



Unfair Contract Assistance Services Agreement Terms and Conditions

Current as of November 2018

As a Protected Member **You** have access to Self-Employed Australia's assistance in handling unfair contracts. This document sets out the terms and conditions of that member benefit entitlement.

1. What is covered

When **You** become a Protected Member, Self-Employed Australia provides **You** advocacy services and assistance in relation to most forms of alleged unfair contracts **You** may have when dealing with a large business or organization.

2. Extent of Services

Services may be provided up to a limit of 50 hours of assistance.

3. Conditions

You must

- a. be a fully financial *Protected Member* of Self-Employed Australia.
- b. contact **Us** as soon as practical when **You** have concerns that **Your** contract may be unfair.
- c. work with **Us** after notifying us.
- d. appoint **Us** as your Contract Advocate.
- e. have maintained and must continue to maintain accurate, truthful and up to date information on your contract.
- f. provide copies of relevant documentation to **Us** between **Your Client** and **You** in relation to the contract.

4. The services we provide You

If **You** think **You** have an unfair contract, **We** will review the contract, give **You** a report and discuss this with **You**. **We** identify the terms in **Your** contract that may breach the unfair contract laws. **We** discuss **Your** options with **You** and whether **You** wish to proceed or not.

If **You** want further help, **You** appoint **Us** as **Your** 'Contract Advocate'.

We can take action based on what **You** want to do and what **You** approve and may include any of the following:

- Draft a letter to the other party that **You** send (or)
- Draft a letter to the other party that **We** send which may or may not identify **You**, depending on **Your** wishes. That is, **We** can make representations to the other party to the contract highlighting clauses in the contract that may breach the law. (or)
- Assist **You** where **You** have direct discussions with the other party to seek resolution (or)
- Undertake discussions with the other party seeking to have the contract reviewed/fixed.

If these efforts fail to fix the contract:

- **We** can prepare a complaint against the other party with any or several government authorities with authority over unfair contracts. The complaint can be lodged by **You** or by **Us**—either revealing **Your** identity or not revealing **Your** identity, as **You** determine. We discuss with **You** the available strategies and **You** decide on the action.
- The appropriate government authority will investigate, report and take action where they conclude that there is a breach of the unfair contract laws.
- **We** follow through with the government authorities as to action that can be taken and maintain liaison with **You**.

At all times **You** retain control of the process. **You** can proceed or stop at any time.

5. Confidentiality

We undertake to keep all **Your** information confidential and to undertake action only with **Your** explicit approval.

6. What is not covered

- Any items dealing with matters not specifically related to the contract **You** may have;
- Any situation where deliberate mis-statements have been made by **You** with intent to deceive;
- Any issues arising from or relating to situations where litigation occurs before a court or tribunal;
- **Your** time associated with the preparation and submissions necessary to advance **Your** matter

7. Contracts before becoming a Protected Member

Where **You** enter a contract before becoming a Protected Member the services may be provided by **Us** only at our total discretion.

8. Various Liabilities

Your Protected Member benefits do not cover compensation, damages, interest, penalties or taxes which **You** or your **Partners** or **Directors** are ordered or agree to pay.

9. Excluded items

Anything:

- notified to **Us** before **Your** Protected Membership is approved except where **We** exercise **Our** discretion to provide the services.
- notified to **Us** after **Your** Protected Membership expires or ceases.
- under the **Policy** which is false, fraudulent, unreasonable or exaggerated.
- concerning or arising from a dispute between **You** and **Us** about this **Policy**.
- not arising out of Normal Business Activities.
- against **You** or any **Partner** or **Director** for alleged negligent act, error or omission of a type covered under professional indemnity, directors and officers,
- associated with an appeal involving litigation heard before a Court or Tribunal.
- arising from **You** acting against or differently from the advice of **Us** where **We** have notified **You** of the advice and **You** have been afforded a reasonable period to consider the advice.

10. Reporting of issue

You are only covered if **You** notify **Us** of the **Claim** before the expiration of your Protected Membership.

11. Discretion

The provision of services is at our discretion.

12. Transferring Your Rights

You cannot transfer your rights under this Protected Membership.

13. Definitions

Unless the context otherwise requires, the following words and expressions shall bear the meaning set out below:

a) Us/We/Our

means *Self-Employed Australia* the business name of Independent Contractors of Australia Inc (ABN: 54 403 453 626) a not for profit association, their agents and representatives acting together or separately.

b) You/Your

means the self-employed person operating a small business either as an individual, sole trader, partnership, company or trust, who has applied to and been accepted by *Self Employed Australia* as a Protected Member and who has paid the required fees such that the membership is current and financial and whose trading address is within the **Territorial Limits**.

c) Court or Tribunal

means a court, tribunal or other statutory body of competent jurisdiction within the **Territorial Limits**.

d) Director

means a director or other board member of **You** where **You** is a company.

e) Partner

means where **You** are a partnership, any of the partners within that partnership.

f) Member benefits

means the undertakings between **Us** and **You** as set out in this document.

g) Territorial Limits

means the Commonwealth of Australia and its external territories and an Australian State or Territory.

h) Unfair Contract

means a contract that is in breach or potentially in breach of the Commonwealth, *Treasury Legislation Amendment (Small Business Unfair Contract Terms Act 2015* No.147, 2015 <https://www.legislation.gov.au/Details/C2015A00147/Html/Text>

Please Note:

Reference to any statute or statutory provision and orders or regulations there under shall include a reference to that statute, provision, order or regulation as amended, re-enacted or replaced from time to time.

Unless the context otherwise requires reference to the singular includes the plural and the plural includes the singular.

Headings are for convenience only and do not affect the interpretation or form part of this member benefits policy.



**Appointment of Contract Advocate
Disclaimer and Release**

I,

Name: of

Address:

..... ,

being a Protected Member of Self-Employed Australia (SEA) have been in discussions with SEA in relation to a possible unfair contract under which I work. I hereby appoint SEA to act as my 'Contract Advocate' to assist me in seeking resolution of my contract issues.

I accept, agree and undertake that SEA, its representatives, board and directors are not acting for, or on behalf of, myself or representing me in any way but are acting as my advocate. As my advocate, I authorize SEA to initiate actions as agreed by me to see if they can assist me to achieve commercial resolution in my dispute over the contract.

I agree that SEA will keep me informed of their planned and actual actions and I agree that such actions are reasonable and helpful.

I understand and agree that SEA is not and does not offer me professional, legal, taxation, financial or other advice.

I accept, agree and undertake that any actions I may take in relation to my concern or dispute are taken entirely on my own initiative and at my exclusive risk following my obtaining independent legal and other professional advice. Further, that SEA is not responsible or liable for any actions I may initiate or undertake.

I accept, agree and undertake that SEA, its representatives, board and directors are not liable in any way for any costs, fines or any other financial imposition on me as a result my contract. I undertake that I will not initiate any action of any sort against SEA, its representatives, board or directors on any matter relating to my concern or dispute under the alleged unfair contract. Further that should I initiate any action of any sort against SEA, its representatives, board or directors I agree to pay in full any legal and professional assistance and court costs that SEA, its representatives, board and directors may incur as a result of having to defend themselves against my actions.

SEA undertakes to keep all my information and documentation confidential and to only use my information and documentation with my express approval.

Signed

Date