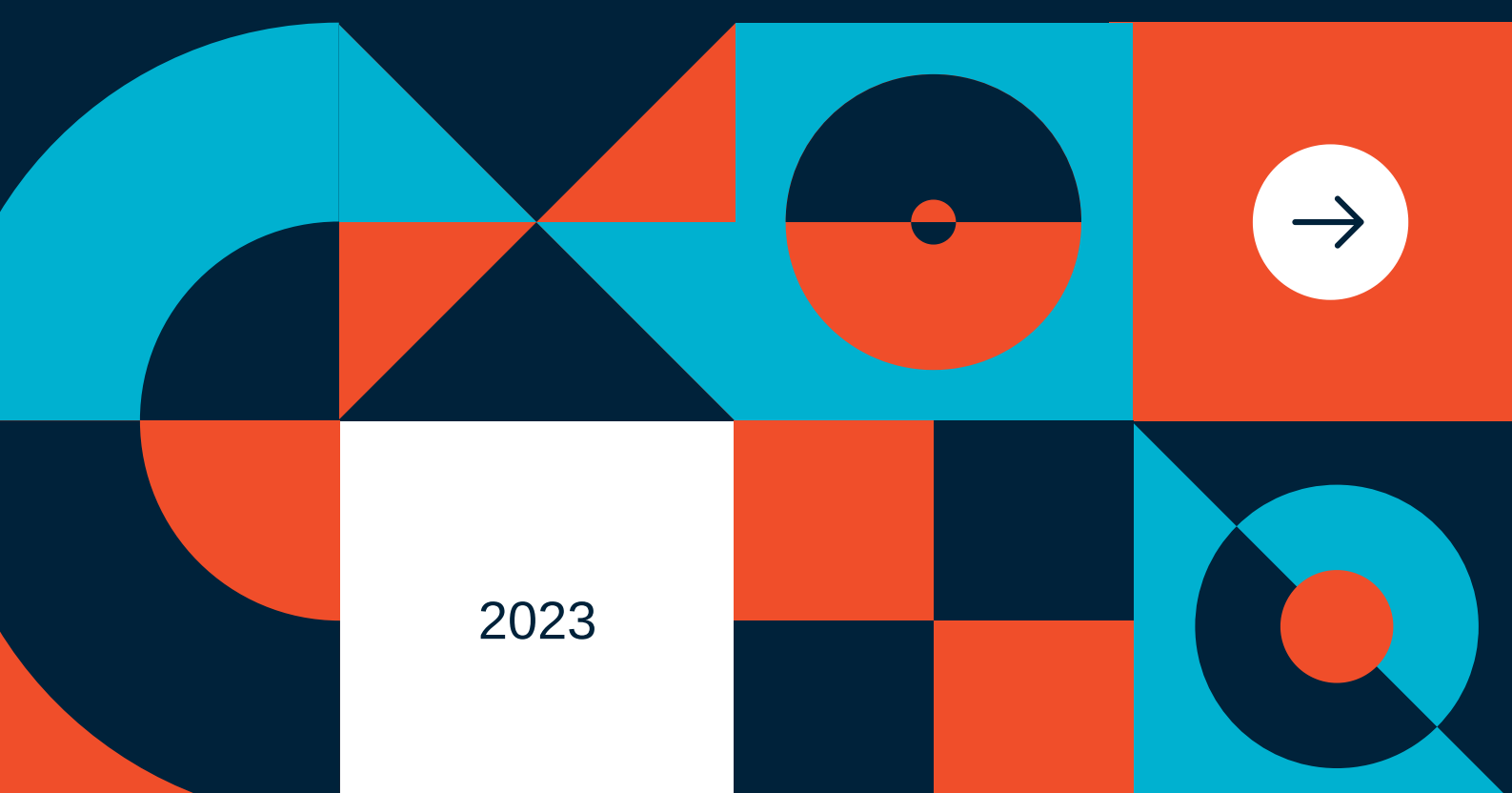




Employment Contracts

Bridging Jurisdictions. Unifying Practices.
Advancing Your Global Employment Standards



2023

Understanding the Basics

Employment Contracts Across Jurisdictions

An employment contract is a legally binding agreement between an employer and an employee that stipulates the rights, responsibilities, and obligations of both parties. The basic elements of employment contracts include job title, job description, salary or wages, working hours, duration of the contract, probation period, notice period, and conditions for termination.

In an international employment context, contracts need to account for the legal requirements of the host country while being globally coherent. This includes understanding jurisdictional rules, choice of law, translation needs, and cultural sensitivities that may influence the interpretation and execution of the contract.



Essential Components of an Employment Contract



Identification Details

Includes the name and address of both the employer and employee.



Position

Specifies the job title of the employee.



Work Schedule

States the hours of work required from the employee.



Compensation

Outlines payment frequency (such as weekly or monthly) and the rate of pay, along with any provisions for salary reviews.



Probation

Contains information regarding the probation period, if applicable.



Conduct Policies

Describes the disciplinary and grievance procedures in place.



Start Date

Details the employee's start date and the date of continuous employment.



Duties

Describes the roles and responsibilities attached to the position.



Workplace

Indicates the location or locations where the work will be performed.



Leave Allowances

Provides information on holiday and leave entitlements, public holidays, and related PTO (Paid Time Off).



Termination

Details the notice periods required from either party to end the employment, grounds for termination, severance pay.



Additional Perks

Mentions any other benefits offered by the employer.

Types of Employment

Contracts

1 Full-Time Contract

An agreement that obligates an employee to work full-time, typically 35-40 hours per week. It guarantees a steady income and statutory or other benefits.

2 Fixed-Term Contract

Designed for temporary staffing needs, this contract stipulates a specified end date. It's often used for project-based work, maternity leave coverage, long-term absence coverage, or other temporary needs.

3 Part-Time Contract

Outlines a work agreement for less than full-time hours, with the employee's entitlements typically pro-rated to reflect those of a full-time employee.

4 Zero-Hours Contract

Provides maximum flexibility for employers, with no minimum guaranteed hours. The employee works "as and when" required, often filling in for unexpected staffing needs or surges in demand.

5 Indefinite Term Contract

This contract type doesn't include a defined end date. Instead, the employment continues until either the employer or employee decides to end the relationship, typically through a notice period. It's often used for long-term, permanent roles.

Language and Jurisdictional Compliance

Language and jurisdiction are critical components of an international employment contract.

The contract should specify the prevailing language, which is the language used for legal interpretation. While a contract might be translated into multiple languages for better understanding, it should be explicitly stated that in case of inconsistencies, the version in the prevailing language will govern.

The jurisdiction clause identifies the country's legal system that will be applied in interpreting the contract and managing disputes. This is crucial for multinational companies operating across various territories as different countries may have varying laws regarding employment.

01

*Lost in Translation:
Overcoming
Language
Barriers and
Jurisdictional
Hurdles in
Employment
Contracts*



Avoiding Discrimination

Ensuring Equal Opportunity

Inclusive hiring practices and promoting equal opportunities should be a priority for all global employers. Your contracts should not contain clauses that could be interpreted as discriminatory based on race, gender, age, religion, or any other protected characteristic. Promoting equality goes beyond non-discrimination.

It includes providing equal opportunities in terms of promotions, skill development, training opportunities, and fair wages. Consider including an equal opportunity clause in your contract to demonstrate your commitment to a diverse and inclusive workplace.

02

*Creating a Fair
Workplace:
Preventing
Discrimination
and Promoting
Equality in
Employment
Contracts*



Payroll and Compensation Compliance

03

Compensation is a significant part of an employment contract. It should comply with the minimum wage requirements of the host country and should consider the cost of living and market standards.

Clearly define the frequency of payment (monthly, bi-weekly, etc.) and the method of payment (bank transfer, check, etc.) following the host laws.

The contract should also detail overtime pay rates, bonuses, and any other allowances or benefits, ensuring that these adhere to the host country's laws and regulations.

*More than Just a Paycheck:
Navigating Payroll and Compensation Laws in Global Contracts*



Incorporating Statutory Benefits in Contracts

04



Statutory benefits are those required by law, which can vary significantly between countries. This may include health insurance, unemployment insurance, employee's compensation, and paid time off.

Always stay updated on the host country's laws regarding these benefits and make sure they are incorporated into the contract.

Regular updates to the contract may be needed based on changes in these laws.



Intellectual Property Rights and Confidentiality

05

Intellectual Property (IP) rights and confidentiality are particularly important in employment contracts to protect business interests.

Ensure to include clauses that clearly define the ownership of work products, inventions, and designs created by the employee during their employment. Different jurisdictions have various laws concerning IP rights, so the employment contract should align with these laws.

Confidentiality clauses should also be detailed to protect sensitive business information and data. These clauses should specify what is deemed as confidential information, and the employee's obligations to protect such information during and after their employment period.

*Guarding
Secrets,
Protecting Ideas:
Addressing
Intellectual
Property and
Confidentiality in
Employment
Contracts*



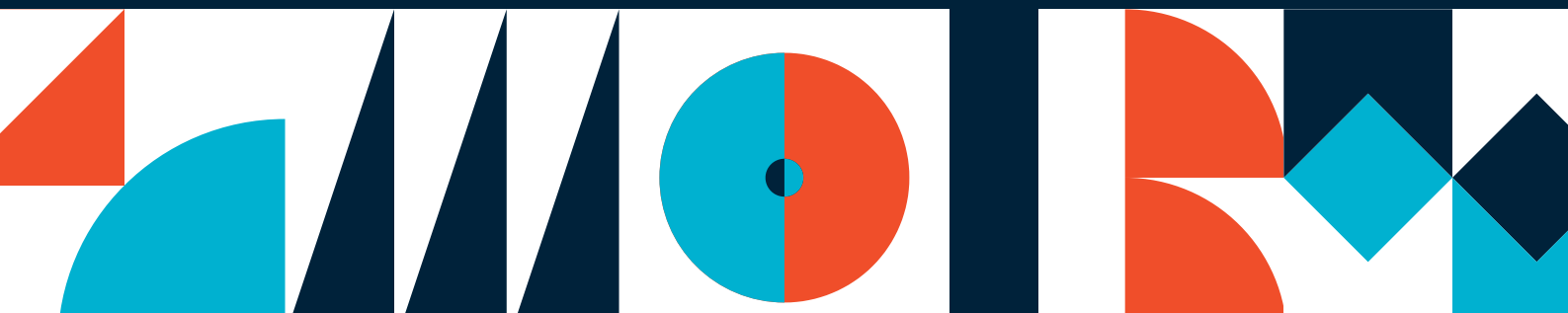
Crafting Compliant Non-Compete Clauses

06

Non-compete clauses are used to prevent employees from entering into competition with the employer during or after their employment. However, these clauses should be reasonable and not overly restrictive.

Include specific details such as the duration of the non-compete, industry or the geographical area it covers, and what exactly constitutes competition.

Always ensure that the restrictions are reasonable and proportionate to protect the legitimate business interests, without overly restraining the employee's right to earn a livelihood.



Incorporating Remote Work Provisions

07

*Working
Anywhere,
Compliant
Everywhere:
Addressing
Remote Work
Provisions in
Global Contracts*

With the rise of remote work, it's essential to include provisions for remote workers in your employment contracts. These provisions might include work hours, communication expectations, provision of equipment, access to corporate communications systems, reimbursement of expenses, and data security measures.

Make sure to understand the legal implications of remote work in each jurisdiction. For example, if a remote employee works from a different country than the company's location, this could potentially create a permanent establishment, with associated tax and legal implications.



Drafting Compliant Termination Procedures

08

Termination procedures should be clearly defined in an employment contract. This typically includes the notice period required, grounds for termination, early termination provisions, and any severance pay conditions.

To prevent unlawful dismissal claims, it's crucial that employers understand the employment laws of the host country, including employee protections and dismissal procedures.

Provisions such as summary dismissal for serious misconduct, termination on notice, or termination for redundancy should be handled carefully to avoid potential legal issues.



Collective Agreements: Balancing Interests

Collective agreements, established between labour unions and employers, outline employment terms for groups of employees. They play a significant role in various jurisdictions, impacting wages, work hours, working conditions, and dispute resolution methods.

09



Collective Agreements

Collective agreements are crucial in many jurisdictions around the world. They outline agreed-upon terms between an employer and a group of employees, typically represented by a union or labour organisation. These agreements might cover wages, working hours and conditions, dispute resolution mechanisms, etc.



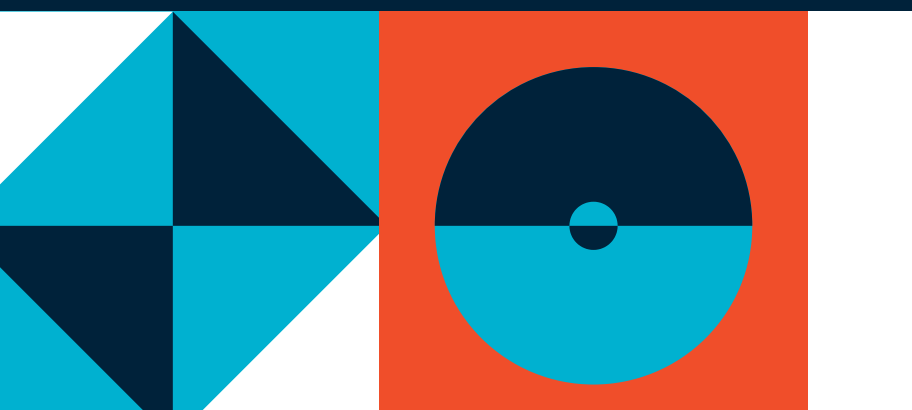
Global Variance

While collective agreements are legally binding in some countries, they serve as guidelines in others.



Impact on Employment Contracts

Collective agreements often override individual employment contracts. Employers must ensure their contracts align with relevant collective agreements to avoid legal complications.



Restrictive Covenants

Guarding Your Business Assets

In crafting employment contracts, restrictive covenants are essential. These protect your company's assets when the employment ends, securing confidentiality, preventing employee poaching, and curbing client solicitation. However, clear drafting and knowledge of local laws are vital to ensure their enforceability. This section outlines common types of restrictive covenants, serving as a guide for effective and compliant global employment contract drafting

Confidentiality

Protects company trade secrets and novel development ideas.

Non-Solicitation

Prohibits the employee from approaching the employer's current or potential clients.

Non-Competition

Restricts the employee from engaging in similar business activities independently or with a competitor.

Non-Poaching

Prevents the employee from enticing colleagues away from the employer.

Non-Disparagement

Prohibits the employee from making statements that could harm the reputation of the employer, its products/services, or employees.

Intellectual Property

Ensures that creations, inventions, or ideas developed by the employee during employment belong to the employer.

Non-Disclosure

Prevents the employee from sharing any confidential information they learn during their employment, beyond just trade secrets.

Non-Contact

Prevents the employee from having any contact with clients or customers of the employer for a set period after the termination of their employment.

Non-Deal

Prohibits the employee from conducting business with the employer's clients, customers, or contacts, even if the employee didn't initiate the contact.

Best Practices to Avoid Employee Misclassification



Define the Relationship

Clearly state the nature of the employment relationship in the contract. If the person is an employee, mention it explicitly. This helps set clear expectations for both parties right from the start.



Set the Right Level of Control

Distinguish between employees and contractors based on control over tasks. Employees follow employer guidance on work specifics, while contractors work more autonomously. Avoid over-controlling contractors.



Describe Job Duties

Detailed job descriptions help clarify the role and responsibilities of the worker, adding another layer of clarity to the nature of the relationship.



Set Payment Terms

Employees earn salaries or wages, while contractors get project-based fees. Align payment terms in the contract with the intended work relationship.



Outline Benefits

Only employees typically receive benefits like health insurance, retirement contributions, and paid leave. Offering such benefits signifies an employment relationship.



Assess Relationship Duration

Employees are usually hired indefinitely, while contractors are engaged for specific projects or periods. Use this to guide worker classification.



Seek Legal Counsel

Mitigate misclassification risk by consulting with employment law experts or partnering with a Global Employer of Record, knowledgeable in local labor laws.



Conduct Regular Reviews

Periodically audit employment practices and contracts to match current relationships. This helps promptly identify and correct misclassifications, minimising legal risks and penalties."

Best Practices to Avoid Permanent Establishment Risk

1 Understand the Local Tax Laws

Permanent Establishment rules vary by country, so it's important to understand the specific tax laws and treaties of the country where your employees are located. Some countries consider the presence of a remote worker as creating a PE, while others do not.

2 Control and Supervision

If the employee has the authority to conclude contracts or carry out significant business decisions on behalf of the company in a foreign country, this may create a PE. Therefore, limit such powers in the employment contract where necessary.

3 Workplace Specifications

Clearly specify in the contract where the employee is expected to work. If they are allowed to work remotely, make sure it's clear that they are not establishing a fixed place of business for the company.

4 Limit Duration of Stay

In some jurisdictions, a PE can be created if an employee stays beyond a certain duration (often over 180 days in a 12-month period). Be aware of these thresholds and structure the employment accordingly.

5 Nature of Work

The nature of the employee's work can impact PE risk. Employees performing auxiliary or preparatory activities typically pose less PE risk than those carrying out the core business operations.

6 PE Language

Do not include language in the contract that might suggest the employee's home or remote workplace is a place of business for the company that can trigger PE risk.

7 Partner with a Global EOR

Partnering with a Global Employer of Record can help manage PE risk. As the legal employer, the Global EOR mitigates the risk of creating a PE as the employee will not be directly employed by the foreign company.

Why Us

- **1 Global Coverage**

With a reach across 190 countries, Acumen International simplifies employing and managing a global workforce.
- **2 Compliance Expertise**

Acumen International ensures 100% adherence to local labor laws, safeguarding you from fines, legal issues, and reputational harm.
- **3 Efficient Onboarding**

Acumen streamlines international onboarding, boosting employee satisfaction and productivity.
- **4 Risk Management**

Acumen International handles the complexities of international contracts, reducing your business risks and letting you focus on core objectives.
- **5 Cost Savings**

Acumen offers a cost-effective approach to global employment, eliminating the need for legal entities in each country and saving resources.
- **6 Ongoing Support**

Acumen International provides continuous support, managing global payroll, benefits, contract renewals, terminations, and regulatory compliance.
- **7 Scalable Solutions**

Acumen International provides flexible, scalable employment solutions to accommodate your business's growth, alleviating administrative burdens.

Amplify Global Success with Us

In the fast-paced world of global employment, complexity meets diversity head-on. To successfully navigate this landscape, a reliable partner is indispensable. As a leading Global Employer of Record, Acumen International turns these complexities into opportunities, helping your business transcend borders with confidence.

Expertly navigating labour, tax, and immigration laws across 190 jurisdictions, we ensure your global employment contracts align with the highest standards of compliance, safeguarding your business against unnecessary risks. By meticulously handling every facet of your international employment contracts, we empower you to focus on what matters most—your core business goals.

Acumen International is not just about contractual accuracy; it's about elevating your global employment experience. Choose us as your trusted partner, and let's together redefine success in the global market.

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