

Date 27 May 2022

Purple Nike co Pty. Ltd.

Contract of Employment

of

Marie Kyle

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The Parties

Purple Nike co Pty. Ltd. (ACN: 143 526 096) of 56 George Street, Parramatta, NSW 2150 (the "Employer")

and

Marie Kyle of 56 George Street, Parramatta, NSW 2150 (the "Employee")

Background

A The Employer is to employ the Employee on the terms set out in this Contract.

Operative terms

Your title and your Line Manager

1 You are employed as manager. Your Line Manager is the Director, or any other person your Employer nominates from time to time.

Your job description

2 Your Job Description sets out your role. The Job Description is attached at the back of this document. However, from time to time, your Employer may also require you to carry out additional or alternative duties to your normal job. If your Job Description, duties or reporting structure changes, this Contract will continue to apply to your employment unless you and your Employer:

- 2.1 enter a new written employment agreement; or
- 2.2 vary this Contract in writing.

Your duties

3 You must:

- 3.1 lawfully perform the Duties to your Employer's satisfaction;
- 3.2 devote your whole time and attention to the Duties assigned to you during normal business hours and any additional hours needed for the performance of those duties;
- 3.3 be accountable to your Employer and carry out all lawful directions of your Employer;
- 3.4 try to promote and develop your Employer's organisation and interests at all times;
- 3.5 always follow your Employer's rules, policies and procedures as in force; and
- 3.6 always act with consideration for the needs of your colleagues and of your Employer's customers.

4 You agree that the terms of any of your Employer's rules, Policies and procedures are not incorporated as terms of this Contract. However, you must abide by them because they are lawful and reasonable directions of your Employer.

Limit on your authority

- 5 You do not have authority to enter into any contracts or agreements on your Employer's behalf — unless your Employer has given you relevant authority in advance.

Pre-employment conditions

- 6 The Employer's offer of employment to you is subject to the following conditions:
- 6.1 you providing certified copies of all documents relating to your skills, qualifications, memberships, registrations and/or licences, as required by the Employer;
 - 6.2 the Employer being satisfied with all background checks (which may include reference checks with previous employers, academic qualification checks and police record checks) relating to you; and
 - 6.3 if required by the Employer, you providing proof to the Employer that you hold all visas and meet the immigration requirements necessary to work in Australia.
- 7 If you do not meet the conditions in clause 6, to the Employer's satisfaction by the Commencement Date:
- 7.1 the Employer's offer of employment lapses; or
 - 7.2 if the Employer's offer of employment has been accepted, this Contract of Employment may be terminated by the Employer with immediate effect, including after the Commencement Date, without any liability to the Employer for payment or compensation to you.

Commencement and term

- 8 Your employment commences on the Commencement Date and continues until the employment is terminated in accordance with this Contract.
- 9 The terms of this Contract apply to your employment on and from the Commencement Date.

Your normal working hours

- 10 Subject to any applicable Industrial Instrument, you will be required to work 38 hours per week averaged over the maximum period permitted by law, plus reasonable additional hours as required by your Employer without additional remuneration.
- 11 Because of the nature of your position, you acknowledge and agree that any additional hours that you are required to work in excess of 38 hours per week are reasonable so far as they are necessary for the full and proper performance of your duties under this agreement. Your Total Remuneration includes all payment for any reasonable additional hours worked.

Your normal place of work

- 12 Your normal place of work will be at 56 George Street, Parramatta, NSW 2150.
- 13 You will not normally be expected to travel in Australia and overseas to perform your Duties.

Relocation

- 14 Your Employer may need to alter your normal place of work to suit its business needs. It agrees to discuss any significant change with you. It may request you to relocate residence if doing so is necessary for you to perform your duties.
- 15 Your Employer agrees to pay any reasonable expenses associated with any relocation as long as those costs are agreed to before they are incurred.

Your pay

- 16 Your total remuneration will be \$10000 a year exclusive of superannuation, less applicable tax, or as set out in the applicable Industrial Agreement, whichever is higher (**Total Remuneration**). You will be paid in advance every month into the bank account nominated by you.

Superannuation

- 17 In addition to the Total Remuneration, your Employer will make the minimum contributions it is required to make in order to avoid a charge under the Superannuation Guarantee Legislation.
- 18 Subject to applicable law, your Employer will make superannuation contributions into an eligible fund of your choice. If you do not nominate an eligible superannuation fund, then your Employer will pay the Superannuation on your behalf to 100.

Expenses

- 19 Your Employer will reimburse you for any reasonable and necessary out-of-pocket expenses you spend in carrying out your duties — as long as:
 - 19.1 your Employer has authorised you to incur the expense;
 - 19.2 you have complied with your Employer's requirements for incurring the expenses; and
 - 19.3 you produce evidence of the expenses in a form your Employer requires.

Leave

- 20 You are entitled to:
 - 20.1 annual leave, personal/carer's leave, compassionate leave, parental leave, family and domestic violence leave, community service leave and public holidays in accordance with the Fair Work Legislation and applicable laws; and
 - 20.2 long service leave under the law applying in the state or territory in which you are employed.
- 21 Annual leave and personal/carer's leave will accrue on a pro rata basis.

Public holidays

- 22 You are entitled to public holidays in accordance with the declared public holidays in the State or Territory in which you are employed.
- 23 Your Employer may request you to work on a public holiday, and you must work unless the refusal to work is on reasonable grounds under applicable laws.

Shut-down periods — compulsory annual leave

- 24 To the extent permitted by law, your Employer may require you to take annual leave at certain times if the requirement is reasonable and complies with the Fair Work Legislation and any applicable Industrial Instruments. The annual leave you take will be deducted from your annual leave entitlement set out in clause 20.

Parental leave

- 25 You are entitled to unpaid parental leave in accordance with the Fair Work Legislation. You are entitled to paid parental leave in accordance with the Paid Parental Leave Act 2010 or any equivalent legislation, as replaced or amended.

Your leave entitlements

- 26 The leave entitlements in clause 20 are subject to the notice and evidence requirements of the Fair Work Legislation and any applicable Industrial Instruments.
- 27 You may be entitled to additional leave in accordance with an applicable Industrial Instrument.

Medical Assessment

- 28 Your Employer may require you to be examined or assessed by a medical practitioner who is nominated and paid for by your Employer. You must comply with any reasonable directions in relation to any examination or assessment.
- 29 You authorise the medical practitioner to provide a written report of the examination to your Employer.

Limit on your other employment or activity

- 30 During your employment, you must not without first having your Employer's written approval, engage in:
- 30.1 any other business or employment; or,
 - 30.2 any activity that conflicts or is likely to conflict with the interests of your Employer, the requirements of your position or the ability to perform your duties.
- 31 Your Employer will not consent to you doing the other work under clause 30 if the other work is likely:
- 31.1 to have an adverse effect on your ability to do your job for your Employer.
 - 31.2 to bring your Employer into disrepute.

Preserving confidentiality

- 32 During your employment, you will have access to and be trusted with information about your Employer's organisation and about its dealings, transactions, finances, technology, products and affairs. All of this information is, or may be, Confidential Information — as defined in clause 76.
- 33 Both during and after your employment (except in the proper course of performing your Duties as permitted or required by your Employer), you:

- 33.1 must not reveal to any person or entity external to your Employer any Confidential Information;
 - 33.2 must not seek to exploit or make use of any Confidential Information; and
 - 33.3 must not copy the Confidential Information other than in the course of your employment without the written approval of your Employer.
- 34 Both during and after your employment, you must use your best endeavours to keep secure and prevent the disclosure of Confidential Information in your possession, power or control.
- 35 Your obligations in clauses 33 and 34 survive your termination of employment. Your Employer may enforce them at any time.
- 36 Your obligations in clauses 33 and 34 do not apply to information or knowledge which is, or which becomes, available to the public — unless it does so as a result of any act or omission by you.

Privacy

- 37 During your employment, you agree not to:
- 37.1 collect personal information from other people; or to
 - 37.2 use or reveal personal information you have gained about other people, unless doing so is in accordance with applicable privacy laws and your Employer's policies and is either:
 - 37.3 necessary to perform the Employee's Duties; or
 - 37.4 authorised by your Employer.
- 38 You agree that to the extent permitted, and in the way allowed, by law, your Employer may monitor your use of its communication systems (including telephone, facsimile, email and the internet) and agree that your use of that system is not private.

Copyright and intellectual property rights

- 39 During your employment, you will be dealing with confidential information, designs, ideas, processes and property which is, or may be Intellectual Property (as defined by clause 76).
- 40 While you are employed by your Employer, if you (alone or with others) create, write or design any Intellectual Property in connection with your Duties, then you agree to assign all of your rights and interests in that property to your Employer.
- 41 If you create the Intellectual Property outside normal business hours or using other premises or equipment, then clause 40 continues to apply in full.
- 42 However, clause 40 will not apply to works that you have created, conceived, written or designed outside your normal working hours if they are wholly unconnected with your employment.
- 43 You agree to take all steps necessary or appropriate and to co-operate fully with your employer to give effect to clause 40.

Moral rights

- 44 You acknowledge that under Part IX of the *Copyright Act 1968* you hold moral rights in any original work which you have created, conceived or designed including:

- 44.1 the right to retain credit for creating the work;
 - 44.2 the right not to have the work credited by some other party; and
 - 44.3 the right to integrity of authorship – that is, not to have the work subjected to derogatory treatment.
- 45 You agree to any steps your Employer takes, or fails to take that infringe on your moral rights granted to you under Part IX of the *Copyright Act* for any Works created during your employment.
- 46 You agree that:
- 46.1 you understand the legal significance of giving this consent;
 - 46.2 you freely and genuinely give your consent; and
 - 46.3 you have not been misled by any other statement inconsistent with clauses 44 and 45.

Your health and safety

- 47 Your Employer will endeavour to take reasonable steps to ensure your health safety and welfare while you are at work. You must take reasonable care of your own health and safety and take care not to adversely affect the health and safety of others.
- 48 You must familiarise yourself with and comply with your Employer's policies and procedures relating to health and safety.

You resigning

- 49 If you want to resign from your employment, then you need to give your Employer 15 days' notice in writing.
- 50 Your employer may pay you in lieu of notice for all or any part of the notice period.

Termination

- 51 Your Employer may terminate your employment by giving you the longer of, the written notice for the period required by any applicable Industrial Instrument or the written notice required under the National Employment Standards as shown in this table:

Employee's period of continuous service with the employer at the end of the day that notice is given	Period
Not more than a year	One Week
More than one year but less than three years	Two Weeks
More than three years but less than five years	Three Weeks
More than five years	Four Weeks

- 51.1 If you are over 45 and have completed two years of continuous service, then under the Fair Work Legislation, you will be entitled to an additional week of notice.

Employer may pay you in lieu of notice

- 52 Your Employer may pay you a sum in lieu of notice for all or any part of the notice period.
- 53 The sum paid will be calculated at your full rate of pay for the hours you would have worked had your employment continued until the end of the notice period.

Termination without notice

- 54 Your Employer may also terminate your employment immediately without either notice or a payment in lieu of notice if:
 - 54.1 you are charged with or found guilty of having committed any criminal offence which in the reasonable opinion of your Employer may bring your Employer into disrepute or seriously impair your ability to carry out your Duties; or
 - 54.2 you are negligent in carrying out the Duties; or,
 - 54.3 you commit an act of misconduct; or
 - 54.4 you breach a term of this Contract; or
 - 54.5 you fail or refuse to obey any reasonable and authorised instruction regarding the performance of the Duties; or
 - 54.6 you misuse the property of your Employer, commit an act of dishonesty or fraud, breach the obligations of confidentiality or conflict of interest, or breach a restrictive covenant;
 - 54.7 you breach your Employer's policies in relation to matters including occupational health and safety, anti-discrimination or the use of electronic equipment.

Employment during notice period

- 55 As long as your Employer pays you your pay, then during the notice period, or at any time during your employment, your Employer may direct you:
 - 55.1 not to perform any or all of the Duties;
 - 55.2 to perform duties other than the Duties;
 - 55.3 not to attend for work at your Employer's premises;
 - 55.4 to attend for work at a location other than agreed by this Contract; or
 - 55.5 not to make contact with any employee, client, customer, supplier or other person with whom the Employee may otherwise have contact in performing the Duties.

Redundancy

- 56 You are entitled to redundancy pay in accordance with applicable laws, or as provided by any applicable Industrial Instrument, whichever is greater.

Suspension

- 57 At any time during your Employment, your Employer may suspend you with pay, where your Employer considers that you may have committed an act or omission which may warrant investigation, disciplinary action or the termination of employment.
- 58 Suspension under this clause does not break continuity of your employment for the purpose of statutory entitlements.

Amounts owing

- 59 Immediately upon your employment ending, or at any time during your employment:
- 59.1 you agree that your Employer may set off any amounts that your Employer owes to you, to the extent permitted by law;
 - 59.2 you authorise and direct your Employer to withhold any amounts you owe to your Employer from payment otherwise owed to you; and
 - 59.3 you agree to pay your Employer any other amounts you owe to your Employer.

Use and return of employer property

- 60 You acknowledge that your Employer's machinery and other equipment remain the property of your Employer.
- 61 You agree to use this property only for the purpose of carrying out the Duties that have been assigned to you by this Agreement, and in accordance with your Employer's policies in force at the time.
- 62 If you use any of your Employer's equipment or property, then you must take all reasonable steps to maintain it in good condition and to prevent its loss or theft.
- 63 If through negligence you cause any damage to your Employer's property or equipment, then you agree:
- 63.1 you are responsible for the damage caused; and
 - 63.2 your Employer may, subject to law, deduct these sums from any amount it owes to you.
- 64 If your employment is ended or at an earlier request of your Employer, you must return:
- 64.1 all documents, records, Employer or customer information, keys, access passes, phones, vehicles or computers of your Employer;
 - 64.2 all documents and other media which contain Confidential Information (in hard or electronic format); and
 - 64.3 all other property of your Employer in your possession including duplicate copies of documents or information whether in hard copy or electronic or other format.
- 65 If your employment ends, then you must not delete, destroy, remove or alter any Employer property data, including but not limited to, documents, records, Employer or customer information, and Confidential Information.

- 66 If your employment ends and you fail to return any property or equipment in your possession, then your Employer may, subject to law, deduct the equivalent value from any amount it owes to you.

Your Employer's policies

- 67 Your Employer has various policies which apply to your employment. You must familiarise yourself with these policies.
- 68 Where the policies place obligations on you, you must comply with them. Your Employer may review, vary, add to or withdraw the policies from time to time in its absolute discretion.
- 69 To avoid doubt, the policies and any obligations of your Employer set out in them, do not form part of this Contract and are not binding on your Employer.

Industrial Instruments

- 70 If an Industrial Instrument applies to your employment, then:
- 70.1 it applies as a matter of law and does not form part of this employment contract;
 - 70.2 your Total Remuneration is in satisfaction of all entitlements under the Industrial Instrument, including any overtime, loadings, allowances or penalty rates which may be owed to you under the Industrial Instrument;
 - 70.3 any entitlement under the Industrial Instrument is calculated by reference to the applicable rate of pay in the Industrial Instrument; and
 - 70.4 if there are any changes to the entitlements in clause 70.3 then the Total Remuneration is applied to and absorbs those changed entitlements.

Changing and replacing the contract

- 71 This Contract may only be replaced by a document signed and approved by you and your Employer.
- 72 You and your Employer may only make changes to this Contract if you both agree in writing to do so.

Entire agreement

- 73 This Contract:
- 73.1 contains the entire agreement between you and your Employer about your employment; and
 - 73.2 will take priority over all previous agreements between you and your Employer about your employment.
- 74 Any previous negotiations, understandings, representations, warranties and commitments relating to or affecting your employment are of no effect, because this Contract replaces them.

Governing Law

- 75 This agreement is governed by the laws of Victoria and subject to the jurisdiction of the courts in Victoria.

Definitions

76 In this agreement:

Confidential Information means any confidential information relating to the business of your Employer or any related entity that comes to your knowledge and includes without limitation:

- a) financial, budgetary, marketing, research and business plan information;
- b) client, supplier and distributor lists and information;
- c) the terms of any contract, agreement or business arrangement with third parties;
- d) trade secrets, licences, know-how, Intellectual Property and related information;
- e) third party information disclosed in confidence; and
- f) any other information considered by your Employer to be confidential, but does not include information in the public domain without breach by you of the terms of this Contract or any other person bound by similar confidentiality obligations.

Commencement Date means 27 May 2022.

Designs means any design within the meaning of the *Designs Act 2003*.

Duties means your duties and responsibilities set out in **Schedule 1** of this Contract.

Fair Work Legislation means the *Fair Work Act 2009* or any equivalent legislation, as replaced or amended from time to time.

Industrial Instrument includes a modern award, an award, an enterprise agreement, or any agreement made under such documents that applies to your employment.

Intellectual Property includes, but is not limited to:

- a) any Confidential Information of your Employer;
- b) the Works, or the Designs, or the Patents, or the Trademarks – defined under clause 76;
- c) any processes, formulae, technology, systems, reports, drawings, specifications, software, blue-prints, patents, patent applications, discoveries, inventions, improvements, trade secrets, technical data, research data, know-how, logos, registered and unregistered trademarks and service marks, registered and unregistered designs, design rights, copyright and similar industrial or intellectual property rights.

Patents means patents, patent applications, patented processes and patented products within the meaning of the *Patents Act 1990*.

Superannuation Guarantee Legislation means applicable Australian legislation governing the payment by employers of compulsory superannuation contributions on behalf of their employees (currently, the *Superannuation Guarantee Charge Act 1992* and the *Superannuation Guarantee (Administration) Act 1992*).

Trademarks means any trade name, brand name, common law trade mark or trademark within the meaning of the *Trade Marks Act 1995*.

Works means a work as defined in Part IX of the *Copyright Act 1968*.

77 By signing this document, you confirm that you have read, understood and agreed to all of it, including the Schedule.

SAMPLE

Execution

The common seal of
Purple Nike co Pty. Ltd. ACN 143526096,
was affixed in accordance with section 127(2)
of the *Corporations Act 2001* (Cth) in the
presence of:

James Parker, sole director and sole
company secretary

Signed by
Marie Kyle:

Signature of employee

SAMPLE

Schedule 1

Job Description – Marie Kyle

Job Title manager

Reporting to the Director or any other person your Employer nominates from time to time.

Main duties and responsibilities

Managing Team

This Job Description is not exhaustive.

SAMPLE