



DCP CONSULTANCY LTD

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PROFESSIONAL SALES CONSULTANCY SERVICES

## Terms and conditions for business

The following terms and conditions are the base level of terms and conditions for doing business with DCP Consultancy and we reserve the right to amend accordingly based on each individual client and their service requirements.

### 7. Appendix – Agreement to proceed.

#### 7.1 Terms and Conditions

This Agreement dated XXXXXXXXX is between DCP Consultancy Ltd 36 Ballycreely Road, Comber, BT235PX (the “Service provider”) and Client name of Client address (the “client”).

#### Services 1.1

Throughout the Term of this Agreement the Service provider agrees to supply and shall carry out the Services as set out in the schedule of objectives diligently to the standard to be expected of a professional service provider in the business operated by the Service provider.

#### Services 1.2

The Service provider will commit to the delivery times and resource allocated throughout the Term of this Agreement so far as reasonably possible.

#### Services 1.3

The Service provider will make available to the client the services of the Consultant whose name appears in the Schedule of objectives. For all purposes connected with this Agreement the Consultant is to be treated as and will remain for the duration of the term of this Agreement treated as, an employee of the Service provider.

## Services 1.4

In this Agreement general words shall not be given a restrictive interpretation by reason of their being preceded or followed by words indicating a particular class of acts, matters or things.

## Term 2.1

This Agreement shall last for the period of 12 months commencing on and from **Insert start date** (the 'Initial Term') unless otherwise terminated in accordance with Clause 3.

## Term 2.2

At the end of Initial Term the parties may by mutual agreement evidenced in writing and signed by both parties, decide that this Agreement shall be extended for a further period of 12 months (the 'Extended Term').

## Term 2.3

At the end of the first and any subsequent Extended Term the parties may by mutual agreement evidenced in writing and signed by both parties, decide that this Agreement shall be extended for a further period of 12 months.

## Termination 3.2

The client may, acting reasonably terminate this Agreement at any time immediately by notice in writing to the Service provider if the Service provider:

### Termination 3.2.1

commits a material breach of its obligations under this Agreement and that breach is not remedied within a period of five (5) days from receipt of a written notice issued by the client;

### Termination 3.2.2

undergoes a change of control where it is reasonable that such change will have a material effect on the Service provider's ability to perform its obligations under this Agreement; or

### Termination 3.2.3

is unable to pay its debts, becomes insolvent or suffers any other type of insolvency event.

### Termination 3.3

After three months of this Agreement the client or the Service provider may terminate this Agreement at any time by giving not less than 90 days' notice in writing to the other party.

### Fees & Payment 4.1

In consideration of Services being delivered in accordance with this Agreement, the client shall pay promptly the Fees as set out in the Schedule.

### Fees & Payment 4.2

All charges or payments due under this Agreement shall be payable within 30 days of receipt by the client of a correctly rendered invoice from the Service provider.

### Fees & Payment 4.3

The Service provider may charge interest at 4% on overdue accounts.

## Data Protection 5.1

If for any reason the performance of the Service provider's obligations under this Agreement requires or necessitates the Service provider to process personal data, the Service provider agrees to comply with the legislation governing data protection in the jurisdiction appropriate to the where the Services are being performed. For example, in Northern Ireland this will include the the Data Protection Act 1998 and all regulations and guidance issued under and in respect of it by the Information Commissioner and in Ireland it will include the Data Protection Act 1988 as amended by the Data Protection (Amendment) Act 2003 (together the ' DP Legislation') and to observe the Data Protection Principles, to process the client data on behalf of the client, including any Sensitive Data, acting only on the instructions of the client and solely for the purposes of this Agreement and not otherwise, to maintain all necessary technical, organisational and security measures to allow the personal data to be lawfully processed and to allow the client access at reasonable times to inspect and audit the systems and procedures the Service provider has in place to comply with the DP Legislation.

## Data Protection 5.2

The Service provider confirms that it has In place all necessary and relevant permissions to allow it to process Personal Data on the client's behalf under this Agreement.

## Confidentiality 6.1

The Service Provider agrees to keep confidential Information received by the Service provider or (whether on the Service provider's behalf or otherwise in connection with his work for the client) the Consultant and which relates to the client's technology, know-how, business, finances or any other information of a confidential nature and any such information relating to a group company, service provider or customer of the client shall be treated by the Service provider as confidential information at all times and shall not be disclosed to any other person unless otherwise agreed in writing by the client or is required to be disclosed by any law or regulation.

### Intellectual Property 7.1

The Service provider agrees that in the course of performing the Services under this Agreement, the Service provider may be granted access by the client to certain materials which are protected by copyright, trade secrets, design rights, know-how and data-base rights or other intellectual property rights ("Intellectual Property"). The Service provider agrees that any such materials shall remain the exclusive property of the client.

### Intellectual Property 7.2

The Service provider acknowledges and agrees that all proprietary rights in any Intellectual Property relating to anything designed or created to meet specific needs of the client in or whilst delivering the Services (including but not limited to title or ownership rights) shall at all times and for all purposes belong to or vest in the client.

### Intellectual Property 7.3

The client acknowledges that proprietary rights in Intellectual Property created or provided by the Service provider other than anything designed created or produced to meet the specific needs of the client (either during or prior to delivering the Services) including but not limited to any title or ownership rights will at all times and for all purposes remain vested in the Service provider.

### Client policies 8.1

The Service provider shall abide by all reasonable lawful instructions given to it by the client.

### Client policies 8.2

The Service provider undertakes to abide by all the client Policies while carrying out the Services on the client's premises. Provided copies of these policies are provided in advance.

### Client policies 8.3

The Service provider agrees to comply with all relevant Health and Safety Legislation.

### Assignment 9.1

The Service provider shall not assign or subcontract its obligations under this Agreement without the prior written consent of the client.

### Assignment 9.2

If the client consents to any subcontracting by the Service provider then the Service provider shall notify the client of full details regarding the subcontractor and their services.

#### Assignment 9.2.1

Remain fully responsible for the acts and omissions of its subcontractor as if those things were done by the Service provider.

### Liabilities & Insurance 10.1

Except as provided 10.2 below or in the Schedule to this Agreement, the Service provider's maximum liability to the client under this Agreement will be for direct costs and damages and will be limited to €50,000.

### Liabilities & Insurance 10.2

Nothing in this Agreement shall exclude or in any way limit the liability of either party for:-

#### Liabilities & Insurance 10.2.1

proven fraud;

#### Liabilities & Insurance 10.2.2

death or personal injury caused by negligence;

### Liabilities & Insurance 10.3

Except as provided in this Clause 10 and in the Schedule, the Service provider shall not be liable for indirect loss save any losses which cannot lawfully be excluded.

### Liabilities & Insurance 10.4

The Service provider undertakes to maintain an adequate and appropriate level of insurance to cover its liabilities under this Agreement, including any damage to property, employees or employees' property.

### Audit & Inspection 11.1

The client and duly appointed agents or representatives shall have the right on giving reasonable notice to the Service provider to inspect the Service provider's premises, books, records and other material and to interview the Service provider's staff in respect of the Service provider's provision of the Services under this Agreement.

### Notices 12.1

Any notice required or authorised to be given by either party under this Agreement to the other party shall be in writing and shall be sent by pre-paid registered or recorded delivery post to the other party at the address stated in this Agreement or such other address as may be specified by the parties by notice to the other from time to time.

### No Partnership 13.1

Nothing in this Agreement implies or constitutes a partnership or joint venture between the Service provider and the client.



#### Exclusivity 14.1

The Service provider agrees and undertakes that it will cooperate exclusively with the client in relation to the Services and neither it nor any person affiliated to or with it (including the Consultant) shall cooperate with any other person with a view to, or the actual provision of, services or any services analogous to the services currently being provided by the client or which the client is currently considering providing as detailed in the rest of this clause.

#### Exclusivity 14.2

In this clause the following words shall have the following meanings: 'Business' means any business carried on by the client at the Termination Date or at any time during the six months preceding the Termination Date in which the Consultant was directly concerned or connected during the provision of the Services to the client; 'Client' means any person, firm or company who is or was a client of the client during the six months preceding the Termination Date and with whom the Consultant had direct contact during the provision of the Services to the client or on whose account the Consultant worked on or had responsibility for; 'the client'

#### Exclusivity 14.3

The Service provider and the Consultant jointly and severally acknowledge that the Business is a highly competitive business and that the Consultant has access to and an intimate knowledge of the client's Confidential Information and that the disclosure of any Confidential Information to actual or potential competitors of the client or the use of any Confidential Information by the Service provider and/or the Consultant (either alone or with other persons) would place the client at a serious competitive disadvantage and would do material damage, financial or otherwise, to its legitimate business interests.

#### Exclusivity 14.4

The Service provider and the Consultant further acknowledge and agree that, due to the nature of the Consultant's position and his influence over clients and staff of the client, if the Consultant were entitled to compete with the client immediately after the termination of this Agreement in any capacity and/or to solicit key staff the client would be at a serious disadvantage and such unfair competition would do material damage, financial or otherwise, to its legitimate business interests and would disrupt its workforce in a highly competitive industry. Therefore, the Service provider and the Consultant acknowledge and agree that the restrictions set out in this clause 14 are fair and reasonable in the circumstances for the protection of the client's legitimate business interests.

#### Exclusivity 14.5

The Service provider and the Consultant agree that during the period the Services are provided to the client, they shall not without the client's prior written consent act as a principal, shareholder, owner, director, employee, agent, consultant or partner or otherwise or directly or indirectly own any shares in any business which is in competition with the Business including any Named Competitors.

#### Exclusivity 14.6

The Service provider and the Consultant undertake and covenant with the client that they shall not without the prior written consent of the client directly or indirectly and whether alone or in conjunction with or on behalf of any other person, firm or company and whether as a principal, shareholder, owner, director, employee, agent, consultant, partner or otherwise:

- following the Termination Date represent or permit representation as being in any way connected with or interested in the business of the client, or a successor to the client, acting on behalf of the client, or use connection with the client in such a way as to utilise its goodwill;
- during the period the Services are provided to the client and following the termination of this Agreement for any reason carry or cause or permit to be carried on any business under or using any name, style, logo or image which is or has been used by the client, or which in the client's reasonable opinion will cause confusion with such a name, style, logo or image or to infer a connection with the client;
- within the Republic of Ireland and Northern Ireland for a period of three months from the Termination Date be engaged, concerned or interested in any business or activity which competes with the Business;
- for a period of three months from the Termination Date, be involved with any Named Competitors in competition with the client;
- for a period of three months from the Termination Date in relation to any business or activity which is in competition with the Business deal, negotiate or contract with any Client or Prospective Client;

- for a period of three months from the Termination Date canvass, solicit or approach or cause to be canvassed, solicited or approached or endeavour to take away from the client the business or custom of any Client or Prospective Client with the view to providing services to such Client or Prospective Client in competition with the Business;
- for a period of three months from the Termination Date offer to employ or engage or otherwise solicit or endeavour to entice away from the client any employee or officer of the client:
- whose work you were responsible (directly or indirectly) for supervising during the three months preceding the Termination Date; or
- who is of managerial status or higher; or
- who works in the New Business Team

and who could materially damage the interests of the client if they were involved in any capacity in any business that could materially damage the interests of the client;

- for a period of three months from the Termination Date endeavour to entice away from the client or in any way seek to affect the terms of business on which the client deals with any person, firm, company or organisation who or which at the Termination Date or at any time during the six months prior to the Termination Date was a service provider of the client with whom or which the Consultant had come into contact in the performance of his duties.

#### Exclusivity 14.7

None of the restrictions in this clause (restrictive covenants) shall prevent the Service provider or the Consultant from:

- holding an investment by way of shares or other securities of not more than 5% of the total issued share capital of any company, whether or not it is listed or dealt in on a recognised stock exchange; or
- being engaged or concerned in any business concern insofar as the Consultant's duties or work shall relate where the business concern is not in competition with the Business; or
- being engaged or concerned in any business concern, provided that the Consultant's duties or work shall relate solely to services or activities of a kind with which the Consultant was not concerned to a material extent in the 3 months before the Termination Date.

#### Exclusivity 14.8

The Service provider and the Consultant acknowledge that in respect of the restrictions in this clause 14:

- they have been legally advised or have had the opportunity to take legal advice; and
- each of the above sub-clauses constitutes an entirely separate and independent restriction.

#### Exclusivity 14.9

In the event that any one or more or any part of the restrictions set out in this clause 14 shall be rendered or judged invalid or unenforceable such restriction or part shall be deemed to be severed from this clause 14 and such invalidity or unenforceability shall not in any way affect the validity or enforceability of the remaining restrictions. If any of the restrictions shall be held to be void but would be valid if part of their wording were deleted, such restriction shall apply with such deletion as may be necessary to make it valid or effective.

#### Rights of Third Parties 15.1

A person who is not a party to this Agreement may not enforce any of its terms.

#### Law & Jurisdiction 16.1

This Agreement shall be governed and construed by the laws of Northern Ireland and the courts of Ireland shall have exclusive jurisdiction.

#### Consultant's Undertakings 17.1

Solely for the purposes of Clauses 1.3; 6 and 14 and in consideration of the client entering into this contract with the Service provider, the Consultant has countersigned this Agreement to (and by signing does) confirm that he is personally bound by the terms of those clauses. For the purposes of Clause 15, the Consultant accepts and acknowledges that he is not otherwise a party to this Agreement and therefore cannot in his personal capacity enforce any of its terms.

## 7.2 Agreement

The signatures below indicate that there has been agreement by XXXXXX (the client) and DCP Consultancy Ltd (the service provider) for a 1-year fixed term contract period as outlined in this proposal document for the services proposed.

Service start date - XXXXXXXX

Acceptance signature  
on behalf of the client.

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Date

\_\_\_\_\_

Acceptance signature  
on behalf of the service provider.

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Date

\_\_\_\_\_