CONTRACT FOR SERVICES:

<<Consultancy>> - <<Client>>

# IMPORTANT INFORMATION

* This template contract is to be used as a guide only. The document has not been tailored to your business needs and you will need to amend it in order to ensure it is fit for purpose.
* There are various highlighted sections throughout the document that are incomplete and/

or may be redundant/inappropriate for your business relationship.

* Use of <<…>> indicates wordings that are variable and which need to be inserted/ modified as appropriate.
* Use of […] indicates wordings that are optional and which need to be deleted/modified as

appropriate.

* This contract is drafted on the basis that the Consultancy operates as a genuine business, outside of the IR35 rules. Therefore, there are key clauses (highlighted throughout the agreement as ‘Drafting notes’) that are crucial to the agreement and should remain unchanged.

Should you wish to seek further guidance from Qdos in relation to this template document, we offer a service whereby we can draft a bespoke model contract tailored to your business needs. We will work directly with you to obtain all relevant and key commercial information to incorporate into the document, providing you with a contract appropriate for you, and that is up to date with relevant legal and tax provisions.

Furthermore, should you have any additional queries or concerns surrounding IR35 or any other tax and/or insurance related enquiry, we have a dedicated team that would be happy to assist. Please contact us via email at **contracts@qdoscontractor.com**or via telephone on **0116 269 0992.**

**THIS CONSULTANCY AGREEMENT made on** <<Date>>

**AGREEMENT NUMBER:** <<Agreement Number>>

**BETWEEN**

(1) <<Ltd Company Name>> registered in England under Number <<….>> of << Address>> (“the **Consultancy**”).

(2) <<Client Limited>> registered in England under Number <<….>> of <Address>> (“the **Client**)”

**WHEREAS**

(A) The Consultancy carries on the business of the provision of consultancy services relating to the services (“**the Consultancy Services**”) specified in the attached Schedule (“**the Schedule**”)

(B) The Client has requested the Consultancy and the Consultancy has agreed with the Client, to provide the Consultancy Services on the terms of and subject to the conditions of this agreement (“the **Agreement**”).

**IT IS AGREED** as follows:-

**1 INTERPRETATION AND DEFINITIONS**

1.1 Unless the context otherwise requires, references to the singular include the plural and references to the masculine include the feminine, and vice versa.

1.2 The headings contained in the Agreement are for convenience only and do not affect their interpretation.

* 1. 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.
	2. The Schedule forms 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 Schedule
	3. [A reference to a holding company or a subsidiary means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006 [and a company shall be treated, for the purposes only of the membership requirement contained in sections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (a) another person (or its nominee), whether by way of security or in connection with the taking of security, or (b) as a nominee].]
	4. The following definitions apply in this Agreement:

**“Data Protection Legislation”** all applicable data protection and privacy legislation in force from time to time in the UK including the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (UK GDPR), the Data Protection Act 2018 (and regulations made thereunder) or any successor legislation, and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications).

**“Inside IR35”** where an engagement or contract between the Consultancy and the Client are considered to fall within the provisions of Chapter 8 or Chapter 10 of the Income Tax (Earnings and Pensions) Act 2003, and the gross amounts payable to the Consultancy shall become subject to PAYE Income Tax and both employer and employee National Insurance Contributions.

**“Intellectual Property Rights”** patents, utility models, rights to Inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**“Invention”** any invention, idea, discovery, development, improvement or innovation made by the Consultancy in connection with the provision of the Consultancy Services, whether or not patentable or capable of registration, and whether or not recorded in any medium.

**“Works”** all records, reports, documents, papers, drawings, designs, transparencies, photos, graphics, logos, typographical arrangements, software programs, inventions, ideas, discoveries, developments, improvements or innovations and all materials embodying them in whatever form, including but not limited to hard copy and electronic form, prepared by the Consultancy in connection with the provision of the Consultancy Services.

**2 CONSULTANCY**

***Drafting note:***

*Clauses 2.1-2.3 refer to the right of substitution, which helps to demonstrate a lack of personal service. Where the Consultancy has been engaged to provide services to the Client they should have the right to send any suitably skilled, qualified and experienced personnel of their choosing to provide the services on behalf of the Consultancy.*

2.1 The Consultancy's obligation to provide the Consultancy Services shall be performed by one or more worker(s) of the Consultancy as the Consultancy may consider appropriate (“the **Worker(s)**”), subject to the Client being reasonably satisfied that the Worker(s) has the required skills, qualifications and resources to provide the Consultancy Services to the required standard.

2.2 The Consultancy has the right, at its own expense, to enlist additional or substitute Workers in the performance of the Consultancy Services or may, sub-contract all or part of the Consultancy Services, provided that the Consultancy provides details, whenever requested to do so, of the substitute or sub-contractor and subject to the Client being satisfied that such additional Workers or any such sub-contractor has the required skills, qualifications, resources and personnel to provide the Consultancy Services to the required standard.

2.3 Where the Consultancy provides a substitute or sub-contracts all or part of the Consultancy Services pursuant to clause 2.2 above, the Consultancy shall be responsible for paying the substitute or sub-contractor and shall ensure that any agreement between the Consultancy and any such substitute or sub-contractor shall contain obligations which correspond to the obligations of the Consultancy under the terms of this Agreement and the Consultancy shall remain responsible for the acts or omissions of any such substitute or sub-contractor.

2.4 The Consultancy shall take all reasonable steps to avoid any unplanned changes of Worker assigned to the performance of the Consultancy Services but if the Consultancy is unable for any reason to perform the Consultancy Services the Consultancy should inform the Client as soon as reasonably practicable on the first day of unavailability and in such case shall provide a substitute subject to the provisions of clause 2.2.

2.5 In the event that the Consultancy is unable to supply either the original personnel or suitably skilled and qualified substitutes or sub-contractors <<for a period of one week or more>> then the Client is entitled to terminate this Agreement forthwith upon written notice.

2.6 The Schedule shall specify the Client, the fee payable by the Client and such disbursements as may be agreed and any other relevant information.

2.7 The Client acknowledges and accepts that the Consultancy is in business on its own account and the Consultancy shall be entitled to seek, apply for, accept and perform contracts to supply its services to any third party during the term of this Agreement.

**3 THE CONTRACT**

3.1 This Agreement governs the performance of the Consultancy Services by the Consultancy for the Client.

3.2 The Consultancy shall not be required to provide any advice and assistance in addition to the Consultancy Services and any requests to provide such additional advice and assistance shall be subject to the prior written approval of the Consultancy (at its sole discretion) and agreement between the Consultancy and the Client as to the level of fees payable for such additional advice and assistance. In the event that such additional advice and assistance is agreed, the Consultancy must notify the Client of the terms upon which such additional services will be provided including details of any new fee arrangements in order that the fee arrangement between the Consultancy and Client as set out in the Schedule may be adjusted accordingly and agreed before provision of such additional services begins.

3.3 No variation or alteration of these terms shall be valid unless agreed with the Client and the Consultancy in writing except where changes to the Consultancy Services are necessary to comply with applicable safety and other statutory or regulatory requirements, in which case the Consultancy may make such necessary changes without prior notification to the Client.

**4 UNDERTAKING OF THE CONSULTANCY**

4.1 The Consultancy warrants to the Client that by entering into and performing its obligations under this Agreement it will not thereby be in breach of any obligation which it owes to any third party.

4.2 The Consultancy warrants to the Client that its Workers have the necessary skills and qualifications to perform the Consultancy Services. The costs for any training needed in order to gain such qualifications and skills shall be at the Consultancy’s or Workers’ own expense.

4.3 Where the Consultancy is liable under Chapter 8 Income Tax (Earnings and Pensions) Act 2003 (“**ITEPA**”) , to be taxed in the UK in respect of the consideration received under this Agreement, it shall at all times comply with the ITEPA and all other statutes and regulations relating to income tax in respect of that consideration.

4.4 Where the Consultancy is liable under Chapter 8 of the ITEPA they will be liable for National Insurance Contributions (“**NICs**”) in respect of the consideration received under this Agreement it shall at all times comply with the Social Security Contributions and Benefits Act 1992 (“SSCBA”) and all other statues and regulations relating to NICs in respect of that consideration.

**5 CONSULTANCY’S OBLIGATIONS**

***Drafting note:***

*It may be that further obligations for both Consultancy and Client may have been agreed/required. The obligations contained within the contract to date are non-exhaustive.*

5.1 The Consultancy agrees on its own part and on behalf of its Workers as follows:-

5.1.1 to comply with any statutory rules or regulations including but not limited to those relating to health and safety, together with such procedures of the Client as the Client notifies the Consultancy and/or its Workers that it is essential that the Consultancy and its Workers comply with to properly perform the Consultancy Services (including for example where the Consultancy Services are to be performed at the premises of the Client the health and safety policy and security arrangements) during the performance of the Consultancy Services. Subject to the rules and regulations which the Client notifies the Consultancy and/or its Workers that it is essential that the Consultancy and its Workers comply with the Consultancy and its Workers shall not be bound by the policies and procedures which an employee of the Client would be bound by; and

5.1.2 to furnish the Client with any progress reports as may be requested from time to time.

5.1.3 to provide the Consultancy Services [including the Deliverables] with all due care, skill and ability and use its or their best endeavours to promote the interests of the Client.

**6 EQUIPMENT**

6.1 The Consultancy shall provide at its own cost, subject to any agreement to the contrary specified in the Schedule, all such necessary equipment as is reasonable for the satisfactory performance by the Worker and any substitutes and sub-contractors of the Consultancy Services.

6.2 If, as a matter of convenience, the Consultancy is provided with equipment by the Client for the purposes of carrying out the Consultancy Services, the Consultancy shall be responsible for ensuring that they preserve the security and condition of such equipment. If and to the extent that any equipment is lost while in the Consultancy’s possession, the Consultancy shall be responsible for the cost of any necessary repairs or replacement.

**7 METHOD OF PERFORMING SERVICES**

***Drafting note:***

*Clause 7.1**highlights another key test, where the Consultancy has been engaged to provide services, it should retain full control over the method and manner in which the services are provided. The Client should rely on the unique skills and experience the Consultancy provides, therefore the Client should have no right of control over the Consultancy and the personnel it provides.*

7.1 The Client shall have no right to, nor shall seek to, exercise any direction, control, or supervision over the Consultancy in the provision of the services. The Consultancy shall endeavour to co-operate with the Client’s service-related requests within the scope of the services, however it is acknowledged that the Consultancy shall have autonomy over their working methods.

7.2 The Consultancy may provide the Consultancy Services at such times and on such days as the Consultancy shall decide but shall ensure that the Consultancy Services are provided at such times as are necessary for the proper performance of the Consultancy Services.

7.3 The relationship between the parties is between independent companies acting at arm’s length and nothing contained in this Agreement shall be construed as constituting or establishing any partnership or joint venture or relationship of employer and employee between the parties or their personnel.

7.4 Where the proper performance of the Consultancy Services is dependent on the completion of tasks or services by third parties (including employees of the Client but excluding any substitute or sub-contractor of the Consultancy), the Consultancy shall have no liability to the Client for any delay, non or partial performance of the Consultancy Services arising from the delay or non or partial performance of such tasks by third parties.

7.5 The Consultancy may provide the Consultancy Services from such locations as are appropriate in the Consultancy’s judgment. When necessary, the Client will provide the Consultancy with appropriate access to the Client’s facilities as is necessary for the effective conduct of the Consultancy Services.

**8 INVOICING**

***Drafting note:***

*Within the schedule there is reference to invoicing frequency and procedure so it must be noted that these clauses may not work in practice, in the event you have a different invoicing procedure/frequency. These clauses cater for invoice upon completion of the services rather than monthly invoices for example.*

8.1 The Consultancy shall obtain the signature of an authorised representative of the Client as verification of execution of the Consultancy Services (“**Completion**”).

8.2 Upon Completion, or as may be agreed and specified in the Schedule, the Consultancy shall deliver to the Client its invoice for the amount due from the Client to the Consultancy giving a detailed breakdown showing the work performed. The Consultancy’s invoice should bear the Consultancy’s name, company registration number, VAT number and should state any VAT due on the invoice.

8.3 The Client shall not be obliged to pay any fees to the Consultancy unless an invoice has been properly submitted by the Consultancy in accordance with sub-clause 8.2 of this Agreement.

**9 FEES**

* 1. The Client shall pay the Consultancy the hourly rate as set out in the Schedule [exclusive OR inclusive] of VAT.

9.2 In consideration of the provision of the Consultancy Services and subject to the receipt of the Consultancy’s invoice in accordance with clause 8 above, the Client will pay the Consultancy within 7 days of receipt of the Consultancy’s invoice.

9.3 The Consultancy shall be responsible for any PAYE Income Tax and National Insurance Contributions and any other taxes and deductions payable in respect of its Workers in respect of the Consultancy Services.

9.4 All payments will be made to the Consultancy by a method which gives immediately available funds.

9.5 The Client shall be entitled to deduct from the fees (and any other sums) due to the Consultancy any sums that the Consultancy may owe to the Client at any time.

9.6 Payment in full or in part of the fees claimed under clause 9 [or any expenses claimed under clause 9] shall be without prejudice to any claims or rights of the Client against the Consultancy in respect of the provision of the Consultancy Services.

9.7 If the Consultancy shall be unable for any reason to provide the Consultancy Services to the Client, no fee shall be payable by the Client during any period that the Consultancy Services are not provided.

9.8 [The Client shall reimburse all reasonable expenses properly and necessarily incurred by the Consultancy (or any of its Worker(s)) in the course of the Consultancy Services, subject to production of receipts or other appropriate evidence of payment OR The Consultancy shall bear its own expenses incurred in the course of the Consultancy Services].

9.9 If the Consultancy (or any of its Worker(s)) is required to travel abroad in the course of the Consultancy Services the Consultancy shall be responsible for any necessary insurances, inoculations and immigration requirements.

**10 OBLIGATIONS OF THE CLIENT**

10.1 Throughout the term of this Agreement the Client shall pay the Consultancy in accordance with clause 9.1 above.

10.2 The Client shall furnish the Consultancy with sufficient information about the Consultancy Services in order for the Consultancy to arrange for the Consultancy Services to be carried out.

10.3 The Client will advise the Consultancy of any health and safety information or advice which may affect the Worker(s), during the performance of the Consultancy Services.

10.4 If It is deemed that Chapter 10, Part 2, of the ITEPA applies to this engagement, the Client will be responsible for any relevant taxes should the Consultancy be deemed to be operating Inside IR35. Where a status determination is issued by the Client, and it is deemed that the Consultancy is Inside IR35 the Client will be responsible to deduct relevant PAYE, and NICs in respect of the consideration received under this Agreement it shall at all times comply with the SSCBA and all other statues and regulations relating to NICs in respect of that consideration.

**11 TERM OF THE AGREEMENT**

***Drafting note:***

*Clause 11.1 helps to demonstrate a lack of mutuality of obligation between the parties, suggesting that either party has the ability to terminate the services at any time during the agreement.*

*It may be that additional termination provisions and obligations on termination are required/have been agreed which may need to be incorporated here.*

11.1 This Agreement shall commence in accordance with the Schedule and shall either (as specified in the Schedule) continue until Completion or the termination date as specified in the Schedule, at which time this Agreement shall expire automatically, unless previously terminated by either party giving the required notice as set out in the Schedule.

11.2 Notwithstanding sub-clause 11.1 of this Agreement, the Client may at any time with one week’s written notice instruct the Consultancy to cease work on the Consultancy Services, where:

11.2.1 the Consultancy has committed any serious or persistent breach of any of its obligations under this Agreement;

11.2.2 the Consultancy Services are unsatisfactory

11.2.3 the Consultancy is in breach of any statutory obligations or acting in breach of such procedures of the Client as the Client notifies the Consultancy and/or its Workers that it is essential that the Consultancy and its Worker(s) comply with to properly perform the Consultancy Services;

11.2.4 performance of the Consultancy Services is prevented for one week or more by the incapacity of the Workers and the Consultancy is unable to provide a replacement Worker(s), or a suitable substitute or sub-contractor pursuant to the provisions of clause 2.2; and

11.2.5 the Consultancy becomes insolvent, dissolved or subject to a winding up petition.

11.3 The provisions of clause 11.2 shall equally apply to any party performing the Consultancy’s obligations as provided for in clause 2.

11.4 Upon Completion or termination of the Consultancy Services, the Client shall be under no obligation to offer the Consultancy further work, nor shall the Consultancy be under any obligation to accept any offer of work made by the Client.

**[12 OTHER ACTIVITIES**

***Drafting note:***

*Have any restrictive covenants been agreed and need including here? Here is an example of a generally standard restrictive covenant clause, but it may be that the parties agree not to include such a provision, or that even more should be included.*

12.1 Nothing in this Agreement shall prevent the Consultancy or any of its Worker(s) from being engaged, concerned or having any financial interest in any capacity in any other business, trade, profession or occupation during the provision of the Consultancy Services provided that:

12.1.1 such activity does not cause a breach of any of the Consultancy’s obligations under this Agreement;

12.1.2 the Consultancy shall not, and shall procure that the Worker(s) shall not, engage in any such activity if it relates to a business which is similar to or in any way competitive with the business of the Client without the prior written consent of the [Client] [(such consent not to be unreasonably withheld)]; and

12.1.3 the Consultancy shall give priority to the provision of the Consultancy Services to the Client over any other business activities undertaken by it during the course of the provision of the Consultancy Services.]

**13 INTELLECTUAL PROPERTY**

***Drafting note:***

*The Intellectual Property clause has been drafted on the basis that all rights are to transfer to the client but it may not be the intention of the parties.*

13.1 The Consultancy hereby assigns to the Client all future Intellectual Property Rights in the Works and the Inventions and all materials embodying these rights to the fullest extent permitted by law. Insofar as they do not vest automatically by operation of law or under this Agreement, the Consultancy holds legal title in these rights and inventions on trust for the Client.

13.2 The Consultancy undertakes:

13.2.1 to notify to the Client in writing full details of any Inventions promptly on their creation;

13.2.2 to keep confidential details of all Inventions;

13.2.3 whenever requested to do so by the Client (at the Client’s sole cost) and in any event on Completion, promptly to deliver to the Client all correspondence, documents, papers and records on all media (and all copies or abstracts of them), recording or relating to any part of the Works and the process of their creation which are in its possession, custody or power;

13.2.4 not to register nor attempt to register any of the Intellectual Property Rights in the Works, nor any of the Inventions, unless requested to do so by the Client (at the Client’s sole cost); and

13.2.5 to do all acts necessary (at the Client’s sole cost) to confirm that absolute title in all Intellectual Property Rights in the Works and the Inventions has passed, or will pass, to the Client.

13.3 The Consultancy warrants to the Client that:

13.3.1 it has not given and will not give permission to any third party to use any of the Works or the Inventions, nor any of the Intellectual Property Rights in the Works;

13.3.2 it is unaware of any use by any third party of any of the Works or Intellectual Property Rights in the Works; and

13.3.3 the use of the Works or the Intellectual Property Rights in the Works by the Client will not infringe the rights of any third party.

13.4 The Consultancy agrees to indemnify the Client and keep it indemnified at all times against all or any proper and reasonable costs, actionable claims, damages or expenses properly incurred by the Client with respect to any intellectual property infringement claim directly relating to the Works or Inventions supplied by the Consultancy to the Client during the course of providing the Services. The Consultancy shall maintain adequate liability insurance coverage and shall supply a copy of the policy to the Client on request.

13.5 The Consultancy acknowledges that, except as provided by law, no further fees or compensation other than those provided for in this Agreement are due or may become due to the Consultancy in respect of the performance of its obligations under this clause 12.

13.6 The Consultancy undertakes (at the sole expense of the Client) at any time either during provision of the Consultancy Services or after Completion to execute all documents, make all applications, give all assistance and do all acts and things as may, in the reasonable opinion of the Client be necessary to vest the Intellectual Property Rights in, and to register them in, the name of the Client and to defend the Client against claims that works embodying Intellectual Property Rights or Inventions infringe third party rights, and otherwise to protect and maintain the Intellectual Property Rights in the Works and the Inventions.

13.7 The Consultancy irrevocably appoints the Client to be its attorney in its name and on its behalf to execute documents, use the Consultancy's name and do all things which are necessary for the Client to obtain for itself or its nominee the full benefit of this clause.

**14 CONFIDENTIALITY**

***Drafting note:***

*Confidentiality provisions can vary engagement to engagement and it may be that the timeframe relating to confidentiality provisions should be capped or extended, depending on the nature of the services/relationship between the parties.*

14.1 In order to protect the confidentiality and trade secrets of the Client and without prejudice to every other duty to keep secret all information given to it or gained in confidence the Consultancy agrees on its own part and on behalf of its Workers as follows:-

14.1.1 not at any time whether during or after the performance of the Consultancy Services (unless as a necessary part of the performance of its duties) to disclose to any person or to make use of any of the trade secrets or confidential information of the Client with the exception of information already in the public domain and any use or disclosure required by law;

14.1.2 to deliver up to the Client (as directed) on Completion all documents and other materials belonging to the Client (and all copies) which are in its possession including documents and other materials created by it or the Worker(s) during the course of the Consultancy Services; and

14.1.3 to, not at any time, make any copy, abstract, summary or précis of the whole or any part of any document or other material belonging to the Client except when required to do so in the course of its duties under this Agreement in which event any such item shall belong to the Client.

14.2 The Consultancy shall use reasonable endeavours to procure that the provisions of this clause 13 shall also apply to any subcontractor performing the Consultancy’s obligations provided for in clause 2.

**15 COMPUTER EQUIPMENT**

15.1 The Consultancy shall use reasonable endeavours to ensure that any computer equipment and associated software which it provides to its Workers for the purpose of providing the Consultancy Services contains anti-virus protection with the latest released upgrade from time to time.

**16 RELATIONSHIP BETWEEN THE CLIENT AND CONSULTANCY**

***Drafting note:***

*Clause 16.2 helps to demonstrate a lack of mutuality of obligation between the parties, suggesting that either party has the ability to terminate the services at any time during the agreement.*

16.1 The Consultancy acknowledges to the Client that there is no intention on the part of the Consultancy, the Worker(s) or the Client to create an employment relationship between any of those parties and that the responsibility of complying with all statutory and legal requirements relating to the Workers(s), (including but not limited to the payment of taxation, maternity payments and statutory sick pay) shall fall upon and be discharged wholly and exclusively by the Consultancy. In the event that any person should seek to establish any liability or obligation upon the Client on the grounds that any of its Workers are an employee of the Client, the Consultancy shall upon demand indemnify the Client and keep them indemnified in respect of any such liability or obligation and any related proper and reasonable costs expenses or other losses which the Client shall properly incur as a direct result of such liability.

16.2 The Client is under no obligation to offer further contracts or services to the Consultancy nor is the Supplier under obligation to accept such contracts or services if offered. Both parties agree and intend that there be no mutuality of obligations either during or following the agreement, whatsoever.

**17 NOTICES**

17.1 All notices which are required to be given hereunder shall be in writing and shall be sent to the registered office from time to time of the party upon whom the notice is to be served. Any such notice may be delivered personally or by first class prepaid post and shall be deemed to have been served if by hand when delivered, if by first class post 48 hours.

**18 LIABILITY**

18.1 The Consultancy shall be liable for proper and reasonable loss, damage or injury to the Client arising directly from the acts or omissions of the Consultancy or its Workers or from the acts or omission of any sub-contractor to whom the Consultancy sub-contracts the performance of the Consultancy Services during the performance of the Consultancy Services and the Consultancy shall indemnify and keep indemnified the Client against any such proper and reasonable loss, damage or injury provided that the total aggregate liability of the Consultancy shall not exceed <<£1,000,000.00>>.

18.2 The Consultancy shall ensure the provision of adequate employer’s liability insurance, public liability insurance and any other suitable policies of insurance such as professional indemnity insurance in respect of the Consultancy and its Workers) during the performance of the Consultancy Services.

18.3 The Consultancy shall be liable for any defects arising as a result of the provision of the

Consultancy Services and the Consultancy shall rectify at its own cost such notified defects as may be capable of remedy.

18.4 The Consultancy acknowledges that the Worker(s) provided is not an agency worker as defined under the Agency Worker Regulations 2010 and that the Agency Worker Regulations 2010 do not apply in relation to this Agreement. The Consultancy shall indemnify and keep indemnified the Client against any proper and reasonable losses the Client may properly suffer as a direct result of any claim made by or on behalf of any of the Workers under the Agency Worker Regulations 2010.

**19 DATA PROTECTION**

19.1 The Client will collect and process information relating to the Worker(s) in accordance with the privacy notice which is <<on the intranet OR annexed to this Agreement>>.

19.2 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 19 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

19.3 In this clause 19, Personal Data and Data Subject shall have the meaning given to those terms in the Data Protection Legislation.

19.4 The parties acknowledge that for the purposes of the Data Protection Legislation, the Client is the data controller and the Consultancy is the data processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation).

19.5 Without prejudice to the generality of clause 19.2, the Client will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Consultancy for the duration and purposes of this agreement.

19.6 Without prejudice to the generality of clause 19.2, the Consultancy shall, in relation to any Personal Data processed in connection with the Consultancy Services under this Agreement:

process that Personal Data only on the written instructions of the Client;

maintain for the duration of the Agreement such appropriate technical and organisational security measures against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data;

ensure all Personal Data is kept confidential;

comply with the Client’s [privacy standard OR data protection policy] [data retention guidelines] [OTHER POLICIES];

comply with the Client’s reasonable instructions with respect to processing Personal Data;

[not transfer any Personal Data outside of the UK;

OR

not transfer any Personal Data outside of the UK unless, in accordance with the Data Protection Legislation, the Consultancy ensures that (i) the transfer is to a country approved as providing an adequate level of protection for Personal Data; or (ii) there are appropriate safeguards in place for the transfer of Personal Data; or (iii) binding corporate rules are in place; or (iv) one of the derogations for specific situations applies to the transfer;]

assist the Client, at the Client's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

notify the Client on becoming aware of a Personal Data breach or communication which relates to the Client’s or Consultancy’s compliance with the Data Protection Legislation;

comply with any reasonable request of the Client to amend, transfer, return or destroy the Personal Data or any part thereof unless required by Applicable Data Processing Laws to store the Personal Data; and

maintain complete and accurate records and information to demonstrate its compliance with this clause 19.

19.7 [The Client does not agree to the Consultancy appointing any third-party processor of Personal Data under this Agreement.

OR

The Consultancy may only authorise a sub-processor to process Personal Data if:

* + 1. the Client [provides written consent prior to the appointment of each sub-processor] OR [is provided with an opportunity to object to the appointment of each sub-processor within [NUMBER] working days after the Consultancy supplies the Client with full details in writing regarding such sub-processor];

the Consultancy enters into a written contract with the sub-processor that contains terms substantially the same as those set out in this Agreement, in particular in relation to requiring appropriate technical and organisational data security measures with regards to Article 32 of the UK GDPR and any relevant requirements under Article 28 of the UK GDPR, including but not limited to the sub-processor allowing for and contributing to audits by or on behalf of the Client and, where relevant, aiding the Client to respond to subject access requests, and, upon the Client's written request, provides the Client with copies of the relevant excerpts from such contracts;

the Consultancy maintains control over all of the Personal Data it entrusts to the sub-processor; and

the sub-processor's contract terminates automatically on termination of this Agreement for any reason.

The Consultancy shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 19.7.]

19.8 It is acknowledged and agreed between the parties that this clause 18 may be revised and/or replaced with applicable controller to processor standard clauses or similar terms forming party of an applicable certification scheme (which shall apply when agreed between the parties, signed by the parties and attached to this Agreement).

**20 ANTI-BRIBERY AND ANTI-CORRUPTION**

20.1 The Consultancy shall:

 20.1.1 comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption, including but not limited to the Bribery Act 2010 (“**Relevant Requirements**”);

20.1.2 [not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;]

 20.1.3 comply with the Clients’ [ethics and] anti-bribery and anti-corruption policies, as the same may be updated from time to time (“Relevant Policies”);

 20.1.4 have and maintain in place throughout the term of this Agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and the Relevant Policies and will enforce them where appropriate;

 20.1.5 promptly report to the Client any request or demand for any undue financial or other advantage of any kind received by the Consultancy in connection with the performance of this Agreement;

20.1.6 immediately notify the Client if a foreign public official becomes an officer or employee of the Consultancy or acquires a direct or indirect interest in the Consultancy (and the Consultancy warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of this Agreement); and

 20.1.7 ensure that its Workers comply with this clause 20.

20.2 For the purpose of this clause 20 the meaning of adequate procedures and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act) and section 8 of that Act respectively.

20.3 The Consultancy shall, and shall procure that the Worker(s) shall:

* + 1. not engage in any activity, practice or conduct which would constitute either:
			1. a UK tax evasion facilitation offence under section 45(1) of the Criminal Finances Act; or
			2. a foreign tax evasion facilitation offence under section 46(1) of the Criminal Finances Act 2017;
		2. [comply with the Client's [anti-facilitation of tax evasion policy OR anti-bribery and anti-corruption policies] [in each case] as [the Client] [or] [the relevant body] may update [them OR it] from time to time;]
		3. have and shall maintain in place throughout the term of this Agreement such policies and procedures as are reasonable in all the circumstances to prevent the facilitation of tax evasion by another person (including without limitation employees of the Consultancy and any substitute), in accordance with any guidance issued under section 47 of the Criminal Finances Act 2017;
		4. promptly report to the Client any request or demand received by the Consultancy or a Worker from a third party to facilitate the evasion of tax within the meaning of Part 3 of the Criminal Finances Act 2017 in connection with the performance of this Agreement;
		5. ensure that all persons associated with the Consultancy or other persons who are performing services in connection with this Agreement comply with this clause.

20.3 Failure to comply with clause 20 may result in the immediate termination of this agreement.

**21 ILLEGALITY**

21.1 If any provision or term of this Agreement shall become or be declared illegal, invalid or unenforceable for any reason whatsoever including, but without limitation, by reason of the provisions of any legislation or other provisions having the force of law or by reason of any decision of any Court or other body or authority having jurisdiction over the parties of this Agreement such terms or provisions shall be divisible from this Agreement and shall be deemed to be deleted from this Agreement and the remainder of the provisions shall continue in full force and effect provided always that if any such deletion substantially affects or alters the commercial basis of this Agreement the parties shall negotiate in good faith to amend the modify the provisions and terms of this Agreement as necessary or desirable in the circumstances.

**22 ENTIRE AGREEMENT**

22.1 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.

22.2 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.

22.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

22.4 Nothing in this clause shall limit or exclude any liability for fraud.

**23 COUNTERPARTS**

23.1 This Agreement may be executed in any number of counterparts, each of which, when executed and delivered, shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

**24** **THIRD PARTY RIGHTS**

24.1 Except as expressly provided elsewhere in this Agreement, a person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

24.2 The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this Agreement are not subject to the consent of any other person.

**25 FORCE MAJEURE**

25.1 The Consultancy shall not be liable for any breaches of its obligations under this Agreement resulting from causes beyond its reasonable control including but not limited to Acts of God, enemy, fire, flood, explosion or other catastrophe.

**26 GOVERNING LAW AND JURISDICTION**

26.1 This Agreement shall be construed in accordance with the laws of England and Wales and all disputes, claims or proceedings between the parties relating to the validity, construction or performance of this Agreement shall be subject to the exclusive jurisdiction of the Courts of England and Wales.

**SIGNATURES**

For and on behalf of <<Consultancy>> …………………..………………

(Signature)

For and on behalf of <<Client>> …………………..………………

(Signature)

**SCHEDULE of SERVICES**

**[Client representative:] [<<Name, Title, Email, Phone Number>>]**

**[Consultancy representative:] [<<Name, Title, Email, Phone Number>>]**

**Commencement Date:** <<[DATE OR The date the Agreement is entered into between the parties]>>

**Expected completion date:** <<Expected End Date>>

**The total price for this contract is** <<Estimated Contract Value>>

**estimated to be (excluding VAT):**

**Location of working:** <<As determined by the Consultancy and agreed with the Client>>

**The <<hourly>><<daily>> rate which will apply** <<Invoice Rate>>

**(excluding VAT) is:**

**Invoicing frequency:** <<Consultancy Invoice Frequency>>

**Timesheet procedure:** <<Timesheet procedure>>

[**Expenses:** <<Any expenses agreed to be payable>>]

**Description of consultancy services:** <<Add a clear description of project or services to be supplied>>

**[Key Deliverables] [<<Add a clear description of any deliverables>>]**

**[Timetable/Milestones] [<<Description>>]**

**Equipment required:** <<Add details of any equipment you are providing>>

**Insurance requirements:** <<Add details of required insurance policies such as

 professional indemnity>>

**Notice period for early termination:**

**By Client:**

**By Consultancy:** <<Both parties should have equal rights of termination and the notice period should be as short as possible and ideally not exceed 30 days>>

# IMPORTANT INFORMATION

* This template contract is to be used as a guide only. The document has not been tailored to your business needs and you will need to amend it in order to ensure it is fit for purpose.
* There are various highlighted sections throughout the document that are incomplete and/

or may be redundant/inappropriate for your business relationship.

* Use of <<…>> indicates wordings that are variable and which need to be inserted/ modified as appropriate.
* Use of […] indicates wordings that are optional and which need to be deleted/modified as

appropriate.

* This contract is drafted on the basis that the Consultancy operates as a genuine business, outside of the IR35 rules. Therefore, there are key clauses (highlighted throughout the agreement as ‘Drafting notes’) that are crucial to the agreement and should remain unchanged.

Should you wish to seek further guidance from Qdos in relation to this template document, we offer a service whereby we can draft a bespoke model contract tailored to your business needs. We will work directly with you to obtain all relevant and key commercial information to incorporate into the document, providing you with a contract appropriate for you, and that is up to date with relevant legal and tax provisions.

Furthermore, should you have any additional queries or concerns surrounding IR35 or any other tax and/or insurance related enquiry, we have a dedicated team that would be happy to assist. Please contact us via email at **contracts@qdoscontractor.com**or via telephone on **0116 269 0992.**

For support with this document, or any of its contents, please contact Qdos Contracts Team via

Email: **contracts@qdoscontractor.com**or Telephone: **0116 2690 992**