



CONSULTANCY AGREEMENT

[Insert Project Title]
Contract Number [Insert]

TERMS AND CONDITIONS

Definitions

In this Agreement the following words shall mean: -

“Agreement”	These terms and conditions together with the attached Schedules
“Council”	The Supplier’s customer set out in Schedule 2
“Supplier”	The Supplier set out in Schedule 1 which is supplying the Personnel to provide the Services, whose address is set out in Schedule 2
“Duration”	The intended period during which this Agreement will be in force, as set out in Schedule 1, subject to clause 10
“Fee Rate”	The Fee Rate in Schedule 1
“Location”	The Location set out in Schedule 1
“Payment Frequency”	The Payment Frequency set out in Schedule 1
“Personnel”	The Personnel referred to in Schedule 1 who are to be supplied by the Supplier to provide the Services
“Schedules”	The Schedules attached to these terms and conditions
“Services”	The work detailed in Schedule 3 which the Supplier will carry out for the Council or its clients

1. These terms and conditions together with the attached Schedules constitute the entire agreement between the Council and the Supplier for the provision of the Services
2. The Supplier will (and will procure that the Personnel will):
 - 2.1 devote such time, attention, skill and ability as is necessary to attain a high standard of performance of the Services in accordance with the requirements of the Council at the Location as the council may reasonably require and according to the requirements of Schedule 3;
 - 2.2 comply with the requirements of the Council to abide by its rules, administration and expense claims procedures in so far as they are not inconsistent with these terms;
 - 2.3 keep confidential both during and after this Agreement all information relating to the business affairs of the Council obtained while performing the Services and to give any further confidentiality undertakings that the Council may require as agreed by the parties;
 - 2.4 deliver upon request all materials relating to the business affairs of the Council obtained while performing the Services;

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- 2.5 assign to the Council or such other person as the Council shall nominate absolutely all intellectual property or other rights created during the performance of the Services (the "Rights") and to execute all documents and perform such acts as are required to protect and assign the Rights to enable the Council to assign such Rights to the Council's customer as may be required; and
 - 2.6 in the interests of continuity shall use its best endeavours to procure that the Services are provided by the Personnel personally but may with the consent of the Council substitute alternative personnel subject to procuring that such alternative personnel are bound by the terms of this agreement
3. The Supplier warrants that:
- 3.1 it is not insolvent nor has it applied for, or had made against it, an administration order or made any agreement with its creditors;
 - 3.2 it has made the Council aware of any criminal convictions of any of the Personnel including any criminal convictions not yet spent under the Rehabilitation of Offenders act 1974 against the Personnel;
 - 3.3 the Personnel have the right to provide the Services in the United Kingdom under its immigration laws and that the Supplier shall inform the Council promptly should the situation change;
 - 3.4 all oral or written representations made by the Supplier as to the Personnel's skill, experience, personality, health and eligibility to work are true;
 - 3.5 the Supplier is not prevented by any other contract or arrangement or any statute from fulfilling its obligations under this Agreement;
 - 3.6 that the Rights referred to in 2.5 will not infringe any third parties' rights;
 - 3.7 the Supplier is properly incorporated in the UK and will remain so during this Agreement and will provide the Council with a copy of its Certificate of Incorporation and a VAT registration certificate if requested to do so;
 - 3.8 the Supplier is responsible for all PAYE, income tax, corporation tax, national insurance contributions and VAT payments and will make complete and proper disclosure to the relevant authorities; and
 - 3.9 the Supplier is responsible for the Personnel's sickness, annual leave disability and pension arrangements;
4. If the Council incurs loss or damage because of the Suppliers breach of any term or condition of the Agreement then it shall reimburse the Council accordingly. In addition, the Supplier will indemnify the Council in respect of any liability, costs, expenses or damages incurred by the Council arising out of or in connection with any act or omission of any of its Personnel supplied under the Agreement. If the Council chooses, it can off set the amount to be reimbursed, in whole or in part, against payment due to the Supplier under this Agreement
5. The Supplier shall indemnify the Council from and against any liability to which the Council may be subject as a result of the failure of the Supplier to comply with the terms of this Agreement.
6. The Fee Rate paid to the Supplier excludes any VAT. The Supplier will not be entitled to costs, expenses or fees for additional work unless firstly authorised by the Council in writing and reasonably incurred

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7. The Supplier shall send by post (following a facsimile transmission if desired) an invoice, a record of the work carried out for the Council and, where applicable, a record of any additional costs or disbursements authorised by the Council each payment frequency. These will be in a form supplied by the Supplier or the Council, signed by the Personnel and countersigned by the Council
 8. The Council will make payments by bank transfer within thirty days of the invoice date. For a transfer to be made into the Supplier nominated account on the Payment Date (normal banking procedures permitting);
 - 8.1 a record of the work carried out for the Council complying with clause 7 above must be received by the Council
 9. The Supplier will only be paid for time worked by Personnel and will not be paid for sickness or holidays. Any absence of any of the Personnel must be agreed and approved in advance in writing by the Council.
 10. The Council may end this Agreement without liability for compensation in accordance with the following provisions;
 - 10.1 on giving 4 week's notice to the Supplier; or
 - 10.2 on giving 4 week's notice to Council; or
 - 10.3 with immediate effect in the event that the Supplier (as applicable)
 - 10.3.1 becomes insolvent, (or applies for, or has made against it, an administration order or makes any voluntary arrangement with its creditors) or ceases to be duly incorporated in the UK; or
 - 10.3.2 breaches any of the terms of this Agreement incapable in the opinion of the Council of remedy or if capable in the opinion of the Council of remedy where the Supplier has failed to remedy such breach to the satisfaction of the Council within seven days of being told to do so; or
 - 10.3.3 is unable to do so, or the Council is unable to, perform its obligations under this Agreement by reason of force majeure or any cause not within the respective control of the Supplier, or the Council;
 - 10.4 with immediate effect in the event that any of the Personnel (as applicable);
 - 10.4.1 fail to meet the requirements of the Council's security vetting procedures; or
 - 10.4.2 are convicted of any criminal offence or is guilty of dishonesty or misconduct; or
 - 10.4.3 with immediate effect if the Council terminates its requirements for the Supplier due to what the Council in its opinion considers to be the technical incompetence, unprofessional performance, unsuitability or misconduct of the Supplier or any of its Personnel
 11. No variation of this Agreement is valid or shall be binding on the Council unless confirmed in writing and signed by the Council and the Supplier
 12. No term of this Agreement is intended to be enforceable by anyone other than the parties to the agreement

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13. This Agreement shall be governed by and construed in accordance with English Law and the parties hereby submit to the exclusive jurisdiction of the English Courts
 14. In the event of the Supplier working as part of a team of professionals then the Supplier shall provide all necessary information within his possession to other members of the team promptly so as to enable the other members to proceed with the Services within their separate areas of expertise
 15. The Supplier shall promptly inform the Council of any matter likely to affect the carrying out of the Services in timely manner and within budget
 16. 16.1 The Supplier shall provide, maintain and pay for the following insurances:-
 - 16.1.1 Failure of the Supplier to use skill and care normally used by professionals providing similar services
 - £1,000,000 in respect of each claim without limit to the number of claims
 - 16.1.2 Bodily injury to or death of any person (not an employee of the Supplier) or loss of or damage to property resulting from an action or failure to take action by the Supplier
 - £2,000,000 in respect of each claim, without limit to the number of claims
 - 16.2 The Supplier shall provide written evidence of the above mentioned insurances to the Council.
 17. The Supplier shall ensure that the Services is carried out in full compliance with the Brief contained in schedule 3
 18. 18.1 Both parties recognize that the carrying out of the Services is likely to be most successfully achieved if the parties co-operate together fully. Every effort shall be made by the parties to resolve any differences between them but if this appears impossible the parties shall seek the assistance of a mediator to assist in resolving such differences as quickly and amicably as possible
 - 18.2 In the event that mediation proves unsuccessful within 6 weeks of the appointment of a mediator then the parties may refer to an Adjudicator who shall be an independent person agreed between the parties or, failing agreement, appointed at the request of either party by the President or Vice-President of the Chartered Institute of Arbitrators. The Adjudicator shall act as an expert and be entitled to request either party to provide oral or written statements, documents and information and shall fix the timetable for the provision of such statements, documents and information and for the adjudication. The Adjudicator shall give written notice of his decision to both parties within such period as may be agreed or, failing agreement, as determined by the Adjudicator
 - 18.3 The decision of the Adjudicator shall be final and binding on the parties until completion or determination of this Agreement
In the event of there still being an existing dispute between the parties following
 - 18.4 completion or determination then the matter may be resolved by the English Courts

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19. Any demand notice or other communication required to be given under the Agreement shall be sufficiently served if served personally on the addressee or if sent by pre-paid first class recorded delivery post by electronic mail or facsimile transmission to the registered office or last known address of the party to be served therewith and if so sent shall subject to proof to the contrary be deemed to have been received by the addressee on the second business day after the date of posting or on successful transmission as the case may be without prejudice to the validity of any other equally effective method of service

 20. Any demand notice or other communication required to be given under the Agreement shall be sufficiently served if served personally on the addressee or if sent by pre-paid first class recorded delivery post by telex electronic mail or facsimile transmission to the registered office or last known address of the party to be served therewith and if so sent shall subject to proof to the contrary be deemed to have been received by the addressee on the second business day after the date of posting or on successful transmission as the case may be without prejudice to the validity of any other equally effective method of service

 21. Copyright of all material produced by the Supplier in connection with the Services shall upon payment of any monies due under this Agreement be vested in the Council and the Supplier shall not be liable for any use of such material by the Council for any purpose other than that for which the same was prepared and provided by the Supplier pursuant to this Agreement

 22. The Council shall be entitled to cancel the Agreement and to recover from the Supplier the amount of any loss resulting from such cancellation if the Supplier shall have offered or given or agreed to give to any person a gift or consideration of any kind as inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the Agreement or any other Agreement with the Council or for showing or forbearing to show favour or disfavour to any person in relation to the Agreement or any other Agreement with the Council or if the like acts shall have been done by any person employed by him or acting on his behalf (whether with or without the knowledge of the Supplier) or if in relation to any Agreement with the Council the Supplier or any person employed by him or acting on his behalf shall have committed any offence under the Prevention of Corruption Acts 1889 or 1916 or shall have given any fee or reward the receipt of which is an offence under Section 117(2) Local Government Act 1972

 23.
 - 23.1 The Council as a public body is bound by Section 2 of the Race Relations (Amendment) Act 2000 by which it has a duty to actively promote race equality and as a contractor working for and on behalf of the Council the Supplier has a similar duty under the said Act
 - 23.2 The Supplier will carryout the Services fairly and without unlawful discrimination
 - 23.3 The Supplier shall indemnify the Council in respect of all costs claims and demands arising from a third party claim resulting from the Suppliers obligations under this clause

 24.
 - 24.1 The Council as a public authority has a positive obligation to ensure compliance with the Human Rights Act 1998 and as a contractor working for and on behalf of the Council the Supplier has a similar duty under the said Act
 - 24.2 The Supplier will carryout the Services having due regard to the requirements of the said Act
 - 24.3 The Supplier shall indemnify the Council in respect of all costs claims and demands

arising from a third party claim resulting from the Suppliers obligations under this clause

- 25. The Supplier will deliver the Services having due regard to the data protection principles and in compliance with its duties under the Data Protection Act 1998 or any statutory re-enactment thereof and all regulations deriving therefrom
 - 25.1 In the event that the data is held by the Supplier on behalf of the Council and as a direct consequence of the Agreement between the parties then it will co-operate fully with the Council in the event of any data subject application and the response thereto at nil cost to the Council
 - 25.2 The Supplier shall indemnify the Council in respect of all third party claims resulting from the Suppliers obligations under this clause
- 26. The Local Government Acts of 1999 and 2000 set out the responsibilities of local authorities to provide all services efficiently effectively and economically and to strive for constant improvement of all service provisions. The Supplier must act at all times in a manner which is compatible and corresponds with the above criteria and allow the Council the facilities or access as required to all monitoring of the Services to this end
- 27. This Agreement is subject to the provisions of The Freedom of Information Act 2000 and the parties acknowledge that the Council shall comply in all respects with the provisions of this Act and in particular shall communicate to any persons making a request under the Act all and any information contained in or relating to this Agreement where required by and in accordance with the provisions of the Act.

In the event of conflict between the provisions of this clause and any other clause or provision of this Agreement this provisions of this clause shall prevail.

Signed Dated
on behalf of (the Supplier)

Signed Dated
On behalf of <<Customer name here>> (the Council)

SCHEDULE 1 - AGREEMENT DETAILS

PARTIES TO THIS AGREEMENT *Agreement date <<Date here>>*

Supplier

AGREEMENT DATES

Start: *<start date>*

Finish: *<finish date>*

Council Details

Name

Location

PERSONNEL OF SUPPLIER

Name(s)

FEE RATE DETAILS

Payment Basis

£ per day, based on professional day

Normal Hours of Work

37 hours per week

**Additional Sums payable
(outside normal hours)**

Saturdays payable at £ per professional day;
Sundays payable at £ per professional day.

**Disbursements or Expenses payable to
Supplier (if any)**

Expenses incurred for travel, accommodation and
subsistence, at cost, for travel instructed by the
Council to places other than within the
boundaries of Plymouth City Council.

Payment frequency

Monthly

ADDITIONAL CLAUSES

[Insert Contract Number]

SCHEDULE 2 – THE SUPPLIER

Supplier Name

Contact Name

Supplier Registered Address

Company Registration Number

VAT Registration Number

Supplier Correspondence Address

Telephone

Fax

e-mail

[Insert Contract Number]

SCHEDULE 3 – THE BRIEF

<The Brief >