

27 MARCH 2023

PHILIP MORRIS ČR A.S.

AND

JAN KODAJ

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AGREEMENT ON THE PERFORMANCE OF OFFICE  
OF MEMBER OF THE SUPERVISORY BOARD

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**THIS AGREEMENT** (the "**Agreement**") is entered into pursuant to Section 59 *et seq.* of Act No. 90/2012 Coll., on Companies and Cooperatives (the Corporations Act), as amended (the "**Corporations Act**"), and pursuant to the relevant provisions of Act No. 89/2012 Coll., the Civil Code, as amended (the "**Civil Code**"),

**BETWEEN:**

- (1) **Philip Morris ČR a.s.**, a joint stock company incorporated and existing under the laws of the Czech Republic, whose registered office is in Kutná Hora, Vítězná 1, postcode 284 03, identification number 148 03 534, registered in the Commercial Register maintained by the Municipal Court in Prague, File No. B 627 (the "**Company**"),

and

- (2) **Jan Kodaj**, born on 18 January 1975, residing at Poličany 56, postcode 284 01 Kutná Hora (the "**Member**"),

(the Company and the Member are collectively referred to as "**Parties**" and individually as a "**Party**")

**WHEREAS:**

- (A) The Member has been elected by the employees of the Company to the office of a member of the Supervisory Board of the Company in accordance with the results of the election which took place in the period between 2 March 2023 and 16 March 2023 pursuant to the election rules governing elections and recalls of those members of the Supervisory Board that are elected by employees.
- (B) The Member has agreed to his election as a member of the Supervisory Board of the Company. In relation to the capacity of the Member to perform his office, the Member declares that he meets all the requirements for the election as a member of the Supervisory Board and for the performance of this office set out by the relevant legal regulations or the Company; in particular, the Member (i) is fully competent to perform legal acts; (ii) is not prevented from exercising the office of a member of an elected body of a corporation as provided for in the Corporations Act; (iii) has no criminal records within the meaning of Act No. 455/1991 Coll., on Trade Licensing (the Trade Licensing Act), as amended (the "**Trade Licensing Act**"), and there is no obstacle in relation to him as regards the operation of a trade; (iv) has not had any insolvency proceedings pursuant to the relevant legal regulation, or similar proceedings abroad, initiated in relation to his assets or the assets of the legal entity in which he has been or was active during the past three (3) years as a member of an elected body, and no other obstacle to his performance of the office exists, of which he had not informed

the Company before he started to hold the office; (v) there are no facts which could reasonably be expected to prevent the performance of the Member's duties; and (vi) acknowledges that if, at the time of his election as a member of the Supervisory Board, he was not capable of performing the office as set out by law, he shall be deemed not have been elected to the office. If, after his election, the Member loses the statutory capacity to be a member of the Supervisory Board, his office shall cease to exist; the Member shall notify the Company of the cessation of his office or any other event under this paragraph occurring during the performance of his office promptly after becoming aware of such event.

- (C) The Parties wish to have the relationship between the Member and the Company regarding the performance of office of the Member of the Supervisory Board of the Company governed by this Agreement.
- (D) This Agreement is subject to approval by the General Meeting of the Company (the "**General Meeting**").

**THE PARTIES HAVE AGREED** as follows:

## 1. **SUBJECT-MATTER OF THE AGREEMENT**

- 1.1 The Member shall perform the duties of a member of the Supervisory Board of the Company. The Member shall have the rights and duties of a member of the Supervisory Board of the Company under the laws of the Czech Republic, subject to the limits set out in the Company's Articles of Association (the "**Articles of Association**") or in this Agreement.
- 1.2 The place of the Member's performance of his duties under this Agreement shall be the registered office of the Company and any location required by the character or nature of the duties and tasks that relate to the performance of the office and to the interests of the Company. The Company undertakes to create, at its own cost, conditions suitable for the performance of the Member's duties, in particular with regard to technical, professional and personal requirements, at any location where the Member will perform his office. If necessary for the performance of the office and according to the needs of the Company, the Member is obliged to travel both within the Czech Republic and abroad.
- 1.3 The Member hereby represents and warrants to the Company that he has sufficient professional experience to perform his duties as a member of the Supervisory Board of the Company under this Agreement and that he covenants to carry out his duties to the best of his ability.

## **2. SCOPE OF AUTHORITY OF THE MEMBER**

- 2.1 The Member is obliged to supervise the performance of the authority of the Board of Directors of the Company and the activities of the Company in accordance with the Articles of Association, applicable laws and this Agreement. No one is entitled to issue instructions to the Supervisory Board with regard to its statutory duty to supervise the Board of Directors.
- 2.2 The Member is obliged to act in the best interests of the Company and to perform his office diligently, using his best skills, with the care of a diligent business person, and in accordance with the provisions of the Civil Code, the Corporations Act and other legal regulations, the Articles of Association of the Company and the principles approved by the General Meeting, unless these are in conflict with the Corporations Act or the Articles of Association. In particular, the Member of the Supervisory Board shall:
- 2.2.1 assess particular directions of the activities and business strategy of the Company and inspect their implementation;
  - 2.2.2 view all documents and records relating to the Company's activities and check whether the accounting books are kept properly and in accordance with reality and whether the business or any other activities of the Company are performed in accordance with legal regulations and the Articles of Association;
  - 2.2.3 review whether the Company's activities are conducted in accordance with the legal regulations of the Czech Republic, the Articles of Association and the instructions of the General Meeting;
  - 2.2.4 review the ordinary, extraordinary and consolidated (and possibly also the interim) financial statements of the Company as well as the proposal for the distribution of profit or other Company's own sources or the covering of losses, and present his views to the General Meeting;
  - 2.2.5 attend the General Meetings and, if mandated to do so by the Supervisory Board of the Company, present to the General Meeting the report on the results of the activities of the Supervisory Board;
  - 2.2.6 if required by the interests of the Company, convene the General Meetings and propose necessary measures; and
  - 2.2.7 if the Supervisory Board so determines, represent the Company in any proceedings conducted against any member of the Board of Directors before courts and other authorities.

- 2.3 In relation to the Company, the Member shall observe the provisions of the Articles of Association, the relevant legal regulations of the Czech Republic, and this Agreement. In relation to the performance of his office, the Member declares and acknowledges that:
- 2.3.1 a person acts diligently and with due knowledge when he could, in good faith, reasonably expect when deciding about business matters that he acted based on the relevant information and within the justifiable interests of the Company; this does not apply if any such decision was not made with the necessary loyalty; and
- 2.3.2 any person who accepts the office of a member of the Supervisory Board undertakes to perform the office with the necessary loyalty, knowledge and diligence. A person shall be deemed to act negligently if he is not capable of performing the office with the care of a diligent business person despite being aware of this when accepting the office or becoming aware of this during the performance of the office, and he does not act to bring any consequences on himself from this.
- 2.4 The obligation to perform the office of a Member is a personal obligation, and the Member is not entitled to have himself represented by any other person when performing the office, unless the relevant legal regulations stipulate otherwise. Neither of the Parties is entitled to transfer its rights or duties under this Agreement (or any part thereof) to a third party without the consent of the other Party.
- 2.5 Notwithstanding the above, the Member shall not do or cause to be done anything which he reasonably considers to be in conflict with the interests of the Company and/or the legal regulations of the Czech Republic and/or any other relevant jurisdiction.
3. **CONFIDENTIALITY**
- 3.1 The Member shall, in acting with the care of a diligent business person, maintain confidentiality in respect of any facts and information which become or have become known to him in or in relation to the performance of his office and which constitute business secret or which are otherwise designated as confidential and are subject to any form of confidential treatment and protection, or whose disclosure to third parties or whose publication may cause harm to the Company's property or reputation or any other damage to the Company's interests. The Member is especially obliged not to disclose such facts and information to any third parties. Furthermore, the Member shall maintain confidentiality in respect of any information and facts in relation to which the Company agreed to maintain confidentiality based on a contractual arrangement with a third party.

3.2 The confidentiality obligation shall not apply to the provision of information and to the performance of other duties by the Member that arise from the due performance of his office or in relation to it, particularly to information to be provided by the Member to the controlling and controlled entities.

3.3 The wording of this Agreement, as well as any information, circumstances or data which become known to the Member in connection with the entry into, and the performance of, this Agreement, including:

3.3.1 any information received by the Member from the Company or any of its controlling and controlled entities, or any of the Company's representatives, including but not limited to, lawyers, attorneys, advisers, managers or employees;

3.3.2 any report, analysis, data, study or any other oral or written information supplied by the Company or any of its controlling and controlled entities regarding its business or any other area of its activity;

3.3.3 any information relating to the Company or any of its controlling and controlled entities, which any reasonable member of the Supervisory Board would regard as confidential; and

3.3.4 facts and information specified above in Clause 3.1 and 3.2

(the "**Confidential Information**") are confidential. The Member may not disclose Confidential Information to any third party without the prior written consent of the Company, nor use Confidential Information for any purpose other than the performance of this Agreement or the purposes envisaged in this Agreement. The prohibition of the disclosure of Confidential Information shall not apply to disclosure:

3.3.5 to legal, tax and accounting advisors if they are bound by confidentiality undertakings at least equivalent to those contained in this Clause;

3.3.6 within the scope of court, administrative, or arbitration proceedings, to the extent necessary for the enforcement of claims under or in connection with this Agreement;

3.3.7 required under applicable laws or other legal regulations relating to the relevant Party (Parties); and

3.3.8 of Confidential Information that has become part of the public domain otherwise than as the result of a breach of this Agreement.

3.4 The duty of confidentiality shall survive the termination of this Agreement. The Member undertakes not to disclose, either directly or indirectly, any Confidential Information at any time after the termination of this Agreement.

3.5 If the Member becomes obliged to disclose the Confidential Information pursuant to Clause 3, the Member shall promptly inform the Company of this fact.

#### 4. **REMUNERATION OF THE MEMBER**

4.1 The Company is obliged to pay the gross annual remuneration of CZK 200,000 (in words: two hundred thousand Czech crowns) to the Member for the performance of his duties under this Agreement (the "**Annual Remuneration**"), from which the Company shall deduct income tax, health and social insurance, and any other mandatory or agreed deductions.

4.2 The Company is obliged to pay the Annual Remuneration in one lump sum by wire-transfer to the bank account of the Member notified by the Member to the Company by the end of the year for which the Annual Remuneration is paid.

#### 5. **OTHER BENEFITS**

5.1 The Company shall provide the Member who simultaneously performs work for the Company on the basis of an employment agreement, where such employment does not fall within the activities performed by the Member for the Company as part of the performance of his office based on this Agreement (the "**Company Employee**"), with the following benefits:

5.1.1 an annual salary;

5.1.2 a monthly meal allowance;

5.1.3 monthly pension, life and injury insurance contributions;

5.1.4 a severance payment and other emoluments related to the termination of employment which arise for employees from the collective agreement with the Company; and

5.1.5 a company telephone for business as well as private purposes (the "**Telephone**"). The costs relating to the use of the Telephone shall be borne by the Company.

5.2 If the Member is not a Company Employee but is simultaneously an employee of another company from the PMI Group (the "**PMI Group Employee**"), the Member shall be provided by his employer particularly with the following benefits:



- 5.2.1 an annual salary;
  - 5.2.2 a benefit in the form of shares of PMI;
  - 5.2.3 participation in the PMI Group's schemes relating to pension, injury and/or life insurance;
  - 5.2.4 emoluments related to the termination of employment, if the criteria for their provision are met;
  - 5.2.5 a company car which may also be used by the Member for private purposes, where the costs of maintenance and operation are borne by the employer; and
  - 5.2.6 a company telephone for business as well as private purposes, where the costs relating to the use of the telephone are borne by the employer.
- 5.3 Information about the remuneration and other emoluments provided to the members of the Board of Directors, Supervisory Board and Audit Committee of the Company, including the total amount received by them from the Company and/or other companies from the PMI Group for the relevant accounting period, is provided in the Company's remuneration (compensation) report which is submitted to the General Meeting.

## **6. COSTS**

The Company shall pay for all justified and reasonable costs which the Member directly incurs in relation to the performance of his office.

## **7. PROHIBITION OF COMPETITIVE CONDUCT**

- 7.1 The Member shall observe the prohibition of competitive conduct within the scope as stipulated by the legal regulations and the Company's Articles of Association.
- 7.2 In particular, the Member may not:
- 7.2.1 engage in any activities which are identical with the business activities of the Company, not even for the benefit of other persons, or act as a broker for other parties in commercial transactions of the Company;
  - 7.2.2 act as a member of the governing body of another legal entity whose business activity is identical or similar to that of the Company, nor as a person in a similar position, unless it is within the group; or
  - 7.2.3 participate in business activities of another corporation as a shareholder with unlimited liability or as a controlling person of another person

whose business activity or scope of business is identical or similar to that of the Company.

- 7.3 If the General Meeting was expressly notified of any of the circumstances specified in Clause 7.2 at the moment the Member was appointed to his office, or if such a circumstance originated later and the Member notified the General Meeting thereof in writing, it shall be deemed that the Member is not prohibited from performing such activity. This shall not apply if the General Meeting disagreed with the Member's activity under Clause 7.2 within one month of the day on which it was notified of this circumstance by the Member.
- 7.4 The notification pursuant to Clause 7.2 shall be specified in the invitation to the General Meeting, and the General Meeting agenda must include a vote on possible disagreement.
- 7.5 The Articles of Association may specify other restrictions on the Member's activities in respect to the prohibition of competitive conduct.

## **8. CONFLICT OF INTEREST RULES**

- 8.1 If the Member becomes aware of the fact that there may be a conflict of his interests with the Company's interests during the performance of his office, he shall promptly inform the Supervisory Board of this fact. This shall similarly apply to a potential conflict of interests of persons close (in Czech: *osoby blízké*) to the Member or persons influenced or controlled by the Member. This shall further similarly apply if the conduct of the Member is influenced by the behaviour of an influential or controlling person, except for a managing person. This obligation shall also be deemed to be fulfilled by the Member if the Member informs the General Meeting, unless he exercises the powers of the General Meeting as a sole shareholder. This provision is without prejudice to the Member's obligation to act in the Company's interests. The Supervisory Board or the General Meeting may suspend, for a specified time period, the performance of the office of the Member if a conflict of interest occurs.
- 8.2 If the Member intends to enter into an agreement with the Company, he must promptly inform the other members of the Supervisory Board of this fact. In his notification, he must also specify the conditions under which such agreement is to be entered into. This applies similarly to any agreements between the Company and any person close to the Member or any person influenced or controlled by the Member. The Member may also fulfil this obligation by informing the General Meeting, unless he exercises the powers of the General Meeting as a sole shareholder. The specified rules shall also apply if the Company is to secure or confirm the debts of persons specified in this clause or is to become their co-debtor. The Supervisory Board or the General Meeting may prohibit

the entering into of an agreement pursuant to this clause if it is not in the Company's interests. The provisions of this clause shall not apply to the agreements made within the ordinary course of business.

## 9. **LIABILITY**

- 9.1 The Member shall perform his office with the care of a diligent business person and with necessary loyalty. If during the performance of the office of member of Supervisory Board, the Member causes harm to the Company by breaching the statutory obligations or the obligations set by this Agreement, especially in Clause 2.1 and 2.2 above, he shall be liable to compensate the Company for such harm.
- 9.2 The Member who breaches the obligation to act with the care of a diligent business person must surrender to the Company the benefits obtained in connection with such conduct. If the benefits cannot be surrendered, the Member must provide compensation in cash. The legal actions of the Company restricting the liability of the Member shall not be taken into account.
- 9.3 If the Member fails to compensate the Company for any harm caused by the Member's breach of his duties during the performance of his office, despite being obliged to do so, the Member shall be liable to the Company's creditor(s) for such compensation to the extent to which such harm was not compensated, in the event that the creditors cannot enforce performance from the Company.

## 10. **DATA AND PERSONAL DATA PROTECTION**

- 10.1 The Member hereby acknowledges that the Company collects personal data (including the birth date) relating to the Member and provided to the Company by the Member in relation to his office (the "**Personal Data**") for the necessary period of time, i.e. for the period of duration of the purpose of the processing, and that the Company processes, both automatically and manually, the Personal Data for the purpose of, *inter alia*, payroll, business trips, human resources in general, and for statistical purposes. Providing the Company with the Personal Data and any subsequent changes to the Personal Data is required by the applicable legal regulations and in particular in relation to the provision of the remuneration of the Member. The Member has the right of access to the Personal Data, the right to rectification of the Personal Data, and the right to seek remedies in the event of any breach of duties regarding processing of the Personal Data relating to the Member by contacting the Human Resources Department of the Company.
- 10.2 The Member hereby acknowledges that the Company is a member of the PMI Group that operates a joint administrative and operational system involving, *inter alia*, the sharing of information concerning human resources for the purposes

of the effective cooperation between the employees/governing bodies of individual companies within the PMI Group regarding the provision of services to business partners and customers. Given the foregoing, the Member hereby acknowledges that the Company may transfer the Member's Personal Data to any property-related party or controlled or controlling entity of the Company in all states and jurisdictions where any such person is or may be located from time to time, including the states whose legislation does not provide an equivalent level of protection of personal data, within the scope of the purposes specified above for which the Personal Data was provided, for the necessary period of time, being the duration of the purpose of the processing. The list of those parties is available at PMI's website: [www.pmi.com](http://www.pmi.com).

- 10.3 The Member shall protect all personal data that the Member gains access to during the performance of his office and maintain the confidentiality of security measures whose publication could endanger the security of personal data. These obligations shall survive the termination of his office. Breach of the above obligations may give rise to a claim for the compensation of damage suffered by the Company as a result of breach of the obligations by the Member. The Company will claim such compensation for damage from the Member in compliance with the applicable legal regulations.

## **11. TERM AND TERMINATION OF THE AGREEMENT**

- 11.1 This Agreement, except for the provisions which are to remain valid after the termination of the Member's office, shall expire on the date of:
- 11.1.1 the expiry of the Member's term of office as a member of the Supervisory Board, unless the Member is elected to the office by the employees of the Company for another immediately following term of office, in which case the Agreement shall expire upon the lapse of the last immediately following term of office for which the Member has been elected to the office of member of the Supervisory Board by the employees of the Company;
  - 11.1.2 the removal of the Member from the office of member of the Supervisory Board of the Company by the employees of the Company;
  - 11.1.3 the resignation of the Member from his office of member of the Supervisory Board of the Company as set out by the Articles of Association or the applicable legal regulations;
  - 11.1.4 the occurrence of the obstacles that prevent the Member from the performance of the office of member of the Supervisory Board of the Company as specified by the applicable legal regulations, particularly by the Corporations Act and the Civil Code; or

11.1.5 on the date on which the office of the member of the Supervisory Board terminates as set out by the Articles of Association or the applicable legal regulations otherwise than as specified above.

11.2 This Agreement may not be terminated by notice.

11.3 Without undue delay after the termination of this Agreement, but by no later than one (1) week after the termination, the Member undertakes to return to the Company all documents that he holds and that relate to the Company and its affairs (in particular agreements, correspondence, accounting records, invoices and powers of attorney) as well as other items belonging to the Company. Furthermore, the Parties are obliged to settle all mutual claims which may arise based on this Agreement, within the same time limit.

## 12. **FINAL PROVISIONS**

12.1 Any obligation set out in this Agreement that is not fully performed upon the termination of this Agreement shall remain binding.

12.2 If any provision of this Agreement is or becomes invalid or unenforceable, that shall not affect the validity and enforceability of any other provision of this Agreement. This shall also apply to cases where any provision of this Agreement is found putative (null) within the meaning of Section 553 (1) of the Civil Code.

12.3 This Agreement shall be governed by and interpreted in accordance with Czech law, in particular the provisions of the Corporations Act and the Civil Code. The relationships between the Parties which are not expressly defined in this Agreement and which are related to the performance of the Member's office shall be governed by the relevant provisions of the Articles of Association, the Civil Code, the Corporations Act and other legal regulations applicable to the performance of the office.

12.4 The courts of the Czech Republic shall have the exclusive jurisdiction to settle any dispute under or in connection with this Agreement, including any dispute regarding the existence, validity or termination of this Agreement, or any non-contractual obligation under or in connection with this Agreement, or the consequences of its nullity.

12.5 This Agreement shall become effective upon its approval by the General Meeting. The approved Agreement shall then be in force as of the day on which the Agreement was entered into or as of the day on which the Member was appointed to the office (in Czech: *ode dne vzniku funkce*), whichever occurred later.

12.6 If the employees of the Company elect the Member to the office of a member of the Supervisory Board for another immediately following term of office,

this Agreement shall also remain in force and effect for the duration of the Member's immediately following term of office as a member of the Company's Supervisory Board.

- 12.7 For the avoidance of doubt, the Parties expressly state that, in addition to the reasons for termination of the Agreement under Clause 11, this Agreement shall also be terminated if the employees of the Company do not elect the Member to the office of member of the Supervisory Board of the Company or the General Meeting does not approve the Agreement.
- 12.8 This Agreement represents the entire agreement between the Parties relating to the matters defined herein and fully supersedes any previous contracts, acts, agreements or arrangements of any nature or substance between the Parties, whether verbal or written, relating to the rights and obligations that arise in relation to the performance of the Member's office. Changes or amendments to this Agreement shall be agreed between the Member and the Company in writing and subject to the prior approval of the General Meeting. The Member acknowledges that he has no claims against the Company in relation to any previous contracts, acts, agreements or arrangements of any nature or substance between the Parties, or any agreements relating to the performance of the Member's office.
- 12.9 The Czech and English versions of this Agreement are each executed in two (2) counterparts. Each Party shall retain one (1) counterpart of this Agreement in each language version. If there is a conflict between the English language text and the Czech language text, the Czech language text shall prevail.

*[Signature page to follow.]*

*IN WITNESS OF THE FACT that the Parties agree with the content of this Agreement, understand it and agree to perform this Agreement, the Parties affix their signatures and declare that this Agreement has been entered into based on their free and serious will.*

On 27 MARCH 2023

For and on behalf of **Philip Morris ČR a.s.**, as the Company

SIGNATURE

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Name: Andrea Gontkovičová

Position: Chairperson of the Board of Directors

SIGNATURE

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Name: Anton Stankov

Position: Member of the Board of Directors

On 27 MARCH 2023

**Member**

SIGNATURE

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Name: Jan Kodaj