Full name: Settlement agreement: employment (short form) (England & Wales).

Dated

------------

Settlement agreement

between

[EMPLOYER]

and

[EMPLOYEE]

Contents

Clause

1. Termination date 1

2. Termination payment 1

3. Pension and Benefits 2

4. Waiver 2

5. Return of property 3

6. Employee warranty 3

7. Confidentiality and other restrictions 3

8. Legal advice and fees 4

9. Entire agreement 4

10. Governing law 4

11. Jurisdiction 4

12. Subject to contract and without prejudice 5

Schedule

Schedule 1 Calculation of the statutory redundancy payment

Schedule 2 Claims

Schedule 3 Adviser's certificate

**THIS AGREEMENT** is dated [DATE]

Parties

1. [EMPLOYER] incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (Employer).
2. [EMPLOYEE] of [ADDRESS] (Employee).

Agreed terms

# Termination date

## The Employee's employment with the Employer [shall terminate **OR** terminated] on [DATE] (Termination Date).

## The Employee [has received **OR** will receive] their basic salary and other contractual benefits, including a payment [amounting to £[AMOUNT]] in respect of [NUMBER] days' outstanding holiday, up to and including the Termination Date less tax and National Insurance contributions.

## [The Employee [has received **OR** will receive] a payment in lieu of notice of [NUMBER] [weeks' **OR** months'] notice pursuant to clause [NUMBER] in his employment contract, such sum to have tax and National Insurance contributions deducted in the usual way.]

# Termination payment

## The Employer will pay to the Employee £[AMOUNT] by way of compensation for the termination of their employment (Termination Payment). This amount consists of:

### £[AMOUNT] as a redundancy payment, which includes a statutory redundancy payment calculated in accordance with Schedule 1;

### £[AMOUNT] as an ex-gratia payment.

## The Employer and the Employee believe that [the first £30,000 of] the Termination Payment will be tax free. [The remainder of the Termination Payment will be subject to deductions for income tax.]

## The Employee shall indemnify the Employer on a continuing basis against any further income tax and employee national insurance contributions in respect of the Termination Payment (and any related interest and penalties).

## The Termination Payment will be made to the Employee within [21] days of the Termination Date or receipt by the Employer of a copy of this agreement signed by the Employee, including the certificate signed by the Employee's adviser as set out at Schedule 3, whichever is later. [The Termination Payment will be made to the Employee [before **OR** after] their P45 has been issued.]

# Pension and Benefits

## The Employer shall notify the trustees of its pension scheme that the Employee's employment [will terminate **OR** has terminated] and will request written confirmation of the Employee's accrued entitlement and the options available for dealing with their entitlement. [Subject to the rules of the pension scheme, the Employer will pay £[AMOUNT] into the scheme before the Termination Date in order to enhance the Employee's benefits.]

## Subject to the rules of any relevant scheme, the Employer will continue to provide the Employee with [BENEFIT] until [DATE] or such time as any contract which shall provide the Employee with any form of income commences, whichever is earlier.

# Waiver

## The terms of this agreement are offered by the Employer without any admission of liability and are in full and final settlement of all and any claims or rights of action that the Employee has or may have arising out of their employment with the Employer, or its termination, whether under common law, contract, statute or otherwise, whether or not such claims are, or could be, known to the parties or in their contemplation at the date of this agreement in any jurisdiction and including, but not limited to, the claims specified in Schedule 2 (each of which is waived by this clause) but excluding any claims by the Employee to enforce this agreement, any personal injury claims which have not arisen as at the date of this agreement [and any existing personal injury claims] or any claims in relation to accrued pension entitlements.

## The Employee acknowledges that the conditions relating to settlement agreements[ and compromise contracts] under section 147 of the Equality Act 2010,[ section 77(4A) of the Sex Discrimination Act 1975 (in relation to claims under that Act and the Equal Pay Act 1970), section 72(4A) of the Race Relations Act 1976, paragraph 2 of Schedule 3A to the Disability Discrimination Act 1995, paragraph 2(2) of Schedule 4 to the Employment Equality (Sexual Orientation) Regulations 2003, paragraph 2(2) of Schedule 4 to the Employment Equality (Religion or Belief) Regulations 2003, paragraph 2(2) of Schedule 5 to the Employment Equality (Age) Regulations 2006,] section 288(2B) of the Trade Union and Labour Relations (Consolidation) Act 1992, section 203(3) of the Employment Rights Act 1996, regulation 35(3) of the Working Time Regulations 1998, section 49(4) of the National Minimum Wage Act 1998, regulation 41(4) of the Transnational Information and Consultation of Employees Regulations 1999, regulation 9 of the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations 2000, regulation 10 of the Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations 2002, regulation 40(4) of the Information and Consultation of Employees Regulations 2004, paragraph 13 of the Schedule to the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006, regulation 62 of the Companies (Cross-Border Mergers) Regulations 2007 and section 58 of the Pensions Act 2008 have been satisfied.

# Return of property

## The Employee warrants that [they have returned **OR** before the Termination Date they will return] to the Employer in good condition all property belonging to the Employer or relating to the Employer or its business contacts in whatever format but including any car, company credit card, keys, security pass, identity badge, mobile telephone, pager, lap-top computer, books, documents, papers, computer disks, memory sticks and other media.

## The Employee [shall, before the Termination Date, erase **OR** as at the date of this agreement, warrants that he has erased] irretrievably any information relating to the business or affairs of the Employer [or its business contacts] from computer and communications systems and devices owned or used by him outside the premises of the Employer, including such systems and data storage services provided by third parties (to the extent technically practicable).

# Employee warranty

The Employee warrants and represents to the Employer that there are no circumstances of which the Employee is aware or ought reasonably to be aware that would amount to a repudiatory breach of any express or implied term of their contract of employment that would entitle (or would have entitled) the Employer to terminate the Employee's employment without notice or payment in lieu of notice. The Termination Payment [is **OR** and the payment in lieu of notice are] conditional on this being so.

# Confidentiality and other restrictions

## The Employee's obligations under clause [NUMBER] (confidentiality) and clause [NUMBER] (post-termination restrictive covenants) of their employment contract will continue to apply after the Termination Date.

## The Employee and the Employer confirm that they have kept and agree to keep the existence and terms of this agreement confidential, except where disclosure is to HM Revenue & Customs, their professional advisers, members of their immediate family (provided that they agree to keep the information confidential) or is required by law.

## The Employee shall not, and the Employer shall use reasonable endeavours to ensure that its employees and officers shall not, make any adverse or derogatory comment about each other or do anything that shall, or may, bring the Employer, its directors or employees, or the Employee into disrepute.

# Legal advice and fees

## The Employee confirms that they have received independent advice as to the terms and effect of this agreement and in particular on its effect on their ability to pursue any complaint before an employment tribunal or court from [NAME] of [FIRM/ORGANISATION], who is a relevant independent adviser, and who shall sign the certificate set out at Schedule 3 to this agreement.

## The Employer shall pay the reasonable legal fees (up to a maximum of £[AMOUNT] plus VAT) incurred by the Employee in obtaining advice on the termination of their employment and the terms of this agreement, such fees to be payable to their adviser on production of an invoice.

# Miscellaneous

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

## for the purpose of making a protected disclosure [(including a protected disclosure made about matters previously disclosed to another recipient)] within the meaning of Part IVA of the Employment Rights Act 1996 (Protected Disclosures), provided that the disclosure is made in accordance with the provisions of that Act;

## for the purpose of reporting misconduct, or a serious breach of regulatory requirements, to a regulator;

## for the purpose of reporting an offence to a law enforcement agency and/or co-operating with a criminal investigation or prosecution; and/or

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

# Entire agreement

This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to the Employee's employment and its termination.

# 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 England and Wales.

# Jurisdiction

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

# Subject to contract and without prejudice

This agreement shall be deemed to be without prejudice and subject to contract until such time as it is signed by both parties and dated, when it shall be treated as an open document evidencing a binding agreement.

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

1. [Calculation of the statutory redundancy payment]

Start date: [DATE]

Termination date: [DATE]

Period of continuous employment: [NUMBER] years

Age at termination: [NUMBER] years

Gross weekly salary: £[AMOUNT]

Statutory cap on weekly salary: £[AMOUNT]

[NUMBER] years at one and a half times gross weekly salary: £[AMOUNT]

[NUMBER] years at one times gross weekly salary: £[AMOUNT]

[NUMBER] years at half gross weekly salary: £[AMOUNT]

Total: £[AMOUNT]

1. Claims
2. Claims:
	1. for breach of contract or wrongful dismissal;
	2. for unfair dismissal, under section 111 of the Employment Rights Act 1996;
	3. in relation to the right to a written statement of reasons for dismissal, under section 93 of the Employment Rights Act 1996;
	4. for a statutory redundancy payment, under section 163 of the Employment Rights Act 1996;
	5. in relation to an unlawful deduction from wages or unlawful payment, under section 23 of the Employment Rights Act 1996;
	6. for unlawful detriment, under section 48 of the Employment Rights Act 1996 or section 56 of the Pensions Act 2008;
	7. in relation to written employment particulars and itemised pay statements, under section 11 of the Employment Rights Act 1996;
	8. in relation to guarantee payments, under section 34 of the Employment Rights Act 1996;
	9. in relation to suspension from work, under section 70 of the Employment Rights Act 1996;
	10. in relation to parental leave, under section 80 of the Employment Rights Act 1996;
	11. in relation to a request for flexible working, under section 80H of the Employment Rights Act 1996;
	12. in relation to time off work, under sections 51, 54, 57, 57B, 57ZC, 57ZF, 57ZH, 57ZM, 57ZQ, 60, 63 and 63C of the Employment Rights Act 1996;
	13. in relation to working time or holiday pay, under regulation 30 of the Working Time Regulations 1998;
	14. in relation to the national minimum wage, under sections 11, 18, 19D and 24 of the National Minimum Wage Act 1998;
	15. for equal pay or equality of terms under sections 120 and 127 of the Equality Act 2010 [and/or section 2 of the Equal Pay Act 1970];
	16. for pregnancy or maternity discrimination, direct or indirect discrimination, harassment or victimisation related to sex, marital or civil partnership status, pregnancy or maternity or gender reassignment under section 120 of the Equality Act 2010;
	17. for direct or indirect discrimination, harassment or victimisation related to race under section 120 of the Equality Act 2010;
	18. for direct or indirect discrimination, harassment or victimisation related to disability, discrimination arising from disability, or failure to make adjustments under section 120 of the Equality Act 2010;
	19. for direct or indirect discrimination, harassment or victimisation related to religion or belief under section 120 of the Equality Act 2010;
	20. for direct or indirect discrimination, harassment or victimisation related to sexual orientation, under section 120 of the Equality Act 2010;
	21. for direct or indirect discrimination, harassment or victimisation related to age, under section 120 of the Equality Act 2010;
	22. for less favourable treatment on the grounds of part-time status, under regulation 8 of the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations 2000;
	23. for less favourable treatment on the grounds of fixed-term status, under regulation 7 of the Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations 2002;
	24. under regulations 27 and 32 of the Transnational Information and Consultation of Employees Regulations 1999;
	25. under regulations 29 and 33 of the Information and Consultation of Employees Regulations 2004;
	26. under regulations 45 and 51 of the Companies (Cross-Border Mergers) Regulations 2007;
	27. under paragraphs 4 and 8 of the Schedule to the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006;
	28. under sections 68A, 87, 137, 145A, 145B, 146, 168, 168A, 169, 170, 174 and 192 of the Trade Union and Labour Relations (Consolidation) Act 1992;
	29. in relation to the obligations to elect appropriate representatives or any entitlement to compensation, under the Transfer of Undertakings (Protection of Employment) Regulations 2006;
	30. in relation to the right to be accompanied under section 11 of the Employment Relations Act 1999;
	31. in relation to refusal of employment, refusal of employment agency services and detriment under regulations 5, 6 and 9 of the Employment Relations Act 1999 (Blacklists) Regulations 2010;
	32. in relation to the right to request time off for study or training under section 63I of the Employment Rights Act 1996;
	33. in relation to the right to equal treatment, access to collective facilities and amenities, access to employment vacancies and the right not to be subjected to a detriment under regulations 5, 12, 13 and 17(2) of the Agency Workers Regulations 2010;
	34. in relation to personal injury[, of which the Employee is or ought reasonably to be aware at the date of this agreement];
	35. for harassment under the Protection from Harassment Act 1997;
	36. for failure to comply with obligations under the Human Rights Act 1998;
	37. for failure to comply with obligations under the Data Protection Act 2018;
	38. arising as a consequence of the United Kingdom's membership of the European Union; and
	39. in relation to the right not to be subjected to a detriment under regulation 3 of the Exclusivity Terms in Zero Hours Contracts (Redress) Regulations 2015.
3. Adviser's certificate

I, .................................................................. of ............................................................................, whose address is ..........................................................................................................................., am [a Solicitor of the Senior Courts of England and Wales who holds a current practising certificate **OR** [AMEND AS APPLICABLE]] and confirm that I have given [EMPLOYEE] legal advice on the terms and effect of the agreement between [EMPLOYEE] and [EMPLOYER] of today's date (the Agreement) and, in particular, its effect on his ability to pursue the claims specified in 2 of the Agreement.

I also confirm that there is now in force (and was in force at the time I gave the advice referred to above) a policy of insurance or an indemnity provided for members of a profession or professional body covering the risk of claim in respect of loss arising in consequence of the advice I have given [EMPLOYEE].

SIGNED.........................................................................................

DATE.............................................................................................

|  |  |
| --- | --- |
| Signed by [NAME OF DIRECTOR OR OTHER AUTHORISED SIGNATORY] for and on behalf of [NAME OF COMPANY] | .................................... |
|   | [Director **OR** [POSITION]] |
| Signed by [NAME OF EMPLOYEE] | .................................... |