Independent Contractor (or Consultant) Agreement

Review checklist

Use this template to review an agreement under which an independent contractor or consultant is engaged and that is material (in other words, the contract meets agreed the materiality threshold). Not to be used for company employees.

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| **Item** | **Question** | **Guidance notes** | **Answer** |
| **General provisions** | | | |
|  | **Short form name** | *Use a concise, descriptive "short form name" for this document. The short form name should clearly identify the document type (e.g., Service Agreement, Purchase Agreement, License Agreement, etc.)* |  |
|  | **Data room number** | *What is the data room number of this document? If there is no data room number, then insert "Not applicable".* |  |
|  | **Parties** | *For each party (an “entity”), identify:*   * *full legal name* * *entity type (organisation or person)* * *registered address* * *company/organisation number (if applicable)* * *whether the entity is acting alone or as a trustee* * *if the entity is acting as a trustee, identify the trust name and number (if applicable)* |  |
|  | **Document date** | *Identify the agreement date or date the agreement was entered into. If no date is provided in the agreement, insert 'Undated'. Look for dates in various locations within the document, including the header, footer, and signature blocks. Enter dates in a consistent format (e.g. DD/MM/YYYY or MM/DD/YYYY).* |  |
| **Employment details** | | | |
|  | **For each related party, answer the following:** | *Who are the parties that are related?* |  |
| *What is their relationship? E.g.:*   1. *An entity that controls a company is a related party of the company* 2. *The parties are both controlled by the same holding company* 3. *Director of Company is related to the Company* 4. *Spouse and children of the Company Director are related to Company* 5. *Directors of an entity that controls the company are related parties of a company.*   *Spouse and children of a Director of an entity that controls the company are related to Company.* |  |
| *Is the agreement on commercial, arm’s length terms?* |  |
|  | **Nature of services provided** |  |  |
|  | **Fees** | *Describe the compensation structure including rates, retainer payments, reimbursable expenses and payment schedules* |  |
|  | **Is tax deducted from payment to the independent contractor?** |  |  |
|  | **Hours of work and how frequently the independent contractor has worked in the past 6 months** |  |  |
|  | **Are superannuation contributions made on behalf of the independent contractor?** |  |  |
| **Term and termination rights** | | | |
|  | **Start date of agreement** |  |  |
|  | **Start date of agreement** |  |  |
|  | **Initial term of the agreement** |  |  |
|  | **For each option to extend the term, answer the following:** | *Start date of option* |  |
| *End date of option* |  |
|  | **Early termination rights (other than for breach or default)** | * 1. *Company who has the early termination rights* |  |
| * 1. *Select the applicable early termination right (other than for breach or default). E.g.:*      + *Termination for convenience (no cause)*      + *Termination for an insolvency event*      + *Termination for force majeure*      + *Termination by agreement between the parties*   2. *Does an early termination payment apply?* |
| * 1. *Describe how much notice must be given to terminate* |
| **Limitation of liability** | | | |
|  | **What is the limitation on liability?** | * 1. *Describe the limitation on the liability of the Contractor or Consultant is limited (other than an exclusion of liability for consequential loss)*   2. *Are there circumstances where the limitation on liability does not apply?* |  |
| **Confidentiality and intellectual property rights** | | | |
|  | **Is the Contractor or Consultant required to keep certain information confidential?** |  |  |
|  | **Does any IP created by the Contractor or Consultant during their employment belong to and assign to the Company Group?** |  |  |
| **Miscellaneous** | | | |
|  | **Related documents** | *Describe any documents related to this document that have been disclosed (including amendments)* |  |
|  | **Missing related documents** | *Describe any documents related to this document that haven’t been disclosed* |  |
|  | **Missing and/or ineligible pages** | *Specify any missing and/or ineligible pages of the document* |  |
|  | **Document execution** | *Identify a party(s) that haven’t executed the document fully and correctly* |  |
|  | **Governing law** | *What is the governing law of the document?* |  |
|  | **Other onerous or unusual provisions** | *Identify any provisions in this document that could be considered unusually onerous, burdensome or unfavorable to one party, or that deviate significantly from standard practices.*  *For each such provision:*   1. *State what party(s) the provision applies to;* 2. *Briefly summarise the key aspects that make it onerous or unusual;* 3. *Quote the relevant excerpt from the document.* |  |