

CONSULTANCY AGREEMENT

between

{consultants_name}

and

{full_company_name}

CONTENTS

CLAUSE

1. Interpretation.....	3
2. Term of engagement.....	4
3. Services.....	5
4. Fees.....	5
5. Expenses.....	6
6. Other activities.....	6
7. Confidential information.....	6
8. Intellectual property.....	7
9. Termination.....	7
10. Independent consultancy.....	8
11. Notices.....	8
12. Entire agreement.....	8
13. Variation.....	9
14. Counterparts.....	9
15. Governing law.....	9
16. Jurisdiction.....	10

SCHEDULE

Schedule 1	Services.....	22
------------	---------------	----

{insert_date}

Parties

- (1) {consultant_full_legal_name} of {consultant_address} (**Consultant**)
- (2) {client_full_legal_name} of {client_address} (**Client**)

1. Agreed termsInterpretation

The following definitions and rules of interpretation apply in this agreement (unless the context requires otherwise).

1.1 Definitions:

Business Day: a day, other than a Saturday, Sunday or public holiday in Ireland, when banks in Ireland are open for business.

Commencement Date: {insert_date_of_commencement}.
{including_the_deliverables}

Engagement: the engagement of the Consultant by the Client on the terms of this agreement.

Services: the services provided by the Consultant in a consultancy capacity for the Client as more particularly described in .

Termination Date: the date of termination of this agreement, howsoever arising.

- 1.2 The headings in this agreement are inserted for convenience only and shall not affect its construction.
- 1.3 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.4 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular. Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.5 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality). A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.

1.6 The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules.

2. A reference to writing or written includes email. Term of engagement

2.1 The Client shall engage the Consultant and the Consultant shall provide the Services on the terms of this agreement.

2.2 The Engagement shall commence on the Commencement Date and shall continue unless and until terminated:

- (a) as provided by the terms of this agreement; or
- (b) by either party giving to the other not less than {insert_time_to_terminate_engagement} prior written notice.

3. Services

4. During the Engagement the Consultant shall provide the Services {including_the_deliverables}, with due care and skill and in accordance with the specification contained in Schedule 1. Fees

4.1 {answer7}

4.2 In consideration of the provision of the Services during the Engagement, the Client shall pay each invoice submitted by the Consultant in accordance with this clause within {insert_time_to_receipt_of_invoices} weeks of receipt.

4.3 Without prejudice to any other right or remedy that it may have, if the Client fails to pay the Consultant any sum due under this agreement on the due date the Consultant may suspend all or part of the Services until payment has been made in full.

4.4 All sums payable to the Consultant under this agreement:

- (a) are exclusive of VAT, and the Client shall in addition pay an amount equal to any VAT chargeable on those sums on delivery of a VAT invoice; and
- (b) shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

5. Costs and expenses

6. {answer9} Other activities

Background Info: *The nature of consultancy contracts is that a consultant is independent and should be able to provide services to other clients provided there is no specific understanding / agreement that the consultant cannot provide comparable services to other similar businesses.*

7. Nothing in this agreement shall prevent the Consultant from being engaged, concerned or having any financial interest in any capacity in any other business, trade, profession or occupation during the Engagement. Confidential information

Background Info: *The purpose of this clause is to protect the confidential information of both parties during the agreement and for a reasonable period after the agreement terminate (note: post-termination confidentiality obligations vary from case to case but 2 years is often a market norm).*

7.1 Each party undertakes that it shall not at any time during this agreement, and for a period of two years after termination or expiry of this agreement, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by this clause.

7.2 Each party may disclose the other party's confidential information:

- (a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

8. No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement. Intellectual property

Background Info: *The purpose of this clause is to provide the Client with the benefit of any IP developed by the Consultant as part of the Engagement.*

9. The Consultant hereby assigns to the Client all existing and future intellectual property rights (including, without limitation, patents, copyright and related rights) and inventions arising from the Services provided for the Client during the term of this agreement. The Consultant shall, to the extent necessary, execute all documents and do all acts as may be reasonably necessary to give effect to this paragraph. No other payment other than the fees contained in this agreement will be made in consideration of this assignment, unless required by law. Limitation of liability

Background Info: While the vast majority of disputes arising under a contract can and should be resolved amicably or at a commercial level, it is prudent to make it clear in any contract that a consultant should only be liable for a maximum of the value it has received under the contract for the previous 12 month period.

10. To the extent permitted by law, each party's total liability for any losses or damages arising as a result of any breach of this agreement shall not exceed the value of the fees paid by the Client to the Consultant for the previous 12 month period. Neither party shall be liable to other for any indirect or consequential loss including, for the avoidance of doubt, any loss of profits, sales, revenue or goodwill. Termination

Background Info: The purpose behind this clause is to provide both parties with the right to terminate the agreement if either party commits a material breach. On termination of the agreement, there is a standard form requirement to return any confidential information and pay any outstanding invoices.

- 10.1 Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if the other party commits a material breach of any term of this agreement and (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so or the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts.
- 10.2 Without delay following the Termination Date each party shall return to the other party, destroy or permanently erase (including, to the extent legally and technically practicable, from its computer(s) and communications systems and devices or from systems and data storage services provided by third parties) all documents and materials containing, reflecting, incorporating, or based on any confidential information.

- 10.3 On termination or expiry of this agreement the Client shall immediately pay to the Consultant all of the Consultant's outstanding unpaid invoices and, in respect of the Services supplied but for which no invoice has been submitted, the Consultant may submit an invoice, which shall be payable without delay on receipt.
- 10.4 Termination or expiry of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

11. Force majeure

Background Info: The purpose behind this clause is to excuse a party from its performance obligations if events occur beyond the reasonable control of the party which has hindered performance or made it impossible (eg. Acts of God / unexpected issues with suppliers / employee strikes).

12. Neither party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed or the affected party shall be entitled to a reasonable extension of the time for performing such obligations.

Independent consultancy

Background Info: The purpose behind this clause is to make it clear that the Consultant is not deemed to be an employee and that the Consultant is only being engaged as an independent contractor.

13. The relationship of the Consultant to the Client will be that of independent contractor and nothing in this Agreement shall render them an employee, worker, agent or partner of the Client and the Consultant shall not hold themselves out as such. Notices

Background Info: It is very important that if sending any notice to the other party under the agreement (eg. in relation to an issue / dispute or a termination, the specific notice provisions listed in the agreement must be met).

Any notice given to a party under or in connection with this agreement shall be in writing and shall be:

- (a) delivered by hand or by registered post at the address given in this agreement or by email to the following addresses: in respect of the Client {10a} and in respect of the Consultant {10b}; or

- 14.** if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. **Entire agreement**

Background Info: The purpose of this clause is to prevent the parties being liable for any statements or representations (including pre-contractual representations) other than those expressly set out in the agreement. It helps ensure that comments or proposals submitted in the lead up to any agreement do not have binding legal effect. If it's not written in the agreement it effectively does not matter.

- 14.1** This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 14.2** Each party acknowledges that in entering into this agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement.
- 15.** Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement. **Variation**

Background Info: In the absence of a variation clause, any contract may be varied by agreement between the parties. Most contracts can be varied informally – that is, by speech and conduct, without writing or a signature. Formality is only required where, by statute, it was required for the contract's formation.

No variation of this agreement or of any of the documents referred to in it shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

- 16.** **Waiver**

Background Info: The purpose behind this clause is to make it clear that a failure by a party to enforce its contractual rights or remedies (whether done intentionally or not) does not result in the loss of those rights or remedies.

- 17.** No failure or delay by a party to exercise any right or remedy provided under this **agreement** or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy. **Counterparts**

Background Info: Counterparts clauses are useful where the parties are executing separate copies of an agreement. They are primarily used where not all the parties

will be physically present at signing and therefore there will be no single copy of the agreement that all the parties have signed. The absence of a counterparts clause will not of itself invalidate an agreement that the parties execute by separate counterparts. However, a counterparts clause may help to prevent a party from attempting to claim that an agreement is not binding by arguing that (a) there is no one copy of it that is signed by all parties and (b) they did not know that they were entering into a binding contract by signing an agreement not signed by the other parties.

- 18.** This agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement. **Governing law**

Background Info: This agreement is drafted on the basis that it is governed by Irish law. If the service is to be performed in Ireland between Irish parties it makes sense for the agreement to be regulated by Irish law.

- 19.** This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of Ireland. **Jurisdiction**

Background Info: A jurisdiction clause enables the parties to agree at the outset of their contractual relationship which country's or countries' courts are to have jurisdiction to hear disputes arising from the contract. If the service is to be performed in Ireland between Irish parties it makes sense for this to generally be the Irish courts.

Each party irrevocably agrees that the courts of Ireland shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

This document has been executed and takes effect on the date stated at the beginning of it.

Services

{consultants_name}

Signature

Print Name

{full_company_name}

Signature

Print Name