

**DATED**

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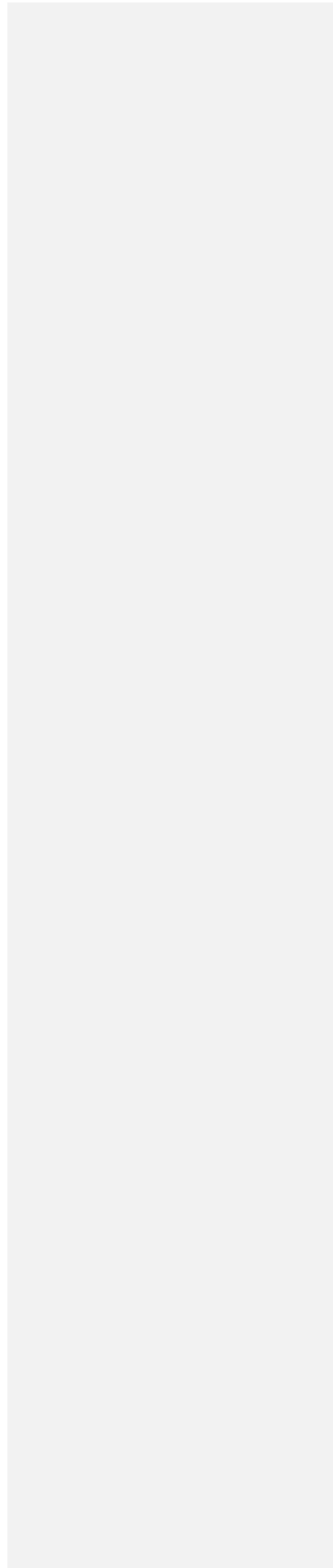
**SUBCONTRACTOR AGREEMENT**

between

**APPLE SOLUTIONS LIMITED**

and

**[SUBCONTRACTOR'S NAME]**



**THIS AGREEMENT** is dated the \_\_\_\_\_ day of \_\_\_\_\_ 2012

**PARTIES**

- (1) Apple Solutions Limited incorporated and registered in England and Wales with company number 05661034 whose registered office is at 213 Station Road, Stechford, Birmingham, B33 8BB (**Client**).
- (2) [INDIVIDUAL NAME] of [ADDRESS] (**Subcontractor**).

**AGREED TERMS**

**1. INTERPRETATION**

1.1 The definitions and rules of interpretation in this clause apply in this agreement (unless the context requires otherwise).

**Additional Works:** any works required to be carried out by the Subcontractor that were not taken into account or envisaged on the commencement of a particular Job or on the Subcontractor giving the Client an estimate for a particular Job.

**Board:** the board of directors of the Client.

**Business of the Client:** Building & Refurbishment Contractors

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**Business Opportunities:** any opportunities which the Subcontractor becomes aware of during the Engagement which relate to the Business of the Client or which the Board reasonably considers might be of benefit to the Client.

**Capacity:** as agent, Subcontractor, director, employee, owner, partner, shareholder or in any other capacity.

**Commencement Date:** [DATE OF COMMENCEMENT OF ENGAGEMENT]

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**Client Property:** all documents, books, manuals, materials, records, correspondence, papers and information (on whatever media and wherever located) relating to the Business or affairs of the Client or its customers and business contacts, and any equipment, keys, hardware or software provided for the Subcontractor's use by the Client during the Engagement, and any data or documents (including copies) produced, maintained or stored by the Subcontractor on the Client or the Subcontractor's computer systems or other electronic equipment during the Engagement.

**Confidential Information:** information in whatever form (including without limitation, in written, oral, visual or electronic form or on any magnetic or optical disk or memory and wherever located) relating to the business, customers, products, affairs and finances of the Client for the time being confidential to the Client and trade secrets including, without limitation, technical data and know-how relating to the Business of the Client or any of its suppliers, customers, agents, distributors, shareholders, management or business contacts, including (but not limited to) information that the Subcontractor creates, develops, receives or obtains in connection with his Engagement, whether or not such information (if in anything other than oral form) is marked confidential.

**Engagement:** the engagement of the Subcontractor by the Client on the terms of this agreement.

**Insurance Policies:** commercial general liability insurance cover, professional indemnity insurance cover, employer's liability insurance cover, public liability insurance cover and such other policies as the Client may deem necessary from time to time.

**Intellectual Property Rights:** patents, rights to inventions, copyright and related rights, moral rights, trade marks, trade names and domain names, rights in get-up, rights in goodwill or to sue for passing off, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which may now or in the future subsist in any part of the world.

**Invention:** any invention, idea, discovery, development, improvement or innovation made by the Subcontractor in the provision of the Services, whether or not patentable or capable of registration, and whether or not recorded in any medium.

**Job:** a specific request for the Subcontractor to provide the Services for a particular client of the Client or at a particular site.

**Pre-Contractual Statement:** any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this agreement or not) relating to the Engagement other than as expressly set out in this agreement or any documents referred to in it.

**Services:** the services provided by the Subcontractor for the Client as more particularly described in the Schedule.

**Substitute:** a substitute for the Subcontractor appointed under the terms of clause 3.3.

**Termination Date:** the date of termination of this agreement, howsoever arising.

**Works:** all records, reports, documents, papers, drawings, designs, transparencies, photos, graphics, logos, typographical arrangements, software, and all other materials in whatever form, including but not limited to hard copy and electronic form, prepared by the Subcontractor in the provision of the Services.

- 1.2 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.3 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders and unless the context otherwise requires, words in the singular include the plural and in the plural include the singular.
- 1.4 The Schedule to this agreement forms part of (and is incorporated into) this agreement.

**2. TERM OF ENGAGEMENT**

- 2.1 The Client shall engage the Subcontractor and the Subcontractor shall provide the Services on the terms of this agreement.
- 2.2 The Engagement shall be deemed to have commenced on the Commencement Date and shall continue unless and until terminated:
- (a) as provided by the terms of this agreement; or
  - (b) by the Client giving the Subcontractor such notice as the Client deems appropriate; or
  - (c) by the Subcontractor giving the Client not less than one weeks' prior written notice.

**3. DUTIES**

- 3.1 During the Engagement the Subcontractor shall:
- (a) provide the Services with all due care, skill and ability and use his best endeavours to promote the interests of the Client ;
  - (b) unless prevented by ill health or accident, devote such time in each calendar month as the Client deems necessary to the carrying out of the Services together with additional time if any as may be necessary for their proper performance; and
  - (c) promptly give to the Client all such information and reports as it may reasonably require in connection with matters relating to the provision of the Services or the Business of the Client .
- 3.2 If the Subcontractor is unable to provide the Services due to illness or injury, he shall advise the Client of that fact as soon as reasonably practicable. For the avoidance of doubt, no fee shall be payable in accordance with clause 4 in respect of any period during which the Services are not provided.
- 3.3 The Subcontractor may, with the prior written approval of the Client and subject to the following proviso, appoint a suitably qualified and skilled Substitute to perform the Services on his behalf, provided that the Substitute shall be required to enter into direct undertakings with the Client, including with regard to confidentiality. If the Client accepts the Substitute, the Subcontractor shall continue to invoice the Client in accordance with clause 4 and shall be responsible for the remuneration of the Substitute.
- 3.4 The Subcontractor shall use reasonable endeavours to ensure that he is available at all times on reasonable notice to provide such assistance or information as the Client may require.
- 3.5 Unless he has been specifically authorised to do so by the Client in writing, the Subcontractor shall not:

- (a) have any authority to incur any expenditure in the name of or for the account of the Client; or
  - (b) hold himself out as having authority to bind the Client.
- 3.6 The Subcontractor shall comply with all reasonable standards of safety and comply with the Client's health and safety procedures from time to time in force at the premises where the Services are provided and report to the Client any unsafe working conditions or practices.
- 3.7 The Subcontractor undertakes to the Client that during the Engagement he shall take all reasonable steps to offer (or cause to be offered) to the Client any Business Opportunities as soon as practicable after the same shall have come to his knowledge and in any event before the same shall have been offered by the Subcontractor (or caused by the Subcontractor to be offered) to any other party.
- 3.8 The Subcontractor may use a third party to perform any administrative, clerical or secretarial functions which are reasonably incidental to the provision of the Services provided that:
  - (a) the Client will not be liable to bear the cost of such functions; and
  - (b) at the Client's request the third party shall be required to enter into direct undertakings with the Client, including with regard to confidentiality.
- 3.9 The Subcontractor shall:
  - (a) comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (**Relevant Requirements**); and
  - (b) not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK.
- 3.10 Breach of clause 3.9 shall be deemed a material breach of this agreement.
- 3.11 For the avoidance of doubt, time shall be of the essence in relation to the provision of the Services.
- 4. FEES**
- 4.1 The Client shall pay the Subcontractor a fee of £[AMOUNT] per hour/day inclusive of VAT or, at the Client's sole discretion, a specific fee for a specific Job. On the last working day of each month during the Engagement the Subcontractor shall submit to the Client an invoice which gives details of the hours/days the Subcontractor or any Substitute has worked during the month, the Services provided and the amount of the fee payable (plus VAT, if applicable) for the Services during that month.

- 4.2 In consideration of the provision of the Services during the Engagement, the Client shall pay each invoice submitted by the Subcontractor in accordance with clause 4.1 within 30 days of receipt.
- 4.3 The Client shall be entitled to deduct from the fees (and any other sums) due to the Subcontractor any sums that the Subcontractor may owe to the Client at any time.
- 4.4 In addition to condition 4.3, if the Client, in its reasonable opinion, deems that the Subcontractor has caused the Client any losses envisaged by condition 9 or the Services have not been provided in accordance with the timescales required by the Client, the Client shall be entitled to deduct a reasonable sum from any monies due to the Subcontractor.
- 4.5 Payment in full or in part of the fees claimed under clause 4 shall be without prejudice to any claims or rights of the Client against the Subcontractor in respect of the provision of the Services.
- 4.6 For the avoidance of doubt, where the Client has agreed a specific fee for a Job and the Subcontractor, in the Subcontractor's reasonable opinion, deems that Additional Works are necessary, the Client shall only make a payment to the Subcontractor in relation to Additional Works if:
- (a) the Subcontractor has spoken to John-Paul Trueman prior to carrying out any Additional Works;
  - (b) the Subcontractor has given John-Paul Trueman sufficient details regarding the proposed Additional Works for him to assess whether or not he feels they are necessary;
  - (c) the Subcontractor has confirmed matters via email to John-Paul Trueman and John-Paul Trueman has confirmed receipt of such email; and
  - (d) John-Paul Trueman has given his consent to the Additional Works and the proposed price for such Additional Works.

## **5. OTHER ACTIVITIES**

- 5.1 Nothing in this agreement shall prevent the Subcontractor from being engaged, concerned or having any financial interest in any Capacity in any other business, trade, profession or occupation during the Engagement provided that:
- (a) such activity does not cause a breach of any of the Subcontractor's obligations under this agreement;
  - (b) the Subcontractor shall not engage in any such activity if it relates to a business which is similar to or in any way competitive with the Business of the Client without the prior written consent of the Client; and

- (c) the Subcontractor shall give priority to the provision of the Services to the Client over any other business activities undertaken by the Subcontractor during the course of the Engagement.

5.2 For the avoidance of doubt, should the Subcontractor obtain further work as a result of introductions made to them by the Client, or in any way as a result of carrying out Services for and on behalf of the Client, the Subcontractor shall pay to the Client an introduction fee representing 25% of the value of any work, to be paid to the Client within 30 days of the Subcontractors engagement to provide the further services. For the purposes of this clause 5, the term Subcontractor shall mean the Subcontractor directly or indirectly and/or in any Capacity.

5.3 In addition to clause 5.2, the Subcontractor warrants and undertakes to make any party for which the Subcontractor carries out services for or on behalf of in circumstances envisaged by clause 5.2, aware of the provisions of this clause 5.

## **6. CONFIDENTIAL INFORMATION**

6.1 The Subcontractor acknowledges that in the course of the Engagement he will have access to Confidential Information. The Subcontractor has therefore agreed to accept the restrictions in this clause 6.

6.2 The Subcontractor shall not (except in the proper course of his duties), either during the Engagement or at any time after the Termination Date, use or disclose to any third party (and shall use his best endeavours to prevent the publication or disclosure of) any Confidential Information. This restriction does not apply to:

- (a) any use or disclosure authorised by the Client or required by law; or
- (b) any information which is already in, or comes into, the public domain otherwise than through the Subcontractor's unauthorised disclosure.

6.3 At any stage during the Engagement, the Subcontractor will promptly on request return all and any Client Property in his possession to the Client.

## **7. DATA PROTECTION**

7.1 The Subcontractor consents to the Client holding and processing data relating to him for legal, personnel, administrative and management purposes and in particular to the processing of any "sensitive personal data" (as defined in the Data Protection Act 1998) relating to the Subcontractor.

7.2 The Subcontractor consents to the Client making such information available to those who provide products or services to the Client such as advisers, regulatory authorities,

governmental or quasi governmental organisations and potential purchasers of the Client or any part of its business.

**8. INTELLECTUAL PROPERTY**

8.1 The Subcontractor hereby assigns to the Client all existing and future Intellectual Property Rights in the Works and the Inventions and all materials embodying these rights to the fullest extent permitted by law. Insofar as they do not vest automatically by operation of law or under this agreement, the Subcontractor holds legal title in these rights and inventions on trust for the Client.

8.2 The Subcontractor undertakes:

- (a) to notify to the Client in writing full details of any Inventions promptly on their creation;
- (b) to keep confidential details of all Inventions;
- (c) whenever requested to do so by the Client and in any event on the termination of the Engagement, promptly to deliver to the Client all correspondence, documents, papers and records on all media (and all copies or abstracts of them), recording or relating to any part of the Works and the process of their creation which are in his possession, custody or power;
- (d) not to register nor attempt to register any of the Intellectual Property Rights in the Works, nor any of the Inventions, unless requested to do so by the Client; and
- (e) to do all acts necessary to confirm that absolute title in all Intellectual Property Rights in the Works and the Inventions has passed, or will pass, to the Client.

8.3 The Subcontractor agrees to indemnify the Client and keep it indemnified at all times against all or any costs, claims, damages or expenses incurred by the Client, or for which the Client may become liable, with respect to any intellectual property infringement claim or other claim relating to the Works or Inventions supplied by the Subcontractor to the Client during the course of providing the Services. The Subcontractor shall maintain adequate liability insurance coverage and ensure that the Client's interest is noted on the policy, and shall supply a copy of the policy to the Client on request. The Client may at its option satisfy this indemnity (in whole or in part) by way of deduction from any payments due to the Subcontractor.

8.4 The Subcontractor acknowledges that, except as provided by law, no further fees or compensation other than those provided for in this agreement are due or may become due to the Subcontractor in respect of the performance of his obligations under this clause 8.

8.5 The Subcontractor undertakes, at any time either during or after the Engagement, to execute all documents, make all applications, give all assistance and do all acts and things as may, in



the opinion of the Client, be necessary or desirable to vest the Intellectual Property Rights in, and to register them in, the name of the Client.

- 8.6 The Subcontractor hereby irrevocably appoints the Client to be his attorney to execute and do any such instrument or thing and generally to use his name for the purpose of giving the Client or its nominee the benefit of this clause 8.

## **9. INSURANCE AND LIABILITY**

- 9.1 The Subcontractor shall have personal liability for and shall indemnify the Client for any loss, liability, costs (including reasonable legal costs), damages or expenses arising from any breach by the Subcontractor or a Substitute engaged by the Subcontractor of the terms of this agreement including any negligent or reckless act, omission or default in the provision of the Services and shall accordingly maintain in force during the Engagement full and comprehensive Insurance Policies.

- 9.2 The Subcontractor shall ensure that the Insurance Policies are taken out with reputable insurers acceptable to the Client and that the level of cover and other terms of insurance are acceptable to and agreed by the Client.

- 9.3 The Subcontractor shall on request supply to the Client copies of such Insurance Policies and evidence that the relevant premiums have been paid.

- 9.4 The Subcontractor shall comply with all terms and conditions of the Insurance Policies at all times. If cover under the Insurance Policies shall lapse or not be renewed or be changed in any material way or if the Subcontractor is aware of any reason why the cover under the Insurance Policies may lapse or not be renewed or be changed in any material way, the Subcontractor shall notify the Client without delay.

## **10. TERMINATION**

- 10.1 Notwithstanding the provisions of clause 2.2, the Client may terminate the Engagement with immediate effect with no liability to make any further payment to the Subcontractor (other than in respect of amounts accrued before the Termination Date) if at any time the Subcontractor:

- (a) commits any gross misconduct affecting the Business of the Client ;
- (b) commits any serious or repeated breach or non-observance of any of the provisions of this agreement or refuses or neglects to comply with any reasonable and lawful directions of the Client;
- (c) is convicted of any criminal offence (other than an offence under any road traffic legislation in the United Kingdom or elsewhere for which a fine or non-custodial penalty is imposed);

- (d) is in the reasonable opinion of the Board negligent or incompetent in the performance of the Services;
- (e) is declared bankrupt or makes any arrangement with or for the benefit of his creditors or has a county court administration order made against him under the County Court Act 1984;
- (f) is incapacitated (including by reason of illness or accident) from providing the Services for an aggregate period of 5 days in any 52-week consecutive period; or
- (g) commits any fraud or dishonesty or acts in any manner which in the opinion of the Client brings or is likely to bring the Subcontractor or the Client into disrepute or is materially adverse to the interests of the Client .

10.2 The rights of the Client under clause 10.1 are without prejudice to any other rights that it might have at law to terminate the Engagement or to accept any breach of this agreement on the part of the Subcontractor as having brought the agreement to an end. Any delay by the Client in exercising its rights to terminate shall not constitute a waiver of these rights.

## **11. OBLIGATIONS ON TERMINATION**

On the Termination Date the Subcontractor shall:

- (a) immediately deliver to the Client all Client Property in his possession or under his control; and
- (b) irretrievably delete any information relating to the Business of the Client stored on any magnetic or optical disk or memory and all matter derived from such sources which is in his possession or under his control outside the premises of the Client.

## **12. STATUS**

12.1 The relationship of the Subcontractor to the Client will be that of independent contractor and nothing in this agreement shall render him an employee, worker, agent or partner of the Client and the Subcontractor shall not hold himself out as such.

12.2 This agreement constitutes a contract for the provision of services and not a contract of employment and accordingly the Subcontractor shall be fully responsible for and shall indemnify the Client for and in respect of:

- (a) any income tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with the performance of the Services, where the recovery is not prohibited by law. The Subcontractor shall further indemnify the Client against all reasonable costs, expenses and any penalty, fine or interest incurred or payable by the Client in connection with or in consequence of any such liability, deduction, contribution, assessment or claim;

- (b) any liability arising from any employment-related claim or any claim based on worker status (including reasonable costs and expenses) brought by the Subcontractor or any Substitute against the Client arising out of or in connection with the provision of the Services.

12.3 The Client may at its option satisfy such indemnity (in whole or in part) by way of deduction from any payments due to the Subcontractor.

### **13. NOTICES**

13.1 Any notice given under this agreement shall be in writing and signed by or on behalf of the party giving it and shall be served by delivering it personally, or sending it by pre-paid recorded delivery or registered post to the relevant party at (in the case of the Client) its registered office for the time being and (in the case of the Subcontractor) his last known address. Any such notice shall be deemed to have been received:

- (a) if delivered personally, at the time of delivery;
- (b) in the case of pre-paid recorded delivery or registered post, 48 hours from the date of posting.

13.2 In proving such service it shall be sufficient to prove that the envelope containing the notice was addressed to the address of the relevant party and delivered either to that address or into the custody of the postal authorities as a pre-paid recorded delivery or registered post.

### **14. ENTIRE AGREEMENT AND PREVIOUS CONTRACTS**

Each party on behalf of itself acknowledges and agrees with the other party that:

- (a) this agreement together with any documents referred to in it constitutes the entire agreement and understanding between the Subcontractor and the Client and supersedes any previous arrangement, understanding or agreement between them relating to the Engagement (which shall be deemed to have been terminated by mutual consent);
- (b) in entering into this agreement neither party has relied on any Pre-Contractual Statement; and
- (c) each party agrees that the only rights and remedies available to it or arising out of or in connection with any Pre-Contractual Statement shall be for breach of contract. Nothing in this agreement shall, however, limit or exclude any liability for fraud.

### **15. VARIATION**

No variation of this agreement or of any of the documents referred to in it shall be valid unless it is in writing and signed by or on behalf of each of the parties.

**16. COUNTERPARTS**

This agreement may be executed in any number of counterparts, each of which, when executed, shall be an original, and all the counterparts together shall constitute one and the same instrument.

**17. THIRD PARTY RIGHTS**

Except as expressly provided elsewhere in this agreement a person who is not a party to this agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

**18. GOVERNING LAW AND JURISDICTION**

18.1 This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

18.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

**Schedule      Services**

- Such services as would normally be carried out by a competent and suitably qualified tradesperson working in the same field as the Subcontractor;
- The services shall be provided at such location(s) as the Client may determine from time to time having given the Subcontractor notice of such location;
- The Subcontractor shall report directly to John-Paul Trueman, or such other appropriate person determined by the Client from time to time.

Executed as a deed by Apple Solutions  
Limited acting by John-Paul Trueman, a  
director, in the presence of:

.....  
John-Paul Trueman  
Director

.....  
SIGNATURE OF WITNESS  
NAME OF WITNESS:  
ADDRESS OF WITNESS:

OCCUPATION OF WITNESS:

Signed as a deed by [NAME OF  
SUBCONTRACTOR] in the presence of:

.....  
[SIGNATURE OF SUBCONTRACTOR]

.....  
SIGNATURE OF WITNESS  
NAME OF WITNESS:  
ADDRESS OF WITNESS:

OCCUPATION OF WITNESS: