



JCLI Standard Form of Agreement for Novation by Employer

(for use with JCLI Landscape Maintenance Works Contract 2008 Edition)

Project: Landscape Maintenance Works at _____

This Agreement is made on _____ 20____

Between:

(1) _____

(Company no: _____) of / whose registered office is at [1]

(the "**Employer**").

(2) _____

(Company no: _____) of / whose registered office is at [1]

(the "**Contractor**"); and

(3) _____

(Company no: _____) of / whose registered office is at [1]

(the "**Substitute Employer**").

Background:

(A) The Employer has appointed the Contractor by a contract dated _____ (“the **Contract**”) to carry out landscape maintenance works at _____ as more particularly described in the Contract. [2]

or [3]

The Employer has entered into a Novation Agreement dated _____ under which the Employer assumed all the rights and liabilities of _____ under a contract between _____ and the Contractor dated _____ (“the **Contract**”) to carry out landscape maintenance works at _____ as more particularly described in the Contract. [4]

(B) The Employer the Contractor and the Substitute Employer have agreed that the Substitute Employer shall assume all the rights and liabilities of the Employer under the Contract (which the Employer has previously assumed). [5]

This Agreement witnesses as follows:

1 Release of Employer

The Contractor releases and discharges the Employer from further performance of the Employer’s obligations under the Contract and from all claims and demands whatsoever arising out of or in respect of the Contract whether arising prior to, on or subsequent to the date of this Agreement and the Contractor accepts the liability of the Substitute Employer in place of the liability of the Employer.

2 Release of Contractor

The Employer releases and discharges the Contractor from further performance of the Contractor's obligations under the Contract and from all claims and demands whatsoever arising out of or in respect of the Contract whether arising prior to, on or subsequent to the date of this Agreement.

3 Contractor's obligation to Substitute Employer

The Contractor hereby undertakes to perform the Contract and to be bound by its terms in every way as if the Substitute Employer were, and had been from inception, a party to the Contract in lieu of the Employer and agrees to undertake all obligations and liabilities arising under the Contract on the part of the Contractor.

4 Substitute Employer's obligation to Contractor

The Substitute Employer hereby undertakes to perform the Contract and to be bound by its terms in every way as if the Substitute Employer were, and had been from inception, a party to the Contract in lieu of the Employer and agrees to undertake all obligations and liabilities arising under the Contract on the part of the "Employer".

5 Affirmation of Contract

Subject to the terms of this Agreement, the Contract shall remain in full force and effect.

6 Performance of prior obligations and payments

The Contractor confirms and warrants to the Substitute Employer that as at the date of this Agreement all obligations due to be made and performed by the Employer under the Contract have been made and performed by the Employer, including payment of the sum of £ _____ pounds exclusive of VAT for the current year of maintenance, and including payment of all amounts due for previous annual account periods.

7 Contractor's liability to Substitute Employer for pre-novation Services

7.1 The Contractor acknowledges that the Substitute Employer has relied upon the Contractor's performance of the landscape maintenance works carried out prior to the date of this Agreement and agrees that the Substitute Employer shall have the right to pursue claims and demands arising in respect of any breach of the Contract by the Contractor whether arising prior to, on or subsequent to the date of this Agreement.

7.2 The Contractor agrees it will not contend that the Substitute Employer is precluded from recovering any loss resulting from any breach of the Contract by the Contractor by reason that the Substitute Employer was not the employer of the Contractor at the time the breach occurred or by reason that the employer at the time of breach escaped any loss resulting from such breach or that such employer has not suffered any or as much loss.

8 Contracts (Rights of Third Parties) Act 1999

Nothing in this Agreement is intended to confer on any third party any right to enforce any term of this Agreement which that third party would not have had but for the Contracts (Rights of Third Parties) Act 1999.

9 Governing law and jurisdiction

This Agreement and the rights and obligations of the parties shall be governed and construed according to English law and the parties hereby submit to the exclusive jurisdiction of the English courts.

In witness this Agreement has been executed and delivered on the date appearing at the head of this Agreement.

Signed by or on behalf of the **Employer**

In the presence of:

_____ *Witness signature*

_____ *Witness name*

_____ *Witness address*

Signed by or on behalf of the **Contractor**

In the presence of:

_____ *Witness signature*

_____ *Witness name*

_____ *Witness address*

Signed by or on behalf of the **Substitute Employer**

In the presence of:

_____ *Witness signature*

_____ *Witness name*

_____ *Witness address*

Notes:

- [1] Where the Employer, Contractor or Substitute Employer is not a company incorporated under the Companies Acts, delete the references to Company number and registered office.
- [2] If this employer novation follows a contractor novation then insert the original contractor's name instead of "the Contractor" in the first line and add a final sentence: "The Contract was novated to the Contractor by a novation agreement dated _____"
- [3] Delete the first or second paragraph. The second paragraph is for a second novation by Employer.
- [4] If this second employer novation follows a contractor novation then insert the original contractor's name instead of "the Contractor" in the fifth line of this paragraph and add a final sentence: "The Contract was novated to the Contractor by a novation agreement dated _____"
- [5] Delete the words in brackets unless it is a second employer novation.



This Standard Form of Agreement is issued by the **Joint Committee for Landscape Industries** comprising:

Arboricultural Association
British Association Landscape Industries
Horticultural Trades Association
Institute of Chartered Foresters
Landscape Institute

Published for the Joint Committee for Landscape Industries by
the Landscape Institute 33 Great Portland Street London W1W 8QG

Incorporated as Schedule 3 in the JCLI Landscape Maintenance Works Contract
and available to download free from the Landscape Institute web-site
www.landscapeinstitute.org and the JCLI web-site www.jcli.org.uk

Copyright vests jointly in each of the legal entities which form the JCLI
© JCLI August 2008