

RAW Creative Events Limited

Terms & Conditions of Business

2020-21

1. INTRODUCTION

- 1.1. These terms will be subject to the specific matters detailed in our communication to you confirming your instructions ("the Engagement Letter"). The terms of that letter read with these terms of business and will together form the contract between us ("the Contract"). Our obligations to each other will therefore be defined exclusively in the Contract, to the exclusion of any other communications between us and to the exclusion of any other terms or conditions.
- 1.2. No amendment or variation to the Contract will be binding on us unless in writing, acknowledged and agreed by your duly authorised officer and our Director.
- 1.3. The services we provide are for your benefit only as specified in the Engagement Communication. Unless otherwise agreed, no third party shall have the right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

2. OUR GENERAL OBLIGATIONS

- 2.1. We agree to perform the services detailed in the Engagement Communication ("the Services") subject to and in accordance with these terms of business.
- 2.2. We shall perform the Services with the skill care and diligence reasonably to be expected of a professional person experienced in the provision of like services.
- 2.3. We shall liaise, keep fully informed and co-operate fully with your representatives and any other professional advisers or contractors engaged by you. At the same time, we shall be entitled to rely upon the information and/or advice given by you, those other professional advisers and contractors.
- 2.4. We shall at all times conduct ourselves in a professional and diligent manner that is consistent with meeting your expectations from a professional services provider and ours as a contracted service provider - with the clear separation of roles as client and provider remaining in place at all times.

3. YOUR GENERAL OBLIGATIONS

- 3.1. Notwithstanding any specific obligations detailed within the Engagement Communication, in order to enable us to perform the Services you shall within a reasonable time:
 - 3.1.1. Obtain and provide us with all necessary information (including reports and other relevant documentation) in your possession;
 - 3.1.2. Instruct your other professional advisers and contractors to provide us with all necessary information;
 - 3.1.3. Provide us in a timely fashion with all other information which we may reasonably request; and;
 - 3.1.4. Give us your decision as quickly as reasonably possible on all reports, recommendations and any other matters which are referred to you by us.

- 3.2. Conduct any engagement with RAW Creative Events Limited in such a way as to maintain a consistent standard of communication around your requirements, changes in scoping of services, performance indicators, risk or commercial positions so that there is no direct or indirect detriment caused through the course of these joint works.

4. ADDITIONAL SERVICES

- 4.1. In the event that it becomes necessary for us to provide services which go beyond the Services as detailed in the Engagement Communication, such additional services may arise out of changes in the scope or timing of the services whether or not caused by changes of instructions by you or your other professional advisers, and contractors.
- 4.2. Any new or additional services, including extensions of previously define Contracts will be drafted as new proposals and Contracts and will clearly set out any new or additional deliverables, performance requirements, programme or resourcing required.
- 4.3. This may include the revision of any previously defined contractual or commercial terms; and
- 4.4. In the circumstances we shall be entitled to be paid such further fee as is then agreed calculated on a time basis in accordance with any hourly, daily rates or agreed fee, set out in the Letter of Engagement.

5. OUR LIABILITY

- 5.1. We have an interest in limiting the personal liability and exposure to litigation of employees, directors and consultants. You therefore agree that any claim of any kind arising out of or in connection with the Contract shall be brought only against ourselves (RAW Creative Events Limited) and that no claims in respect of the Contract will be brought personally against any of our directors or employees involved in the provision of the Services.
- 5.2. Further you agree that our maximum aggregate liability in respect of breach of contract or breach of duty or negligence or otherwise arising out of or in connection with the Contract shall be limited in total the sum equivalent to the remuneration payable to us as specified in the Engagement Communications.
- 5.3. As well as ourselves you may have appointed others (for example professional advisers or contractors) to perform connected services. In these circumstances, our aggregate liability to you in respect of breach of contract or breach of duty or negligence or otherwise arising out of or in connection with the Contract shall be limited to that proportion of the loss or damage (including interest and costs) suffered by you which is attributable to us having regard to the contribution to such loss and damage by any other person. You agree that this will remain the position, even if you have agreed a limitation of liability with any of your other advisers so that consequently you may not be able to recover a part of any loss for which they might have otherwise been liable.
- 5.4. Any claim for breach of contract, breach of duty or negligence or otherwise arising out of or in connection with the Contract shall be brought against us within 3 months of the act or omission alleged to have caused the loss in question.
- 5.5. You agree that our liability shall not be affected by the termination of our appointment for whatever reason and that these provisions shall continue in full force and effect notwithstanding any such termination.
- 5.6. These positions shall not apply to any liability which we may have in relation to death or personal injury caused by our negligence.

6. REMUNERATION

6.1. Our fees, both in total and payable on an interim basis, are defined in the Engagement Communication and we shall be entitled to render invoices monthly unless otherwise agreed, such invoices including any fees for additional services as agreed. Each invoice is to be paid within 30 days of its date of issue or according to the agreed payment schedule.

6.2. For the avoidance of doubt our fee is exclusive of Value Added Tax. You agree to pay the total amount of Value Added Tax properly due thereon.

6.3. The Fee shall be deemed to be payment for the Services and the treatment of disbursements or expenses will be detailed in the accompanying Engagement Communication.

6.4. If in good faith you dispute that any item set out in any invoice is due, you shall give notice in writing within 5 days of the date of such invoice stating the reason for such dispute, leaving the balance of the invoice to be paid within the 30 day period. We shall both immediately use our best endeavours to agree the amount of any disputed item, but failing agreement the matter may be referred to adjudication and/or arbitration.

6.5. Subject to the above you shall pay all invoices without deduction, set-off, abatement or counter-claim.

6.6. We shall be entitled to be paid interest on invoices or any part thereof due and payable but remaining unpaid 30 days after the date of the invoice in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 provided that, in the case of items correctly disputed by you, interest shall run only from the date when the amount of such item is agreed or settled by adjudication or arbitration.

7. TERMINATION AND/OR SUSPENSION

7.1. This contract will terminate at the end of the stated term (as set out in the Engagement Communication) or if there is a breach of the contract by either party (clause 7.3) or should either party serve notice of their intention to terminate (clause 7.2).

7.2. You may, by giving not less than 7 working days written notice, require us to suspend the Services. You may, by giving not less than 7 working days written notice, require us to resume the Services at any time within a period of 3 months from the date of suspension. In those circumstances we shall use all reasonable endeavours to resume performance of the Services as soon as possible. If you do not request us to resume performance within such period then, unless mutually agreed between us, our appointment under the Contract shall be deemed to have terminated. Both you and we shall be entitled to terminate the performance of the Services upon serving written notice on the other to that effect, if the other being in breach of its obligations hereunder in any material respect has failed within 14 days of the service of such notice to remedy such breach or breaches.

7.3. Both you and we shall be entitled to terminate the Contract immediately in the event that: distress or execution is levied or threatened upon any of the other's property; any judgement against the other remains unsatisfied for more than 14 days; you (being an individual) become bankrupt or unable to pay your debts or seek an arrangement with your creditors; you (being a company) have an administrator appointed or a receiver or manager or administrative receiver is appointed of you or any of your assets or you enter into liquidation or propose or make any voluntary arrangement with your creditors; any petition is presented or any resolution passed or any steps or proceedings taken which may lead to any of the foregoing occurrences; the other is or is deemed to be insolvent or unable to pay its debts; the other ceases to carry on business.

7.4. We shall be entitled to suspend performance of the Services in the event that you fail to pay any invoice within 30 days (or in the case of items disputed in good faith within 30 days after the date when we agree with you the amount of such item or the amount is settled by adjudication or arbitration), provided that we give to you 7 days notice of intention to suspend performance of the Services.

7.5. Termination of our appointment under the Contract, however it may arise, shall not affect the rights and remedies of either of us in relation to any default of the other prior to such termination.

7.6. If the performance of the Services has been suspended or terminated by you or by us then:

7.6.1. We shall be entitled to be paid (and we shall invoice you accordingly) for all outstanding fees earned by us for the Services performed (whether wholly or in part) all expenses and other disbursements incurred and VAT due.

7.6.2. You shall compensate us for all subsequent and consequential expenses and disbursements incurred or properly to be incurred in consequence of suspension or termination (including but not limited to the cost of engaging, re-deploying or dismissing staff).

7.7. If the performance of the Services has been suspended or terminated by you and on full payment of all outstanding invoices, then we shall give to you copies of any documents prepared by us or on our behalf or in our possession as requested.

8. CONFIDENTIALITY, INFORMATION MANAGEMENT AND GDPR COMPLIANCE

8.1. In this agreement, the following definitions are used:

8.1.1. "Data Protection Laws" means the Data Protection Act (1998) together with successor legislation incorporating GDPR;

8.1.2. "Confidential Information" means data in whatever form (including without limitation, in written, oral, visual or electronic form or on any magnetic or optical disk or memory and wherever located) relating to the business, customers, products, affairs and finances of the Company for the time being confidential to the Company and trade secrets including, without limitation, technical data and know-how relating to the Business of the Company or any of its suppliers, customers, agents, distributors, shareholders, management or business contacts, including in particular (by way of illustration only and without limitation) and including (but not limited to) information that the Consultant creates, develops, receives or obtains in connection with his Engagement, whether or not such information (if in anything other than oral form) is marked confidential; and

8.1.3. "GDPR" means the General Data Protection Regulation. 8.2. We acknowledge that in the course of the Engagement we will have access to Confidential Information and we therefore agreed to accept the restrictions in this clause 8.

8.3. We shall not (except in the proper course of our duties) either during the Engagement or at any time after the Termination Date, use or disclose to any third party (and shall use his best endeavours to prevent the publication or disclosure of) any Confidential Information. This restriction does not apply to:

- 8.3.1. any use or disclosure authorised by the Company or required by law; or
- 8.3.2. any information which is already in, or comes into, the public domain otherwise than through the Consultant's unauthorised disclosure.

8.4. We shall:

8.4.1. ensure that all RAW Creative Events Limited staff and resources accessing any Confidential Information are

- (i) aware of the terms of this Agreement and
- (ii) have received comprehensive training on Data Protection Laws and related good practice, and
- (iii) are bound by a commitment of confidentiality (Article 28, para 3(b) GDPR);

8.4.2. work with you to have agreed to implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk, complying with Article 32 of GDPR;

8.4.3. taking into account the nature of the processing, assist you by appropriate technical and organisational measures, in so far as this is possible, for the fulfilment of your obligations to respond to requests from individuals exercising their rights laid down in Chapter III of GDPR – rights to erasure, rectification, access, restriction, portability, object and right not to be subject to automated decision making etc (Article 28, para 3(e) GDPR);

8.4.4. assist you in ensuring compliance with the obligations pursuant to Articles 32 to 36 of GDPR – security, notification of data breaches, communication of data breaches to individuals, data protection impact assessments and when necessary consultation with the ICO etc, taking into account the nature of processing and the information available to the Processor (Article 28, para 3(f) GDPR);

8.4.5. at your choice, safely delete or return the Confidential Information at any time. Where we are required delete any data, deletion shall include destruction of all existing copies unless otherwise a legal requirement to retain this;

8.4.6. make available to you all information necessary to demonstrate compliance with the obligations laid down under this Agreement and allow for and contribute to any audits, inspections or other verification exercises required by you from time to time;

8.4.7. maintain the integrity of the Confidential Information, without alteration, ensuring that this can be separated from any other information created; and

8.4.8. immediately contact you if there is any personal data breach or incident where the Confidential Information may have been compromised.

9. INTELLECTUAL PROPERTY RIGHTS

9.1. The copyright in all documents provided by us in connection with the Services belongs to us. However, subject to payment of our fees, we will allow you to use them by granting to you an irrevocable, non-exclusive, royalty free licence to copy and use the documents for purposes in connection with the services. We shall not be liable for any use of such documents for any purpose other than that for which they were prepared.

10. MUTUALITY OF OBLIGATIONS AND PERFORMANCE

10.1. It is not intended for there to be any mutuality of obligations between us or you either during the contract term or upon termination of the same. We accept that you are under no obligation to offer future contracts to us and should you make any such offer, we are not obliged to accept it.

10.2. In the course of delivering the services defined under this Contract, you agree that you have no right or expectation to exercise any control over the manner in which the services are delivered other than that which is mutually agreed in the course of conducting an appropriate Contractor-Client relationship for the effective delivery of the defined services.

10.3. All references to set hours of work are estimates for the purpose of costing the Services to be provided by us and it is intended that we will have absolute discretion to determine how and when the Services will be performed provided always that we shall keep you informed as to when any of our resources will be present at the your sites.

11. ASSIGNMENT, SUBSTITUTION AND SUB-CONTRACTING

11.1. You agree that we are not obliged to provide the services of a named individual in respect of the Services and may provide a substitute to perform the services. We acknowledge that you have the right to refuse the substitute if in your reasonable view the substitute(s) have insufficient qualifications and expertise to carry out the work. It is also agreed that we will remain liable for all acts and/or omissions of any substitute(s) provided.

11.2. You have no obligation to offer additional work or to increase the scope of works to be delivered – however if this should be in the interests of both parties, then this may be defined in a mutually agreeable manner.

11.3. We reserve the right at all times to take on additional work from any source – including but not exclusively from you and retain, at all times, the right to refuse to take on further requests for work at any time.

12. STATUS

12.1. The relationship of any resources assigned to work on the agreed scope of works to you will be that of independent consultant and nothing in this agreement shall render him or her an employee, worker, agent or partner of the Company and the consultant shall not hold himself out as such.

12.2. You agree that it is our shared intention that this relationship is to be one of supplier and customer; not employer or employee, based on the delivery of the defined consultancy services.

12.3. At no point will you be liable for any benefits or payments in kind to us – including but not limited to sickness pay, holiday pay or pension contributions.

12.4. You further agree that under this Contract, no resource introduced to you by RAW Creative Events Limited will be an official post-holder and any titles or role descriptors are purely for descriptive purposes and do not hold any legal obligation or significance.

13. COMMUNICATIONS

13.1. Any notices to be given under this Contract shall be given in writing and delivered by receipted hand delivery or recorded delivery post or e-mail to the address of the party as stated in the Engagement Communication.

13.2. RAW Creative Events Limited will seek to publicise any feedback or publicity about works executed with you as our client through our web site and marketing processes. Unless you specifically request for this not to happen, we will assume your agreement with this and will work with you to define mutually agreed messages and content for wider publication.

14. RESOLVING PROBLEMS AND COMPLAINTS

14.1. It is our policy to investigate complaints in relation to our conduct of a matter fully and promptly. We will use all reasonable endeavours to resolve complaints by negotiation or other non-adversarial means such as mediation, this being subject to either side's statutory right to have any dispute resolved by adjudication.

14.2. Any claim by the Client against RAW Creative Events Limited shall be referred to and determined by a single arbitrator to be agreed by the Client and RAW Creative Events Limited or in default of agreement, appointed by the President or a Vice-President for the time being of The Chartered Institute of Arbitrators.

14.3. Any notice to adjudication shall be exclusive to the subject matter of the notice and clearly identify on its face the nature of the notice.

14.4. The adjudication and all matters arising in the course thereof are and will be kept confidential by the parties except insofar as necessary to implement or enforce any decision of the adjudicator or as may be required for the purpose of any subsequent proceedings.

14.5. Parties shall not require the Adjudicator to be a witness in any arbitration or legal proceedings to finally determine the dispute or difference.

15. GOVERNING LAW

15.1. The Contract and these terms of business are governed by English Law.