

# Sample Compromise Agreements

DATED \_\_\_\_\_ 201[ ]

**(1)** [*Employer Name*]

and

**(2)** [*Employee Name*]

## Compromise agreement

**WITHOUT PREJUDICE AND SUBJECT TO CONTRACT**

**THIS AGREEMENT** is made on [insert date or leave date blank] 201[ ]

**BETWEEN:**

- (1) [Insert Employer's name] whose registered office is at [insert Employer's address], company registration number [insert Employer's company number] ('Employer'); and
- (2) [Insert Employee's name] of [insert Employee's address] ('you')

**RECITALS:**

- A [You have been employed by the Employer [and/or the Group Companies] since [insert date employment started] **OR** [You were employed by the Employer Group and/or the Group Companies from [insert start date] to [insert Termination Date]] [latterly] under a contract of employment/service agreement with the Employer dated [insert contract date] ('Employment Contract').
- B [You are currently pursuing a claim in the employment tribunal against the Employer [and [insert details of any other parties to the relevant tribunal claims]] under claim number[s] [insert tribunal claim number[s]] ('Tribunal Claim').]
- C [You are currently pursuing a claim in the High Court against the Employer [and [insert details of any other parties to the relevant High Court claims]] under claim number[s] [insert High Court claim number[s]] ('High Court Claim').]
- D [You are currently pursuing a claim in the County Court against the Employer [and [insert details of any other parties to the relevant County Court claims]] under claim number[s] [insert County Court claim number[s]] ('County Court Claim').]
- E You and the Employer have agreed terms of settlement of all claims you have or may have arising out of or in connection with your employment and its termination, [including the [Tribunal Claim][High Court Claim][ County Court Claim]] [and upon which your employment with the Employer will terminate].

**IT IS AGREED** as follows:

**1 Definitions and interpretation**

- 1.1 In this Agreement the following words and expressions have the following meanings, unless the context requires otherwise:

*['accrued pension rights' means the Employee's entitlement to a pension or right to a future pension under the Pension Scheme, an occupational pension scheme as defined by section 1(1) Pension Schemes Act 1993;]*

*'Adviser' means [insert name of Adviser] of [insert name of Adviser's firm/organisation], of [insert address];*

*['Confidential Information' means all information or data in whatever form of a confidential or proprietary nature, whether or not labelled or designated as such, relating to the products, services, business, finances, transactions and affairs of the Employer [or any Group Company,] trade secrets, including technical data and know-how relating to the business of the Employer [or any Group Company] or any of its [or their] customers, suppliers, clients, agents, distributors or members, information in*

*respect of which the Employer is bound by an obligation of confidentiality to a third party, and any other information which is designated as confidential by the Employer [or any Group Company] or which you should reasonably be aware is confidential;]*

*['Excess Tax' means any income tax and primary class 1 (employee) national insurance contributions (and any similar taxes or social security contributions wherever arising), and any fines, interest and/or penalties arising in respect of any payment (or notional payment) made or any benefit provided under or contemplated by this Agreement [but excluding any such fines, interest or penalties incurred by reason of the default of the Employer [or any Group Company] (but incorrect tax treatment of the payments (or notional payments) made or benefits provided by the Employer [or any Group Company] under this Agreement does not amount to default of the Employer [or any Group Company] for this purpose)];][and]*

*['Group Company' means [any holding company of] the Employer and any subsidiary of the Employer [or of any such holding company each] as defined by section 1159 Companies Act 2006;][and]*

'PAYE deductions' means any deductions made to comply with any liability of the Employer [or any Group Company] to account for income tax pursuant to Part 11 Income Tax (Earnings and Pensions) Act 2003 or to comply with any obligation to make a deduction for primary class 1 (employee) national insurance contributions.

1.2 In this Agreement:

- 1.2.1 words expressed in the singular include the plural and vice versa and words expressed in one gender include any other gender;
- 1.2.2 the clause headings do not form part of this Agreement and should not be taken into account in its construction or interpretation;
- 1.2.3 (unless otherwise specified) reference to any enactment is a reference to that enactment as amended or re-enacted or as its application is modified by other provisions (whether before, on or after the date of this Agreement) and to any previous enactments consolidated in it and to any order or regulation made under it; and
- 1.2.4 any phrase introduced by the terms 'including', 'include', 'in particular' or any similar expression will be construed as illustrative and will not limit the sense of the words so introduced.

**2 Termination of employment**

- 2.1 Your employment with the Employer and *[(except as provided in clause 7) the Employment Contract] [will terminate][ terminated]* by reason of *[insert reason for termination]* on *[insert date]* ('Termination Date').
- 2.2 On the Termination Date you *[ceased][ will cease]* to be entitled to any remuneration or benefits except as set out in this Agreement.

**3 Payments and compensation**

- 3.1 You *[will be][have been]* paid your accrued salary and contractual benefits *[(including any relevant contributions to your personal pension scheme)]* (less PAYE deductions) for the period up to and including the Termination Date via payroll in the normal way after

deduction of any sum due from you to the Employer [*or any Group Company,*] [including in respect of holiday taken in excess of your accrued entitlement for the period up to and including the Termination Date, being [*insert number of excess holiday days*] days [*and*][*including in respect of* [*set out details of other relevant deductions, eg loan repayments*]].

- 3.2 Subject to and conditional upon the terms set out in this Agreement, the Employer will, without admission of liability [*and* [*following*][*before*] *the issue of your P45*], pay to you, within [*insert number of days, usually 14*] days of the later of (a) the Termination Date, (b) the date of receipt by the Employer of this Agreement [*and the resignation letter referred to in clause* *X*][*resignation from directorship/office*] signed by you, and (c) receipt by the Employer of the certificate in the form set out in Schedule 1 signed by the Adviser:
- 3.2.1 [*£*]*insert amount*] (*less PAYE deductions*) *as payment of salary and contractual benefits in lieu of* [*the remainder of*] *your notice period*;
- 3.2.2 [*£*]*insert amount*] (*less PAYE deductions*) *in lieu of accrued but untaken holiday entitlement*;
- 3.2.3 [STATUTORY REDUNDANCY PAYMENT ONLY:] [*£*]*insert amount*] *as your statutory redundancy payment, calculated as set out in Schedule* [2 (*Redundancy Payment*)];
- 3.2.4 [CONTRACTUAL REDUNDANCY PAYMENT INCLUDES STATUTORY ENTITLEMENT:] [*£*]*insert amount*] *as your contractual redundancy payment, which includes your statutory redundancy payment of* *£*[*insert amount*], *calculated as set out in Schedule* [2 (*Redundancy Payment*)];
- 3.2.5 [CONTRACTUAL REDUNDANCY PAYMENT ONLY:] [*£*]*insert amount*] *as your contractual redundancy payment* (*Redundancy Payment*)];
- 3.2.6 [*PAYMENT MADE FOR CONFIDENTIALITY OBLIGATIONS – SEE CLAUSE 8.1*] [*the payment referred to in clause 8.1*];
- 3.2.7 [*PAYMENT MADE FOR POST-TERMINATION RESTRICTIONS – SEE CLAUSE 7.2*] [*the payment referred to in clause 7.2*];
- 3.2.8 [*PAYMENT MADE FOR SECRECY OBLIGATIONS – SEE CLAUSE 9.2*][*the payment referred to in clause 9.2*];
- 3.2.9 [*subject to clause* *X*][*compensation payable in instalments*],] *£*[*insert amount*] *as compensation for the termination of your employment* [*and loss of office*] (*Compensation Payment*).
- 3.3 **EITHER:** [NO REDUNDANCY PAYMENT AND COMPENSATION PAYMENT DOES NOT EXCEED £30K][*The Employer and you understand that sections 401 to 403 Income Tax (Earnings and Pensions) Act 2003 apply so that the Compensation Payment can be paid without deductions for income tax or primary class 1 (employee) national insurance contributions. You will be responsible for paying any further or other tax and/or employees' national insurance contributions that are payable in respect of the Compensation Payment (including any related interest and/or penalties).*]

- 3.4 **OR** *[COMBINED REDUNDANCY PAYMENT AND COMPENSATION PAYMENT DO NOT EXCEED £30K]**[The Employer and you understand that sections 401 to 403 Income Tax (Earnings and Pensions) Act 2003 apply so that the combined Redundancy Payment and the Compensation Payment can be paid without deductions for income tax or primary class 1 (employee) national insurance contributions. You will be responsible for paying any further or other tax and/or employees' national insurance contributions that are payable in respect of the Redundancy Payment and/or the Compensation Payment (including any related interest and/or penalties).*
- 3.5 **OR** *[NO REDUNDANCY PAYMENT AND THE COMPENSATION PAYMENT EXCEEDS £30K]**[The Employer and you understand that sections 401 to 403 Income Tax (Earnings and Pensions) Act 2003 apply so that the first £30,000 of the Compensation Payment can be paid without deductions for income tax or primary class 1 (employee) national insurance contributions. The balance of the Compensation Payment will be subject to, and will be paid less any, PAYE deductions. You will be responsible for paying any further or other tax and/or employees' national insurance contributions that are payable in respect of the Compensation Payment (including any related interest and/or penalties).]*
- 3.6 **OR** *[WHERE COMBINED REDUNDANCY AND COMPENSATION PAYMENTS EXCEED £30K]**[The Employer and you understand that sections 401 to 403 Income Tax (Earnings and Pensions) Act 2003 apply so that the first £30,000 of the combined Redundancy Payment and the Compensation Payment can be paid without deductions for income tax or primary class 1 (employee) national insurance contributions. The balance of the combined Redundancy Payment and the Compensation Payment will be subject to, and paid less any, PAYE deductions. You will be responsible for paying any further or other tax and/or employees' national insurance contributions that are payable in respect of the Redundancy Payment and/or the Compensation Payment (including any related interest and/or penalties).]*

#### **4 [Expenses]**

- 4.1 Subject to clause  *[cross refer to any clause dealing with expenses for company car retained by the Employee for a period], you**[You will submit your final expenses claim, together with all required supporting invoices, receipts and vouchers, to the Employer within [insert number] days after the Termination Date and all expenses wholly, properly and exclusively incurred by you in connection with your employment by the Employer, up to and including the Termination Date, will be reimbursed subject to and in accordance with the Employer's policy on expenses.]*

#### **5 [Insurance benefits]**

- 5.1 The Employer will until *[the earlier of] [insert date] [or the date on which you commence any employment or engagement that provides you with any form of income,]* continue to provide you with *[insert details of insurance benefits to be continued, eg life assurance, private medical insurance]* on the terms and conditions subsisting at the Termination Date, subject always to the rules of the relevant schemes and policies from time to time in force.]

## **6 [Tax indemnity]**

6.1 You undertake that, if the Employer [*or any Group Company*] is required to account to HM Revenue and Customs or any other relevant authority for any Excess Tax, other than the amount of and PAYE deductions actually deducted in accordance with clause 3 above, you will pay the Employer [*or Group Company (as the case may be)*] an amount equal to the Excess Tax [forthwith on request][no later than three business days preceding the last day on which the Employer [*or Group Company*] must pay such Excess Tax to the relevant authority to avoid incurring any interest and/or penalties].

6.2 [The Employer agrees to provide you with a copy of any notification from the relevant taxing authority regarding any Excess Tax and details of any proposed payment of Excess Tax and a reasonable opportunity at your own expense to challenge the relevant authority's claim or demand for Excess Tax provided that nothing in this clause [6.2] obliges the Employer [(*or Group Company as the case may be*)] to do (or not do) anything that will result in the imposition of any interest and/or penalties].

## **7 [Post-termination restrictions]**

7.1 [You agree that clauses [*insert details of relevant clauses*] of the Employment Contract [, *which for convenience are re-stated in Schedule [[3],*] remain in full force and effect [*as if each clause were repeated in this Agreement*].]

7.2 [In consideration of payment to you by the Employer of the sum of £[*insert amount*] (less PAYE deductions) you will be bound by the restrictions set out in Schedule [[3].]

## **8 [Confidential Information]**

8.1 Without prejudice to your common law duties, [*and in consideration of the sum of £[500] (less PAYE deductions),*] you will not, at any time after the Termination Date except as required by law or authorised by the Employer, for your own benefit or the benefit of any other person, company or other undertaking, directly or indirectly:

8.1.1 use any Confidential Information;

8.1.2 make or use copies of any Confidential Information in whatever form; or

8.1.3 disclose to any person any Confidential Information.]

## **9 [Secrecy]**

9.1 [SHORT FORM CLAUSE:][*You agree to keep the existence, negotiation, terms or circumstances of this Agreement confidential (except that you may disclose it to any referee, prospective employer or recruitment consultant to the extent necessary to discuss your employment history) and that you will not make any oral or written statement touching upon or concerning your relationship with the Employer [*or any Group Company*] which is critical, adverse, negative or derogatory, or which might be detrimental to the interests of the Employer [*and/or any Group Company*] and/or any of its [*or their*] agents, clients, consultants, customers, directors, employees, investors, members, officers, shareholders or workers.*]

9.2 [*In consideration of your warranties, undertakings and representations in this clause 9, the Employer will pay to you the sum of £[insert amount] (less PAYE deductions).*]

## **10 [Reference]**

- 10.1 [The Employer will, on receipt of a written request from a prospective employer, provide a reference *[in the form set out in Schedule [[4] to this Agreement][ in the Employer's standard form].*]
- 10.2 *[The Employer agrees to deal with oral enquiries about you from prospective employers in a manner which is consistent with the text of the reference referred to in clause 10.1.]*
- 10.3 [The Employer's obligations set out in clauses 10.1 and 10.2 are at all times subject to:
- 10.3.1 the requirements of any rule of any relevant regulatory body;
  - 10.3.2 any amendment to the reference that may be necessary to reflect material facts discovered after the date of this Agreement.]

## **11 Employer's property**

- 11.1 *[Subject to clause[s][X][ and][X] [cross refer to any clauses dealing with a company car and/or other property to be purchased by or transferred to the Employee]you] You [undertake to return to the Employer, on or before the Termination Date,][ warrant that you have returned to the Employer] all property, equipment, records, correspondence, documents, files and other information (whether originals, copies or extracts) belonging to the Employer [or any Group Company] which [is][was] in your possession or custody or under your control [including passes, keys, credit cards, fuel cards, documents, correspondence, files, reports, minutes, plans, records, surveys, diagrams, manuals, details of or lists of customers, clients or investors, business plans and strategies, mobile telephones, BlackBerries or other personal digital assistant devices, electronic equipment, computer equipment, computer disks, memory sticks and other digital storage or memory devices] and all copies and duplicates, drafts, reproductions, notes, extracts or summaries of such items whether in a physical or electronic form and to confirm at the same time that you have not retained any copies (whether held in electronic or hard copy form).*
- 11.2 *[You [undertake to delete, on or before the Termination Date,][warrant to the Employer that you have deleted] irretrievably, any information relating to the business of the Employer [or any Group Company] that you have stored on any electronic or digital storage or memory device which does not belong to the Employer [or any Group Company].]*
- 11.3 *[In order to comply with your obligations under clauses 11.1 and 11.2, you][will carry out][warrant that you have carried out] a thorough search of your home and any other premises at which you may have kept property of the Employer [or any Group Company].]*
- 11.4 *[You will if required to do so at any time by the Employer [or any Group Company] provide a signed statement that you have complied fully with your obligations under clauses 11.1 to 11.3 above and will provide it with such reasonable evidence of compliance as may be requested and permit a representative of the Employer to inspect any relevant electronic or digital storage or memory device to satisfy itself that you have complied with clause 11.2.]*



## **12 Legal advice**

12.1 It is a condition of this Agreement that you have obtained legal advice as to its terms and effect from the Adviser and that the Adviser signs a certificate in the form set out at Schedule 1.

12.2 [The Employer will pay your legal costs, up to a maximum of £*[insert amount]* inclusive of VAT, incurred only in connection with the termination of your employment, directly to the Adviser's firm, within *[14]* days of the later of:

12.2.1 receipt by the Employer of this Agreement *[and the resignation letter in the form set out in Schedule *[X]*]* signed by you together with a certificate in the form set out in Schedule 1; and

12.2.2 receipt by *[insert name of relevant individual within Employer's organisation]* of the Employer, of an invoice addressed to you as the Adviser's client and marked payable in whole or in part by the Employer.]

## **13 Full and final settlement**

13.1 This Agreement is made *[without any admission of liability on the part of the Employer]* in full and final settlement of:

13.1.1 *[the Tribunal Claim]*, *the High Court Claim* *[and]* *[the County Court Claim; and]*

13.1.2 all *[other]* claims, complaints or proceedings (if any) whether under common law, contract, statute or otherwise *[and/or whether expressly contemplated or not]* *[and/or which may arise or of which you may become aware in the future]* under English and/or European Union law or otherwise, *[in any jurisdiction,]* which you have or may have or have brought or may bring against the Employer *[or any Group Company]* or its *[or their]* respective current or former shareholders, officers or employees arising out of or in connection with your employment and/or offices held or its/their termination, including but not limited to:

- (a) *[enter brief details of the specific complaints already raised by the Employee, if any];*
- (b) any claim for unfair dismissal under the Employment Rights Act 1996;
- (c) any claim for a redundancy payment under the Employment Rights Act 1996 or otherwise;
- (d) any claim for unauthorised deductions or payments from wages under the Employment Rights Act 1996;
- (e) *[any claim for a guarantee payment under the Employment Rights Act 1996;]*
- (f) *[any claim for detriment under the Employment Rights Act 1996 in relation to *[jury service,]**[health and safety,]**[Sunday working for shop and betting workers,]**[working time,]**[trustees of occupational pension schemes,]**[employee representatives,]**[time off work for study or training,]**[protected disclosures,]**[leave for family and domestic reasons,]**[tax credits,]**[flexible working];]**

- (g) *[any claim relating to time off for [public duties,][to look for work or arrange training,][for ante-natal care,][for dependants,][for pension scheme trustees,][for employee representatives,][for a young person for study or training,] under the Employment Rights Act 1996;]*
- (h) *[any claim relating to suspension on medical or maternity grounds under the Employment Rights Act 1996;]*
- (i) *[any claim under Part VIII Employment Rights Act 1996 relating to [maternity leave,][adoption leave,][paternity leave][parental leave];]*
- (j) *[any claim under Part VIIIA Employment Rights Act 1996 relating to flexible working;]*
- (k) *[any claim under Part VIA Employment Rights Act 1996 relating to study or training;]*
- (l) *[any claim relating to a written statement of particulars of employment or of reasons for dismissal under the Employment Rights Act 1996;]*
- (m) *[any claim to equal treatment under or relying on the Equal Pay Act 1970 or Article 157 of the Treaty on the Functioning of the European Union;]*
- (n) *[any claim of discrimination, harassment, victimisation or detriment under the Sex Discrimination Act 1975;]*
- (o) *[any claim of discrimination, harassment, victimisation or detriment under the Race Relations Act 1976;]*
- (p) *[any claim relating to [refusal of employment on grounds relating to union membership,][action short of dismissal on grounds related to union membership or activities,][time off for carrying out trade union duties,][trade union activities] under the Trade Union and Labour Relations (Consolidation) Act 1992;]*
- (q) *[any claim for remuneration for the protected period following the making of a protective award under the Trade Union and Labour Relations (Consolidation) Act 1992;]*
- (r) *[any claim of discrimination, harassment, victimisation, detriment or failure to make a reasonable adjustment under the Disability Discrimination Act 1995;]*
- (s) *[any claim for breach of the National Minimum Wage Act 1998;]*
- (t) *[any claim for damages under the Data Protection Act 1998;]*
- (u) *[any claim relating to failure to allow or threatened failure to allow accompaniment by a companion and/or detriment or dismissal relating to the right to be accompanied under the Employment Relations Act 1999;]*
- (v) *[any claim for detriment under the Pensions Act 2008 relating to automatic pension scheme membership for jobholders;]*
- (w) *[any claim for direct discrimination, combined discrimination, indirect discrimination, harassment and/or victimisation in relation to any of the following protected characteristics under the Equality Act 2010:*

- [age,][disability,][gender reassignment,][marriage and civil partnership,][race,][religion or belief,][sex,][sexual orientation];]*
- (x) *[any claim for discrimination arising from disability under the Equality Act 2010;]*
  - (y) *[any claim for failure to comply with the duty to make reasonable adjustments under the Equality Act 2010;]*
  - (z) *[any claim for gender reassignment discrimination in cases of absence from work under the Equality Act 2010;]*
  - (aa) *[any claim for pregnancy and maternity discrimination under the Equality Act 2010;]*
  - (bb) *[any claim relating to breach of an equality clause or rule under the Equality Act 2010;]*
  - (cc) *[any claim relating to breach of a maternity equality clause or rule under the Equality Act 2010;]*
  - (dd) *[any claim for holiday pay under or breach of the Working Time Regulations 1998;]*
  - (ee) *[any claim under the Transnational Information and Consultation of Employees Regulations 1999;]*
  - (ff) *[any claim for breach of or relating to action or detriment under the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000;]*
  - (gg) *[any claim for breach of or relating to action or detriment under the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002;]*
  - (hh) *[any claim for breach of the Flexible Working (Procedural Requirements) Regulations 2002 and/or the Flexible Working (Eligibility, Complaints and Remedies) Regulations 2002;]*
  - (ii) *[any claim for discrimination, harassment, victimisation or detriment under the Employment Equality (Sexual Orientation) Regulations 2003;]*
  - (jj) *[any claim for discrimination, harassment, victimisation or detriment under the Employment Equality (Religion or Belief) Regulations 2003;]*
  - (kk) *[any claim under the Information and Consultation of Employees Regulations 2004;]*
  - (ll) *[any claim for discrimination, harassment, victimisation, detriment, failure to comply with duty to inform or denial of right to be accompanied under the Employment Equality (Age) Regulations 2006;]*
  - (mm) *[any claim for failure to inform and consult under the Transfer of Undertakings (Protection of Employment) Regulations 2006 or in consequence of those regulations;]*
  - (nn) *[any claim under the Schedule to the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006;]*

- (oo) *[any claim for refusal of employment or employment agency services or detriment for a reason relating to a prohibited list under the Employment Relations Act 1999 (Blacklists) Regulations 2010;]*
- (pp) *[any claim for infringement of rights [in relation to basic working and employment conditions,] [to access to collective facilities and amenities,][in relation to access to employment opportunities,] or detriment under the Agency Worker Regulations 2010;]*
- (qq) *[any claim for breach of a permanent contract providing for pay between assignments and/or related duties under Regulation 10 Agency Workers Regulations 2010;]*
- (rr) any claim for wrongful dismissal or breach of contract;
- (ss) *[any claim for physical or psychiatric illness arising out of or relating to any acts of discrimination, harassment, victimisation or detriment;]*
- (tt) *[any stress-related claims and/or any claim relating to depression;]*
- (uu) *[any claim for distress, anxiety or financial loss caused by harassment under the Protection from Harassment Act 1997;]*
- (vv) *[any other personal injury claims;]*
- (ww) *[any claim arising out of or in connection with any entitlement to shares and/or share options granted to you under the [insert details of share scheme[s]];*
- (xx) *[any claim in relation to failure to comply with obligations under the Human Rights Act 1998;][ and]*
- (yy) *[claim under any provision of directly applicable European law;]*  
but excluding, for the avoidance of doubt, any claim to enforce the terms of this Agreement *[and any latent free-standing personal injury claim][, [and] any claim in respect of accrued pension rights][and any claim arising out of or in connection with any entitlement to share options granted to you under the [insert details of share scheme].*

13.2 *[You warrant and confirm that you are not aware of any facts, matters or circumstances that would give rise to any personal injury claim by you against the Company [or any Group Company] and that you have no such claim pending at the date of this Agreement.]*

13.3 You agree to refrain from instituting any claim against the Employer before an employment tribunal in respect of any claim under the statutory provisions set out in clause 13.1 above.

13.4 You represent and warrant that:

13.4.1 before signing this Agreement, you received independent legal advice from the Adviser as to the terms and effect of this Agreement, and in particular its effect on your ability to pursue your rights before an employment tribunal and that the Adviser has signed the adviser's certificate attached at Schedule 1;

13.4.2 the Adviser is a relevant independent adviser as defined by section 203(3A) Employment Rights Act 1996 *[and section 147(4) Equality Act 2010];*

- 13.4.3 the Adviser advised you that there is and was in force when you received the advice referred to above a contract of insurance or an indemnity provided for members of a profession or professional body covering the risk of a claim by you in respect of loss arising in consequence of that advice;
- 13.4.4 you have instructed your adviser to advise as to whether you have or may have any claims, including statutory claims, against the Employer [*or any Group Company*] arising out of or in connection with your employment or its termination;
- 13.4.5 you have provided the Adviser with all available information which the Adviser requires or may require in order to advise whether you have any such claims and, on the basis of such information, the Adviser has advised you that:
- (a) your only statutory or other claims or complaints against the Employer [*or any Group Company*] are those listed in clause 13.1 above; and
  - (b) you have no other claim or complaint against the Employer [*or any Group Company*] whether statutory or otherwise;
- 13.4.6 [*other than the [Tribunal Claim][High Court Claim][County Court Claim],*] neither you nor anyone acting on your behalf has issued proceedings against the Employer[, *any Group Company*] or any of its [*or their*] directors, members, officers or employees in the employment tribunal, High Court or County Court or any other forum in respect of any claim in connection with your employment [*or holding of office or directorship*] or [*its*][*their*] termination and that neither you nor anyone acting on your behalf will present such an application or claim;
- 13.4.7 as a strict condition of this Agreement, to the best of your knowledge and belief you have committed no breach of duty (including fiduciary duty) owed to the Employer [*or any Group Company*] and there are no circumstances of which you are aware or ought to be aware which would constitute a repudiatory breach by you of the Employment Contract which would entitle or have entitled the Employer to terminate your employment without notice;
- 13.4.8 you are not aware of any matters relating to you or any other agent, director, employee, member or officer of the Employer [*or any Group Company*] which, if disclosed to the Employer, might affect its decision to enter into this Agreement; and
- 13.4.9 [*except as already disclosed in writing by you to the Employer,*] you have not started alternative employment, nor are you in discussions which are likely to lead to, nor have you received or agreed to accept any offer of alternative employment (for the purposes of this clause 'employment' includes work under a contract of service, a contract for services, any form of consultancy or self-employment and any association with or membership of a partnership).]
- 13.5 The Employer and you agree and acknowledge that the conditions regulating compromise agreements and qualifying compromise contracts contained in the Employment Rights Act 1996 section 203(3), the Sex Discrimination Act 1975 section 77(4A), the Race Relations Act 1976 section 72(4A), the Trade Union and Labour Relations (Consolidation) Act 1992 section 288(2B), the Disability Discrimination Act 1995 Schedule 3A paragraph 2(2), the National Minimum Wage Act 1998 section 49(4),

the Pensions Act 2008 section 58, the Equality Act 2010 sections 147(3)(c) and (d), the Working Time Regulations 1998 regulation 35(3), the Transnational Information and Consultation Regulations 1999 regulation 41, the Part Time Workers (Prevention of Less Favourable Treatment) Regulations 2000 regulation 9, the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002 regulation 10, the Employment Equality (Sexual Orientation) Regulations 2003 Schedule 4 paragraph 2(2), the Employment Equality (Religion or Belief) Regulations 2003 schedule 4 paragraph 2(2), the Information and Consultation of Employees Regulations 2004 Regulation 40(4), the Employment Equality (Age) Regulations 2006 schedule 5 paragraph 2(2), Transfer of Undertakings (Protection of Employment) Regulations 2006 regulation 18 and the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006 schedule paragraph 13, are intended to be, and have been, satisfied by this Agreement.

13.6 [You acknowledge that the Employer is entering into this Agreement and will pay the Compensation Payment in specific reliance on the representations, warranties and undertakings in clause[s] [X,][directorship/offices][9,][secrecy] [11,][return of company property] 13.2[personal injury] 13.3[agreement to refrain from issuing proceedings][and]13.4[general warranty re claims] above and that should any of those representations, warranties or undertakings be untrue or be breached, without prejudice to any other remedy the Employer may have, the Employer will be entitled to not pay, or (if already paid or provided) to the immediate repayment of a sum equivalent to the Compensation Payment (less an amount equal to any PAYE deductions actually made from the Compensation Payment already paid or provided by the Employer [(or any Group Company)] and any Excess Tax actually paid by the Employee under clause 6 ('Net Compensation Payment'). You acknowledge that the Employer will be entitled to recover the sum as a debt on demand and will be released from any continuing obligations under this Agreement.]

13.7 [You agree that, without prejudice to any other rights or remedies of the Employer [*or any Group Company*], if you institute or continue any proceedings against the Employer [*or any Group Company*] that include a claim or claims of a kind set out in clause 13.1.2 and if and to the extent that you have not repaid the Net Compensation Payment pursuant to clause 13.6, and an award is made to you in respect of such claim or claims:

13.7.1 if the award (after any deductions for tax on the award) exceeds the Net Compensation Payment, the Net Compensation Payment will be set off in full against the award; or

13.7.2 if the award (after any deductions for tax on the award) is less than the Net Compensation Payment, you will pay to the Employer the difference between the Net Compensation Payment and the award (after any deductions for tax on the award).

## **14 [Withdrawal of proceedings]**

14.1 You undertake that:

14.1.1 [*PENDING TRIBUNAL CLAIM:*][on the date of this Agreement you will, or you will procure that the Adviser on your behalf will, write to the relevant employment tribunal irrevocably withdrawing the Claim and provide a copy of that letter to [*insert name of employer's adviser*] by email to [*insert email address*] with a

copy by post to *[insert name of employer's adviser]*, *[insert employer's adviser address]*; and

14.1.2 you will not oppose or appeal the dismissal of the Claim and, if so requested by the Employer or the employment tribunal, will confirm in writing to the employment tribunal your agreement to any application for the Claim to be dismissed;][and]

14.1.3 *[PENDING HIGH COURT/COUNTY COURT CLAIM[S]:][on the date of this Agreement you will sign, or you will procure that the Adviser on your behalf will sign, an Order in the form attached at Schedule [X], which provides that the [County Court Claim][and the][High Court Claim] be stayed on agreed terms, and will lodge (or have lodged on your behalf) the signed Order at the [County Court][and the][High Court].]*

## **15 Miscellaneous**

15.1 Nothing in this Agreement will prevent disclosure by you of information:

15.1.1 for the purpose of making in good faith a protected disclosure within the meaning of Part IVA of the Employment Rights Act 1996, provided that the disclosure is made in accordance with the provisions of that Act; or

15.1.2 that has come into the public domain otherwise than by a breach of confidence by you or on your behalf.

15.2 This Agreement sets out the entire compromise between the parties and supersedes all prior discussions between them or their advisers and all statements, representations, terms and conditions, warranties, guarantees, proposals, communications and understandings whenever given and whether oral or in writing, provided that nothing in this clause will exclude the liability of either party for fraud or fraudulent misrepresentation.

15.3 No variation of this Agreement (or of any of the documents referred to in it) will be valid unless it is in writing and signed by or on behalf of each of the parties.

15.4 *[Upon receipt by the [Employer][Employer's authorised legal representative] of the Agreement executed by all the parties and the signed Adviser's certificate, notwithstanding that it is headed ['without prejudice' and] 'subject to contract' it will be treated as [on the open record and] binding on the parties.]*

15.5 *[The Employer is entering into this Agreement for itself and as agent for all Group Companies and is duly authorised to do so.]*

15.6 *[The Contracts (Rights of Third Parties) Act 1999 does not apply to this Agreement.] OR [The Contracts (Rights of Third Parties) Act 1999 applies to clauses [X,][directorship/offices][6,][tax indemnity][X,][post-termination restrictions][X,][secrecy][X,][personal injury claims warranty]13.2 and 13.4 of this Agreement which may consequently be enforced by [any Group Company and/or] any person being a director, officer, agent or employee of the Employer [or any Group Company] except that the consent of such[Group Company,] directors, officers, agents or employees will not be required to vary or rescind the terms of this Agreement.]*

- 15.7 This Agreement may be executed in any number of counterparts, each of which, when executed, will be an original and all the counterparts together will constitute one and the same document.
- 15.8 The validity, construction and performance of this Agreement and any claim, dispute or matter arising under or in connection with it or its enforceability will be governed by and construed in accordance with the law of England. Each party irrevocably submits to the [*exclusive*][*non-exclusive*] jurisdiction of the courts and tribunals of England over any claim, dispute or matter arising under or in connection with this Agreement or its enforceability or the legal relationships established by it.

EXECUTED by the parties on the date above



## Schedule 1

### Adviser's Certificate – Qualified lawyer

*[To be typed on Adviser's Firm's headed notepaper]*

For the attention of *[insert name of individual at Employer, to whom certificate to be sent]*

*[Insert name of Employer]*

*[Insert Employer's address]*

*[Copy to: [insert name of Employer's adviser] of [insert name of Employer's adviser's firm] of [insert address]]*

PRIVATE AND CONFIDENTIAL

*[Date]*

Dear Sirs

I, *[insert name of Adviser]* of *[address]* confirm that I have given independent legal advice to *[insert name of Employee]* of *[address]* as to the terms and effect of the agreement between *[insert name of Employee]* and *[insert name of Employer]* ('Employer') dated today and in particular its effect on their ability to pursue their rights before an employment tribunal.

I confirm that I am a qualified lawyer (as defined by section 203(4) Employment Rights Act 1996) and that there is, and was at the time I gave the advice referred to above, in force a contract of insurance or an indemnity provided for members of a profession or professional body covering the risk of a claim by *[insert name of Employee]* in respect of any loss arising in consequence of the advice referred to above.

I confirm that I am not employed by the Employer nor am I or *[insert name of Adviser's firm]* acting in this matter for the Employer or any associated employer.

Yours faithfully

*[Adviser's name]*

*[Adviser's firm]*

## [Schedule [2]

### Statement of calculation of statutory redundancy payment

*[Insert Employee's name]*

This statement indicates how the amount of your statutory redundancy payment has been calculated, as required by section 165 Employment Rights Act 1996.

On the date on which your employment terminated for redundancy you had completed *[insert number]* years of continuous employment and were *[insert age]* years old.

By statute you are entitled to:

1½ week's pay for each complete year of employment in which you were not below the age of 41;

1 week's pay for each complete year of employment between the ages of 22 and 40 inclusive;  
and

½ a week's pay for each complete year of employment in which you were under the age of 22.

A week's pay is capped by statute at £[450].

Your statutory redundancy payment therefore is calculated as follows:

[Insert number] years x 1½ x £[450] = £[insert amount]

[Insert number] years x 1 x £[450] = £[insert amount]

[Insert number] years x ½ x £[450] = £[insert amount]

Total = £[insert amount]]

### **[Schedule [3]**

#### **Post-termination restrictions**

*Set out re-stated restrictive covenants from the Employment Contract here (including relevant definitions) or set out new restrictions and relevant definitions. See Clauses — restrictive covenants for examples which can be adapted to suit]*

### **[Schedule [4]**

#### **Reference**

*[Insert terms of agreed reference]*

*[In accordance with [insert name of Employer]'s usual practice, the][The] above information is given to the addressee in confidence and in good faith solely for the purposes for which it was requested and on the understanding that neither its author nor [insert name of Employer] accepts any responsibility for any errors, omissions or inaccuracy in the information or for any loss or damage that may result from reliance being placed on it.*

### **[Schedule [5]**

#### **Agreed form of Order**

*[Insert agreed terms of Order]*

*Check with the Company that this form of signing is permitted by its procedures, if not, use traditional form of signing below*

SIGNED AS A DEED

by [COMPANY NAME]

acting by

[name of director], a director,

.....(Signature)

in the presence of this witness:

Director

..... (Name)

.....

..... (Address)

(Signature of witness)

.....

SIGNED AS A DEED

by [COMPANY NAME]

acting by

[name of director], a director

.....(Signature)

and

Director

[name of director or secretary] [a director/its secretary]

.....(Signature)

Director/Secretary

SIGNED AS A DEED

by [Name of individual]

.....(Signature)

in the presence of this witness:

..... (Name)

.....

..... (Address)

(Signature of witness)

.....