

Consultancy Agreement (the "Agreement")



RECITALS:

- (A) The Company arranges the provision of services by independent consultants to its Clients on a project basis.
- (B) The Consultancy is engaged in the business of performing independent consultancy services for businesses such as the Company's Clients.
- (C) The Consultancy has agreed to meet Clients' project requirements agreed between the Company and the Consultancy from time to time on the terms and conditions set out within this Agreement and the terms within each Project Assignment Details Form.

OPERATIVE PROVISIONS:

1. DEFINITIONS

1.1 In this Agreement the following words and expressions shall have the following meanings assigned to them where the context permits:

- "Associated Companies" means any company which directly or indirectly owns or controls or is directly or indirectly owned or controlled by or in common ownership or control with the Company to the extent of holding more than 50% of the shares or stock having the power to vote at a general meeting or equivalent;
- "Client" means third parties with whom the Company have agreed to provide the services of the Consultancy and any relevant Representative;
- "Confidential Information" means the confidential information more particularly described in Clause 8;
- "Company": Resourcing Solutions Limited, (company number 03280183), a company incorporated England whose registered office is at Vector House, 5 Ruscombe Park, Ruscombe, Berkshire RG10 9JW;
- "Consultancy" means the person introduced by the Company to the Client including any Representative of the Consultancy if the Consultancy is a limited company;
- "Deliverables" means any tangible or intangible that is to be produced or delivered by the Consultancy to the Company or Clients;
- "Duly Authorised Representative" means any person authorised by the Company or the Company's client(s)/customer(s) for whom the Consultancy is performing Services;
- "Effective Date" means the date at the head of this Agreement;
- "Project Assignment Details Form" means the form which sets out the agreed details of the Project Assignment including the Client's requirements;
- "Project Assignment" means the relevant assignment agreed between the Company and the Consultancy as set out in a Project Assignment Details Form pursuant to which the Consultancy is to perform Services for the Company and/or the Clients;
- "Relevant Client" means the Client to whom the Company is delivering the Services;
- "Representative" means the employees, officers or representatives of the Consultancy specified in the Project Assignment Details Form (including any substitute made in accordance with clause 4.11 below), who provides the Services on behalf of the Consultancy;
- "Services" means the services to be provided by the Consultancy in accordance with this Agreement and each Project Assignment agreed from time to time.

2. ACCEPTANCE

2.1 The Consultancy is deemed to have accepted the terms and conditions of this Agreement by virtue of any of the following:

- (a) signed Agreement; or
 - (b) faxed copy of signed Agreement; or
 - (c) E-mail confirmation of agreement to this Agreement; or
 - (d) the attendance at an interview with a Client; or
 - (e) the commencement of any services in respect of a Project by the Consultancy; whichever is the earlier.
- 2.2 Upon acceptance of a Project by the Consultancy, the Company shall supply the Consultancy with a Project Assignment Details Form incorporating this Agreement. In the absence of signed acceptance of this Agreement, this Agreement is deemed accepted on the commencement of the Project by the Consultancy.

2. SERVICES

- 2.1 The Consultancy will perform the Project Assignment as set out in the Project Assignment Details Form or as varied by the Parties in writing from time to time.
- 2.2 Details of each Project Assignment agreed between the Parties shall be set out in a Project Assignment Details Form substantially in the form of the annexed Project Assignment Details Form, and each such separate Project Assignment Details Form when agreed shall constitute a separate severable contract between the Company and the Consultancy.
- 2.3 The Consultancy shall use its best efforts in furtherance of the interests, reputation and business of the Company and shall apply the necessary or appropriate time, attention, resources and skill for its proper performance of the Services.

3 FEES AND EXPENSES

- 3.1 The Company will pay the Consultancy its fees at such intervals as set out in the relevant Project Assignment Details Form after the Company's receipt of the Consultancy's valid invoice and additional supporting information requested by the Company to confirm the satisfactory performance of the Services.
- 3.2 The Company will pay those of the Consultancy's expenses as agreed by the Company in the relevant Project Assignment Details Form after the Company receives all supporting documentation it may require and the Consultancy's valid invoice.
- 3.3 All fees payable under this Agreement are exclusive of Value Added Tax and any other applicable duty or tax, which shall (if and to the extent applicable) be payable by the Company.
- 3.4 The Consultancy shall be solely responsible for all income taxes, national insurance, social security or other withholdings or contributions which may be payable out of, or as a result of the receipt of any fees or other monies paid or payable in respect of the Services. The Consultancy shall indemnify the Company against all costs, claims, expenses (including legal expenses) and proceedings arising out of or in connection with such payments.

4 CONSULTANCY'S RESPONSIBILITIES

- 4.1 The Consultancy acknowledges that the Company and its Clients are relying on the Consultancy's skill, expertise and experience in the performance of the Services. Accordingly, the Consultancy shall be responsible for specifying to the Company in sufficient detail what information is reasonably required from the Company to enable the Consultancy to perform the Services. The Consultancy shall review all such information supplied by the Company and shall promptly notify the Company of any further information reasonably required.

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- 4.2 The Consultancy undertakes to read and review each Project Assignment Details Form it accepts and undertakes to ensure that each Representative has understood and agreed to the terms of the Project Assignment. The Company will deem the Consultancy's acceptance of a new Project Assignment if the Consultancy and/or the Representative attend the Project Assignment to perform the Services or the Consultancy's agreement to do so when the Company communicated the Project Assignment to the Company.
- 4.3 The Consultancy shall provide the Company with information regarding itself and its Representative, including but not limited to CVs, which is accurate, complete and true. Prior to the commencement of a Project Assignment, the Consultancy shall provide the Company with an up-to-date work history for the person providing the Services to the Client.
- 4.4 The Consultancy agrees to notify the Company immediately if it at any time it provides its services to the Company's Clients through another employment business.
- 4.5 The Consultancy shall keep safe and secure and shall take all reasonable care of any equipment belonging to the Company or its Clients while in the possession or control of the Consultancy.
- 4.6 The Consultancy shall ensure at all times, in the course of performance of the Services, that the Consultancy and all of its Representatives shall comply with all relevant statutory requirements, regulations and approved codes of practice relating to health and safety at work.
- 4.7 For Health and Safety reasons the Consultancy shall not permit any Representative to work in excess of 12 hours in any 24 hour period or 14 hours including travelling time in any 24 hour period or more than 13 days in any 14 day period unless given authorisation by the Company. This will only be given if a suitable risk assessment of the task has been received from the Client or undertaken by the Company.
- 4.8 The Consultancy shall permit Duly Authorised Representatives, upon reasonable prior notice to the Consultancy to visit any premises where any Services are being performed and meet with the Consultancy's personnel currently working on any Services and shall comply with all reasonable requests during such inspection to enable verification and procurement that the Consultancy is in compliance with the Project Assignment description set out in the relevant Project Assignment Details Form.
- 4.9 The Consultancy shall have reasonable autonomy in relation to determining the method of performance of the Services but in doing so it shall co-operate with the Client and comply with the Client's reasonable and lawful instructions within the scope of the Project Assignment.
- 4.10 The Consultancy shall observe any rules and/or regulation pertaining to the Client's place of work to which the Consultancy's attention has been drawn by the Company or Client or to which it might reasonably expect to be enforced.
- 4.11 In the event that a Representative providing services on behalf of the Consultancy is unable to provide the Services, the Consultancy shall use its best endeavours to inform the Company and the Client as soon as reasonably practical and in any event no later than within two hours of when the Representative was to attend the Client to provide the Services of the Representative's absence. The Consultancy shall contemporaneously advise the Company and Client of the foreseeable duration of the Representative's anticipated absence and shall provide the names and relevant details of substitute Representatives with the relevant skills and qualifications at least equivalent to those of the absent Representative.
- 4.12 Subject to clause 4.11, the Consultancy may only substitute a Representative with another Representative, if the substitute Representative has successfully completed the Company's vetting process and the Company has given express written agreement for the substitution.
- 4.13 The Consultancy shall bear the cost of any training which Representatives may require in order to perform the Services.
- 4.14 In the event that the Company pays for the Consultant's Representative(s) to attend or receive any training, competency assessment, equipment, medical examination, Alcohol & Drugs screening or any other prerequisite for undertaking the Project Assignment then the Company reserves the right to deduct such monies from any final payment to the Consultancy should the Project Assignment and/or Representative(s) be terminated before the end of six (6) weeks.
- 5 WARRANTIES AND UNDERTAKINGS
- 5.1 The Consultancy warrants that it has full power and authority to carry out the actions contemplated under this Agreement and each Project Assignment and that entry into and performance of this Agreement and the Services will not infringe the rights of any third party or cause it to be in breach of any obligations to a third party. The Consultancy undertakes that it shall not, during the currency of this Agreement, enter into any contract or accept any obligation inconsistent or incompatible with the Consultancy's obligations under this Agreement.
- 5.2 The Consultancy warrants that the Services will be carried out in a competent and professional manner and with reasonable skill and care, and that the Services will be performed by suitably qualified Representatives in accordance with the terms of this Agreement and any Project Assignment and will comply with all specifications and procedures communicated by the Company to the Consultancy.
- 5.3 The Consultancy warrants that all information provided by it to the Company pursuant to this Agreement shall be true and accurate in all respects.
- 5.4 The Consultancy undertakes not to make any statement, orally or in writing, publicly or privately, or conduct itself in such a manner as will or may in the reasonable opinion of the Company disparage the Company, the Client, its or their business, products or services.
- 5.5 Without limitation to the foregoing, the Consultancy warrants that it shall comply with all applicable laws, regulatory requirements and codes of practice in carrying out its obligations under this Agreement and any Project Assignment agreed from time to time and shall not do or permit anything to be done which might result the Company being in breach of any of the above.
- 5.6 The Consultancy undertakes to notify the Company forthwith in writing if it should become insolvent, dissolved or subject to a winding up petition.
- 5.7 The Consultancy undertakes to provide at its own cost, subject to any agreement to the contrary specified in the Project Assignment, all such necessary equipment as is reasonable for the adequate performance by the Representatives of the Services.
- 5.8 The Consultancy shall ensure that any computer equipment and associated software which it provides Representatives for the purpose of providing the Services contains anti-virus protection with the latest released upgrades from time to time.
- 6 LIABILITY AND INSURANCE
- 6.1 The Consultancy shall be liable for and shall indemnify and keep the Company fully and effectively indemnified against any and all claims, actions, liabilities, losses, damages or expenses (including legal expenses) incurred by the Company which arise out of or in connection with, directly or indirectly, the Consultancy's performance of the Services or breach of any term of this Agreement and/or any Project Assignment agreed from time to time, or any collateral contract between the Parties, or any infringement or alleged infringement of third party rights, misrepresentation, negligence, fraud, wilful misconduct or breach of statutory duty of or by the Consultant, or its employees, agents or contractors.
- 6.2 The Consultancy shall ensure the provision of adequate employer's Liability Insurance, Public Liability Insurance and any other suitable policies of insurance such as Professional Indemnity insurance in respect of the Consultancy and shall make a copy of the policy available to the Company upon request.
- 6.3 The Consultancy shall be liable for any defects arising in relation to the Services and shall rectify at its own cost such defects as may be capable of remedy within a reasonable period from notification of such defects by either the Company or the Client.

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7 TERM AND TERMINATION

- 7.1 This Agreement shall have effect on and from the Effective Date and shall continue in force thereafter.
- 7.2 Either party may terminate any or all Project Assignments immediately upon written notice to the other in the event of:
- 7.2.1 any material breach of a Project Assignment by the other party which breach is not remedied (if remediable) within thirty days after the service of written notice requiring the same;
 - 7.2.2 the other Party becoming bankrupt or entering into liquidation whether voluntary or compulsory (other than for the purpose of solvent amalgamation or reconstruction) passing a resolution for its winding up, having a receiver, manager, administrative receiver, administrator, trustee or similar officer appointed over the whole or any part of its business or assets, or making any composition or arrangement with its creditors or taking or suffering any similar action in consequence of its debt, or ceasing or threatening to cease to trade.
- 7.3 The Company may also terminate this Agreement and/or any current Project Assignment immediately upon written notice to the Consultancy if:
- 7.3.1 the Consultancy breaches any of its obligations under Clause 8 and Clause 9;
 - 7.3.2 the Consultancy disputes the validity or ownership of any of the Company's or Client's intellectual property rights;
 - 7.3.3 the Consultancy has been prevented from performing its obligations under this Agreement for a period exceeding one month or more in any period of twelve months.
 - 7.3.4 the Client terminates its agreement for the Company to deliver those services which comprise part or all the Services to be delivered by the Consultancy pursuant to a current Project Assignment;
 - 7.3.5 the Client requests that either or both the Consultancy or Representative providing the Services be replaced or removed from the Project Assignment;
 - 7.3.6 any Client to whom the Consultancy is, or has agreed to commence providing Services, fails to pay the Company's charges.
- 7.4 Upon termination of this Agreement or any Project Assignment for any reason, the Consultancy shall deliver to the Company all Deliverables relating to the terminated Project Assignment then in the Consultancy's possession or control, whatever their state of development at that time, and all materials and information reasonably required by the Company to complete such Deliverables.
- 7.5 Termination of this Agreement shall be without prejudice to the rights and liabilities of the Parties accrued at the date of termination.
- 7.6 Upon termination of this Agreement for any reason, the Consultancy shall not for a period of six months, whether itself or as principal, agent, proprietor, shareholder, director, employee, associate, partner, representative, contractor, advisor or assistant of or to any business or entity, directly or indirectly solicit, promote, contract with or accept or carry on any business for any Client who was, at any time within six months of the date of termination of this Agreement, a Client of the Company and for whom the Consultancy performed Services (either directly or indirectly) during the preceding six months.

8 CONFIDENTIALITY

- 8.1 The Consultancy acknowledges that during the provision of the Services it will become aware of information relating to the Company, its Associated Companies, its or their clients or customers, businesses, business plans or affairs, which is proprietary and confidential to the Company, its Associated Companies, clients or customers (as the case may be) ("Confidential Information"). Confidential Information includes without limitation trade secrets, information relating to clients or customer lists of requirements, price lists or pricing structures, marketing and sales information, business plans or dealings, employees or officers, financial information and plans, designs, product lines, research activities, any document marked "Confidential" or any information which the Consultancy has been informed is confidential or which the Consultancy ought reasonably to know that the Company would regard as confidential, or any information given to the Company or its Associated Companies in confidence by clients or customers, suppliers or others.
- 8.2 The Consultancy undertakes to maintain the confidentiality of the Confidential Information at all times and keep it secure and protected against theft, damage, loss or unauthorised access and not, during the term of this Agreement or at any time afterwards, deal in any way directly or indirectly with the Confidential Information without the prior written consent of the Company.
- 8.3 The terms and obligations imposed by this Clause 8 shall survive the termination or expiry of this Agreement for any reason but shall not apply to any Confidential Information which is:
- 8.3.1 at the time of receipt by the Consultancy in the public domain, or subsequently comes into the public domain through no fault of the Consultancy, its officers, employees, agents or contractors;
 - 8.3.2 lawfully received by the Consultancy from a third party on an unrestricted basis;
 - 8.3.3 already known to the Consultancy before receipt under this Agreement, or
 - 8.3.4 required by law, regulation or order of a competent authority to be disclosed by the Consultancy.
- 8.4 Should the Consultancy be engaged to perform Services for Clients dealing with or requiring compliance with the Official Secrets Act, the Consultancy and any of its employees shall take all steps required for compliance with the Official Secrets Act and shall remain subject to any such undertakings after the termination of this Agreement.
- 8.5 The existence and terms of this Agreement are confidential and, save as required by law, regulation or order of a competent authority, may not be disclosed by either Party to any third party without the other Party's prior written consent.

9 INTELLECTUAL PROPERTY RIGHTS

- 9.1 The Consultancy acknowledges and agrees that all intellectual property rights in work arising from or created, produced or developed by the Consultancy (whether alone or jointly with others) under or in the course of this Agreement and/or each Project Assignment ("the Works") wherever in the world enforceable, including without limitation all right, title and interest in and to the Services (including any Deliverables) and all documents, data, drawings, specifications, articles, computer programs, object code, source code, network designs, notes, sketches, drawings, reports, inventions, improvements, modifications, discoveries, tools, scripts or other items relating thereto, shall immediately upon creation or performance vest in and shall be and remain the sole and exclusive property of the Relevant Client, and the Consultancy hereby irrevocably and unconditionally assigns to the Relevant Client and shall procure that its officers, employees, agents and contractors assign to the Relevant Client, all right, title and interest in and to the Works whether existing or future.
- 9.2 The Consultancy hereby unconditionally waives in favour of the Relevant Client all moral rights (if any) it may have under the Copyright, Designs and Patents Act 1988 (or any foreign corresponding rights) in connection with its authorship of any copyright Works in the course of performance of the Services, wherever in the world enforceable.
- 9.3 The Consultancy agrees, at the Company and/or the Relevant Client's request, to take all such actions and execute all such documents as may in the Company and/or the Relevant Client's opinion be necessary to give effect to the assignments and waivers described in Clauses 9.1 and 9.2 and to enable the Relevant Client to obtain, defend or enforce its rights in the Works (including without limitation by procuring from its

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employees, agents and contractors all requisite assignments and waivers), and shall not do or fail to do any act which would or might prejudice the Relevant Client’s rights under this Clause 9.

9.4 The Consultancy shall have the non-exclusive right during the term of this Agreement to use, copy, modify and develop the Works solely in connection with the performance of the Services in accordance with the terms of this Agreement.

9.5 The Consultancy shall fully and effectively indemnify the Company from and against all losses, damages, costs, liabilities and expenses (including legal expenses) arising out of or in connection with any third party demand, claim or action alleging that the performance of the Services (including the use of or dealing with any Deliverables) infringes any intellectual property right belonging to a third party.

9.6 The terms of and obligations imposed by this Clause 9 shall survive the expiry or termination of this Agreement for any reason.

10 DATA PROTECTION

10.1 The Consultancy acknowledges and agrees, and undertakes to gain the consent of the Representative, to the Company collecting and processing personal data relating to the Consultancy and any Representative, and in particular to the processing of any sensitive personal data (as defined in the Data Protection Act 1998).

10.2 This personal data may be used for a number of purposes including without limitation assessing the suitability of the Consultancy and/or the Representatives for Assignments; providing details of the Consultancy and/or the Representatives to Clients; dealing with requests and enquiries; maintaining records; assisting with police investigations and/or enquiries; and/or complying with statutory and regulatory obligations.

10.3 The Company may disclose any information that it collects to Clients.

11 NON-SOLICITATION

11.1 The Consultancy agrees, during the term of this Agreement and each Project Assignment and for a period of one year following the termination of this Agreement not to solicit or induce any officer, employee, agent, contractor or Client of the Company or any of its Associated Companies involved in the relevant Project Assignment to terminate their employment or engagement with the Company, the Client or either of their Associated Companies without the prior written consent of the Company or Client as applicable.

12 FORCE MAJEURE

12.1 Neither Party shall be liable for any delay in performing or for failure to perform its obligations under this Agreement to the extent that and for so long as the delay or failure results from any cause or circumstances whatsoever beyond its reasonable control (‘event of force majeure’) provided it arises without the fault or negligence of such party.

12.2 If any event of force majeure occurs, subject to the affected party promptly notifying the non-affected party in writing of the event of the force majeure, the date(s) for performance of the obligation affected shall be postponed for so long as is made necessary by the event of force majeure. If performance is not resumed within thirty days of the date of the affected party’s written notice the non-affected party may immediately by notice in writing terminate any affected Services. Each Party shall use its reasonable endeavours to minimise the effects of any event of force majeure.

13 NOTICES

13.1 Any written notices required or permitted to be given pursuant to this Agreement or any Project Assignment shall be sent by first class mail, postage prepaid, or by facsimile confirmed by a hard copy by post to the intended recipient’s address as specified in this Agreement, or such other address as that party shall have notified to the other from time to time and shall have effect two (2) days after posting or upon confirmation of transmission if sent by facsimile.

14 NO BENEFITS

14.1 Subject to any agreement by the parties to the contrary, neither the Consultancy nor its Representatives shall be entitled to receive from the Company or the Client any payment for time not spent working on a Project Assignment whether in respect of holiday, sickness or absence for any other reason.

15 GENERAL

15.1 The Consultancy may not assign, transfer, charge or sub-contract the performance of this Agreement or any Project Assignment or any of its rights or obligations arising under this Agreement or any Project Assignment without the prior written consent of the Company.

15.2 This Agreement shall be governed by English law and the Parties hereby submit irrevocably to the exclusive jurisdiction of the English courts to resolve any dispute between them.

15.3 The failure of either Party to enforce or to exercise at any time or for any period of time any term of this Agreement shall not be construed as a waiver of such term and shall in no way affect that Party’s right later to enforce or to exercise it.

15.4 If any term of this Agreement is found to be invalid or unenforceable this shall in no way affect the validity or enforceability of the remaining terms.

15.5 This Agreement contains the entire understanding of the Parties with respect to its subject matter and supersedes all and any prior understandings, undertakings and promises between them, whether oral or in writing, which have been given or may be implied from anything written or said in negotiations between the parties or their representatives prior to this Agreement.

15.6 Provisions of this Agreement which either are expressed to survive its termination or from their nature or context it is contemplated that they are to survive such termination, shall remain in full force and effect notwithstanding such termination.

15.7 The relationship of the Parties is that of independent contractors dealing at arm’s length. Nothing in this Agreement shall constitute the Parties as partners, joint venturers or co-owners, or constitute either party as the agent, employee or employer of the other or the others employees or agents, or empower either party to act for, bind or otherwise create or assume any obligation on behalf of the other and neither party shall hold itself out as having authority to do the same.

15.8 The Parties shall do and execute all such further acts and things as are reasonably required to give full effect to the rights given and the transactions contemplated by this Agreement.

15.9 Any alteration to or variation of this Agreement must be in writing and signed on behalf of each of the Parties by a duly authorised officer.

15.10 The parties agree that all rights afforded any third parties to this Agreement or any Project Assignment by the Contracts (Rights of Third Parties) Act 1999 shall and are hereby expressly excluded.

15.11 The Consultancy shall be deemed to have accepted and shall be bound by the terms of this Agreement in the event that the Company receives an invoice from the Consultancy or any other request for payment prior to the return of a signed copy of this Agreement to the Company.