

Dated 02/05/2023

SETTLEMENT AGREEMENT
(Without Prejudice and Subject to Contract)

JMS Specialist Joinery Limited

-and-

Andrew Holdham

THIS SETTLEMENT AGREEMENT (the 'Agreement') is dated 02/05/2023

This Agreement is made between JMS Specialist Joinery Ltd ('the Employer') and Andrew Holdham ('the Employee').

1. Background

- 1.1. The Employee has been employed by the Employer as Draftsman since 01/04/1997.
- 1.2. By way of background information, the parties enter into the Agreement for the reason of voluntary redundancy.
- 1.3. The Employer and Employee have agreed to settle the Particular Claims on the terms set out in this Agreement.
- 1.4. The Employer enters into this Agreement without any admission of liability.

2. Definitions and Interpretations

- 2.1. In this agreement:

'Claim' means any claim, claims or causes of action that the Employee has or may have against the Employer.

'Group Company' means any holding company of the Employer and any subsidiary of the Employer, or of any such holding company each, as defined by section 1159 Companies Act 2006.

'Particular Claims' are those Claims which the Employee and Employer intend to be settled by this Agreement, arising out of the Employee's employment or the termination of employment, as set out in Annex A.

'Termination Date' means the date on which the employment has ended or will end, as set out in clause 3.1.

- 2.2. References to the singular in this Agreement shall include references to the plural and vice versa and words in the masculine include the feminine and vice versa.
- 2.3. The headings in this Agreement are for ease of reference and shall not affect interpretation.

3. Termination Date

- 3.1. The Employee's employment with the Employer will terminate on 05/05/2023 ('the Termination Date'). The Employer and Employee will continue to be bound by the terms and conditions of employment until the Termination Date.
- 3.2. Provided that the Employee continues to comply with the terms and conditions of his employment, the Employer will pay the Employee's usual wages/salary (less tax and National Insurance contributions) up to and including the Termination Date.

3.3. Except as set out in this Agreement, the Employee will have no right to any benefits under the terms and conditions of employment after the Termination Date.

3.4. The Employer agrees to reimburse the Employee in respect of any Business-related expenses incurred until the Termination Date.

4. Withdrawal of proceedings and waiver

4.1. The Employee accepts that this Agreement is in full and final settlement of all of the Particular Claims set out in Annex A.

4.2. The Employee agrees immediately upon signature of this Agreement to write to the relevant employment tribunal(s) or court(s) to withdraw any proceedings that have already been presented but which have been settled by this Agreement, and not to present to an employment tribunal or any other court any Claim which is a Particular Claim.

4.3. The Employer and Employee acknowledge that it is their intention that this Agreement is in full and final settlement of all of the Particular Claims. For the avoidance of doubt, any claim to enforce the terms of this Agreement [and any claim in respect of Accrued Pensions Rights], and any claim in respect of personal injury of which you are not currently aware at the time of signing this Agreement are excluded from this Agreement.

5. Settlement Payment

5.1. Subject to the Employee complying with the terms of this Agreement and to clause 5.2 below, the Employer will pay the Employee £32,713.53. ('the Settlement Payment'). The Settlement Payment, following the deductions set out in clause 5.2 below, will be paid within 14 days of receipt by the Employer of a signed copy of this Agreement and the signed certificate from the Employee's adviser which is set out at Annex C.

5.2. The Employer and Employee believe that the Settlement Payment is broken down and will be taxed as follows:

5.2.1 £11,055.19 in lieu of notice pay is 'Post-Employment Notice Pay' under the meaning given in Part 6, Chapter 3 of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) (as amended) and the Employer will deduct tax and National Insurance contributions from this sum

5.2.2 £1,658.34 in respect of days accrued but untaken holiday and the Employer will deduct tax and National Insurance contributions from this sum

5.2.3 £20,000.00 of the Settlement Payment is redundancy and not subject to tax or National Insurance.

5.3. The Employer agrees to indemnify the Employee for any further tax and/or Employee's National Insurance contributions due in respect of the Settlement Payment, save for any interest, penalties, or costs incurred as a result of the Employer's default and/or delay and provided always that the Employer shall

first promptly notify the employee of any demand which may lead to liabilities under this clause and afford him reasonable access to any documentation which may be required in order to challenge any such demand.

- 5.4. The Employer will allow the Employee use of the vehicle BD19 MDE until 31/05/2023 at which point it must be returned to the company in the same condition as at the date of this agreement.

6. Conditions Regulating Settlement Agreements

The Employer and the Employee agree and acknowledge that the conditions regulating settlement agreements which are contained in the legislative provisions listed in Annex B have been satisfied.

7. Employer's Property and Employee's Property

- 7.1. The Employee warrants that he will return by the Termination Date all property belonging to the Employer, including all records, correspondence, documents and any other information and that the Employee has not retained any copies.
- 7.2. The Employer warrants that it will return by the Termination Date all property belonging to the Employee.

8. Restrictive covenants and Confidentiality

- 8.1 The Employee agrees that he will continue to be bound by the terms and conditions of employment in the Employee's contract of employment & handbook with the Employer dated 07/09/2017 which relate to confidentiality and restrictive covenants. We do however waive the section that states the following: 'You shall not for a period of six months from the termination of your employment have any business dealings with or act for or provide services to or be employed by any customer or client who at any time during the period of 12 months prior to the termination of your employment has been a customer or client of the Company'.

Reference

- 8.1. The Employer will, on receipt of a written request from a prospective employer:
 - 10.1.1 in respect of the Employee;
 - 10.1.2 marked 'Private & Confidential'; and
 - 10.1.3 addressed to Martin O'Brien;provide a reference in the form set out at Annex D.
- 8.2. The Employer agrees to deal with oral enquiries from prospective employers in a manner which is consistent with the text of the reference referred to in clause 10.1.

8.3. The Employer's obligations set out in clauses 10.1 and 10.2 are at all times subject to:

8.3.1.1. the requirements of any rule of any relevant regulatory body;

8.3.1.2. any amendment to the reference that may be necessary to reflect material facts discovered after the date of this Agreement.]

9. Employee's Representations and Warranties

9.1. The Employee represents and warrants that there are no circumstances of which he is aware or ought reasonably to be aware which would amount to a material breach of the terms and conditions of employment which would justify summary dismissal.

9.2. The Employee acknowledges that the Employer has acted in reliance on these representations and warranties in entering into this Agreement.

10. Employee's Advice and Costs

10.1. The Employee confirms that he has received advice from an independent adviser ('the Adviser') as to the terms and effect of this Agreement, including its effect on the Employee's ability to present any Claim before an employment tribunal or other court.

10.2. The Employee confirms that he has provided the Adviser with all available information which the Adviser requires or may require in order to advise whether the Employee has any such claims and, on the basis of such information, the Adviser has advised the Employee that:

10.2.1. the Employee's only statutory or other claims or complaints against the Employer [or any Group Company] are the Particular Claims; and

10.2.2. the Employee has no other claim or complaint against the Employer [or any Group Company] whether statutory or otherwise;

10.3. The Employer will pay the Employee's reasonable costs incurred in connection with the preparation of this Agreement up to a maximum of £500 plus VAT. Such fees will be payable directly to the Adviser on receipt from the Adviser of an invoice addressed to the Employee and marked payable by the Employer.

10.4. The Employer agrees to pay these costs within 30 days of receipt of the invoice.

11. Entire Agreement and Enforceability

11.1. This Agreement sets out the entire agreement between the parties and supersedes all prior discussions between them or their advisers and all prior

agreements, statements, representations, terms and conditions, warranties, communications, understandings and guarantees whenever given and whether orally or in writing.

- 11.2. No variation of this Agreement shall be effective unless it is agreed by both parties and in writing.
- 11.3. If any term of the Agreement is held to be illegal, invalid or unenforceable, in whole or in part, such part shall be deemed not to form part of the Agreement but the legality, validity or enforceability of the remainder of the Agreement shall not be affected.

12. Jurisdiction

This Agreement shall be governed by and construed in accordance with the law of England and Wales and the parties agree to submit to the exclusive jurisdiction of the courts in England and Wales in relation to any Particular Claim or any matter connected with this Agreement.

13. Third Parties

The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement and only the Employer and Employee shall have rights under it.

14. Open and binding document

Notwithstanding that this Agreement is marked 'subject to contract', once it has been signed and dated by the Employer and Employee it will become an open and binding document (subject to clause 8.2).



Signed by
on behalf of the Employer

Date

09/05/2023



Signed by the Employee

Date

09/05/2023

ANNEX A

THE PARTICULAR CLAIMS

The matters listed below are Particular Claims:

The following claims arising from the Employee's employment or the termination of employment:

- 1) Under the Employment Rights Act 1996 (ERA):
 - a) section 13 (right not to suffer unauthorised deductions)
 - b) section 92 (right to written statement of reasons for dismissal)
 - c) Part X (unfair dismissal)
 - d) section 135 (right to a redundancy payment)
- 2) Under section 10 (right to be accompanied) of the Employment Relations 1999
- 3) Under the Equality Act 2010:
 - a) any claim for equality of terms (sections 120 and 127)
 - b) any claim for direct or indirect discrimination, harassment and/or victimisation related to age (section 120)
 - c) any claim relating to breach of an equality clause or rule;
- 4) Under the Working Time Regulations 1998:
 - a) regulation 13 (entitlement to annual leave)
 - b) regulation 14(2) (entitlement to compensation related to entitlement to leave where worker's employment terminated during leave year)
 - c) regulation 16(1) (payment in respect of periods of annual leave)
- 5) For personal injury (except any latent personal injury)
- 6) For damages under the Data Protection Act 2018 or the General Data Protection Regulation
- 7) For breach of contract
- 8) In relation to notice or pay in lieu of notice.

ANNEX B
CONDITIONS REGULATING SETTLEMENT AGREEMENTS

- section 203(3) of the Employment Rights Act 1996
- section 147(3) of the Equality Act 2010
- regulation 35(3) of the Working Time Regulations 1998
- the Employment Relations Act 1999

ANNEX C

DECLARATION FROM THE EMPLOYEE'S INDEPENDENT ADVISER

I can confirm that:

1. I am a relevant independent adviser within the meaning of the legislation listed in Annex B above.
2. I advised Andrew Holdham ('the Employee') on the terms and effect of the agreement between him and JMS Specialist Joinery Ltd and, in particular, its effect on his ability to pursue his rights before an employment tribunal or other court.
3. At the time that I provided advice to the Employee, a contract of insurance, or an indemnity provided for members of a professional body, covering the risk of a claim by the Employee in respect of loss arising as a consequence of my advice was in force.

Signed

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Adviser's organisation

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Address of Adviser's organisation

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ANNEX D
REFERENCE

2nd May 2023

To whom it may concern,

In accordance with our standard practice, JMS Specialist Joinery Limited ("the Company") will only provide factual references in the terms set out below. This is in no way a reflection of the individual concerned and prospective employers should draw no inference from the style of this reference.

I can confirm that Andrew Holdham was employed by the Company from 01 April 1997 to 09 May 2023 in the position of Draftsman.

Yours sincerely

Martin O'Brien
For and on behalf of
JMS Specialist Joinery Limited

In accordance with JMS Specialist Joinery's usual practice, the above information is given to the addressee in confidence and in good faith, solely for the purposes for which it was requested and on the basis of information available to the author at the time of writing. It is given on the understanding that neither its author nor JMS Specialist Joinery Ltd accepts any responsibility for any errors, omissions or inaccuracy in the information or for any loss or damage that may result from reliance being placed on it by the addressee or any third party.