**Delete this box:**

**This agreement is likely to change if further details or amendments are published.**

**Please seek professional advice before taking action.**

**[COMPANY/BUSINESS NAME]**

**AGREEMENT FOR FURLOUGH LEAVE**

Employee Name: **[insert name]**

[If a current employee] This is a variation to your contract of employment, designed to implement and take advantage of the government’s Coronavirus Job Retention Scheme.

[If you are rehiring an old employee who left after 19 March 2020] This is an extension to your contract of employment which was previously terminated on **[DATE]**. We agree that your contract **[resumes] [resumed]** on **[DATE]**, and you confirm you have not done any work for us since then. **[**[Optional] **You agree that any gap in continuity of employment shall break continuity, and that this situation shall not be treated as continuing employment by custom or arrangement, and that the gap was not due to a temporary cessation of work]**. Your employment will end on 31 May 2020 unless extended by further written agreement, and the reason for termination will be the same reason as it previously was. [See note box below.]

1. We agree that from **[DATE]** you shall be on Furlough Leave; this will be for a minimum of 3 weeks. This means you *cannot do any work for us*, apart from undergoing training, although your contract of employment will continue. [Optional: **We plan to provide a rota system for who is on Furlough, we will keep you informed of our intentions. You will be required to sign a new agreement for each Furlough Leave Period]**
	1. This means your contract of employment continues. We will pay you **[80%] / [80% subject to a maximum liability for us of £2,500 per month or [100%]** of your salary during that time.
2. Your salary is calculated as

[for salaried employees] your actual salary before tax as it stood on 19 March 2020.

[for employees with irregular earnings who have been employed for a full 12 months] the higher of: -

* your same month’s earnings from the previous tax year; or,
* your average monthly earnings from the 2019-20 tax year.

[for employees with irregular earnings who have been employed for less than 12 months] an average of your monthly earnings since you started.

[and whichever option is chosen, add] When calculating your salary or average earnings, we only include sums due under your contract (e.g. basic salary, contractual commission and fees) and monetary benefits in kind (such as contractual allowances). It does not include non-contractual earnings, such as tips, or the value of non-monetary benefits in kind (such as health insurance).

* 1. Deductions for tax, national insurance contributions, [add any other deductions] and pension will continue to be made from your salary.

[Choose one of the following options ‘b’/delete the other]

* 1. We will pay your Furlough Leave on your usual pay date and claim the reimbursement back from the HMRC.
	2. Due to our lack of cashflow, you agree that your *Furlough Leave pay* will be deferred until we have either access to the **[cash grant offered by the government/access to the business interruption loan]** or the HMRC payment of the *Furlough Leave pay* whichever is sooner.
		1. However, if we decide to cancel your Furlough Leave and ask you back to work before you have been on Furlough Leave for three weeks, we will pay you the monies otherwise due under this agreement immediately.
	3. Your usual contractual pay period of [weekly/fortnightly/monthly] may be amended during Furlough Leave. We will provide pay dates with as much notice as possible. You agree to this temporary change in your contractual pay period.
	4. If, for any reason, HMRC decides to reclaim any monies which it paid to us in connection with your salary, we are entitled to reclaim that from you (including by making deductions from future salary payments to you), and no further payments shall be due.
1. Your Furlough Leave shall end on the earliest of the following events: -

	1. the government’s Coronavirus Job Retention Scheme ending
	2. either you or us ceasing to be eligible for funding under that scheme; or,
	3. us deciding to cancel Furlough Leave and bring you back to work.

[EITHER]

1. **When on Furlough Leave, you may not do any work for any other employer or organisation, as stated in your employment contract, whether as an employee or on a self-employed basis, unless you already did that work before going on Furlough Leave.**

[OR]

1. **If you work for any other organisation during your Furlough Leave, other than one you already worked for before going on Furlough Leave, you must tell us and declare you are on furlough to your new employer. You are reminded that you are required to attend work if requested. We will try to give you reasonable notice.**
2. If you participate in volunteer work while on Furlough Leave, you are reminded that you are required to attend work if requested. We will try to give you reasonable notice.
3. [OPTIONAL – IF THE EMPLOYEE IS IN A PROBATIONARY PERIOD] Your probationary period is extended by the length of time you are on Furlough
4. [Optional] When your Furlough Leave ends, while we will always endeavour to provide you with work, in the event of insufficient work being available you agree we are entitled to place you on short time or lay you off without any pay except for statutory guarantee payments.
5. If HMRC or the government issues further legislation or guidance on the Coronavirus Job Retention Scheme, we may make reasonable consequential amendments to this agreement, which shall take effect retrospectively if appropriate, by giving you 24 hours’ notice of those changes in writing.

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date \_\_\_\_\_\_\_\_\_\_\_

 (Employer)

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date \_\_\_\_\_\_\_\_\_\_\_

 (Employee)

**Delete this text box**

Note: Employers should be cautious about agreeing to rehire somebody in order to give them access to the Coronavirus Job Retention Scheme. You may try the optional wording agreeing to no continuity in employment, *however it is unlikely that this will suffice.*

Although ‘re-employment’ is permitted under the Scheme (assuming they were on the payroll as of 19 March 2020], it carries the following risks: -

* their continuity of employment will continue, potentially tipping them over two years (leading to unfair dismissal and redundancy rights) or giving them an additional year for statutory redundancy pay purposes, basic award or notice pay rights
* their effective date of termination will change to 31 May 2020, meaning that they then have until 31 August to contact Acas to initiate Early Conciliation for most types of claims
* you might face an unfair selection for redundancy claim, where one did not previously exist, if you make them redundant a second time when your financial circumstances have changed or when the consultation requirements might differ
* you might find you are subsequently contemplating making 20+ people redundant within a period of 90 days, leading to collective consultation obligations.