



Master Consultancy Agreement

Public sector & digital transformation specialists

THIS AGREEMENT is made on _____

BETWEEN:

- (1) Optima Digital Solutions Ltd, a company registered in England and Wales under company number 13542894 with its registered office at Suite 12, Foundry House, Thrive Business Centre, Waterside Lane, Widnes, Cheshire, United Kingdom, WA8 8UD (the **"Consultant"**); and
- (2) [Client], [a company registered in [country] under company number [number] whose registered office is at [address]] OR [insert appropriate designation if local authority] (the **"Client"**),

(together, the **"Parties"** and individually, a **"Party"**).

WHEREAS:

- (1) The Consultant provides IT consultancy services and has reasonable skill, knowledge, qualifications and experience in that field.
- (2) The Client wishes to engage the Consultant to provide IT consultancy services subject to, and in accordance with, the terms and conditions of this Agreement.
- (3) The Consultant wishes to accept such engagement and shall provide IT consultancy services to the Client subject to, and in accordance with, the terms and conditions of this Agreement.

IT IS AGREED as follows:

1. Definitions and Interpretation

- 1.1 In this Agreement, unless the context otherwise requires, the following expressions have the following meanings:

"Business Day" means, any day (other than Saturday or Sunday) on which ordinary banks are open for their full range of normal business in England;

"Confidential Information" means, in relation to either Party, information which is disclosed to that Party by the other Party pursuant to or in connection with this Agreement (whether orally or in writing or any other medium, and whether

or not the information is expressly stated to be confidential or marked as such);

“Data Legislation”	Protection means all applicable legislation in force from time to time in the United Kingdom applicable to data protection and privacy including, but not limited to, the UK GDPR (the retained EU law version of the General Data Protection Regulation ((EU) 2016/679), as it forms part of the law of England and Wales, Scotland, and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018); the Data Protection Act 2018 (and regulations made thereunder); and the Privacy and Electronic Communications Regulations 2003 as amended;
“Effective Date”	means the date on which the Services commence;
“Fees”	means the fees payable by the Client to the Consultant in consideration of the Services as fully described in Schedule 1;
“Services”	means the services to be provided by the Consultant to the Client as fully described in Schedule 1; and
“Term”	has the meaning given to it in Schedule 1.

2. **Consultant’s Obligations**

- 2.1 The Consultant shall provide the Services in accordance with Schedule 1.
- 2.2 The Consultant shall provide the Services with reasonable skill and care.
- 2.3 The Consultant shall meet deadlines agreed from time to time with the Client. The Consultant shall not be held liable for any delay caused by any act or omission of the Client.
- 2.4 In the event that changes are required to the Services, the Consultant and the Client shall discuss and agree the scope of the changes, any amendments to the Fees before such changes are implemented.

3. **Client’s Obligations**

- 3.1 The Client shall use reasonable endeavours to provide all pertinent information to the Consultant that is necessary for the Consultant’s provision of the Services and shall use reasonable endeavours to ensure the accuracy and completeness of such information.
- 3.2 In the event that the Consultant requires the decision, approval, consent or any other form of authorisation or communication from the Client in order to continue providing the Services (or any part thereof), the Client shall use reasonable endeavours to provide the same in a reasonable and timely manner.

4. **Insurance**

- 4.1 The Consultant shall have in place, in relation to the Services, professional liability insurance with a minimum limit of indemnity of £2,000,000 in any one occurrence.

- 4.2 The Consultant shall procure that any sub-contractors engaged by it to provide the Services (or any part thereof) have in place like policies with like terms and the same limit of indemnity in any one occurrence.

5. Fees and Payment

- 5.1 In consideration of the Services, the Client shall pay the Fees to the Consultant in accordance with the provisions of Schedule 1 and this Clause 5.
- 5.2 The Client shall pay the Fees due within 30 days of receipt of the relevant invoice from the Consultant.
- 5.3 Where an undisputed invoice is not paid on time, the Consultant reserves the right to charge interest on the overdue sum at the rate of 5% per annum above the base rate of Bank of England from time to time, accruing daily. The Consultant may also suspend the Services until such overdue payment is made.

6. Limitation of Liability

- 6.1 Nothing in this Agreement will limit or exclude the liability of either Party for death or personal injury caused by negligence, fraud or fraudulent misrepresentation.
- 6.2 Neither party shall be liable for any indirect, consequential or special loss arising in relation to this Agreement.
- 6.3 The total liability of either Party to the other, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising out of or in connection with this Agreement shall be limited to an amount equal to the total Fees payable by the Client under this Agreement in the 12 months preceding such claim.

7. Confidentiality

- 7.1 Each Party undertakes that, except as provided by Clause 7.2 or as authorised in writing by the other Party, it shall, at all times during the continuance of this Agreement and for 2 years after its termination:
- 7.1.1 keep confidential all Confidential Information;
 - 7.1.2 not disclose any Confidential Information to any other party;
 - 7.1.3 not use any Confidential Information for any purpose other than as contemplated by and subject to the terms of this Agreement;
 - 7.1.4 not make any copies of, record in any way or part with possession of any Confidential Information; and
 - 7.1.5 ensure that none of its directors, officers, employees, agents, sub-contractors or advisers does any act which, if done by that Party, would be a breach of the provisions of Clauses 7.1.1 to 7.1.4 above.
- 7.2 Either Party may:
- 7.2.1 disclose any Confidential Information to:
 - 7.2.1.1 any sub-contractor or supplier of that Party;
 - 7.2.1.2 any governmental or other authority or regulatory body; or
 - 7.2.1.3 any employee or officer of that Party or of any of the aforementioned persons, parties or bodies;

to such extent only as is necessary for the purposes contemplated by this Agreement (including, but not limited to, the provision of the Services), or as required by law; and

7.2.2 use any Confidential Information for any purpose, or disclose it to any other person, to the extent only that it is at the date of this Agreement, or at any time after that date becomes, public knowledge through no fault of that Party. In making such use or disclosure, that Party must not disclose any part of the Confidential Information which is not public knowledge.

7.3 The provisions of this Clause 7 shall continue in force following termination of this Agreement for any reason.

8. **Assignment and Sub-Contracting**

8.1 Subject to Clause 8.2, neither Party may assign, mortgage, charge (otherwise than by floating charge) or sub-licence any of its rights hereunder without the written consent of the other Party, such consent not to be unreasonably withheld.

8.2 The Consultant shall be entitled to perform any of the obligations undertaken by it through any other member of its group or through suitably qualified and skilled sub-contractors. Any act or omission of such other member or sub-contractor shall, for the purposes of this Agreement, be deemed to be an act or omission of the Consultant.

8.3

9. **Force Majeure**

No Party shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, internet service provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question. Where such an event continues for more than 30 days, the other Party may terminate this Agreement with written notice.

10. **Term and Termination**

10.1 This Agreement shall come into force on the date hereof and shall continue for the Term, or any Renewal Term (if applicable), subject to the provisions of this Clause 10.

10.2 Either Party may terminate this Agreement by giving to the other not less than 30 days' written notice to expire at the end of the Term or any Renewal Term or, if there is no Term specified in Schedule 1, either Party may terminate this Agreement by giving to the other not less than 30 days' written notice.

Either Party may immediately terminate this Agreement by giving written notice to the other Party if either party suffers an insolvency event or is in material breach of this Agreement.

11. **Effects of Termination**

Upon the termination of this Agreement for any reason, the Client shall pay the Consultant any Fees for Services rendered, but not yet paid, until the date of termination.

12. **Data Processing**

- 12.1 In this Clause 12, “**personal data**”, “**data subject**”, “**data controller**”, “**data processor**”, and “**personal data breach**” shall have the meaning defined in the Data Protection Legislation.
- 12.2 The Parties hereby agree that they shall both comply with all applicable data protection requirements set out in the Data Protection Legislation. This Clause 12 shall not relieve either Party of any obligations set out in the Data Protection Legislation and does not remove or replace any of those obligations.
- 12.3 For the purposes of the Data Protection Legislation and for this Clause 12, the Consultant is the “**Data Processor**” and the Client is the “**Data Controller**”.
- 12.4 The Data Controller shall ensure that it has in place all necessary consents and notices required to enable the lawful transfer of personal data to the Data Processor for the purposes described in this Agreement.
- 12.5 The Data Processor shall, with respect to any personal data processed by it in relation to its performance of any of its obligations under this Agreement:
 - 12.5.1 process the personal data only on the written instructions of the Data Controller unless the Data Processor is otherwise required to process such personal data by law. The Data Processor shall promptly notify the Data Controller of such processing unless prohibited from doing so by law;
 - 12.5.2 ensure that it has in place suitable technical and organisational measures (as approved by the Data Controller) to protect the personal data from unauthorised or unlawful processing, accidental loss, damage or destruction. Such measures shall be proportionate to the potential harm resulting from such events, taking into account the current state of the art in technology and the cost of implementing those measures;
 - 12.5.3 ensure that any and all staff with access to the personal data (whether for processing purposes or otherwise) are contractually obliged to keep that personal data confidential;
 - 12.5.4 not transfer any personal data outside of the UK or the European Economic Area (EEA) without the prior written consent of the Data Controller and only if the following conditions are satisfied:
 - 12.5.4.1 the Data Controller and/or the Data Processor has/have provided suitable safeguards for the transfer of personal data;
 - 12.5.4.2 affected data subjects have enforceable rights and effective legal remedies;
 - 12.5.4.3 the Data Processor complies with its obligations under the Data Protection Legislation, providing an adequate level of protection to any and all personal data so transferred; and
 - 12.5.4.4 the Data Processor complies with all reasonable instructions given in advance by the Data Controller with respect to the processing of the personal data.
 - 12.5.5 assist the Data Controller at the Data Controller’s cost, in responding to any and all requests from data subjects and in ensuring its compliance with the Data Protection Legislation with respect to

security, breach notifications, impact assessments, and consultations with supervisory authorities or regulators (including, but not limited to, the Information Commissioner's Office);

12.5.6 notify the Data Controller without undue delay of a personal data breach;

12.5.7 on the Data Controller's written instruction, delete (or otherwise dispose of) or return all personal data and any and all copies thereof to the Data Controller on termination of this Agreement unless it is required to retain any of the personal data by law; and

12.5.8 maintain complete and accurate records of all processing activities and technical and organisational measures implemented necessary to demonstrate compliance with this Clause 12 and to allow for audits by the Data Controller and/or any party designated by the Data Controller.

12.6 The Data Processor shall not sub-contract any of its obligations with respect to the processing of personal data under this Clause 12.

13. **General**

No failure or delay by either Party in exercising any of its rights under this Agreement shall be deemed to be a waiver of that right, and no waiver by either Party of a breach of any provision of this Agreement shall be deemed to be a waiver of any subsequent breach of the same or any other provision.

Each Party shall execute and do all such further deeds, documents and things as may be necessary to carry the provisions of this Agreement into full force and effect.

Subject to any provisions to the contrary each Party to this Agreement shall pay its own costs of and incidental to the negotiation, preparation, execution and carrying into effect of this Agreement.

Neither Party shall be entitled to set-off any sums in any manner from payments due or sums received in respect of any claim under this Agreement or any other agreement at any time.

Nothing in this Agreement shall constitute or be deemed to constitute a partnership, joint venture, agency or other fiduciary relationship between the Parties other than the contractual relationship expressly provided for in this Agreement.

Any notice sent under this Agreement must be in writing and sent by email to the party's last known contact email address. If a notice is properly sent by email, it will be assumed to have been received at the time of transmission. This Clause shall not apply to the service of legal proceedings, which cannot be validly served by email.

This Agreement may be entered into in any number of counterparts and by the Parties to it on separate counterparts each of which when so executed and delivered shall be an original, but all the counterparts together shall constitute one and the same instrument.

In the event that one or more of the provisions of this Agreement is found to be unlawful, invalid or otherwise unenforceable, that / those provision(s) shall be deemed severed from the remainder of this Agreement. The remainder of this Agreement shall be valid and enforceable.

No part of this Agreement is intended to confer rights on any third parties and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.

This Agreement contains the entire agreement between the Parties with respect to

its subject matter and may not be modified except by an instrument in writing signed by the duly authorised representatives of the Parties.

14. **Law and Jurisdiction**

- 14.1 This Agreement (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.
- 14.2 Any dispute, controversy, proceedings or claim between the Parties relating to this Agreement (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the exclusive jurisdiction of the courts of England and Wales.

Consultant Signature

SIGNED for and on behalf of the Consultant by:

Name **Position**

Signature **Date**

Client Signature

SIGNED for and on behalf of the Client by:

Name **Position**

Signature **Date**

Schedule 1

Services	<p>[full summary of the Services to be provided, as per scoping document]</p> <p>Note: where it has been agreed that Services will be provided on an ad hoc basis, the Client must provide not less than [X] days' notice to the Consultant of the days on which Services will be required.</p>
Fees	<p>[A fixed fee of £[insert].]</p> <p>OR</p> <p>[The Client shall pay the Consultant a rate of £[insert] for each day that the Consultant provides the Services to the Client. [Such rate is based upon a minimum term duration of [X] months with Services provided [X] days per week. Where any Services are requested in excess of the days specified above, the day rate below shall apply.</p> <p>The Client may request, and the Consultant may in its sole discretion provide, Services on an ad-hoc basis outwith the scope detailed above. In such instances, the day rate for such Services shall be £[insert] per day.]</p> <p>OR</p> <p>[The Client shall pay the Consultant a rate of £[insert] for each day that the Consultant provides Services to the Client. Such rate is based upon the Services being provided on an ad hoc basis as and when required by the Client.]</p> <p>The rates above are based on 'per person' providing the Services per day.</p>
Payment terms	Invoices shall be issued [weekly] in [arrears]
Term	<p>A fixed period of [period] from the Effective Date, which shall automatically renew at the end of the Term for the same period (each a "Renewal Term").</p> <p>OR</p> <p>On an ongoing basis from the Effective Date, until terminated in accordance with Clause 10.</p>

Note: the terms of this Schedule 1 may be amended by the parties by agreement in writing.

Schedule 2

1. Data Processing	
Scope	The processing of personal data required for the provision of Services.
Nature	Collecting, processing and storing of such personal data.
Purpose	To enable the provision of the Services.
Duration	For the term of the Agreement.
2. Types of personal data	
[Insert list of personal data]	
3. Categories of Data Subject	
[Specify whose personal data you will be processing]	