

Senior Executive Employment Contract

[Company Name]
[Employee Name]

Drafted by Solicitors

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THIS AGREEMENT is dated [DATE]

Parties

- (1) [COMPANY NAME] incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (**Company**).
- (2) [EMPLOYEE'S NAME] of [ADDRESS] (**Employee**).

Agreed terms

1. Interpretation

- 1.1 The definitions and rules of interpretation in this clause 1 apply in this agreement.

Appointment: the employment of the Employee by the Company on the terms of this agreement.

Associated Employer: has the meaning given to it in the Employment Rights Act 1996.

Board: the board of directors of the Company (including any committee of the board duly appointed by it).

Commencement Date: [DATE OF COMMENCEMENT OF EMPLOYMENT].

Confidential Information: information (whether or not recorded in documentary form, or stored on any magnetic or optical disk or memory) relating to the business, products, affairs and finances of [the Company **OR** any Group Company] for the time being confidential to [the Company **OR** any Group Company] and trade secrets including, without limitation, technical data and know-how relating to the business of [the Company **OR** any Group Company] or any of [its **OR** their] business contacts.

[Group Company: the Company, its Subsidiaries or Holding Companies from time to time and any Subsidiary of any Holding Company from time to time.]

Incapacity: any sickness or injury which prevents the Employee from carrying out their duties.

Pre-Contractual Statement: any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this agreement or not) relating to the Employee's employment under this agreement which is not expressly set out in this agreement [or any documents referred to in it].

Staff Handbook: the Company's staff handbook as amended from time to time.

[Subsidiary and Holding Company: in relation to a company mean "subsidiary" and "holding company" as defined in section 1159 of the Companies Act 2006 [and a company shall be treated, for the purposes only of the membership requirement contained in subsections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (a) another person (or its nominee), whether by way of security or in connection with the taking of security, or (b) a nominee].]

- 1.2 The headings in this agreement are inserted for convenience only and shall not affect its construction.
- 1.3 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.4 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.5 Unless the context otherwise requires, words in the singular include the plural and in the plural include the singular.

2. Term of appointment

- 2.1 The Appointment shall [commence **OR** be deemed to have commenced] on the Commencement Date and shall continue, subject to the remaining terms of this agreement, until terminated by either party giving the other not less than [NUMBER] [months' **OR** weeks'] prior notice in writing.
- 2.2 [The first [three] months of the Appointment shall be a probationary period and the Appointment may be terminated during this period at any time on [one week's] notice or payment in lieu of notice. The Company may, at its discretion, extend the probationary period for up to a further [three] months. During the probationary period the Employee's performance and suitability for continued employment will be monitored.
- 2.3 [No employment with a previous employer **OR** The Employee's employment with [NAME], which commenced on [DATE]] counts towards the Employee's period of continuous employment with the Company.
- 2.4 The Employee consents to the transfer of their employment under this agreement to an Associated Employer at any time during the Appointment.

3. Employee warranties

- 3.1 The Employee represents and warrants to the Company that, by entering into this agreement or performing any of their obligations under it, they will not be in breach of any court order or any express or implied terms of any contract or other obligation binding on them and undertakes to indemnify the Company against any claims, costs, damages, liabilities or expenses which the Company may incur as a result if they are in breach of any such obligations.
- 3.2 The Employee warrants that they are entitled to work in the United Kingdom without any additional approvals and will notify the Company immediately if they cease to be so entitled during the Appointment.

4. Duties

- 4.1 The Employee shall serve the Company as [JOB TITLE] or such other role as the Company considers appropriate.
- 4.2 During the Appointment the Employee shall:
- (a) unless prevented by Incapacity, devote the whole of their time, attention and abilities to the business of the Company [and any Group Company of which they are an officer or consultant];
 - (b) diligently exercise such powers and perform such duties as may from time to time be assigned to them by the [Company **OR** Board] [together with such person or persons as the [Company **OR** Board] may appoint to act jointly with them];
 - (c) comply with all reasonable and lawful directions given to them by the [Company **OR** Board];
 - (d) promptly make such reports to [[POSITION] **OR** the Board] in connection with the affairs of [the Company **OR** any Group Company] on such matters and at such times as are reasonably required;
 - (e) report their own wrongdoing and any wrongdoing or proposed wrongdoing of any other employee or director of [the Company **OR** any Group Company] to [[POSITION] **OR** the Board] immediately on becoming aware of it;
 - (f) use their best endeavours to promote, protect, develop and extend the business of [the Company **OR** any Group Company]; and
 - (g) consent to the Company monitoring and recording any use that they make of the Company's electronic communications systems for the purpose of ensuring that the Company's rules are being complied with and for legitimate business purposes.
- 4.3 The Employee shall comply with the Company's anti-corruption and bribery policy and related procedures at all times.
- 4.4 All documents, manuals, hardware and software provided for the Employee's use by the Company, and any data or documents (including copies) produced, maintained or stored on the Company's computer systems or other electronic equipment (including mobile phones), remain the property of the Company.

5. Place of work

- 5.1 The Employee's normal place of work is [LOCATION] or such other place which the [Company **OR** Board] may reasonably require for the proper performance and exercise of their duties.
- 5.2 The Employee agrees to travel on [the Company's **OR** any Group Company's] business (both within the United Kingdom or abroad) as may be required for the proper performance of their duties under the Appointment.

6. Hours of work

The Employee's normal working hours shall be [TIME] to [TIME] on [Mondays] to [Fridays] and such additional hours as are necessary for the proper performance of their duties. The Employee acknowledges that they shall not receive further remuneration in respect of such additional hours.

7. Salary

7.1 The Employee shall be paid an initial salary of £[AMOUNT] per annum (inclusive of any fees due to the Employee by [the Company **OR** any Group Company] as an officer of [the Company **OR** any Group Company]).

7.2 The Employee's salary shall accrue from day to day and be payable [monthly] in arrears [on or about [DATE] of each month] directly into the Employee's bank or building society.

7.3 The Employee's salary shall be reviewed by [[POSITION] **OR** the Board] annually, the first such review to take place on [DATE]. The Company is under no obligation to award an increase following a salary review. There will be no review of the salary after notice has been given by either party to terminate the Appointment.

7.4 The Company may deduct from the salary, or any other sums owed to the Employee, any money owed to [the Company **OR** any Group Company] by the Employee.

8. Expenses

8.1 The Company shall reimburse (or procure the reimbursement of) all reasonable expenses wholly, properly and necessarily incurred by the Employee in the course of the Appointment, subject to production of VAT receipts or other appropriate evidence of payment.

8.2 The Employee shall abide by the Company's policies on expenses as communicated to them from time to time.

8.3 Any credit card supplied to the Employee by the Company shall be used only for expenses incurred by them in the course of the Appointment.

9. Holidays

9.1 The Employee shall be entitled to [NUMBER] days' paid holiday in each holiday year (calculated on a pro rata basis by reference to a full-time entitlement of [NUMBER] days holiday each year) [together with the usual public holidays **OR** which shall include the usual public holidays in [England **OR** Wales **OR** Scotland **OR** Northern Ireland] or days in lieu where the Company requires the Employee to work on a public holiday. The Company's holiday year runs between [DATE] and [DATE]. If the Appointment commences or

terminates part way through a holiday year, the Employee's entitlement during that holiday year shall be calculated on a pro-rata basis rounded up to the nearest [whole **OR** half] day.

- 9.2 Holiday shall be taken at such time or times as shall be approved in advance by [POSITION]. The Employee shall not [without the consent of [[POSITION] **OR** the Board] carry forward any accrued but untaken holiday entitlement to a subsequent holiday year.
- 9.3 The Employee shall have no entitlement to any payment in lieu of accrued but untaken holiday except on termination of the Appointment. The amount of such payment in lieu shall be 1/260th of the Employee's [full-time equivalent] salary for each untaken day of the entitlement under clause 9.1 for the holiday year in which termination takes place and any untaken days carried forward from the preceding holiday year.
- 9.4 If on termination of the Appointment the Employee has taken in excess of their accrued holiday entitlement, the Company shall be entitled to recover from the Employee by way of deduction from any payments due to the Employee or otherwise one day's pay [calculated at 1/260th of the Employee's [full-time equivalent] salary] for each excess day.
- 9.5 If either party has served notice to terminate the Appointment, the [Company **OR** Board] may require the Employee to take any accrued but unused holiday entitlement during the notice period.
- 9.6 During any continuous period of absence due to Incapacity [of one month or more] the Employee shall not accrue holiday under this contract and the Employee's entitlement under clause 9.1 for the holiday year in which such absence takes place shall be reduced pro rata save that it shall not fall below the Employee's entitlement under the Working Time Regulations 1998.

10. Incapacity

- 10.1 Subject to the Employee's compliance with the Company's sickness absence procedures (as amended from time to time), they shall continue to receive their full salary and contractual benefits during any period of absence due to Incapacity for up to an aggregate of [NUMBER] weeks in any 52-week period. Such payment shall be inclusive of any statutory sick pay due in accordance with applicable legislation in force at the time of absence.
- 10.2 The Employee agrees to consent to medical examinations (at the Company's expense) by a doctor nominated by the Company should the Company so require. The Employee agrees that any report produced in connection with any such examination may be disclosed to the Company and the Company may discuss the contents of the report with the relevant doctor.
- 10.3 If the Incapacity is or appears to be occasioned by actionable negligence, nuisance or breach of any statutory duty on the part of a third party in respect of which damages are or

may be recoverable, the Employee shall immediately notify the Board of that fact and of any claim, compromise, settlement or judgment made or awarded in connection with it and all relevant particulars that the Board may reasonably require. The Employee shall if required by the [Company **OR** Board], refund to the Company that part of any damages or compensation recovered by them relating to the loss of earnings for the period of the Incapacity as the Board may reasonably determine less any costs borne by them in connection with the recovery of such damages or compensation, provided that the amount to be refunded shall not exceed the total amount paid to the Employee by the Company in respect of the period of Incapacity.

- 10.4 The rights of the Company to terminate the Appointment under the terms of this Agreement apply even when such termination would or might cause the Employee to forfeit any entitlement to sick pay[, permanent health insurance] or other benefits.

11. Confidential information

- 11.1 The Employee acknowledges that in the course of the Appointment they will have access to Confidential Information. The Employee has therefore agreed to accept the restrictions in this clause 11.
- 11.2 The Employee shall not (except in the proper course of their duties), either during the Appointment or at any time after its termination (however arising), use or disclose to any person, company or other organisation whatsoever (and shall use their best endeavours to prevent the publication or disclosure of) any Confidential Information. This shall not apply to:
- (a) any use or disclosure authorised by the Board or required by law;
 - (b) any information which is already in, or comes into, the public domain other than through the Employee's unauthorised disclosure; or
 - (c) any protected disclosure within the meaning of section 43A of the Employment Rights Act 1996.

12. Payment in lieu of notice

- 12.1 Notwithstanding clause 2, the Company may, in its sole and absolute discretion, terminate the Appointment at any time and with immediate effect by paying a sum in lieu of notice (**Payment in Lieu**) equal to the basic salary (as at the date of termination) which the Employee would have been entitled to receive under this agreement during the notice period referred to at clause 2 (or, if notice has already been given, during the remainder of the notice period) less income tax and National Insurance contributions. For the avoidance of doubt, the Payment in Lieu shall not include any element in relation to:
- (a) any bonus or commission payments that might otherwise have been due during the period for which the Payment in Lieu is made;
 - (b) any payment in respect of benefits which the Employee would have been entitled to receive during the period for which the Payment in Lieu is made; and

- (c) any payment in respect of any holiday entitlement that would have accrued during the period for which the Payment in Lieu is made.

12.2 The Company may pay any sums due under clause 12.1 in equal monthly instalments until the date on which the notice period referred to at clause 2 would have expired if notice had been given. The Employee shall be obliged to seek alternative income during this period and to notify the Company of any income so received. The instalment payments shall then be reduced by the amount of such income.

12.3 The Employee shall have no right to receive a Payment in Lieu unless the Company has exercised its discretion in clause 12.1. Nothing in this clause 12 shall prevent the Company from terminating the Appointment in breach.

13. Termination without notice

13.1 The Company may also terminate the Appointment with immediate effect without notice and with no liability to make any further payment to the Employee (other than in respect of amounts accrued due at the date of termination) if the Employee:

- (a) is guilty of any gross misconduct affecting the business of [the Company **OR** any Group Company];
- (b) commits any serious or repeated breach or non-observance of any of the provisions of this agreement or refuses or neglects to comply with any reasonable and lawful directions of the [Company **OR** Board];
- (c) is, in the reasonable opinion of the Board, negligent and incompetent in the performance of their duties;
- (d) is declared bankrupt or makes any arrangement with or for the benefit of their creditors or has a county court administration order made against them under the County Court Act 1984;
- (e) is convicted of any criminal offence (other than an offence under any road traffic legislation in the United Kingdom or elsewhere for which a fine or non-custodial penalty is imposed) [or any offence under any regulation or legislation relating to insider dealing];
- (f) [ceases to hold [PROFESSIONAL QUALIFICATION];]
- (g) becomes of unsound mind (which includes lacking capacity under the Mental Capacity Act 2005), or a patient under any statute relating to mental health;
- (h) ceases to be eligible to work in the United Kingdom;
- (i) is guilty of any fraud or dishonesty or acts in any manner which in the opinion of the [Company **OR** Board] brings or is likely to bring the Employee or [the Company **OR** any Group Company] into disrepute or is materially adverse to the interests of [the Company **OR** any Group Company];
- (j) is in breach of the Company's anti-corruption and bribery policy and related procedures;

- (k) is guilty of a serious breach of any rules issued by the Company from time to time regarding its electronic communications systems; or
- (l) is unable by reason of Incapacity to perform their duties under this agreement for an aggregate period of [NUMBER TO BE THE SAME AS IN clause 10.1] weeks in any 52-week period.

13.2 The rights of the Company under clause 13.1 are without prejudice to any other rights that it might have at law to terminate the Appointment or to accept any breach of this agreement by the Employee as having brought the agreement to an end. Any delay by the Company in exercising its rights to terminate shall not constitute a waiver thereof.

14. Obligations on termination

14.1 On termination of the Appointment (however arising) the Employee shall:

- (a) Immediately deliver to the Company all documents, books, materials, records, correspondence, papers and information (on whatever media and wherever located) relating to the business or affairs of [the Company **OR** any Group Company] or its business contacts, any keys, credit card and any other property of [the Company **OR** any Group Company] including any car provided to the Employee, which is in their possession or under their control;
- (b) irretrievably delete any information relating to the business of [the Company **OR** any Group Company] stored on any magnetic or optical disk or memory and all matter derived from such sources which is in their possession or under their control outside the Company's premises; and
- (c) provide a signed statement that they have complied fully with their obligations under this clause 14.1 together with such reasonable evidence of compliance as the Company may request.

14.2 On termination of the Appointment however arising the Employee shall not be entitled to any compensation for the loss of any rights or benefits under any share option, bonus, long-term incentive plan or other profit sharing scheme operated by [the Company **OR** any Group Company] in which they may participate.

15. Disciplinary and grievance procedures

15.1 The Employee is subject to the Company's disciplinary and grievance procedures, copies of which are available from [POSITION]. These procedures do not form part of the Employee's contract of employment.

15.2 If the Employee wants to raise a grievance, they may apply in writing to [POSITION] in accordance with the Company's grievance procedure.

15.3 If the Employee wishes to appeal against a disciplinary decision they may apply in writing to [POSITION] in accordance with the Company's disciplinary procedure.

- 15.4 The [Company **OR** Board] may suspend the Employee from any or all of their duties for a period of up to [NUMBER] [days **OR** weeks] during any period in which the Company is investigating any disciplinary matter involving the Employee or while any disciplinary procedure against the Employee is outstanding.
- 15.5 During any period of suspension:
- (a) the Employee shall continue to receive their basic salary and all contractual benefits in the usual way and subject to the terms of any benefit arrangement;
 - (b) the Employee shall remain an employee of the Company and bound by the terms of this agreement;
 - (c) the Employee shall ensure that [POSITION] knows where they will be and how they can be contacted during each working day (except during any periods taken as holiday in the usual way);
 - (d) the [Company **OR** Board] may exclude the Employee from their place of work or any other premises of the Company [or any Group Company]; and
 - (e) the [Company **OR** Board] may require the Employee not to contact or deal with (or attempt to contact or deal with) any officer, employee, consultant, client, customer, supplier, agent, distributor, shareholder, adviser or other business contact of the Company [or any Group Company].

16. Pensions

- 16.1 The Employee is entitled to become a member of the [NAME] Pension Scheme, subject to satisfying certain eligibility criteria and subject to the rules of the scheme as amended from time to time. Full details of the scheme are available from [POSITION].
- 16.2 A contracting-out certificate is [not] in force in respect of the Appointment.

17. Collective agreements

[There is no collective agreement which directly affects the Appointment.

OR

The Collective Agreement between [NAME] and [NAME] dated [DATE], a copy of which is available from [POSITION], directly affects the Appointment.]

18. Reconstruction and amalgamation

If the Appointment is terminated at any time by reason of any reconstruction or amalgamation of the Company [or any Group Company], whether by winding up or otherwise, and the Employee is offered employment with any concern or undertaking involved in or resulting from the reconstruction or amalgamation on terms which (considered in their entirety) are no less favourable to any material extent than the terms of

this agreement, the Employee shall have no claim against the Company or any such undertaking arising out of or connected with the termination.

19. Notices

19.1 A notice given to a party under this agreement shall be in writing in the English language and signed by or on behalf of the party giving it. It shall be delivered by hand or sent to the party at the address [or fax number] given in this agreement or as otherwise notified in writing to the other party.

19.2 Any such notice shall be deemed to have been received:

- (a) if delivered by hand, at the time the notice is left at the address or given to the addressee;
- (b) in the case of pre-paid first class UK post or other next working day delivery service, at 9.00 am on the second business day after posting or at the time recorded by the delivery service; or
- (c) in the case of pre-paid airmail, 9.00 am on the fifth Business Day after posting or at the time recorded by the delivery service; or
- (d) in the case of fax, at the time of transmission.

19.3 A notice shall have effect from the earlier of its actual or deemed receipt by the addressee. For the purpose of calculating deemed receipt:

- (a) all references to time are to local time in the place of deemed receipt; and
- (b) if deemed receipt would occur on a Saturday or Sunday or a public holiday when banks are not open for business, deemed receipt is at 9.00 am on the next business day.

19.4 A notice required to be given under this agreement shall not be validly given if sent by e-mail.

19.5 This clause does not apply to the service of any proceedings or other documents in any legal action.

20. Entire agreement

20.1 This agreement and any document referred to in it constitutes the whole agreement between the parties [(and in the case of the Company, as agent for any Group Companies)] and supersedes all previous discussions, correspondence, negotiations, arrangements, understandings and agreements between them.

20.2 Each party acknowledges that in entering into this agreement it has not relied on and shall have no remedy in respect of any Pre-Contractual Statement.

20.3 Each party agrees that its only liability in respect of those representations and warranties that are set out in this agreement (whether made innocently or negligently) shall be for breach of contract.

20.4 Nothing in this agreement shall limit or exclude any liability for fraud.

21. Variation

No variation or agreed termination of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

22. Counterparts

This agreement may be executed in any number of counterparts, each of which, when executed and delivered, shall be an original, and all the counterparts together shall constitute one and the same instrument.

23. Third party rights

No person other than a party to this agreement may enforce any of its terms.

24. Governing law and jurisdiction

24.1 This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law.

24.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

This agreement has been entered into on the date stated at the beginning of it.

Signed by [NAME OF DIRECTOR]
for and on behalf of [NAME OF
COMPANY] Director

Signed by [NAME OF EMPLOYEE]