

UK-SGAcst17

Building contract: small works

Construction Contract

This agreement is dated:

It is made between [Peter Ivanco Efficientstandard Home Improvements]

of [59 Galgate Close, SW19 6EU, London] (“The Contractor”)

And

[Client name] of [Address] (“The Client”)

Background

The purpose of this agreement is to regulate the relationship between the Client and the Contractor in connection with any Assignment, as defined.

The terms of this Agreement are:

1. Definitions that apply to this agreement:

“Assignment”	means any piece of work or recurring work to be done from time to time by the Contractor for the Client. The first such Assignment is fully described at paragraph 4.
“Confidential Information”	means all personal and business information about the parties to this agreement. It includes among other things: information about lifestyle, family, home, staff, (including their personal contact information); businesses, methods of doing business.
“Specification”	means a Specification of the work constituting an Assignment.

2. Interpretation

In this agreement unless the context otherwise requires:

- 2.1. a reference to a person includes a human individual, a corporate entity and any organisation which is managed or controlled as a unit.

- 2.2. any agreement by any party not to do or omit to do something includes an obligation not to allow some other person to do or omit to do that same thing;
- 2.3. all money sums mentioned in this agreement are calculated net of VAT, which will be charged when payment is due.
- 2.4. In entering into this contract the Client has not relied on any representation or information from any source.

3. Client warranties

The Client warrants that he:

- 3.1. holds and will maintain one or more policies of insurance covering all business risks which may be relevant to the Contractor.
- 3.2. will provide a safe place of work wherever the Contractor may need to operate during the Assignment.
- 3.3. has made arrangements with relevant third parties, statutory authorities and any other relevant authority, for permissions, licences and the like, for the work under the Assignment.
- 3.4. will arrange with his employees and contractors to facilitate the work of the Contractor on the Assignment.

4. Assignments

- 4.1. All work shall be to the Specification set out in the schedule
- 4.2. The Specification shall describe, among other data:
 - 4.2.1 the work to be done;
 - 4.2.2 the outcomes to be expected;
 - 4.2.3 the timescale and milestones;
 - 4.2.4 the method of calculating sums due to the Contractor ;
 - 4.2.5 the hours of work or fixed price
 - 4.2.6 special requirements as to payment.

- 4.3. So far as the Client offers one or more further Assignments to the Contractor they are deemed to be regulated by this contract unless agreed to the contrary.
- 4.4. The Contractor may accept or decline any Assignment. Once accepted, each Assignment will be completed in accordance with the Specification.
- 4.5. By accepting an Assignment the Contractor agrees to provide staff of an appropriate level of skill and experience to work on the Assignment.
- 4.6. The Contractor acknowledges that this agreement imposes no obligation on the Client to provide the Contractor with any additional Assignment.
- 4.7. [Upon completion of any Assignment, the Contractor shall write a record of the work done recording any divergence from the original Assignment and setting out methodology and specifications].
- 4.8. Unless otherwise stated in any Specification, the terms set out in this agreement shall apply.

5. Contractor's fees and expenses

- 5.1. Unless specified to the contrary in any Assignment, the Client will pay the Contractor the sum of £ [amount] for each complete Assignment.

OR

- 5.2. at the rate of £ 180,- per day for his own time and for the time of other staff at the rate of £ 150,- per day.
- 5.3. After the end of each month the Contractor will send an invoice to the Client for work done during that month. No money shall be payable until the Contractor has submitted an invoice to the Client.
- 5.4. Each invoice submitted to the Client for time charged by the hour shall contain a breakdown in respect of the time spent by each person.
- 5.5. Payment of the sum specified in the invoice will be made by the Client within 14 days of date of sending the invoice.
- 5.6. The Contractor shall at all times maintain accurate and up-to-date records of the time spent by his staff upon each Assignment, both in respect of work charged by the hour and work charged against a fixed

price. Time shall be recorded in 15 minute units rounding to the nearest unit.

- 5.7. The invoice shall include whatever reasonable expenses the Contractor has incurred in working on any Assignment [provided such expenses have been approved in advance by the Client] [and are evidenced by receipts or vouchers].

OR

- 5.8. The Contractor will personally bear the cost of all expenses incurred by him in work on an Assignment.
- 5.9. The Contractor shall be entitled after 28 days notice to the Client and not more than once in every 12 months to increase the rates for work charged by the hour. Such increase shall be no greater than [5] % in any year.
- 5.10. The Contractor reserves the right to charge the Client interest in respect of the late payment of any money due under this agreement (both before and after judgment) at the rate of 5 per cent above the base rate from time to time of the Bank of England from the due date until receipt of payment.

6. Confidentiality

- 6.1. In this paragraph, "Damage" means both economic loss, loss of reputation and damage to reputation, feelings, work or professional standing and "Personal Information" means any information about or in connection with, a party to this agreement.
- 6.2. Each of the parties now undertakes for the benefit of the other that he will not:
- 6.2.1 divulge to any person whatever or otherwise make use of any Personal Information relating to the other, which he learns as a result of this contract or any circumstance flowing from the contract;
- 6.2.2 post any text, nor image, nor audio-visual material, on any social network or other public place which could be hurtful, embarrassing or damaging to the other of us.

- 6.3. The parties agree that any Damage arising directly or indirectly from a breach of the above provisions must be compensated on the basis of the effect on the damaged party.
- 6.4. The Client accepts personal liability for compliance with these provisions by members of his family [and domestic staff] and the Contractor undertakes to make all employees agents and sub-contractors aware of the confidentiality of Personal Information and the provisions of this paragraph and to take all such steps as shall from time to time be necessary to ensure compliance by those people with these provisions.
- 6.5. No matter how this contract ends, this paragraph shall be effective for [ten] years from today.

7. Use of sub-contractors

the Contractor may perform any or all of his obligations under this agreement through agents or sub-contractors provided he:

- 7.1. first obtains the written consent of the Client to the name and identity of the sub-contractor;

OR

- 7.2. first obtains the written consent of the Client to the name of the sub-contractor and to the terms of the sub-contract agreement;

- 7.3. remains liable for the performance of this contract;

- 7.4. indemnifies the Client fully against any loss or damage suffered by the Client arising from any act or omission of any agent or sub-contractor.

OR

- 7.5. [This contract / the Project] shall be performed entirely by [name] personally.

OR

- 7.6. So far as work under this contract is sub-contracted to others, it shall be supervised personally by [name].

OR

- 7.7. A shall not sub-contract any part of its obligations under this contract to a third party.

8. Disclaimers and limitation of liability

- 8.1. This paragraph applies so far as the applicable law allows.
- 8.2. All implied conditions, warranties and terms are excluded from this agreement.
- 8.3. The following provisions set out the Contractor's entire liability (including any liability for the acts and omissions of its employees) to the Client in respect of:
- 8.3.1 any breach of its contractual obligations arising under this agreement; and
 - 8.3.2 any representation statement or tortious act or omission including negligence arising under or in connection with this agreement
- 8.4. Any act or omission on the part of the Contractor, falling within this paragraph shall be known as a 'Default'.
- 8.5. The Contractor's entire liability in respect of any Default shall be limited to damages of an amount equal to the total Price paid by the Client for this Project.

OR

- 8.6. The Contractor's entire liability in respect of any Default shall be limited to the sum of £100,000.)
- 8.7. The Contractor shall not be liable to the Client in respect of any Default, for loss of profits goodwill or any type of special indirect or consequential loss (including loss or damage suffered by the Client as a result of an action brought by a third party) even if such loss was reasonably foreseeable or the Contractor had been advised of the possibility of the Client incurring it.
- 8.8. If several Defaults give rise to substantially the same loss then they shall be regarded as giving rise to only one claim under this agreement.

- 8.9. The Client agrees to give the Contractor not less than 28 days in which to remedy any Default.
- 8.10. The Contractor shall have no liability to the Client in respect of any Default unless the Client has served notice of it on the Contractor within one year of the date he became aware of the circumstances giving rise to the Default or the date when he ought reasonably to have become aware of it.
- 8.11. Nothing in this paragraph shall confer any right or remedy upon the Client to which he would not otherwise be legally entitled.
- 8.12. The Contractor shall not be liable to the Client for loss arising from or in connection with any representations agreements statements or undertakings made prior to the date of this agreement.
- 8.13. This paragraph (and any other paragraph which excludes or restricts the liability of the Contractor) applies to the Contractor's employees and subcontractors, (who may enforce this clause under the Contracts (Rights of Third Parties) Act 1999, as well as to the Contractor himself.
- 8.14. Nothing in this agreement shall limit or exclude the Contractor's liability for death or personal injury caused by its negligence.

9. Duration and termination

This agreement shall continue until terminated:

- 9.1. by one party giving 28 days' notice of termination to the other; or
- 9.2. immediately by the Contractor if the Client fails to pay any sum due within 28 days of the date of submission of an invoice having been notified of non-payment by the Contractor; or
- 9.3. immediately by either party if the other commits any material breach of any term of this agreement and which in the case of a breach capable of being remedied is not remedied within 30 days of a written request to remedy it; or
- 9.4. immediately by either party if a trustee receiver administrative receiver or similar officer is appointed in respect of all or any part of the business or assets of the other party or if a petition is presented or a meeting is convened for the purpose of considering a resolution (or other steps are taken) for the winding up of the other party or for the

making of an administration or bankruptcy order (otherwise than for the purpose of an amalgamation or reconstruction); or

- 9.5. Without regard to the reason why this agreement ends, the Client will pay the Contractor for all work done to the time the notice of termination is received by the Contractor, calculated to the nearest one hour.

10. Assignment

- 10.1. Neither party may assign, delegate, sub-contract, mortgage, charge or otherwise transfer any or all of its rights and obligations under this agreement without the prior written consent of the other party, except that:
- 10.2. a party may assign and transfer all its rights and obligations under this agreement to any person to which it transfers all of its business, provided that the assignee undertakes in writing to the other party to be bound by the obligations of the assignor under this agreement.
- 10.3. The benefit and obligations of this agreement shall be binding on any successor in title.

11. Uncontrollable events

Neither party shall be liable for any failure or delay in performance of this agreement which is caused by circumstances beyond its reasonable control, [including any labour dispute between a party and its employees].

OR

If this agreement cannot be performed or its obligations fulfilled for any reason beyond either party's reasonable control for a continuous period of [three] months then either party may, at its discretion, terminate this agreement by notice in writing at the end of this period.

OR

- 11.1. If any uncontrollable event delays or prevents the performance of the obligations of either party for a continuous period of more than [one month], the other party may give notice to terminate this agreement. The notice must specify a date at least [7] days ahead, when the termination will take effect.

- 11.2. The contractor remains liable for any delay or failure by a Sub-contractor or supplier of his, no matter what the reason, unless the delay or failure is also beyond the reasonable control of the contractor.
- 11.3. A termination notice is irrevocable unless both parties agree to re-instate this agreement.
- 11.4. If the agreement is terminated, the termination provisions [apply / do not apply].
- 11.5. If the agreement is terminated, all money due from one party to the other becomes due immediately [. . .and other arrangements];
- 11.6. Costs arising from the delay or stoppage will be borne by the party incurring those costs;
- 11.7. Regardless of the reason for stoppage or delay, if it continues for more than [30] days, [either party] may terminate this agreement with immediate effect on giving written notice to the other.
- 11.8. The party claiming the Uncontrollable Event will take all necessary steps to perform this agreement despite the Uncontrollable Event.
- 11.9. So long as the Uncontrollable Event continues the Customer may contract with others for the supply of any items and/or services which the contractor fails to supply in accordance with the terms of this agreement.

12. Miscellaneous matters

- 12.1. No amendment or variation to this agreement is valid unless in writing, signed by each of the parties or his authorised representative.
- 12.2. So far as any time, date or period is mentioned in this agreement, or in the terms of any assignment, time shall be of the essence.
- 12.3. If any term or provision of this agreement is at any time held by any jurisdiction to be void, invalid or unenforceable, then it shall be treated as changed or reduced, only to the extent minimally necessary to bring it within the laws of that jurisdiction and to prevent it from being void and it shall be binding in that changed or reduced form. Subject to that, each provision shall be interpreted as severable and shall not in any way affect any other of these terms.

- 12.4. The rights and obligations of the parties set out in this agreement shall pass to any permitted successor in title.
- 12.5. Any obligation in this agreement intended to continue to have effect after termination or completion shall so continue.
- 12.6. No failure or delay by any party to exercise any right, power or remedy will operate as a waiver of it nor indicate any intention to reduce that or any other right in the future.
- 12.7. For the purposes of the Data Protection Act 1998 each party consents to the processing of his personal data (in manual, electronic or any other form) relevant to this agreement, by the other [\[and/or any agent or third party nominated by that other\]](#) [\[and bound by a duty of confidentiality\]](#). Processing includes but is not limited to obtaining, recording, using and holding data and includes the transfer of data to any country either inside or outside the EEA.
- 12.8. Any communication to be served on either of the Parties by the other shall be delivered by hand or sent by first class post or recorded delivery or by fax or by e-mail.

It shall be deemed to have been delivered:

if delivered by hand: on the day of delivery;

if sent by post to the correct address: within 72 hours of posting;

If sent by fax to the correct number: within 24 hours;

If sent by e-mail to the address from which the receiving party has last sent e-mail: within 24 hours if no notice of non-receipt has been received by the sender. [\[Take care before agreeing to accept service by e-mail. It may be convenient, but you could miss or accidentally delete the message\]](#)

- 12.9. In the event of a dispute between the parties to this agreement, then they undertake to attempt to settle the dispute by engaging in good faith with the other in a process of mediation before commencing arbitration or litigation.
- 12.10. This agreement does not give any right to any third party under the Contracts (Rights of Third Parties) Act 1999 or otherwise, except that any provision in this agreement which excludes or restricts the liability of any person, may be enforced under that act.
- 12.11. In the event of any conflict between any term of this agreement and the provisions of the articles of a limited company or any comparable

document intended to regulate any other corporate or collective body, then the terms of this agreement shall prevail.

12.12. The validity, construction and performance of this agreement shall be governed by the laws of [England and Wales / Scotland / Northern Ireland] and you agree that any dispute arising from it shall be litigated only in [England and Wales / Scotland / Northern Ireland].

Signed by [name]

On behalf of [Client name]:

Signed by the Contractor:

Explanatory Notes:

Building contract: small works

General notes

1. Umbrella

This is an “umbrella” contract. It can be used as the basis for any number of specific project/assignments/contracts. We remind you to make sure each of them is signed and dated.

2. What you should delete

You will need to tailor this document to suit your business. In places, we give you many options. That is because we don't know exactly how your business works, so we provide for common alternatives.

In general, a good rule to follow for commercial provisions you shouldn't delete a provision if you do not understand the reason for inclusion. For legal provisions the similar rule is that you shouldn't delete the provision unless you understand the legal meaning and the reason for inclusion. In summary, if in doubt, leave it in. The document is well considered and has been drawn by expert draftsmen. Nothing is included here without good reason.

3. HMR&C Construction Industry Scheme

It is important that you are aware of possible pitfalls arising from incorrect application of the CIS rules. The rules do not greatly affect your contract, so the reference to them is very slight. But they are important and we recommend a read starting at www.hmrc.gov.uk/employment-status/index.htm

4. Doorstep Selling

This is not a full explanation of the law on "doorstep" selling. We include it here to help you decide whether it applies to you, and to help you to place a notice in your contract document.

Doorstep selling is regulated by The Cancellation of Contracts made in a Consumer's Home or Place of Work etc Regulations 2008 ('the Regulations').

The Regulations apply to a wide range of contracts made between traders and service providers in almost any business and his customer or client. The law was created to help protect home owners from rogue builders and aggressive door-to-door salesmen, but applies much more widely to any

business that completes a contract at a place other than the premises of that business.

Very simply, the Regulations give to the customer a right to cancel the contract within seven days. The trader must give the customer written notice of this right, setting out various prescribed information. Failure to do so is a criminal offence.

How the Regulations apply

The Regulations apply to a contract:

- between a consumer and a trader;
- which is for the supply of goods or services to the consumer;
- made during a visit by the trader to the consumer's home or place of work (or to someone else's house); or
- made during or after an excursion organised by the trader away from his business premises.

A 'consumer' is defined in regulation 2(1) as 'a natural person who in making a contract to which these Regulations apply is acting for purposes which can be regarded as outside his trade or profession'.

We give examples of the types of business covered by the Regulations at [Doorstep Selling Law: Does It Apply To My Business?](#)

Exemptions from the Regulations

Exemptions are listed in [Schedule 3 of the Regulations](#). Mostly they relate to activities which are regulated by other law. An example is financial services.

Note however, that the Regulations cover a vast number of agreements. Even a simple agreement, verbal or in writing, to work at or around someone's house on a small job is not exempt - you will need to provide the same information and your customer has the same rights.

Providing a notice

You must give the customer a written notice of his right to cancel the contract. That notice must be given when the contract is made. The notice must:

- be dated;
- tell the customer he may cancel the contract within seven days;
- be easily legible;

There are strict provisions about what must be in the notice and how it should be given. You can find further information on what you must include at [Doorstep selling: how to comply with the law](#).

If you use a written contract, like a Net Lawman template, **the notice must be incorporated in the same document**. The notice must:

- be set out in a separate box with the heading A Notice of the Right to Cancel; and
- have as much prominence as any other information in the contract or document apart from the heading and the names of the parties to the contract and any information inserted in handwriting.

We suggest that you add the notice as the final page of the Net Lawman document. You should not edit it in any way.

Follow it by the A tear-off slip which enables your customer to reply.

If you have any concerns or questions about these regulations, you can e-mail us at support@netlawman.co.uk.

Paragraph Specific Notes:

Comments specific to the numbered paragraphs

1 **Definitions**

We have no comment.

5. **Interpretation**

Leave these items in place unless there is a good reason to edit or remove. Each of these items has been carefully considered in the context of this agreement and has been included for a purpose. Many of them strengthen the framework within which the agreement operates.

6. **Client warranties**

You need to be safe and sure. You may think of other requirements you need in your particular Assignments. Remember that if you might need in future, put them in here because this agreement covers future Assignments.

7. **Assignments**

A full description of each assignment should be provided in a schedule (a separate document that is attached) to this document. This description of the work must be thorough.

This document allows for further assignments to be undertaken. It is important that each assignment refers to this contract by reference to its date, as for example:

The work described and agreed in this document will be done under the terms of our agreement dated [date of this contract]."

The second half of this clause relates to work undertaken by other people such as your employees or subcontractors. Even if work on an assignment will be done by you personally, these paragraphs should be left in full as the use of other people may be an important marker in the "qualification" as self employment for tax purposes.

8. **Contractor's fees and expenses**

This paragraph is something of a menu. Decide what are your terms and select or edit to fit what you want. The terms are flexible and should be completed with the specific terms agreed. This might be a daily rate, or a price per assignment, or a combination of both.

9. **Confidentiality**

A useful provision for both sides neither side wants his life to be revealed on a social network.

10. **Use of sub-contractors**

This important issue should be covered carefully. You may fully intend to do the work personally but what happens if you are sick or a better project appears. The more flexibility you can obtain, the safer you are.

11. **Disclaimers and limitation of liability**

The law is complicated and much depends on the facts of each case. Our best advice to you is to include these disclaimers so far as they apply to your business, but do not expect that you can conduct your business with disregard to the law. If you are dealing as an expert with consumers who are not, you cannot avoid the law treating you as an expert.

You will see that we have also included in the provision for your employees and others to have the same protection. One way to get around disclaimer provisions is to claim not against the company with whom the claimant has a contract but against the directors or others in negligence. We will not let that happen to you.

As drawn, you have very little liability. The extent to which you are able to avoid liability in practice will depend on the circumstances and the negotiating strength of the parties. A provision like this may be appropriate for a small contractor who simply could not meet a substantial claim in any event, or for an experimental project where the risk should reasonably be carried by the client.

12. **Duration and termination**

We have no comment.

13. **Assignment**

Give careful thought to this. Consider the circumstances on both sides which may require an assignment. You should not make rules and regret them later, but equally, you may not be happy to see the other side passing on either right or obligations under this contract.

14. **Uncontrollable events**

Often referred to as “force majeure” We advise that you should look at this list carefully and delete those which you do not need.

15. **Miscellaneous matters**

A number of special points we have identified each of these as important to protect you. Some are relevant to particular paragraphs in the document, some apply more generally. Some are included to strengthen your position generally. Do not delete unless you are quite positive of the legal effect of doing so.

End of notes