**Apprenticeship Agreement (Scotland).**

*[ON HEADED NOTEPAPER OF EMPLOYER]*

[APPRENTICE'S NAME AND ADDRESS]

[DATE]

Dear [APPRENTICE'S NAME],

Scottish Apprenticeship Agreement: Apprentice Employee

Please read this letter carefully as it contains the terms of your employment as an apprentice. If you have any questions about the contents of this letter, please do not hesitate to speak to me before signing.

# Commencement of employment

## Your employer is [EMPLOYER'S NAME] (Company or we). Your employment with the Company [commences **OR** commenced] on [DATE]. [No employment with a previous employer counts towards your period of continuous employment with the Company **OR** Your employment with [NAME], which commenced on [DATE], counts towards your period of continuous employment with the Company].

## The first [NUMBER] month[s] of your employment shall be a probationary period during which your employment may be terminated on [one week's] prior notice. We may, at our discretion, extend this period for up to a further [NUMBER] months. During this probationary period your performance and suitability for continued employment will be monitored. [At the end of your probationary period you will be informed in writing if you have successfully completed your probationary period.]

# Your role as an employed apprentice

## You are employed as an apprentice and report to [NAME]. [Your duties are set out in the attached job description.]

## You will have regular meetings with your mentor who is [NAME] to review your progress and assess your performance throughout your employment, set agreed goals and targets for your apprenticeship and discuss any problems or issues you may have.

## You will receive training to help you achieve the required standards expected of you in relation to the work done for the Company under this agreement.

## [We recognise that your role as an apprentice employee means that we are responsible for ensuring you receive training and support within the workplace. Furthermore, we appreciate that initially you will not have the same level of experience, skills and knowledge as other employees. However, we require you to meet satisfactory levels of conduct and performance relevant to your role and will take disciplinary action (up to and including immediate dismissal) if you unreasonably fail to meet such standards.] As set out below in this agreement, as an Employee in law you are subject to the same rules and procedure as all other employees in the Company.

## You may be required to undertake such other duties as we may from time to time reasonably require.

## You confirm and warrant that you are entitled to work in the UK without any additional immigration approvals and will notify the Company immediately if you cease to be so entitled at any time during your employment with the Company.

## You shall not work for anyone else while you are employed by the Company.

# Place of work

## Your normal place of work is [LOCATION] or such other place within [REASONABLE AREA] as we may from time to time reasonably require [(on either a temporary or a permanent basis)]. [We will give you reasonable notice of a permanent change to your place of work.]

## You will not be required to work outside the UK for more than one month during the term of your employment.

# Salary

## Your [basic] salary is £[AMOUNT] per year which shall accrue from day to day and be payable [monthly] in arrears [on or about the [DATE] of each month] directly into your bank or building society account.

## We shall be entitled to deduct from your salary or other payments due to you any money that you may owe to the Company at any time.

# Hours of work, training and rules

## Your normal hours of work are between [TIME] and [TIME] [Monday] to [Friday] inclusive with a daily [paid OR unpaid] lunch break of one hour. You may be required to work such additional hours as may be necessary for the proper performance of your duties without extra pay.

## [Your [days of work and ]hours of work are variable. [Set out details of how the employee’s days of work and/or hours vary or how this variation is determined, eg The days and/or hours you are required to work are determined by your manager [to reflect business needs ] and details will be set out in the weekly/monthly roster for your team which is usually circulated one week before it comes into effect.]]

## [Although your normal days and hours of work do not vary on a regular basis OR In addition to the variable working pattern set out in Clause 5.2], we may [ask you to ]vary your days and/or hours of work or the pattern of your normal hours from time to time, as we consider necessary to meet the needs of the business.[ This will usually be on a temporary basis only and with advance notice. If business need requires a permanent variation to your hours and/or days of work, we will seek your agreement and any variation will be implemented only after a period of consultation with you.]

## We will ensure that you receive On-the-job Training and Off-the-job Training to assist you achieve the apprenticeship standard referred to above. [We require you to undertake induction training when you start working for us.] This training is compulsory and we bear the cost of it.

## You are required to attend Off-the-job Training run by [one of our nominated learning providers **OR** [NAME OF LEARNING PROVIDER]]. We will release you from your duties to attend such training as is reasonably required to complete your apprenticeship and attain [RELEVANT LEVEL OF QUALIFICATION]. It is envisaged that this external training will be [[NUMBER] hours **OR** on [DAY(S)]] each week. Please ensure that you provide [NAME] with full details of your intended absences to attend such training as soon as you know your timetable and in any event at least [NUMBER] weeks in advance.

## You agree to permit us to enquire of any training provider or tutor as to your progress and attendance at Off-the-job Training and as to the result of the Assessment.

## [The Company may, at its discretion, contribute towards some or all of your training costs. You agree that if your employment terminates after the Company has incurred liability for the cost of your training you will be liable to repay some or all of the fees, expenses and other costs paid by the Company and not met by government funding (Costs) associated with such training courses in accordance with clause 5.4.]

## [Except in the circumstances set out in clause 5.5, you shall repay the Company as follows:

### if you cease employment before you attend the training course but the Company has already incurred liability for the Costs, [100]% of the Costs that the Company cannot recover from the learning provider shall be repaid;

### if you cease employment between one and six months of commencing the training course, [80]% of the Costs shall be repaid;

### if you cease employment between six and 12 months after commencing the training course, [50]% of the Costs shall be repaid; or

### if you cease employment between 12 and 18 months after commencing the training course, [25]% of the Costs shall be repaid.

Thereafter, no repayment shall be required;

*Drafting note:- Under Section 109 of the Finance Act 2016 it is arguable that deduction clauses as above may not be enforceable for levy paying employers. It is not clear however whether a levy paying employer can recover the training costs over and above levy payments. It is advisable only to use the clause if the employer is satisfied (possibly through advice from a tax expert) there will be no breach of Section 109 of the Finance Act 2016 or the guidance provided by the Education & Skills Funding Agency, or if the repayment relates only to costs outside of the apprenticeship levy scheme.*

## [You shall not be required to repay any of the Costs under this clause 5 where your employment is terminated by the Company by reason of redundancy or long-term sickness or in circumstances where an employment tribunal finds that you have been constructively dismissed.]

## [You agree to the Company deducting the sums under this clause from your final salary or any outstanding payments due to you.]

## [You agree that if the Company waives your obligation to repay the Costs under this clause, you will be solely responsible for any income or other tax payable as a result of the waiver and you shall indemnify the Company on a continuing basis in relation to any such tax.]

## [We also offer additional [in-house and external ]training[ and, in some cases, time off work to undertake training], subject to certain eligibility requirements and other conditions. Details of this training are set out in our training policy, as amended from time to time. The policy is available from [the HR department]. Any such further training is voluntary.]

## [You are required to complete training in relation to [set out details of compulsory training and the timeframe within which the apprentice is required to complete it] , at your own expense.]

## You must at all times to comply with our rules, policies and procedures in force from time to time[, including those contained in the Staff Handbook, [a copy of which has been given to you **OR** which is available from [POSITION] **OR** which is available on our intranet]].

# Holidays

## You are entitled to [NUMBER] days' paid holiday during each holiday year. [This includes **OR** In addition you are entitled to take] [the usual] public holidays [in Scotland]] [or a day in lieu where we require you to work on a public holiday]. The Company's holiday year runs between [DATE] and [DATE]. If your employment starts or finishes part way through the holiday year, your holiday entitlement during that year shall be calculated on a pro-rata basis [rounded up to the nearest [whole **OR** half] day].

## Holiday dates must be agreed by [POSITION] in writing in advance. We may require you to take holiday on specific days which will be notified to you.

## You cannot carry untaken holiday entitlement forward from one holiday year to the following holiday year [except as set out in our holidays policy which is available [on the intranet **OR** from [POSITION]] **OR** unless you have been prevented from taking it in the relevant holiday year by one of the following: a period of long term 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 leave year that has just ended. Any such carried over holiday which is not taken within fifteen months of the end of the relevant holiday year will be lost].

## We shall not pay you in lieu of untaken holiday except on termination of employment. The amount of such payment in lieu shall be [1/260th of your [full-time equivalent] salary for each untaken day of your entitlement **OR** as set out in our holidays policy which is available [on the intranet **OR** from [POSITION].

## If you have taken more holiday than your accrued entitlement at the date your employment terminates, we shall be entitled to deduct the excess holiday pay from any payments due to you [calculated at 1/260th of your [full-time equivalent] salary] for each excess day.

# Sickness

## If you are absent from work due to sickness you must notify [POSITION] of the reason for your absence as soon as possible but no later than [TIME] on the end of the first day of absence.

## In all cases of absence, a self-certification form, which is available [on the Company's intranet **OR** from [POSITION]], must be completed on your return to work and supplied to [POSITION]. For any period of sickness which lasts for seven consecutive days or more a doctor's certificate stating the reason for absence must be obtained and supplied to [POSITION]. Further certificates must be obtained if the absence continues for longer than the period of the original certificate.

## If you are absent from work for more than [three] days by reason of incapacity and you satisfy the relevant requirements, you will be entitled to statutory sick pay. Your qualifying days for statutory sick pay purposes are [Monday] to [Friday].

## [During any period of absence due to sickness, the level of contributions in respect of your membership of the [NAME] Pension Scheme may continue, subject to the relevant pension scheme rules in force at the time of your absence.]

# Other Paid Leave

## You are eligible for other paid leave,[ including maternity leave, adoption leave, paternity leave, parental leave, shared parental leave, [ sabbatical leave,][ dependants leave,][ compassionate leave,] bereavement leave,[ training and study leave][ and ][leave for public duties,]] in accordance with our current [policies OR benefits policy], as amended from time to time, subject to your complying with the relevant statutory and other conditions and requirements in order to be entitled to the leave and pay. [Copies of our policies are OR A copy of our benefits policy is] available [on the intranet] and [from the HR Department].

# Length of Modern Apprenticeship

## Nothing in these terms and conditions is to be construed as a fixed period of employment. It is envisaged however (subject to all the other terms in this agreement) that an apprenticeship would normally last for a period of [NUMBER] years,

## The Company cannot guarantee you a permanent employment position after the end of your Apprenticeship (although it is anticipated to try to retain you) and the Company reserves the right to terminate your employment upon the successful completion of your Apprenticeship.

## You are expected to gain the relevant academic and practical skills during your employment. If you don’t achieve this standard, the Company will assess the reasons for this and the Company may (at its absolute discretion) extend the period of your employment under this agreement. If the Company give you an extension, it will be for no longer than one year, so you will need to achieve the required standard during this time. You will not receive an increase in pay during the extension period.

# Termination and notice period

## It is envisaged that your employment will terminate at the end of your apprenticeship which is anticipated to be for [NUMBER] years, unless terminated early by you or the Company either where:

### as otherwise agreed between the parties (the Company and you) because you have satisfactorily completed your Apprenticeship and attained the standard necessary for qualification early; or

### you have not attained the standard necessary for qualification and completion of your Apprenticeship and the Company does not believe that you are going to meet that requisite standard within a reasonable period of time. Your period of employment will not be extended and the Company reserves the right to terminate your employment in accordance with clause 9.2.

### you are dismissed as an employee from the company for any reason permitted under the Section 98 (1) or (2) of the Employment Rights Act 1996.

## Notwithstanding clause 9.1, your employment may still be terminated earlier at any time by either party giving to the other party in writing the following notice:

### if you have less than two years' continuous employment: [one week's] notice; and

### if you have more than two years' continuous employment: one week's notice for each complete year of continuous employment up to a maximum of 12 weeks' notice.

## [We may at our discretion terminate your employment without notice and notify you that the Company is exercising its right under this clause 9.3 and that it will make a payment of basic salary in lieu of notice within 28 days or, the first instalment of any payment in lieu to you [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 bonus or commission payments, or any payments in respect of benefits which you would have been entitled to receive during your notice period, or any payment in respect of any holiday entitlement that you would have accrued during your notice period for which the payment in lieu is made.]

## We shall be entitled to dismiss you at any time without notice, or payment in lieu of notice if:

### you commit a serious breach of your obligations as an employee (gross misconduct); or

### you cease to be entitled to work in the United Kingdom.

## It is expressly agreed by all parties signing this agreement that the terms of this agreement take precedence over all other negotiations, agreements or arrangements (whether implied or express, orally or in writing) concerning the subject matter of your employment and/or the apprenticeship with [NAME OF LEARNING PROVIDER]. If there are any terms relating to your apprenticeship or the termination thereof contained in any other apprenticeship arrangements or documents (such as, but without limitation, Learning Plans or ILPs or any other agreements or arrangements signed by you and/or the training provider and/or the Company) that contradict the terms of this agreement, then the terms of this agreement shall apply.

# Disciplinary and grievance procedures

## Your attention is drawn to the disciplinary and grievance procedures applicable to your employment, which are [contained in the Staff Handbook **OR** available from [POSITION]]. These procedures are not a term of your contract of employment and may be subject to change by the Company at any time. The Company may at its absolute discretion (and in particular with employees who have been employed for less than 2 years) depart from the full procedures.

## [If you wish to appeal against a disciplinary decision, you may apply in writing to [POSITION] in accordance with our disciplinary procedure.]

## We reserve the right to suspend you with pay for no longer than is necessary to investigate allegations of misconduct against you or so long as is otherwise reasonable while any disciplinary procedure against you is outstanding.

## If you wish to raise a grievance you may apply in writing to [POSITION] in accordance with our grievance procedure.

# Other Benefits

## You are also eligible for certain other benefits, as set out in our benefits policy, as amended from time to time, subject to you complying with any qualifying conditions and other requirements. Our benefits policy is available from [the HR department].

## OR

## You are not entitled to any benefits other than those set out in this agreement.]

# Pensions

## [There is no pension scheme in force in relation to your employment.

**OR**

You may join such registered pension scheme as has been set up by the Company subject to satisfying certain eligibility criteria and subject to the scheme rules as amended from time to time. Full details of the scheme are available from [POSITION].

**OR**

The Company will comply with the employer pension duties in accordance with Part 1 of the Pensions Act 2008.

## A contracting-out certificate is [not] in force in respect of your employment.

# Collective agreement

There is no collective agreement that directly affects your employment.

**OR**

The collective agreement between [NAME] and [NAME] dated [DATE], a copy of which [you have been given **OR** is available from [POSITION]], directly affects your employment.]

# Changes to your terms of employment

We reserve the right to make reasonable changes to any of your terms of employment. You will be notified in writing of any change as soon as possible and in any event within one month of the change.

# Confidential information

## You shall not use or disclose to any person either during or at any time after your employment with the Company any confidential information about the business or affairs of the Company [or any of its business contacts], or about any other matters which may come to your knowledge in the course of your employment. For the purposes of this clause 16, confidential information means any information or matter which is not in the public domain and which relates to the affairs of the Company [or any of its business contacts].

## The restriction in clause 16.1 does not apply to:

### prevent you from making a protected disclosure within the meaning of section 43A of the Employment Rights Act 1996; or

### use or disclosure that has been authorised by the Company, is required by law or by your employment.

1. **Data protection and monitoring**

## We will process personal data and sensitive personal data (also known as ‘special categories of personal data’)[ and criminal records data] relating to you in accordance with our [Data protection policy][ and] our [data protection privacy notice][ and our [criminal records information policy]], [available from [insert title] OR contained in the Staff Handbook].

## We may monitor staff in accordance with our policies relating to [email, internet and communications systems and monitoring at work], [available from [insert title] OR contained in the Staff Handbook].

## You will comply with your obligations under our data protection [policy OR policies] and other relevant policies[, including in relation to criminal records information, internet, email and communications, information security, bringing your own device (BYOD)].

## [We [will OR may] transfer personal data and sensitive personal data outside the European Economic Area in accordance with our [data protection privacy notice].]

# Company property

## All documents, manuals, hardware and software provided for your 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.

## Any Company property in your possession and any original or copy documents obtained by you in the course of your employment shall be returned to [POSITION] at any time on request and in any event before the termination of your employment with the Company.

# Third party rights

No person other than you and the Company may enforce any terms of this agreement.

# Employment status

## This letter contains the particulars of your employment which the Company is required to give you by section 1 of the Employment Rights Act 1996.

## We intend the contents of this agreement will be a contract of employment and **not** a contract of apprenticeship. You will be treated at all times and for all purposes as an employee of the Company [and shall owe the same duties to the Company as its other employees]. It is expressly acknowledged by the parties to this agreement that the primary purpose of your engagement under this agreement is to work as an employee for the Company and for you to be paid for that work. The arrangements for you to receive practical training and academic training as part of your apprenticeship [WITH NAME OF LEARNING PROVIDER] are secondary.

## In circumstances where we terminate your employment the Company agrees to give [NAME OF LEARNING PROVIDER] notice so that they can discuss with you any possibilities for continuing your training as an apprentice with another employer.

# Definitions

## In this agreement:

## ‘Assessment’ means any external examination or assessment required to achieve the apprenticeship standard;

## ‘On-the-job training’ means training received by you during your normal working hours for the sole purpose of enabling you to perform your duties under this agreement;

## ‘Off-the-job training’ means training, internal or external (which is not On-the-job Training) received by you during your normal working hours that the Company may consider necessary for you to undertake in order to achieve the apprenticeship standard.

# Governing law

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 the law of Scotland.

Please indicate your acceptance of these terms by signing and returning to me the attached copy of this letter.

Yours sincerely,

[Name]

[Position]

|  |
| --- |
| **SIGNED** by or on behalf of the parties: |

|  |  |  |
| --- | --- | --- |
| **Company**   |  | | --- | | …………………………………(Signature) |   Signed for and on behalf of [Company name] by  ………………………………………… (Name)  Director/Secretary/duly authorised to sign on its behalf  at………………………………………  on……………………………………… |  |
| in the presence of this witness:  …………………………………………(Signature)  ………………………………………… (Name)  ………………………………………… (Address)  ………………………………………… |  |

**Employee**

Signed by [Employee name]

………………………………………… (Name)

at………………………………………

on………………………………………

in the presence of this witness:

…………………………………………(Signature)

………………………………………… (Name)

………………………………………… (Address)

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