

Commercial Design Cons.(NSW) Pty Ltd - Engagement Hourly Rate Contractor

Version: CDC0909HRC

PARTIES

Employer: Commercial Design Cons.(NSW) Pty Ltd
63-65 Chandos St
St.Leonards
Sydney NSW 2065

AND

Contractor: Refer reverse side – re: Purchase Order

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1.	DEFINITIONS
Act	means the Workplace Relations Act 1996 (C'th) and the Fair Work Act 2009, as applicable.
Agreement	means this contract of engagement.
AFPCS	means the Australian Fair Pay and Conditions Standard.
APCS	means the Australian Pay and Classification Scales as determined pursuant to the Act.
Assignment/s	means the project or the services to be performed for a Client of the Employer as identified in a SAC.
Client of the Employer	means a Client of the Employer as defined under this agreement, with whom the Employer has an agreement to provide on-hired contractors and to whom the Contractor may be assigned to work from time to time.
Contractor/s'	means Contractor/s (Individual, Trust or Incorporated)of the Employer covered by this agreement.
Employer	means Commercial Design Consolidated (NSW) Pty Ltd
Workplace Law	means an award, notional agreement preserving a state award (NAPSA), industrial instrument, workplace agreement, rule, order or legislative requirement which, but for this Agreement, would govern your engagement.
Parties	means the Employer and Contractor.

Regulations	means the Workplace Relations Regulation 2006 (C'th) and the Fair Work Act 2009 (C'th) Regulations, as applicable.
SAC	means Summary of Assignment Conditions found on Purchase Order
You/your	means the Hourly rate Contractor.
ATO	means Australian Taxation Office

2. DURATION AND SCOPE OF THE AGREEMENT

- 2.1 This Agreement shall commence when the Contractor commences work for the Employer on assignment with a Client of the Employer. The Contractor will be deemed to have accepted the terms of this Agreement, regardless of whether the Contractor has signed it, if the Contractor accepts an assignment with a Client of the Employer after having received a copy of this Agreement.
- 2.2 This Agreement shall apply to all work performed by the Contractor on assignment with a Client of the Employer.
- 2.3 This Agreement and any SAC issued to the Contractor from time to time in relation to an assignment with a Client of the Employer shall form the terms and conditions of the Contractor's engagement.
- 2.4 Where there is any inconsistency between this Agreement and any Workplace Law the Workplace Law shall apply to the extent of the inconsistency.

3. ENGAGEMENT STATUS AND ENGAGEMENT

- 3.1 The Contractor is engaged as a on-hired contractor, which means that:
- a) The Contractor is engaged as an hourly rate contractor.
 - b) The Contractor receives a rate of pay as per the SAC, in lieu of paid leave and other entitlements associated with permanent engagement.
 - c) This Agreement governs the terms and conditions of engagement for every assignment performed by the Contractor for the Employer.
 - d) Termination of an assignment by the Employer constitutes termination of engagement.
 - e) The Employer may direct where and how the Contractor shall perform work on any particular assignment.
 - f) The Employer may change or terminate assignments of the Contractor without reason and the Contractor has no right to ongoing engagement on any particular assignment.
 - g) There is no obligation upon the Employer to offer future or ongoing assignments to the Contractor.
 - h) There is no obligation upon the Employer to offer the same or similar terms and conditions of assignment when commencing a new assignment, or a new assignment position within an existing assignment.
 - i) The Employer retains ultimate control of the Contractor in relation to the performance of work on assignment or otherwise.
 - j) The Contractor shall receive and comply with day-to-day instructions issued by authorised representatives of Clients of the Employer so as to facilitate the performance of the contract for services between the Employer and any Client of the Employer.
 - k) The engagement relationship is and remains between the parties to this Agreement and no engagement relationship exists or shall be created between the Contractor and any Client of the Employer to whom the Contractor may be assigned to perform work while engaged in work or for a period of 6 months from termination of work from the Client either directly or through a third party agency.
- 3.2 A SAC may be provided to the Contractor in writing or verbally and may be varied from one assignment to another and one assignment position to another at the discretion of the Employer.
- 3.3 Any SAC provided to the Contractor shall stand alone and shall not be imported or read into this Agreement in any way whatsoever.

4. TERMINATION OF ENGAGEMENT

- 4.1 Unless otherwise agreed in writing, the Contractor may terminate the engagement relationship by giving one hour's notice of his or her intention to terminate.
- 4.2 Unless otherwise agreed in writing, the Employer may terminate the Contractor's engagement by giving one hour's notice, or payment in lieu of notice.
- 4.3 Nothing in this Agreement shall affect the right of the Employer to dismiss a Contractor without notice where the Contractor is guilty of serious misconduct. For the purposes of this clause, serious misconduct includes:

- (a) Wilful, or deliberate, behaviour by a Contractor that is inconsistent with the continuation of engagement, including:
 - (i) theft;
 - (ii) fraud (including falsifying time records);
 - (iii) assault;
 - (iv) attendance at the workplace under the affects of prohibited drugs or alcohol;
 - (v) the Contractor refusing to carry out the Employer's lawful and reasonable instruction; or
 - (vi) the Contractor not complying with the policies and procedures of the Employer or Client of the Employer; or
- (b) Conduct that causes imminent, and serious, risk to:
 - (i) the health, or safety, of a person, including the Contractor; or
 - (ii) the reputation, viability or profitability of the Employer's business.

4.4 Contractors absent from work for a period of three consecutive rostered shifts without the consent of the Employer and without notification to the Employer shall be deemed to have terminated their engagement by abandonment.

4.5 Upon termination of engagement, the Contractor shall immediately return all documents, publications, manuals, corporate uniforms and other property, which are in the Contractor's possession, whether such be in hard copy or soft copy, as a consequence of that engagement.

5. HOURS OF WORK

5.1 Ordinary hours of work for Contractors will average 40 hours per week, over 52 weeks.

5.2 Additional hours of work are all hours worked outside ordinary hours. An Employer may require a Contractor to work reasonable additional hours.

5.3 All additional hours shall be paid at the Contractor's applicable ordinary hourly rate provided in clause 6 of this Agreement unless otherwise agreed in advance and in writing. Nothing in this Agreement imports the terms of an industrial instrument in to this Agreement.

6. REMUNERATION

6.1 When performing work on assignment for a Client of the Employer, the Contractor shall receive an hourly rate of pay that is not less than the APCS applicable to the work being performed or, in the absence of an applicable APCS, the Federal Minimum Wage.

6.2 The Contractor shall be advised verbally and/or in writing of the applicable hourly rate of pay for the work being performed and this shall occur prior to the commencement of work on any particular assignment.

6.3 The payment of a rate of pay on any particular assignment shall not provide the Contractor with any right to continuing payment of such rate of pay on alternative assignments.

6.4 Unless otherwise agreed in writing by the Employer, or required by a Workplace Law, the rate of pay provided for in clause 6.1 of this Agreement shall be payable for all hours worked. Nothing in this agreement shall import the terms of any Workplace Law in to this Agreement.

7. LEAVE

7.1 The Contractor shall be entitled to unpaid leave at the discretion of the Client Employer, entitlement to return to Contract is again at discretion of Client Employer.

8. PUBLIC HOLIDAYS

8.1 The following days are public holidays: New Year's Day, Australia Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day, Boxing Day and any other government gazetted public holidays in the relevant state or territory in which the work is being performed.

8.2 The Contractor may be required to perform work on public holidays from time to time in accordance with the provisions of the Act.

8.3 The Contractor is only entitled to payment for time actually worked on a public holiday.

8.4 All hours worked on a public holiday in clause 8.1 of this Agreement shall be paid at the Contractor's applicable ordinary hourly rate provided in clause 6 of this Agreement unless otherwise agreed in advance and in writing or as required by an industrial instrument such as an award, NAPSA or workplace agreement applying to the Employer. Nothing in this Agreement imports the terms of an industrial instrument in to this Agreement.

9. SUPERANNUATION

Individual Worker (Sole Trader)

All such contributions will be remitted to the complying fund nominated by you, and of which you advise us, prior to signing the Agreement. If no such fund is nominated by you, then such contributions will be remitted into any complying fund nominated by us. The amount of all such superannuation contributions will form part of your Rate of pay as disclosed in SAC.

10. READINESS FOR ASSIGNMENTS

The Contractor authorises the Employer to complete, at the Employer's discretion, a criminal record or police check, qualification checks and/or any additional reference checks prior to considering whether to offer the Contractor a new Assignment or Assignment position.

11. OCCUPATIONAL HEALTH AND SAFETY

11.1 The Contractor must use his or her best endeavours to comply with the requirements of the relevant occupational health and safety legislation in the State or Territory in which the Contractor is working. This includes obeying lawful instructions and complying with lawful rules, processes and procedures of the Employer and Clients of the Employer.

11.2 The Contractor must advise the Employer of any change in his or her capacity, physical or psychological, to work safely and without risk to health, including but not limited to any injury, illness or medication he or she is taking (prescribed or otherwise).

11.3 The Contractor must notify the Employer if a Client of the Employer requests or directs the Contractor to perform duties that are outside of the job or assignment description provided by the Employer. The Contractor must not commence any such new duties prior to obtaining authority from a representative of the Employer.

11.4 The Employer may at their discretion, direct the Contractor to complete a medical assessment prior to the commencement of a new assignment or in the course of an existing assignment where it is reasonably required to determine the capacity of the Contractor to perform work on assignment safely and without risk to health.

12. OBSERVANCE OF POLICIES AND PROCEDURES

12.1 The Contractor shall observe all policies and procedures of the Employer and Clients of the Employer where such policies and procedures have been brought to the attention of the Contractor. The Contractor acknowledges that the policies take effect as directions given by the Employer and not as mutually enforceable obligations.

12.2 Where there is any inconsistency between policies and procedures of the Employer and those of Clients of the Employer, the Employer's policies and procedures shall override those of the Client of the Employer to the extent of the inconsistency, unless otherwise agreed or stated.

13. PAYMENT OF MONIES

13.1 The Employer will deduct SGL and PAYG from Hourly Rate as nominated in SAC if Contractor is an Individual (Sole Trader)

13.2 The Employer will pay a Trust / Incorporated Business as per their Tax invoices (inclusive of GST)

13.3 The Employer shall electronically deposit Contractor's monies into a financial institution account nominated by the Contractor. Monies shall be paid in arrears.

13.4 Monies shall be deposited on a fortnightly basis, unless the payment of such wages is delayed owing to circumstances beyond the control of the Employer. Circumstances beyond the control of the Employer may include but not be limited to the following:

- a) Electronic malfunction on behalf of the Employer or the Contractors nominated financial institution; or
- b) Failure by the Contractor to complete time sheets in accordance with instructions provide by the Employer or Clients of the Employer.

14. CONTRACTOR NOTIFICATION

14.1 The Contractor will notify the Employer of any grievances in relation to an assignment or engagement. The Contractor shall not raise such grievance with a Client of the Employer unless authorised by the Employer, or where it relates to threats to health and safety of the Contractor.

14.2 The Contractor must notify the Employer as soon as reasonably possible of any offer of engagement made to the Contractor by the Client of the Employer or any approach to the Contractor by the Client of the Employer to discuss potential engagement with the Client.

14.3 The Contractor must notify an appointed representative of the Employer of any inability to attend work or commence work on time at least one hour prior to the commencement of any shift. A message left on a mobile telephone and/or notification to a fellow contractor or the Client of the Employer shall not constitute notification in accordance with this clause.

14.4 The Contractor will immediately notify the Employer of any damage to property or injury caused to others by the Contractor in the course of engagement and/or an assignment.

The Contractor will notify the Employer, as soon as reasonably possible, of any change to personal details relevant to maintenance of engagement and engagement communications.

14.5 The Contractor will notify the Employer of all and any hours worked on assignment including any hours worked over and above those outlined in the SAC.

14.6 The Contractor will notify the Employer, as soon as reasonably possible, of any decision to commence work for an employer or principal where such new employer may reasonably be considered a competitor to the Employer or any Client of the Employer. A competitor to the Employer or any Client of the Employer shall be any organisation or body which currently provides, or is proposing to provide, the same products or services as the Employer or Client of the Employer.

15. TIMESHEETS

The Contractor shall complete timesheets in accordance with the directions of the Employer. Timesheets shall be completed accurately and any false completion of timesheets may result in immediate termination of engagement.

16. DRESS

The Contractor shall present for work in neat and orderly dress and appearance and shall dress in accordance with any reasonable directions of the Employer or Client of the Employer.

17. TRUSTS / INCORPORATED BUSINESSES

- 17.1 Trusts / Incorporated Businesses prior to an engagement through Employer must provide proof of GST registration and certificates of currency of Work Cover insurance, Public Liability insurance and
- 17.2 Compulsory third party insurance and fully comprehensive motor vehicle insurance as applicable to assignment.
- 17.3 Other insurances, sickness and accident plus professional indemnity for Professional Engineers are desirable.
- 17.4 Trusts / Incorporated businesses are responsible for their own SGL, PAYG Tax and GST.
- 17.5 The Trusts / Incorporated businesses will indemnify and keep indemnified the Employer and the Client of the Employer from any liability to pay workers' compensation.

18. CONFIDENTIALITY AND OWNERSHIP

- 18.1 Ownership of all inventions, improvements, designs, creations, developments and other intellectual property relating to or deriving from any of the work performed by the Contractor shall be the property of the Employer and/or the relevant Client of the Employer.
- 18.2 The Contractor will not use or attempt to use any confidential information of the Employer or Clients of the Employer in any manner and for any purpose other than the purpose of the business of the Employer and Clients of the Employer.
- 18.3 The Contractor shall not make improper use of the position or assignment, or of information that may be acquired by virtue of his or her assignment or engagement, to gain advantage for himself or herself (or any other person) to the detriment of the Employer or Clients of the Employer.
- 18.4 All matters pertaining to the business of the Employer and Clients of the Employer must be kept strictly confidential. These obligations apply both during and after the engagement of the Contractor with the Employer and following cessation of any assignment with a Client of the Employer. Failure to comply with this may result in disciplinary action, which may include termination of engagement and/or termination of assignment. During the course of the Contractors engagement with the Employer, the Contractor may learn confidential information either about the Employer, the company or business of the Employer or the business or service needs of Clients of the Employer. Unless an individual contractor obtains express permission from the Employer to do so, the Contractor must not disclose or use any confidential information he or she obtains.
- 18.5 Confidential information shall include any information that is not available to the public.

Signed for and on behalf of the Contractor:

Signed _____

Date _____

Name of Contractor (printed) _____

Address of Contractor _____

