***BEFORE USING THIS LETTER, PLEASE NOTE: This template letter is intended for use to put employees who are currently at work back onto full furlough under the Revised Coronavirus Job Retention Scheme. It contains options for a continuous period of furlough or, alternatively, for a rotational furlough system and is based on the official guidance available as at 17 June 2020.***

***In view of the closure of the Scheme to new entrants from 30 June, this letter can only be used for employees who have previously been on furlough for at least a three week period at any time between 1 March and 30 June 2020.***

***HMRC require you to keep a record of the employee’s agreement to furlough for five years.***

***Wording in square brackets will require tailoring to reflect your company’s approach. We have included some brief drafting notes in red text for your information, which should be removed prior to sending this letter to employees.***

Dear [Employee Name]

**FURLOUGH LEAVE**

We are writing to you regarding the continuing impact of the Covid-19 pandemic on our business, which means that we now need to seek your agreement to vary the terms of your contract of employment with the Company by placing you back on Furlough Leave. This is so that we can access financial support under the Government’s Coronavirus Job Retention Scheme (the Scheme) in its revised form (the Revised Scheme) while we work towards the recovery of the business.

Your previous period of Furlough Leave ended on [DATE] and you have since been back at work. We now wish to agree with you that you will be placed back on Furlough Leave from [DATE]. This means that your contract of employment will continue, but from [DATE] you will not be required to work. (Although under the Revised Scheme, employees can work on a part-time basis (known as ‘Flexible Furlough’), we do not currently require you to work and you will therefore be on full Furlough Leave.)

During the period of Furlough Leave, your normal entitlement to pay under your terms and conditions of employment will be suspended. Instead, we will pay you 80% of your pay up to a maximum of £2,500 per month, calculated in accordance with the terms of the Revised Scheme (your Furlough Pay).

Your Furlough Pay will be subject to deductions for tax and employee national insurance contributions [and employee pension contributions]. As far as practicable, payments will be made on your normal pay days.

During Furlough Leave, your continuity of employment will continue.

*NOTE: This letter assumes that the employer will pay 80% of the employee’s pay only, up to the £2,500 per month cap, although it is open to employers to top up employees’ Furlough Pay to 100% of normal pay if they wish to do so. If you intend to top up pay you will need to amend the wording of this letter accordingly. If you had topped up Furlough Pay during previous periods of furlough, but you are no longer going to do so, we suggest that you add some wording to explain why this difference in approach is necessary, e.g. based on the financial circumstances of the business.*

*Note that from August, the amount of financial support provided by the Government under the revised Scheme will gradually be reduced (initially by removing coverage of employer National Insurance Contributions and pension contributions and then by tapering the percentage of employees’ wages that employers can claim). We discuss what must be included in Furlough Pay and set out details of the forthcoming reduction in the level of Government support in our FAQs on Furlough under the Revised Coronavirus Job Retention Scheme, available on our website.*

[*IF YOU OPERATE A COMPANY SICK PAY SCHEME:* Any company sick pay payable in respect of sickness during Furlough Leave will be based on the adjusted rate of pay to which you are entitled during Furlough Leave.]

[*EITHER:* Your other terms and conditions of employment will remain the same during the period of Furlough Leave.] [*OR:* Your other terms and conditions of employment will remain the same during the period of Furlough Leave, save for the following changes:

* [*Insert details of changes you wish to make, for example:* The number of days of additional contractual holiday you accrue over the year will be reduced in proportion to the amount of time you spend on Furlough Leave / The following changes will be made to the way we calculate your entitlement to an annual bonus under the company’s bonus scheme [ADD DETAILS].]

[***EITHER:*** Your Furlough Leave shall [last at least [INSERT PERIOD] and shall] end on the earliest of the following events:-

1. the Revised Scheme coming to an end (currently anticipated to be 31 October 2020) or the Company no longer being able to claim under the Revised Scheme in respect of you; or

2. the Company needing you to move onto Flexible Furlough (see below); or

3. the Company requiring you to return to work at your normal contractual hours (whether or not working from home). We will try to give you at least [NUMBER] days’ notice of when we need you to return; or

4. your employment with the Company being terminated for any reason, whether by you or by the Company.]

*NOTE: Under the Scheme in its original form, the minimum furlough period was three consecutive weeks. Any period of furlough that begins before 1 July is still subject to that three week minimum period. However, for furlough that begins on or after 1 July under the Revised Scheme, there is no minimum furlough period. (The minimum claim period under the Revised Scheme is one week – see our FAQs on Furlough under the Revised Coronavirus Job Retention Scheme, available on our website, for guidance on how to decide the length of your claim period). The above wording gives you the option of specifying a minimum period for the employee’s furlough leave. It then provides that the employee’s Furlough Leave will continue until the earliest of one of the specified events.*

[***OR,*** *IF YOU ARE OPERATING A ROTATIONAL FURLOUGH SYSTEM:* Your initial period of Furlough Leave shall last for [INSERT PERIOD], after which you shall be required to return to work for a period of [INSERT PERIOD]. You shall then rotate between Furlough Leave and work on a [INSERT PERIOD] basis (Rotational Furlough). During the furlough periods you shall be paid Furlough Pay as described above. During the work periods, you shall be paid your normal pay in accordance with your contract of employment. In the event that the Company ceases to have work for you to do during the work periods of your Rotational Furlough, you shall be placed on continuous Furlough Leave. Whether you are on Rotational Furlough or continuous Furlough Leave, this shall end on the earliest of the following events:-

1. the Revised Scheme coming to an end (currently anticipated to be 31 October 2020) or the Company no longer being able to claim under the Revised Scheme in respect of you; or

2. the Company needing you to move onto Flexible Furlough (see below); or

3. the Company requiring you to return to work at your normal contractual hours (whether or not working from home) on a permanent basis rather than on the basis of Rotational Furlough as described above. We will try to give you at least [NUMBER] days’ notice of when we need you to return permanently; or

4. your employment with the Company being terminated for any reason, whether by you or by the Company.]

*NOTE: You can still operate a rotational furlough system under the Revised Scheme, with one group of employees working their normal hours while another group is fully furloughed, and then switching the groups. Under the Scheme in its original form, any such rotations had to last at least three weeks. However, as explained above, there is no minimum furlough period for furlough that begins on or after 1 July under the Revised Scheme. Accordingly, you can set a shorter rotation period if you wish. The above wording provides that the employee will continue to switch between periods of work and furlough in accordance with the rotational system you establish, unless you no longer have work for them to do during a work period, in which case they will be placed onto continuous furlough. It goes on to provide that the employee’s Furlough Leave (whether rotational or continuous) will carry on until the earliest of one of the specified events.*

[Please note that the level of financial support available to the Company under the Revised Scheme will be gradually reduced from August until the Revised Scheme comes to an end on 31 October 2020. We are currently working towards our business recovery and we are hopeful that the support that is available under the Revised Scheme will be sufficient to maintain employment during this time. However, please be aware that if the Company cannot afford to maintain employment as the level of financial support available under the Revised Scheme decreases, we may consult with you about possible redundancies, and take steps to implement any necessary dismissals at the appropriate time.]

*NOTE: The above optional square bracketed paragraph explains that the level of financial support available to employers under the Revised Scheme to fund employees’ furlough pay will be gradually reduced from August. It acknowledges the possibility that the reduction in support may make redundancies necessary before the Revised Scheme comes to an end. Government guidance for employees states that an employer can make redundancies during furlough, but this is subject to employees’ ordinary employment rights (e.g. the right to a statutory redundancy payment and the right not to be unfairly dismissed). We suggest that you seek legal advice if you are considering consulting on or implementing redundancies while the Scheme is in operation. If you are confident that you will not need to consider redundancies due to the tapering down of financial support under the Revised Scheme you should delete the above paragraph.*

If you are still on Furlough Leave towards the end of October when the Revised Scheme will shortly be due to end, we will consider and consult with you at that time about whether we are in a position where you can return to work on the basis of your normal contractual hours, or if we may need to make changes to terms and conditions, or consider redundancies. While we hope that we will not need to make redundancies, the impact of the pandemic on our business is severe. Please be aware that, if redundancies do become necessary, we may take steps to implement any necessary dismissals at the appropriate time, including while the Revised Scheme remains in operation.

*NOTE: This wording informs employees of possible outcomes when the Revised Scheme comes to an end. It makes clear that, while it is hoped that redundancies will not be required, if they are necessary, the Company may take steps to implement them at the appropriate time, including while the Revised Scheme is still in operation. As noted above, Government guidance for employees states that an employer can make redundancies during furlough, but this is subject to employees’ ordinary employment rights (e.g. the right to a statutory redundancy payment and the right not to be unfairly dismissed). We suggest that you seek legal advice if you are considering consulting on or implementing redundancies while the Scheme is in operation.*

During your Furlough Leave, we will not provide you with any work and you may not do any work for us or for any organisation linked or associated with us. However, we may require you to undertake training during your Furlough Leave. You can also undertake volunteer work, although you should take care to follow Government guidance on social distancing and self-isolation, as well as adhering to any updated or subsequent guidance in the event that increased lockdown measures are implemented to combat a second wave of the virus.

If you currently have a second job with another employer, you may continue with that job. You may not undertake any other paid work for any other organisation, or on your own account, during your Furlough Leave without our permission. If you wish to undertake other paid work, please contact [your line manager / HR] to seek our permission. Please note that, if we do agree for you to undertake other paid work, you will still need to be able to complete any training that we may require you to carry out while on Furlough Leave, move on to Flexible Furlough if we need you to do so, or return to work for us [*IF THE EMPLOYEE IS BEING PUT ON ROTATIONAL FURLOUGH:* on a permanent basis rather than on the basis of Rotational Furlough] (potentially at short notice) if we require you to do so.

*NOTE: The Government guidance indicates that employees may undertake paid work for another organisation where this is permitted under their employment contract and that this won’t affect your ability to claim in respect of them under the Scheme.*

*We have therefore suggested that employees who have an existing second job may continue with this but that employees are not permitted to undertake new paid work for another organisation or on their own account during Furlough Leave without permission. We have also reminded employees that if they do undertake other paid work they still need to be able to complete any required training during their Furlough Leave, move onto Flexible Furlough if needed, and be available to return to work should you require them to do so.*

*Also note that if you require employees to complete training whilst they are furloughed, then you must pay them at least the NLW/NMW for the time spent training, even if this is more than the 80% of their wage that will be subsidised by the Government under the Scheme.*

Please note that we may ask you to take some of your holiday entitlement during your Furlough Leave. We will write to you about this separately if applicable.

As mentioned above, from 1 July 2020, the Scheme will be modified so as to allow Flexible Furlough. If we need you to move onto Flexible Furlough, we will discuss with you any part-time work we wish you to undertake, your pay for such work and how this will affect your Furlough Pay. We will confirm any agreed changes in writing.

*NOTE: You may decide the hours and shift patterns you wish furloughed employees to work during Flexible Furlough, but such arrangements involve contractual changes and the Government guidance specifies that they need to be agreed and confirmed in writing in order for you to claim furlough pay in respect of the employee’s furloughed hours under the Revised Scheme. We have produced a template Flexible Furlough letter for this purpose, which is available on our website.*

As a reminder, in order to facilitate communications during your Furlough Leave, please keep us informed of any changes to your contact details.

Since we may need you to return to work at short notice, and so that we can keep you informed of any developments, we expect you to check your email/post/phone regularly during your Furlough Leave, and to respond to our communications where requested within any timeframe specified.

If you need to contact the company at any time during your Furlough Leave, please contact [your line manager / HR] in the first instance, via [*email and telephone contact details*]. [*Also insert details of any wellbeing measures you have in place for employees on Furlough Leave, e.g. access to an Employee Assistance Programme phone line, contact details for Mental Health First Aiders, dial-in details for any organised social calls, etc.*]

It is essential that we have a record of your agreement to the terms in this letter as an indication of your agreement by [DATE] in order to place you on Furlough Leave so that we are able to claim in respect of you under the Revised Scheme. Please confirm your agreement by signing and returning this letter to [*contact details*].

*NOTE: Although it would be preferable for the company to have a copy of the letter signed by the employee as a record of acceptance, if the letter is sent to employees by email, they may not have access to printing and scanning facilities that would enable them to provide this. Accordingly, you could as an alternative provide for employees to confirm their agreement by email or text message to an appropriate contact at the company (e.g. HR or line manager) using a set form of words, such as “I confirm my agreement to the variation of my terms and conditions of employment to place me on Furlough Leave as described in the letter from the company dated [DATE]”, or by replying to the company’s email using voting buttons.*

Kind regards

[Name, position]

\*\*\*\*

I confirm my agreement to the variation of my terms and conditions of employment as stated in this letter.

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

(Employee)

***Disclaimer****: This letter and its drafting notes do not constitute specific legal advice and should not be relied upon as such.*