

Apprenticeship Agreement: drafting guidance notes

Apprenticeship Agreements: the position under the Apprenticeships, Skills, Children and Learning Act 2009 ('ASCLA 2009')

Apprenticeship Agreements entered into under the ASCLA 2009 are to be treated as contracts for service (*section 35*, ASCLA 2009). This is a key difference between Apprenticeship Agreements and traditional common law contracts of apprenticeship. As a result of this distinction, Apprenticeship Agreements have the same status as ordinary contracts of employment, with the primary focus being the job rather than the training, whereas the primary focus of a common law contract of apprenticeship has always been the training rather than the job. Apprentices engaged under an Apprenticeship Agreement will not therefore benefit from the enhanced rights apprenticeships engaged under traditional contracts of apprenticeship receive.

An agreement with the apprentice will be an Apprenticeship Agreement under the ASCLA 2009 if the following conditions are satisfied:-

- 1 The apprentice agrees to work for the employer under the Apprenticeship Agreement;
- 2 The Apprenticeship Agreement is in the **prescribed form**;
- 3 The Apprentice Agreement states that it is governed by the laws of England and Wales;
- 4 The Apprentice Agreement states that it is entered into in connection with a qualifying apprenticeship framework.

'Prescribed Form'

The Apprenticeships (Form of Apprenticeship Agreement) Regulations 2012, which came into force on 6 April 2012, addressed the meaning of "**prescribed form**". The Regulations state that the prescribed form of an Apprenticeship Agreement entered into under the ASCLA 2009 must either be:-

- a written statement of particulars of employment under Section 1 of the Employments Rights Act 1996 (this is the basic statement of employment terms); or
- a written contract of employment which contains at least the principal terms to be provided to the employee under Section 1 of the Employment Rights Act 1996 (i.e. a more detailed contract which still has the basic terms required by law).

The Apprenticeship Agreement must also include a statement of the skill, trade or occupation for which the apprentice is being trained under the apprenticeship framework.

(Please note that the Regulations make separate provisions for Apprenticeship Agreements for Crown servants, Parliamentary staff and members of the armed forces)

Template Apprenticeship Agreement at Appendix 1

This Agreement incorporates the statutory particulars of employment required by section 1 of Employment Rights Act 1996 to be provided to employees whose employment is to continue for more than one month, as well as clauses which provide additional protection for the employer.

Additional or optional clauses may need to be added and will vary from employer to employer, such as:

Pay in lieu of notice clause;
Shift work clause;
Lay off and Short time working;
Permanent health insurance;
Private medical insurance;
Intellectual property;
Restraint of trade and Business secrets

If additional clauses are added to the Agreement, it will be necessary to check if any of the cross references need to be amended.

CLAUSE NOTES

Parties

It has been assumed that the employer is a company. This can be modified as necessary if the employer is an individual or a partnership.

The Agreement may be signed by the Apprentice as a minor i.e. under 18, in which case the contract will be subject to the normal rules that a minor is not bound by a contract unless it is for his benefit, and that he may renounce his contract upon attaining the age of majority. It is for this reason that it is not uncommon to join parents/guardians as party to the contract to guarantee the Apprentice's performance. All references to 'guardian' may be deleted if the Apprentice is aged 18 or above.

Agreement: Clause1

This clause clarifies the information that must be given to ensure that this contract qualifies as an Apprenticeship Agreement under ASCLA 2009.

Commencement of employment and term: Clause 2

An Apprenticeship Agreement is required at the commencement of the Apprenticeship and must be in place for the whole duration of the Apprenticeship. Without it, a completion certificate cannot be issued.

Clause 2.1 - The date the employment/apprenticeship began or is to begin must be given (this is the date in which the apprentice starts the apprenticeship and not the date on which the Apprenticeship Agreement is signed). The employer must also state whether any employment with a previous employer counts as part of the apprentice employee's continuous period of employment. If any previous employment is to count towards continuity, the date of commencement of that employment must be included. This is an important date to get right as it is used when calculating various statutory rights, including unfair dismissal and statutory redundancy payment. If the apprentice employee is moved to your employment during their apprenticeship there is no statutory obligation on the employer to recognise their length of service with other employers unless it is a relevant transfer under the Transfer of Undertakings (Protection of Employment) Regulations 2006. If an existing employee is subsequently made an apprentice and placed on an Apprenticeship Agreement their period of continuous employment will be recognised.

Optional clause 2.3 confirms that the apprentice employee's initial employment will be a probationary period. Probationary periods are very useful for an employer, in particular, where the employee's notice period exceeds the statutory minimum. Probationary periods may last, for instance, three

months, during which the employer may dismiss the employee at any time on minimal notice (usually one week) if their performance is unsatisfactory. A probationary clause will usually not be relevant where the document is being used for existing employees who, at the time of entering into the Agreement, have already completed a probationary period.

Clause 2.4 confirms that the apprentice employee is employed for a definite term (up until completion of the Apprenticeship) which can be terminated early by notice (sometimes referred to as a “break clause”) in accordance with clause 11.

On completion of the Apprenticeship, the apprentice employee’s employment will terminate automatically without the need for notice. It is therefore important to note that apprentice employees who have at least two year’s continuous service (or one year if employment started before 6 April 2012) will have the right to claim unfair dismissal and therefore the employer’s disciplinary and dismissal procedures must be followed prior to termination of employment. (Please refer to clause 21.)

Title of job: Clause 3

This must include the title of the job which the apprentice employee is employed to do or a brief description of the work required.

The identity of the training provider should be provided and it is a good idea to attach the agreed individual learning plan to the agreement so that it is incorporated within the body of the contract between Employer and Apprentice.

Place of employment: Clause 4

The place of work should be stated or, where the apprentice is required or permitted to work at various places, an indication of that fact and of the address of the employer.

If the apprentice is expected to travel throughout the United Kingdom and abroad, this should be indicated.

The Agreement should also identify the name and location of the education establishment the apprentice will be attending for training as part of their Apprenticeship. If this is likely to change over the course of the Apprenticeship the appropriate flexibility should be drafted into the agreement e.g. “or such other place as notified from time to time”.

Apprentice duties: Clause 5

The Agreement should spell out very clearly what exactly is expected of the apprentice employee during their Apprenticeship. This should also be discussed and highlighted to the apprentice when signing the Agreement. This is particularly important for the continued performance review and management of the apprentice employee.

If there is a separate apprenticeship agreement between the employer and the training provider or between all three parties, it is a good idea to check the terms to see if there are any additional obligations or responsibilities on the part of the employer or Apprentice which should also be incorporated within the terms of the Apprenticeship Agreement.

The Agreement aims to provide a greater degree of transparency between the parties so that both the employer and the apprentice employee are fully aware of their rights and obligations from the outset. The Employer should discuss the Agreement with the apprentice prior to commencement and signing so that the apprentice is fully aware of what is expected of them during the course of their

Apprenticeship and the possible consequences if they fail to adhere to their obligations under the Agreement.

Clause 5.3 specifically authorises the employer to exchange information personal to the apprentice employee and their Apprenticeship with the training provider to ensure the continued monitoring of the apprentice's performance during their Apprenticeship.

Salary: Clause 6

The scale or rate of remuneration, or the method of calculating it and the intervals at which the money is paid (that is weekly, monthly or other specified enforce) must be stated. Remuneration will include salary and other cash benefits, such as bonus or commission payments, so details of these must also be given.

Employers must comply with National Minimum Wage legislation.

Clause 6.2 contains a contractual obligation on the employer to review the salary on an annual basis. However, the clause specifically provides that there is no obligation to award an increase.

Apprentices must be paid for both the hours they spending working and for those that are spent studying the Apprenticeship Framework.

Clause 6.4 provides that the employer will pay the apprentice's salary in respect of normal working hours for each day spent in attendance at the education establishment and/or at all approved tests and examinations. The clause provides that if the apprentice is absent from the education establishment during the required college/training centre hours and/or any test or examination without authorisation, the employer may withhold pay for the hours of non-attendance and the apprentice specifically consents to such a deduction from their salary. Again, this is a clause that should be specifically flagged up to the apprentice when signing the Agreement. The employer will have a degree of discretion when exercising this clause. A full investigation must be carried out into the apprentice employee's non-attendance and the apprentice notified of the intended deduction before any deductions are made.

This clause provides the employer with the necessary contractual authority to make a deduction from wages in these circumstances.

Clause 6.5 provides that the rights of the employer under Clause 6.4 are without prejudice to the employer's right to commence disciplinary proceedings for unauthorised absence.

Normal hours of work and rules: Clause 7

The Agreement must give details of the apprentice employee's hours of work and normal working hours. Apprentices must have spent a substantial proportion of their time as an apprentice actually doing the job they are developing a competence in, on premises where that job is usually carried out. This will normally be for a minimum of 30 hours per week, but may be more.

Clause 7.1 - Lunch/Rest Break duration - Under the Working Time Regulations 1998:

- Workers have the right to take an uninterrupted 20-minute rest break, away from the workstation, if their day's working time is more than six hours. In other words it must be not less than 20 minutes or such longer period as may be agreed in a collective agreement or a workforce agreement.
- A 'Young Worker' (basically those aged between 15 and 18 who are above compulsory school age) is entitled to not less than 30 minutes of uninterrupted rest break per four and a half hours of working time.

Clause 7.3 is an optional overtime clause.

OR, alternatively:

Clause 7.4 requires the apprentice to extend their hours of work as may be necessary for the proper performance of their duties without extra remuneration for overtime.

Clause 7.5 specifies that the apprentice employee is required at all times to comply with the employer's rules, policies and procedures enforced from time to time. A copy of the staff handbook and/or policies relevant to their employment should be made available to the apprentice employee.

Holiday entitlement and pay: Clause 8

The Agreement must include terms relating to the apprentice employee's holiday entitlement, including public holidays and holiday pay.

Clause 8.4, it is preferable to make specific provision for the authorisation and taking of leave.

Clause 8.6 provides that during the period of Apprenticeship, when the apprentice employee is undertaking training, their holiday should normally be taken outside of college/training centre term times.

Sickness or injury: Clause 9

Terms and conditions relating to incapacity for work due to sickness or injury, including any provision for sick pay, must be included. In practice, this would cover requirements for self certification, the delivery of medical certificates (and the inspection by the employer's doctor if desired) and details of payment during sickness absence (that is statutory sick pay or any additional payments by the employer, if applicable).

During a period of incapacity for work, statutory sick pay is payable only for days within the period of incapacity for work which are qualifying days. Qualifying days are the days on which the apprentice employee normally works (unless otherwise agreed by the parties).

Employers may choose to pay employees in excess of statutory sick pay for days on which they are sick (often known as company sick pay). Details of any additional payments by the employer should be incorporated into the terms of this Agreement.

Pensions: Clause 10

The Agreement should specify any terms relating to pensions and pension schemes. If other benefits are provided as part of the pension scheme (for example, life insurance) these must also be included.

The Agreement should specify if a contracting-out certificate for the purpose of the State Second Pension (previously SERPS), is in force in relation to the employment.

Two alternative clauses have been suggested. In the first alternative clause the employer provides the apprentice employee with access to a stakeholders scheme, but does not contribute to it. In the second alternative clause, the apprentice employee is entitled to join the employer's occupational pension scheme.

Alternative pension wording may be appropriate.

A variation clause has been incorporated at clause 10.3 in anticipation of the changes to be introduced by the Government under the Pensions Act 2008

Termination and notice period: Clause 11

Clause 11.1: In view of the apprentice employee's status as an employee, the Agreement provides that save on completion of the Apprenticeship (wherein the employment will terminate without the need for notice) termination of the employment by either party will be in accordance with the statutory minimum notice entitlements.

The statutory minimum notice entitlement ranges from one to twelve weeks as follows:

- One week if period of continuous employment is between one month and two years;
- One week for each year of continuous employment between two and twelve years;
- Twelve weeks if period of continuous employment is twelve years or more.

Clause 11.2 provides that the employer may effectively put the apprentice employee on garden leave during their period of notice.

Clause 11.3 provides that the apprentice employee's employment is conditional upon the employer receiving continued funding support from the training provider and entitles the employer to terminate the apprentice employee's employment before completion of their Apprenticeship if the training provider ceases to provide continued funding support. This should be done on notice.

Clause 11.4 provides that the employer may be permitted to terminate the apprentice employee's employment summarily in the event of gross misconduct.

Disciplinary and grievance procedures: Clause 12

The Agreement should include a note:

- Specifying any disciplinary rules applicable to the apprentice employee or referring to a document which is reasonably accessible to the apprentice employee and which specifies such rules.
- Specifying any procedure applicable to the taking of disciplinary actions relating to the apprentice employee or to the decision to dismiss the apprentice employee, or referring the apprentice employee to the provisions of another document which specifies such a procedure.
- Specifying by description or otherwise:
 - a person whom the apprentice employee can apply if he is dissatisfied with any disciplinary decision relating to him or any decision to dismiss him; and
 - a person whom the apprentice employee can apply for the purpose of seeking redress of any grievance relating to his employment and the manner in which any such application should be made.

Company property: Clause 13

This clause is always advisable for an employer to include so that the apprentice employee is under a contractual obligation to return all company property on termination of their employment for whatever reason.

Confidential information: Clause 14

There is an implied duty on an employee to keep confidential information during the course of employment, but there is only a limited implied right following termination of employment, so an express obligation as in clause 14 is useful. A wide definition of 'confidential information' has been included. The employer should check to ensure that all types of information that it considers confidential and to which the apprentice employee has access, have been included.

Deduction from pay: Clause 15

Under section 13(1) ERA 1996, an employer may not make any deduction from an employee's wages unless:

- it is required or authorised to be made by a statutory provision or a relevant provision in the employee's contract; or
- the employee has previously consented in writing to the deduction.

Clause 15 provides the employer with the necessary contractual authority.

Collective agreements: Clause 16

Any collective agreements which directly affect the terms and conditions of employment must be specified including, where the employer is not a party, the persons by whom they were made.

Data protection: Clause 17

This clause is intended to operate as the consent of the apprentice employee to the employer possessing personal data and sensitive personal data for purposes connected with the apprentice employee's employment in order to comply with employer's obligations under the Data Protection Act 1998.

There is an argument that a consent clause contained in an employment contract may not be valid, and may not be freely given because at the time of entering into the contract, the apprentice employee is not properly informed about the data that is being possessed. For this reason, employers should consider having a separate data protection policy which sets out in detail the nature of the information which is being possessed by the employer and the purposes for which it is being possessed.

Monitoring: Clause 18

This clause is intended to operate as the consent of the apprentice employee to the employer carrying out monitoring of the apprentice employee's communications, email, correspondence, telephone and internet use.

There are arguments as to the validity of such a clause in an employment contract as discussed above under Data Protection.

Employers should consider issuing an electronic communications policy to employees which sets out, for example, the purposes for which monitoring should be undertaken and the type of monitoring that may be undertaken by the employer.

Variation to terms and conditions: Clause 19

An Apprenticeship Agreement is a legally binding contract between the employer and the employee and therefore, it is subject to the basic principle that one party cannot unilaterally alter the terms of the contract without the other party's consent.

The purpose of clause 19 is to give the employer the contractual right to make reasonable changes to the terms of employment without the employee's specific consent.

Clause 19.2 provides that one month's written notice will be provided to the apprentice employee before significant changes are made to the terms of their contract, and that any changes will be deemed accepted unless the employer receives an objection from the apprentice employee in writing before the expiry of the one month notice period. Hence this clause provides the employer with the contractual right to make more significant changes to the terms and conditions of employment. However, it should be noted that this clause would be narrowly construed by the courts and whilst the employee's express consent need not be obtained again, this will still be subject to the employer's implied obligation not to vary the terms arbitrarily or unreasonably.

Third Party Rights: Clause 20

The Contracts (Rights of Third Parties) Act 1999 allows a third party to enforce a term of the employment contract against an employer. There is no right for a third party to enforce a term of the employment contract against an employee. It is therefore usually advisable to exclude the operation of this Act.

Completion of Apprenticeship: Clause 21

This Clause provides that during the last 3 months of the apprentice employee's Apprenticeship the employer will consult with the apprentice on whether or not the employer can offer employment on completion of their Apprenticeship.

It is advisable that the employer consults with the apprentice employee prior to the completion of their Apprenticeship so that the parties are fully informed as to whether there is likely to be employment for the apprentice following completion of their Apprenticeship or whether their employment will terminate upon completion of the Apprenticeship. This will provide the apprentice with sufficient warning if they need to apply for and search for employment elsewhere.

Furthermore, if there is employment available for the apprentice, then the terms and conditions of employment going forward must be discussed and the apprentice required to sign up to a new employment contract as soon as practicable following completion of their Apprenticeship.

Clause 21.2 provides that on completion of the Apprenticeship the employer will endorse the certificate of completion in the form attached confirming the termination of the Apprenticeship Agreement. This clause is optional.

The Guardian: Clause 22

This Clause provides a guarantee by the guardian that the apprentice will comply in full with their obligations under this Agreement.

This Clause is only applicable if the Agreement is signed by the apprentice as a minor.

Governing Law and Jurisdiction: Clause 23

This Clause provides that the Apprenticeship Agreement is governed by the law of England and Wales and that each party submits to the exclusive jurisdiction of the courts of England and Wales. This prevents one party from bringing proceedings against the other in the courts of any country other than England and Wales.

Date and Signature Clause

The Apprenticeship Agreement should be dated on the day of signing, and all 3 parties must sign the contract whereupon the Agreement will become a legally open and binding agreement between the parties.

It is advisable for the parties to sign two copies of the Agreement. One copy for the employer and one copy for the apprentice/guardian.

The above information is for guidance only and should not be regarded as a substitute for legal advice in its own right. If you do require advice or have any questions, please contact the Employment Team at Paris Smith LLP directly.

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APPENDIX 1

APPRENTICESHIP AGREEMENT

EMPLOYER: [INSERT NAME, REGISTERED OFFICE & ADDRESS OF WORKPLACE]

APPRENTICE: [INSERT NAME & ADDRESS]

[GUARDIAN: [INSERT NAME, ADDRESS AND RELATIONSHIP TO APPRENTICE]

1 AGREEMENT

- 1.1 This Agreement forms your contract of employment and contains a statement of the applicable terms of your employment as required by section 1 of the Employment Rights Act 1996.
- 1.2 [All agreements made by the Apprentice are made with the consent of the Guardian and are made with the Employer. All obligations of the Guardian (except any liability already incurred) will cease if and when the Apprentice confirms this Agreement after reaching the age of 18 years.]
- 1.3 The parties acknowledge and agree that this Agreement is entered into in connection with a qualifying apprenticeship framework, namely [INSERT FRAMEWORK TITLE AND ID].
- 1.4 The Apprentice will be undertaking an Apprenticeship in [INSERT PARTICULAR SKILL, TRADE OR OCCUPATION for which the apprentice is being trained] under the qualifying apprenticeship framework.

2 COMMENCEMENT AND TERM

- 2.1 Your employment began on [INSERT DATE].
- 2.2 No employment with a previous employer counts as part of your period of continuous employment. /OR/ Taking into account relevant periods of service with other employers, your period of continuous employment began on [INSERT DATE].
- 2.3 [The first [NUMBER] month[s] of your employment shall be a probationary period and your employment may be terminated during this period at any time 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.]]
- 2.4 The duration of your Apprenticeship will be [INSERT ANTICIPATED DURATION OF THE APPRENTICESHIP TRAINING PROGRAMME]. Your employment shall continue, subject to the remaining terms of this Agreement, until it terminates on completion of your Apprenticeship without the need for notice unless previously

terminated by either party in accordance with the provisions of [clause 2.3 or] clause 11.

3 TITLE OF JOB

- 3.1 You are employed as an [XX] Apprentice and your job title will be [INSERT JOB TITLE], reporting to [INSERT NAME]. The details of your employment are as set out in the attached job description.
- 3.2 You may be required to carry out such additional or alternative tasks as may from time to time reasonably be required of you.
- 3.3 [You shall not work for anyone else while you are employed by the Employer.]
- 3.4 Your training will be organised in conjunction with [INSERT NAME OF TRAINING PROVIDER]. The Employer reserves the right to change the nominated training provider from time to time.]or [such training provider nominated from time to time].
- 3.5 Training and education will be provided in accordance [with the Individual Learning Plan annexed to this Agreement at Schedule 1] OR [with the Apprenticeship being undertaken by you under the qualifying apprenticeship framework].

4 PLACE OF EMPLOYMENT

- 4.1 Your normal place of work is [LOCATION] or such other place where the Employer may be carrying on business from time to time.
- 4.2 You will be expected to travel [throughout the United Kingdom] and stay away as necessary for the proper performance of your duties. [You will not be required to work outside the UK for more than one month during the term of your employment.]
- 4.3 During your training you are expected to attend training at [NAME AND LOCATION OF EDUCATION ESTABLISHMENT] or such other place as notified to you from time to time.

5 APPRENTICE DUTIES

- 5.1 During your Apprenticeship you shall:-
 - 5.1.1 Work to the best of your ability and in accordance with the Employer's policies and procedures to work towards completion of your Apprenticeship;
 - 5.1.2 In both working and training, be diligent and punctual, undertake assessments and progress reviews and keep all necessary records in order to achieve the necessary standards and objectives of your Apprenticeship framework;
 - 5.1.3 Attend the [college/training centre] based training courses;
 - 5.1.4 On the request of the Employer produce for inspection all such certificates, reports and records of attendance, course work and examination results as are issued in respect of your attendance at the [college/training centre] based training courses;

- 5.1.5 Authorise the Employer or its nominee to apply to the proper authority for copies of all or any of those matters and any other information reasonably required in respect of them;
 - 5.1.6 Apply yourself diligently to the acquisition of the knowledge and skills taught on the [college/training centre] based training courses;
 - 5.1.7 Complete all elements of the Apprenticeship framework on which you are registered and as specified in your Individual Learning Plan;
 - 5.1.8 Follow the procedures set out by [SPECIFIED TRAINING PROVIDER /OR/ the nominated training provider] and
 - 5.1.9 Inform the Employer of any change in personal circumstances.
- 5.2 In the event that you:
- 5.2.1 Fail or repeatedly fail to achieve the necessary standard as defined within your Apprenticeship framework;
 - 5.2.2 Commit any breach or non-observance of any of the provisions of this Agreement;
 - 5.2.3 Refuse or neglect to comply with any reasonable and lawful direction of the Employer; or
 - 5.2.4 Become unable to complete your Apprenticeship framework by reason of ill-health or otherwise
- This will result in action being taken under the Employer's Disciplinary Procedures and there is a risk that this will lead to dismissal.
- 5.3 The [TRAINING PROVIDER/OR/ nominated training provider] may from time to time require the Employer to answer enquiries as to the progress and conduct of the Apprentice and the adequacy or suitability of the Employer's training arrangements. By signing this Agreement you explicitly consent to the exchange of information personal to you and your Apprenticeship with the [TRAINING PROVIDER /OR/nominated training provider] to ensure the continued monitoring of your performance during your Apprenticeship.

6 SALARY

- 6.1 Your [basic] salary is £[AMOUNT] per year which shall accrue from day to day and be payable [weekly/monthly] in arrears [on or about the [DATE] of each month] directly in to your bank or building society account.
- 6.2 Your salary will be reviewed annually and may be increased from time to time at the Employer's discretion without affecting the other terms of your employment. There is no obligation to award an increase.
- 6.3 The Employer shall be entitled to deduct from your salary or other payments due to you any money which you may owe to the Employer at any time.
- 6.4 The Employer shall pay your salary in respect of normal working hours for each day spent in attendance at [NAME OF EDUCATION ESTABLISHMENT] and/or at all approved tests and examinations. If you absent yourself from [NAME OF

EDUCATION ESTABLISHMENT] during the required [college/training centre] hours and/or any tests and examinations without authorisation, the Employer may withhold pay for the hours of non-attendance, and you consent in such circumstances that the Employer may make such a deduction from your salary. This clause shall apply to your attendance at all such other education establishments notified to you from time to time. [You acknowledge and agree that you [can/shall] be required to attend the [college/training centre] based training courses outside normal working hours as part of your Apprenticeship and that no additional remuneration will be payable to you in respect of your attendance outside working hours.]

- 6.5 The rights of the Employer under clause 6.4 are without prejudice to the Employer's rights to commence disciplinary proceedings for unauthorised absence and that these disciplinary proceedings could result in your employment being terminated.

7 NORMAL HOURS OF WORK

- 7.1 Your normal hours of work are between [TIME] and [TIME] [Mondays] to [Fridays] inclusive with a lunch break of [30 minutes/one hour].
- 7.2 The Employer reserves the right to vary these times as necessary to meet the changing needs of the business.
- 7.3 [Overtime is payable at the rate of [] times your normal basic rate of pay, provided the overtime has been authorised in advance by the Employer. **OR**
- 7.4 You may be required to work such additional hours as may be necessary for the proper performance of your duties without extra remuneration.]
- 7.5 You are required at all times to comply with the Employer's 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 the Employer's intranet].

8 HOLIDAY ENTITLEMENT AND PAY

- 8.1 You are entitled to [NUMBER] days' holiday during each holiday year. [This includes **OR** In addition you are entitled to take] [the usual] public holidays [in England and Wales] [or a day in lieu where we require you to work on a public holiday]. You will be paid your normal basic remuneration during such holidays. The Employer'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].
- 8.2 On termination of employment you will be entitled to a payment in lieu of any untaken holiday at the rate of one day's pay [calculated at 1/260th of your [full-time equivalent] salary] for each day's holiday not taken.[Where we have dismissed you in accordance with clause 11 or you have resigned without giving the required notice, such accrued holiday shall be limited to your statutory entitlement under the Working

Time Regulations 1998 and any paid holidays (including paid public holidays) taken shall be deemed first to have been taken in satisfaction of that statutory entitlement].

- 8.3 If you have taken more holiday than your accrued entitlement at the date your employment terminates, the Employer shall be entitled to deduct from your final salary payment one day's pay [calculated at 1/260th of your [full-time equivalent] salary] for each excess day.
- 8.4 Your holiday should be taken at such times as may be convenient to the Employer and you must give written notice of not less than one month of your proposed holiday dates to [INSERT POSITION]. The Employer reserves the right, on receipt of your notice of proposed holiday dates, to refuse to allow you to take holiday on those dates. The Employer may require you to take holiday on specific days as notified to you.
- 8.5 You will not, without the prior written consent of the Employer, be allowed to take more than 10 working days' holiday consecutively at any one time.
- 8.6 During the period of your Apprenticeship when you are undertaking training at [NAME OF EDUCATION ESTABLISHMENT] or at all such other education establishments notified to you from time to time, your holiday should normally be taken outside of [the college/training centre term times].
- 8.7 You are encouraged to take your full holiday entitlement and may not carry forward any days of unused holiday entitlement into the following holiday year without the express permission of the Employer. For the avoidance of doubt, any holidays not taken during the holiday year will be lost. You may not claim pay in lieu of holiday save on termination of employment.
- 8.8 The Employer reserves the right to require you to take any unused holiday during your notice period.

9 SICKNESS OR INJURY

- 9.1 If you are going to be absent from work for any reason, you must arrange to notify [your manager] by [TIME] on the first day of absence. You are required to give details of the nature of your absence and any indication that can be given of your anticipated length of absence. Entitlement to sick pay may be affected by late notification. For any absence you must fill in a self-certification form on your return to work, copies of which are available from [the HR Department].
- 9.2 When any period of absence continues beyond seven calendar days you are required to obtain a medical certificate and to forward this to [the HR Department]. If illness continues after the expiry of the first certificate, further certificates must be obtained as necessary to cover the whole period of absence and forwarded to the Employer on each occasion.
- 9.3 You shall be paid such benefits as are prescribed in the Statutory Sick Pay (SSP) Regulations and you will not be entitled to any sick pay over and above SSP. SSP is not payable for the first three days of absence. You will not be paid for absence

without leave for any reason other than personal sickness. For the purposes of calculating your entitlement to SSP, your qualifying days are [Monday] to [Friday] OR [those days on which you normally work].

- 9.4 The Employer places importance on employees being fit for work and reserves the right to require you to undergo a medical examination at any time (at the Employer's expense) by a doctor(s) appointed by the Employer and in such circumstances you agree 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.

10 PENSIONS

- 10.1 [There is no entitlement to pensions benefit in relation to your employment, however the Employer shall provide access to a designated stakeholder pension scheme as required by law. The Employer does not make any contributions to such stakeholder scheme.

OR

You are entitled to become a member of the [NAME] Pension Scheme, subject to satisfying certain eligibility criteria and subject to the rules of such scheme as amended from time to time. Full details of the scheme are available from [POSITION].]

- 10.2 A contracting-out certificate is [not] in force in respect of your employment.
- 10.3 The Employer may vary the terms of this clause 10 in order to comply with any obligations it may have from time to time introduced under the Pensions Act 2008.

11 TERMINATION AND NOTICE PERIOD

- 11.1 Save on completion of your Apprenticeship as set out in clause [2.4], the prior written notice required from you or the Employer to terminate your employment shall be as follows:
- 11.1.1 one week's notice for continuous service of any period of up to two years;
 - 11.1.2 one extra week for each complete year of continuous service between two and twelve years;
 - 11.1.3 not less than twelve weeks' notice for continuous service of twelve years or more.
- 11.2 During your notice period, the Employer shall be under no obligation to provide you with duties and shall be entitled to exclude you from any business premises. You may be required to make yourself available during normal working hours should the Employer require your services.
- 11.3 You accept and acknowledge that your employment is conditional upon the Employer receiving continued funding support from the [TRAINING PROVIDER/OR/nominated training provider]. If, for whatever reason, the Employer ceases to receive continued

funding support from the [TRAINING PROVIDER/OR/nominated training provider] then the Employer shall be entitled to terminate your employment.

- 11.4 The Employer 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 during your Apprenticeship , or if you cease to be entitled to work in the United Kingdom.

12 DISCIPLINARY AND GRIEVANCE PROCEDURES

- 12.1 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 non-contractual and do not form part of your Apprenticeship Agreement.
- 12.2 If you wish to appeal against a disciplinary decision you may apply in writing to [POSITION] in accordance with the Employer's disciplinary procedure.
- 12.3 The Employer reserves the right to suspend you with pay for the purposes of investigating any allegation of misconduct or neglect against you.
- 12.4 If you wish to raise a grievance you may apply in writing to [POSITION] in accordance with the Employer's grievance procedure.

13 COMPANY PROPERTY

- 13.1 You acknowledge that all correspondence, customer lists and records, drawings, documents, products or work products developed by you in the course of your employment with the Employer and any other materials owned by the Employer or used by it in connection with the conduct of its business shall at all times remain the sole property of the Employer.
- 13.2 Upon termination of your employment with the Employer for whatever reason you shall return all correspondence, customer lists, drawings, documents and other papers, magnetic discs, tapes or other software storage media and all other property belonging to the Employer which may be in your possession or under your control. You shall not retain any copies.

14 CONFIDENTIAL INFORMATION

- 14.1 You shall not during or after the termination of your employment use or disclose to anyone (other than in proper course of your employment with the Employer) any Confidential Information relating to the Employer or [any of its business contacts].
- 14.2 Confidential Information shall mean (without limitation) any information relating to: financial information, commercial information, sales and marketing information, methods of business dealing, pricing and discount policies, business plans, unpublished financial information of all kinds, customer and supplier lists, details of supply contracts, market research, technical information, any other information which the Employer treats as confidential and trade secrets.
- 14.3 For the avoidance of doubt, this clause does not apply to:

- 14.3.1 prevent you from making a protected disclosure within the meaning of section 43A of the Employment Rights Act 1996; or
- 14.3.2 use or disclosure that has been authorised by the Employer, is required by law or by your employment.

15 DEDUCTIONS FROM PAY

You authorise the Employer to deduct from your salary and/or any other sums due under this contract, any sums due from you to the Employer.

16 COLLECTIVE AGREEMENTS

[There is no collective agreement which 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.]

17 DATA PROTECTION

- 17.1 The Employer will hold personal information about you that will include details such as your name, address, age, bank details and emergency contact details. The Employer may also hold sensitive personal information (i.e. sensitive personal data as defined in the Data Protection Act 1998) about you, for example, health and sickness information.
- 17.2 Personal information may be obtained from various sources including your application form, individual learning plan, references, medical assessments, appraisals, other performance assessments, appropriate personnel within the Employer, customers, suppliers and other third parties.
- 17.3 The Employer will process your personal information, including any sensitive personal information, for purposes connected with your employment, including for example, salary and payroll, pension/life assurance, holiday entitlement, health and sickness records and assessments, disciplinary purposes, performance and references.
- 17.4 By signing this Agreement you explicitly consent to the processing of your personal information as described.

18 MONITORING

- 18.1 In signing this Agreement, you expressly agree to the Employer monitoring your performance at work, your conformity with company rules, standards of conduct and policies in force from time to time and to ensure that you are not using the Employer's facilities for any unlawful purposes.
- 18.2 Such monitoring may take the form of interception of communications, for example, opening and reviewing post addressed to or sent by you (including faxes and correspondence marked private and confidential but addressed to you at your place of work) on a daily basis.

- 18.3 Your use of company facilities such as e-mail, the internet and telephones may also be monitored and/or recorded in accordance, where applicable, with lawful business practice from time to time.
- 18.4 Disciplinary action, up to and including summary dismissal, may be taken where there has been inappropriate use of the Employer's facilities.

19 VARIATION TO TERMS AND CONDITIONS

- 19.1 The Employer reserves the right to make reasonable changes to these and any other agreed terms and conditions of employment. Minor changes of detail (e.g. in procedures) may be made from time to time and will be effected by a general notice to employees.
- 19.2 You will be given not less than one month's written notice before significant changes are made. Such changes will be deemed to have been accepted unless the Employer receives from you an objection in writing before the expiry of the notice period.

20 THIRD PARTY RIGHTS

The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement. No person other than you and the Employer shall have any rights under this Agreement and this Agreement shall not be enforceable by any person other than you and the Employer.

21 COMPLETION OF APPRENTICESHIP

- 21.1 During the last 3 months of your Apprenticeship the Employer will consult with you on whether or not it can offer employment on completion of your Apprenticeship.
- 21.2 [On completion of your Apprenticeship to the Employer's reasonable satisfaction the Employer shall endorse this Agreement to that effect in the form of the attached certificate.]

22 THE GUARDIAN

The Guardian guarantees to the Employer that you, the Apprentice, will comply in full with your obligations under this Agreement.

23 GOVERNING LAW AND JURISDICTION

- 23.1 This Agreement shall be governed by and construed in accordance with the law of England and Wales.
- 23.2 Each party irrevocably agrees to submit to the exclusive jurisdiction of the courts of England and Wales over any claim or matter arising under or in connection with this agreement.

DATED THE [] DAY OF []

.....
Signed for and on behalf of the Employer

.....
Signed by the Apprentice

.....
Signed by the Guardian

CERTIFICATE OF COMPLETION

The Employer certifies that:

- 1 This Agreement terminated on [DATE] and has been complied with by the Apprentice.
- 2 During the period of training the Apprentice has attained the following awards, qualifications and/or certificates of further education and passed the skills tests: (describe the awards etc).

Signed.....
For and on behalf of [the Employer]

Dated.....

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