**Consultancy agreement**

**DATE**

*[date]*

**PARTIES**

1. [*[INDIVIDUAL NAME]* of *[address]*] OR [*[COMPANY NAME]*, a company incorporated in [England and Wales] (registration number *[registration number]*) having its registered office at *[address]*] OR [*[PARTNERSHIP NAME]*, a partnership established under the laws of [England and Wales] having its principal place of business at *[address]*] (the "**Consultant**"); and

2. [*[INDIVIDUAL NAME]* of *[address]*] OR [*[COMPANY NAME]*, a company incorporated in [England and Wales] (registration number *[registration number]*) having its registered office at *[address]*] OR [*[PARTNERSHIP NAME]*, a partnership established under the laws of [England and Wales] having its principal place of business at *[address]*] (the "**Client**").

**AGREEMENT**

**1. Definitions**

1.1 Except to the extent expressly provided otherwise, in this Agreement:

"**Agreement**" means this agreement including any Schedules, and any amendments to this Agreement from time to time;

"**Charges**" means the following amounts:

(a) [the amounts specified in Part 5 of Schedule 1 (Consultancy Particulars)];

(b) [such amounts as may be agreed in writing by the parties from time to time]; and

(c) [amounts calculated by multiplying the Consultant's [standard time-based charging rates (as notified by the Consultant to the Client before the date of this Agreement)] by the time spent by the Consultant's personnel performing [the Services] (rounded [down by the Consultant to the nearest quarter hour])];

"**Client Materials**" means all works and materials supplied by or on behalf of the Client to the Consultant for incorporation into the Deliverables or for some other use in connection with the Services;

"**Deliverables**" means those *[deliverables]* specified in Part 2 of Schedule 1 (Consultancy Particulars) that the Consultant has agreed to deliver to the Client under this Agreement;

"**Effective Date**" means [the date of execution of this Agreement];

"**Intellectual Property Rights**" means all intellectual property rights wherever in the world, whether registrable or unregistrable, registered or unregistered, including any application or right of application for such rights (and these "intellectual property rights" include copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trade marks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs);

"**Schedule**" means any schedule attached to main body of this Agreement;

"**Services**" means the consultancy services specified in Part 1 of Schedule 1 (Consultancy Particulars);

"**Term**" means the term of this Agreement, commencing in accordance with Clause 3.1 and ending in accordance with Clause 3.2; and

"**Third Party Materials**" means the works and/or materials comprised in the Deliverables (excluding the Client Materials), the Intellectual Property Rights in which are owned by a third party[, and which are specified in Part 2 of Schedule 1 (Consultancy Particulars) or which the parties agree in writing shall be incorporated into the Deliverables].

**2. Credit**

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**3. Term**

3.1 This Agreement shall come into force upon the Effective Date.

3.2 This Agreement shall continue in force [indefinitely] OR [until *[date]*] OR [until *[event]*], subject to termination in accordance with Clause 11.

**4. Services**

4.1 The Consultant shall provide the Services to the Client in accordance with this Agreement.

4.2 The Consultant shall provide the Services [with reasonable skill and care] OR [in accordance with the standards of skill and care reasonably expected from a leading service provider in the Consultant's industry] OR [*[specify standard(s)]*].

**5. Deliverables**

5.1 The Consultant shall deliver the Deliverables to the Client.

5.2 The Client must promptly, following receipt of a written request from the Consultant to do so, provide written feedback to the Consultant concerning the Consultant's proposals, plans, designs and/or preparatory materials relating to the Deliverables and made available to the Client with that written request.

5.3 The Consultant shall [ensure] OR [use its best endeavours to ensure] OR [use reasonable endeavours to ensure] that the Deliverables are delivered to the Client in accordance with the timetable set out in Part 3 of Schedule 1 (Consultancy Particulars).

5.4 The Consultant warrants to the Client that:

(a) [the Deliverables will conform with the requirements of Part 2 of Schedule 1 (Consultancy Particulars)[ as at the date of delivery of the Deliverables]];

(b) [the Deliverables will be free from [material defects]]; and

(c) [[the Deliverables] OR [the use of the Deliverables by the Client in accordance with this Agreement] will not:

(i) [breach the provisions of any law, statute or regulation];

(ii) [infringe any third party's Intellectual Property Rights]; or

(iii) [give rise to any cause of action against the Client],

in each case [in any jurisdiction and under any applicable law]].

**6. Licence**

6.1 The Consultant hereby grants to the Client [a non-exclusive, worldwide, perpetual and irrevocable] licence to [copy, store, distribute, publish, adapt, edit and otherwise use] the Deliverables[ (excluding [the Third Party Materials and the Client Materials])][ for the following purposes: *[identify purposes]*].

**7. Charges**

7.1 The Client shall pay the Charges to the Consultant in accordance with this Agreement.

7.2 All amounts stated in or in relation to this Agreement are, unless the context requires otherwise, stated [inclusive of any applicable value added taxes] OR [exclusive of any applicable value added taxes, which will be added to those amounts and payable by the Client to the Consultant].

**8. Payments**

8.1 The Consultant shall issue invoices for the Charges to the Client [from time to time during the Term] OR [on or after the invoicing dates set out in Part 5 of Schedule 1 (Consultancy Particulars)] OR [at any time after the relevant Services have been delivered to the Client] OR [in advance of the delivery of the relevant Services to the Client].

8.2 The Client must pay the Charges to the Consultant within the period of [30 days] following [the issue of an invoice in accordance with this Clause 8] OR [the receipt of an invoice issued in accordance with this Clause 8].

8.3 The Client must pay the Charges by [debit card, credit card, direct debit, bank transfer or cheque] (using such payment details as are notified by the Consultant to the Client from time to time).

8.4 If the Client does not pay any amount properly due to the Consultant under this Agreement, the Consultant may:

(a) charge the Client interest on the overdue amount at the rate of [8% per annum above the Bank of England base rate from time to time] (which interest will accrue daily until the date of actual payment and be compounded at the end of each calendar month); or

(b) claim interest and statutory compensation from the Client pursuant to the Late Payment of Commercial Debts (Interest) Act 1998.

**9. Warranties**

9.1 The Consultant warrants to the Client that:

(a) [the Consultant has the legal right and authority to enter into this Agreement and to perform its obligations under this Agreement];

(b) [the Consultant will comply with all applicable legal and regulatory requirements applying to the exercise of the Consultant's rights and the fulfilment of the Consultant's obligations under this Agreement]; and

(c) [the Consultant has or has access to all necessary know-how, expertise and experience to perform its obligations under this Agreement].

9.2 The Client warrants to the Consultant that it has the legal right and authority to enter into this Agreement and to perform its obligations under this Agreement.

9.3 All of the parties' warranties and representations in respect of the subject matter of this Agreement are expressly set out in this Agreement. To the maximum extent permitted by applicable law, no other warranties or representations concerning the subject matter of this Agreement will be implied into this Agreement or any related contract.

**10. Limitations and exclusions of liability**

10.1 Nothing in this Agreement will:

(a) limit or exclude any liability for death or personal injury resulting from negligence;

(b) limit or exclude any liability for fraud or fraudulent misrepresentation;

(c) limit any liabilities in any way that is not permitted under applicable law; or

(d) exclude any liabilities that may not be excluded under applicable law.

10.2 The limitations and exclusions of liability set out in this Clause 10 and elsewhere in this Agreement:

(a) are subject to Clause 10.1; and

(b) govern all liabilities arising under this Agreement or relating to the subject matter of this Agreement, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in this Agreement.

10.3 [Neither party shall be liable to the other party] OR [The Consultant shall not be liable to the Client] OR [The Client shall not be liable to the Consultant] in respect of any loss of profits or anticipated savings.

10.4 [Neither party shall be liable to the other party] OR [The Consultant shall not be liable to the Client] OR [The Client shall not be liable to the Consultant] in respect of any loss of revenue or income.

10.5 [Neither party shall be liable to the other party] OR [The Consultant shall not be liable to the Client] OR [The Client shall not be liable to the Consultant] in respect of any loss of use or production.

10.6 [Neither party shall be liable to the other party] OR [The Consultant shall not be liable to the Client] OR [The Client shall not be liable to the Consultant] in respect of any loss of business, contracts or opportunities.

10.7 [Neither party shall be liable to the other party] OR [The Consultant shall not be liable to the Client] OR [The Client shall not be liable to the Consultant] in respect of any loss or corruption of any data, database or software.

10.8 [Neither party shall be liable to the other party] OR [The Consultant shall not be liable to the Client] OR [The Client shall not be liable to the Consultant] in respect of any special, indirect or consequential loss or damage.

**11. Termination**

11.1 Either party may terminate this Agreement by giving to the other party [at least 30 days'] written notice of termination.

11.2 Either party may terminate this Agreement immediately by giving written notice of termination to the other party if the other party commits a material breach of this Agreement.

11.3 Either party may terminate this Agreement immediately by giving written notice of termination to the other party if:

(a) the other party:

(i) is dissolved;

(ii) ceases to conduct all (or substantially all) of its business;

(iii) is or becomes unable to pay its debts as they fall due;

(iv) is or becomes insolvent or is declared insolvent; or

(v) convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;

(b) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party;

(c) an order is made for the winding up of the other party, or the other party passes a resolution for its winding up[ (other than for the purpose of a solvent company reorganisation where the resulting entity will assume all the obligations of the other party under this Agreement)]; or

(d) [if that other party is an individual:

(i) that other party dies;

(ii) as a result of illness or incapacity, that other party becomes incapable of managing his or her own affairs; or

(iii) that other party is the subject of a bankruptcy petition or order.

]

**12. Effects of termination**

12.1 Upon the termination of this Agreement, all of the provisions of this Agreement shall cease to have effect, save that the following provisions of this Agreement shall survive and continue to have effect (in accordance with their express terms or otherwise indefinitely): [Clauses 1, 6, 8.2, 8.4, 10, 12, 13.2 and 15].

12.2 The termination of this Agreement shall not affect the accrued rights of either party.

**13. Status of Consultant**

13.1 The Consultant is not an employee of the Client, but an independent contractor.

13.2 The termination of this Agreement will not constitute unfair dismissal; nor will the Consultant be entitled to any compensation payments, redundancy payments or similar payments upon the termination of this Agreement.

**14. Subcontracting**

14.1 The Consultant must not subcontract any of its obligations under this Agreement without the prior written consent of the Client[, providing that the Client must not unreasonably withhold or delay the giving of such consent].

**OR**

14.1 The Consultant may subcontract any of its obligations under this Agreement[, providing that the Consultant must give to the Client, promptly following the appointment of a subcontractor, a written notice specifying the subcontracted obligations and identifying the subcontractor in question].

14.2 The Consultant shall remain responsible to the Client for the performance of any subcontracted obligations.

**15. General**

15.1 No breach of any provision of this Agreement shall be waived except with the express written consent of the party not in breach.

15.2 If any provision of this Agreement is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions of this Agreement will continue in effect. If any unlawful and/or unenforceable provision would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant provision will be deemed to be deleted).

15.3 This Agreement may not be varied except by a written document signed by or on behalf of each of the parties.

15.4 Neither party may without the prior written consent of the other party assign, transfer, charge, license or otherwise deal in or dispose of any contractual rights or obligations under this Agreement.

15.5 This Agreement is made for the benefit of the parties, and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree any amendment, waiver, variation or settlement under or relating to this Agreement are not subject to the consent of any third party.

15.6 Subject to Clause 10.1, this Agreement shall constitute the entire agreement between the parties in relation to the subject matter of this Agreement, and shall supersede all previous agreements, arrangements and understandings between the parties in respect of that subject matter.

15.7 This Agreement shall be governed by and construed in accordance with [English law].

15.8 The courts of [England] shall have exclusive jurisdiction to adjudicate any dispute arising under or in connection with this Agreement.

**EXECUTION**

The parties have indicated their acceptance of this Agreement by executing it below.

SIGNED BY [*[individual name]* on [...............], the Consultant] OR [*[individual name]* on *[...............]*, duly authorised for and on behalf of the Consultant]:

........................................

SIGNED BY [*[individual name]* on [...............], the Client] OR [*[individual name]* on *[...............]*, duly authorised for and on behalf of the Client]:

........................................

**SCHEDULE 1 (CONSULTANCY PARTICULARS)**

**1. Specification of Services**

*[Specify Services]*

**2. Specification of Deliverables**

*[Specify Deliverables]*

**3. Timetable**

*[Insert timetable]*

**4. Client Materials**

*[Specify Client Materials]*

**5. Financial provisions**

*[Insert financial provisions]*