

Wieden & Kennedy UK Limited

-and-

Name of Ltd Company

Consultancy Agreement

This Agreement is between:

(1) Wieden & Kennedy UK Limited, 16 Hanbury Street, London, E1 6QR (the “Company”); and

(2) Name of Limited Company (the “Collaborator”)

1. The Services

- 1.1 The Company engages the Collaborator to provide the services set out in Schedule 1 of this agreement (the “Services”) and the Collaborator agrees to provide the Services in accordance with the terms of this agreement.
- 1.2 This project will start on xxxx and continue to xxxx (the “Term”) or until the project is ended earlier by either party in accordance with the terms of this agreement (the “Project End Date”).

2. Agreed Services

- 2.1 The Collaborator will provide the Services for [XXX] hours over the Term (the “Target Hours”).
- 2.2 The Collaborator must ensure that the Services are provided by the individual[s] named in Schedule 2 unless otherwise agreed in writing with the Company.

- 2.3 The Services will be provided at any time agreed between the Collaborator and the Company.

3. Payment

3.1 The Collaborator will be paid a fee of £XXX comprising both of:

- 3.1.1 a guaranteed monthly instalment of [£XXX]; and
- 3.1.2 a single payment of [£XXX] payable in full only if, at the Project End Date, the Collaborator has provided the Services for the Target Hours.
- 3.2 [At the Project End Date the Collaborator and the Company shall agree the total number of hours for which the Collaborator has provided the Services.] If the Collaborator has provided the Services for the Target Hours they will receive the single payment in Clause 3.1.2.
- 3.3 If at the Project End Date the Collaborator has provided the Services for less than the Target Hours:
 - 3.3.1 the percentage of Target Hours for which the Collaborator has provided the Services shall be calculated (for example, if the number of Target Hours is 10 and the Collaborator has only provided the Services for 4 hours, the percentage of Target Hours provided is 40%).
 - 3.3.2 The total accumulative amount of payments that the Collaborator has received by way of guaranteed monthly instalments under Clause 3.1.1 shall also be calculated and expressed as a percentage of the Total Payment (for example, if the Total Payment is £100 and the Collaborator has received accumulatively £50 by way of guaranteed monthly instalments, the percentage of Total Payment received is 50%).
 - 3.3.3 If the percentage of Target Hours for which the Collaborator has provided the Services (calculated under Clause 3.3.1) is lower than the percentage of Total Payment that the Collaborator has received by way of guaranteed monthly instalments (calculated under Clause 3.3.2):

- 3.3.3.1 the Collaborator shall (but only if requested by the Company) repay a proportion of, or entirety of, the accumulative amount they have received by way of the guaranteed monthly instalments (subject to Clause 3.3.3.2).
- 3.3.3.2 The amount that the Collaborator shall repay (if requested by the Company) under clause 3.3.3.1 shall not be more than be the amount sufficient to make the percentage of the Total Payment they have (after this deduction) retained equal to the percentage of Target Hours for which the Services were provided (calculated under Clause 3.3.1). For example, if the Collaborator has received accumulatively £50 by way of guaranteed monthly instalments and the single payment is £50 (meaning the Total Payment is £100), but at the Project End Date the Collaborator has provided the Services for 4 hours and the number of Target Hours is 10 (meaning the percentage of Target Hours provided is 40%) the Collaborator shall, if requested by the Company, repay £10.
- 3.3.4 If the percentage of Target Hours for which the Collaborator has provided the Services (calculated under Clause 3.3.1) is higher than the percentage of Total Payment that the Collaborator has received by way of guaranteed monthly instalments (calculated under Clause 3.3.2):
- 3.3.4.1 the Company shall pay the proportion of the single payment in Clause 3.1.2 sufficient to make the percentage of the Total Payment the Collaborator will have received (after this additional top-up payment) equal to the percentage of Target Hours for which the Services were provided (calculated under Clause 3.3.1). For example, if the Collaborator has received accumulatively £50 by way of guaranteed monthly instalments (with a possible single payment of £50 meaning the Total Payment is £100), but at the Project End Date the Collaborator has provided the Services for 6 hours and the number of Target Hours is 10 (meaning the percentage of Target Hours provided is 60%) the Company shall pay to the Collaborator £10.

- 3.4 If at the Project End Date the Collaborator has provided the Services for more than the Target Hours:
 - 3.4.1 the Company shall pay the amount sufficient to make the percentage of the Total Payment the Collaborator will have received (after this additional top-up payment) equal to the percentage of Target Hours for which the Services were provided. For example, if the Collaborator has received a Total Payment of £100 (comprising of guaranteed monthly instalments of £50 and a single payment of £50), but at the Project End Date the Collaborator has provided the Services for 11 hours and the number of Target Hours is 10 (meaning the percentage of Target Hours provided is 110%) the Company shall pay to the Collaborator an additional £10.
- 3.5 Clause 3.3.3 above shall not apply if at the Project End Date both:
 - 3.5.1 the Collaborator has not provided the Services for 10% or more of the Target Hours; and
 - 3.5.2 the reason that the Collaborator has not provided the Services for 10% or more of the Target Hours is that the Company has been unable to provide the opportunity for the Collaborator to provide the Services for 10% or more of the Target Hours.
- 3.6 No monies will be due from the Company to the Collaborator for providing the Services other than those set out in this agreement.

4. Providing the Services

- 4.1 The Collaborator and any person providing Services on behalf of the Collaborator will provide the Services:
 - 4.1.1 with all reasonable care and skill;
 - 4.1.2 with the degree of skill and diligence which would be expected from a skilled and experienced person engaged in the same type of business;
 - 4.1.3 efficiently and in a timely manner; and
 - 4.1.4 in a lawful and proper manner.

- 4.2 The Collaborator and any person providing Services on behalf of the Collaborator must:
 - 4.2.1 keep such records of work as the Company may reasonably require; and
 - 4.2.2 provide such other information regarding the Services as the Company may reasonably require.
- 4.3 When providing the Services at the Company's premises, the Collaborator and any person providing Services on behalf of the Collaborator must comply with any applicable policies, procedures and rules of the Company.

5. Location

- 5.1 The Collaborator may provide the Services at the Company's premises at 16 Hanbury Street, London E1 6QR or at any other location as mutually agreed by the Collaborator and the Company.

6. Confidentiality

- 6.1 During and after the project with the Company, the Collaborator and any person providing Services on behalf of the Collaborator must not (unless required to do so by law, protected in doing so by a legal right of protected disclosure or doing so in properly providing the Services):
 - 6.1.1 use any of the Company's trade secrets or confidential information for any purposes other than the Company's; or
 - 6.1.2 disclose any of the Company's trade secrets or confidential information to any person.
- 6.2 The Collaborator and any person providing Services on behalf of the Collaborator must make sure that they keep all trade secrets and confidential information which they obtains or otherwise receives in connection with the Services safely and effectively protected against improper disclosure or use. The Collaborator and any person providing Services on behalf of the Collaborator must also use their best efforts to prevent improper disclosure or use of such trade secrets or confidential information by third parties.

- 6.3 “Confidential information” includes but is not limited to lists of the Company’s actual or potential clients; details of relationships or arrangements with or knowledge of the requirements of the Company’s actual or potential clients; details of the Company’s business methods, finances, prices or pricing strategy, marketing or development plans or strategies; details of any tenders, pitches or presentations proposed or made by the Company; personal information about any of the Company’s directors or employees; information divulged to the Company by a third party in confidence; and any information relating to the Company or any of its clients which the Company or client in question reasonably considers to be confidential.

7. Data protection and monitoring

- 7.1 The Collaborator and any person providing Services on behalf of the Collaborator accepts that the Company may need to process personal data about them and consents to the Company processing such data for any purpose connected with this agreement or the provision of the Services. If the Collaborator and any person providing Services on behalf of the Collaborator require further information about the processes carried out by the Company, they must contact the Company’s HR Manager or refer to the Company’s Data Protection Policy in the first instance.
- 7.2 As a result of this agreement and the provision of the Services, the Collaborator and any person providing Services on behalf of the Collaborator may have access to personal data about the Company’s employees, directors and freelancers. The Collaborator and any person providing Services on behalf of the Collaborator must keep all such data secure and protected against improper disclosure or use. If asked to obtain, use or otherwise process any such data on behalf of the Company, the Collaborator and any person providing Services on behalf of the Collaborator must:
 - 7.2.1 act only on instructions from the Company or as set out in this agreement; and

- 7.2.2 take appropriate technical and organisational measures against unauthorised or unlawful processing of such data and against accidental loss or destruction of, or damage to, such data.

8. Intellectual property and proprietary rights

- 8.1 The Company will be entitled to ownership, copyright, design rights and all other intellectual property and proprietary rights (both present and future) in the Materials and the Collaborator and any person providing Services on behalf of the Collaborator assigns all such rights to the Company.
- 8.2 "Materials" means any work or material developed, written or prepared by or on behalf of the Collaborator and any person providing Services on behalf of the Collaborator or any sub-contractor in relation to the Services (whether individually, collectively or jointly with the Company and on whatever media) including (without limitation) any documents, reports, studies, data, diagrams, charts, specifications or computer programs and related copies and working papers, whether developed before or after the signing of this agreement.
- 8.3 The Collaborator and any person providing Services on behalf of the Collaborator undertakes to do anything reasonably required (both during and after the termination of the agreement) to ensure that all present and future intellectual property and proprietary rights in the Materials belong to or are assigned to the Company and to assist the Company in protecting or maintaining them (although the Company will not be obliged to do so).
- 8.4 Upon request by the Company, and in any event upon the termination of this agreement, the Collaborator and any person providing Services on behalf of the Collaborator will promptly deliver to the Company all Materials in the Collaborator and any person providing Services on behalf of the Collaborator's possession.
- 8.5 If any moral right under the Copyright Designs and Patents Act 1988 arises in respect of any Materials the Collaborator and any person providing Services on behalf of the Collaborator will:
 - 8.5.1 waive such rights as against the Company and its employees; and

- 8.5.2 exercise such rights against any third party only as the Company requests and in accordance with the Company's directions.

9. Discrimination and dignity at work

- 9.1 The Collaborator must (and must ensure that anyone providing Services on behalf of the Collaborator will) treat all employees, agents and contractors of the Company (and such agents' and contractors' employees) with respect and must not harass, victimise or otherwise unlawfully discriminate against any such persons.
- 9.2 The Collaborator will indemnify the Company and keep it indemnified against any claims, liabilities, costs and expenses which the Company incurs as a result of, or related to, breaches or alleged breaches by the Collaborator and any person providing Services on behalf of the Collaborator of obligations under this Clause.

10. Termination

- 10.1 This agreement will terminate upon expiry of the Term or earlier if terminated in accordance with the clause.
- 10.2 Either party may terminate this agreement at any time by giving not less than one month's notice in writing.
- 10.3 Either party may terminate this agreement at any time with immediate effect provided the other party gives their express mutual agreement in writing.
- 10.4 The Company may terminate this agreement with no notice, with immediate effect and without being obliged to make any additional payments whatsoever if the Collaborator:
 - 10.4.1 does not agree to provide the Services in accordance clause 2.3 for [two consecutive calendar months] following a written request by the Company for the Services to be provided during that [two month period] except for when this non-provision of Services is with the express agreement of the Company; and/or

- 10.4.2 the Collaborator or any person providing Services on behalf of the Collaborator does not provide the Services in accordance with clause 4 of this agreement.
- 10.5 Upon termination of this agreement howsoever arising the Collaborator and any person providing Services on behalf of the Collaborator must:
 - 10.5.1 provide such co-operation and information as the Company may reasonably request in connection with the termination and any consequences, including co-operating in a smooth handover of any ongoing work; and
 - 10.5.2 return immediately all items of the Company's property which the Collaborator and any person providing Services on behalf of the Collaborator has in their possession (including any security pass, disks, tapes, documents or copies of documents).
- 10.6 For the avoidance of doubt, the termination of this agreement (however arising) will not affect:
 - 10.6.1 any rights or obligations which have accrued up to the Termination Date; or
 - 10.6.2 any rights or obligations which expressly or impliedly survive the termination of this agreement

11. Restrictions

- 11.1 In this Clause:
 - 11.1.1 "Client" means any client of the Company with whom the Collaborator and any person providing Services on behalf of the Collaborator had material contact by reason of or in connection with this agreement or the provision of the Services;
 - 11.1.2 "Competitor" means any individual, company or other organisation who is carrying on or planning to carry on business in competition with the Company; and
 - 11.1.3 "Key Person" means any employee, director or freelancer of the Company working in a managerial, financial, technical, creative, sales

or marketing capacity (other than an individual in business on his or her own account providing professional independent advisory services to the Company) with whom the Collaborator and any person providing Services on behalf of the Collaborator had material contact by reason of or in connection with this agreement or the provision of the Services.

- 11.2 The Collaborator and any person providing Services on behalf of the Collaborator will not at any time during the course of this agreement, the Term or any time during which the Services are being provided (either on his/her own account or for any other individual, organisation or company) whether directly or indirectly:
 - 11.2.1 encourage or try to encourage any individual, company or other organisation who is a Client to withdraw its custom from the Company;
 - 11.2.2 solicit or try to solicit the custom of any individual, company or other organisation who at any time during this agreement or the provision of the Services was a Client with a view to supplying that Client with services in competition with the Company;
 - 11.2.3 supply services to any individual, company or other organisation who at any time during this agreement or the provision of the Services was a Client in competition with the Company.
 - 11.2.4 entice away or try to entice away from the Company any individual who at any time during this agreement or the provision of the Services was a Key Person;
 - 11.2.5 employ or enter into partnership or association with or retain the services (or offer to do so) of any individual who at any time during this agreement or the provision of the Services was a Key Person; or
- 11.3 The Collaborator and any person providing Services on behalf of the Collaborator will not at any time during the period of 6 months immediately following the Termination Date (either on his/her own account or for any other individual, organisation or company) whether directly or indirectly:
 - 11.3.1 encourage or try to encourage any individual or company or other organisation who at any time during the 6 months before the

Termination Date was a Client to withdraw its custom from the Company;

- 11.3.2 solicit or try to solicit the custom of any individual, company or other organisation who at any time during the 6 months before the Termination Date was a Client with a view to supplying that Client with services in competition with the Company;
- 11.3.3 entice away or try to entice away from the Company any individual who at any time during the 6 months before Termination Date was a Key Person;
- 11.3.4 employ or enter into partnership or association with or retain the services (or offer to do so) of any individual who at any time during the 6 months before the Termination Date was a Key Person; or
- 11.3.5 provide services to a Competitor if during this agreement or the provision of the Services the Collaborator and any person providing Services on behalf of the Collaborator has obtained or otherwise received trade secrets or confidential information which are likely to be of material value to the Competitor and in the course of providing such services to the Competitor there is a material risk that the Collaborator and any person providing Services on behalf of the Collaborator would (whether inadvertently, carelessly or deliberately) use or disclose such secrets or information.

12. Status

- 12.1 The Collaborator and any person providing Services on behalf of the Collaborator warrants that they are independent self-employed contractors in business on his/her own account and not an employees of the Company.
- 12.2 The Collaborator and any person providing Services on behalf of the Collaborator is not an agent of the Company and (unless otherwise agreed in writing) will have no right to make contracts or enter any engagements on the Company's behalf.

- 12.3 The Collaborator warrants that it is not a managed service company under Chapter 9 of Part 2 of Income Tax (Earnings and Pensions) Act ("ITEPA") 2003.
- 12.4 The Collaborator and any person providing Services on behalf of the Collaborator will account to the appropriate authorities for any income tax or national insurance contributions due in respect of sums payable in connection with this agreement. The Collaborator and any person providing Services on behalf of the Collaborator will indemnify the Company and keep the Company indemnified against any claim or demand made against the Company in respect of any such tax or contributions and against any interest or penalties imposed in connection with any such tax or contributions. The Collaborator and any person providing Services on behalf of the Collaborator will inform the Company of his/her tax reference number on request.

13. Miscellaneous

- 13.1 This agreement will be governed by the laws of England and Wales and the Courts of England and Wales will have non-exclusive jurisdiction to adjudicate any disputes arising under it.
- 13.2 The Company and Collaborator confirm that they are not entering into this agreement in reliance upon any oral or written representations made to them by or on behalf of the other.
- 13.3 This agreement contains the whole agreement between the Company and the Collaborator in connection with the Collaborator's engagement by the Company.
- 13.4 No person other than the Collaborator and Company may enforce any term of this agreement.

SIGNED on behalf of the Company _____

DATED _____

I have read, understood, agree and accept the terms and conditions set out in this agreement.

SIGNED by the Collaborator _____

DATED _____

SCHEDULE ONE

SCHEDULE TWO