

**AGREEMENT WITH CONSTRUCTION INDUSTRY SCHEME (CIS) CONTRACTOR**

**PLEASE ENTER NAME & ADDRESS ON PAGE 2 AND  
SIGN ON PAGE 10.**

**PLEASE EMAIL TO [mail@cusacks.org.uk](mailto:mail@cusacks.org.uk).**

**AGREEMENT WITH CONSTRUCTION INDUSTRY SCHEME (CIS) CONTRACTOR**

Date

**Names of Parties**

(1)

(2) Cusacks Ltd. 207 Regent Street. W1B 3HH. 06433249 ("**Employment Business**")

**Recitals**

(A) The Contractor is an independent contractor who is in the business of providing contractor services to the construction industry, as specified in the attached schedule ("**Contractor Services**").

(B) The Employment Business has requested the Contractor and the Contractor has agreed with the Employment Business, to provide the Contractor Services on the terms and subject to the conditions of this agreement ("**Agreement**").

**IT IS AGREED** as follows:

**1. INTERPRETATION AND DEFINITIONS**

- 1.1. Unless the context otherwise requires, references to the singular include the plural and references to the masculine include the feminine and vice versa.
- 1.2. The headings contained in the Agreement are for convenience only and do not affect their interpretation.
- 1.3. References to clauses are to the clauses of this Agreement.
- 1.4. Any words following the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.5. "**Assignment**" means the services which the Contractor is engaged by the Employment Business to render to the Client.

"**CIS**" means the scheme set out in sections 57-77 of the Finance Act 2004 and any statutory modification or re-enactment thereof.

"**Client**" means the person, firm or corporate body together with any subsidiary or associated company as defined by the Companies Act 2006 together with any customer of the Client requiring the services of the Contractor and identified in the Schedule.

"**Contractor Services**" shall have the meaning given in Recital (A) above.

"**NM**" means New Millennia Payroll Services Limited or any of its subsidiary, associated or holding companies, with whom the Employment Business has a contract to perform certain services and to discharge certain obligations of the Employment Business in favour of the Contractor as set out in clauses 6 and 7, which are the only clauses which bind NM.

"**Relevant Period**" means the longer period of either 14 weeks from the first day on which the Contractor worked for the Client, or 8 weeks from the day after the Contractor was last supplied by the Employment Business to the Client.

"**Schedule**" means the schedule attached to this Agreement (which shall set out the information set out in clause 2.2).

## **2. CONTRACTOR**

- 2.1. The Contractor's obligation to provide the Contractor Services shall be performed by the Contractor himself or by a substitute appointed by him. The Contractor shall be entitled to appoint a substitute to perform the Contractor Services provided that the Employment Business and the Client are reasonably satisfied that the substitute has the required skills and qualifications to provide the Contractor Services to the required standard and that the terms of any agreement between the Contractor and the substitute contain the same obligations imposed by this agreement (including, for the avoidance of doubt, the obligation to provide the information required under clause 4.3 relating to such substitute's payment status). For the avoidance of doubt, there shall be no contractual relationship between the Employment Business or NM and the substitute, and the Contractor shall be solely responsible for arranging payments to the substitute.
- 2.2. The Schedule shall specify the Client, the fee payable by the Employment Business and such expenses as may be agreed, any notice period and any other relevant information.
- 2.3. Save as otherwise stated in this Agreement, the Contractor shall be entitled to supply his services to any third party during the term of this Agreement provided that this in no way compromises or is to the detriment of the supply of his services to the Client.

## **3. THE CONTRACT**

- 3.1. This Agreement constitutes the contract between the Employment Business and the Contractor and governs the Assignment undertaken by the Contractor with the Client.
- 3.2. No variation or alteration to this Agreement shall be valid unless the details of such variation are agreed between the Employment Business and the Contractor and set out in writing and a copy of the varied terms is given to the Contractor stating the date on or after which such varied terms shall apply. Any variations of this clause 3.2 or clauses 5.4, 6, 7, 9.4, 13, 18 or 19 shall also require written approval of NM.

## **4. UNDERTAKING OF THE CONTRACTOR**

- 4.1. The Contractor warrants to the Employment Business that by entering into and performing his obligations under this Agreement he will not thereby be in breach of any obligation which he owes to any third party.
- 4.2. The Contractor warrants that he has the necessary skills and qualifications to perform the Contractor Services.
- 4.3. The Contractor acknowledges that he is subject to the CIS. The Contractor will provide to the Employment Business at the earliest opportunity sufficient information to enable

the Employment Business to verify the Contractor's payment status with HM Revenue & Customs including the Contractor's national insurance number, unique taxpayer reference and accounts office reference. The responsibility for the accuracy of this information rests with the Contractor, and the Contractor will not be entitled to receive any payment for an Assignment until this information has been provided to the Employment Business.

## **5. OBLIGATIONS OF THE CONTRACTOR**

- 5.1. The Contractor agrees as follows (on his own behalf and on behalf of any substitute appointed pursuant to clause 2.1):
  - 5.1.1. not to engage in any conduct detrimental to the interests of the Employment Business, NM or the Client which includes any conduct tending to bring the Employment Business, NM or the Client into disrepute or which results in the loss of custom or business;
  - 5.1.2. to comply with any statutory or other reasonable rules or obligations including but not limited to those relating to health and safety during the Assignment to the extent that they are reasonably applicable to them while performing the services and to take all reasonable steps to safeguard his own safety, the safety of any substitute appointed pursuant to clause 2.1 and the safety of any other person who may be affected by his actions on the Assignment;
  - 5.1.3. to furnish the Client and/or the Employment Business with any progress reports as may be requested from time to time;
  - 5.1.4. not to sub-contract or assign to any third party any of the Contractor Services which he is required to perform under the Assignment except in accordance with clause 2.1;
  - 5.1.5. to notify the Employment Business forthwith in writing if he is deemed either unable to pay his debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or he is the subject of a bankruptcy petition or order;
  - 5.1.6. to provide, at his own cost, all such necessary equipment, tools and personal protective clothing and safety equipment as is reasonable for the adequate performance of the Contractor Services, except for any facilities which may be made available by the Client as specified in the Schedule.
- 5.2. If the Contractor is unable for any reason to perform the Contractor Services during the course of an Assignment the Contractor should inform the Employment Business by no later than 10.00am on the first day of incapacity.
- 5.3. Subject to any industry standards, industry methodologies or industry guidelines that may be specified in the Schedule, the Contractor shall have reasonable autonomy in relation to determining the method of performance of the Contractor Services but in doing so he shall co-operate with the Client and comply with all reasonable and lawful instructions within the scope of the Assignment made by the Client.
- 5.4. Nothing in this Agreement shall render the Contractor or any substitute an employee or worker of the Employment Business, NM or the Client. The Contractor shall ensure that neither he nor any substitute holds himself out as an employee or worker of the Employment Business, NM or the Client.
- 5.5. The Contractor shall bear the cost of any training which he may require in order to perform the Contractor Services. The Contractor agrees that any sums due in respect

of the Contractor under the Construction Industry Training Board Levy Scheme may be deducted from the Contractor's payments for the Contractor Services.

- 5.6 If, either before or during the course of an Assignment, the Contractor becomes aware of any reason why he may not be suitable for an Assignment, he shall notify the Employment Business without delay.

## **6. INVOICING**

- 6.1. The Contractor is not obliged to raise an invoice for the Contractor Services. The Employment Business will provide a pay statement to the Contractor in accordance with the requirements of the self-employed CIS, which shall act as a self-billed invoice.
- 6.2. Payment for the Contractor Services (in accordance with this clause 6) shall be the obligation and responsibility of NM on whose behalf the Employment Business acts as duly authorised agent for the purpose of binding NM to this clause.
- 6.3. The Contractor acknowledges the limited role of NM as a provider of payment and administration services to the Employment Business and consents to NM having the obligation and responsibility for payment of the Contractor's invoices and administration of all information necessary for that purpose.
- 6.4. The Contractor shall obtain the signature of an authorised representative of the Client as verification of execution of the Assignment.
- 6.5 Subject to clauses 6.6 and 6.7, NM shall pay the Contractor for all work performed regardless of whether NM has received payment from the Client for such work.
- 6.6 Where the Contractor fails to submit a properly completed verification of execution of the Assignment, the Employment Business shall, in a timely fashion, conduct further investigations into the services for which the Contractor has claimed payment and the reasons that the Contractor has failed to produce such verification. This may delay any payment due to the Contractor. NM shall make no payment to the Contractor for work not carried out.
- 6.7 NM shall not be obliged to pay any fees to the Contractor unless sufficient information regarding the Contractor's payment status has been properly submitted by the Contractor in accordance with clause 4.3.

## **7 FEES**

- 7.1 Subject to the receipt of sufficient information regarding the Contractor's payment status in accordance with clause 4.3 [and the Client's verification of execution in accordance with clause 6], the Contractor will receive payment from NM for the Assignment in accordance with the fee specified in the Schedule, plus VAT where appropriate, and invoices will be paid within 7 days of receipt by NM.
- 7.2 The Contractor shall be responsible for any Income Tax and National Insurance Contributions and any other taxes and deductions payable in respect of the Contractor Services.
- 7.3 All payments will be made to the Contractor.
- 7.4 If the Contractor shall be unable for any reason to provide the Contractor Services to the Employment Business (including in circumstances where the Contractor Services are cancelled or the site is closed for any reason) no fee shall be payable by NM during any period that the Contractor Services are not provided. For the avoidance of doubt,

the Contractor acknowledges that he is a self-employed contractor and is not entitled to holiday pay or sick pay.

## **8 OBLIGATIONS OF THE EMPLOYMENT BUSINESS**

- 8.1 At the same time as an Assignment is offered to the Contractor the Employment Business shall inform the Contractor of the identity of the Client, and if applicable the nature of their business; the date the work is to commence and the duration or likely duration of the work; the type of work, location and hours during which the Contractor would be required to work; the rate of remuneration that will be paid and any expenses payable by or to the Contractor; and any risks to health and safety known to the Client and the steps the Client has taken to prevent or control such risks. In addition the Employment Business shall inform the Contractor what experience, training, qualifications and any authorisation required by law or a professional body the Client considers necessary or which are required by law to work in the Assignment.
- 8.2 Where such information is not given in paper form or by electronic means it shall be confirmed by such means by the end of the third business day (excluding Saturday, Sunday and any public or Bank holiday) following save where the Contractor is being offered an Assignment in the same position as one in which the Contractor had previously been supplied within the previous five business days and such information has already been given to the Contractor.
- 8.3 If before the first Assignment, during the course of an Assignment or within the Relevant Period the Client wishes to engage the Contractor direct or through another employment business, the Contractor acknowledges that the Employment Business will be entitled either to charge the Client a fee or to agree an extension of the hiring period with the Client at the end of which the Contractor may be engaged directly by the Client or through another employment business without further charge to the Client. In addition the Employment Business will be entitled to charge a fee to the Client if the Client introduces the Contractor to a third party who subsequently engages the Contractor within the Relevant Period.
- 8.4 The Employment Business shall furnish the Contractor with sufficient information about the Assignment in order for the Contractor to arrange for the Contractor Services to be carried out.
- 8.5 The Employment Business will advise the Contractor of any health & safety information or advice which it receives from the Client which may affect the Contractor during the Assignment.

## **9 TERM OF THE AGREEMENT**

- 9.1 This Agreement shall commence on [*insert date*] and shall continue until completion of the Contractor Services to the reasonable satisfaction of the Client, at which time this Agreement shall expire automatically, or until it is terminated in accordance with the remaining provisions of this clause 9.
- 9.2 Notwithstanding clause 9.1, the Employment Business may without notice and without liability instruct the Contractor to cease work on the Assignment at any time, where:
- 9.2.1 the Contractor has committed any serious or persistent breach of any of his obligations under this Agreement;
  - 9.2.2 the Client reasonably believes that the Contractor has not observed any condition of confidentiality applicable to the Contractor from time to time;
  - 9.2.3 for any reason the Contractor proves unsatisfactory to the Client;

- 9.2.4 the Contractor is declared bankrupt or makes any arrangement with or for the benefit of his creditors, or is deemed either unable to pay his debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986;
  - 9.2.5 the Contractor is guilty of any fraud, dishonesty or serious misconduct;
  - 9.2.6 if performance of the Contractor Services is prevented by the incapacity of the Contractor and such incapacity continues for a period of more than [\*1 week] and the Contractor is unable to provide a substitute in accordance with clause 2.1 for the duration of such incapacity.
- 9.3 Either the Contractor or the Employment Business may terminate this Agreement (or any particular Assignment) at any time without cause upon the provision of written notice of the length specified in the Schedule to the other.
- 9.4 Failure by the Contractor to give notice of termination as required in clause 9.3 shall constitute a breach of contract and shall entitle the Employment Business and NM to claim damages from the Contractor for any resulting loss suffered by the Employment Business and NM respectively.
- 9.5 The Contractor acknowledges that the continuation of the Assignment is subject to and conditioned by the continuation of the contract entered into between the Employment Business and the Client. In the event that the contract between the Employment Business and the Client is terminated for any reason the Assignment shall cease with immediate effect without liability to the Contractor.

## **10 ACKNOWLEDGMENT**

- 10.1 The Contractor acknowledges that all copyright, trade marks, patents and other intellectual property rights deriving from the services carried out by the Contractor or any substitute for the Client during the Assignment shall belong to the Client. Accordingly the Contractor shall (and shall procure that any substitute shall) execute all such documents and do all such acts as the Employment Business shall from time to time require in order to give effect to its and the Client's rights pursuant to this clause.
- 10.2 The Employment Business acknowledges that all intellectual property rights that were owned by the Contractor prior to this Agreement shall remain the property of the Contractor unless otherwise agreed, in writing, by the Contractor.

## **11 CONFIDENTIALITY**

- 11.1 In order to protect the confidentiality and trade secrets of any Client and without prejudice to every other duty to keep secret all information given to it or gained in confidence the Contractor agrees on its own part and on behalf of any substitute as follows:
  - 11.1.1 not at any time whether during or after the Assignment (unless expressly so authorised by the Client or the Employment Business as a necessary part of the performance of its duties) to disclose to any person or to make use of any of the trade secrets or confidential information of the Client;
  - 11.1.2 to deliver up to the Client or the Employment Business (as directed) at the end of the Assignment all documents and other materials belonging to the Client

(and all copies) which are in his possession including documents and other materials created by him or any substitute during the course of the Assignment;

- 11.1.3 not at any time to make any copy, abstract, summary or précis of the whole or any part of any document or other material belonging to the Client except when required to do so in the course of his duties under the Assignment in which event any such item shall belong to the Client or the Employment Business as appropriate.
- 11.2 Without prejudice to any obligations imposed on and assumed by the Contractor, obligations of confidentiality shall not apply to any information which the Contractor can show (and it shall be for the Contractor to show):
  - 11.2.1 was known to the Contractor before such information was imparted by the Client; or
  - 11.2.2 is in or subsequently comes into (other than by breach by the Contractor of its obligations) the public domain.

## **12 COMPUTER EQUIPMENT WARRANTY**

- 12.1 The Contractor shall ensure that any computer equipment and associated software which he provides for the purpose of providing the Contractor Services contains anti-virus protection with the latest released upgrade from time to time.

## **13 RELATIONSHIP BETWEEN THE PARTIES**

- 13.1 The Contractor acknowledges to the Employment Business and NM that his services are supplied to the Employment Business as an independent contractor and that accordingly the responsibility of complying with all statutory and legal requirements relating to him (including the payment of taxation) shall fall upon and be discharged wholly and exclusively by the Contractor. In the event that any person should seek to establish any liability or obligation upon the Employment Business or NM on the grounds that the Contractor is an employee or worker of the Employment Business or NM, the Contractor shall upon demand indemnify the Employment Business and NM and keep them indemnified in respect of any such liability or obligation and any related costs expenses or other losses which the Employment Business or NM shall incur.
- 13.2 The Contractor is not entitled to participate in the Employment Business' grievance and disciplinary procedure.
- 13.3 Neither the Employment Business nor the Client is obliged to offer any work to the Contractor. The Employment Business, the Client and the Contractor are not obliged to offer or accept any contracts or services in addition to those specified in the Schedule.
- 13.4 The Contractor acknowledges the limited role of NM as a provider of payment and administration services to the Employment Business and agrees that NM is under no obligation to seek or find any work for the Contractor and nothing in this Agreement renders the Contractor liable to perform services for NM.

## **14 NOTICES**

- 14.1 All notices which are required to be given under this Agreement shall be in writing and shall be sent to the relevant party at (in the case of the Employment Business)



its registered office for the time being and (in the case of the Contractor) his last known address. Any such notice may be delivered personally or by first class prepaid post or facsimile transmission and shall be deemed to have been served if by hand when delivered, if by first class post 48 hours and if by facsimile transmission when dispatched.

## **15 LIABILITY**

- 15.1 The Contractor shall be liable for any loss, damage or injury to any party resulting from his negligent acts or omissions or from the acts of omission of any substitute appointed under clause 2.1.
- 15.2 The Contractor shall ensure the provision of adequate Employer's Liability Insurance (if applicable), Public Liability Insurance and any other suitable policies of insurance such as Professional Indemnity insurance, in each case for at least the minimum sum (if any) set out in the Schedule, in respect of the Contractor and any substitute during an Assignment and shall make a copy of the policy and any relevant policy renewals available to the Employment Business upon request.
- 15.3 The Contractor shall be liable for any defects arising in relation to the Contractor Services and shall rectify at his own cost such defects as may be capable of remedy within a reasonable period from notification of such defects by either the Employment Business or the Client.
- 15.4 The Contractor's total liability under this Agreement shall not exceed the limit (if any) set out in the Schedule. Any such limit shall have no application to any liability for death or personal injury, any other liability for which exclusion or restriction is prohibited by law or to liability arising as a result of fraud on the Contractor's part.

## **16 GOVERNING LAW AND JURISDICTION**

- 16.1 This Agreement shall be construed in accordance with the laws of England & Wales and all disputes, claims or proceedings between the parties relating to the validity, construction or performance of this Agreement shall be subject to the exclusive jurisdiction of the Courts of England & Wales.

## **17 ILLEGALITY**

- 17.1 If any provision or term of this Agreement shall become or be declared illegal, invalid or unenforceable for any reason whatsoever including, but without limitation, by reason of the provisions of any legislation or other provisions having the force of law or by reason of any decision of any Court or other body or authority having jurisdiction over the parties of this Agreement such terms or provisions shall be divisible from this Agreement and shall be deemed to be deleted from this Agreement provided always that if any such deletion substantially affects or alters the commercial basis of this Agreement the parties shall negotiate in good faith to amend the modify the provisions and terms of this Agreement as necessary or desirable in the circumstances.

## **18 THIRD PARTY RIGHTS**

- 18.1 This Agreement does not create any rights enforceable by a person who is not a party, except that:
  - 18.1.1 the rights under clauses 3.2, 5.4, 6, 7, 9.4, 13 and 19 and this clause 18 may be enforced by NM subject to and in accordance with this Agreement and the Contracts (Rights of Third Parties) act 1999; and

18.1.2 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 this Agreement.

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

**19 DISCLAIMER**

19.1 Neither the Employment Business nor NM makes any representation nor accepts any responsibility for ensuring that the terms of this Agreement are an accurate reflection of the relationship between the Client and the Contractor. Furthermore neither the Employment Business nor NM accepts any liability to indemnify the Contractor for any losses, expenses or liabilities incurred by the Contractor whether by reason of tax or other statutory or contractual liability to any third party arising from the Assignment.

19.2 The parties agree that this Agreement is an accurate reflection of the nature of the relationship between the Employment Business, the Contractor and NM.

**SIGNED by**

For and on behalf of the Contractor

[Empty signature box]

**SIGNED by**

For and on behalf of  
the Employment Business

*K. Rost*

...Cusacks Ltd.....