

EMPLOYMENT AND SERVICE CONTRACTS

We are often asked by clients for wording for contracts of employment or self employment (service).

Contracts are, strictly, a legal matter, and if there is any doubt a solicitor should be engaged.

However we do have some simple templates available, and these are appended. You are welcome to edit them and use them for your own purposes, but please bear in mind these are supplied ex-gratia on our part and without liability.

You may also want to look at our guidance on Employment Status and on the Construction industry scheme – see www.garbetts.com/employment and www.garbetts.com/cis respectively.

We've appended three different contracts:

1. Self employed contract type one, best suited to manual or labour only type services.
2. Self employed contract type two, best suited to consulting work.
3. Particulars of employment

With respect to 1 and 2 these can be used for contracts with individuals, partnerships or sole traders. They can be changed, but take care not to remove the self employment positive status indicators such as the substitution clause, etc. See "*A quick guide to status and CIS*" referred to above for more detail.

With respect to 3 information on the minimum contents of a statement of particulars of employment is available at:

http://www.dti.gov.uk/er/individual/statement-pl700_a.htm

Further information on employment law is available from:

<http://www.dti.gov.uk/er/>

PRG
10/04

**GARBETTS
MODEL CONTRACT TYPE 1**

This is a model self employed contract. It can be altered if necessary, but we would recommend you stick to its contents as closely as possible; if you make changes it would probably be sensible to let us review them. The specimen is provided on the strict understanding that we are not employment or contractual law experts - you must seek advice from an expert in such matters if you have any concerns or queries about your rights or obligations. It is recommended that this contract be renewed every three months or each new engagement if more frequent. **Highlighted parts will need changing**

- 1) The parties to this contract are **CONTRACTOR NAME of BUSINESS ADDRESS** (hereinafter the Contractor), and **NAME of ADDRESS [NAME could also read NAME PARTNERSHIP or NAME LIMITED]** (hereinafter the Sub Contractor).
- 2) The Subcontractor will provide **[type of services]**.
- 3) As this is a self employed contract, the Subcontractor is not entitled to sick pay, holiday pay or any form of employment protection other than work place Health and Safety.
- 4) The Subcontractor will be entitled to send a substitute or delegate at his absolute discretion to undertake the services to be provided, although the Subcontractor will be responsible for paying the substitute or delegate, and for the quality of their work. In the event of the Subcontractor being unable to carry out contracted work, and where requested by the Contractor, the Subcontractor is obliged to supply a substitute.
- 5) The Subcontractor is entitled to hire assistance at his own expense. The Subcontractor will be responsible for the cost of such assistance and the quality of the assistants work.
- 6) The Contractor will not control, nor have any right to control, in any detailed manner, how the Subcontractor is to fulfil his obligations, and the Subcontractor will use his own initiative to complete the services to be rendered. This does not prevent the Contractor from specifying the working standards to be adhered to.
- 7) The Contractor will not set hours to be worked by the Subcontractor. Performance will be reviewed periodically. The Subcontractor can choose how and when to complete the services to be rendered so long as performance is satisfactory.
- 8) The Subcontractor will be paid on a basis to be agreed between the parties and reviewed from time to time.
- 9) The Subcontractor will be able to benefit from his own efforts and sound management.
- 10) For the purposes of clarity both the Contractor and the Subcontractor consider and intend this business relationship to be one of self employment and not one of master and servant. Specifically both parties acknowledge that the Contract for Services does not give rise to a contract of employment. Both parties consider the Subcontractor to be in business on his own account.

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- 11) The Subcontractor is responsible for his own tax and National Insurance.
- 12) The Subcontractor is responsible for maintaining public liability insurance.
- 13) The Subcontractor is responsible for providing his own overalls, protective clothing, hand tools and consumables.
- 14) The Subcontractor will be responsible for correcting any defective work at his own cost.
- 15) Both parties acknowledge that the Contract for Services can be terminated at any time without notice and will be periodically reviewed in any event. The Subcontractor is not under an ongoing obligation to provide services and the Contractor is not under an ongoing obligation to contract for such services.
- 16) There is no restriction on the Subcontractor working for third parties whilst this contract is in force, subject to the contract services being completed on time and to the satisfaction of the Contractor.
- 17) If the services are of a construction nature, it is intended that each CIS voucher represents a new contract.

Agreed by _____ (Sub Contractor)

Agreed by _____ (Contractor)

**GARBETTS
MODEL CONTRACT TYPE 2**

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CONTRACT BETWEEN

CONTRACTOR (CL)

AND

CLIENT LIMITED (CLIENT)

FOR **XXXXXXXXXX SERVICES**

1. CL is engaged to act as a **Associate Marketing Consultant** for CLIENT.
2. There are no set hours for the role, but it envisaged to be **around 50 hours per** month. CL agrees that this capacity will normally be available.
3. CL will conduct most work from home, but will attend CLIENT offices as necessary for briefing and other meetings.
4. CLIENT will pay CL:
 - a. **£18.50 (+vat if applicable) for each hour worked, based on a monthly invoice up to 22nd of each month**
 - b. **Mileage on field visits at 25p pm, again on monthly invoice**
 - c. **Telephone calls as incurred at cost, on quarterly invoice**
 - d. **Other expenses as may be agreed, again on monthly invoice**
5. CL will hold all information about CLIENTs business and clients, including client lists, prospective client lists, marketing material and competitor information confidentially and, on termination of this agreement will return the same to CLIENT and confirm destruction of any soft or hard copies
6. Personal of CL will identify themselves as **"Associate Marketing Consultant"** in all external communications, but will not hold herself out as an employee of CLIENT.

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7. Both parties recognise that CL is running an independent business, and this is a business to business relationship. To that end:
- a. CLIENT will not be obliged to provide work to CL, and CL will not be obliged to accept work
 - b. CL is free to take on other work and assignments other than for **direct competitors of CLIENT**
 - c. CL is free assign the work on this contract to any of its staff members and for them to substitute, delegate or sub contract as necessary
 - d. CL is free to run its businesses how it wishes
8. The precise duties of the role will be agreed between CL and CLIENT from time to time
9. This agreement can be terminated by either party without notice

Agreed

_____ for CONTRACTOR

_____ for CLIENT

[Red handwritten signature]

GARBETTS STATEMENT OF PARTICULARS OF EMPLOYMENT

This is a model statement of particulars for employment. It can be altered if necessary, but we would recommend you stick to its contents as closely as possible; if you make changes it would probably be sensible to let us review them. The specimen is provided on the strict understanding that we are not employment or contractual law experts - you must seek advice from an expert in such matters if you have any concerns or queries about your rights or obligations. **Highlighted parts will need changing.** **Blue parts are comments.**

1. Position: **xxxxx** based at **xxxxxxx [location]**
2. Commencement date: **xxxxxx (trial period if any).**

The post is **permanent/temporary to xxxxx**
3. Notice period: **First three months, no notice either way, then 1 month either way.**
4. Working hours: **9am to 5pm, Monday to Friday, 1/2 hour for lunch. I.E 37 ½ hour week.**
5. Salary: **£xxxx based on 37 ½ hours per week. Paid [monthly in arrears/weekly] on last working day by [BACS/cheque/cash]. Annual reviews based on salary year of commencing xx of xxxx annually.**
6. Overtime: **by agreement at [normal hourly rate/time and a half]. Overtime is paid [monthly in arrears/two months in arrears/weekly in arrears/weekly in two weeks arrears] [However the nature of a salaried full time role is that a common sense approach to extra hours at busy times of year is expected, and overtime should only be claimed for significant spells of out of hours work] .**
7. Travel expenses: any travelling, other than normal home to office, reimbursed at cost. Inland Revenue Authorised Mileage rates for use of own car on business.
8. Holiday pay: **4 weeks per annum pro rata over the holiday year which runs 1 January to 31 December. We have no objection to carrying forward a reasonable amount of holiday time, subject to advance agreement. Holiday increases at the rate of 1 day pro rata for each full year of employment, to a maximum of 25 days pro rata. [Seasonal type roles - Holiday time in the summer months - 1 June to 31 August - may be restricted].**

Statutory holidays plus the days between Christmas and New Year are also given as paid leave.

NB law is that 4 weeks paid leave + paid bank holidays be given as a minimum
9. Sick pay: **up to two weeks at full pay (measured on a rolling twelve months), then statutory sick pay. Maternity/paternity pay: statutory maternity/paternity pay only. If you are off work sick then you must contact xxxx by xxxx. SSP is obligatory, but anything over that is voluntary, you could just say "Sickpay: SSP only"**
10. Bonus scheme: **if any**

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STATEMENT OF PARTICULARS OF EMPLOYMENT

11. Pension: the company has a Stakeholder scheme available with xxxx. Please speak to xxxxxx if you wish to make a contribution to this. Currently the company does not make any contribution for you nor match any contributions. **Obligatory to have a stakeholder scheme where more than 5 employees**

12. Training and development: A programme of suitable training and development will be available, both hands on and in association with xxxxx to gain xxxx etc.

13. Private medical cover: you will be eligible for this benefit after a three month qualifying period.; there is no cost to you but it does count as a benefit in kind. Family members can also be added to the policy for a small monthly premium. **Not obligatory of course**

14. Duties and role:

The principle duties will encompass:

?? xxxxxxxxxx
?? xxxxxxxxxx
?? xxxxxxxxxx

15. Confidentiality: It is stressed that confidentiality is of paramount importance in this role. You will be handling sensitive client information and as such must use your utmost discretion to ensure client confidentiality is maintained at all times.

16. Reporting: You will be reporting to xxxxxxxxxxxx on a daily basis.

17. Grievance procedure – we subscribe to the Department of Trade and Industry 3 step process:

Step 1 – Put it in writing - In the case of dismissal or disciplinary action being considered, we will put in writing why that action is being considered. Similarly, if you have a grievance, you must put the reasons for your grievance in writing to [company].

Step 2 – Meet and discuss - In either case, after allowing time to consider the issues raised, we both must meet to discuss the issues. After that meeting we inform you of their decision and of your right of appeal (you must appeal to complete the process).

Step 3 – Appeal – if required - We must meet to discuss the issues. Following that meeting we will inform you of our decision.

[You have the right to choose to be accompanied by either a work colleague or trade official to both meetings].

You can obtain guidance from www.dti.gov.uk/resolvingdisputes and further advice from Acas on 08457 47 47 47 and your local Citizens Advice Bureau.

**GARBETTS
STATEMENT OF PARTICULARS OF EMPLOYMENT**

Could you please countersign one copy of this letter and return it to **xxxxxxxxxxxx**.

Yours sincerely

Employer

_____ Contents noted - **employee**

UNRECORDED