

**Explanatory Notes to Accompany  
the Draft Client-Agent and Draft Agent-Supplier  
Agreements of 9<sup>th</sup> March**

**General Notes**

These Drafts have been prepared and released in order to invite comment from the PCG membership before they are finalised. They are not intended to be implemented as they stand.

In any event, the Drafts are intended to represent a sample approach which will have as broad an application as possible. The finalised versions are intended to provide a foundation which can be adapted to suit individual circumstances.

These Drafts should not be implemented by PCG members without the benefit of specific legal advice.

Please submit comments by email to:

[pcg@bevan-ashford.co.uk](mailto:pcg@bevan-ashford.co.uk)

The comments should arrive no later than Wednesday 15<sup>th</sup> March as it is intended to release the finalised drafts on or before Friday 17<sup>th</sup> March.

**Explanatory Notes**

These Drafts have been prepared in the knowledge that if the Client cannot accept them, they will not be implemented. They are therefore as “Client friendly” as is reasonable.

The Drafts are intended to work in conjunction with each other and to provide a means of:

- Regulating the relationship between Client (also described as End-user), Agent and Supplier in such a way that the Supplier will not become a “disguised employee”;
- Ensuring that the two contracts, which will exist back to back, both address the self-employment tests consistently and therefore reflect the true relationship.

Although it is intended that this approach will protect Suppliers from IR35 there can be no guarantee that it will succeed in the current climate of uncertainty.

This approach has been chosen, rather than for example a tripartite contract, mainly because it allows the Client and the Agent to protect commercially sensitive details of the agreement they reach between themselves.

However, because the Agent is the only party to the relationship entitled to see both contracts, the burden of ensuring that the contracts reflect each other has been placed on the Agent. There is no failsafe means of the Supplier obtaining access to a contract

to which they are not a party so the Agent is asked (at Clause 9.2 of the Agent-Supplier draft) to give a warranty assuring the Supplier that the contracts do reflect each other.

Each Draft talks in terms of a Specification, which we envisage being drawn up in a similar format to those Schedules used as illustrations to the PCG Direct Draft (ie Tom, Dick and Harry). These Drafts are intended to work in the same way as the PCG Direct Draft – the body of the contract represents the standard terms and conditions which will remain in place throughout the relationship. Each time the Agent submits the Supplier for consideration and each time the Supplier is accepted by the Client, a fresh set of Schedules should be concluded. This has the added advantage of forcing all parties to think in terms of projects as envisaged by the PCG Direct Draft.

**Bevan Ashford**  
**9<sup>th</sup> March 2000**