

## STANDARD CONTRIBUTOR TERMS & CONDITIONS - INTERMEDIARY VERSION

**PLEASE NOTE: THIS VERSION APPLIES TO CONTRIBUTORS CONTRACTING THROUGH AN INTERMEDIARY, SUCH AS A LIMITED COMPANY.**

### 1. DEFINITIONS

**"Affiliate"** means any entity that directly or indirectly controls, is controlled by, or is under common control with, another entity;

**"Authorised Expenses"** means the expenses which may be incurred by the Contributor in relation to the production of the Content and which the Company shall reimburse the Contributor for, to the extent such expenses are set out in the Key Terms;

**"Content"** means the written article, other text and/or Image(s) which the Company is commissioning the Contributor to produce or provide under the terms of this Agreement, as set out in the Key Terms;

**"Data Protection Legislation"** means all applicable data protection, privacy and electronic marketing legislation, including the Data Protection Acts of 1998 and 2018, the Privacy and Electronic Communications (EC Directive) Regulations 2003, EU regulation 2016/679 and any codes of practice relating to the same;

**"Deadline"** means the date by which the Content must be completed and submitted by the Contributor to the Company;

**"Effective Date"** means the date the last party to execute this Agreement does so;

**"Fee"** means the fee which the Company shall pay to the Contributor for the Content;

**"Image(s)"** means photographs, diagrams, charts, works of art or design or other illustrations;

**"Intended Publication Date"** means the date on which the Company intends the Content to first appear in the Publication or Other Media (as applicable);

**"Key Terms"** means the specification for the Content to which these Standard Contributor Terms and Conditions refer, as provided to you by the Company;

**"Other Media"** means any media other than print media (including but not limited to digital) in which the Company intends to publish the Content;

**"Personnel"** means any persons employed or engaged by the Contributor who provides Content;

**"Publication"** means the magazine, periodical or other printed media in which the Company intends to publish the Content;

**"Tax"** means all forms of taxation, levy, social security contributions, withholding or deduction or governmental charge in relation to tax or other amount payable to any tax authority in any jurisdiction, together with all penalties, charges, surcharges, fines and interest, regardless of whether these are directly or indirectly or primarily chargeable or attributable to the Company, the Contributor and/or any Personnel (as applicable); and

**"Tax Liability"** means any requirement to account for any Tax or any Tax which the Company considers should have or will be accountable in connection with any payment made or due to the Contributor from the Company or any remuneration paid to any Personnel in connection with this Agreement.

## **2. BASIS OF CONTRACT**

- 2.1 These Standard Contributor Terms and Conditions (the “**Terms and Conditions**”) together with the Key Terms constitute the agreement between the parties (the “**Agreement**”) and apply to the material commissioned by the company named in the Key Terms (the “**Company**”) from you, the contributor named in the Key Terms (the “**Contributor**”).
- 2.2 In the event of a conflict between a clause of these Terms and Conditions and the Key Terms, the Key Terms shall prevail.
- 2.3 The Company’s delivery of the Key Terms to the Contributor constitutes an offer by the Company to purchase the Content from the Contributor in accordance with these Terms and Conditions.
- 2.4 The Key Terms shall be deemed to be accepted on the earlier of:
  - 2.4.1 the Contributor issuing written acceptance of the Key Terms; or
  - 2.4.2 any act by the Contributor or any of its Personnel consistent with producing the Content as described in the Key Terms.
- 2.5 The Contributor’s engagement under this Agreement is subject to and conditional upon receipt by the Company of a declaration in the form set out in the Key Terms signed by any Personnel.

## **3. THE COMMISSION**

- 3.1 The Contributor shall and shall procure that the Personnel shall write or create (as appropriate) the Content for the Company to a quality and standard acceptable to the Company and in accordance with the Company’s editorial standards, as notified to the Contributor from time to time.
- 3.2 The Content shall be of a style, form and quality appropriate for the Publication or Other Media (as appropriate) and acceptable to the Company.
- 3.3 The Contributor shall deliver the Content to the Company by no later than the Deadline.
- 3.4 The Contributor shall promptly make such alterations to the Content as the Company shall reasonably request, at its own cost.
- 3.5 Whilst the Company shall have no right to, nor shall seek to exercise any direction or control over the Contributor or its Personnel in the creation of the Content, the Contributor acknowledges and agrees that the Company may edit the Content, following its submission pursuant to clause 3.3, as it reasonably thinks fit. Where the Content includes Images, the Company may alter the Images in any way (digitally or otherwise) and may create composite photographs using all or part of one or more of the Images.
- 3.6 Where the Content includes Images and such Images include photographs, the Contributor shall:
  - 3.6.1 label the photographs giving the following details: the Contributor’s name, the date the photographs were taken and a brief description of the subject matter of the photographs; and
  - 3.6.2 obtain all releases necessary from any person(s) pictured in the photographs for the photographs to be published in the Publication or Other Media (as appropriate) and provide signed copies of such releases to the Company.

## **4. ASSIGNMENT OF RIGHTS**

- 4.1 The Contributor agrees that the Company will be the sole and exclusive legal and beneficial owner of all right, title and interest (including, without limitation, all intellectual property rights) in the Content with the full and unfettered right to make such use of the Content and all subsidiary and ancillary rights relating to the Content as the Company shall think fit. Insofar as is relevant for the purposes of

United States copyright law, the Contributor acknowledges that the Content is being created as a "work made for hire" specifically commissioned by the Company.

- 4.2 The Contributor irrevocably and unconditionally assigns to the Company free from any encumbrance by way of present assignment and, where possible, future assignment, with full title guarantee the copyright and all other intellectual property rights in and to the Content and all other rights in the Content for the full duration of such rights throughout the world, including any extensions, renewals and reversions thereof including but, not limited to, the right to sue for damages and other remedies for any infringement of any of the rights which occurred prior to the Effective Date.
- 4.3 The Contributor warrants to the Company that it will obtain from all Personnel a written and valid assignment of all existing and future intellectual property rights in the Content, to the fullest extent permissible by law, and that the Personnel have agreed to hold on trust for the Contributor any such rights in which the legal title has not passed (or will not pass) to the Contributor. The Contributor agrees to provide to the Company a copy of this assignment on request.
- 4.4 The Contributor acknowledges that the Company may exploit the Content without restriction by any means in any and all media whether now known or hereinafter invented throughout the world and permit third parties to do any or all of the foregoing (including, by means of example only, the unlimited right to edit, copy, alter, add to, take from or adapt the Content).
- 4.5 The Company reserves the right not to publish the Content. This does not affect the Company's obligation to pay the Fee.

## **5. MORAL RIGHTS**

- 5.1 The Contributor irrevocably and unconditionally waives in perpetuity all moral rights or "droits moral" or any similar rights in the Content whether now existing or hereafter conferred under the laws of any jurisdiction to which the Contributor may be entitled under Chapter IV of the Copyright Designs and Patents Act 1988 and any other similar laws in force from time to time during the term of copyright in the Content (including any extensions thereon) in any part of the world. This waiver is given to the Company, its Affiliates, their licensees, assignees and successors in title.
- 5.2 The Contributor warrants to the Company that it will obtain from all Personnel a written irrevocable waiver of all the Personnel's statutory moral rights in the Content, to the fullest extent permissible by law, and that the Personnel have agreed to hold on trust for the Contributor any such rights in which the legal title has not passed (or will not pass) to the Contributor. The Contributor agrees to provide to the Company a copy of this assignment on request.
- 5.3 Notwithstanding clause 5.1 above, the Company will endeavour to ensure that the Content is not subjected to derogatory treatment which would (but for clause 5.1) constitute a breach of the Contributor's moral rights.

## **6. WARRANTIES**

- 6.1 The Contributor warrants and represents that:
  - 6.1.1 the Contributor is entitled and has authority to enter into this Agreement;
  - 6.1.2 the Contributor shall perform its obligations under this Agreement to the best of its skill and ability and shall procure that the Personnel do likewise;
  - 6.1.3 the Contributor shall procure that all Personnel will comply with all reasonable instructions of the Company in relation to the provision of the Content;
  - 6.1.4 the Contributor is the sole owner of all intellectual property rights in the Content;
  - 6.1.5 the Content is an original work, that has not been copied from any other work or material and the exercise by the Company of the rights assigned to it hereunder will not infringe the rights, including, without limitation, intellectual property rights, privacy or other rights of any third party;

- 6.1.6 nothing has been done, omitted or permitted whereby any of the intellectual property rights in the Content have ceased or might cease to be valid and enforceable;
- 6.1.7 the Contributor is not aware of any infringement of the intellectual property rights of any person and there are no outstanding or pending claims against the Contributor alleging that the Content infringes the intellectual property rights of a third party;
- 6.1.8 the Content will not be unlawful, defamatory, obscene, offensive, blasphemous or libellous, or contain material the publication of which would be in breach of confidence or any applicable data protection legislation or be in contempt of Court;
- 6.1.9 the Contributor has not at any time licensed or assigned any rights in the Content to any third party in any part of the world; and
- 6.1.10 the Content will not be published prior to the Intended Publication Date.

## **7. ASSISTANCE WITH CLAIMS**

### **7.1 If:**

- 7.1.1 any complaint, claim or lawsuit is made or brought against the Company or any of its Personnel in relation to the Content; or
- 7.1.2 the Company makes or brings any complaint, claim or lawsuit against any third party in relation to the Content,

the Contributor will and will procure that its Personnel will provide all such assistance as the Company may reasonably require in order to make, defend or prosecute (as the case may be) such complaint, claim or lawsuit.

- 7.2 The Contributor will, and will procure that the Personnel will keep all their notes and other papers used by them in researching the Content for at least 12 months after the Intended Publication Date.

## **8. PAYMENT**

- 8.1 Subject to the Contributor providing its invoice within 3 months from the Deadline the Company will pay the Contributor the Fee and reimburse the Contributor in respect of the Authorised Expenses (if any) on or before the later of:

- 8.1.1 30 days after the receipt by the Company of the Contributor's invoice; and
- 8.1.2 30 days after the Deadline.

- 8.2 In the event the Contributor:

- 8.2.1 does not submit its invoice within the period set out at clause 8.1; and/or
- 8.2.2 is in breach of this Agreement, then the Company will have no obligation to pay the Fee (or the Authorised Expenses, if any).

- 8.3 The Fee is exclusive of VAT. Any VAT that is chargeable on the Fee shall be paid by the Company subject to the Contributor supplying a valid VAT invoice for the same.

- 8.4 Subject to clause 8.3, the Contributor shall be responsible for any Tax arising from or in connection with the Fees and the performance of this Agreement and in the event that the Company at any time considers that it is or otherwise becomes responsible or liable for any Tax Liability, the Contributor agrees that the Company shall be entitled to deduct an amount equal to any such Tax Liability, to the extent permitted by law, as it becomes due and payable from any monies payable to the Contributor under this Agreement.

## **9. CONFIDENTIALITY & DATA PROTECTION**

- 9.1 Subject to clause 9.2, the Contributor agrees to keep confidential and not to reveal, disclose or publish to any persons (except with the prior written consent of the Company) or otherwise utilise other than for the proper performance of this Agreement, any information, content and/or material of whatever nature and in whatever form relating to this Agreement, the Content and the affairs, business and/or projects of the Company and its Affiliates including, without limitation, any material supplied to the Contributor by the Company and its Affiliates for the purposes of the Content.
- 9.2 The restrictions set out in clause 9.1 shall not apply to any information which:
- 9.2.1 may (otherwise than through a default by the Contributor) become available to the public generally; or
  - 9.2.2 it is strictly necessary for the Contributor to disclose to comply with applicable law. The Contributor agrees not to divulge or make either directly or indirectly an announcement for publication or speak to any press or media about the Content or any confidential information referred to in this clause 9 without the Company's prior written consent.
- 9.3 The Contributor shall, and shall procure that the Personnel shall, familiarise themselves with, and at all times comply with, their obligations under Data Protection Legislation.

## **10. INDEMNITY & INSURANCE**

- 10.1 The Contributor shall indemnify and hold harmless the Company and its Affiliates and keep the Company and its Affiliates fully and effectively indemnified against all liabilities, claims, actions, costs, damages and/or loss arising out of any breach of this Agreement by the Contributor.
- 10.2 The Contributor shall on request take out commercial general liability insurance cover, professional indemnity insurance cover and public liability insurance cover and shall comply with the terms of those policies.

## **11. TERMINATION**

- 11.1 The Company shall be entitled by notice in writing to the Contributor to terminate this Agreement prior to the date on which the Contributor delivers the Content to the Company in accordance with the requirements of this Agreement:
- 11.1.1 if the Contributor commits a material breach of this Agreement or it or any of its Personnel commit any act of fraud or dishonesty, whether or not connected with the Content;
  - 11.1.2 if the Contributor makes a resolution for its winding up or makes any arrangement with or for the benefit of creditors or an administrator or receiver is appointed;
  - 11.1.3 if the Contributor breaches any internal policies and procedures of the Company; or
  - 11.1.4 in the Company's sole opinion, any of the Contributor's or its Personnel's acts, omissions, or conduct affects the Company's reputation in an adverse manner, or may prejudice the reputation or goodwill of any of its Affiliates; or
  - 11.1.5 for any or no reason whatsoever.
- 11.2 In the event of termination of this Agreement by the Company in accordance with clause 11.1.5 above, the Company shall pay the Contributor such reduced percentage of the Fee as it deems appropriate and which shall be payable in accordance with clause 8.
- 11.3 On termination of the Agreement:
- 11.3.1 neither party shall have any further obligation to the other under this Agreement unless stated in this Agreement;

- 11.3.2 the rights, remedies or obligations of the parties that have accrued or become due prior to termination shall remain unaffected; and
  - 11.3.3 the Contributor shall immediately hand over any materials and property of the Company that have come into its possession in connection with this Agreement.
- 11.4 Clauses 9, 10, 11.3, 5, 12 and 13 shall survive the termination of this Agreement for any reason.

## **12. STATUS**

- 12.1 The relationship of the Contributor and its Personnel to the Company shall be that of independent contractor and nothing in this Agreement shall render it, nor any Personnel, an employee, worker agent or partner of the Company and the Contributor shall not hold itself out as such and shall procure that none of the Personnel shall hold itself/himself/herself out as such save that the above shall not apply in respect of any Personnel's status from a Tax perspective in circumstances where there has been a Deemed Employee Determination pursuant to clause 12.3.
- 12.2 The Company shall be entitled to carry out or repeat a status assessment for the purposes of determining the Tax status of any of the Personnel and issue a status determination statement in respect of this ("**Status Determination Statement**") as and when it deems appropriate. The Contributor agrees that it shall and shall procure that the Personnel shall at all times: (a) promptly provide to the Company all information, documents, assistance and co-operation reasonably required in relation to any Status Determination Statement and any challenge to any Status Determination Statement by any Tax authority; (b) provide prompt written notification to the Company of any material change in any of the information or documentation provided; (c) ensure all information and documentation provided is complete and accurate in all material respects; and (d) provide prompt written confirmation to the Company on receipt of any Status Determination Statement and, in the event that the Status Determination Statement is disputed, provide full details of the basis for such dispute as soon as reasonably practicable and fully adhere to the Company's status dispute procedure in operation from time to time.
- 12.3 In the event that the Company or any Tax authority determines at any time that any Personnel should be regarded as an employee of the Company for Tax purposes (a "**Deemed Employee Determination**"), both parties agree that:
  - 12.3.1 the Company may, to the extent permitted by law: (a) deduct an amount equal to any Tax Liability from any payment due to the Contributor under this Agreement; and (b) reduce the gross amount of any fees or any other payments that may be due to the Contributor pursuant to this Agreement by an amount such that the overall cost of engaging the Contributor (to be reasonably determined by the Company) is no greater than it would be if the Personnel was deemed to be self-employed for Tax purposes;
  - 12.3.2 the Company may elect to cease making payments to the Contributor and instead make any equivalent payments (less any deductions in respect of any Tax Liability) directly to the relevant Personnel. The Contributor shall, on request, promptly provide any necessary information, including the bank account details of such Personnel, to facilitate such payments and the Contributor acknowledges that future payments under this Agreement will be subject to it complying with its obligations under this clause. The Contributor agrees that receipt by the Personnel of such payments shall fully discharge the Company's obligations to make such payments to the Contributor; and
  - 12.3.3 to the extent that the Company becomes liable for any Tax Liability arising in the period prior to the date of the Deemed Employee Determination, the Company may require that the Contributor pays to the Company an amount equal to any such Tax Liability (save to the extent that such payment is prohibited by law), such payment to be made by the earlier of the payment date to the relevant Tax authority or 15 business days after such demand is made by the Company (the "**Due Date**") and to the extent that the Company does not receive this payment by the Due Date, the Company shall be entitled to offset any outstanding sum from any outstanding fees that are otherwise unpaid or may be due to the Contributor pursuant to this Agreement.

- 12.4 This Agreement constitutes a contract for the provision of services and not a contract of employment and accordingly the Contributor shall be fully responsible for and shall indemnify the Company or any Affiliate for and in respect of:
- 12.4.1 any Tax Liability (save to the extent that such recovery is prohibited by law). The Contributor shall further indemnify the Company against all reasonable costs, expenses and any penalty, fine or interest incurred or payable by the Company in connection with or in consequence of any such liability, deduction, contribution, assessment or claim or arising out of any failure by the Contributor and/or Personnel to comply with its or their obligations pursuant to this clause 12 (save to the extent that such recovery is prohibited by law); and
- 12.4.2 any liability arising from any employment-related claim or any claim based on employee or worker status (including reasonable costs and expenses) brought by any of the Personnel against the Company arising out of or in connection with the provision of the Content pursuant to this Agreement.
- 12.5 The Contributor shall settle any claim made by the Company pursuant to the indemnities referred to in this clause 12 within 30 days of such claim being issued in writing to the Contributor and, to the extent any such payment is not made within this timescale, the Company may at its option satisfy such indemnity (in whole or in part) by way of deduction from any payments that are otherwise unpaid or may be due to the Contributor pursuant to this Agreement.

### **13. LIABILITY**

- 13.1 Nothing in this Agreement shall exclude or restrict either party's liability for death or personal injury resulting from the negligence of that party or of its employees while acting in the course of their employment, or any other liability which cannot be excluded by law.
- 13.2 Subject to clause 13.1, neither party shall be liable to the other under this Agreement for any loss of profits, business, contracts, anticipated savings, goodwill or revenue or any indirect or consequential loss or damage, howsoever arising out of or in connection with the performance of its obligations under this Agreement or any breach thereof, even if such party was advised in advance of the possibility of such loss or damage occurring.
- 13.3 Subject to clause 13.1, the Company's maximum aggregate liability in contract, tort, or otherwise (including any liability for any negligent act or omission) howsoever arising out of or in connection with this Agreement shall be limited to the amount of the Fee.

### **14. GENERAL**

- 14.1 This Agreement constitutes the entire agreement of the parties and supersedes any prior written or oral agreement between the parties in relation to its subject matter.
- 14.2 No variation to this Agreement (including the Key Terms) will be effective unless it is in writing and signed by or on behalf of each of the parties.
- 14.3 If any of the provisions of this Agreement become invalid, illegal or unenforceable in any respect under any law or for any other reason whatsoever, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.
- 14.4 Contributor shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under the Agreement without the prior written consent of the Company.
- 14.5 Company may assign or transfer any or all of its rights and obligations under the Agreement to another organisation.
- 14.6 Except as expressly provided in clause 14.7, 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 the Agreement.

- 14.7 Contributor's obligations under the Agreement (including any representations, warranties and undertakings) are given for the benefit of all Affiliates of the Company. It is intended that all Affiliates of the Company may enforce the benefits conferred on it under the Agreement in accordance with the terms of the Contracts (Rights of Third Parties) Act 1999.
- 14.8 The 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.
- 14.9 Transmission of the executed signature page of a counterpart of the Agreement by email (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of the Agreement. If either method of delivery is adopted, without prejudice to the validity of the agreement thus made, each party shall provide the others with the original of such counterpart as soon as reasonably possible thereafter.
- 14.10 Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.
- 14.11 Each party shall, and shall use all reasonable endeavours to procure that any necessary third party shall, promptly execute and deliver such documents and perform such acts as may reasonably be required for the purpose of giving full effect to this agreement.
- 14.12 This Agreement and any dispute or claim arising out of or in connection with it (including any non-contractual disputes or claims) shall be governed by English law and the parties agree to submit to the exclusive jurisdiction of the Courts of England and Wales for the purposes of or in connection with the Agreement.

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