SPECIMEN CROSS OPTION AGREEMENT COMPANY SHARE PURCHASE

Introduction

This draft agreement deals with the purchase from a critically ill or deceased shareholder of their share of the business by the company. The draft includes optional words in square brackets. The notes next to these indicate when these words should either be included or deleted.

Important note:

Before taking or refraining from any action the company and shareholders must seek independent legal advice. In particular, the agreement will constitute a contingent contract for the purchase by a company of its own shares and therefore the procedural requirements for such contracts contained in Part VII of the Companies Act 2006 or any successor legislation will have to be strictly adhered to. All parties involved must also have a full understanding of the tax implications of corporate share purchase (and ensuing cancellation of shares).

Options on death

The agreement creates a 'Call' option for the company to buy a deceased shareholder's shares in the event of death. It also creates a 'Put' option for the personal representatives of the shareholder to sell their shares to the company.

Options on diagnosis of a critical illness

The agreement can create a 'Put' option for an owner that has been diagnosed with a critical illness covered by their plan to sell their share to the company. If this option is not required, clauses D3 and D4 should be deleted.

The agreement can also create a 'Call' option for the company to buy the share of an owner that has been diagnosed with one of the critical illnesses covered by their plan. This option is only available if the owner that has suffered the critical illness is unable to return to their normal duties within 12 months of the payment under their plan. If this option is not required, clauses C4 and C5 should be deleted.

Providing the funds to buy a share in the business

The company will take out a Royal London Business Menu plan on the owner's life. If any option is exercised after the death or critical illness of the owner, the company may use the funds from the Royal London plan to buy the dead or critically ill owner's share of the business.

Notes

This draft only caters for company share purchase. A separate draft is available for individual shareholder or partnership share purchase.

This draft contains suggested wordings for options arising on death and, if required, payment of a claim on diagnosis of a critical illness. The notes next to the optional words in square brackets indicate when these words should either be included or deleted. If this draft wording is followed, the square brackets and notes should be deleted, as they are for reference only.

The business's own legal advisers should draft an agreement specific to the business, taking into account the provisions of the articles of association as well as the legal and practical implications of such an agreement.

All parties involved must have a full understanding of the tax implications of such an agreement before taking or refraining from any action, and should therefore seek independent legal advice.

No value is to be paid for the options themselves created under this agreement. The consideration for the grant of the options by either party is the option received from the other party. On this basis, the agreement may require fixed stamp duty to be paid.

We cannot advise on the particular merits of any one scheme but can only comment on the points in these notes. Clients and their solicitors must accept full responsibility for the legal and tax effects of any agreement based on this draft. Only one agreement is required for each shareholder.

Option Agreement

This Agreement is made on D D M M Y Y Y Y

Note: The first party to the agreement is the shareholder who should be identified by full name and private address. The second party is the company and its registered address should be stated here in full.

BETWEEN

of

(hereinafter called the "Shareholder")

and

whose Registered Office is situate at

(hereinafter called the "Company")

(hereafter referred to together as "the Parties" and individually as "the Party")

Whereas

i The Shareholder is the holder of shares in the Company.

ii The Parties hereto desire that on the death [or incapacity] of the Shareholder his personal representatives [or he] shall have the option to sell and the Company shall have the option to purchase the Shareholder's shares in the Company on the terms hereinafter appearing.

A Definitions

In this Agreement unless the context otherwise requires the singular includes the plural and the masculine the feminine and the neuter and the following terms shall have the following meanings:

Specified Value: means the value specified in the First Schedule hereto;

Fair Value: means the value specified in the Second Schedule hereto;

Agreed Value: means, in relation to the death of a Party, the Specified Value if the death occurs within three years of the date hereof and otherwise means the Fair Value;

Relevant Proportion: means the proportion specified in the Third Schedule hereto;

B Basic agreement

Each of the Parties hereby agrees:

B1 to grant options over the Shareholder's shares in the Company to the other Parties;

B2 the Company shall effect and maintain a Plan with Royal London which provides:

i Life Cover

ii Life or Critical Illness Cover

iii Critical Illness Cover

or any one or more of them.

C Call option

C1 On the death of the Shareholder the Company shall have the option to purchase within three months from the date of his death the Shareholder's shares from the Shareholder's personal representatives for the Agreed Value (and for the avoidance of doubt the option shall only be exercisable in respect of all of the Shareholder's shares) and on the exercise of such option the Shareholder's personal representatives shall sell the said shares to the Company on the terms hereinafter appearing.

[1]**[C2** In circumstances where a payment is made under the Plan with respect to Life or Critical Illness Cover or Critical Illness Cover the Company shall in the event of the Shareholder not being able to return to his normal duties, which shall be determined in the sole discretion of the Company, within 12 months of the claim under the Plan being accepted by Royal London or such longer period as the Company may determine have the option to purchase the Shareholder's shares for the Agreed Value (and for the avoidance of doubt the option shall only be exercisable in respect of all of the Shareholder's shares) and on the exercise of such option the Shareholder shall sell the said share to the Company in accordance with the provisions hereof.]

[1] If the agreement is not to include a Call option on critical illness, delete clause C2.

D Put option

D1 On the death of the Shareholder the Shareholder's personal representatives shall have the option to sell within three months from the date of his death the Shareholder's shares in the Company to the Company for the Agreed Value (and for the avoidance of doubt the option shall only be exercisable in respect of all of the Shareholder's shares) and on the exercise of such option the Company shall purchase the said shares from the Shareholder's personal representatives on the terms hereinafter appearing.

[2]**[D2** In circumstances where a payment is made under the Plan with respect to Life or Critical Illness Cover or Critical Illness Cover, the Shareholder shall have the option to sell within three months from the date of payment his shares in the Company to the Company for the Agreed Value (and for the avoidance of doubt the option shall only be exercisable in respect of all of the Shareholder's shares) and on the exercise of such option the Company shall purchase the said shares from the Shareholder on the terms hereinafter appearing.]

[2] If the agreement is not to include an option on critical illness, delete clause D2.

E Completing the sale

E1 Completion of the sale of the shares shall take place at the registered office of the Company or such other place as may be agreed by the Shareholder or his personal representatives and the Company on the date specified in the notice or (if later) within 14 days after the purchase consideration shall have been finally determined when the Company shall pay the purchase price for the shares to the Shareholder or his personal representatives and the Shareholder or his personal representatives shall deliver to the Company transfers in respect of the shares duly completed in favour of the Company together with the certificates therefor (or failing such certificates an indemnity in terms which would be satisfactory to a reasonable purchaser) and shall sign all such documents and take any action as may be reasonably necessary or requisite to enable the Company to become the registered and beneficial owner of the shares.

E2 If the Shareholder or his personal representatives makes default in transferring the shares as aforesaid, the directors of the Company shall be entitled to receive and give a good discharge for the purchase price on behalf of the Shareholder or his personal representatives and the Shareholder hereby irrevocably appoints such one of the directors of the Company for the time being as the Company shall nominate in writing as the Shareholder's attorney to execute on his behalf a transfer or transfers of the shares in favour of the Company and execute such other documents and do all such other acts as may be reasonably necessary to transfer title to the shares to the Company.

E3 An obligation to transfer shares under this agreement shall be deemed to be an obligation to transfer the entire legal and beneficial interest in such shares free from any lien, charge or other encumbrance.

E4 The expenses of the valuation and the sale and purchase of the shares shall be borne equally by the Shareholder or his personal representatives and the Company or in such other proportions as they shall mutually agree.

E5 Any notice in connection with this agreement shall be in writing and delivered personally or sent by first class pre-paid post to the relevant party at the address set out in this agreement or such other address as the recipient may have previously notified to the sender or by facsimile transmission to the then current facsimile number of the recipient.

Proof of posting or despatch shall be deemed to be proof of receipt, in the case of a letter, on the business day after posting, and, in the case of a facsimile transmission, at the time of despatch.

F Plan

F1 The Company shall no later than one week after entering into this Agreement or as soon as practically possible effect a Plan with Royal London ("the Plan") which provides:

i Life Cover

ii Life or Critical Illness Cover

iii Critical Illness Cover

or any one or more of them the sum assured under which shall be equal in amount to the Specified Value of the Shareholder's shares at the date hereof.

F2 The Company shall pay promptly all premiums in respect of the Plan.

G Sum assured less than agreed value

If on the death or critical illness of the Shareholder the option under Clause C or D above is exercised and for any reason the sum assured payable under the Plan is less than the Agreed Value of the Shareholder's shares the balance of the Agreed Value shall be paid in [3] ____________ equal instalments and the outstanding amount from time to time shall [4][bear interest at ____________ % per annum/not bear interest];

[3] Insert the number of instalments

[4] Delete as appropriate and insert an interest rate if required.

H Freedom to dispone

Nothing in this Agreement shall in any way whatsoever prevent or hinder the Shareholder from disposing charging encumbering or otherwise dealing in any way with his shares during his lifetime.

I Effect of agreement

I1 This agreement is conditional on the parties hereto satisfying all company law requirements that permit a company to legally purchase its own shares. If the Company is prevented by company law from purchasing any (or is permitted to purchase only some) relevant shares following the valid exercise of an option, the Company shall only purchase that number of such shares that it can so purchase at that time. The Company shall purchase, as soon thereafter as it may do so, all the remaining shares covered by the option, and pending such purchase, the Company shall not declare or pay any dividend or make any other distribution of its profits or reserves. The Company shall procure that each of its subsidiaries which has profits available for distribution shall from time to time and to the extent it may lawfully do so declare and pay to the Company such dividends as are necessary to allow payment by the Company of any consideration due on the exercise of an option.

I12 This Agreement shall:

I12 i bind the Company and the personal representatives of the Shareholder,

I12 ii cease to apply when the Shareholder shall cease to be a holder of any shares in the Company (but without prejudice to any prior liability of the Shareholder which shall have already arisen under this agreement),

I12 iii cease to have effect on the winding up of the Company,

I12 iv take effect only in compliance with and subject to the terms of the constitutional documents of the Company which shall take precedence over the terms hereof should there be any conflict between the two, and

I12 v be subject to the laws of

Note: Insert the country.

Shareholder
Signed as a deed and delivered by the said

Name

Signature

Date D D M M Y Y Y Y

Witness

Name

Address

Postcode

Signature

Company
Signed as a deed and delivered on behalf of the Company

Name

Position

Signature

Date D D M M Y Y Y Y

Witness

Name

Address

Postcode

Signature

Company
Signed as a deed and delivered on behalf of the Company

Name

Position

Signature

Date D D M M Y Y Y Y

Witness

Name

Address

Postcode

Signature

J The first schedule specified value

The Specified Value of the Share of each Party shall be

The Shareholder	Specified value

K The second schedule fair value

The Fair Value of the shares of the Shareholder shall be the Relevant Proportion of the market value of the Company as at the date of the Shareholder's death or at the date upon which a payment under the Plan with respect to the Critical Illness of the Shareholder is made (as the case may be) as determined by an independent auditor or professional valuer appointed by the personal representatives of the Shareholder, or the Shareholder where a payment under the Plan for a critical illness has been made, and in the absence of any such determination the Fair value of the shares shall be the Relevant Proportion of the said market value as determined by the President for the time being of the Institute of Chartered Accountants for [5][Scotland/ England & Wales].

[5] Delete as appropriate.

L Third schedule relevant proportion

L1 Subject to paragraph 2 of this Schedule, the Relevant Proportion shall be the ratio the number of issued ordinary shares of the Company to which the Shareholder is beneficially entitled at the first to occur of (a) the death referred to in clause C1 or D1 and (b) the time of the exercise of the option referred to in Clause C2 or D2, bears to the total number of such shares to which all shareholders in the Company combined are beneficially entitled.

L2 In paragraph L1 above, it shall be assumed, (except for the purposes of the Second Schedule to this Agreement) that the Shareholder in respect of whose shares any option is being exercised had no shares in the Company on or immediately before his death or the payment in relation to a critical illness.

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