

Drafting Notes

Obligatory clauses

The clauses which are in **bold** are the Obligatory Terms that the parties must include in the Representation Contract. Clauses in ***bold and italics*** represent alternative clauses, the inclusion of one of which is obligatory as per the text below. The remaining clauses are recommended clauses, designed to bring a particular matter to the parties attention and providing a possible recommended form, but these may be altered or removed as the parties see fit.

For the avoidance of doubt the Obligatory Terms are the Key Terms Summary, recitals 1 - 3, clauses 1, 2, 5, 10 (excluding 10f), 11, 12, 13, 14, 15, 19 (in part), 23, 26, 28, 29, 30 and 31 and the execution provisions (including the signature pages).

Updated Clauses for December 2011

In 2009 the FIFA Congress declared its support for an in-depth reform of the players' agents system through a new approach based on the concept of intermediaries. It is understood that this reform may result in the current players' agents licensing system and the Agents Regulations ceasing to have effect and/or being superseded.

In order to reflect these possible regulatory changes, The FA has made various amendments to the Representation Contract.

Parties should take independent legal advice in relation to their Representation Contracts and must at all times ensure that their contractual arrangements comply with the applicable Rules and Regulations of The FA and FIFA.

REPRESENTATION CONTRACT between AGENT and CLUB

THIS REPRESENTATION CONTRACT is made the day of

BETWEEN

[NAME OF INDIVIDUAL AUTHORISED AGENT] (the 'Authorised Agent')

[LICENCE / REGISTRATION NUMBER] of

[COMPANY NAME and ADDRESS (where applicable)] (the 'Company')

and

[THE CLUB]

[ADDRESS]

(the 'Club').

WHEREAS:

- (1) **The Club and Authorised Agent acknowledge that FIFA has indicated that it intends on reforming the regulation of player agents and that this may result in The Football Association Football Agents Regulations (the 'Agents Regulations') ceasing to have effect and/or being superseded by a new set of regulations on working with intermediaries implemented by FIFA and/or the Association (the 'Proposed New Regulations');**
- (2) **In the event that the Agents Regulations cease to have effect and/or the Proposed New Regulations are implemented, the Club and the Authorised Agent intend this Representation Contract to survive and to continue to bind both parties.**

IT IS HEREBY AGREED as follows:

APPOINTMENT

1. **The Club hereby appoints the Authorised Agent to provide services on the following terms:**

[describe the detail and nature of the services]

[The Club is contracted to the Authorised Agent on an exclusive basis]

or

[The Club is contracted to the Authorised Agent on a non-exclusive basis]

(the 'Services')

TERM

- 2. The term of this Representation Contract shall, subject to clauses 12 to 15 below, be for a period of [MONTHS/YEARS up to a maximum of 2 years] from the date hereof at the end of which it shall terminate without notice. The Representation Contract may be renewed at any time upon the written agreement of both parties, provided that the term of the Representation Contract renewed by the parties shall not be for a period of more than 2 years.**

NATURE OF THE RELATIONSHIP

- 3. The Club shall not be obliged to use the services of the Authorised Agent during the term of this Representation Contract and the Club may represent itself in any Transaction or Contract Negotiation (as defined in the Agents Regulations) should it so desire.**
- 4. [IF AGREEMENT IS NON-EXCLUSIVE UNDER CLAUSE 1- Where the Authorised Agent has not performed any Services for the Club in respect of any particular Transaction or Contract Negotiation (as defined in the Agents Regulations) pursuant to the terms of this Representation Contract, no payment shall be due or payable to the Authorised Agent in respect of such Transaction or Contract Negotiation under the terms hereof.]**

REMUNERATION

- 5. In consideration for the provision of the Services, the Club shall pay to the Authorised Agent a fee in accordance with the requirements of the Agents Regulations, for so long as they remain in force, and the terms of this Representation Contract as follows:**

[Set out full details of the fee payable both during and after expiry of the Representation Contract (e.g. either an hourly rate, commission by lump sum or by periodic instalments, post-termination entitlement) and the terms upon which it is payable (e.g. 30 days after receipt of invoice) and the regularity of payment (e.g. at the commencement of the related playing contract, monthly/annual/quarterly instalments)]

The above sums being exclusive of any Value Added Tax that may be payable.

- 6. Payment of the sums due above shall be made subject to receipt by the Club of the Authorised Agent's written invoices therefor.**
- 7. Payment by the Club to the Authorised Agent of the commission under clause [5] or any part thereof is conditional on a player becoming and remaining a registered and contracted player of the Club until the due date for payment.**

8. If the player shall not have become a registered and contracted player of the Club by the [] day of [] then this Representation Contract shall be automatically determined and of no effect and no payment or otherwise shall be due from the Club to the Authorised Agent hereunder.
9. The Authorised Agent shall bear all expenses incurred in performing his duties under this Representation Contract and the Club shall not be liable to make any payments not expressly set out herein.

OBLIGATIONS

10. **The Authorised Agent undertakes and warrants to the Club that he will at all times during the term of this Representation Contract perform the Services in good faith and in the best interests of the Club and, in particular, that:**
 - a. **he shall provide the Services to the best of his ability and use all reasonable endeavours in connection therewith;**
 - b. **he shall keep the Club informed of any and all material information relating to the provision of the Services and shall not enter into negotiations with any third parties on the Club's behalf without the Club's consent;**
 - c. **he shall comply with The Rules of the Football Association and the Agents Regulations;**
 - d. **he holds, and will continue to hold, a current valid licence/registration issued by The Football Association and shall immediately notify the Club if such licence/registration is suspended or withdrawn;**
 - e. **he has, and shall maintain in place valid and effective professional liability insurance in respect of the Services and shall, at the Club's request, provide the Club with a copy of the policy;**
 - f. **he shall not incur any liability in excess of £1000 on behalf of the Club without the prior consent of the Club;**
 - g. **he shall not, either directly or indirectly, make payments of any kind to, or receive payments of any kind from, a player, which results from the provision of the Services;**
 - h. **no part of the Authorised Agent's remuneration is payable or shall be paid to the player or to any person on the player's behalf (including, without limitation, any club with which the player is or has been registered or contracted), nor will it be applied to the discharge of any debt or liability of the player to any person; and**
 - i. **he has not [and the Company has not] agreed to, and shall not, directly or indirectly pay any part of the Authorised Agent's remuneration to, or to the order of, any current officer or employee of the Club or any person or company connected with any such person. For the purposes of this clause 10(i), a person is connected with an officer or employee of the Club if he or she is a relative of that officer or employee, and a company is connected with an officer or employee of the Club if he or she is a director of that company or holds (directly or indirectly) 50% or more of its voting shares or has the power to appoint a majority of its board of directors.**

11. The Club undertakes and warrants to the Authorised Agent that:
 - a. it shall comply with The Rules of the Football Association and the Agents Regulations; and
 - b. it shall provide any such information that the Authorised Agent may reasonably require in order to enable the Authorised Agent to perform the Services hereunder.

TERMINATION

12. If the Authorised Agent's licence/registration is suspended or withdrawn during the term of this Representation Contract as determined by The Football Association or other relevant national association or FIFA, and the relevant appeal process has been exhausted where applicable, then this Representation Contract shall be automatically terminated with immediate effect.

13. If either party:
 - a. commits a material breach of this Representation Contract which is not capable of remedy;
 - b. commits a material breach of this Representation Contract and, in the case of a material breach which is capable of being remedied, fails to remedy such breach within 30 days of a receipt of written notice from the non-defaulting party specifying the breach and requiring it to be remedied; or
 - c. is declared bankrupt [or, in the case of the Authorised Agent only, if the Company becomes insolvent],

this Representation Contract may be terminated by the non-defaulting party on written notice with immediate effect.

14. Any sums that fall due for payment to the Authorised Agent after termination of this Representation Contract, other than those sums arising out of rights that have been accrued before termination, shall not be due and payable by the Club if:
 - a. the Representation Contract is terminated in accordance with clause 12; or
 - b. the Representation Contract is terminated in accordance with clause 13 to the extent only that the material breach giving rise to such termination is committed by the Authorised Agent.

15. [WHERE THE AUTHORISED AGENT IS EMPLOYED OR RETAINED ON BEHALF OF AN ORGANISATION - Should the Authorised Agent, during the term of this Representation Contract, cease to be an employee or director or other authorised representative of the Company, the Club shall be informed in writing by the Authorised Agent as soon as reasonably practicable thereafter, and the Club shall be given the option to:
 - a. continue to be represented by the Authorised Agent under this Representation Contract subject to any provisions, representations or obligations that may exist between the Authorised Agent and the Company; or

- b. terminate the Representation Contract and be represented by, and enter into a representation contract with, another authorised agent employed by the Company without any further obligations to the Authorised Agent other than in respect of any outstanding sums that are or shall be due to the Authorised Agent hereunder (subject to the relevant provisions of the Agents Regulations regarding entitlement to remuneration and to any provisions or obligations that may exist between the Authorised Agent and the Company); or**
- c. terminate the Representation Contract and, if the Club so wishes, seek alternative representation without any further obligations to the Authorised Agent and/or the Company other than in respect of any outstanding sums that are or shall be due to the Authorised Agent hereunder (subject to the relevant provisions of the Agents Regulations regarding entitlement to remuneration and any provisions or obligations that may exist between the Authorised Agent and the Company).**

The Club shall be required to notify the Authorised Agent in writing of its election within 28 days of receiving notice from the Authorised Agent of his change in circumstances, and in the event that the Club elects the option set out in clause 15(b) above, the Authorised Agent shall sign any documents and do any acts as may be necessary to novate this Representation Contract to a third party authorised agent employed by the Company.]

NOTICES

- 16. All notices to be given under this Representation Contract shall be in writing in English and left at or sent by first class registered or recorded delivery mail or facsimile to the address of the party as set out above or to such other address and/or addresses as the party concerned shall from time to time designate by written notice pursuant hereto.
- 17. Any such notice shall be deemed given, in the case of hand delivery, at the time when the same is left at the addressee's address or, in the case of first class registered post or recorded delivery mail, on the business day after delivery or, in the case of a facsimile, upon transmission by the sender provided that the transmitting facsimile machine generates upon completion of the transmission a transmission report stating that the notice has been duly transmitted without error to the addressee's facsimile number.

SEVERABILITY

- 18. If any term or provision in this Representation Contract shall be held to be illegal, invalid or unenforceable, in whole or part, under any enactment, rule of law, or as a result of the Agents Regulations ceasing to have effect and/or the Proposed New Regulations being implemented, such term or provision or part shall to that extent be deemed not to form part of this Representation Contract but the legality, validity and enforceability of the remainder of this Representation Contract shall not be affected.

CONFIDENTIALITY

19. **Save as required by law or any fiscal or regulatory authority (including The Football Association), each party undertakes** [to keep the terms of this Representation Contract and any information of a confidential nature that he or it may receive in respect of the other party during the term of this Representation Contract strictly confidential and shall at no time (whether before or after expiry of the term of this Representation Contract) divulge any such information to any third party (other than to their respective professional advisors) without the consent of the other party.]

ENTIRE AGREEMENT

20. This Representation Contract sets out the entire agreement between the parties hereto, in relation to those matters set out herein, and supersedes all prior discussions statements representations and undertakings between them or their advisors.
21. Clause 20 shall not exclude any liability which either party would otherwise have to the other or any right which either of them may have to rescind this Representation Contract in respect of any statements made fraudulently by the other prior to the execution of this Representation Contract or any rights which either of them may have in respect of fraudulent concealment by the other.
22. This Representation Contract may not be amended, modified or superseded unless expressly agreed to in writing by both parties.

RELATIONSHIP BETWEEN THE PARTIES

23. **The Authorised Agent is not authorised under this Representation Contract to enter into any agreements on behalf of the Club or bind the Club in a contractual relationship in any way whatsoever,** [save as provided for under Clause 10(f)].

PROPOSED NEW REGULATIONS

24. The obligations owed pursuant to Clauses 10(c), 10(d), 10(g), 12, and 29 of this Representation Contract shall only bind the parties for so long it is a requirement of the Agents Regulations (or any successor thereto) that those clauses be included in this Representation Contract. In the event that any of the aforementioned clauses are no longer required by the Agents Regulations (or any successor thereto) the relevant clause(s) shall be automatically deleted and shall cease to bind the parties.

SURVIVAL OF RIGHTS, DUTIES AND OBLIGATIONS

25. Expiry or termination of this Representation Contract shall not release the parties from any liability or right of action or claim which at the time of such expiry or termination has already accrued or may accrue to either party in respect of any act or omission prior to such expiry or termination.
26. Expiry or termination shall not affect the coming into force or the continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

NON-ASSIGNMENT

27. The Authorised Agent shall not assign, subcontract or novate the benefit or burden of this Representation Contract or of any of its provisions without the prior consent in writing of the Club (such consent to be given or withheld at the Club's absolute discretion) and in any case, for as long as the Agents Regulations remain in force, shall not assign, subcontract or novate the benefit or burden of this Representation Contract or of any of its provisions to an Unauthorised Agent (as defined in the Agents Regulations).

THIRD PARTY RIGHTS

28. Notwithstanding any other provision of this Representation Contract, a person who is not a party to this Representation Contract has no rights under the Contracts (Rights of Third Parties) Act 1999 to rely upon or enforce any term of this Representation Contract.

SUPPLEMENTAL AGREEMENTS

29. Any other arrangements between the parties in any way connected to the provision of the Services that are supplemental to this Representation Contract shall be in accordance with the requirements of the Agents' Regulations and shall be annexed to the Representation Contract and submitted to The Football Association (and other relevant national association) for registration together with this Representation Contract.

DISPUTES

30. For as long as the Agents Regulations remain in force, any dispute between the parties arising from this Representation Contract which constitutes a breach of The Rules of the Football Association and/or the Agents Regulations shall be dealt with by The Rules of the Football Association in the first instance and referred to FIFA where appropriate. Any other dispute between the parties shall be dealt with as between the parties under Rule K (Arbitration) of The Rules of the Football Association (as may vary from time to time).
31. In the event that the Agents Regulations cease to have effect and/or the Proposed New Regulations are implemented the parties agree that:

[Parties must provide for how their disputes will be resolved.

For example:

Any dispute arising out of or in connection with this Representation Contract, including any question regarding its existence, validity or termination, shall be referred to Sport Resolutions (UK) (a trading name of The Sports Dispute Resolution Panel Ltd - Company No. 3351039) for final and binding arbitration in accordance with the Arbitration Act 1996 and Sport Resolutions (UK)'s Arbitration Rules, which Rules are deemed to be incorporated by reference to this clause.

or

The courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Representation Contract, including any question regarding its existence, validity or termination.]

GOVERNING LAW & JURISDICTION

- 30. This Representation Contract shall be governed by and construed and interpreted in accordance with the laws of England and Wales and, subject to clause 29 above, the parties hereby submit to the exclusive jurisdiction of the courts of England and Wales.**

SIGNATURES

This contract has been signed in fourfold and the copies have been distributed to:

- i. The National Association with which the Authorised Agent is registered**
- ii. The National Association with which the Club is registered**
- iii. The Authorised Agent**
- iv. The Club**

Signed by _____ **Date:** _____

Print Name -----

Duly authorised for and on behalf of the Club:

Signed by the Agent: _____ **Date:** _____

LODGEMENT

The Football Association: _____ **Date:** _____

Other National Association: _____ **Date:** _____