



Alpha Personnel Recruitment Limited

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**Suite 1, Level 3, 27 Gillies Avenue**

## Contract for Service - Independent Contractor

This Agreement applies between Alpha Personnel Recruitment Limited ("Alpha") and the person, firm or company ("the Contractor") (collectively referred to as "the parties") who/which is considered for engagement under sub-contract by Alpha for the performance of services to the Client as described in Schedule 1.

### 1 INTERPRETATION

In this Agreement unless the context otherwise requires:

1. **"Agreement"** means this agreement including the background and any subsequent Conditions of Engagement entered into between the Contractor and Alpha;
2. **"Client(s)"** means the person, company, firm, or organisation for whom the Services are performed;
3. **"Conditions of Engagement"** means the particular conditions applying to an Engagement to provide Services to a Client as detailed in the relevant Schedule 1 – Confirmation of Contract Engagement Brief and any subsequent extensions to Schedule 1;
4. **"Confidential Information"** means all information relating to the Client's business including but not limited to all information relating to technology, software, hardware, specifications, know how, techniques, business practices, financial affairs, documentation, instructions, employees, customers, suppliers, marketing, Intellectual Property and all information imparted by the Client which is confidential and not in the public domain and which is reasonably regarded by the Client as confidential;
5. **"Contractor(s)"** means the individual or company engaged to perform the Services in this Agreement;
6. **"Engagement(s)"** means the work carried out by a Contractor for a Client;
7. **"GST"** means Goods and Services Tax as imposed by section 8(1) of the GST Act;
8. **"Intellectual Property"** includes know-how, discoveries, inventions, improvements, processes, systems, procedures, computer software and programmes, trademarks or trade names, copyright materials, patents, designs, specifications and plans owned or used by the Client, or created by the Contractor, or in the course of

9. **“Nominated Person(s)”** means the individual named within the Conditions of Engagement whether sole trader, independent contractor or employee of the Contractor who will perform the Services and be bound by the terms and conditions of this Agreement as if they were the Contractor;
10. **“Services”** means the Services referred to in the Conditions of Engagement;
11. **“Term”** means the term of this Agreement set out in the Conditions of Engagement;
12. **“Termination Date”** means the date of termination of the Engagement set out in the Conditions of Engagement;
13. **“The GST Act”** means the Goods and Services Tax Act 1985;
14. **“Working Day”** means any day on which the banks are open for business in Auckland (except Saturday and Sunday).

## 2 OFFER TO ENGAGE

1. Alpha is not bound to make any offer to engage the Contractor.
2. The offer to engage will be accompanied by the Conditions of Engagement and the Contractor must advise Alpha within 48 hours of receipt of an offer whether it is accepted.
3. The Contractor is deemed to have accepted the offer in any event where the Contractor commences work for the Client(s) irrespective of whether formally notifying acceptance of the Conditions of Engagement.
4. On acceptance of the offer, the terms and conditions set out in this Agreement will govern the Engagement subject to the Conditions of Engagement.

## 3 NATURE OF RELATIONSHIP

1. On acceptance of the offer to engage, the Contractor is engaged as an independent contractor by Alpha.
2. Nothing contained or implied in this Agreement will create the relationship of employer and employee or principal and agent between the Contractor and Alpha. The Contractor will for the purposes of this Agreement be an independent contractor and will be responsible for payment of the Contractor's and its employees' wages, salaries, annual holidays or statutory holidays, sick leave, public liability insurance, income tax, accident compensation levies and any other relevant taxes, levies, or items or remuneration of the Contractor or its employees.
3. The Contractor is not bound to Alpha except during the performance of any Engagement as specified in the Conditions of Engagement.

## 4 PERFORMANCE OF SERVICES

1. On acceptance of the offer to engage, the Contractor will perform the Services set out in the Conditions of Engagement, and any other services agreed between the parties from time to time during the Term.
2. The Contractor must during the Term:
  - a. perform the Services, with due care, skill and diligence according to the standards and ethics applying to the Contractor's professional trade in the industry in which the Contractor performs the Services;
  - b. ensure that the Services are performed by the Nominated Person and not seek to substitute such Nominated Person for any other person nor discuss such a substitution with the Client without the express approval of Alpha;
  - c. subject to the provision by Alpha or the Client of specific equipment and resources, provide at its own cost all equipment and resources necessary to enable it to perform its obligations under this Agreement;

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- d. comply with all relevant laws applicable to the conduct of the Services and the operation of the equipment used in the performance of the Services;
  - e. work with the employees of the Client as required, in a competent and professional manner;
  - f. comply with the Client's reasonable directions and instructions in relation to performance of the Services;
  - g. comply with any time limits provided for in the Conditions of Engagement;
  - h. not delegate or have any other person perform its obligations under this Agreement or appoint any sub-contractor without the prior written consent of Alpha.

## **5 CONTRACTOR'S GUARANTEES AND RESPONSIBILITIES**

1. The Contractor must not knowingly do anything which harms Alpha or the Client.
2. If the Contractor is unable to attend the Client's premises for any reason the Contractor will notify Alpha as soon as practicable prior to the day of intended absence unless the Contractor has prior approval from the Client for such absence.
3. The Contractor must not introduce by any means, any software, program or data without prior authority from the Client.
4. In the event of the Services which the Contractor performs being unsatisfactory in the opinion of the Client, the Contractor agrees it will make good all defects in the performance of the Services at no further cost to the Client or Alpha.
5. The Contractor guarantees that it possesses all qualifications and skills appropriate for the provision of the Services. This includes, but is not limited to, necessary qualifications or training or compliance with the requirements of any statute and relevant professional or trade organisations.
6. Prior to commencing each Engagement, the Contractor will declare to Alpha and the Client any conflict of interest or potential conflict of interest.
7. The Contractor must not intentionally make any untrue statement in relation to Alpha or the Client at any time, or make a wrongful representation about the Engagement(s) after the Engagement(s) has been completed.

## **6 OTHER BUSINESS INTERESTS**

1. The Contractor must disclose any work in progress in the nature of the Services being performed by the Nominated Person for any other person, firm or organisation prior to beginning an Engagement, and the Nominated Person must not commence any new such work during the Term of the Engagement(s) without the prior written consent of Alpha and the Client such consent not to be unreasonably withheld.

## **7 CONFIDENTIAL INFORMATION**

1. The Contractor must not use, copy or disclose, or cause or permit to be used, copied or disclosed, any Confidential Information other than:
  - a. as required by law;
  - b. with the prior written consent of the Client; or
  - c. in the proper performance of the Contractor's Services.
2. The Contractor agrees to use its best endeavours at all times to prevent the use or disclosure of any Confidential Information to or by third parties.
3. The Contractor must on request by the Client or on termination or expiry of this Agreement, return all Confidential Information and copies or extracts of the same, to the Client.

4. The Contractor's obligations in relation to the Confidential Information shall survive after the termination of the Engagement with the Client.

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## **8 INTELLECTUAL PROPERTY**

1. All intellectual property made, created or developed by the Contractor in the course of providing Services to the Client is the exclusive and sole property of the Client.

## **9 PAYMENT**

1. Alpha will pay the Contractor for performance of the Services at the rate and times as set out in the relevant Conditions of Engagement, or as otherwise agreed between the parties.
2. Should the Client deem the Contractor unsuitable for the Engagement and advises Alpha within 2 days of commencement of the Engagement then Alpha reserves the right to immediately terminate the Engagement with no monies due to the Contractor.
3. The Contractor shall provide to Alpha all time sheets on either a weekly or a fortnightly basis so that Alpha may authorise payment. Alpha will only pay the Contractor for the time authorised by the Client on approved timesheets and provided that the Contractor has submitted properly prepared invoices for the Services. Alpha shall provide all documentation required by Alpha for the purposes of Alpha seeking payment of fees by the Client. In the event that the Contractor is using Alpha's online time-sheeting system the expectation is that the time for the previous week will be entered and submitted by 2pm on the Monday following the week ending date.
4. Alpha shall be entitled to set off against monies to be paid to the Contractor under this Clause any amount owing to Alpha or the Client by the Contractor in relation to this Agreement.
5. GST: In the event that the Contractor is GST registered a properly prepared GST invoice is to be submitted by the Contractor and Alpha will pay applicable GST in addition to the agreed rate.
6. Withholding Tax: In the event that the Contractor is liable for the withholding of schedular payments to the Inland Revenue Department ("IRD") Triangle will withhold such amounts as designated by the Contractor on the appropriate IRD form and remit such withheld funds to IRD in accordance with the timetable required by IRD for such payments.
7. Expenses: Alpha will reimburse the Contractor for expenses incurred by the Contractor in performing the Services provided that:
  - a. Alpha and the Client has agreed the scope or details of the expense in writing prior to the Contractor incurring such expense; and
  - b. the Contractor produces all relevant receipts and documentation to Alpha for expenses for which the Contractor seeks reimbursement.

## **10 TERM OF AGREEMENT**

1. This Agreement is for multiple Engagements each of which will continue in force for the Term specified in the Conditions of Engagement, unless earlier terminated in accordance with Clause 11. If the Contractor continues to provide the Services to Alpha on Alpha's request after the expiry of the Term, or if no Term is specified in the Conditions of Engagement, this Agreement will continue in force until terminated in accordance with Clause 11.

## **11 TERMINATION**

1. This Agreement may be terminated by either Party with five days notice provided that there is no current Engagement in progress.
2. Each Engagement terminates on the Termination Date set out in the Conditions of Engagement.

3. Either party may terminate the Engagement prior to the Termination Date, by giving the notice in the Conditions of Engagement or, in lieu, a sum equivalent to the total of all amounts that the Contractor would have earned if the Engagement had continued for the period of the notice.
4. Alpha may terminate the Engagement prior to the termination date without notice where:
- a. the Client ceases to require the Contractor's services and there is no notice period specified in the Conditions of Engagement; or
  - b. the Contractor commits any act of dishonesty; or
  - c. the Contractor fails to observe or perform any of the terms of this Agreement; or
  - d. the Contractor commits an act which in Alpha's reasonable opinion is incompatible with the Contractor's continued due and faithful performance of the Services; or
  - e. the Contractor becomes insolvent or commits an act of bankruptcy; or
  - f. the Contractor commits any breach of any provision in this Agreement relating to Confidential Information.
5. Upon termination of an Engagement, the Contractor shall immediately deliver to the Client all records, documents, plans, letters, papers, keys and material of any description (including all copies and extracts of the same) within its possession or control relating to the affairs of the Client.
6. If this Agreement continues in force pursuant to Clause 10 after expiry of the Term, either party may terminate this Agreement by 4 weeks notice in writing to the other.

## **12 HEALTH AND SAFETY**

1. Alpha is committed to good health and safety practices. Alpha and the Contractor will take all reasonable precautions to support healthy and safe workplaces and shall comply with all legislation and prevailing codes of practice issued and approved under the provisions of the Health and Safety at Work Act 2015 and by the client.
2. The Contractor shall take all practicable steps when providing service to ensure their own fitness for work, own safety and the safety of others including within the Client's workplace.
3. The Contractor is required to report all potential hazards, accidents, incidents and near misses to Alpha and to the Client and to co-operate as required to monitor, reduce and minimise such hazards.
4. Within one week of commencing a new assignment the Contractor must advise the Alpha contact by email that they understand and comply with the client's Health and Safety policies.

## **13 POLICIES AND PROCEDURES**

1. The Contractor shall while on Engagement(s), comply with any of the Client's rules, policies and procedures in force from time to time.

## **14 INDEMNITY AND INSURANCE**

1. The Contractor indemnifies Alpha and agrees to keep Alpha indemnified from and against any liability for any direct, indirect or consequential injury, loss or damage arising out of any act, default or omission, or any representation made by, the Contractor (including any servants or agents) and against any liabilities, costs, penalties or losses suffered by Alpha if the relationship between the parties is subsequently found to be that of employer and employee.
2. The Contractor commits to maintain current Professional Indemnity Insurance and Public Liability Insurance to the sum of \$2 million in each instance to cover its obligations under this Clause and will deliver to Alpha on request applicable certificates of insurance demonstrating such cover.
3. In the event that the Contractor wishes to be enrolled within the cover of Alpha the Contractor will be charged

## 15 NOTICES

1. Any notice given pursuant to this Agreement will be deemed to be validly given if personally delivered, posted or forwarded by email to the address of the party to be notified set forth below or to such other address as the party to be notified may designate by written notice given to all other parties.
2. Addresses for notice are:  
  
Alpha Personnel Recruitment Limited  
  
Level 3, 27 Gillies Avenue  
  
PO Box 99256, Newmarket Auckland  
  
info@alphajobs.co.nz  
  
Contractor:  
  
Address:  
  
Email Address:
3. Any notice given pursuant to this Agreement will be deemed to be validly given:
  - a. in the case of delivery, when received;
  - b. in the case of email communication when sent;
  - c. in the case of posting, on the second day following the date of posting;
4. Provided that any notice personally delivered or sent by email either after 5.00 pm on a Working Day or any other day that is not a Working Day will be deemed to have been received on the next Working Day.

## 16 ENTIRE AGREEMENT

1. This Agreement contains all of the terms, representations and warranties made between the parties and supersedes all prior discussions and agreement covering the subject matter of this Agreement.
2. No amendment to this Agreement will be effective unless it is in writing and signed by both parties.

## 17 NO ASSIGNMENT

1. Neither party may assign its rights under this Agreement without the prior consent in writing of the other party.

## 18 WAIVER

1. No exercise or failure to exercise or delay in exercising any right or remedy by a party will constitute a waiver by that party of that or any other right or remedy to it.

## 19 NON-MERGER

1. The agreements, obligations and guarantees contained in this Agreement will not merge on completion of the transactions contemplated by it, but will remain in full force until satisfied.

## 20 PARTIAL INVALIDITY

1. If any provision of this Agreement or its application to any party or circumstance is or becomes invalid or

unenforceable to any extent, the remainder of this Agreement and its application will not be affected and will remain enforceable to the greatest extent permitted by law.

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## 2.1 THIRD PARTIES

1. Where this Agreement confers a benefit upon any third party, the parties do not intend to create an obligation under this Agreement enforceable by that third party.

## 2.2 TIME OF ESSENCE

1. Time will be of the essence in the performance of either party of its obligations under this Agreement.

## 2.3 RIGHTS CUMULATIVE

1. The rights of the parties under this Agreement are cumulative and are not exclusive of any other rights and remedies available to either party.

## 2.4 GOVERNING LAW

1. This contract shall be governed by, and construed and interpreted in accordance with the laws of New Zealand.
2. This contract shall be binding on and endure for the benefit of the successors of the Contractor and the successors and assignees of Alpha.
3. This is a supply for business purpose only and the Consumer Guarantee Act 1993 does not apply.

**These Terms and Conditions of Business are those implemented by the Recruitment & Consulting Services Association and adopted by Alpha Personnel Recruitment Limited as one of the Association's Members.**

Signed on  
Behalf on Alpha  
Personnel  
Recruitment  
Limited by :

Date: 10/01/2018

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SIGNED for and on  
behalf of the Company: