



## Template independent contractor agreement

### User notes

This is a simple *company friendly* consultancy agreement for engaging independent contractors or consultants (e.g. individuals or sole operator companies) to work within a business.

For Southeast Asian based start up businesses or businesses seeking investment and/or a liquidity event, it is important to have this type of agreement in place for all independent contractors to evidence that *company IP* is properly protected, i.e. there can be no argument of whether the company or the independent contractor owns the IP.

This template includes a restraint on the independent contractor to ensure that the independent contractor does not jeopardise the company's business (by competing or similar) during the term and for a set period after. To be enforceable, a restraint must be reasonable. This, in turn, will depend on the facts relating to the agreement. However, the longer the restraint and the broader the *restrained area*, the more likely that arguments could be raised about the enforceability of the restraint.

Where the independent contractor is a sole operator company (a *one man band*), you should set out in the *Key Details* section of the agreement the name of the individual actually doing the work and seek an undertaking from that individual to agree to key restrictions in the agreement (namely, restraint, IP, and confidentiality). Otherwise, you run the risk of binding a shelf company but not the individual who can damage your business the most. A form of undertaking is attached to the agreement.

You should consider whether the company's relationship with the proposed other party to the agreement is an independent one or whether the person should be an employee of the business.

In some circumstances, an individual may be *deemed* to be an employee regardless of their stated contractual status. Being *deemed* to be an employee depends on the individual circumstances, but factors include duration of the relationship (longer term may suggest an employment relationship), who provides equipment, who controls how and what work is done, and the extent to which the contractor is autonomous.

Your lawyer or company secretary will need to complete any necessary board and/or shareholder resolutions needed to implement this document.

You should obtain tax and accounting advice before adopting this document.

This document should be used in conjunction with company governance documents (e.g. constitution and/or shareholders' agreement) that adequately deal with small minority shareholdings, including pre-emptive rights on share transfers and drag along.

### applicable law

This document is intended for use by companies domiciled in Southeast Asia. Because the laws in each Southeast Asian country are different, you should have the document reviewed by a local lawyer. We have suggested (as a placeholder) that the document be subject to Singapore law as this is the most common domicile of tech companies raising capital in Southeast Asia, and Singapore is well respected as a legal jurisdiction.

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## using this template

The **User Notes** and the statements in the footer (all marked in red) are included to assist you to prepare this document. They are for reference only. You should delete all user notes and the statements in the footer from the final form of your document.

The use of [*square brackets*] around black text means that:

- ▲ the requested details need to be inserted
- ▲ there are different options for you to consider
- ▲ the whole clause is optional and you need to consider whether to include it, based on your circumstances and the other issues set out in the user notes.

Before finalising your document, check for all square brackets to ensure you have considered the relevant option and deleted the brackets. If you delete any clause or schedule, remember to cross reference check the document.

# INDEPENDENT CONTRACTOR AGREEMENT

DATE:

## PARTIES

- 1 **[INSERT FULL LEGAL NAME]**, company number *[Insert company number]* (**Company**)
- 2 **[User note: This document is for use where the Contractor is an individual or a sole operator company. This template is unlikely to be suitable if the Contractor is a services provider with multiple employees.] [INSERT FULL LEGAL NAME]**, *[of [Insert address]]**[company number [Insert company number]]* (**Contractor**)

## SECTION A: AGREEMENT AND KEY DETAILS

### AGREEMENT

The Company engages the Contractor, and the Contractor agrees, to provide the Services and Deliverables on the terms of the Agreement. The Agreement comprises:

- ▲ Section A (Agreement and Key Details), including this cover page and the signature clause; and
- ▲ Section B (General Terms[, *including the Schedule*]).

Each party warrants that it has full power and authority to enter into and perform its obligations under the Agreement which, when signed, will constitute binding obligations on the warranting party.

**[User note: This section should include all of the “consultancy specific” details relating to the Services and Deliverables. It should include sufficient detail to provide certainty to both parties about the scope of the Agreement, i.e. what is “in” and what is “out”.]**

### KEY DETAILS

Item	Detail
Start Date	<p><b>[User note: The Start Date is often the date of the Agreement. However, in some cases the parties may wish to provide that the Agreement will take effect as from a future date.]</b></p> <p><i>[On the date both parties sign the Agreement/[Insert date]].</i></p>
End Date	<i>[Insert date/NA].</i>
Services and Deliverables	<p><b>[User note: To avoid any dispute about what the Contractor is supposed to provide, this section should set out in detail the Services to be provided and any Deliverable forming part of the</b></p>

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Item	Detail
	<p><b>Services.</b> <i>If the Contractor is engaged for a particular project, the scope of the project should be described, along with the roles/responsibilities of the Contractor. Note that the definition of “Services” and “Deliverables” includes catch-all wording in case items are accidentally omitted from this section.]</i></p> <p>[Insert description].</p>
Requirements	<p>[Insert any requirement relating to the Services and Deliverables not covered by the general description above or in the General Terms, e.g. if there is a minimum or maximum number of hours that the Contractor must work for the Company each week or month].</p>
Key personnel	<p><b>[User note: If the Contractor is a sole operator company, insert the name of the individual who will provide the Services and Deliverables. Where the Contractor is an individual, this row may be left blank or “NA” inserted.]</b></p> <p>[Insert name of individual/NA].</p>
Restraint period and area	<p><b>[User note: See our discussion on the enforceability of restraints in the user notes on the front page and at clause 3.]</b></p> <p><b>Period:</b> [Insert months] from the expiry or termination date.</p> <p><b>Area:</b> [Insert area].</p>
Fees	<p><b>[User note: The Fees chargeable for the Services and Deliverables should be set out in this section. E.g. if the Fees are on a T&amp;M basis, the T&amp;M rates should be included. If the work is fixed price, is this to be paid in one lump sum, in milestones or on a monthly basis?]</b></p> <p><b>Amount:</b> [SGD] [Insert the Fees for the Services and Deliverables].</p> <p><b>Cap:</b> [SGD] [Insert any cap].</p>
Invoice dates	<p><b>[User note: The default position in the Agreement is that, where no invoice dates are set out in this section, the Contractor may invoice monthly in arrears.]</b></p> <p>[Insert milestones/NA].</p>

Item	Detail
Expenses	<p><b>[User note: If expenses are not to be paid, simply list “NA” in this section. If expenses are payable, all relevant details should be included here, e.g. what type of expenses?]</b></p> <p>[Insert expenses that are payable and any cap/NA].</p>

**SIGNED**

**[User note: Signature clause for the Company follows.]**

**SIGNED** for and on behalf of **[INSERT** )  
**FULL LEGAL NAME]** by: )

\_\_\_\_\_  
 Authorised signatory

\_\_\_\_\_  
 Print full name

**[User note: If the Contractor is an individual, use the following signature clause and delete the signature clause (and user note) that follows the individual signature clause.]**

**SIGNED** by **[INSERT FULL LEGAL** )  
**NAME]:** )

\_\_\_\_\_

**[User note: If the Contractor is a sole trader company, use the following signature clause and delete the signature clause (and user note) directly above this user note.]**

**SIGNED** for and on behalf of **[INSERT** )  
**FULL LEGAL NAME]** by: )

\_\_\_\_\_  
 Authorised signatory

\_\_\_\_\_  
 Print full name

## SECTION B: GENERAL TERMS

**1 INTERPRETATION**

1.1 **Definitions:** In the Agreement, the following terms have the stated meaning:

<b>Term</b>	<b>Meaning</b>
<b>Agreement</b>	Section A (Agreement and Key Details, including the cover page and signature clauses) and Section B (General Terms[, <i>including the Schedule</i> ]).
<b>Company IP</b>	has the meaning given in clause 4.1.
<b>Company's Network</b>	includes the Company's customers, suppliers, personnel, and other third parties with whom the Company deals commercially.
<b>Confidential Information</b>	<p><b>[User note: If there is specific information that has special sensitivities around it, a description of that information should be included in this definition.]</b></p> <p>all information that is not in the public domain and that is developed, created, or acquired by the Contractor in the provision of the Services and Deliverables or otherwise in connection with the Agreement, including:</p> <ul style="list-style-type: none"> <li>a the terms of the Agreement;</li> <li>b details of the Company's Network;</li> <li>c business and technical information about the Company and/or the Company's Network;</li> <li>d computer software (in object and source code form) and materials owned or licensed to the Company and/or the Company's Network;</li> <li>e data held by the Company and/or the Company's Network;</li> <li>f Intellectual Property of the Company; and</li> <li>g any other information about the Company's business, including records of the Company.</li> </ul>
<b>Deliverables</b>	the deliverables (if any) set out in the Key Details and any other document, report, material or other output produced by the

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Term	Meaning
	Contractor in the course of providing the Services, regardless of where the item was produced.
<b>End Date</b>	the end date set out in the Key Details.
<b>Fees</b>	the fees set out in the Key Details, up to the cap (if any) stated in the Key Details.
<b>Force Majeure</b>	an event that is beyond the reasonable control of a party, excluding an event to the extent that it could have been avoided by a party taking reasonable steps or reasonable care.
<b>Intellectual Property Rights</b>	includes copyright and all worldwide rights conferred under statute, common law or equity relating to inventions (including patents), registered and unregistered trade marks and designs, circuit layouts, data and databases, confidential information, know-how, and all other rights resulting from intellectual activity. <b>Intellectual Property</b> has a consistent meaning and includes the Deliverables and other outputs and work to which Intellectual Property Rights attach.
<b>Key Details</b>	the Agreement specific details set out in Section A of the Agreement.
<b>Requirement</b>	any requirement set out in the Key Details or advised by the Company before or during the provision of the Services and Deliverables.
<b>Services</b>	<p>the services set out in the Key Details, including:</p> <ul style="list-style-type: none"> <li>a providing the Deliverables; and</li> <li>b all actions and work not set out in the Key Details but reasonably required to perform those services and provide the Deliverables.</li> </ul>
<b>Start Date</b>	the start date set out in the Key Details.

## 1.2 Interpretation: In the Agreement:

- a clause and other headings are for ease of reference only and do not affect the interpretation of the Agreement;
- b words in the singular include the plural and vice versa;

- c a reference to:
  - i a **party** to the Agreement includes that party's permitted assigns;
  - ii **personnel** includes officers, employees, contractors, and agents, but a reference to the Company's personnel does not include the Contractor;
  - iii a **person** includes an individual, a body corporate, an association of persons (whether corporate or not), a trust, a government department, or any other entity;
  - iv **including** and similar words do not imply any limit; and
  - v a statute includes references to regulations, orders or notices made under or in connection with the statute or regulations and all amendments, replacements or other changes to any of them;
- d no term of the Agreement is to be read against a party because the term was first proposed or drafted by that party; and
- e if there is any conflict between Section B and Section A of the Agreement, Section B prevails unless expressly stated otherwise in Section A.

## **2 OBLIGATIONS**

2.1 **General:** In addition to the other obligations of the Agreement, the Contractor must:

- a provide the Services and Deliverables:
  - i promptly, efficiently, and exercising reasonable care, skill and diligence; and
  - ii in accordance with:
    - ▲ the Agreement, including any Requirement;
    - ▲ best currently accepted principles and practices applicable to the Services and Deliverables; and
    - ▲ all applicable laws and professional codes of conduct or practice;
- b ensure that the Contractor [*and any individual named in the Key Details*] has all qualifications, licences, accreditations, and approvals needed to provide the Services and Deliverables;
- c ensure the Services and Deliverables are fit for the purpose (if any) advised by the Company in advance and in writing; and
- d report to the Company on the progress of the Services and Deliverables as required by the Company.



## 2.2 Conflict of interest:

- a The Contractor must avoid any interest that may conflict with the Contractor's performance of the Agreement, including:
  - i any situation that could give rise to a conflict of interest or compromise the Contractor's or the Company's integrity; and/or
  - ii any financial or other interest or undertaking that could interfere with the performance of the Contractor's obligations under the Agreement.
- b The Contractor must immediately advise the Company in writing of any breach of clause 2.2a or of any situation or undertaking that could, if entered into by the Contractor, breach that clause.

**[User note: If the Contractor is a sole operator company, include clause 2.3 and the Schedule, and list the actual individual who will perform the Services in the Key Details. Otherwise, the Contractor could employ an unknown individual to perform the Services. If the Contractor is an individual, clause 2.3 and the Schedule should be deleted.]**

## 2.3 [Key personnel:

- a *Unless the Company agrees otherwise, the Contractor must provide the Services and Deliverables using the individual named in the Key Details.*
- b *The Company must ensure that the individual is suitably skilled, experienced and qualified.*

**[User note: The Schedule includes a deed under which the actual individual who will perform the Services acknowledges certain restraint, confidentiality and IP protection provisions. In order to ensure the individual is bound by these key provisions, the Company should get confirmation that he or she has agreed to them. Otherwise, an individual could "game" the protections and restrictions covered by these provisions by using a shelf company to contract with the Company (instead of contracting with the Company directly) and claiming that the individual him or herself is not bound by the restraint, confidentiality and IP provisions. Confirmation in the form of the deed in the Schedule (or similar) should be signed before or at the same time as the Agreement.]**

- c *On or before the Start Date, the Contractor must obtain the individual's agreement to the terms set out in the Schedule to the Agreement.]*

## 2.4 Breach: Without limiting the Company's other rights and remedies, if the Company considers that the Services and Deliverables have not been provided in accordance with the Agreement, the Company may:

- a require the Contractor to immediately fix the breach;

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- b withhold any Fees due to the Contractor until the breach is fixed; and/or
- c deduct a reasonable amount from any Fee due to the Contractor to reflect the breach.

**[User note: This clause 3 restricts the Contractor from competing with the Company until expiry of the period set out in the Key Details. This clause needs careful thought as to whether the restraint (including the duration of the restraint and geographic region) is appropriate to the Company as well as to the Contractor. This will depend on the individual circumstances relating to the Agreement. As a general rule, the longer the restraint and the broader the geographic region, the more difficult it may be to enforce.]**

### **3 RESTRAINT**

3.1 **Restraint:** From the Start Date until the end of the period set out in the Key Details, the Contractor must not, within the area set out in the Key Details:

- a directly or indirectly provide services to, or engage in, conduct, carry on or be involved or interested in, any business that is a competitor of the Company;
- b solicit or entice the business of any of the Company's customers;
- c solicit or entice any member of the Company's personnel to terminate their position, employment or relationship with the Company otherwise than as a result of normal recruiting practices which are not targeted at a particular individual;
- d interfere in any way with the relationship between the Company and any person in the Company's Network; and/or
- e assist or encourage any person to do any of the things described in clause 3.1a to 3.1d.

3.2 **Acknowledgement:** The Contractor acknowledges and agrees that each restraint set out in clause 3.1 is:

- a reasonable in its scope and duration having regard to the interests of the Contractor and the Company and goes no further than is reasonably necessary to protect the interests of the Company; and
- b separate and independent from each other restraint.

**[User note: This clause 4 assumes the Company will own all intellectual property rights in any Deliverable. This is standard in this type of contract. If the Contractor is to own any IP rights, this clause will need to be modified.]**

### **4 INTELLECTUAL PROPERTY**

4.1 **General:**

- a All Intellectual Property Rights in the following items (together, **Company IP**) are owned by the Company from the date the items are created, produced or worked on:

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- i Confidential Information;
  - ii the Deliverables; and
  - iii any Intellectual Property created, produced, or worked on by the Contractor [*or its personnel*] during the term of the Agreement:
    - ▲ in the circumstances described in clause 4.1b; or
    - ▲ that is relevant to the business or operation of the Company, unless the Company has agreed otherwise in writing.
- b The circumstances are:
- i in the provision of the Services and Deliverables;
  - ii at the Company's premises; and/or
  - iii using any resource, equipment, or information (including Confidential Information) of the Company.
- 4.2 **No breach:** The Contractor must ensure that Company IP created, produced or worked on by the Contractor or its personnel does not infringe any third party's intellectual property rights.

4.3 **Assignment clause:**

**[User note: Include the text in square brackets in clause 4.3a where the Contractor is a company.]**

- a From the date the relevant Company IP was created, produced or worked on, the Contractor assigns to the Company all of the Contractor's rights, title and interest in and to the Company IP. [*The Contractor must procure its personnel's compliance with this clause.*]
- b The Contractor must do any further thing and sign any document required by the Company to give effect to clause 4.3a.

## 5 FEES

5.1 **Fees:** The Company must pay the Fees to the Contractor for providing the Services and Deliverables.

5.2 **Invoicing and payment:**

- a The Contractor must provide the Company with valid [GST] tax invoices on the dates set out in the Key Details, or if there are none, monthly for Services and Deliverables provided in the previous month.
- b The invoice must include:

- i the details of the Services and Deliverables to which the invoice relates;
  - ii the number of hours or days worked by the Contractor; and
  - iii any other information reasonably required by the Company.
- c The Fees exclude GST, which the Company must pay on taxable supplies under the Agreement.
- d Unless the Services and Deliverables have not been provided to the Company's reasonable satisfaction, the Company must pay the Contractor's correct invoice by the 20<sup>th</sup> of the month following the month of receipt.

5.3 **Expenses:** Subject to any restriction in the Key Details, the Company must reimburse the Contractor for any expense listed in the Key Details where the expense has been:

- a incurred in providing the Services and Deliverables; and
- b approved by the Company in advance.

## 6 **CONFIDENTIALITY**

6.1 **Security:** The Contractor must:

- a keep confidential at all times the Confidential Information and must not directly or indirectly use, disclose or distribute the Confidential Information except to the extent required for the Contractor to properly perform the Contractor's obligations under the Agreement[.]; *and*

**[User note: Include clause 6.1b where the Contractor is a company.]**

- b *disclose Confidential Information to the member of the Contractor's personnel named in the Key Details on a "need to know" basis only and must ensure that the member is aware of, and complies with, the provisions of clause 6.1a.]*

6.2 **Permitted disclosure:** The obligations of confidentiality in clause 6.1 do not apply to any disclosure or use of Confidential Information to the extent:

- a required by law (including under the rules of any stock exchange); or
- b the Confidential Information is rightfully received by the Contractor from a third party without restriction and without breach of any obligation of confidentiality.

6.3 **Return of information:** At the Company's request, the Contractor must return to the Company or destroy (at the Company's option) all Confidential Information in the Contractor's control.

## 7 **LIABILITY**

7.1 **Maximum liability:** The maximum aggregate liability of either party under or in connection with the Agreement, whether in contract, tort (including negligence), breach of statutory duty or

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otherwise, must not exceed an amount equal to the Fees paid and/or payable by the Company under the Agreement for Services and Deliverables properly provided in accordance with the Agreement.

**7.2 Unrecoverable loss:** Except for the Company's liability to pay the Fees, neither party is liable to the other under or in connection with the Agreement for any:

- a loss of profit, revenue, savings, business and/or goodwill; or
- b consequential, indirect, incidental or special damage or loss of any kind.

**7.3 Unlimited liability:** Clauses 7.1 and 7.2 do not apply to limit:

- a the Company's liability for:
  - i personal injury or death; or
  - ii fraud or wilful misconduct; or
- b the Contractor's liability for:
  - i the matters stated in clauses 7.3ai and 7.3aai; or
  - ii a breach of clauses 3, 4, and/or 6.

**7.4 No liability for the other's failure:** Neither party will be responsible, liable, or held to be in breach of the Agreement for any failure to perform its obligations under the Agreement or otherwise, to the extent that the failure is caused by the other party failing to comply with its obligations under the Agreement, or by the negligence or misconduct of the other party or its personnel.

**7.5 Mitigation:** Each party must take reasonable steps to mitigate any loss or damage, cost or expense it may suffer or incur arising out of anything done or not done by the other party under or in connection with the Agreement.

## **8 TERM AND TERMINATION**

**8.1 Duration:** Unless terminated under this clause 8, the Agreement starts on the Start Date and continues until the End Date. If there is no End Date, the Agreement continues until it is terminated under this clause 8.

**8.2 No fault termination:** Either party may terminate the Agreement on no less than 28 days' prior notice to the other party.

**8.3 Other termination rights:** Either party may, by notice to the other party, immediately terminate the Agreement if the other party:

- a breaches any material provision of the Agreement and the breach is not:
  - i remedied within 10 days of the receipt of the notice from the first party requiring it to remedy the breach; or
  - ii capable of being remedied;
- b is unable to perform a material obligation under the Agreement for 30 days or more due to Force Majeure; or
- c where the Contractor is the other party:
  - i does or omits to do something that, in the Company's opinion, may damage the business or reputation of the Company;
  - ii becomes insolvent, liquidated or bankrupt, has an administrator, receiver, liquidator, statutory manager, mortgagee's or chargee's agent appointed, becomes subject to any form of insolvency action or external administration, or ceases to continue business for any reason; or
  - iii has given or gives the Company any information that is misleading or inaccurate.

#### 8.4 **Consequences of termination or expiry:**

- a Termination or expiry of the Agreement does not affect either party's rights and obligations accrued before that termination or expiry.
- b The Company must pay for Services and Deliverables properly provided before that termination or expiry.
- c Within 3 days of that termination or expiry, the Contractor must provide to the Company or destroy (at the Company's option) all Confidential Information and/or Company Intellectual Property in the Contractor's control, including documents, data, software, works in progress and other materials.

8.5 **Obligations continuing:** Clauses which, by their nature, are intended to survive termination or expiry of the Agreement, including clauses 3, 4, 6, 7, 8.4, 8.5, and 9, continue in force.

## 9 **GENERAL**

9.1 **Force Majeure:** Neither party is liable to the other for any failure to perform its obligations under the Agreement to the extent caused by Force Majeure, provided that the affected party:

- a immediately notifies the other party and provides full information about the Force Majeure;
- b uses best efforts to overcome the Force Majeure; and
- c continues to perform its obligations to the extent practicable.

9.2 **Waiver:** To waive a right under the Agreement, that waiver must be in writing and signed by the waiving party.

9.3 **Independent contractor:**

- a The Contractor is an independent contractor of the Company. No other relationship (e.g. employment, joint venture, agency, trust or partnership) exists under the Agreement.
- b Without limiting clause 9.3a, the Company has no liability to meet any of the Contractor's obligations under any applicable health and safety law:
  - i holiday pay, sick pay or any other equivalent payment under applicable law; [ or]
  - ii redundancy or any other severance pay[.]; [ or]
  - iii [other than GST on taxable supplies under the Agreement, taxes or levies].
- c The Contractor indemnifies the Company against any tax, levy, penalty, damage or compensation which the Company may be liable to deduct, withhold or pay by reason of the Contractor being held to be an employee of the Company.

9.4 **Notices:** A notice given by a party under the Agreement must be delivered via email to an email address notified by the other party for this purpose. If the notice is given by the Contractor under clause 8, a copy of that email must be immediately delivered (by hand or courier) to the Chief Executive or equivalent officer of the Company.

9.5 **Severability:**

- a If any provision of the Agreement is, or becomes, illegal, unenforceable or invalid, the relevant provision is deemed to be modified to the extent required to remedy the illegality, unenforceability or invalidity.
- b If modification under clause 9.5a is not possible, the provision must be treated for all purposes as severed from the Agreement without affecting the legality, enforceability or validity of the remaining provisions of the Agreement.

9.6 **Variation:** Any variation to the Agreement must be in writing and signed by both parties.

9.7 **Entire agreement:** The Agreement sets out everything agreed by the parties relating to the Services and Deliverables, and supersedes and cancels anything discussed, exchanged or agreed prior to the Start Date. The parties have not relied on any representation, warranty or agreement relating to the subject matter of the Agreement that is not expressly set out in the Agreement, and no such representation, warranty or agreement has any effect from the Start Date.

9.8 **Subcontracting and assignment:** The rights and obligations of the Contractor under the Agreement are personal to the Contractor and may not be assigned, novated, subcontracted or transferred.

9.9 **Counterparts:** The Agreement may be signed in counterparts, each of which constitutes an original and all of which constitute the same agreement. A party may enter the Agreement by signing and emailing a counterpart copy to the other party.

## 10 **GOVERNING LAW**

The Agreement, and any disputes or claims arising from or in connection with it, will be governed by, and interpreted in accordance with, the laws of [Singapore].

**[User note: The clauses below provide that disputes that are not settled will be referred to the Singapore International Arbitration Centre (SIAC). SIAC is seen as a leading venue for the holding of commercial arbitration and is used by companies across Southeast Asia.]**

## 11 **[DISPUTE RESOLUTION**

11.1 **Dispute:** *If any dispute, controversy or claim (**Dispute**) arises out of or relating to this Agreement, or to the interpretation, breach, termination or validity of this Agreement, the parties to the Dispute (**Disputing Parties**) must use their best efforts to resolve the Dispute through consultation or mediation. The consultation or mediation between the Disputing Parties must begin as soon as practicable after one Disputing Party has delivered to the other Disputing Party or Parties a written notice setting out the matter of the Dispute (**Dispute Notice**).*

11.2 **Arbitration:** *If a Dispute is not settled under clause 11.1 within 30 days after the date of the relevant Dispute Notice, the Dispute must be referred to and resolved by arbitration in Singapore in accordance with the Rules of the Singapore International Arbitration Centre (**SIAC Rules** and **SIAC** respectively). The tribunal will consist of one arbitrator, to be appointed by the President of the SIAC. The language of the arbitration will be English.*

11.3 **SIAC Rules:** *The SIAC Rules are deemed to be incorporated by reference in this clause 11. However, to the extent that the SIAC Rules are in conflict with the provisions of this clause 11, the provisions of this clause 11 will prevail.]*



**[User note: Delete this Schedule if the Contractor is an individual, i.e. the “key personnel” provisions in the Agreement are not applicable.]**

**[SCHEDULE**

**DEED OF UNDERTAKING**

**DATE:**

**[User note: The Deed assumes an individual will sign it in favour of the Company purchasing services and deliverables under the Independent Contractor Agreement. The Company itself does not need to sign the deed.]**

**FROM** [INSERT FULL LEGAL NAME], of [Insert address] (the **Individual**)

**IN FAVOUR OF** **[User note: This should refer to the party listed as “Company” in the Independent Contractor Agreement.]**

[INSERT FULL LEGAL NAME], company number [Insert company number]  
(**Company**)

**[User note: The details in this template deed should reflect the terms of the Independent Contractor Agreement, e.g. in relation to the duration of the restraint of trade and the geographic region.]**

**UNDERTAKINGS**

1 **Receipt and review:** By signing this Deed of Undertaking, the Individual acknowledges that [he/she] has:

- a received a copy of the Independent Contractor Agreement between the Company and [insert the full legal name of the Contractor] (the **Contractor**) dated on or around the date of this Deed of Undertaking (the **Agreement**); and
- b read and understood the terms and conditions of the Agreement.

2 **Restraint:** From the date of this Deed of Undertaking until the date that is [insert months] from the expiry or termination date of the Agreement, the Individual agrees to not, within [insert area]:

- a directly or indirectly engage in, conduct, carry on or be involved or interested in any business that is a competitor of the Company;
- b solicit or entice the business of any of the Company’s customers;
- c solicit or entice any member of the Company’s personnel to terminate their position, employment or relationship with the Company otherwise than as a result of normal recruiting practices which are not targeted at a particular individual;

- d *interfere in any way with the relationship between the Company and any person in the Company's Network (as that term is defined in the Agreement); and/or*
- e *assist or encourage any person to do any of the things described in sections 2a to 2d of this Deed of Undertaking.*

3 **Acknowledgement:** *The Individual acknowledges and agrees that each restraint set out in section 2 of this Deed of Undertaking is:*

- a *reasonable in its scope and duration having regard to the interests of the Individual and the Company and goes no further than is reasonably necessary to protect the interests of the Company; and*
- b *separate and independent from each other restraint.*

4 **Assignment of IP:**

- a *From the date the Individual creates, produces or works on the Company IP (as that term is defined in the Agreement), the Individual assigns to the Company all of the Individual's rights, title and interest in and to the Company IP.*
- b *The Individual must do any further thing and sign any document required by the Company to give effect to section 4a of this Deed of Undertaking.*

5 **Confidentiality:**

- a *The Individual agrees to keep confidential at all times the Confidential Information (as that term is defined in the Agreement) and must not directly or indirectly use, disclose or distribute the Confidential Information except to the extent required for the Contractor to properly perform the Contractor's obligations under the Agreement.*
- b *At the Company's request, the Individual must return to the Company or destroy (at the Company's option) all Confidential Information in the Individual's control.*

**SIGNED AND DELIVERED AS A DEED** *[User note: To be legally enforceable, the signature of the Individual must be witnessed.]*

By **[INSERT FULL LEGAL NAME OF INDIVIDUAL]** )  
 )  
in the presence of: )

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Occupation of witness

\_\_\_\_\_  
Address of witness]

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