



- (1) MILTON KEYNES COUNCIL
- (2) (EMPLOYEE NAME)

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**COMPROMISE AGREEMENT**

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**Without Prejudice  
and  
Subject to Contract**

**Completion Notes: (please delete before issue)**

**GREEN Highlights** = information required

**PINK Highlights** = reference to other clauses within the document – please sense check before issue to ensure the references are correct – this is only necessary if additional clauses are included or if there are any changes to master templates.

**\*\*Please delete all highlights from the document before issue\*\***

## **COMPROMISE AGREEMENT**

WITHOUT PREJUDICE AND SUBJECT TO CONTRACT

This Agreement is made on ..... BETWEEN Milton Keynes Council, Civic Offices, 1 Saxon Gate East, Milton Keynes MK9 3EJ ("the Employer") and [NAME] of [ADDRESS] ("the Employee").

WHEREAS:-

- (1) The Employee has been in the continuous employment of the Employer since [DATE]
- (2) The settlement terms set out below have been agreed between the Employer and the Employee.

IT IS AGREED: -

### **1 Termination of employment**

The employment of the Employee by the Employer terminated [will terminate] by reason of [REASON] on [DATE] ("the Termination Date").

### **2 Compensation**

2.1 Without any admission of liability the Employer will pay to the Employee, as compensation for loss of employment and for surrender of the Employee's statutory and common law rights set out in clause 13 of this Agreement the sum of £[AMOUNT IN FIGURES] ([AMOUNT IN WRITING] pounds) ("the Settlement Payment") within 28 days of signature by both parties of this Agreement and signature by the Employee's independent adviser of the attached Certificate; or within 28 days of the Termination Date, whichever is the later.

2.2 It is the Employer's understanding that the Settlement Payment is a payment paid under Sections 401 to 416 of the Income Tax (Earnings and Pensions) Act 2003 and that the first £30,000 of this sum can be paid without a requirement for the Employer to deduct income tax. [The balance of the Settlement Payment in excess of £30,000 will be paid after the Employer has deducted tax and national insurance contributions where appropriate.] If it should be found that any [further] tax contributions or employee's national insurance contributions are payable, the responsibility for such payments shall be the Employee's alone.

### **3 Tax indemnity**

The Employee undertakes that if the Employer is called to account to HM Revenue and Customs for any [further] income tax, employee's national insurance contributions, interest and/or penalties arising in respect of the Settlement Payment [other than the deductions made in accordance with clause 2.2 above] (referred to in this Agreement as the 'excess tax'), and if the Employer pays the excess tax to HM Revenue and Customs, the Employee will, at the written request of the Employer, immediately pay to the Employer an amount equal to the excess tax provided that no payment of excess tax will be made to HM Revenue and Customs without particulars of any proposed payment being given to the Employee and the Employee being given the opportunity at the Employee's own expense to dispute any such payment.

### **4 Accrued Salary**

The Employee [will receive/has received] his salary and contractual benefits with the usual statutory and voluntary deductions, for the period up to and including the Termination Date. This will be paid to the Employee in the normal way. [INCLUDE DETAILS OF HOLIDAY PAY OUTSTANDING].OR [No accrued holiday pay is due to the Employee.]

## **5 Expenses**

The Employee will submit any outstanding expense claims with supporting invoices/receipts prior to the [Termination Date] [insert alternative date if termination date has passed] to [name of individual/address] and shall be reimbursed in respect of such claims by the Employer subject to the Employer's normal expense policy.

## **6 Overpayment/Money owed to the Employer**

The Employer reserves the right to deduct from the Settlement Payment any overpayment made to the Employee in respect of remuneration and/or any other monies owed by the Employee to the Employer

## **7 Return of Property**

7.1 On, or before, [the Termination Date], [insert alternative date if Termination Date has passed] the Employee will return to the Employer all books, files, documents, papers, materials, equipment, instruments, computer equipment, computer disks, mobile telephones, security cards, office keys, security passes and other property belonging to or relating to the business of the Employer or that of its clients, customers and/or suppliers. The Employee undertakes that that he will immediately return any such property which subsequently comes into his possession or control in the future and further undertakes that he will not make or retain copies of any such property.

7.2 On request by the Employer the Employee undertakes to disclose to the Employer all passwords to all password protected files, software and hardware which have been created or protected by him and which are on the Employer's computers.

## 8 Confidential Information

8.1 The Employee agrees that he will not (except with the express written consent of the Employer or in compliance with an order of a competent court) at any time (without limit) after the Termination Date:

8.1.1 divulge or communicate to any person, company, business entity or organisation;

8.1.2 use for his own purposes or for any purposes other than those of the Employer; or

8.1.3 through any failure to exercise due care and diligence, permit or cause any unauthorised disclosure of any Confidential Information.

8.2 These restrictions shall cease to apply to any information which shall become available to the public generally otherwise than through any breach by the Employee of the provisions of this Agreement or other default of the Employee.

8.3 These restrictions are not intended to exclude or restrict the Employee's right to make a protected disclosure under the Public Interest Disclosure Act 1998.

8.4 For the purposes of clause 8.1 'Confidential Information' means information relating to the business, products, affairs and finances of the Employer for the time being confidential to it or treated by it as such and trade secrets (including, without limitation, technical data and know-how) relating to the business of the Employer and any of its suppliers, clients and customers.

## 9 Reference

[On receipt of a request from a prospective employer or voluntary organisation, EITHER [the Employer will provide a reference in respect of the Employee],

OR

[the Employer will provide the Employee with the agreed reference as detailed in Schedule 1 and agrees to respond to all employment reference enquiries in a

manner consistent with this reference], subject always to the Employer's overriding legal duties and obligations to prospective employers.

## **10 Confidentiality**

10.1 The Employer and the Employee agree to keep the terms of this Agreement, and the circumstances giving rise to it, strictly confidential and agree not to disclose, communicate or otherwise make public the same to anyone save professional advisers and as required by law and in the case of the Employee, to his partner. Where disclosure of the terms of this Agreement is made by the Employee to his partner, the Employee acknowledges and agrees that his partner will also be bound by the same duty of confidentiality under the terms of this Agreement and the Employee undertakes to use his best endeavours to ensure the same.

10.2 The Employee will not, and the Employer will use reasonable endeavours to ensure that its employees will not, make, publish or otherwise communicate any disparaging or derogatory statements whether in writing or otherwise concerning each other.

## **11 Further assistance to the Employer**

The Employee agrees that, upon the Employer giving him reasonable notice, he will provide such assistance and information as the Employer may require in connection with any legal matters with which the Employee dealt in the course of his employment and/or in which the Employer determines that the Employee is a relevant witness. The Employee's assistance will include without limitation: meeting with the Employer's legal advisors, providing them with requested information, assisting with preparation for and attending any Employment Tribunal or other relevant Court proceedings. The Employer will reimburse the Employee's reasonable expenses in providing any such information and/or assistance.

## **12 Legal Fees**

The Employer will meet the Employee's reasonable costs of obtaining advice on the terms and effect of this Agreement subject to a maximum of £250 plus VAT and on receipt by the Employer of an invoice from the Employee's relevant independent adviser.

## **13 Full and final settlement**

13.1 The Employee accepts the terms set out in this Agreement in full and final settlement of all claims which the Employee has or may have or has brought or may bring against the Employer arising out of or in connection with his employment or its termination whether at common law, in contract or tort, pursuant to statute, European Law or otherwise, howsoever arising, whether known or unknown in fact or law, including but not limited to:

13.1.1 any claim for wrongful dismissal or any other claim for breach of contract;

13.1.2 any claim for unfair dismissal, unlawful deductions from wages or a statutory redundancy payment under the Employment Rights Act 1996;

13.1.3 any claim for discrimination because of a protected characteristic (that is, age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation) specified in the Equality Act 2010 or predecessor legislation;

13.1.4 any equal pay claim under the Equal Pay Act 1970, Article 157 of the Treaty on the Functioning of the European Union or the Equality Act 2010;

13.1.5 any claim under the Working Time Regulations 1998;

13.1.6 any claim under the Trade Union and Labour Relations (Consolidation) Act 1992 (except proceedings for a complaint of non-compliance with

Section 188);

13.1.7 any claim under the Transfer of Undertakings (Protection of Employment) Regulations 2006;

13.1.8 any claim arising out of a contravention or alleged contravention of Part III (guarantee payments), Part V (protection from suffering detriment in employment), Part VI (time off work) or Part VII (suspension from work) of the Employment Rights Act 1996;

13.1.9 any claim under the Employment Relations Act 1999;

13.1.10 any claim for physical or psychiatric illness relating to any acts of discrimination;

13.1.11 any stress-related claim and/or any claim relating to depression;

13.1.12 any other claim for personal injury;

13.1.13 any claim under the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations 2000;

13.1.14 any claim under the Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations 2002;

13.1.15 any claim in relation to parental leave under the Employment Rights Act 1996;

13.1.16 any claim regarding a request for flexible working, whether in relation to the decision or procedure under the Employment Rights Act 1996 or the Flexible Working (Procedural Requirements) Regulations 2002;

13.1.17 any claim regarding a request for time off work to pursue a course of study or training, whether in relation to the decision or procedure under



the Employment Rights Act 1996 or the Employee Study and Training (Procedural Requirements) Regulations 2010;

13.1.18 any claim under or relating to the Public Interest Disclosure Act 1998 or the Employment Rights Act 1996 Sections 47B (protected disclosures) and 48 (complaints to employment tribunals);

13.1.19 any claim under and/or relating to the Data Protection Act 1998;

13.1.20 any claim under and/or relating to the Protection from Harassment Act 1997;

13.1.21 any claim under and/or relating to the Human Rights Act 1998;

13.1.22 any claim under the Information and Consultation of Employees Regulations 2004;

but excluding any claim for personal injury of which the Employee is not aware or could not reasonably be aware as at the date of this Agreement (provided that the personal injury is not alleged to arise out of an act of discrimination recognised by statute), and any claim in relation to accrued pension rights, and any claim to enforce the terms of this Agreement.

13.2 The Employee undertakes and warrants that to the best of his knowledge, information and belief, he is not aware of any other complaint or grounds of complaint against the Employer.

13.3 The Employee undertakes and warrants that to the best of his knowledge, information and belief, he is not aware of any fact which could give rise to a claim for personal injury against the Employer and there is no claim pending as at the date of this Agreement.

## **14 Compromise Agreement**

14.1 The Employee represents and warrants that:

14.1.1 He has received independent advice from

.....  
of..... an  
“independent adviser” (as defined by the Equality Act 2010 Section 147), “a  
relevant independent adviser” (as defined by the Employment Rights Act 1996  
Section 203 and similar statutory provisions relating to the compromising of  
statutory claims referred to in the attached Certificate), as to the terms and effect  
of this Agreement and in particular its effect on his ability to pursue his rights  
before an Employment Tribunal; and

14.1.2 He is advised by his adviser that there is, and was at the time he received the  
advice referred to above, in force a contract of insurance or an indemnity  
provided for members of a profession or professional body covering the risk of a  
claim by the Employee in respect of loss arising in consequence of that advice;

14.1.3 He has instructed his adviser to advise as to whether he has or may have any  
claims, including statutory claims, against the Employer arising out of or in  
connection with his employment or its termination;

14.1.4 He has provided his adviser with all available information, which his adviser  
requires or may require in order to advise whether he has any such claims; and

14.1.5 His adviser has advised him that on the basis of information available to his  
adviser:

14.1.5.1 His only claims or particular complaints against the Employer, whether  
statutory or otherwise, are those listed in clause 13 of this Agreement;  
and

14.1.5.2 He has no other claims against the Employer, whether statutory or  
otherwise;

14.1.6 He has not issued proceedings before the employment tribunals, High Court or county court in respect of any claim in connection with his employment or its termination and undertakes that neither he nor anyone acting on his behalf will present such an application or claim; and

14.1.7 He is not aware of any matters relating to his employment, which if disclosed to the Employer would or might affect the decision of the Employer to make payment in accordance with clause 2.1 of this Agreement.

14.2 The Employer and the Employee agree and acknowledge that the conditions regulating compromise agreements contained in the Employment Rights Act 1996 Section 203(3), the Equality Act 2010 Section 147(3), the Trade Union and Labour Relations (Consolidation) Act 1992 Section 288(2B), regulation 18 of the Transfer of Undertakings (Protection of Employment) Regulations 2006, Regulation 35(3) of the Working Time Regulations 1998, Regulation 10 of the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002, Regulation 9 of the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000, Regulation 40 of the Information and Consultation of Employees Regulations 2004 are intended to be and have been satisfied.

14.3 The Employee undertakes to repay to the Employer, within 14 days of a request, the Settlement Payment in the event that he commences any proceedings in respect of any claim compromised within the terms of this Agreement, or it is proven that he has breached any term of this Agreement. Such repayment will be recoverable as a debt.

## **15 Interpretation**

The headings to clauses are for convenience only and have no legal effect.

## **16 Governing Law**

This Agreement is subject to the exclusive jurisdiction of the courts in England and Wales.

## **17 Whole agreement**

This Agreement sets out the entire compromise between the parties. Upon receipt by the Employer of the executed Agreement, notwithstanding that it is headed 'without prejudice and subject to contract'; it will be treated as on the open record and binding on the parties.

**SIGNED:.....**

**Dated.....**

**For and on behalf of Milton Keynes Council**

**SIGNED:.....**

**Dated.....**

**(NAME)**

**Adviser's Certificate**

I,.....of.....

....., hereby certify as follows:

- 1 I confirm that I am an independent adviser as defined by the Equality Act 2010 Section 147, a relevant independent adviser as defined by the Employment Rights Act 1996 Section 203, the Trade Union and Labour Relations (Consolidation) Act 1992 Section 288, Regulation 35 of the Working Time Regulations 1998, Regulation 10 of the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002, Regulation 9 of the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 and Regulation 40 of the Information and Consultation of Employees Regulations 2004.
- 2 I have advised [name of employee] (“the Employee”) on the terms and effect of the Agreement between Milton Keynes Council (“the Employer”) and the Employee and, in particular, its effect on the Employee’s ability to pursue his rights before an Employment Tribunal following signature.
3. I am not acting (and have not acted) in relation to this matter for the Employer.
4. There is and was at the time I gave the advice referred to above in force a contract of insurance or an indemnity provided for members of a profession or professional body covering the risk of a claim by the Employee in respect of any loss arising in consequence of that advice.

**Signed:** .....

**Dated:** .....