

**DATED**

**2010**

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**BRAINSPARK PLC**

**and**

**THE DIRECTOR NAMED IN SCHEDULE 1**

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**SERVICE AGREEMENT**

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**THIS AGREEMENT** is made the                      day of                      2010

**B E T W E E N:**

- (1) **BRAINSPARK PLC** (company number 03926192) whose registered office is at The Lightwell, 12-16 Laystall Street, Clerkenwell, London EC1R 4PF (the “Company”); and
- (2) **THE DIRECTOR** whose name and address appears in Schedule 1 (the “Director”).

**RECITAL:**

The parties have agreed that the Director shall with effect from the Commencement Date be employed on the terms of this Agreement and that all other agreements between the Company and the Director, whether written or otherwise, shall be superseded.

**THIS AGREEMENT** provides:

1. **DEFINITIONS AND INTERPRETATION**

- 1.1 In this Agreement and the Schedules the following expressions, unless otherwise expressly stated, have the following respective meanings:

**“Associated Company”**                      any company which for the time being is: (a) a company having an ordinary share capital (as defined in s832 of the Income and Corporation Taxes Act 1988) of which not less than 25 per cent is owned directly or indirectly by the Company (or its holding company) applying the provisions of s838 of the Income and Corporation Taxes Act 1988 in the determination of ownership; (b) a holding company (as defined in s1159 of the Companies Act 2006) of the Company; or (c) a subsidiary (as defined in s1159 of the Companies Act 2006) of any such holding company

**“Board”**                                      means the directors for the time being of the Company present at a duly convened and quorate meeting of the directors, or of a committee of the directors duly appointed for the purpose in

	question;
<b>“Control”</b>	means in relation to a body corporate, the power of a person to secure that the affairs of the body corporate are conducted in accordance with the wishes of that person (or persons): (a) by means of the holding of shares, or the possession of voting power, in or in relation to, that or any other body corporate; or (b) by virtue of any powers conferred by the constitutional or corporate documents, or any other document, regulating that or any other body corporate, and a “Change of Control” occurs if a person who controls any body corporate ceases to do so or if another person acquires control of it, but does not occur in the circumstances described in clause 19
<b>“Commencement Date”</b>	means the date of approval by the Shareholders of the terms of this Agreement;
<b>“Company Invention”</b>	means any improvement, invention or discovery made by the Director which applying the provisions of s39 of the Patents Act 1977 in the determination of ownership is, as between the parties, the property of the Company;
<b>“Confidential Information”</b>	means trade secrets and other confidential information relating to the Company, including, without limitation, those matters set out in Schedule 2;
<b>“Employment”</b>	means the employment of the Director under this Agreement;
<b>“ERA”</b>	means the Employment Rights Act 1996, as amended;
<b>“Financial Year”</b>	means the Company’s financial year ending on

	31 December each year;
<b>“Group”</b>	means the Company and any subsidiary or subsidiaries for the time being of the Company or Companies where the Board collectively own more than 51% of the issued share capital. “Subsidiary” has the meaning assigned to it by s1159 of the Companies Act 2006. The expressions “Group Company” and “Group Companies” shall be construed accordingly;
<b>Holiday Year</b>	Means 1 <sup>st</sup> January to 31 <sup>st</sup> December in each year of employment;
<b>“Incapacity”</b>	means sickness or injury rendering the Director incapable of performing services in accordance with the provisions of this Agreement and supported by a written medical report of such registered medical practitioner as the Company may select;
<b>“Recognised Investment Exchange”</b>	means a body which is a recognised investment exchange for the purposes of the Financial Services and Markets Act 2000 (or any superseding legislation);
<b>“Regulatory Organisation”</b>	includes, without limitation, the Financial Services Authority;
<b>“Remuneration Committee”</b>	means the remuneration committee of the Company;
<b>“Salary”</b>	means salary paid pursuant to Clause 7, as reviewed from time to time and as specified in Schedule 1;
<b>“Shareholders”</b>	means the shareholders of the Company from time to time; and
<b>“Termination Date”</b>	means the date the employment of the Director hereunder is terminated.

1.2 In this Agreement:

- (a) the masculine gender includes the feminine, and the singular number includes the plural, and vice versa;
- (b) references to persons, include bodies corporate;
- (c) references to Clauses and the Schedules are references to clauses of and the schedules to this Agreement;
- (d) references to United Kingdom statutes shall be deemed to refer to such statutes as amended or re-enacted after the Commencement Date.

1.3 The Schedules form part of and are incorporated in this Agreement.

1.4 Headings are included for ease of reference only and shall not affect the interpretation of this Agreement.

1.5 No modification, variation or amendment to this Agreement shall be effective unless such modification, variation or amendment is in writing and has been signed by or on behalf of the parties.

## 2. **COMMENCEMENT**

2.1 The Company appoints the Director a director of the Company to act as Chief Executive Officer.

2.2 The appointment shall take effect and be deemed to have commenced on the Commencement Date.

## 3. **HOURS OF WORK**

3.1 The Director shall be required to work whatever hours are necessary for the professional completion of his duties as the needs of the Company require.

3.2 The Director agrees that he is autonomous and therefore not subject to the Working Time Regulations 1998 (and any amendment to or re-enactment of them) or any legislative provisions imposing a maximum number of average weekly working hours and these shall not apply to the Director's employment. In the event that the Director is not considered to be autonomous the Director agrees that the Working Time Regulations 1998 (and any amendment to or re-enactment of them) or any legislative provisions imposing a maximum

number of average weekly working hours shall not apply to his employment. However, the Director may revoke his agreement to this at any time by giving the Company not less than three months' written notice of his intention to do so.

- 3.3 Unless otherwise directed by the Board or prevented by Incapacity and subject to Clause 13, the Director shall devote such time, attention and abilities to the business of the Company as may be reasonably necessary for the proper performance of his duties.

#### 4. **DURATION OF WORK**

The Director's appointment shall commence on the Commencement Date and shall continue until terminated by either party giving to the other not less than 12 months' prior written notice, but such notice shall not be capable of being given by either party to this Agreement until the second anniversary of the Commencement Date.

#### 5. **DUTIES**

- 5.1 The Director shall be responsible to the Company and shall undertake the duties and exercise the powers assigned to or vested to him by the Board during the continuance of the Employment, and he shall:-

- (a) well and faithfully serve the Company;
- (b) use all reasonable endeavours to promote the interests of the Company;
- (c) use his reasonable endeavours to achieve such reasonable targets, benchmarks and goals as are set by the Board;
- (d) keep the Board informed of his conduct of the business;
- (e) at all times conform to the reasonable and lawful directions of the Board; and
- (f) at all times comply with such share dealing restrictions as the Company may require and as set out in the rules for AIM companies as published by the London Stock Exchange and the model code on directors' dealings of the UKLA.

- 5.2 In the event that the Director shall be seconded to work for any Associated Company or Subsidiary he shall continue to be employed by the Company under the terms of this Agreement which shall remain in full force.

## 6. **OTHER INTERESTS**

- 6.1 The Director shall not without the prior written consent of the Board directly or indirectly engage, or be concerned or interested in, any other business, trade, profession or occupation which may reduce in any manner his ability to fulfil his duties and obligations under this Agreement.
- 6.2 The Director undertakes that he will during the currency of the Employment, comply with the provisions of Sections 172-177 of the Companies Act 2006 and promptly declare in writing, so far as he is aware of the same, the nature of any personal interests, whether direct or indirect, in any contract or proposed contract to be entered into by the Company or with which the Company is concerned or involved.
- 6.3 Clause 6.1 shall not prohibit the Director from holding or being interested in securities (whether quoted or unquoted) in any company whose securities are quoted on a Recognised Investment Exchange PROVIDED THAT such company is not in competition with the business of the Company and/or any Group Company.
- 6.4 The Director shall provide to the Company with a declaration confirming his other directorships and shareholding interests as soon as practicable following the Commencement Date.

## 7. **REMUNERATION**

- 7.1 The Company shall, subject to all lawful deductions, pay Salary to the Director during the continuance of the Employment initially at the rate of £150,000 per annum.
- 7.2 The Salary shall be reviewed by the Remuneration Committee and adjusted upwardly on each anniversary of the Commencement Date.
- 7.3 Salary shall accrue from day to day and shall be payable monthly in arrears, payment in respect of a period of less than a month being apportioned in proportion to the number of working days of the Employment in that month upon which the Director works.
- 7.4 The Company shall be entitled, pursuant to Part II of the ERA, at any time during the Employment and upon its termination (howsoever arising), to deduct any sums owed by the Director to the Company from the Salary and/or any other sums due to the Director under this Agreement. Sums shall be deducted on such basis as is agreed when such sums are provided by the Company, failing which on the next Salary payment(s) after demand by the Company

or at end of the Employment. Such deductions shall be without prejudice to the Company's right to recover any balance remaining after making such deductions.

## 8. **EXPENSES**

The Director shall be reimbursed all duly justifiable reasonable travelling, hotel, entertainment and other out-of-pocket expenses properly incurred in the performance of the duties of the Employment, provided that the Director provides appropriate evidence to the Company of the expenses incurred by him and provided that any amount in excess of £1,000 should be agreed with the Board in advance.

## 9. **BENEFITS AND PENSION**

9.1 The Director shall, during the Employment, to the extent such benefits are offered by the Company and, provided that such benefits are available on reasonable terms, be entitled to membership of the Company's permanent health insurance scheme, if any, together with critical illness insurance shareholder insurance and death in service life assurance at such rates as the Company may specify subject to the rules applicable to such benefits as amended or varied from time to time at the Company's discretion. Such benefits may be withdrawn at the Company's sole discretion at any time.

9.2 Any payment(s) due to the Director under clause 9.1 shall only be payable by the Company upon receipt by the Company of such payment(s) from the relevant insurance provider.

9.3 The Company does not have a pension scheme but provides access to a stakeholder pension scheme.

## 10. **PRIVATE MEDICAL INSURANCE**

10.1 The Director shall be entitled to participate in the Company's permanent health insurance scheme, if any, at the Company's expense, subject to:

- (a) the terms of the Company's scheme, as amended from time to time;
- (b) the rules or insurance policy of the relevant insurance provider, as amended from time to time; and
- (c) the Director satisfying the normal underwriting requirements of the relevant insurance provider and the premium being at a rate which the Company considers reasonable.

- 10.2 The Company shall only be obliged to make payments to the Director under such scheme as is operated from time to time.
- 10.3 The Company in its sole and absolute discretion reserves the right to discontinue, vary or amend any such scheme (including the level of the Director's cover) at any time on reasonable notice to the Director.
- 10.4 If the insurance provider refuses for any reason to provide permanent health insurance benefit to the Director, the Company shall not be liable to provide to the Director any replacement benefit of the same or similar kind or to pay any compensation in lieu of such benefit.
- 10.5 If the Director is receiving benefits under the Company's permanent health insurance scheme the Company shall be entitled to appoint a successor to the Director to perform all or any of the duties required of the Director under the terms of the Appointment and the Director's duties shall be amended accordingly.

## 11. **LIFE ASSURANCE**

- 11.1 The Director shall be entitled to participate in the Company's life assurance scheme, if any. Participation is subject to:
- (a) the terms of the Company's life assurance scheme, as amended from time to time;
  - (b) the rules or the insurance policy of the relevant insurance provider, as amended from time to time; and
  - (c) the Director satisfying the normal underwriting requirements of the relevant insurance provider and the premium being at a rate which the Company considers reasonable.
- 11.2 If the insurance provider refuses for any reason to provide life assurance benefit to the Director the Company shall not be liable to provide to the Director any replacement benefit of the same or similar kind or to pay any compensation in lieu of such benefit.
- 11.3 The Company in its sole and absolute discretion reserves the right to discontinue, vary or amend any such life assurance scheme (including the level of the Director's cover) at any time on reasonable notice to the Director.

## 12. **BONUS**

- 12.1 The Company may in its absolute discretion pay the Director a bonus of such amount, at such intervals and subject to such conditions as the Company may in its absolute discretion determine from time to time.
- 12.2 Any bonus payment to the Director shall be purely discretionary and shall not form part of the Director's contractual remuneration under this Agreement. If the Company makes a bonus payment to the Director in respect of a particular financial year of the Company, it shall not be obliged to make subsequent bonus payment.
- 12.3 Any bonus payment shall not be pensionable.

13. **HOLIDAYS**

- 13.1 The Director shall be entitled to public holidays and to that number of working day's paid holiday as set out in Schedule 1 in each calendar year during the Employment (the "Holiday Year") to be taken at times and for periods as the Director reasonably chooses.
- 13.2 For the holiday year during which his appointment commences or terminates, the Director is entitled to the number of working days holiday equal to one twelfth of his annual entitlement for each calendar month completed in the employment of the Company for that year.
- 13.3 Paid holiday entitlement shall accrue at the rate of 2.08 working days per month of completed service in each calendar year and on the determination of his employment hereunder the Director shall be entitled to pay in lieu of outstanding holiday entitlement in respect of that calendar year or shall be required to repay to the Company for holiday taken in excess of his actual entitlement and for the purposes of this clause the basis of calculation shall be 1/260th annual salary for each day's holiday entitlement. The Company reserves the right to require the Director to take any accrued unused holiday entitlement during his period of notice.
- 13.4 Holiday entitlement in the Holiday Year in which the Employment terminates shall be proportionate to the period of service during the Holiday Year and the Director shall be paid in lieu of any entitlement not taken at the Termination Date, any payment in excess of holiday accrued due being deducted from the final payment of the Salary.
- 13.5 The Company reserves the right to refuse to allow the Director to take holidays during any particular period if the Company reasonably considers that such holidays are likely to have an adverse effect on the Company.

14. **COMPANY SICK PAY**

- 14.1 If the Director shall be prevented by illness (including mental disorder) accident or other incapacity from properly performing his duties hereunder he shall report this fact forthwith to the Board and if the Director is so prevented for seven or more consecutive days he shall provide a medical practitioner's statement on the eighth day and weekly thereafter.
- 14.2 If the Director shall be absent from his duties hereunder due to illness (including mental disorder) accident or other incapacity duly certified in accordance with the provisions of sub-clause 14.1 hereof he shall be paid his full remuneration hereunder excluding bonus (if any) for up to 60 working days absence in any period of 12 months and thereafter such remuneration if any as the Board shall in its discretion from time to time allow provided that there shall be deducted from or set off against such remuneration any Statutory Sick Pay to which the Director is entitled and Society Security Sickness Benefit or other benefits recoverable by the Appointee (whether or not recovered).
- 14.3 If the Director's ill health or injury is the result of an accident caused by a third party in respect of which damages are recoverable then the Director will be required to:
- (a) Notify the Company immediately of all the relevant circumstances and of any claim, compromise, settlement or judgment made or awarded in connection with it;
  - (b) Give to the Company such information concerning the above matters as it shall reasonably require; and
  - (c) If the Company so requires, refund to it any amount that the Director has received from any such third party provided that the refund shall be no more than the amount which the Director has recovered in respect of the sick pay which the Director has received.

15. **SUMMARY TERMINATION**

- 15.1 The Company may, provided that the Board considers it reasonable to do so, summarily terminate the Employment so that the Director shall have no claim for damages or otherwise against the Company in respect of such termination (but without prejudice to any other remedy or remedies which it may have against the Director) if the Director shall:
- (a) become the subject of a bankruptcy order or an interim order under the Insolvency Act 1986 or a disqualification order under the Company Directors Disqualification Act 1986;

- (b) become a patient for the purposes of Part VII of the Mental Health Act 1983;
- (c) be convicted of any criminal offence (other than an offence under road traffic legislation in the United Kingdom or elsewhere for which no custodial sentence is imposed) provided always that such conviction brings the reputation of the Company or Group Company into serious question or disrepute and has a material detrimental effect on the finances or future business prospects of the Company or the Group Company;
- (d) commit any act of dishonesty, or any other act which may seriously affect his ability to discharge his duties under this Agreement;
- (e) be guilty of any serious misconduct or have committed a serious breach of his duties or obligations under this Agreement which is incapable of being remedied or, where any serious misconduct or serious breach is capable of being remedied, is not so remedied within 21 days of receipt by the Director of written notice from the Company requiring the Director to remedy the breach or to refrain from the conduct in question provided always that such serious misconduct brings the reputation of the Company or Group Company into serious question or disrepute and has a material detrimental effect on the finances or future business prospects of the Company or the Group Company;
- (f) commit an act or so conduct himself in a manner which brings the reputation of the Company or Group Company into serious question or disrepute and which has a material detrimental effect on the finances or future business prospects of the Company; or
- (g) be found personally liable for misfeasance, fraudulent or wrongful trading under Sections 212, 213 or 214 of the Insolvency Act 1986.

15.2 During any period of notice to terminate this Agreement and/or the period not exceeding one month of any disciplinary investigation and/or procedure affecting the Director, the Company shall in its sole and absolute discretion be entitled to suspend the Director provided that the Director shall be entitled to receive Salary, and other benefits pursuant to this Agreement, in the usual way, during such period of suspension. During such period the Director's obligations of good faith, confidentiality and exclusive service to the Company remain in force.

15.3 During the period of any suspension, the Director shall only attend at the offices of the Company or act as representative of the Company if expressly directed to do so by the Company (whereupon the Director shall so attend as directed by the Company) but the Company shall not be obliged to provide work to the Director during the suspension period.

15.4 Such suspension shall be without prejudice to the right of the Company at any time to terminate the employment of the Director in accordance with the provisions of this Agreement.

16. **CHANGE OF CONTROL**

16.1 If there is a Change of Control of the Company and, within 12 months following the Change of Control:

- (a) the Company terminates the Employment in accordance with the terms of this agreement (other than for cause pursuant to clause 15.2); or
- (b) the Director serves notice to terminate the Employment in accordance with clause 4, the Company shall, during any period of notice, pay the Director the salary and all other contractual benefits under this Agreement;

and the Director will not be expected to work his notice and subject to a handover period lasting not more than two weeks, the Director shall be free to pursue other employment without regard to clause 24 and Schedule 3 and will have no duty to mitigate the payment referred to in this clause.

In the event that the Change of Control occurs within the first three years of Employment, the Director shall be entitled to the payment of the salary in relation to the unexpired three-year term. All such payments shall become due and payable in a lump sum 15 days following the written notice to terminate the Employment being given.

16.2 For the avoidance of doubt, the payment of any sums pursuant to clause 16.1 shall not affect the Director's entitlement to any of the following:

- (a) any accrued but unpaid salary;
- (b) any payment in lieu of accrued but unused holiday; or
- (c) the reimbursement of expenses, provided that all claims for reimbursement are submitted within four weeks after termination,

in relation, in each case, to the period prior to termination.

**17. PAY IN LIEU**

Once notice to terminate has been given by either party in accordance with clause 4 hereof, or any other purported termination of the Agreement by either party or if notice of a shorter period than that required by clause 4 hereof has been given, the Company reserves the right, exercisable in its absolute discretion, to terminate the Director's employment by making a payment in lieu of the notice required by clause 4 or any unexpired part of such notice. Any payment in lieu of notice shall consist of a sum equivalent to the Director's basic salary (at the rate applicable at the date notice is given) for the notice period required by clause 4 or any unexpired period thereof and shall be subject to such deductions as the Company is required to make. For the avoidance of doubt, if the Company terminates the Director's employment other than in accordance with its rights under this Agreement any entitlement to damages for breach of contract will be assessed on the normal common law principles (including the Director's obligation to mitigate his loss) and the right of the Company to make a payment in lieu of notice does not give rise to any right for the Director to receive such a payment.

**18. GARDEN LEAVE**

18.1 The Company reserves the right where either party to this Agreement gives notice (including short or no notice) to terminate this Agreement or otherwise purports to terminate the Director's employment, to:

- (a) exclude the Director from all or any of the Company or any Group Company's places of business; or
- (b) to require him to attend one of the Group Company's offices to carry out special projects which are reasonably commensurate with his position and within his skill and competence as directed by the Board; or
- (c) to forbid him to contact the Directors, clients or suppliers of the Company or any Group Company, in relation to the business of the Company or any Group Company with which he was concerned in the 12 months prior to being put on garden leave during all or any part(s) of the Director's contractual notice period (the "Garden Leave Period").

18.2 Where the Company exercises its rights under clause 18.1 above, it is relieved from any obligation whatsoever to provide the Director with work to do, or to allow the Director access to any premises of the Company or any Group Company, or to have contact with or dealings

with Directors, clients or suppliers of the Company or any Group Company in relation to the business of the Company or any Group Company, or to allow the Director to carry out his normal duties and the Director's normal duties under this Agreement will be suspended during such period.

18.3 During any period of Garden Leave the Director will, if requested, remain readily contactable by providing telephone and other contact details and be available to work for the Company save when the Director is on holiday by prior agreement with the Company.

18.4 During the Garden Leave Period the Director's salary and all other contractual benefits shall not cease to be payable or provided by reason only of the Company exercising its rights pursuant to sub clauses 18.1(a), (b) and (c) above. The Director's holiday will continue to accrue during the Garden Leave period subject to clause 18.6 below. This Clause shall not affect the general right of the Company to suspend in accordance with Clause 15.2 nor affect the rights and obligations of the parties prior to the service of such a notice.

18.5 During the Garden Leave Period the Director remains a Director of the Company and is bound by the terms of this Agreement (other than to perform work for the Company unless specifically required to do so). In particular, the Director remains bound by his obligations of confidentiality, loyalty, good faith, and exclusive service to the Company, including those obligations set out in schedule 3 which obligations, inter alia, preclude the Director from taking up any other employment during the Garden Leave Period if it would conflict with such obligations.

18.6 The Company reserves the right to require the Director to take any accrued or outstanding holiday entitlement during the Garden Leave period.

## 19. **TRANSFER OF UNDERTAKING**

If the Company goes into voluntary liquidation for the purpose of amalgamation or reconstruction or transferring the whole or any substantial part of its business to any other company, the Director shall not for that reason, or by reason of any consequent termination of the Employment, have any claim for damages or otherwise for breach of this Agreement so long as the Director shall be offered employment on terms no less favourable than those contained in this Agreement by any company succeeding to the whole or any part of the business of the Company.

## 20. **DUTIES ON TERMINATION**

- 20.1 Upon termination of the Employment, the Director shall without prejudice to any claim for damages or other remedy which either party might have against the other, immediately deliver up to the Company all correspondence, documents, specifications, papers, magnetic disks, tapes, disks or other software storage media and property belonging to the Company and any Group Company which may be in the Director's possession or under his control (including such as may have been made or prepared by or have come into the possession or under the control of the Director and relate in any way to the business or affairs of the Company or any Group Company and/or of any of their suppliers, agents, distributors and/or customers) and the Director shall not, without the written consent of the Board, retain any copies thereof.
- 20.2 The Director shall not knowingly at any time make any untrue or misleading statement in relation to the Company or any Associated Company or Subsidiary or represent himself as being still employed by the Company or any Associated Company or Subsidiary.
- 20.3 The Director agrees that he will provide all reasonable assistance to the Company if at any time after the Termination Date the Company requests his co-operation in respect of any litigation or disputes it is engaged in with third parties.

## 21. **CONFIDENTIAL INFORMATION**

- 21.1 The Director acknowledges that all notes, lists, memoranda, records, slips and other writings (in whatever form (and whether held in hard copy or any electric medium)) made by, or in the possession or custody of, the Director relating to the business of the Company or any Group Company shall be and remain the property of the Company or Group Company and shall be handed over by him to such company from time to time on demand and in any event upon his leaving the service of the Company. In this connection, the Director shall keep the Company's systems manager advised of all passwords used by the Director on any computer on which he maintains such notes and writings, and shall immediately notify any changes made to such passwords or any loss of any data from such computer.
- 21.2 The Director agrees with the Company as follows:-
- 21.3 he will not at any time during or after the termination of the Employment reproduce, use, communicate or attempt to do so to any person whatsoever any Confidential Information concerning the business and affairs of the Company or any customer of the Company or any Group Company which he may become possessed and which may have come to his knowledge during the Employment, nor through any failure to exercise all due care and diligence, cause any unauthorised disclosure of any such Confidential Information except

where the same shall be in the public domain other than by unauthorised disclosure by the Director;

- 21.4 he will at all times during his employment use all reasonable endeavours to prevent unauthorised publication or disclosure of any Confidential Information as referred to in subparagraph (a) that is under his control;
- 21.5 not at any time during the Employment make, other than for the benefit of the Company or any Group Company, any lists, notes or memoranda relating to any matter within the scope of and directly or indirectly concerning the business of the Company or any Group Company, or any of the dealings or affairs of the Company or any Group Company;
- 21.6 not to use during or after termination of the Employment (howsoever caused) any such Confidential Information acquired in the course of the performance of his duties for any purpose whatever, including without limitation for his own benefit or for that of any other party or to the detriment of the Company or any Group Company;
- 21.7 not to use during or after termination of his employment (either alone or in conjunction with some other name) the name of the Company or such other trade names as the Company or any Group Company shall use during the course of the Employment in any manner whatsoever, other than for the business of the Company or any Group Company.

## 22. **INVENTIONS**

- 22.1 If at any time during his employment the Director (whether alone or with any other person or persons) makes any invention, whether relating directly or indirectly to the business of the Company, the Director shall promptly disclose to the Company full details, including drawings and models, of such invention to enable the Company to determine whether it is a Company Invention. If the invention is not a Company Invention the Company shall treat all information disclosed to it by the Director as confidential information and the property of the Director.
- 22.2 If the invention is a Company Invention the Director shall hold it in trust for the Company, and at the request and expense of the Company do all things necessary or desirable to enable the Company, or its nominee, to obtain the benefit of the Company Invention and to secure patent or other appropriate forms of protection for it throughout the World.
- 22.3 Decisions as to the patenting and exploitation of any Company Invention shall be in the sole discretion of the Company.

22.4 The Director irrevocably appoints the Company to be his attorney in his name and on his behalf to execute and sign all such instruments or things and generally to use the Director's name for the purpose of giving to the Company or its nominee the full benefit of the provisions of clause 22.2. A certificate in writing signed by any director or the company secretary, that any instrument or act falls within the authority hereby conferred, shall be conclusive evidence that such is the case so far as any third party is concerned.

### 23. **OTHER INTELLECTUAL PROPERTY**

23.1 The Director hereby agrees that all copyright, moral rights, patents, trademarks, trade names, service marks, design rights, database rights, rights in undisclosed or confidential information (including without limit, know-how and trade secrets whether patentable or not) and other similar intellectual property rights and other rights in the nature of intellectual property (whether or not registered or registrable) created, generated, acquired or made by him during the continuance of his employment (except where such rights were created, generated, acquired or made by the Director wholly outside his normal working hours and are wholly unconnected with his appointment) shall belong to the Company.

23.2 The Director hereby assigns to the Company by way of future assignment all copyright and other rights referred to in clause 23.1 for the full terms thereof throughout the World and agrees at the request and expense of the Company do all things necessary or desirable to substantiate those rights of the Company (including without limit the execution of the necessary documentation).

23.3 The Director shall notify the Company immediately upon the creation or coming into existence of any of the rights referred to in clause 23.1.

23.4 The Director irrevocably and unconditionally waives in favour of the Company any and all moral rights conferred on him by Chapter IV of Part I of the Copyright Designs and Patents Act 1988 in relation to any works originated, conceived, written or made by him alone or with others during the continuance of his employment (except in relation to those works originated, conceived or written or made by him wholly outside his normal working hours and wholly unconnected with his appointment).

### 24. **POST-EMPLOYMENT RESTRICTIONS**

The Director agrees to be bound by and to honour and observe the covenants contained in Schedule 3 and considers them reasonable and legitimate for the purpose of protecting and promoting the business of the Company.

25. **PRESCRIBED INFORMATION**

The following information is set forth for the purposes of section 3, ERA:

- 25.1 If the Director has any cause for complaint in respect of his/her terms of employment, or with disciplinary action taken against him, the Director should raise it informally and orally with the Board. If the complaint is not resolved initially he should set out his complaint in writing to the Board who will endeavour to resolve the Director's grievance. For the avoidance of doubt this procedure does not form part of the Director's contract of employment;
- 25.2 The decision of the Board will be final. At all interviews or discussions relating to his grievance the Director may be accompanied by another Director; and
- 25.3 The Director's period of continuous employment began on the date set out in Schedule 1.

26. **SEVERABILITY**

The Company and the Director acknowledge that the Clauses and sub-Clauses and Schedules of this Agreement are severable. If any Clause, sub-Clause or identifiable part of any Clause or sub-Clause or Schedule or any paragraph of any Schedule is held to be invalid or unenforceable by an English court then such invalidity or unenforceability shall not affect the validity or enforceability of the remaining Clauses or sub-Clauses or Schedules or any paragraph of any Schedule.

27. **POWER OF ATTORNEY**

On the termination of this Agreement for whatever reason, the Director shall:

- 27.1 at the request of the Company resign without claim for compensation from office as a Director of the Company and from all offices held by him in any Associated Company and from all other appointments or offices which he holds as nominee or representative of the Company or any Associated Company and if he should fail to do so within seven days the Company is hereby irrevocably authorised to appoint some person in his name and on his behalf to sign any documents or do any things necessary or requisite to give effect to this.
- 27.2 immediately deliver to the Company or to its order all books, documents, papers (including copies), materials, credit cards, keys and other property of or relating to the business of the Company or its associated companies then in his possession or which are or were last under his power or control.

28. **DATA PROTECTION**

- 28.1 The Director confirms he has read and understood the Company's data protection policy, a copy of which is available from the Company. The Company may change its data protection policy at any time and will notify employees in writing of any changes.
- 28.2 The Director shall comply with the data protection policy when processing personal data in the course of employment including personal data relating to any employee, customer, client, supplier or agent of the Company.
- 28.3 The Director consents to the Company processing data relating to the Director for legal, personnel, administrative and management purposes and in particular to the processing of any sensitive personal data (as defined in the Data Protection Act 1998) relating to the Director, including, as appropriate:
- (a) information about the Director's physical or mental health or condition in order to monitor sick leave and take decisions as to the Director's fitness for work;
  - (b) the Director's racial or ethnic origin or religious or similar information in order to monitor compliance with equal opportunities legislation; and
  - (c) information relating to any criminal proceedings in which the Director has been involved for insurance purposes and in order to comply with legal requirements and obligations to third parties.
- 28.4 The Company may make such information available to those who provide products or services to the Company (such as advisers and payroll administrators), regulatory authorities, potential or future employers, governmental or quasi-governmental organisations and potential purchasers of the Company or the business in which the Director works.
- 28.5 The Director consents to the transfer of such information to the Company's business contacts outside the European Economic Area in order to further its business interests even where the country or territory in question does not maintain adequate data protection standards.

29. **COUNTERPARTS**

This Agreement may be entered into in any number of counterparts, each of which when so executed and delivered shall be an original, but all the counterparts shall together constitute one and the same agreement.

30. **GOVERNING LAW AND JURISDICTION**

This Agreement shall be governed by English law and for the benefit of the Company the Director hereby submits to the exclusive jurisdiction of the English Courts.

31. **NOTICES**

Any notice shall be duly served under this Agreement if, in the case of the Company, it is handed to a director of the Company (other than the Director) or sent by recorded or first class post to the Company at its registered office for the time being and if, in the case of the Director, it is handed to him or sent by recorded or first class post to him at his address specified in this Agreement or such other address as he may notify to the Company. A notice sent by recorded or first class post shall be deemed served on the working day next following posting.

**IN WITNESS** whereof the parties have executed and delivered this instrument as a Deed the day and year first before written.

## **SCHEDULE 1**

### **Particulars of Employment**

Name of Director	:	Alfredo Villa
Address of Director	:	C/o RCF, Via Peri 21A, 6900 Lugano, Switzerland
Commencement Date	:	means the date of approval by the Shareholders of the terms of this Agreement;
Salary	:	£150,000 per annum
Date of Commencement of Continuous Employment	:	1 December 2009
Holiday Entitlement	:	25 working days
Pension	:	None
Collective Agreements	:	None

## SCHEDULE 2

### “Confidential Information”

1. All details, information, records, memoranda, slips, policy wording, marketing or sales materials or other papers relating to:-
  - (a) the Company or any Group Company;
  - (b) any Customer of the Company (within the meaning of Schedule 3);
  - (c) any other customers or prospective customers of the Company or any Group Company;
  - (d) any Facilities (within the meaning of Schedule 3);and irrespective of the medium in which such information or papers are held or recorded.
  
2. All information relating to:-
  - (a) the internal structure, finances, financial or management controls or operational procedures of the Company or any Group Company;
  - (b) the directors, officers, managers, Directors, agents or other representatives of the Company or any Group Company (whether in their employment or personal capacities);
  - (c) regulatory, legal, compliance or other matters involving the Company or any Group Company; and
  - (d) any allegation or circumstances which will or may lead to any claim being made against the Company or any Group Company, or against their respective officers, Directors or agents, whether for negligence, breach of contract or otherwise, provided that nothing in this Clause shall prevent the Director from making a protected disclosure under the ERA as amended.
  
3. The following shall not constitute confidential information:-
  - (a) information in the public domain through no fault of the Director; and
  - (b) information ordered to be produced by a court or tribunal of competent jurisdiction; and

(c) information ordered to be produced upon a formal written direction by any Regulatory Organisation provided that prior to disclosure of such information, the Director shall give the Company not less than five days' notice of the receipt of such written direction, giving full particulars of the direction and the information intended to be disclosed **PROVIDED THAT** it is reasonable in the circumstances and the Director is not prohibited from doing so by the Regulatory Organisation.

4. Paragraphs 1 and 2 of this Schedule 2 are not to be read as exhaustive. Without limitation, Confidential Information shall also include:-

- (a) any information which the Director knows is held by the Company under a duty of confidence to any third party; and
- (b) any information which the Director is expressly told by the Company is confidential.

## SCHEDULE 3

### Post-Employment Restrictions

1 In this Schedule 3, the following definitions are used:

“Competing Products” and “Competing Services” mean any products or services competitive with products or services supplied by the Company or any Associated Company.

“Customer” means any person, company or firm who has been supplied with any products or services by the Company or any Associated Company during the six months preceding the termination of the Director’s employment and with whom the Director personally dealt in connection with this supply during those six months;

“Prohibited Area” means **Italy**, UK and Dubai

“Prospective Customer” means any person, company or firm who has been offered any products or services by the Company or any Associated Company during the six months preceding the termination of the Director’s employment or has been in a negotiation with the Company or any Associated Company for the supply of products or services during that period of six months and with whom the Director personally dealt in connection with this offer or negotiation during those six months.

2 After termination of the Director’s employment, the Director will not, without the prior written consent of the Board, directly or indirectly, either alone or jointly with or on behalf of any other person and whether on his own account or in any other capacity whatever:

2.1 for a period of six months commencing with the Termination Date, carry on or be engaged or employed or interested in any business which is carried on in the Prohibited Area and which competes with any business of the Company and any Associated Company;

2.2 for a period of six months commencing with the Termination Date canvass, solicit, interfere with or approach any Customer for the purposes of the supply of Competing Services or Competing Products or interfere with the Company’s relationship with any Customer or Prospective Customer;

- 2.3 for a period of six months commencing with the Termination Date accept any order or custom from a Customer in respect of the supply for Competing Services or Competing Products;
  - 2.4 for a period of six months commencing with the Termination Date canvass, solicit, interfere with or approach any Prospective Customer for the purposes of the supply of Competing Services or Competing Products;
  - 2.5 for a period of six months commencing with the Termination Date accept any order or custom from a Prospective Customer in respect of the supply for Competing Services or Competing Products;
  - 2.6 for a period of six months commencing with the Termination Date canvass or solicit for employment any person who was at the Termination Date and continued to be until canvassed or solicited a director or Director of the Company or any Associated Company in a managerial, sales, marketing or product development position;
  - 2.7 for a period of six months commencing with the Termination Date employ any person who was at the Termination Date a director or Director of the Company or any Associated Company in a managerial sales, marketing, product-development position;
  - 2.8 for a period of six months commencing with the Termination Date solicit or interfere with any person, firm or company who was a supplier of goods or services to the Company or any Associated Company in the six months preceding the Termination Date and with whom the Director was concerned or had personal contact during those six months if the solicitation or interference would cause the supplier to cease supplying or materially reduce its supply of products or services to the Company or any Associated Company;
  - 2.9 induce or assist any other person to do any of those things set out in clauses 2.1 to 2.6 of this Schedule 3 if this could cause a breach of that person's contract of employment with the Company or any Associated Company.
- 3 Each of the covenants in clause 2 of this Schedule 3 will constitute a separate and independent covenant and will be construed as such and if any one or more of such undertakings or any part of an undertaking is held to be against the public interest or unlawful

or in any way as an unreasonable restraint of trade, the remaining undertaking or undertakings or the remaining part of such undertaking or undertakings shall continue in full force and effect and shall bind the Director.

- 4 The Director acknowledges that he has been given the opportunity to take independent legal advice in relation to the terms of the undertakings given in clause 2 of this Schedule 3 and that each such undertaking is reasonable and for the proper protection of the business of the Company and each relevant Associated Company and further acknowledges that damages may not be an adequate remedy to the Company (or the relevant Associated Company) for breach of those undertakings.
- 5 After the Termination Date of his employment the Director will not represent himself or permit himself to be held out as being in any way connected with or interested in the business of the Company or any Associated Company (except if and for so long as he remains a director or an Director of the Company or any Associated Company) or use any name which is identical or similar to or likely to be confused with the name of the Company or any Associated Company or of any business which it carries on or any product or service which it produces or provides or which might suggest a connection between the Director with that company or any of its products or services.
- 6 The periods of six months in clause 2 of this Schedule 3 shall be reduced by any period of notice to terminate this Agreement where the Company pursuant to clause 17 of this Agreement requires the Director to perform only some or none of his duties.
- 7 The covenants shall continue to apply after termination of the Agreement and, in the event the Company and the Director enter into a compromise agreement, the restrictions shall continue to apply unless specifically released by the Company.

**SIGNED as a DEED by** )  
**BRAINSPARK PLC acting by** )

Director

Director/Secretary

**SIGNED as a DEED by** )  
**ALFREDO VILLA** )  
in the presence of: )

Signature:

Witness:

Address: