

DATED

201[6]

(1) [INSERT FULL COMPANY NAME OF EMPLOYER]

(2) [INSERT FULL NAME OF EMPLOYEE]

DIRECTOR'S SERVICE AGREEMENT

HEALTH WARNING

This document is a service agreement suitable for use by a private company in relation to an executive director. This service agreement may also be suitable for an executive director of a listed company subject to certain amendments being made.

Please note that:

- This service agreement contains director's clauses which are necessary where the employee is also a director.
- There are a number of specific regulatory requirements for directors' service agreements, some of which depend on whether the company is private or listed. They do not need to be in writing although they usually will be.
- A copy of the contract, or, if the contract is not in writing, a memorandum of its terms must be kept at the company's registered office.
- This contract should be executed as a deed as the power of attorney included in the intellectual property assignment clause can only be granted by deed.
- This agreement is not appropriate for a non-executive director.

THIS DOCUMENT IS FOR GUIDANCE PURPOSES ONLY AND ITS USE IS NO SUBSTITUTE FOR THE NEED TO TAKE LEGAL ADVICE APPROPRIATE FOR YOUR OWN CIRCUMSTANCES.

THIS DEED is dated _____ 201[6]

BETWEEN

- (1) **[INSERT FULL COMPANY NAME OF EMPLOYER]** incorporated and registered in England and Wales with company number **[INSERT COMPANY NUMBER]** whose registered office is at **[INSERT REGISTERED OFFICE ADDRESS]** United Kingdom (the "Employer"); and
- (2) **[INSERT FULL NAME OF EMPLOYEE]** of **[INSERT ADDRESS OF EMPLOYEE]** (the "Employee").

AGREED TERMS:

1. Interpretation

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

Board	the board of directors of the Employer (including any committee of the board duly appointed by it).
Capacity	as agent, consultant, director, employee, owner, partner, shareholder or in any other capacity.
Commencement Date	[INSERT COMMENCEMENT DATE 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 Employer for the time being confidential to the Employer and trade secrets including, without limitation, technical data and know-how relating to the business of the Employer or any of its business contacts, including in particular (by way of illustration only and without limitation) [INSERT EXAMPLES].
Employment	the employment of the Employee by the Employer on the terms of this deed.
Employment IPRs	Intellectual Property Rights created by the Employee in the course of his employment with the Employer (whether or not during working hours or using the premises or resources of the Employer).
Employment Inventions	any Invention which is made wholly or partially by the Employee at any time during the course of his employment with the Employer (whether or not during working hours or using premises or resources or the Employer, and whether or not recorded in material form).
FCA	the Financial Conduct Authority and its successors.
Garden Leave	any period during which the Employer has exercised its rights under clause 18.



Incapacity	any sickness, injury or other medical disorder or condition which prevents the Employee from carrying out his duties.
Intellectual Property Rights	patents, rights to Inventions, copyright and related rights, trade marks, trade names and domain names, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
Invention	any invention, idea, discovery, development, improvement or innovation, whether or not patentable or capable of registration, and whether or not recorded in any medium.
Restricted Business	those parts of the business of the Employer with which the Employee was involved to a material extent in the [INSERT PERIOD] month(s) before Termination.
Restricted Customer	any firm, company or person who, during the [INSERT PERIOD] month(s) before Termination, was a customer or prospective customer of or was in the habit of dealing with the Employer with whom the Employee had contact or about whom he became aware or informed in the course of his employment.
Restricted Person	anyone employed by the Employer at the level of [INSERT SPECIFIED LEVEL] or above and with whom the Employee dealt with in the [INSERT PERIOD] month(s) before Termination in the course of his employment.
Staff Handbook	the staff handbook of the Employer as amended from time to time.
Termination	the termination of the Employee's employment with the Employer howsoever caused.

[NOTE: THE DEFINITIONS OF "RESTRICTED BUSINESS", "RESTRICTED CUSTOMER" AND "RESTRICTED PERSON" SHOULD BE DRAFTED CAREFULLY TO REFLECT THE EMPLOYER'S BUSINESS AND THE EMPLOYEE'S ACTIVITIES DURING THEIR EMPLOYMENT].

- 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 Employment

- 2.1. The Employment shall 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 **[INSERT NUMBER]** months' prior notice in writing.
- 2.2. No employment with a previous employer will count towards the period of continuous employment that the Employee has with the Employer.

3. Employee warranties

- 3.1. The Employee represents and warrants to the Employer that, by entering into this deed or performing any of his obligations under it, he will not be in breach of any court order or any express or implied terms of any contract or other obligation binding on him.
- 3.2. The Employee warrants that he is entitled to work in the United Kingdom without any additional approvals and will notify the Employer immediately if he ceases to be so entitled during the Employment.
- 3.3. The Employee warrants that he is not subject to any restrictions which prevent him from holding office as a director.

4. Duties

- 4.1. The Employee shall serve the Employer as a **[INSERT JOB TITLE]**, or such other role as the Employer considers appropriate.
- 4.2. During the Employment the Employee shall:
 - 4.2.1. act as a director of the Employer and carry out duties on behalf of the Employer;
 - 4.2.2. comply with the articles of association (as amended from time to time) of the Employer;
 - 4.2.3. abide by any statutory, fiduciary or common-law duties to the Employer;
 - 4.2.4. not do anything that would cause him to be disqualified from acting as a director;
 - 4.2.5. comply with the anti-corruption and bribery policy and related procedures of the Employer;
 - 4.2.6. unless prevented by Incapacity, devote the whole of his time, attention and abilities to the business of the Employer;

- 4.2.7. faithfully and diligently exercise such powers and perform such duties as may from time to time be assigned to him by the Employer together with such person or persons as the Employer may appoint to act jointly with him;
 - 4.2.8. comply with all reasonable and lawful directions given to him by the Employer;
 - 4.2.9. promptly make such reports to [INSERT POSITION] in connection with the affairs of the Employer on such matters and at such times as are reasonably required;
 - 4.2.10. report his own wrongdoing and any wrongdoing or proposed wrongdoing of any other employee or director of the Employer to [INSERT POSITION] immediately on becoming aware of it;
 - 4.2.11. use his best endeavours to promote, protect, develop and extend the business of the Employer;
 - 4.2.12. consent to the Employer monitoring and recording any use that he makes of any electronic communications systems the Employer has for the purpose of ensuring that any rules the Employer has are being complied with and for legitimate business purposes; and
 - 4.2.13. comply with any electronic communication systems policy that the Employer may issue from time to time.
- 4.3. The Employee shall comply with any rules, policies and procedures set out in the Staff Handbook, a copy of which has been given to the Employee. The Staff Handbook does not form part of this deed and the Employer may amend it at any time. To the extent that there is any conflict between the terms of this deed and the Staff Handbook, this deed shall prevail.
- 4.4. All documents, manuals, hardware and software provided for the use of the Employee by the Employer, and any data or documents (including copies) produced, maintained or stored on the computer systems of the Employer or other electronic equipment (including mobile phones), remain the property of the Employer.

5. Place of work

- 5.1. The normal place of work of the Employee is [INSERT LOCATION] or such other place within [INSERT DETAILS OF REASONABLE AREA] which the Employer may reasonably require for the proper performance and exercise of his duties.
- 5.2. The Employee agrees to travel on any business of the Employer (both within the United Kingdom or abroad) as may be required for the proper performance of his duties under the Employment.
- 5.3. During the Employment the Employee shall not be required to work outside the United Kingdom for any continuous period of more than one month.

6. Hours of work

The normal working hours of the Employee shall be from [INSERT START TIME] to [INSERT FINISH TIME] on [MONDAYS] to [FRIDAYS] and such hours as are necessary

for the proper performance of his duties, and the Employee acknowledges that he shall not receive further remuneration in respect of such additional hours.

7. Salary

- 7.1. The Employee shall be paid an initial salary of £[INSERT SALARY AMOUNT] per annum (inclusive of any fees due to the Employee by the Employer as an officer of the Employer).
- 7.2. The salary paid to the Employee shall accrue from day to day and be payable monthly in arrears on or about the [INSERT DATE] of each month directly into his bank or building society account.
- 7.3. The salary paid to the Employee shall be reviewed by [INSERT POSITION] annually, the first such review to take place on [INSERT DATE]. The Employer 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 Employment.
- 7.4. The Employer may deduct from the salary, or any other sums owed to the Employee, any money owed to the Employer by the Employee.

8. Expenses

- 8.1. The Employer shall reimburse (or procure the reimbursement of) all reasonable expenses wholly, properly and necessarily incurred by the Employee in the course of the Employment, subject to production of VAT receipts or other appropriate evidence of payment.
- 8.2. The Employee shall abide by the policies of the Employer on expenses as communicated to him from time to time.

9. Directors' and officers' insurance

During the Employment and for six years following Termination the Employee shall be entitled to be covered by a policy of directors' and officers' liability insurance on terms no less favourable than those in place from time to time for other members of the Board. A copy of the policy is available from [INSERT POSITION].

10. Holidays

- 10.1. The Employer's holiday year runs between [INSERT DATE] and [INSERT DATE]. If the Employment 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 day.

[NOTE: THE ANNUAL STATUTORY HOLIDAY ENTITLEMENT UNDER THE WORKING TIME REGULATIONS IS CURRENTLY 28 DAYS FOR A FULL-TIME EMPLOYEE. THE ENTITLEMENT SHOULD BE PRO-RATED FOR PART-TIME WORKERS. THERE IS NO STATUTORY RIGHT TO PAID PUBLIC HOLIDAYS (WHICH TOTAL EIGHT DAYS A YEAR) AND SO THESE CAN BE GIVEN AS PART OF THE STATUTORY ENTITLEMENT].

- 10.2. The Employee shall be entitled to [INSERT NUMBER] days' paid holiday in each holiday year which shall include the usual public holidays in England and Wales or days in lieu where the Employer requires the Employee to work on a public holiday.

- 10.3. Holiday shall be taken at such time or times as shall be approved in advance by [INSERT POSITION]. The Employee shall not without the consent of [INSERT POSITION] carry forward any accrued but untaken holiday entitlement to a subsequent holiday year unless the Employee has been prevented from taking it in the relevant holiday year by one of the following: a period of sickness absence or statutory maternity leave, paternity, adoption, parental or shared parental leave. In cases of sickness absence, carry-over is limited to four weeks' holiday per year less any leave taken during the holiday year that has just ended. Any such carried over holiday which is not taken within eighteen months of the end of the relevant holiday year will be lost.
- 10.4. The Employee shall have no entitlement to any payment in lieu of accrued but untaken holiday except on termination of the Employment. Subject to clause 10.5 the amount of such payment in lieu shall be 1/260th of the Employee's salary for each untaken day of the entitlement.
- 10.5. If the Employer has terminated or would be entitled to terminate the Employment under clause 16 or if the Employee has terminated the Employment in breach of this agreement, any payment due under clause 10.4 shall be limited to the Employee's statutory entitlement under the Working Time Regulations 1998 (SI 1998/1833), and any paid holidays (including paid public holidays) taken shall be deemed first to have been taken in satisfaction of that statutory entitlement.
- 10.6. If on termination of the Employment the Employee has taken in excess of his accrued holiday entitlement, the Employer 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 for each excess day calculated at 1/260th of the Employee's salary.
- 10.7. If either party has served notice to terminate the Employment, the Employer may require the Employee to take any accrued but unused holiday entitlement during the notice period. Any accrued but unused holiday entitlement shall be deemed to be taken during any period of Garden Leave pursuant to clause 18.

11. Incapacity

- 11.1. If the Employee is absent from work due to Incapacity, the Employee shall notify [INSERT POSITION] of the reason for the absence as soon as possible but no later than [INSERT TIME] on the first day of absence.
- 11.2. The Employee shall certify his absence.
- 11.3. After the Employee has completed [INSERT NUMBER] months' continuous service, subject to his compliance with this deed and subject to clause 11.4, the Employee shall be entitled to receive his full salary and contractual benefits during any periods of sickness absence up to a maximum of [INSERT NUMBER] weeks in any 52-week period. Those payments shall be inclusive of any statutory sick pay ("SSP") due.
- 11.4. If the Employee has been on long term sick leave continuously for more than a year he will not qualify for sick pay again until he has returned to work for a total of [INSERT NUMBER] weeks.
- 11.5. Pension contributions will continue as normal while the Employee is paid at the full rate in accordance with clause 11.3. If the Employee's pay during any period of Incapacity is reduced or the Employee is paid SSP only, the level of contributions in respect of their

membership of the [INSERT NAME] Pension Scheme may continue, subject to the relevant pension scheme rules in force at the time of their absence.

[NOTE: SAVE IN CERTAIN CASES, THE EMPLOYER IS OBLIGED BY LAW TO PAY SSP FOR 28 WEEKS OF ABSENCE ON ACCOUNT OF SICKNESS DURING EACH PERIOD OF ENTITLEMENT OF THREE YEARS. IN BASIC TERMS, SSP BECOMES PAYABLE ON THE FOURTH DAY AFTER AN EMPLOYEE HAS BEEN OFF SICK FOR THREE CONSECUTIVE DAYS AND HAS COMPLIED WITH BASIC NOTIFICATION PROCEDURES. THE EMPLOYER MAY CHOOSE TO PAY EMPLOYEES IN EXCESS OF SSP FOR DAYS ON WHICH THEY ARE SICK (KNOWN AS COMPANY SICK PAY). IN THIS CASE, ANY COMPANY SICK PAY IS OFFSET AGAINST THE SSP DUE FOR THE SAME DAY. THIS CONTRACT PROVIDES FOR COMPANY SICK PAY IN EXCESS OF SSP. FOR AN EXAMPLE OF SSP-ONLY PROVISIONS, PLEASE REFER TO THE EMPLOYMENT CONTRACT].

- 11.6. The Employee agrees to consent to medical examinations (at the Employer's expense) by a doctor nominated by the Employer should the Employer so require. The Employee agrees that any report produced in connection with any such examination may be disclosed to the Employer and the Employer may discuss the contents of the report with the relevant doctor.
- 11.7. 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, settlement or judgment made or awarded in connection with it and the all relevant particulars that the Board may reasonably require. The Employee shall, if so required by the Employer, co-operate in any related legal proceedings and refund to the Employer that part of any damages or compensation recovered by him relating to the loss of earnings for the period of the Incapacity as the Board may reasonably determine less any costs borne by him 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 Employer in respect of the period of Incapacity.
- 11.8. The rights of the Employer to terminate the Employment under the terms of this deed apply even when such termination would or might cause the Employee to forfeit any entitlement to sick pay or other benefits.

12. Outside interests

- 12.1. Subject to clause 12.2, during the Employment the Employee shall not, except as a representative of the Employer or with the prior written approval of the Employer, whether paid or unpaid, be directly or indirectly engaged, concerned or have any financial interest in any Capacity in any other business, trade, profession or occupation (or the setting up of any business, trade, profession or occupation).
- 12.2. Notwithstanding clause 12.1, the Employee may hold an investment by way of shares or other securities of not more than 5% of the total issued share capital of any company (whether or not it is listed or dealt in on a recognised stock exchange) where such company does not carry on a business similar to or competitive with any business for the time being carried on by the Employer.
- 12.3. The Employee agrees to disclose to the Employer any matters relating to his spouse or civil partner (or anyone living as such), children or parents which may, in the reasonable

opinion of the Employer, be considered to interfere, conflict or compete with the proper performance of the obligations of the Employee under this deed.

13. Confidential information

- 13.1. The Employee acknowledges that in the course of the Employment he will have access to Confidential Information. The Employee has therefore agreed to accept the restrictions in this clause 13.
- 13.2. The Employee shall not (except in the proper course of his duties), either during the Employment or at any time after its termination (however arising), use or disclose to any person, company or other organisation whatsoever (and shall use his best endeavours to prevent the publication or disclosure of) any Confidential Information. This shall not apply to:
- 13.2.1. any use or disclosure authorised by the Board or required by law; or
 - 13.2.2. any information which is already in, or comes into, the public domain other than through the unauthorised disclosure of the Employee; or
 - 13.2.3. any protected disclosure within the meaning of section 43A of the Employment Rights Act 1996.

14. Intellectual Property

- 14.1. The Employee acknowledges that all Employment IPRs, Employment Inventions and all materials embodying them shall automatically belong to the Employer to the fullest extent permitted by law. To the extent that they do not vest in the Employer automatically, the Employee holds them on trust for the Employer.
- 14.2. The Employee acknowledges that, because of the nature of his duties and the particular responsibilities arising from the nature of his duties, he has, and shall have at all times while he is employed by the Employer, a special obligation to further the interests of the Employer.
- 14.3. To the extent that legal title in and to any Employment IPRs or Employment Inventions does not vest in the Employer by virtue of clause 14.1, the Employee agrees, immediately on creation of such rights and Inventions, to offer to the Employer in writing a right of first refusal to acquire them on arm's-length terms to be agreed between the parties. If the parties cannot agree on such terms within 30 days of the Employer receiving the offer, the Employer shall refer the dispute to an expert who shall be appointed by the President of **[INSERT RELEVANT INSTITUTE]**. The expert's decisions shall be final and binding on the parties in the absence of manifest error, and the costs of arbitration shall be borne equally by the parties. The parties will be entitled to make submissions to the expert and will provide (or procure that others provide) the expert with such assistance and documents as the expert reasonably requires for the purpose of reaching a decision. The Employee agrees that the provisions of this clause 14 shall apply to all Employment IPRs and Employment Inventions offered to the Employer under this clause 14.3 until such time as the Employer has agreed in writing that the Employee may offer them for sale to a third party.
- 14.4. The Employee agrees:

- 14.4.1. to give the Employer full written details of all Employment Inventions which relate to or are capable of being used in the business of the Employer promptly on their creation;
 - 14.4.2. at the request of the Employer and in any event on the termination of his employment to give to the Employer all originals and copies of correspondence, documents, papers and records on all media which record or relate to any of the Employment IPRs;
 - 14.4.3. not to attempt to register any Employment IPR nor patent any Employment Invention unless requested to do so by the Employer; and
 - 14.4.4. to keep confidential each Employment Invention unless the Employer has consented in writing to its disclosure by the Employee.
- 14.5. The Employee waives all his present and future moral rights which arise under the Copyright Designs and Patents Act 1988, and all similar rights in other jurisdictions relating to any copyright which forms part of the Employment IPRs, and agrees not to support, maintain nor permit any claim for infringement of moral rights in such copyright works.
- 14.6. The Employee acknowledges that, except as provided by law, no further remuneration or compensation other than that provided for in this deed is or may become due to the Employee in respect of his compliance with this clause 14. This clause 14 is without prejudice to the rights of the Employee under the Patents Act 1977.
- 14.7. The Employee undertakes to use his best endeavours to execute all documents and do all acts both during and after his employment by the Employer as may, in the opinion of the Employer, be necessary or desirable to vest the Employment IPRs in the Employer, to register them in the name of the Employer and to protect and maintain the Employment IPRs and the Employment Inventions. Such documents may, at the request of the Employer, include waivers of all and any statutory moral rights relating to any copyright works which form part of the Employment IPRs. The Employer agrees to reimburse any reasonable expenses of the Employee of complying with this clause 14.7.
- 14.8. The Employee agrees to give all necessary assistance to the Employer to enable it to enforce its Intellectual Property Rights against third parties, to defend claims for infringement of third party Intellectual Property Rights and to apply for registration of Intellectual Property Rights, where appropriate throughout the world, and for the full term of those rights.
- 14.9. The Employee hereby irrevocably appoints the Employer to be his attorney to execute and do any such instrument or thing and generally to use his name for the purpose of giving the Employer or its nominee the benefit of this clause 14. The Employee acknowledges in favour of a third party that a certificate in writing signed by any Director or the Secretary of the Employer that any instrument or act falls within the authority conferred by this clause 14 shall (unless there is manifest error) be conclusive evidence that such is the case.
- 15. Ceasing to be a director**
- 15.1. Except with the prior approval of the Board, or as provided in the articles of association of the Employer, the Employee shall not resign as a director of the Employer.

- 15.2. If during the Employment the Employee ceases to be a director of the Employer (otherwise than by reason of his death, resignation or disqualification pursuant to the articles of association of the Employer, as amended from time to time, or by statute or court order) the Employment shall continue with the Employee as an employee only and the terms of this deed (other than those relating to the holding of the office of director) shall continue in full force and effect. The Employee shall have no claims in respect of such cessation of office.

16. Payment in lieu of notice

[NOTE: THIS IS AN OPTIONAL PAYMENT IN LIEU OF NOTICE (OR PILON) CLAUSE WHICH ALLOWS THE EMPLOYER TO TERMINATE THE EMPLOYMENT WITH IMMEDIATE EFFECT AND MAKE A PAYMENT IN LIEU OF THE EMPLOYEE WORKING OUT THEIR NOTICE. THE EMPLOYER SHOULD SEEK LEGAL ADVICE BEFORE EXERCISING THIS CLAUSE AS FORMAL NOTIFICATION TO THE EMPLOYEE THAT THE EMPLOYER WOULD LIKE TO MAKE A PILON IS LIKELY TO BE IMPORTANT. THE DISADVANTAGE FOR EMPLOYERS OF INCLUDING A PILON CLAUSE IS THAT TERMINATION PAYMENTS MADE UNDER THE PILON CLAUSE WILL BE SUBJECT TO DEDUCTION OF INCOME TAX AND NICS AND WILL NOT ATTRACT THE BENEFICIAL TAX TREATMENT OF CERTAIN TERMINATION PAYMENTS, THE FIRST £30,000 OF WHICH CAN BE MADE ON A TAX-FREE BASIS].

- 16.1. Notwithstanding clause 2, the Employer may, in its sole and absolute discretion, terminate the Employment at any time and with immediate effect by notifying the Employee that the Employer is exercising its right under this clause 16 and that it will make within **[INSERT NUMBER]** days the first instalment of a payment in lieu of notice ("**Payment in Lieu**") to the Employee. This Payment in Lieu will be equal to the basic salary (as at the date of Termination) which the Employee would have been entitled to receive under this deed 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:
- 16.1.1. any bonus or commission payments that might otherwise have been due during the period for which the Payment in Lieu is made;
 - 16.1.2. 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
 - 16.1.3. any payment in respect of any holiday entitlement that would have accrued during the period for which the Payment in Lieu is made.
- 16.2. The Employer may pay any sums due under clause 16.1 in equal monthly instalments until the date end of the period for 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 Employer of any income so received. The instalment payments shall then be reduced by the amount of such income.

- 16.3. The Employee shall have no right to receive a Payment in Lieu unless the Employer has exercised its discretion in clause 16.1. Nothing in this clause 16 shall prevent the Employer from terminating the Employment in breach.
- 16.4. Notwithstanding clause 16.1 the Employee shall not be entitled to any Payment in Lieu if the Employer would otherwise have been entitled to terminate the Employment without notice in accordance with clause 17. In that case the Employer shall also be entitled to recover from the Employee any Payment in Lieu (or instalments thereof) already made.

17. Termination without notice

- 17.1. The Employer may also terminate the Employment 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:
- 17.1.1. is disqualified from acting as a director or resigns as a director from the Employer without the prior written approval of the Board; or
 - 17.1.2. is in breach of the anti-corruption and bribery policy and related procedures of the Employer; or
 - 17.1.3. is guilty of any gross misconduct affecting the business of the Employer; or
 - 17.1.4. commits any serious or repeated breach or non-observance of any of the provisions of this deed or refuses or neglects to comply with any reasonable and lawful directions of the Employer; or
 - 17.1.5. is, in the opinion of a medical practitioner who is treating the Employee, physically or mentally incapable of performing their duties and may remain so for more than three months and the medical practitioner has given a medical opinion to Board to that effect; or
 - 17.1.6. is, in the reasonable opinion of the Employer, negligent and incompetent in the performance of his duties; or
 - 17.1.7. is declared bankrupt or makes any arrangement with or for the benefit of his creditors or has a county court administration order made against him under the County Court Act 1984; or
 - 17.1.8. 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
 - 17.1.9. ceases to be eligible to work in the United Kingdom; or
 - 17.1.10. is guilty of any fraud or dishonesty or acts in any manner which in the opinion of the Employer brings or is likely to bring the Employee or the Employer into disrepute or is materially adverse to the interests of the Employer; or
 - 17.1.11. is guilty of a serious breach of any rules issued by the Employer from time to time regarding its electronic communications systems; or
 - 17.1.12. is unable by reason of Incapacity to perform his duties under this deed for an aggregate period of **[INSERT NUMBER]** weeks in any 52-week period.

- 17.2. The rights of the Employer under clause 17.1 are without prejudice to any other rights that it might have at law to terminate the Employment or to accept any breach of this deed by the Employee as having brought the Employment to an end. Any delay by the Employer in exercising its rights to terminate shall not constitute a waiver thereof.

18. Garden Leave

- 18.1. Following service of notice to terminate the Employment by either party, or if the Employee purports to terminate the Employment in breach of contract, the Employer may by written notice place the Employee on Garden Leave for the whole or part of the remainder of the Employment.

- 18.2. During any period of Garden Leave:

18.2.1. the Employer shall be under no obligation to provide any work to the Employee and may revoke any powers the Employee holds on behalf of the Employer;

18.2.2. the Employer may require the Employee to carry out alternative duties or to perform only such specific duties as are expressly assigned to the Employee, at such location (including the home of the Employee) as the Employer may decide;

18.2.3. the Employee shall continue to receive his basic salary and all contractual benefits in the usual way and subject to the terms of any benefit arrangement;

18.2.4. the Employee shall remain an employee of the Employer and bound by the terms of this agreement (including any implied duties of good faith and fidelity);

18.2.5. the Employee shall ensure that **[INSERT POSITION]** knows where he will be and how he can be contacted during each working day (except during any periods taken as holiday in the usual way);

18.2.6. the Employer may exclude the Employee from any premises of the Employer; and

18.2.7. the Employer 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 or to the Employer.

19. Obligations upon Termination

- 19.1. On termination of the Employment (however arising) or, if earlier, at the start of a period of Garden Leave following the service of notice or purported termination of the Employment by the Employee, the Employee shall:

19.1.1. resign immediately without compensation from any office or trusteeship that he holds in or on behalf of the Employer;

19.1.2. transfer without payment to the Employer or as it may direct any shares or other securities held by the Employee in the Employer as a nominee or trustee for the Employer and deliver to the Employer the related certificates;

- 19.1.3. subject to clause 19.2, if applicable, immediately deliver to the Employer all documents, books, materials, records, correspondence, papers and information (on whatever media and wherever located) relating to the business or affairs of the Employer or its business contacts, any keys and any other property of the Employer which is in his possession or under his control;
- 19.1.4. irretrievably delete any information relating to the business of the Employer stored on any magnetic or optical disk or memory and all matter derived from such sources which is in his possession or under his control outside the premises of the Employer; and
- 19.1.5. provide a signed statement that he has complied fully with his obligations under this clause 19.1 together with such reasonable evidence of compliance as the Employer may request.
- 19.2. Where the Employee has been placed on Garden Leave he shall not be required by clause 19.1 to return until the end of the Garden Leave period any property provided to him as a contractual benefit for use during the Employment.
- 19.3. The Employee hereby irrevocably appoints the Employer to be his attorney to execute and do any such instrument or thing and generally to use his name for the purpose of giving the Employer or its nominee the full benefit of clause 19.1.1 and clause 19.1.2.
- 19.4. On termination of the Employment 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 Employer in which he may participate.

20. Post-Termination restrictions

[NOTE: RESTRICTIVE COVENANTS ARE POTENTIALLY VOID AS AN UNLAWFUL RESTRAINT OF TRADE AND ARE THEREFORE ONLY ENFORCEABLE IF THEY GO NO FURTHER THAN IS NECESSARY TO PROTECT LEGITIMATE BUSINESS INTERESTS OF THE PARTY SEEKING TO ENFORCE THEM. THE ONLY RECOGNISED BUSINESS INTERESTS ARE (I) TRADE CONNECTIONS AND (II) TRADE SECRETS AND CONFIDENTIAL INFORMATION. THIS CLAUSE SHOULD EXPLAIN WHY THE EMPLOYER NEEDS TO HAVE THE PROTECTION OF THE COVENANTS. IF THERE ARE SPECIFIC REASONS WHY THE EMPLOYEE IS IN A POSITION TO HARM THE EMPLOYER AFTER TERMINATION THEN IT WOULD BE SENSIBLE TO STATE THIS IN THE CLAUSE. TO MAXIMISE THE LIKELIHOOD THAT THE COVENANTS WILL BE ENFORCEABLE, THEY SHOULD REFLECT THE NATURE OF THE EMPLOYER'S BUSINESS AND THE EMPLOYEE'S POSITION. THEREFORE, SOME OF THE COVENANTS MAY NOT BE APPROPRIATE, AND THERE MAY BE OTHER COVENANTS THAT SHOULD BE INCLUDED. CAREFUL CONSIDERATION SHOULD BE GIVEN TO THE PERIOD OF EACH COVENANT. HOWEVER THE COVENANTS ARE DRAFTED, THE EMPLOYER AND EMPLOYEE'S SITUATION WILL CHANGE. THE REASONABLENESS OF RESTRAINTS IS LIKELY TO BE CONSIDERED BY REFERENCE TO THE STATUS OF THE EMPLOYEE AT THE TIME OF ENTERING INTO THE RESTRAINT, AND NOT AT TERMINATION OF EMPLOYMENT. IDEALLY, THEREFORE, THE COVENANTS SHOULD BE REVIEWED EACH TIME THERE IS A RELEVANT CHANGE. IN PRACTICE THIS IS UNLIKELY TO HAPPEN AND THEREFORE THE CLAUSES SHOULD BE DRAFTED TO ALLOW FOR SOME FLEXIBILITY].

- 20.1. In order to protect the Confidential Information, trade secrets and business connections of the Employer to which he has access as a result of the Employment, the Employee covenants with the Employer that he shall not:
- 20.1.1. for [INSERT PERIOD] month(s) after Termination, solicit or endeavour to entice away from the Employer the business or custom of a Restricted Customer with a view to providing goods or services to that Restricted Customer in competition with any Restricted Business; or
 - 20.1.2. for [INSERT PERIOD] month(s) after Termination, in the course of any business concern which is in competition with any Restricted Business, offer to employ or engage or otherwise endeavour to entice away from the Employer any Restricted Person; or
 - 20.1.3. for [INSERT PERIOD] month(s) after Termination, in the course of any business concern which is in competition with any Restricted Business, employ or engage or otherwise facilitate the employment or engagement of any Restricted Person, whether or not such person would be in breach of contract as a result of such employment or engagement; or
 - 20.1.4. for [INSERT PERIOD] month(s) after Termination, be involved in any Capacity with any business concern which is (or intends to be) in competition with any Restricted Business; or
 - 20.1.5. for [INSERT PERIOD] month(s) after Termination, be involved with the provision of goods or services to (or otherwise have any business dealings with) any Restricted Customer in the course of any business concern which is in competition with any Restricted Business; or
 - 20.1.6. at any time after Termination, represent himself as connected with the Employer in any Capacity, other than as a former employee, or use any registered business names or trading names associated with the Employer.
- 20.2. None of the restrictions in clause 20.1 shall prevent the Employee from:
- 20.2.1. holding an investment by way of shares or other securities of not more than 5% of the total issued share capital of any company, whether or not it is listed or dealt in on a recognised stock exchange
 - 20.2.2. being engaged or concerned in any business concern insofar as the Employee's duties or work shall relate solely to geographical areas where the business concern is not in competition with any Restricted Business; or
 - 20.2.3. being engaged or concerned in any business concern, provided that the Employee's duties or work shall relate solely to services or activities of a kind with which the Employee was not concerned with to a material extent in the [INSERT PERIOD] month(s) before Termination.
- 20.3. The restrictions imposed on the Employee by this clause 20 apply to him acting:
- 20.3.1. directly or indirectly; and
 - 20.3.2. on his own behalf or on behalf of, or in conjunction with, any firm, company or person.

- 20.4. The periods for which the restrictions in clause 20.1 apply shall be reduced by any period that the Employee spends on Garden Leave immediately before Termination.
- 20.5. If the Employee receives an offer to be involved in a business concern in any Capacity during the Employment, or before the expiry of the last of the covenants in this clause 20, the Employee shall give the person making the offer a copy of this clause 20 and shall tell the Employer the identity of that person as soon as possible after accepting the offer.
- 20.6. [The Employer and the Employee entered into the restrictions in this clause 20 having been separately legally advised.]
- 20.7. Each of the restrictions in this clause 20 is intended to be separate and severable. If any of the restrictions shall be held to be void but would be valid if part of their wording were deleted, such restriction shall apply with such deletion as may be necessary to make it valid or effective.

21. Disciplinary and grievance procedures

- 21.1. The Employee is subject to the Employer's disciplinary and grievance procedures, copies of which are available from [INSERT POSITION]. These procedures do not form part of the Employee's contract of employment.
- 21.2. If the Employee wants to raise a grievance, he may apply in writing to [INSERT POSITION] in accordance with the Employer's grievance procedure.
- 21.3. If the Employee wishes to appeal against a disciplinary decision he may apply in writing to [INSERT POSITION] in accordance with the Employer's disciplinary procedure.
- 21.4. The Employer may suspend the Employee from any or all of his duties for a period of up to [INSERT NUMBER] days during any period in which the Employer is investigating any disciplinary matter involving the Employee or while any disciplinary procedure against the Employee is outstanding.
- 21.5. During any period of suspension:
- 21.5.1. the Employee shall continue to receive his basic salary and all contractual benefits in the usual way and subject to the terms of any benefit arrangement;
 - 21.5.2. the Employee shall remain an employee of the Employer and bound by the terms of this agreement;
 - 21.5.3. the Employee shall ensure that [INSERT POSITION] knows where he will be and how he can be contacted during each working day (except during any periods taken as holiday in the usual way);
 - 21.5.4. the Employer may exclude the Employee from his place of work or any other premises of the Employer; and
 - 21.5.5. the Employer 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 Employer.

22. Pensions

- 22.1. The Employee will become an active member of the Employer's occupational pension scheme (the "**Scheme**") (or such other registered pension scheme as may be established by the Employer to replace the Scheme) from the effective date of this contract, subject to the tax reliefs and exemptions available from HM Revenue & Customs, as amended from time to time. Full details of the Scheme are available from **[INSERT POSITION]**.
- 22.2. The Employee shall pay such contributions to the Scheme as may be required by the rules of the Scheme as amended from time to time. The contributions shall be made by way of deductions from the Employee's salary.
- 22.3. A contracting-out certificate is not in force in respect of the Employment.

23. Collective agreement

[NOTE: IT IS A LEGAL REQUIREMENT THAT THE CONTRACT SETS OUT THE DETAILS OF ANY COLLECTIVE AGREEMENTS WITH TRADE UNIONS WHICH MAY AFFECT THE TERMS OF EMPLOYEES' EMPLOYMENT. PLEASE DELETE EITHER / OR AS APPROPRIATE].

[There is no collective agreement which directly affects the Employment].

[OR]

[The Employment is governed by the collective agreement between the Employer and [INSERT NAME OF TRADE UNION], which is incorporated into the contract and may be amended from time to time].

24. Reconstruction and amalgamation

If the Employment is terminated at any time by reason of any reconstruction or amalgamation of the Employer, 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 deed, the Employee shall have no claim against the Employer or any such undertaking arising out of or connected with such termination.

25. Notice

- 25.1. 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.
- 25.2. Any such notice shall be deemed to have been received:
- 25.2.1. if delivered by hand, at the time the notice is left at the address or given to the addressee; or
 - 25.2.2. 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

- 25.2.3. 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
- 25.2.4. in the case of fax, at the time of transmission.
- 25.3. A notice shall have effect from the earlier of its actual or deemed receipt by the addressee. For the purpose of calculating deemed receipt:
 - 25.3.1. all references to time are to local time in the place of deemed receipt; and
 - 25.3.2. 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.
- 25.4. A notice required to be given under this agreement shall not be validly given if sent by email.
- 25.5. This clause does not apply to the service of any proceedings or other documents in any legal action.

26. Entire agreement

- 26.1. This deed and any document referred to in it constitutes the entire agreement between the parties and supersedes and extinguishes all previous discussions, correspondence, negotiations, drafts, agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 26.2. Each party agrees that in entering into this deed it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this deed.
- 26.3. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this deed.
- 26.4. Nothing in this clause 26 shall limit or exclude any liability for fraud.

27. Variation

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

28. Counterparts

This deed 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 deed.

29. Third-party rights

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

30. Governing law

This deed 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 the law of England and Wales.

31. Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this deed or its subject matter or formation (including non-contractual disputes or claims).

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Executed as a deed by)
[INSERT FULL COMPANY NAME OF)
EMPLOYER])
acting by [INSERT NAME OF DIRECTOR],) Director of Employer
a director,)
in the presence of:)
) Witness

Witness name
Witness address
.....
.....
.....
Witness occupation

Signed as a deed by)
[INSERT FULL NAME OF EMPLOYEE])
in the presence of:) Employee
)
) Witness

Witness name
Witness address
.....
.....
.....
Witness occupation

