

Terms and Conditions

Supply of Goods and Time and Materials Services

1. Terminology

This document sets out the standard terms of business between Public Impact Communications Limited (hereinafter referred to as “PI” and/or “The Company”) and its customers (hereinafter referred to as “the Client”).

2. Agreement

These Terms and Conditions will apply to all services provided by PI to assist the Client in carrying out the Client’s Project (“Goods” and/or “Services”). These Goods or Services will be as described in quotations or purchase orders placed with The Company by The Client. Any variation of these terms and conditions will be agreed in writing between the Client and PI.

3. Fees and Payment

- 3.1 *Time and Materials* - PI's Time and Materials fees will be calculated according to the number of days worked (plus any days of notice if not worked) by each of the Consultants at his/her current rate as shown in the relevant order. Fees are based on a seven hour working day. Any additional hours may be charged extra. Weekend and public holiday working required by The Client will be charged as follows: Saturday will be charged at time and one half, and Sundays and Bank/Public Holidays at double time. Travel time, other than time spent travelling from a local residence to the location at which the Services are normally provided will be chargeable as part of the above working hours.
- 3.2 *Goods and Services* – PI will not proceed to produce, design or develop goods or services until it has received an Order in writing from the Client. PI will not proceed to reproduce, print or deploy any goods or service without having received signed authority from The Client (“sign off”). Signed authority which will include confirmation by electronic means will include the acceptance of these terms and conditions and .
- 3.3 *Client Corrections* - Any changes, corrections or amendments following sign off will be chargeable to the client at full fee in addition to any previously agreed fee. Public Impact will accept no legal liability whatsoever for errors in goods produced which The Client has signed off.
- 3.4 *Expenses* - Unless otherwise agreed all charges are exclusive of expenses. All reasonable expenses including subsistence and travel incurred by PI and its staff in the performance of the Services will be reimbursed by the Client at cost.
- 3.5 *Taxes* - All fees and expenses are specified exclusive of taxes. The Client will be responsible for paying any such applicable taxes, including VAT, at the rate in force at the time such liability arises.
- 3.6 *Invoices* - Time and Materials fees and related expenses will be invoiced and are due at the end of the month in which they are provided/incurred or upon earlier completion or termination of the Services. Goods will be invoiced on going to print, into final production or as soon as practical thereafter. Work in progress on projects or goods covering a period of more than 31 days may be invoiced on a monthly basis after the initial 31 day period.
- 3.7 *Payment* – The Client will pay all valid invoices within 30 days of receipt. In the event of late payment PI reserves the rights to suspend the provision of Services and to charge interest on amounts overdue at the rate of 4% per annum above the annual base rate of National Westminster Bank plc in force from time to time. Notwithstanding any provisions in an order or other document concerning acceptance of work products, any productive or commercial use of a work product by the Client will be deemed as acceptance of such work product by the Client, and payment for such work product will become due immediately. All goods and services remain

the property of PI until full payment has been received and cleared by PI’s bankers.

- 3.8 *Cancellation* – Where Goods or Services are ordered or solicited from PI and the Client seeks to cancel that order at any stage following the commencement of work on the order the Client will be liable to be invoiced for work done at the prevailing hourly rate proportionate to the requirements of the job and the quotation supplied to the Client. Where PI has incurred any external costs or charges on an order for goods and services which is subsequently cancelled the Client will be liable to be invoiced for the total cost incurred by PI.
- 3.9 *Estimates* - Where PI has provided an indication of the time and/or resources required to provide the Services it will seek to achieve satisfactory results within that period and with those resources but any such indication is only an estimate and is not contractually binding unless expressly agreed to be so in an Order.

4. Copyright and Intellectual Property Rights

- 4.1 In accordance with established Copyright law, unless explicitly stated, the copyright of all goods and services will be retained by PI.
- 4.2 *Design Copyright*. The Client will have licence to reproduce designs paid for in full and the right to use those designs unaltered in any way in the normal process of business. The client will not have the right to change, reverse engineer nor to re-sell the good and services without the specific written permission of PI. Such permission will not be unreasonably withheld.
- 4.3 *Photographic and Illustrative Copyright*. Copyright governing photographs and illustrations is governed by extensive case law. The law makes clear that the creative copyright and intellectual property rights of such works remains with the creator of such works in all circumstances. Public Impact will not provide any warranty against legal proceedings for images supplied by the Client and will require the Client to indemnify Public Impact against any proceedings under such circumstances. Public Impact will be responsible for securing copyright licence for any images it supplies and sources, but will not be held responsible for any infringements of copyright by The Client following the supply of such images. Public Impact will only negotiate purchase of such copyright if specifically requested to do so by The Client.
- 4.4 The copyright and other intellectual property rights in any materials or software (websites, presentation or other electronic media) created by or licensed to PI prior to or outside the terms of this Agreement (“Pre-Existing Works”) will remain vested in PI (or PI’s licensor) but to the extent that work products incorporate Pre-Existing Works, PI hereby grants to the Client, or will make reasonable efforts to procure the grant to Client of, an irrevocable, non-exclusive, worldwide, royalty free licence to use, copy, modify, distribute and license the use of such Pre-Existing Works.
- 4.5 Public Impact Communications Limited Creative Copyright and Intellectual Property Rights to all designs and images, and Author Copyright to all consultancy reports and articles supplied by PI will remain with PI unless explicitly transferred and may not in any circumstances be presented as having been the creative work of any other party. In any case Public Impact shall retain the right to present its work as its own to other clients and specifically to promote sales and its continuing business.

5. Personnel

PI will select appropriate personnel (“Consultants”) to provide the Services and should any such Consultant cease for any reason to be available, PI will make reasonable efforts to supply a similarly experienced replacement as soon as practicable. PI may withdraw its

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Consultant for training and vacation as necessary upon reasonable notice but it will endeavour to agree any such withdrawal with the Client in advance and, where appropriate, to provide a replacement.

6. Client Obligations

The Client agrees to provide without charge such facilities, working accommodation, administration support, information and services as PI may reasonably require to perform the Services. If PI is delayed or precluded from starting or continuing to work due to the non-availability of the Client's personnel, records, data, computers or any other cause within the control of the Client, PI reserves the right to charge for any period of delay.

7. Changes

7.1 Either party may request changes to an Order or any other aspect of this Agreement ("Change Request"). Until a Change Request is agreed by both parties in writing the parties will continue to act in accordance with the latest agreed version of this Agreement.

7.2 If the Client wishes to change the start or end dates of the period during which a Consultant is providing Services ("Services Period"), PI will use reasonable endeavours to assign such Consultant to the Client's project for the revised Services Period and to deploy such Consultant profitably at other times. However, where PI is not able to deploy the Consultant profitably during any portion of a Services Period, previously agreed but no longer required by the Client ("Lost Time"), the Client will be liable to pay Time and Materials charges for the Lost Time.

8. Term and Termination

8.1 *Duration* – The Agreement will apply from the Commencement Date stated in the Order, if any, or where no Commencement Date is specified from the date of submission of the Order. The Agreement will continue until all the Services have been provided unless it is terminated earlier in accordance with the terms set out below.

8.2 *Termination on Notice* - This Agreement may be terminated by the Client at any time by giving PI at least thirty days written notice. Where the Client terminates this Agreement in this way, the Client will pay PI for all Services provided up to the date of termination and for all reasonable and unavoidable costs which PI incurs as a result of the early termination, for example sub-contract or relocation costs.

8.3 *Termination for Breach* - Either party may terminate this Agreement by written notice with immediate effect if the other party is in material breach of any term of this Agreement, which is not remedied within 30 days of receipt of written notice to remedy the breach.

8.4 *Termination for Insolvency* - Either party may terminate this Agreement by written notice if the other party is unable to pay its debts or has a receiver, administrator, administrative receiver or liquidator appointed or calls a meeting of its creditors or ceases for any other reason to carry on its business.

8.5 *Return of Property* – Upon termination of this Agreement each party will return to the other any property of the other that it has in its possession or control.

9. Confidential Information

9.1 Information and documentation required by PI to perform the Services shall be supplied by the Client free of charge. Such information and documentation shall be subject to the provisions of confidentiality contained in Clause 9.2 below.

9.2 The Client and PI agree to use all reasonable endeavours to prevent disclosure of any confidential information which may be disclosed in the course of the Project and to use said

information only for the purpose of providing or receiving Services. Confidential information does not include information which:

- a) is or becomes generally available to the public other than as a result of a breach of an obligation under this Clause 9 or
- b) is acquired from a third party who owes no obligation of confidence in respect of the information; or
- c) is or has been independently developed by the recipient.

9.3 The confidentiality obligations in this clause 9 shall survive and continue after the termination of this Agreement.

9.4 Subject always to Clauses 9.1 and 9.2 above, PI may cite the performance of the Services to its clients and prospective clients as an indication of its experience.

10. Warranties and Liabilities

10.1 PI will use reasonable skill and care in the provision of the Services.

10.2 PI will accept liability without limit for death or personal injury caused by its negligence or the negligence of its employees acting in the course of their employment and any other liability which by law PI cannot exclude.

10.3 PI accepts liability to pay damages in respect of loss or damage suffered by the Client as a direct result of providing the Services where this arises as a consequence of a breach of any of its contractual obligations or its negligence. Subject to clause 10.2 this liability to pay damages will not exceed £100,000 or the amount paid or payable under this Agreement, whichever is the greater amount.

10.4 Except as herein provided, PI shall not in any circumstances be liable to the Client whether in contract tort or otherwise for loss of turnover, sales, revenue, profits or indirect, special or consequential loss including without limitation economic loss or failure to realise anticipated savings or benefits by Client even if PI has been advised of the possibility of such loss.

10.5 The Services are provided solely for the benefit of the Client. PI accepts no liability or responsibility to any third party that the Client allows to benefit from or use the Services or related work products. The Client agrees to indemnify PI against any liabilities, losses, expenses or other costs reasonably incurred by PI in connection with any claims from such third parties relating to the Services or related work products.

10.6 Any legal action arising from or in connection with this Agreement must be brought within two years from the date when the party bringing the action first becomes aware or ought reasonably to have become aware of the facts which give rise to the liability or alleged liability.

10.7 The remedies available and the liability accepted by PI under this Clause 10 are the only remedies and to the extent permissible by law the absolute limit of PI's liability arising under or in connection with this Agreement. All other liability is expressly excluded.

10.8 To the extent permissible by law all warranties, conditions or terms other than those expressly set out in this Agreement are excluded including but not limited to all implied and statutory conditions.

11. General

11.1 *Relationship* - Nothing in this Agreement will create the relationship of agency or partnership between PI and the Client and neither PI nor the Client will represent that any such relationship exists. Neither shall employees of one party be considered as employees of the other party.

11.2 *Assignment* – The Client may not assign this Agreement in whole or in part.

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- 11.3 *Sub-contracting* - PI may sub-contract all or any part of the Services but will remain liable to the Client for such sub-contracted Services.
- 11.4 *Solicitation of Personnel* - During the period of this Agreement or within 6 months of its termination, neither party will solicit directly or indirectly as employee, agent or consultant any staff of the other who have been involved in providing or receiving Services or otherwise connected with this Agreement. A breaching party shall pay a recruitment fee equal to 110 working days at the fee rate, under which that employee performed work for the other party.
- 11.5 *Validity of Proposals* - Any PI proposal, order or quotation not previously accepted by the Client or withdrawn by PI shall automatically lapse 30 days after its date of issue unless extended by PI.
- 11.6 *Force Majeure* - Neither party shall be responsible or liable for any damage, delay or failure of performance (except failure to pay) caused by any circumstances beyond its reasonable control.
- 11.7 *Notices* - Notices may be sent by prepaid post or faxed or sent by electronic mail to the address of the other party given in this Agreement or to any other address as the parties may have notified during the period of the Agreement. Any notice sent by post will be deemed to have been delivered 48 hours after sending. Any notice sent by fax or electronic mail will be deemed to have been delivered on the first working day following its dispatch provided it is confirmed in writing no more than 48 hours thereafter.
- 11.8 *Amendment* - This Agreement may only be amended by written agreement or Task Order signed by an authorised signatory of both parties.
- 11.9 *Waiver* - Subject to Clause 10.6 no delay by either party in enforcing any of the terms or conditions of this Agreement will affect or restrict its own rights and powers arising under the Agreement. No waiver of any term or condition of this Agreement will be effective unless made in writing.
- 11.10 *Validity of Agreement Provisions* - If a Court or other competent body decides that any clause or sub-clause of this Agreement is invalid, such clause or sub-clause shall be deemed not to form part of this Agreement. In such event, the remaining provisions of this Agreement shall remain in full force and effect.
- 11.11 *Entire Agreement* - This Agreement is the entire agreement between the parties relating to the Services and supersedes any previous agreements or understandings between the parties regarding the Services. The headings and titles in this Agreement are included to make it more readable but do not form part of the Agreement.
- 11.12 *Rights of Third Parties* - Nothing in this agreement shall, nor is intended to, confer any benefit on any third party whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.
- 11.13 *Law* - This Agreement shall be governed and construed in accordance with English Law.
- 11.14 *Disputes* - The parties will attempt to resolve by management negotiation any dispute which may arise between them. Where both parties agree that it may be beneficial they will seek to resolve the dispute through mediation using the services of the Centre for Dispute Resolution. If the dispute is not resolved through negotiation or mediation the parties agree that the English Courts will have exclusive jurisdiction in connection with the resolution of the dispute.