

## Terms and Conditions of Business at PIXAFUSION Digital Limited

### Version 1.2

#### 1. Introduction

These terms and conditions set out the general terms under which we undertake our business. Any specific conditions relating to particular assignments will be covered in additional Terms and Conditions contained in Appendices attached to this Agreement.

#### 2. Fees

- a) The Client shall pay PIXAFUSION Digital Ltd for the Services as stated in the attached Appendices. All payments shall be subject to Value Added Tax where appropriate. Any general increase in fees will be notified to the Client in writing one month before the increase becomes effective.
- b) If a fee quote is inadequate we reserve the right to notify you of a revised figure or range and to seek your agreement for any change in fees
- c) From time to time our Fees may increase and we will inform you of any change and seek your confirmation prior to any increase being levied

#### 3. Expenses & Disbursements

All exceptional travelling, accommodation and subsistence expenses, incurred by PIXAFUSION Digital Ltd during the performance of the Service shall be reimbursed by the Client monthly in arrears. Receipts will be produced where practicable. The basis of cost of the use of motor vehicles and mileage allowance will be from either the Automobile Association/RAC or Inland Revenue published guidelines. All expenses will be added to our monthly invoice and will be payable along with the invoice.

#### 4. Payment

- a) Payment is to be made by Bank Transfer/ /BACS/ Credit/Debit Card & Cheque to PIXAFUSION Digital Ltd's nominated bank as stated in the relevant Appendix.
- b) PIXAFUSION Digital Ltd reserve the right to dictate the method of payment when it deems necessary. Payment methods accepted for recurring services are via Direct Debit (preferred, no charge), credit/debit card and by Invoice (£5.25 per month fee apply) There is also a £10 fee for any charges paid by Cheque
- c) Any queries relating to an invoice must be made in writing within 14 days of the date of the invoice. Failure to make payment may lead to a suspension of service.
- d) If you do not accept that an invoiced fee is fair and reasonable you must notify us within 14 days of receipt, failing which you will be deemed to have accepted that payment is due.
- e) If the client fails to make payment by the date which payment instalments are due there will be there will be a charge of £45 for each late payment which the client has failed to make.
- f) PIXAFUSION Digital Ltd reserves its right to charge interest being levied on all outstanding amounts at a rate 2% per month along with any statutory interest that is entitled under law
- g) Each Proportion of the Total Fee shall be payable upon achievement of the Milestone set out in the Attached Appendix which shall be invoiced.

#### 5. Client's Obligations

- a) The Client shall provide PIXAFUSION Digital Ltd with accurate and complete information in an agreed format or as stated in the Appendix in order for PIXAFUSION Digital Ltd to complete the Service. Any information requested by

PIXAFUSION Digital Ltd shall be provided within a reasonable period of time. Any delay on the part of the Client may result in a delay in completing the Service.

- b) The Client shall ensure that it has secured the necessary authorisations or licences for the use of any information, material, systems or otherwise by PIXAFUSION Digital Ltd provided by third parties where required.
- c) Any additional obligations relating to a specific Service required from the Client will be detailed in the relevant Appendix, in the event that there is a conflict between the Clients Obligations contained in this Agreement and the Appendix the Appendix shall apply.
- d) The client must work together to complete the website in a timely matter. The client agrees to provide PIXAFUSION Digital Ltd with all the necessary information required by PIXAFUSION Digital Ltd. This includes any usernames and/or passwords, any content that is needed from the client. If requested information or content is not received by PIXAFUSION Digital Ltd in a timely manner, after several requests the remaining balance of the project will be due and payable within 14 days of written notice of termination and due within 7 days. Any time spent by the client making a decision on draft copies of the design and any other process may cause PIXAFUSION Digital Ltd not to reach the target completion date(s) ("TCD"). Website content is to be provided by the client, unless otherwise specified. PIXAFUSION Digital Ltd. Digital content that is provided to PIXAFUSION Digital Ltd for your project will occur no additional cost, any content provided in an printed, written copy or images provided as a hard copy will occur a charge. A price list for content digitalisation is available on request.

#### 6. Testing & Acceptance

PIXAFUSION Digital Ltd will make every effort to test the project thoroughly and make all necessary corrections as a result of such testing prior to handing over the project to the client. PIXAFUSION Digital Ltd design all websites for the screen resolution of 1024 x 768, depending on the user's monitor size you may see subtle changes to appearance of the website on various monitors. PIXAFUSION Digital Ltd cannot be responsible for this change.

Upon receipt of the project, the client shall accept the project orally, in writing or electronically (i.e. email) and make the final payment in accordance to the payment terms agreed herein this contract.

The client has seven (7) days to make PIXAFUSION Digital Ltd aware of a small changes or problems to the clients' project otherwise no changes and problems will be corrected within the terms of this contract and PIXAFUSION Digital Ltd will assume that all aspects of the project are functioning correctly. PIXAFUSION Digital Ltd

#### 7. Revisions/Amendments

The client may be asked at anytime during the project to confirm a draft copy of the design and content of the project. The client must express any changes or problems that need to be addressed at each stage of the project. PIXAFUSION Digital Ltd allow the client to make three (3) revisions to the current project. Revisions are classed as small design and small content changes. Once the client has confirmed orally, in writing or electronically (i.e. email) that they accept each stage we cannot make any major revisions to the previous stage.

It is at the discretion of PIXAFUSION Digital Ltd depending on the complexity of any amendments required by the client to class them as 'small' or 'major' revisions/changes.

If PIXAFUSION Digital Ltd are instructed to carry out any changes that do not fall into the term 'small' or where the complexity of the project does not allow us to do so, the client will be charged £50.00 per hour, unless an otherwise agreed fix price between the client and PIXAFUSION Digital Ltd for the additional work required.

#### 8. Additional Work

Any addition work that the client requires during their project in relation to this project which is not covered in your proposal is subject to an additional charge and not covered by the fees in this contract. PIXAFUSION Digital Ltd minimum charge is £50.00 per hour, or an agreed fix price between the client and PIXAFUSION Digital Ltd depending on the complexity of the additional work required, a written quote is provided on request. The client must understand that any additional work can extend the project deadline and PIXAFUSION Digital Ltd cannot be held responsible for this delay.

#### 9. Computer Viruses

The Client agrees to ensure that any computer hardware or software supplied to PIXAFUSION Digital Ltd is free of all known viruses. Should a virus be introduced to any of PIXAFUSION Digital Ltd systems as a result of the Client's negligence, the Client will be liable for any loss or third party claim as a result of the Client's acts or omissions.

#### 10. Intellectual Property

PIXAFUSION Digital Ltd will use any experience, ideas or techniques developed during the term of this Agreement.

The Client acknowledges PIXAFUSION Digital Ltd' Intellectual Property Rights in relation to the Service, including and not limited to report designs, system and any software developed in providing the Service to the Client.

Any unauthorised reproduction, use or otherwise of material protected by Intellectual Property Rights is prohibited without written permission from PIXAFUSION Digital Ltd. All moral rights are asserted in accordance with the Copyright, Designs and Patents Act 1988.

The client represents to PIXAFUSION Digital Ltd and unconditionally guarantees that any elements of text, graphics, photos, designs, trademarks, or other artwork furnished to PIXAFUSION Digital Ltd for inclusion in web pages are owned by the client, or that the client has permission from the rightful owner to use each of these elements, and will hold harmless, protect, and defend PIXAFUSION Digital Ltd and its subcontractors from any claim arising from the use of such elements furnished by the client.

#### 11. Acceptance

The Client shall inform PIXAFUSION Digital Ltd of any errors in the Service in writing and no later than one month from the discovery of the error. PIXAFUSION Digital Ltd at its own cost will rectify the error provided it is as a result of an act or omission on the part of PIXAFUSION Digital Ltd. Any error which is the result of an act or omission on behalf of the Client shall be corrected but charged on a time and material basis to the Client.

#### 12. Change and Modification

Any change or modification to the Service may be required by the Client. The Client shall supply in writing such a request to PIXAFUSION Digital Ltd for such a change. PIXAFUSION Digital Ltd will notify the Client whether the change or modification is possible and any related costs. The maximum number of revisions permitted with or without charge.

#### 13. Liability and Warranty

- a) The Service provided by PIXAFUSION Digital Ltd will be in accordance to general professional standards.
- b) PIXAFUSION Digital Ltd will not be liable for any loss or damage caused a result of the Client, or agents, misinterpreting or using the Service(s) incorrectly.
- c) PIXAFUSION Digital Ltd' liability shall not exceed the value of this Agreement and is limited to losses, damages, costs and expenses caused by our negligence or willful default.
- d) PIXAFUSION Digital Ltd will not be liable for losses, penalties, expense or other liabilities caused as a result of acts or omissions of third parties or due to incorrect information or failure to act on advice given.
- e) PIXAFUSION Digital Ltd will only engage third parties or individuals sub-contractors suitable for any assignments or services required by the Client.
- f) PIXAFUSION Digital Ltd will not be responsible for any losses, penalties, expense or other liabilities caused by fraudulent acts, information withheld or concealed from us.

#### 14. Indemnity

The Client will indemnify PIXAFUSION Digital Ltd Limited from any liabilities or costs related to any issues surrounding TUPE including but not limited to legal costs, compensation payments or settlements reached.

#### 15. Status

For the purpose of this Agreement and for the avoidance of doubt, PIXAFUSION Digital Ltd shall be an independent contractor and not the servant, employee or agent of the Client and will bear the exclusive responsibility for the discharge of any income tax and other tax liability for the Service provided under this Agreement.

#### 16. Non-Solicitation

The Client will not employ, nor attempt to employ, during the period of this Agreement and for a period of six (6) months after termination of this Agreement any employee, consultant employed/engaged by PIXAFUSION Digital Ltd. In the event that the Client breaches this clause all associated costs including but not limited to agency fees, recruitment, loss and training for replacement shall be borne by the Client.

#### 17. Term

This Agreement shall become effective from the date of the signature and will remain in force until such time notice of termination is given in accordance with the Termination clause below. Each Service detailed will have its own Termination Clause and in the event of a conflict the Termination clause in the Service Appendix shall apply.

#### 18. Termination

Either party may terminate this Agreement by two month's written notice in the event that either party:

- a) commits a substantial breach and fails to address the breach within 30 days of the written notice being received
- b) becomes insolvent or bankrupt or goes into receivership or liquidation (other than voluntary liquidation for the purposes of reconstruction)
- c) does not wish to accept further services provided that there are no outstanding amounts payable.
- d) that you have provided us with misleading information, in which case we may terminate this agreement immediately. Termination will be without prejudice to any rights that may have accrued to either of us prior to termination including the right for all fees to be paid in accordance with the attached

appendix.

We reserve the right to exercise a lien over all funds, documents and records in our possession relating to all engagements for you until all outstanding fees and disbursements are paid in full as permitted to do so by law.

## 19. Effect of Termination

In the event of termination of this contract, we will endeavour to agree with you the arrangements for the completion of work in progress at that time, unless we are required for legal or regulatory reasons to cease work immediately. In that event, we shall not be required to carry out further work and shall not be responsible or liable for any consequences arising from termination.

## 20. Disengagement

- a) Should we resign or be requested to resign disengagement letter will be issued to ensure that our respective responsibilities are clear.
- b) Should we have no contact with you for a period of one year or more we may issue a disengagement letter and hence cease to act.

## 21. Effect of Termination

On termination of this Agreement all outstanding sums shall be paid to PIXAFUSION Digital Ltd.

## 22. Non-Waiver

The failure of either party to enforce its rights under this Agreement at any time for any period shall not be construed as a waiver of such rights.

## 23. Variation of Terms

This Agreement sets out the entire agreement and understanding between the parties in relation to the Service and supersedes all prior discussions, representations, understandings and agreements whether oral or in writing between the parties.

The terms of this Agreement may not be varied or added to unless in writing or initialed and dated by the relevant amendment by both parties.

## 24. Data Protection Act 1998

We will comply with the provisions of the Data Protection Act 1998 when processing personal data.

## 25. Contracts (Rights of Third Parties) Act 1999

The advice and information we provide to you as part of our service is for your sole use and not for any third party to whom you may communicate it unless we have expressly agreed that a specified third party may rely on our work. We accept no responsibility to third parties, including any group company to whom the engagement letter is not addressed, for any advice, information or material produced as part of our work for you which you make available to them. A party to this agreement is the only person who has the right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.

## 26. Quality of service

We aim to provide a high quality of service at all times. If you would like to discuss with us how our service could be improved or if you are dissatisfied with the service that you are receiving please let us know by contacting your Account Manager or a Director of PIXAFUSION Digital Ltd.

We undertake to look into any complaint carefully and promptly and to do all we can to explain the position to you.

## 27. Lien

## 28. Internal disputes

If we become aware of a dispute between the parties who own or are in some way involved in the ownership and management of the business, it should be noted that our client is the business and we would not provide information or services to one party without the express knowledge and permission of all parties. Unless otherwise agreed by all parties we will continue to supply information to the person agreed at the start of our appointment. If conflicting advice, information or instructions are received from different owners/directors in the business we will refer the matter back to the owners/board of directors.

## 29. Reliance on advice

We will always use technology which we believe will meet the Clients requirements and budgets however if a specific technology is requested then the Client must inform PIXAFUSION Digital Ltd immediately but should be aware that this may effect the price quoted. Advice given orally is not intended to be relied upon unless confirmed in writing. If you wish to rely on oral advice, you must ask for the advice to be confirmed by us in writing.

## 30. Force Majeur

Neither party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing their obligations if such delay or default is caused by conditions beyond the reasonable control of the party whose performance is affected.

## 31. Conflict of Terms

In the event that there is a conflict of terms these terms shall apply unless expressly stated otherwise.

## 32. Void or Unenforceable Terms

If any clause, term or provision of this Agreement, or any part thereof is held to be illegal or in conflict with applicable laws the validity of the remaining clauses, terms and provisions shall not be affected.

## 33. Headings

The headings in this Agreement are for reference and do not affect the interpretation of the Agreement.

## 34. Debt Assignment

All accounts beyond our credit terms will be passed to our debt collection agency, Sinclair Goldberg Price Ltd. All accounts, without exception, will be subject to a surcharge of 15% plus vat to cover our costs in recovery. These accounts will also be subject to any legal costs incurred in obtaining settlement.

## 35. Governing Law

This Agreement shall be governed by English Law.