

CONTRACTOR AGREEMENT

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Dear

Your appointment as a contractor of Kellie Appel; The Master Painters' Association of Victoria Ltd

I confirm our agreement that you have been appointed as an independent contractor of Kellie Appel; The Master Painters' Association of Victoria Ltd (**Company**). I confirm the terms and conditions of the appointment as follows:

1. Purpose of this agreement

- (a) The Company wishes to engage an independent contractor to provide services to the Company.
- (b) You possess the necessary expertise to provide services.
- (c) The Company wishes to appoint you, and you are willing to accept such appointment, as contractor for the Company on the terms and conditions set out in this agreement.

2. Engagement

The Company engages you to provide the Services described in Schedule 1 (**Services**) subject to the terms and conditions in this agreement.

3. Duration

This agreement will commence on and will continue until terminated in accordance with this agreement (**Term**).

4. Provision of services by the contractor

4.1. Services

- (a) You will provide the Services to the Company in the manner set out in Schedule 1.
- (b) If the Company requests in writing, you may provide services in addition to the Services. You may make an additional charge for providing such additional services.

4.2. Must perform Services personally

Unless agreed in writing by the Company, the Services must be performed by

you personally.

4.3. Equipment

Where you provide or use your own equipment, the equipment must be suitable for the work and must be maintained by you in good working condition.

4.4. Supervisor and reporting

You will report to and perform the Services at the direction of Jodie Rebbechi or such other person as notified by the Company.

5. Fees

5.1. Fees

The Company must pay the fees to you as set out in Schedule 1 (**Fees**).

5.2. GST and invoicing

- (a) For the purposes of this clause, **GST** means a goods and services tax, or a similar value added tax, levied or imposed under the GST Law, where **GST Law** means the same as in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).
- (b) The Fees are exclusive of any GST. Where GST is payable on a supply made by you under this agreement, you may charge the Company an additional amount equal to the GST payable on that supply.
- (c) You must provide the Company with a tax invoice in accordance with the GST Law. The invoice must include the following details before payment can be approved and forwarded:
 - (i) date(s) of performance of the Services;
 - (ii) description of Services provided;
 - (iii) time allocated per task; and
 - (iv) your ABN.

5.3. Payment

The Company must pay the Fees and any GST amount within of receipt of a valid tax invoice from you.

5.4. Variation of Fees

The Fees may be varied by agreement in writing between the Company and you.

6. Use of the Company's facilities

- (a) You may, for the purpose of performing the Services, use the facilities of the Company, as listed in Schedule 1, which may be provided or arranged by the Company.
- (b) Your use of any of the Company's property is at your own risk, except to the extent that any damage is caused by the Company's act, omission or negligence.

7. Your obligations

7.1. Performance of Services

- (a) You must perform the Services in a diligent and professional manner according to any standards that normally apply to the provision of such services. If you breach this obligation, you must resupply the Services at no cost to the Company.
- (b) You must act in good faith in all dealings with the Company and must not do anything that may be harmful to the reputation or interests of the Company.
- (c) You must liaise with and report to the Company with respect to all aspects of the Services.

7.2. Insurances

You must take out all insurances required to be effected by law including the insurances listed in Schedule 1. The insurances must be taken out for the minimum amount set out in Schedule 1. Each policy must be maintained during the Term. If requested by the Company, you must provide the Company with a certificate of currency.

7.3. Expenses

You must provide the Services at your own cost and, unless specified in Schedule 1, will not be reimbursed for any out of pocket expenses.

7.4. Compliance with laws

- (a) You must comply at your own cost and expense with all Acts, ordinances, rules, regulations, other delegated legislation, codes and the requirements of any Commonwealth, state and local government departments, bodies, and public authorities or other authority so far as these same may affect or apply to you or to the Services.
- (b) You indemnify the Company from and against all actions, costs, charges, claims and demands in respect of any breach of part (a) of this clause.

7.5. Warranties

- (a) You warrant that you have no authority to engage the services of any person as an employee or agent of the Company.
- (b) Except with the prior written approval of the Company, you will not bind the Company to any contract, or create any liability against the Company in any way or for any purpose.

7.6. Survival of obligations

The obligations under clause 7 survive termination or expiry of this agreement.

8. Relationship between parties

The relationship between the Company and you is that of a principal and an independent contractor. Nothing in this agreement constitutes the relationship of partnership or employer and employee between the Company and you.

9. Conflict of interest

- (a) You warrant that
 - (i) you are not under any obligation or restriction which would in any way interfere with or conflict with you providing the Services under this agreement.
 - (ii) you will not assume any such obligation or restriction.
- (b) You may engage in any other work and assignments during the Term provided that such other work or assignments do not involve a conflict with your duties and responsibilities to the Company and do not bring the Company into disrepute.
- (c) You must not, without the prior written agreement of the Company, provide any services to or for any direct or indirect competitor of the Company during the Term.

10. Confidentiality

10.1. Confidential Information

Confidential Information includes, but is not limited to, any information that is:

- (a) marked as confidential; or
- (b) is received or developed by you during the Term, which relates to processes, equipment and techniques used by the Company in the course of the Company's business, including but not limited to all information, data, drawings, specifications, documentation, source or object code, designs, construction, workings, functions, features and

performance notes, techniques, concepts not reduced to material form, agreements with third parties, schematics and proposals and intentions, technical data and marketing information such as customer lists, financial information and business plans,

but does not include information which:

- (c) is generally available in the public domain otherwise than as a result of a breach of this agreement by you;
- (d) was known by you prior to the Company disclosing the information to you; or
- (e) you are required by law to disclose.

10. 2. Confidentiality obligations

- (a) Unless you have previous written consent from the Company, you must:
 - (i) only use the Confidential Information for the purpose of performing the Services.
 - (ii) not use or attempt to use any Confidential Information in any manner which may prejudice the confidentiality of the Confidential Information or may injure or cause loss to the Company.
- (b) You must at all times store all Confidential Information safely and securely.
- (c) You must immediately notify the Company in writing of any actual, threatened or suspected unauthorised disclosure of any Confidential Information.
- (d) Your obligations with regard to the Confidential Information will continue for so long as this information is maintained on a confidential basis:
 - (i) by the Company, in the case of Confidential Information pertaining to the Company's business, or
 - (ii) by the Company's client, in the case of Confidential Information pertaining to the business of a Company's client.

10. 3. Indemnity and breach

- (a) You indemnify the Company against all liabilities, costs and expenses which the Company may incur as a result of any breach of this clause by you.
- (b) You acknowledge that damages may be an inadequate remedy for breach of this clause and that the Company may obtain injunctive relief against you for any breach of this clause.

10.4. Privacy

You will comply with all privacy obligations under any law or regulation.

10.5. Survival of obligations

The obligations accepted by you under this clause survive termination or expiry of this agreement.

11. Intellectual Property - Disclosure and ownership

- (a) For the purposes of this clause, **Intellectual Property** includes but is not limited to trademarks, patents, copyrights, processes know-how, registered designs or other like rights or any right to apply for registration of any of the former.
- (b) You must disclose to the Company promptly and fully all discoveries, improvements and inventions made or conceived by you (either solely or jointly with others) in the course of performing the Services which are similar to the actual or anticipated business, work or investigations of the Company or which result from or are suggested by any work performed for the Company (**Inventions**). Such Inventions, whether or not they contain Intellectual Property rights capable of protection, will be and remain the sole and exclusive property of the Company or its nominees.
- (c) You acknowledge that the Company owns all Intellectual Property created by you in connection with the Services, that now exists or that later comes into existence. You assign all your rights in such Intellectual Property to the Company. You will do all things and execute all documents necessary to secure the Company's ownership of the Intellectual Property.
- (d) You indemnify the Company fully against all liabilities, costs and expenses which the Company may incur as a result of any breach of this clause by you.
- (e) The obligations under this clause survive termination or expiry of this agreement.

12. Termination of agreement 12.1.

Termination by notice

Either party may terminate this agreement by giving written notice to the other party at least in advance.

12. 2. Termination for breach

- (a) If a party breaches any term of this agreement, the other party may give notice requiring that party to rectify the breach. If the notified party fails to rectify the breach to the satisfaction of the notifying party within days of the notice, the notifying party may terminate this agreement by notice in

writing.

- (b) The Company may terminate this agreement at any time without notice if you engage in a serious or material breach of this agreement.
- (c) The Company may terminate this agreement at any time by notice in writing to you if you:
 - (i) are guilty of any dishonesty, serious misconduct or serious neglect of duty in connection with the provision of the Services; or
 - (ii) engage in any act or omission that in the reasonable opinion of the Company has or will likely have the effect of causing material damage to the Company.

12. 3. Termination for insolvency

Either party may terminate this agreement if:

- (a) the other party enters into a deed of arrangement or an order is made for it to be wound up;
- (b) an administrator, receiver or receiver/manager or a liquidator is appointed to the other party pursuant to the Corporations Act 2001 (Cth) (**Act**); or
- (c) the other party would be presumed to be insolvent by a court in any of the circumstances referred to in the Corporations Act 2001 (Cth).

12. 4. Obligations upon termination

- (a) If at the end of this agreement you are owed any Fees, expenses or reimbursements, you may give the Company an invoice. The Company must pay you that amount (provided it is properly invoiced) within of receiving the invoice.

13. Post-agreement restraints - non-compete

- (a) For a period of after your engagement with the Company has been terminated for whatever reason, you must not, within, be engaged as an employee, independent contractor, adviser or in any other capacity in any business which, in the reasonable opinion of the Company, is in competition with the Company in the business of
- (b) You acknowledge that any breach by you of this clause would cause irreparable harm and significant damage to the Company and accordingly that the Company has the right to seek and obtain immediate injunctive relief in relation to any such breach.
- (c) You acknowledge that the covenants in respect of non-competition contained in this clause are fair and reasonable and that the Company is relying upon this

acknowledgement in entering into this agreement.

14. Post-agreement restraints - non-solicit

- (a) For a period of after your engagement with the Company has been terminated for whatever reason, you must not:
 - (i) canvass, solicit or endeavour to entice from the Company any person or organisation that was a customer or supplier of the Company at the end of the Term (or whose business or custom the Company was cultivating at the end of the Term), in relation to whom you regularly dealt with during the Term;
 - (ii) canvass, solicit or endeavour to entice any employee or agent of the Company to terminate their contracts of employment or agency with the Company;
 - (iii) interfere or seek to interfere with the relationship between the Company and its customers, suppliers and employees; or
 - (iv) induce any other person to perform any of the acts specified in sub-clauses (a)(i), (a)(ii), or (a)(iii) of this clause.
- (b) You acknowledge that any breach by you of this clause would cause irreparable harm and significant damage to the Company and accordingly that the Company has the right to seek and obtain immediate injunctive relief in relation to any such breach.
- (c) You acknowledge that the covenants in respect of non-competition contained in this clause are fair and reasonable and that the Company is relying upon this acknowledgement in entering into this agreement.

15. Contractor's Indemnity and liability

15.1. Contractor's indemnity

- (a) You will be responsible for and indemnify the Company against liability for all loss, damage or injury to any person or property caused by you, in the course of providing the Services, provided that such loss, damage or injury was the result of the negligent conduct by you.
- (b) The amount of any claims, damages, interest, costs and expenses (including without limitation all related legal costs incurred by the Company) which may be paid, suffered or incurred by the Company in respect of such loss, damage or injury must be made good at your expense and may be deducted from any moneys due or becoming due to you.

15.2. Survival

This clause survives the termination of this agreement.

16. General

16.1. Assignment

This agreement may not be assigned without the consent of both parties.

16.2. Severability

The Company and you consider the covenants, obligations and restrictions contained within this agreement to be reasonable in all the circumstances of the agreement. Unenforceability of a provision of this agreement does not affect the enforceability of any other provision. If any provision is void, voidable or unenforceable, it shall be taken to be severed from the agreement.

16.3. Notices

Any notice, demand, consent, approval or communication under this agreement (**Notice**) must be:

- (a) in writing, in English and signed by a person duly authorised by the sender; and
- (b) delivered by hand, registered mail, fax or email to the recipient's address for Notice specified in Schedule 1, as varied by any Notice given by the recipient to the sender.

16.4. Waiver

- (a) The failure, delay or omission by a party to exercise any power or right conferred upon it by this agreement will not operate as a waiver of such power or right, nor will any single exercise of any such power or right preclude any other future exercise of the power, or the exercise of any other power or right under this agreement.
- (b) A waiver of any provision of this agreement, or consent to any departure by a party from any provision of this agreement, must be in writing and signed by all parties and is effective only to the extent for which it is given.

16.5. Variation

This agreement may not be changed or modified in any way except in writing signed by or on behalf of all the parties.

16.6. Entire agreement

This agreement constitutes the entire agreement of the parties in respect of the matters dealt with in this agreement and supersedes all prior agreements, understandings, undertakings and negotiations in respect of the matters dealt

with in this agreement.

16.7. Governing law

This agreement is governed by, and is to be construed and take effect in accordance with, the laws of Victoria. Each party irrevocably and unconditionally submits to the non exclusive jurisdiction of the courts of Victoria.

Please sign the attached copy of this letter in order to acknowledge your acceptance of the agreement set out in this letter.

Yours faithfully

Signed for Kellie Appel; The Master Painters' Association of Victoria Ltd by its authorised representative

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Signature Date

.....
Print name Position

Signed for by its authorised representative

.....
Signature Date

.....
Print name Position

SCHEDULE 1

1. Services

(a) The Services (**Services**) will include:

(i)

(b) The Services will be performed at the following location(s):

(i)

2. Fees

The Fees will be:

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3. Facilities

The facilities will be:

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4. Insurances

(a) Public liability insurance -

5. Address details for Notices

The party address details for the purpose of Notices are:

Company

Contact Person:

Jodie Rebbechi

Street Address:

56-58 Gaine Road,
Dandenong South,
Victoria, 3175

Email:

admin@mpav.com.au

Contractor

Name:

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Street Address:

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Email:

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