

CONTRACT WITH THE CLIENT (CLIENT TERMS OF BUSINESS - SUPPLYING CONSULTANCY SERVICES OF A SELF-EMPLOYED CONSULTANCY) OPT OUT VERSION

1 DEFINITIONS

1.1 In these Terms of Business the following definitions apply:

- “Assignment”** means the services which the Consultancy is Engaged by the Employment Business to render to the Client;
- “Client”** means _____ of _____
- “Employment Business”** means _____ of _____
- “Consultancy”** means the limited company introduced to the Client by the Employment Business and Engaged by the Client to carry out an Assignment (and save where otherwise indicated, includes any officer, employee or representative thereof and any third party to whom the provision of consultancy services is assigned or sublet with the prior approval of the Client);
- “NM”** means New Millennia Payroll Services Limited or any of its subsidiary, associated or holding companies, on whose behalf the Employment Business acts as duly authorised agent for the purpose of binding NM to clauses 7.2 and 9 below which are the only Terms which bind NM;
- “Engaged/Engagement”** means any employment or use of the Consultancy’s services or the services of any officer, employee or representative of the Consultancy, whether under a contract of service or for services, for an agency, licence, franchise or partnership arrangement, or any other engagement;
- “Introduction”** means the Client’s interview of an officer, employee, or representative of the Consultancy, in person or by telephone, following the Client’s instruction to the Employment Business to supply a Consultancy or the passing to the Client of information which identifies a Consultancy which leads to the Engagement by the Client of the Consultancy.

1.2 Unless the context otherwise requires, references to the singular include the plural and references to the masculine include the feminine and vice versa.

1.3 The headings contained in these Terms are for convenience only and do not affect their interpretation.

2 THE CONTRACT

2.1 These Terms constitute the contract between the Employment Business and the Client and are deemed to be accepted by the Client by virtue of its request for, interview with or Engagement of a Consultancy.

2.2 Unless otherwise agreed in writing by a Director or other authorised officer of the Employment Business and NM, these Terms prevail over any terms of business or purchase conditions proffered by the Client.

- 2.3 No variation to these Terms shall be valid unless made with the written consent of a Director or other authorised officer of the Employment Business and NM.
- 2.4 These Terms supersede all previous terms of business issued to the Client by the Employment Business and/or NM and together with any documents referred to in these Terms contain the entire agreement between the parties.

3 CONFIRMATION OF ASSIGNMENTS

- 3.1 Prior to the commencement of the Assignment, or if this is not practical, upon commencement of the Assignment, the Employment Business will send to the Client written confirmation of the Assignment specifying the duration of the Assignment, the identity of the Consultancy, the fee payable to NM together with such disbursements as may have been agreed, notice period to terminate the contract, the intervals at which invoices shall be rendered to the Client by NM and any other relevant information.

4 CONSULTANCY'S RESPONSIBILITIES

- 4.1 The services pursuant to the Assignment will be provided by the Consultancy, as specified in the written confirmation of the Assignment pursuant to clause 3.1 above, with reasonable skill and care, and so far as is reasonably practicable within any agreed timescale.
- 4.2 The Consultancy is a professional, answerable for key milestones and for deliverables, and responsible for exercising initiative as to the delivery of the services pursuant to the Assignment. A contract made pursuant to these Terms does not give the Client the right or power to direct or control the daily activities of the Consultancy. The Consultancy is responsible for:
- 4.2.1 maintaining adequate Professional Indemnity, Employer's Liability, and Public Liability insurance, and for providing evidence of such insurance on request;
 - 4.2.2 providing its own reference materials, administrative support, and equipment where required (other than where use of the Client's equipment is required for reasons of security, because it is specialised, or because the Client's equipment is itself the object of the Consultancy's services);
 - 4.2.3 devising appropriate working strategies and providing its services independently, in a professional manner, with all proper skill and care, and in accordance with accepted professional standards, methodologies and guidelines, and with all notified specifications and procedural requirements for the Assignment;
 - 4.2.4 rectifying at its own cost any defective services notified within any applicable defect warranty period;
 - 4.2.5 maintaining and providing any necessary qualifications, authorisations, and training;
 - 4.2.6 complying with all notified IT, telecommunications, security, and Health and Safety policies, and with any other relevant legislative requirements;
 - 4.2.7 giving the Client reasonable notice of any periods when the Consultancy's services will not be provided
 - 4.2.8 taking and being accountable for all appropriate decisions in relation to all aspects of the performance of the services pursuant to the assignment.

- 4.3 Where the written confirmation of the Assignment (pursuant to clause 3.1 above) names any personnel who are to provide the services pursuant to the Assignment, the Consultancy is responsible for maintaining reasonable continuity, but reserves the right under its contract with the Employment Business to substitute other personnel of equivalent expertise. The Client has the right to refuse to accept services from substitute personnel on reasonable grounds related to security, qualifications or expertise. No additional charge will be made for any handover period, and the Consultancy remains responsible for services performed on its behalf.

5 CLIENT'S RESPONSIBILITIES

- 5.1 The Client has no responsibility for the Consultancy or any person engaged on the Services, other than (a) as specifically provided for under these Terms or the written confirmation of the Assignment, and (b) such responsibilities as are generally owed to the public at large.
- 5.2 The Client is responsible for:
- 5.2.1 giving the Consultancy such cooperation and access as are reasonably necessary for the proper performance of the services pursuant to the assignment;
 - 5.2.2 informing the Consultancy if on any day the Consultancy's services are not required;
 - 5.2.3 ensuring that all relevant Health & Safety policies are disclosed to the Consultancy.

6 COPYRIGHT AND INTELLECTUAL PROPERTY RIGHTS

- 6.1 "Deliverable" means a work produced by the Consultancy in the course of services for delivery to the Client pursuant to an Assignment. It is the Consultancy's responsibility to clarify with the Client whether in the interests of saving time and cost any pre-existing works are to be used in the production of any Deliverable. Where pre-existing works are incorporated in any Deliverable, the Client has a non-exclusive, irrevocable, worldwide, royalty-free licence to use, modify and distribute such pre-existing works, but only as part of the Deliverable; all other rights in the pre-existing works are reserved. Subject thereto, all rights in any Deliverable will pass to the Client, and it is the Consultancy's responsibility to provide a formal assignment thereof on request by the Client.
- 6.2 It is the Consultancy's responsibility to indemnify the Client against liability as a result of alleged infringement of third party rights by a Deliverable, provided the Client notifies the Consultancy of any relevant third party rights promptly on such rights becoming known to or suspected by the Client.

7 CHARGES

- 7.1 The Client agrees to pay, directly to NM, the charges of the Employment Business as notified at the commencement of the Assignment and which may be varied from time to time during the Assignment with the agreement in writing by the Client and by a Director of the Employment Business. The Employment Business hereby directs the Client to make all such payments directly to NM. The charges are comprised mainly of the Consultancy's fees but also include the Employment Business's commission, and any travel, hotel or other disbursements as may have been agreed with the Client or, if there is no such agreement, such expenses as are reasonable. VAT is payable in addition at the prevailing rate where and to the extent applicable.

- 7.2 The charges will be invoiced to the Client on a weekly basis and are payable to NM within 30 days of the date of NM's invoice. All amounts due under this clause 7 shall be paid by the Client to NM in full without any deduction or withholding (other than any deduction or withholding of tax as required by law), and the Client shall not be entitled to claim set-off or to counterclaim against NM in relation to the payment of the whole or part of any such amount. Any breach of the payment obligations in this clause 7 shall entitle the Employment Business to terminate without prior notice each and every Assignment concluded under these Terms between the Employment Business and the Client.
- 7.3 NM reserves the right to charge the Client interest on any overdue amounts (both before and after any judgment) at the rate of 3% per annum above the Bank of England base rate from time to time from the due date until the date of payment. All collection costs incurred by NM and/or the Employment Business will be payable by the Client.

8 VERIFICATION OF EXECUTION OF THE SERVICES

- 8.1 At the end of each week of the Assignment (or at the end of the Assignment where the Assignment is for a period of less than one week or is completed or finished before the end of a week) the Client shall verify the execution of the services provided by the Consultancy by signature of the Employment Business' form of service report provided to the Consultancy for this purpose. Service reports may be authorised electronically where such procedures have been agreed.**
- 8.2 Verification of the execution of the services by the Client constitutes acceptance that the Consultancy's services have been provided satisfactorily and in accordance with these Terms. If the Client has any cause for dissatisfaction with performance of the services provided by the Consultancy it must note the relevant service report accordingly and promptly provide any requested further details. Failure to verify execution in writing does not affect the Client's obligation to pay the charges in respect of the work done.

9 REMUNERATION

- 9.1 NM is responsible for paying the Consultancy's fees and for deducting any sums as may be required by law (save for any income tax, national insurance contributions or other statutory contributions which are the responsibility of the Consultancy).

10 RE-ENGAGEMENT FEES

- 10.1 The direct engagement by a Client of a Contractor introduced and/or supplied by the Employment Business, or the introduction by the Client of a Contractor to any third party resulting in an Engagement renders the Client subject to the payment of an introduction fee calculated at 15% of the annual gross taxable Remuneration and emoluments payable to the Contractor provided that the engagement takes place within a period of 6 months from the termination of the Assignment under which the Contractor was last supplied, or if there was no Assignment, within 6 months of the introduction of the Contractor by the Employment Business. Where the Client fails to inform the Employment Business of the annual Remuneration, the introduction fee will be calculated by multiplying the hourly charge of the Employment Business for the Contractor's services by 300. No refund of the introduction fee will be paid in the event that the engagement subsequently terminates. VAT is payable in addition to any fee due.

11 LIABILITY

- 11.1 Whilst every effort is made by the Employment Business to give satisfaction to the Client by ensuring reasonable standards of skills, integrity and reliability from Consultants and to provide the same in accordance with the Assignment details provided by the Client, no liability is accepted by the Employment Business for any loss, expense, damage, costs or delay arising from the failure to provide a Consultancy for completion of the Assignment or from the negligence, dishonesty, misconduct or lack of skill of the Consultancy or if the Consultancy terminates the Assignment for any reason. For the avoidance of doubt, the Employment Business does not exclude liability for death or personal injury arising from its own negligence.
- 11.2 For the avoidance of doubt, neither the Consultancy nor its staff is under the supervision or control of the Employment Business or NM. The Client will comply in all respects with all relevant statutes, bye-laws and legal requirements including provision of adequate Public Liability insurance in respect of the Consultancy. Where the services are performed on the Client's premises the Client shall indemnify the Employment Business and NM against any costs, claims, damages and expenses incurred by the Employment Business or NM (as applicable) as a result of any breach of these Terms by the Client.
- 11.3 The Client acknowledges that NM is a provider of payroll services (on whose behalf the Employment Agency acts as duly authorised agent for the purpose of binding NM to certain Terms only, as specified in clause 1.1 above) and has no responsibility for supplying the services of the Consultancy.

12 TERMINATION OF THE ASSIGNMENT

- 12.1 The Client may terminate the Assignment by giving to the Employment Business the notice specified in the written confirmation.
- 12.2 Notwithstanding the provisions of clause 12.1 above, the Client may terminate the Assignment forthwith by notice in writing to the Employment Business where:
- 12.2.1 the Consultancy has acted in breach of any statutory or other reasonable rules and regulations applicable to them while performing the services;
 - 12.2.2 the Client reasonably believes that the Consultancy has not observed any condition of confidentiality applicable to the Consultancy from time to time; or
 - 12.2.3 for any reason the Consultancy proves unsatisfactory to the Client.
- 12.3 The Employment Business may terminate an Assignment forthwith by notice in writing:
- 12.3.1 if the Client is in wilful or persistent breach of its obligations under these Terms; or
 - 12.3.2 if the Client becomes bankrupt or has a receiving order or administrative order made against it or is put into liquidation (save for the purposes of solvent reconstruction or amalgamation).

13 THIRD PARTY RIGHTS

- 13.1 Neither these Terms nor any contract which incorporates these Terms creates any rights enforceable by a person who is not a party, except that:

13.1.1 these Terms and the rights under clauses 2, 7, 8, 11.2 and 11.3 and this clause 13 may be enforced by NM subject to and in accordance with these Terms and the Contracts (Rights of Third Parties) Act 1999; and

13.1.2 a person who is the permitted successor to or assignee of the rights of a party is deemed to be a party to the contract and the rights of such successor or assignee shall, subject to and upon any permitted succession or assignment, be regulated by these Terms.

13.2 Except to the extent that variation, suspension, cancellation, termination or rescission expressly requires the consent of a third party, these Terms or any contract to which these Terms apply may be varied, suspended, cancelled, terminated or rescinded, by agreement in writing between the parties, without the consent of any such third party.

14 LAW

14.1 These Terms are governed by the laws of England & Wales and are subject to the exclusive jurisdiction of the Courts of England & Wales.

Signed on behalf of the Employment Business

Signed on behalf of the Client

Date _____