

CLIENT OPT OUT AGREEMENT

This Agreement is dated the **** day of **** 2019 (“Agreement”) No: 00**** *-01
between:

1. **Lucid Support Services Limited**, company registration no 04419473, whose registered office is at 8 Clarendon Drive, Wymbush, Milton Keynes, England, MK8 8ED (“Lucid”);

and

2. ****, company registration no ****, whose registered office is at **** (the “Client”).

BACKGROUND

(A) Lucid is an employment business which provides IT consultancy services to clients.

(B) The Client requires specialist IT consultancy services and wishes to engage Lucid to provide Consultant(s).

1 Definitions

“Confidential Information”	means information of a confidential nature, including trade secrets and information of a commercial value;
“Consultant(s)”	means the consultant(s) provided to the Client by Lucid to perform the Services;
“End Date”	means as set out at Schedule 2;
“End User”	means any person to whom the Client is supplying services or with whom the Client has entered into an agreement;
“Normal Rate”	means as set out at Schedule 3;
“Overtime Rate”	means as set out at Schedule 3;
“Payment Period”	means as set out at Schedule 5;
“Services”	means as set out at Schedule 1;
“Start Date”	means as set out at Schedule 2;
“Supplier”	means the employer of the Consultant(s);
“Transfer Fee”	means as set out at Schedule 3;
“Working Day”	means any day excluding Saturdays, Sundays, and Bank holidays.
“Agency Workers Regulations”	means the Agency Workers Regulations 2010

- 1.1 Any reference to any clause, sub-clause or schedule is to a clause sub-clause or schedule of this Agreement.
- 1.2 Any reference to any enactment or statutory provision shall be deemed to include a reference to such enactment or statute as extended, re-enacted, consolidated, implemented, or amended and to any subordinate legislation made under it.
- 1.3 The headings used in this Agreement are for convenience and ease of reference only and shall not be used in the interpretation of this Agreement.
- 2 **The Consultant(s)**
 - 2.1 Lucid shall use its best endeavours to provide the following information about the Consultant(s) to the Client if requested:
 - 2.1.1 proof of each Consultant's identity;
 - 2.1.2 the accurate and up to date curriculum vitae supplied by each Consultant;
 - 2.1.3 documentary evidence of the qualifications supplied by each Consultant;
 - 2.1.4 references from former employers or businesses for whom any Consultant has worked;
 - 2.1.5 proof of membership of any relevant professional body, if relevant to the Services;
 - 2.1.6 a copy of a signed agreement between the Supplier and Consultant confirming that the Consultant is willing to undertake a specific assignment for a Client.
 - 2.2 The Client must satisfy itself of the suitability of the Consultant(s) to provide the Services, whether it interviews the Consultant(s) or not, and shall be deemed to have satisfied itself of the suitability of the Consultant(s) by accepting these terms and conditions in accordance with clause 26.
 - 2.3 The Client accepts and understands that the Consultant and Supplier have opted-out of the Conduct of Employment Agencies and Employment Businesses 2003.
- 3 **Control of Consultant(s)**
 - 3.1 Whilst providing the Services each Consultant shall be under the direction of the Client and will be contracted by Lucid to follow all reasonable instructions including but not limited to those relating to the nature of the Services and work to be performed, health and safety procedures, site and security procedures, administrative procedures, and Client policies (including, but not limited to, internet and email policies).
 - 3.2 Consultant(s) will report directly to the Client Representative named in Schedule 4 at the Site Address in Schedule 4.
 - 3.3 Each Consultant shall work the Normal Working Hours outlined in Schedule 4 and any overtime that is agreed by the Client and Lucid.
 - 3.4 If the Client requests a Consultant to work directly with an End User, the Consultant will follow all reasonable requests from the End User as if it were the Client.
 - 3.5 The Client shall ensure that all instructions given, either by the Client or the End User, shall be reasonable and clear.

4 Client's Obligations

- 4.1 The Client shall ensure that it follows all health and safety legislation and rules relevant to its site and type of work as if each Consultant were employed by the Client.
- 4.2 The Client shall ensure that each Consultant is made aware of all relevant health and safety matters and issued with appropriate safety equipment where necessary.
- 4.3 Where a Consultant is working with an End User the client will ensure that the End User complies and will abide with the terms of this agreement as if it were the Client.
- 4.4 The Client will comply with its obligations under Regulations 12 (Rights of Agency Workers in relation to access to collective facilities and amenities) and 13 (Rights of Agency Workers in relation to access to employment information) of the Agency Workers Regulations.
- 4.5 To enable Lucid to comply with its obligations under the Agency Workers Regulations, the Client undertakes as soon as possible prior to the commencement of each Assignment and during each Assignment (as appropriate) and at any time at Lucid' request:
 - 4.5.1 to provide written details of the basic working and employment conditions the Consultant would have been entitled to for doing the same job if the Consultant had been recruited directly by the Client as an employee or worker at the time the Qualifying Period commenced (12 weeks continuous service) or with those of a Comparable Employee.
 - 4.5.2 to provide written details of its pay and benefit structures and appraisal processes of a Comparable Employee.
- 4.6 The Client will comply with all reasonable requests for information and any other requirements to enable Lucid to comply with the Agency Workers Regulations.

5 Expenses and Overtime

- 5.1 Reasonable expenses will be paid as agreed in writing in advance by both the Client and Lucid and provided that the Client informs Lucid in writing of the expenses the Consultant is authorised to incur within 5 (five) Working Days of authorisation being given.
- 5.2 If the Client requires the Consultant to work overtime it shall sign off such overtime on the timesheets in accordance with clauses 6.1 and 6.2.
- 5.3 Lucid will pay expenses to the Consultant(s)/Suppliers provided that payment has been received from the Client and provided that the Consultant(s)/Suppliers have submitted proof of all expenses before payment will be authorised by Lucid.

6 Payment

- 6.1 At the end of each week each Consultant shall submit to the Client a timesheet recording all the hours worked, and any claims for expenses with evidence of the expenditure, which will be signed off by the Client or by its authorised representative.
- 6.2 The Client shall be responsible for ensuring that only authorised representatives sign the timesheets and shall be liable for all timesheets signed by any employee or representative of the Client, whether authorised or not.

- 6.3 If the Client disputes any timesheet, it shall not sign it off and must contact Lucid within 3 (three) Working Days of the timesheet being submitted to the Client to discuss and resolve the issues relating to the disputed timesheet(s). If the Client does not contact Lucid within 3 (three) Working Days Lucid will invoice the Client for the full amount in respect of the relevant timesheet(s).
- 6.4 Within 5 (five) Working Days of the end of each Payment Period, Lucid shall submit an invoice to the Client for the hours worked at the Normal Rate and Overtime Rate and authorised expenses incurred by Consultant(s) in the preceding Payment Period.
- 6.5 The Client shall pay Lucid in cleared funds by cash or by direct bank transfer to the account nominated in Schedule 6 (or any other account as notified by Lucid to the Client in writing) or by cheque payable to "Lucid Support Services Limited" within 20 (twenty) Working Days of the date of the invoice.
- 6.6 The Client shall be liable to pay interest to Lucid from the due date of payment in respect of any invoice at the rate of 5% above the base rate of Lloyds TSB plc accruing on a daily basis until payment is made, whether before or after judgment.

7 Holidays and Absence

- 7.1 All holiday and absences on the part of any Consultant must be authorised in writing in advance by Lucid and the Client.
- 7.2 In the event that any Consultant is unavailable due to illness, the Consultant and/or Supplier should inform Lucid and the Client within half an hour after the start of Normal Working Hours each day that the Consultant will not be attending the site as set out in Schedule 4.
- 7.3 In the event that any Consultant is unavailable for whatever reason, the Client shall allow Lucid, at Lucid's discretion, to replace the Consultant with an equivalent and suitable consultant.
- 7.4 In the event that any consultant is absent from the Site without explanation the Client shall inform Lucid and Lucid shall use reasonable endeavours to determine the reason for such absence.

8 Transfer Fees

- 8.1 During the subsistence of this Agreement and for a period of twelve months thereafter, if the Client or End User (including a subsidiary or an associated company) wishes to engage any Supplier and/or Consultant provided to it by Lucid or introduced to it by Lucid (where no supply has occurred), either directly or indirectly, through another employment agent or employment business, the Transfer Fee will be payable by the Client to Lucid.

9 Lucid's Liability

- 9.1 This clause sets out the entire liability of Lucid (including any liability for the acts, defaults, neglect or omissions of its employees, agents, and sub-contractors) in respect of any breach of the Agreement and/or any tortious statement, act or omission including negligence arising under or in connection with this Agreement.
- 9.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this Agreement.
- 9.3 Nothing in this Agreement excludes or limits the liability of Lucid for death or personal injury caused by negligence and/or for any matter in respect of which it would be illegal for Lucid to exclude or attempt to exclude its liability and/or for fraud or fraudulent misrepresentation.

- 9.4 Lucid's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall be limited to [*£10,000*] in respect of any one occurrence or series of occurrences.
- 9.5 Lucid shall not be liable to the Client for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct or indirect or consequential, or any claims for consequential compensation however caused, which arise out of or in connection to this Agreement.
- 9.6 The Client undertakes to indemnify Lucid in respect of all and any income tax and national insurance contributions which may be found due from Lucid in respect of the Services provided to the Client under this Agreement, together with any interest, penalties or gross-up thereon.
- 9.7 The Client shall indemnify and hold harmless Lucid from and against all losses, costs, claims, demands, actions, fines, penalties, liabilities and expenses (including legal expenses on an indemnity basis) in connection with or as a result of any claims or demand by a Consultant arising out of his/her relationship with the Client being held to constitute an employment relationship provided that this arises from any act, fault or omission of an officer, employee, agent or shareholder of the Client.
- 10 Insurance**
- 10.1 The Client shall maintain public liability insurance for the duration of this Agreement of not less than £1,000,000 per annum with a reputable insurer and shall provide a copy of the insurance policy and proof of payment of the premiums to Lucid and/or the Supplier upon reasonable request.
- 11 Confidentiality**
- 11.1 Each party shall procure that all Confidential Information relating to the other party and/or to Suppliers and/or Consultants shall be kept secret and confidential and shall not be used for any purposes other than those required or permitted by this Agreement or in accordance with the instructions of the relevant Supplier and/or Consultant and shall not be disclosed to any third party except in so far as this may be required for the proper operation of this Agreement.
- 11.2 Each party shall promptly notify the other if any Confidential Information is required by law to be disclosed and shall co-operate with the other regarding the manner of such disclosure (but without prejudice to any obligation to comply with any law).
- 11.3 The obligations of confidentiality shall not apply to any information which:
- 11.3.1 is or becomes generally known to third parties (other than as a result of a breach of the provisions of this Agreement); or
- 11.3.2 which is already lawfully in, or which comes lawfully into, the party's possession other than under this Agreement; or
- 11.3.3 is independently developed by the other party.
- 12 Data Protection**
- 12.1 The Client shall deal with all personal data relating to the Consultant(s) in accordance with the General Data Protection Regulations.

13 **Duration**

13.1 This Agreement shall commence on the Start Date and shall expire on the End Date, unless extended in accordance with clause 13.2 or terminated in accordance with clause 14.

13.2 This Agreement may be extended if the Services are not completed by the End Date, or for any other reason, either:

13.2.1 for a fixed term; or

13.2.2 on a rolling 4 (four) week basis;

to be agreed in writing by Lucid, the Client and the Supplier and/or Consultant, and subject to any variations in this Agreement made at the time of extension.

14 **Termination**

14.1 Lucid may terminate this Agreement with *** prior written notice without liability for compensation or any consequential losses.

14.2 Lucid may terminate this Agreement by written notice with immediate effect, without any liability for compensation if:

14.2.1 the Supplier or Consultant for whatever reason, cancels the relevant agreement with Lucid prior to the Start Date; or

14.2.2 the agreement with the Supplier or Consultant is terminated for whatever reason; or

14.2.3 any information given to Lucid and supplied to the Client under clause 2 proves to be incorrect or changes or the Supplier or Consultant proves to be unsuitable; or

14.2.4 there is a remediable material breach by the Client of any provision of this Agreement which the Client fails to remedy as soon as practicable and, in any case, within 30 (thirty) days of receipt of notice of the breach; or

14.2.5 the Client causes any material breach of any provision of this Agreement, which is not capable of being remedied, including any breach of the confidentiality provisions set out in clause 11; or

14.2.6 the Client causes repeated breaches of duties or obligations under this Agreement (regardless of whether these breaches are individually cured or otherwise resolved), the cumulative effect of which shall be deemed to be a material breach of this Agreement; or

14.2.7 being an incorporated body, a resolution is passed, or an order is made for the winding up of the Client (otherwise than for the purposes of solvent amalgamation or reconstruction) or the Client becomes subject to an administration order or a receiver or administrative receiver is appointed or if the Client is dissolved or being an individual, the Client has bankruptcy proceedings commenced against it or is declared bankrupt; or

14.2.8 the Client ceases or threatens to cease to carry on business in the United Kingdom; or

14.2.9 there is a change of control of the Client.

14.3 The Client may terminate this Agreement by written notice with immediate effect if:

- 14.3.1 within the first 10 (ten) Working Days following the Start Date the work of the Consultant in providing the Services fails to meet the standards required by the Client and Lucid is unable to provide a replacement Consultant within 15 (fifteen) Working Days of the Client giving written notice to Lucid; or
- 14.3.2 the Consultant fails to meet the requirements of the Client's security checking procedure; or
- 14.3.3 the Consultant attempts to provide the Services under the influence of alcohol or drugs; or
- 14.3.4 it is proven that the Consultant is guilty of dishonesty, incompetence, disobedience, consistent unruly behaviour, or similar misdemeanour; or
- 14.3.5 a resolution is passed, or an order is made for the winding up of Lucid (otherwise than for the purposes of solvent amalgamation or reconstruction) or Lucid becomes subject to an administration order or a receiver or administrative receiver is appointed or Lucid is dissolved; or
- 14.3.6 Lucid ceases or threatens to cease to carry on business in the United Kingdom.

14.4 The Client may terminate this Agreement with *** prior written notice.

15 **Consequences of termination**

- 15.1 Upon termination of this Agreement for whatever reason, the Client must immediately return all property and materials belonging to the Supplier and/or any Consultant and/or Lucid to Lucid unless Lucid requests otherwise.
- 15.2 The Client shall pay all invoices and expenses (if any) in respect of services provided up to and including the date of termination.
- 15.3 The Client shall pay any applicable transfer fees, in accordance with clause 8, within 20 Working Days of the date of the relevant invoice from Lucid.

16 **Force Majeure**

- 16.1 Neither party shall be liable for any loss or damage however caused, whether direct or indirect, if it is prevented from fulfilling its obligations under this Agreement due to circumstances beyond the reasonable control of that party including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock outs, strikes or other labour disputes.

17 **Third Party Rights**

- 17.1 The parties to this Agreement do not intend that any term of this Agreement shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not party to it.

18 **Severability**

- 18.1 If any provision of this Agreement is found by any court, tribunal, or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable, or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable, and the remaining provisions of this Agreement and the remainder of such provision shall continue in full force and effect.

19 Variation

- 19.1 In the event of any variation to this Agreement Lucid shall prepare a document reflecting the variation and dispatch it to the Client within 5 (five) Working Days.

20 Assignment

- 20.1 Lucid may assign this Agreement or any part of it to any person, firm, or company.
- 20.2 The Client shall not be entitled to assign this Agreement or any part of it without the prior written consent of Lucid.

21 No partnership

- 21.1 Nothing in this Agreement shall be construed as constituting a partnership between the parties.
- 21.2 Nothing in this Agreement shall be construed as constituting a partnership between Lucid and the Client or as rendering Lucid the Supplier and/or any Consultant as the agent or employee of the Client or End User.

22 Waiver

- 22.1 Failure or delay by Lucid in enforcing or partially enforcing any provision of this Agreement shall not be construed as a waiver of any of its rights under this Agreement.
- 22.2 Any waiver by Lucid of any breach of, or default under, any term or provision of the Agreement by the Client shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Agreement.

23 Notice

- 23.1 All communications pursuant to this Agreement shall be in writing and delivered by hand, pre-paid first-class post, email, or fax to the addresses notified by each party from time to time.
- 23.2 Communications shall be deemed to have been received:
- 23.2.1 on the day of delivery if delivered by hand;
 - 23.2.2 2 (two) Working Days after posting if delivered by pre-paid first class post;
 - 23.2.3 at the time of transmission if sent by facsimile or electronic mail on any Working Day prior to 4pm, otherwise on the next Working Day.

24 Law and Jurisdiction

- 24.1 The formation, existence, construction, performance, validity, and all other aspects of this Agreement shall be governed by English law.
- 24.2 The parties to this Agreement submit to the exclusive jurisdiction of the English Courts.

25 Entire Agreement



25.1 The terms and conditions of this Agreement, with its schedules, and any documents referred to in it, constitute the entire agreement between the parties.

25.2 If there is any disagreement between the Agreement and the schedules or any other document referred to in them, the terms and conditions of this agreement shall prevail.

26 **Acceptance of Terms**

26.1 The Client shall be deemed to have accepted these terms regardless of whether the Agreement has been signed and/or returned to Lucid if the Client allows the Consultant to provide the Services on or after the Start Date.

Signed by duly authorised for and on behalf of Lucid Support Services Limited

Name:
Position:
Date:

Signed by duly authorised for and on behalf of the Client.

Name:
Position:
Date:

SCHEDULE 1**Name of Consultant****Services****SCHEDULE 2****Dates of Assignment**

Start Date:

End Date:

Duration:

SCHEDULE 3**Rates**

Normal Rate:

Overtime Rate:

Transfer Fee: 50 days fees at the rate specified.

SCHEDULE 4**The Client**

Client Representative:

Site Address:

Normal Working Hours:

SCHEDULE 5**Payment Period**

30 days from invoice date

SCHEDULE 6**Lucid's Bank Details**

Barclays Bank

Account Number: 60785989

Sort Code: 20-12-83