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CONSULTANT (COMPANY) MEMBER'S AGREEMENT

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THIS AGREEMENT is made the
BETWEEN:

- (1) <<Name of Developer>> a number <<Company Registration Address>> (“the Developer
- (2) <<Name of Client>> [a number <<Company Registration Address>> (“the Client

<<Country of Registration>> under
se registered office is at <<insert
<<Country of Registration>> under
se registered office is at] **OR** [of]

WHEREAS:

- (1) At all material times the development services to be provided by the developer of Apps for the <<insert description>>
- (2) At all material times the Client is in the business of <<insert description>> and wishes to acquire the services of the Developer.
- (3) The Developer hereby agrees to provide the services to the Client subject to the terms and conditions of this Agreement.

in the business of providing app
a [licensed] **AND/OR** [registered]
<<insert description>> platform].
business of <<insert description>>
The Client is in the business of <<insert description>>
to the Client subject to the terms

IT IS AGREED as follows:

1. **Definitions and Interpretation**

1.1 In this Agreement the following expressions have the following meanings:

otherwise requires, the following

“**App**”

<<insert description>> software
to be developed by the Developer as

“**Business Day**”

(other than Saturday or Sunday) on
which the Client’s premises are open for their full range of
services at <<insert location>>;

[“**Client’s Materials**”]

as set out in Schedule 2 which the
Client provides to the Developer for use in the
App;]

“**Confidential Information**”

information which is
provided to the other Party pursuant to, or
disclosed by the other Party pursuant to, this
Agreement (whether orally or in writing, in any
medium, and whether or not the information is
expressly stated to be confidential or

“**Data Protection Legislation**”

the Data Protection
legislation in force from time to time
and applicable to data protection and
not limited to, the UK GDPR (the
Regulation of the General Data Protection
Act 2018 (679), as it forms part of the law of
England, Wales and Northern Ireland by
Scotland, and Northern Ireland by
the European Union (Withdrawal)
Act 2018 (and regulations made under
that Act) and the Privacy and Electronic
Communications Regulations 2003 as amended;

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1.5 References to any gender shall include the other gender.

2. **Engagement of the Developer**

2.1 The Client hereby engages the Developer to carry out and complete the development of the App.

2.2 [The Client shall provide the Client's Materials to the Developer by <<insert date>> ("the Delivery Date"). If that the Client fails to deliver the Client's Materials by the Completion Date and the milestone dates set forth in the Schedule, the dates shall increment by one Business Day for each day that the Client's Materials is delayed.]

2.3 The Developer shall complete the App by <<insert date>> ("the Completion Date").

2.4 Prior to the Completion Date, the Developer shall [use reasonable endeavours to] comply with the following:

2.4.1 Initial planning and design shall be submitted to the Client for discussion and/or approval by <<insert date>>.

2.4.2 Design ideas shall be submitted to the Client for selection and/or approval by <<insert date>>.

2.4.3 Development shall be completed and submitted to the Client on the following dates: <<insert date>>, <<insert date>>;

2.4.4 Alpha testing shall be completed by <<insert date>>;

2.4.5 Beta testing shall be completed by <<insert date>>;

2.4.6 The App shall be submitted to the Client for acceptance testing by <<insert date>>.

2.4.7 <<insert additional milestones as required>>.

2.5 The Developer acknowledges that it has a legitimate commercial interest in the App and that it shall complete the App by the Completion Date and that the Client should have a legitimate commercial interest in the App. Accordingly, in the event that the Developer fails to complete the Work by the Completion Date, a sum of <<insert percentage>>% of the total fee shall be deducted as liquidated damages from the total fee payable to the Developer for each Business Day that the App is not completed by the Completion Date without prejudice to the Client's right to claim any further damages for any further delay.

2.6 The Developer shall ensure that all work is completed promptly and with reasonable care.

2.7 The Developer shall rectify any unsatisfactory work at its own expense.

3. **Nature of Engagement**

3.1 The Developer shall be an independent contractor and the Developer's Work shall be performed using methods and those of any Consultant(s) engaged by the Developer to develop the App. The Developer shall at all times be exclusively for the Client's benefit and control. The Client shall not seek to supervise, direct or control the Developer or any Consultants nor shall the Client have any right to claim any further damages for any further delay.

3.2 Subject to the provisions of this Agreement, the Developer shall at all times be exclusively responsible for the development of the App and shall be entitled to organise, where, when and how the Work is performed.

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quotation dated <<insert date>>

AND/OR

[In consideration of the following Milestone

to itself the Client shall make the following payments:

5.1.1 The sum of \$ <<insert amount>>

for the delivery of the initial planning;

5.1.2 The sum of \$ <<insert amount>>

for the delivery of the design ideas;

5.1.3 The sum of \$ <<insert amount>>

for the delivery of each development report;

5.1.4 The sum of \$ <<insert amount>>

for the completion of alpha testing;

5.1.5 The sum of \$ <<insert amount>>

for the completion of beta testing;

5.1.6 The sum of \$ <<insert amount>> for the delivery of the App for acceptance testing;

5.1.7 The sum of \$ <<insert amount>> for the completion of the Work and delivery of the App;

5.1.8 <<insert additional milestones>>

as required<>>].

5.2 Payment of the [Initial Milestone Payment] shall be made only following completion of the Work and shall be made within <<insert period>> of the date of the Client's invoice for the same.

Any sums which remain unpaid at the expiry of this period shall incur interest at the rate of <<insert rate>> per annum above the base lending rate of <<insert rate>> per annum on a daily basis from the date of payment of the overdue sum until the actual date of payment of the overdue sum shall be payable.

5.3 All payments made shall be expressly exclusive of any value added tax charges.

5.4 No further payments shall be made over and above the sums payable under Clause 5 and, without limitation, no payment shall be made for any expenses incurred by the Developer in respect of the Work.

6. Intellectual Property

6.1 Upon receipt in full of the sums due under Clause 5, the copyright and any other Intellectual Property Rights subsisting in the App shall be deemed to have been assigned to the Client and the Developer shall be deemed to have waived any such rights in respect of the App arising out of the Copyright Designs and Patents Act 1988.

6.2 Following the assignment of the Intellectual Property Rights under Clause 6.1, the Client shall be free to use the App for any purposes in which the App was originally commissioned, and any and all other Intellectual Property Rights subsisting in the App shall be free to use the App for any purposes in which the App was originally commissioned, to the purpose for which the App was originally commissioned.

6.3 [The copyright and other Intellectual Property Rights in the Client's Materials shall remain, the property of the Client at all times (subject to any assignment to the Client may make from time to time, subject to the Client's warranty under sub-clause 6.1). Nothing in this Agreement shall

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operate to bestow upon the Client the right to use the Client's Materials save as envisioned by this Agreement.]

rights in the Client's Materials save as envisioned by this Agreement.]

7. **Developer's Warranties and**

Client's Indemnities

7.1 Any Consultant(s) retained by the Developer shall possess the skill and experience to carry out the Work.

of any other Consultant(s) engaged to carry out the Work shall possess the skill and experience to carry out the Work.

7.2 The Developer shall warrant that the App is original and shall not infringe any copyright, trademark, trade name, other Intellectual Property Rights, rights of privacy, rights of publicity, or any other rights of any person.

The Developer shall warrant that the App shall, throughout the term of the Agreement and subsisting pursuant to the laws of the United Kingdom and/or the laws of the Berne Convention and/or the laws of any other country, constitute a [licensed] AND/OR [registered] trademark, e.g. iOS>> platform and has acquired all the necessary licences and/or licences required to develop, distribute, use, and otherwise comply with the Client's requirements.]

7.3 The Developer hereby warrants that the full period of copyright protection of the United Kingdom and/or the laws of the Berne Convention and/or the laws of any other country shall not be exhausted at the time of the making of the Agreement.

7.4 The Developer hereby warrants that the full period of copyright protection of the United Kingdom and/or the laws of the Berne Convention and/or the laws of any other country shall not be exhausted at the time of the making of the Agreement.

7.4 [the Developer hereby warrants that the full period of copyright protection of the United Kingdom and/or the laws of the Berne Convention and/or the laws of any other country shall not be exhausted at the time of the making of the Agreement.]

7.5 The Developer hereby warrants that the full period of copyright protection of the United Kingdom and/or the laws of the Berne Convention and/or the laws of any other country shall not be exhausted at the time of the making of the Agreement.

7.5 The Developer shall not transfer, encumber or otherwise dispose of any right in or to the Client's Materials or the App into any agreement or arrangement under this Agreement which might conflict with the Client's rights or otherwise hinder the Developer's performance of his obligations under this Agreement.

7.6 Subject to the provisions of clause 7.8, in the event of any actions, proceedings, claims or demands (including, without prejudice to the generality of this provision, claims or demands on a solicitor and own-client basis) against the Client on a solicitor and own-client basis) arising out of or in connection with the Client's use, possession or use of the App in accordance with this Agreement and/or the use or possession of any Intellectual Property Rights belonging to a third party, the Client shall indemnify the Developer against the same.

7.6 Subject to the provisions of clause 7.8, in the event of any actions, proceedings, claims or demands (including, without prejudice to the generality of this provision, claims or demands on a solicitor and own-client basis) against the Client on a solicitor and own-client basis) arising out of or in connection with the Client's use, possession or use of the App in accordance with this Agreement and/or the use or possession of any Intellectual Property Rights belonging to a third party, the Client shall indemnify the Developer against the same.

7.7 Subject to the provisions of clause 7.8, in the event of any actions, proceedings, claims or demands (including, without prejudice to the generality of this provision, claims or demands on a solicitor and own-client basis) against the Client on a solicitor and own-client basis) arising out of or in connection with the Client's use, possession or use of the App in accordance with this Agreement and/or the use or possession of any Intellectual Property Rights belonging to a third party, the Client shall indemnify the Developer against the same.

7.7 Subject to the provisions of clause 7.8, in the event of any actions, proceedings, claims or demands (including, without prejudice to the generality of this provision, claims or demands on a solicitor and own-client basis) against the Client on a solicitor and own-client basis) arising out of or in connection with the Client's use, possession or use of the App in accordance with this Agreement and/or the use or possession of any Intellectual Property Rights belonging to a third party, the Client shall indemnify the Developer against the same.

7.8 The indemnities set forth in clauses 7.6 and 7.7 shall apply only if the indemnifying Party: 7.8.1 notifies the Client immediately in writing upon becoming aware of any claim, demand or costs; 7.8.2 makes no admissions or settlements without the indemnifying Party's prior written consent; 7.8.3 makes all reasonable efforts to minimize the amount payable to the indemnifying Party upon request;

7.8 The indemnities set forth in clauses 7.6 and 7.7 shall apply only if the indemnifying Party:

7.8.1 notifies the Client immediately in writing upon becoming aware of any claim, demand or costs;

7.8.1 notifies the Client immediately in writing upon becoming aware of any claim, demand or costs;

7.8.2 makes no admissions or settlements without the indemnifying Party's prior written consent;

7.8.2 makes no admissions or settlements without the indemnifying Party's prior written consent;

7.8.3 makes all reasonable efforts to minimize the amount payable to the indemnifying Party upon request;

7.8.3 makes all reasonable efforts to minimize the amount payable to the indemnifying Party upon request;

7.8.3 makes all reasonable efforts to minimize the amount payable to the indemnifying Party upon request;

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7.8.4 provides all
request; and

to the indemnifying Party upon

7.8.5 allows the
litigation and

complete control over any relevant

8. **Client's Warranties**

8.1 The Client shall use
the Client's Material
shall not infringe any
rights of privacy, r
person.

reasonable endeavours to ensure that
Developer is original to the Client and
Actual Property Rights, moral rights,
any other rights whatsoever of any

8.2 The Client hereby
throughout the full
pursuant to the law
Convention and/or t

in the Client's Materials shall,
protection, be valid and subsisting
[and the provisions of the Berne
Convention].

8.3 The Client [shall ac
all necessary perm
App [to consumers
iOS>> platform.

warrants that it has acquired] any and
required to [sell and] distribute the
[insert platform, e.g.

8.4 The Client shall not
of any rights of cop
App except pursuan

or, encumber or otherwise dispose
in or to the Client's Materials or

8.5 The Client shall not
conflict with the De
with the Developer's

ment or arrangement which might
this Agreement or might interfere
obligations under this Agreement.

9. **Liability**

9.1 This Clause 9 sets
for any breach of th
and App, any use
representation, stat
to, negligence and
this Agreement.

liability of the Parties to each other
apply by the Developer of the Work
of the Work and App; and any
omission (including, but not limited
arising out of or in connection with

9.2 Subject to sub-Clau
contract, tort (includ
or misrepresentation
opportunity, loss
consequential dam
arises out of or in co

will be liable to the other, whether in
on, or for breach of statutory duty
loss of goodwill, loss of business
or any special, indirect or
suffered by the other Party that
ment.

9.3 Nothing in this Agre
fraud or fraudulent r
death or personal in

liability of either Party to the other for
liberate or wilful misconduct, or for

9.4 Nothing in this Ag
under or in respect

or limit the liability of either Party
provisions of Clause 7.

9.5 Without prejudice to
9.2 or 9.3, the total
this Agreement (wh
breach of statutory
100% of the [Fee] C
Client under this A
greater.

ns of Clause 7, or to sub-Clauses
arising out of or in connection with
cluding negligence), restitution, for
n or otherwise) shall be limited to
Payments] paid or payable by the
f £ <<insert sum>> whichever is

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10. Confidentiality

10.1 Both Parties under authorised in writing continuance of this 10.1.1 keep confide 10.1.2 not disclose 10.1.3 not use any contemplate 10.1.4 not make an any Confide 10.1.5 ensure that Consultant(s Party, would

10.2 Subject to sub-Cl Information to: 10.2.1 any Consulta 10.2.2 any of their s 10.2.3 any governm 10.2.4 any of their sub-Clauses

10.3 Disclosure under s necessary for the p law. In each case t Confidential Inform described in sub-Cl a body, the disclos written undertaking confidential and to made.

10.4 Either Party may us it to any other party knowledge through

10.5 When using or disc disclosing Party m Confidential Informa

10.6 The provisions of t their terms, notwith

11. [Data Protection

11.1 All personal data th held in accordance the Client's and Co

11.2 For complete detai retention of person which personal data Client's and Consu sharing (where ap

provided by sub-Clause 10.2 or as they shall at all times during the [insert period>>] after its termination:

Information; to any other party; n for any purpose other than as ny way or part with possession of its directors, officers, employees, es any act which, if done by that sions of this Clause 10.

may disclose any Confidential Information to: es, or suppliers; or regulatory body; or r those of any party described in 3.

made only to the extent that is this Agreement, or as required by t first inform the recipient that the Unless the recipient is a body orised employee or officer of such and submit to the other Party a keep the Confidential Information poses for which the disclosure is

Information for any purpose, or disclose Information is or becomes public

Information under sub-Clause 10.4, the s not disclose any part of that knowledge.

continue in force in accordance with of this Agreement for any reason.

will be collected, processed, and e Data Protection Legislation and er.

collection, processing, storage, and not limited to, the purpose(s) for or bases for using it, details of the exercise them, and personal data to the Developer's Privacy Notice

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[available from <<in

12. **[Data Processing**

12.1 In this Clause 12 a
controller”, “data p
meaning defined in

personal data”, “data subject”, “data
al data breach” shall have the
R.

12.2 [All personal data t
subject to this Agree
a Data Processing
personal data is pro

Developer on behalf of the Client,
ed in accordance with the terms of
the Parties shall enter before any

OR

12.2 [Both Parties shall c
out in the Data Pro
provisions of this A
out in the Data Pro
those obligations.

the data protection requirements set
whether this Clause 12 nor any other
either Party of any obligations set
shall not remove or replace any of

12.3 For the purposes of
this Agreement, the
“Data Processor”.

islation and for this Clause 12 and
controller” and the Developer is the

12.4 The type(s) of pe
processing, and the
to this Agreement.

be, nature and purpose of the
ing shall be set out in Schedule 3

12.5 The Data Controlle
and notices require
Processor for the pu

s in place all necessary consents
nsfer of personal data to the Data
chedule 3 to this Agreement.

12.6 The Data Processo
relation to its perfor

y personal data processed by it in
ations under this Agreement:

12.6.1 Process the
Controller un
such person
the Data Co
by law;

ne written instructions of the Data
r is otherwise required to process
ta Processor shall promptly notify
ng unless prohibited from doing so

12.6.2 Ensure that
measures (a
data from
damage or
potential ha
current state
those meas
Data Contro
the Agreeme

able technical and organisational
(Controller) to protect the personal
ful processing, accidental loss,
ures shall be proportionate to the
events, taking into account the
gy and the cost of implementing
ken shall be agreed between the
ssor and set out in Schedule 3 to

12.6.3 Ensure that
processing p
that persona

o the personal data (whether for
are contractually obliged to keep

12.6.4 Not transfer
written cons
conditions a

side of the UK without the prior
troller and only if the following

12.6.4.1 T

/or the Data Processor has/have
ards for the transfer of personal

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12.6.4.2 ... have enforceable rights and

12.6.4.3 ... complies with its obligations under the ... on, providing an adequate level of ... personal data so transferred; and

12.6.4.4 ... complies with all reasonable ... ance by the Data Controller with ... of the personal data;

12.6.5 Assist the D ... ta Controller's cost, in responding ... ta subjects and in ensuring its ... ion Legislation with respect to ... t assessments, and consultations ... ators (including, but not limited to, ... e);

12.6.6 Notify the D ... undue delay of a personal data ... breach;

12.6.7 On the Da ... instruction, delete (or otherwise ... a and any and all copies thereof to ... of this Agreement unless it is ... data by law; and

12.6.8 Maintain cor ... rds of all processing activities and ... ures implemented necessary to ... ause 12 and to allow for audits by ... designated by the Data Controller.

12.7 [The Data Process ... any of its obligations with respect ... to the processing of ... Clause 12.]

OR

12.7 [The Data Process ... t any of its obligations to a sub- ... of personal data under this Clause ... Data Controller (such consent not to ... at the Data Processor appoints a

12.7.1 Enter into a ... n the sub-processor, which shall ... impose upon ... same obligations as are imposed ... upon the Da ... use 12 and which shall permit both ... the Data P ... ta Controller to enforce those ... obligations;

12.7.2 Ensure that ... lies fully with its obligations under ... that agreem ... on Legislation.]

12.8 Either Party may, a ... st <<insert period, e.g. 30 calendar ... days'>> notice, a ... n provisions of this Agreement, ... replacing them with ... ocessing clauses or similar terms ... that form part of a ... scheme. Such terms shall apply ... when replaced by a ... ment.]

13. Termination

13.1 Either Party may t ... t at any time without notice and ... without giving any r ... on.

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16. **Severance**

The Parties agree that, if this Agreement is found to be wholly or partly unenforceable, the provisions shall be deemed severed and the remainder of this Agreement shall remain enforceable.

For more of the provisions of this Agreement, or if any provision is otherwise unenforceable, that / those provisions shall be deemed severed and the remainder of this Agreement shall remain enforceable.

17. **Notices**

17.1 All notices under this Agreement shall be in writing and be deemed duly given if signed by, or on behalf of, an authorized officer of the Party giving the notice.

in writing and be deemed duly given if signed by, or on behalf of, an authorized officer of the Party giving the notice.

17.2 Notices shall be deemed to have been given:

given:

17.2.1 when delivered to the recipient by registered mail;

by hand or other messenger (including overnight delivery) outside business hours of the recipient; or

17.2.2 when sent, if by hand, and a return receipt is generated; or

by hand, and a return receipt is generated; or

17.2.3 on the fifth business day after mailing, if mailed by national ordinary mail.

by registered mail, if mailed by national ordinary mail.

In each case notice shall be deemed to have been given to the most recent address or e-mail address notified to the Parties.

to the most recent address or e-mail address notified to the Parties.

18. **Alternative Dispute Resolution**

18.1 Any dispute or claim arising out of or in connection with this Agreement or its subject matter, whether agreed upon by the Parties or not, shall be referred to the then President of the Arbitration Panel, who shall confer upon the Arbitrator all the powers conferred upon arbitrators by the Arbitration Act 1996.

Any dispute or claim arising out of or in connection with this Agreement or its subject matter, whether agreed upon by the Parties or not, shall be referred to a single arbitrator to be appointed by the Arbitration Panel, to have all of the powers conferred upon arbitrators by the Arbitration Act 1996.

18.2 The Parties hereby agree that the award of the Arbitrator shall [not] be final and binding on both Parties.

The Parties hereby agree that the award of the Arbitrator shall [not] be final and binding on both Parties.

19. **Law and Jurisdiction**

19.1 This Agreement (including any dispute or claim arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the law of England and Wales.

This Agreement (including any dispute or claim arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the law of England and Wales.

19.2 Subject to the provisions of this Agreement, any dispute, controversy, proceedings or claim between the Parties arising out of or in connection with this Agreement (including any non-contractual matters arising therefrom or associated therewith) shall fall within the jurisdiction of the courts of England and Wales.

Subject to the provisions of this Agreement, any dispute, controversy, proceedings or claim arising out of or in connection with this Agreement (including any non-contractual matters arising therefrom or associated therewith) shall fall within the jurisdiction of the courts of England and Wales.

IN WITNESS WHEREOF this Agreement has been signed and before written.

This Agreement has been signed and before written.

SIGNED by

<<Name of person signing for the Party>>
DIRECTOR
for and on behalf of <<Developer's Name>>

In the presence of
<<Name & Address of Witness>>

SIGNED by

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<<Name and Title of person signing
for and on behalf of <<Client's Name>>

In the presence of
<<Name & Address of Witness>>

The App

<<Insert full details of the App to be provided to the Developer>>

Client's Materials

<<Insert full details of the Client's Materials to be provided to the Developer>>]

Pursuant to Clause 12.4, the following details of the type(s) of personal data, the scope, nature and purpose of the processing:

<<Insert full details>>]

[Pursuant to Clause 12.6.2, the following details of the technical and organisational measures agreed:

<<Insert full details>>]]

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