

## INDEPENDENT CONTRACTOR AGREEMENT

### THIS INDEPENDENT CONTRACTOR AGREEMENT (the "Agreement")

As at 21<sup>st</sup> December 2015.

#### BETWEEN:

Liansa Pty Ltd of Factory 13/25 Baldhill Road, Pakenham, Victoria 3810  
(the "Client")

- AND -

“The Contractor”

#### BACKGROUND:

- A. The Client is of the opinion that the Contractor has the necessary qualifications, experience and abilities to provide services to the Client.
- B. The Contractor is agreeable to providing such services to the Client on the terms and conditions set out in this Agreement.

**IN CONSIDERATION OF** the matters described above and of the mutual benefits and obligations set forth in this Agreement, the receipt and sufficiency of which consideration is hereby acknowledged, the Client and the Contractor (individually the "Party" and collectively the "Parties" to this Agreement) agree as follows:

#### **Services Provided**

1. The Client hereby agrees to engage the Contractor to provide the Client with the following services (the "Services"):
  - Install fence(s) and/or gate(s)
  - Install decking
  - Install Pool Fencing
  - Install retaining walls
2. The Services will also include any other tasks which the Parties may agree on. The Contractor hereby agrees to provide such Services to the Client.

3. The Client will provide the Services offer “job offer(ed)” via a link from our offer system (“Evernote Link”).

### **Term of Agreement**

4. The term of this Agreement (the "Term") will commence when the Contractor starts the job offered and will remain in full force and effect until the completion of the Services, subject to earlier termination as provided in this Agreement. The Term of this Agreement may be extended with the written consent of the Parties.
5. In the event that either Party wishes to terminate this Agreement prior to the completion of the Services, that Party will be required to provide three days' written notice to the other Party.

### **Performance**

6. The Parties agree to do everything necessary to ensure that the terms of this Agreement take effect.

### **Currency**

7. Except as otherwise provided in this Agreement, all monetary amounts referred to in this Agreement are in AUD (Australian Dollars).

### **Payment**

8. The Contractor will charge the Client for the Services as follows (the "Payment"):
  - Rate per meter as applicable
    - Demolition of old fence \$4.50
    - 1.95 high timber paling fence - no capping \$12.76
    - 1.95 high timber paling fence - capped \$13.76
    - 1.95 high timber paling fence – with exposed posts and capping \$14.76
    - Colorbond fence \$15.23
    - Single Gate \$80.00 (each, not per meter)
    - Double Gate \$120.00 (each, not per meter)
9. Invoices submitted by the Contractor to the Client are due within seven days of receipt, except if clauses 14, 15, 16, 17 are in force (either individually or jointly)

10. In the event that this Agreement is terminated by the Client prior to completion of the Services but where the Services have been partially performed, the Contractor will be entitled to pro rata payment of the Payment to the date of termination provided that there has been no breach of contract on the part of the Contractor.

### **Workmanship Warranty**

11. As an Independent Contractor under this contract the Contractor is required to warrant the workmanship for a period of 120 days from the invoice date (invoice specific to each Job offer)
12. Your warranty includes labour and materials to “make good” any defect relation to the Job offered
13. Your warranty does not include defects in materials not caused by your workmanship. (e.g. if a post breaks due to high wind, this isn’t covered by your warranty unless during construction you have cut the post deeper than industry standard.)
14. Workmanship Warranty claims must be addressed within 24 hours (Urgent or dangerous) 7 days (non – urgent)
15. Should the Contractor fail to honour his workmanship warranty within this time frame, the Contractor will be in breach of this contract. The client at their discretion will “make good” the warranty by their own staff or use of an unrelated 2<sup>nd</sup> party.
16. The cost to “make good” will be deducted from the Contractors next invoice(s).
17. To “make good” the client will charge their staff out at \$75 per man hour and materials at cost + 15%, with a site fee of \$75 to cover travel time.
18. If an unrelated 2<sup>nd</sup> party is used the charge will be calculated from what they invoice the client plus 10%

### **Reimbursement of Expenses**

19. The Contractor is required to provide nails, screws, small wares and loose tools to complete the Job offer. These are at the Contractors expense and the client will not be required to reimburse the contractor for these.

20. The Contractor will be reimbursed from time to time for reasonable and necessary additional expenses incurred by the Contractor in connection with providing the Services. The Contractor will only be reimbursed for expenses submitted according to the following guidelines:
- Additional work or materials requires verbal permission for our office.

### **Confidentiality**

21. Confidential information (the "Confidential Information") refers to any data or information relating to the Client, whether business or personal, which would reasonably be considered to be private or proprietary to the Client and that is not generally known and where the release of that Confidential Information could reasonably be expected to cause harm to the Client.
22. The Contractor agrees that they will not disclose, divulge, reveal, report or use, for any purpose, any confidential information which the Contractor has obtained, except as authorised by the Client or as required by law. The obligations of confidentiality will apply during the term of this Agreement and will survive indefinitely upon termination of this Agreement.

### **Ownership of Intellectual Property**

23. All intellectual property and related material, including any trade secrets, moral rights, goodwill, relevant registrations or applications for registration, and rights in any patent, copyright, trademark, trade dress, industrial design and trade name (the "Intellectual Property") that is developed or produced under this Agreement, will be the sole property of the Client. The use of the Intellectual Property by the Client will not be restricted in any manner.
24. The Contractor may not use the Intellectual Property for any purpose other than that contracted for in this Agreement except with the written consent of the Client. The Contractor will be responsible for any and all damages resulting from the unauthorised use of the Intellectual Property.

### **Return of Property**

25. Upon the expiry or termination of this Agreement, the Contractor will return to the Client any property, documentation, records, or Confidential Information which is the property of the Client.

### **Capacity/Independent Contractor**

26. In providing the Services under this Agreement it is expressly agreed that the Contractor is acting as an independent contractor and not as an employee. The Contractor and the Client acknowledge that this Agreement does not create a partnership or joint venture between them, and is exclusively a contract for service.

**Notice**

27. All notices, requests, demands or other communications required or permitted by the terms of this Agreement will be given in writing and delivered to the Parties at the following addresses:

- a. Liansa Pty Ltd  
Factory 13/25 Baldhill Road, Pakenham, Victoria 3810
  
- b. “The Contractor” via the offer system (Evernote Link).

or to such other address as either Party may from time to time notify the other.

**Australian Business Number (ABN)**

28. Our Australian Business Numbers (ABN's) for this Agreement is:

- a. Liansa Pty Ltd: 42 495 343 887

**Australian Company Number (ACN)**

29. Our Australian Company Numbers (ACN's) for this Agreement is:

- a. Liansa Pty Ltd: 128 344 605

**Indemnification**

30. Except to the extent paid in settlement from any applicable insurance policies, and to the extent permitted by applicable law, each Party agrees to indemnify and hold harmless the other Party, and its respective affiliates, officers, agents, employees, and permitted successors and assigns against any and all claims, losses, damages, liabilities, penalties, punitive damages, expenses, reasonable legal fees and costs of any kind or amount whatsoever, which result from or arise out of any act or omission of the indemnifying party, its respective affiliates, officers, agents, employees, and

permitted successors and assigns that occurs in connection with this Agreement. This indemnification will survive the termination of this Agreement.

### **Additional Clause**

31. The Client will provide Job offers from time to time via our offer system (Evernote Link). Each Job offer will be sent with a CVP reference number and all invoices need to quote this number. It will be deemed that you accept our terms and condition's by commencing any Job offered to you. After twenty-four hours if the Job hasn't been commenced the offer will lapse. Lapsed offers may be reoffered by agreement between both parties.

### **Modification of Agreement**

32. Any amendment or modification of this Agreement or additional obligation assumed by either Party in connection with this Agreement will only be binding if evidenced in writing signed by each Party or an authorised representative of each Party.

### **Time of the Essence**

33. Time is of the essence in this Agreement. No extension or variation of this Agreement will operate as a waiver of this provision.

### **Assignment**

34. The Contractor at his discretion may assign or transfer the Job offer to another Contractor "outside contractor" or employee under his direction. The Contractor will ensure that his employees or the outside contractor will abide by this agreement. Notwithstanding this, the Contractor will solely be responsible for the completion of the Job offer. Prior written consent of the Client is not required to assign the job offer. Despite any assignment, all warranty claims will remain the Contractors responsibility to remedy in a timely manner.

### **Entire Agreement**

35. It is agreed that there is no representation, warranty, collateral agreement or condition affecting this Agreement except as expressly provided in this Agreement.

### **Enurement**

36. This Agreement will enure to the benefit of and be binding on the Parties and their respective heirs, executors, administrators and permitted successors and assigns.

**Titles/Headings/Spelling/Gramma**

37. Headings are inserted for the convenience of the Parties only and are not to be considered when interpreting this Agreement.

38. Spelling mistakes or poor gramma are not to be considered when interpreting this agreement.

**Gender**

39. Words in the singular mean and include the plural and vice versa. Words in the masculine mean and include the feminine and vice versa.

**Governing Law**

40. This Agreement will be governed by and construed in accordance with the laws of the State of Victoria.

**Severability**

41. In the event that any of the provisions of this Agreement are held to be invalid or unenforceable in whole or in part, all other provisions will nevertheless continue to be valid and enforceable with the invalid or unenforceable parts severed from the remainder of this Agreement.

**Waiver**

42. The waiver by either Party of a breach, default, delay or omission of any of the provisions of this Agreement by the other Party will not be construed as a waiver of any subsequent breach of the same or other provisions.

**Deemed Accepted**

43. If the Contractor starts the Job offer (or his assignee) the client will deem that the Contractor agrees to these terms and conditions.