



Public Digital's Standard terms and conditions for our G-Cloud 14 services are on the following pages of this document.

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PUBLIC DIGITAL LIMITED

TERMS AND CONDITIONS OF BUSINESS

1 THE AGREEMENT

- 1.1 The Agreement in relation to Services to be provided by the Company comprises these Terms and Conditions of Business (the “**Terms**”) and the Scope of Work (“**SOW**”) which sets out the Services to be undertaken by the Company for the Client, and the applicable Fees. If there is any conflict between these Terms and the SOW, the provisions of the SOW shall take precedence. Clause headings shall not affect the interpretation of the Agreement.
- 1.2 In the Agreement, unless the context otherwise requires: capitalised words and phrases shall have the meanings given in the SOW or in these Terms; words importing one gender shall be treated as importing any gender; words importing individuals shall be treated as importing corporations and vice versa; words importing the singular shall be treated as importing the plural and vice versa; a reference to a statute or other law shall include references to any amendment, modification, extension, consolidation, replacement or re-enactment of; and references to “include” and “including” (or any similar term), are not to be construed as implying any limitation.
- 1.3 The Agreement shall apply to the exclusion of any other terms and conditions communicated to the Company (including any terms and conditions which may be printed on, or submitted with, the Client’s purchase order or similar document).
- 1.4 The provision of any Services not included in the SOW, or any changes to the SOW shall be subject to the Company and Client agreeing, in writing, to the scope of the additional or amended Services including changes to the fees payable to the Company. Once such additional or amended Services are so agreed in writing, they shall automatically form part of the Agreement.
- 1.5 The Agreement shall commence on the date on which the SOW has been signed by both parties or, if the Services commenced prior to that date, the Agreement shall be deemed to have commenced on the first day that the Services were provided. The Agreement shall continue thereafter in full force and effect until completion of all of the parties’ obligations hereunder, subject to earlier termination in accordance with clause 6 below (the “**Term**”).

2 PROVIDING THE SERVICES

- 2.1 The Company shall perform the Services throughout the Term and (where relevant) shall supply Deliverables to the Client in accordance with the SOW.
- 2.2 The Company shall apply such time, attention, and reasonable skill and care as may be necessary or appropriate for its proper performance of the Services and provision of any associated Deliverables.
- 2.3 Nothing in the Agreement shall prevent the Company from providing services which are the same as or similar to the Services to any other person.
- 2.4 In the Agreement the “**Deliverables**” shall mean the final versions of the Deliverables specified in the SOW (and, where applicable, as approved by the Client) and shall not include drafts, samples or abandoned concepts (being concepts which have not

been developed and encapsulated in a final version which has been approved by the Client).

- 2.5 Where the SOW provides a timetable or schedule for delivery of the Services or any Deliverables, the Company shall use reasonable endeavours to comply with that but time shall not be of the essence. Any Services for which time for performance is not specified shall be performed by the Company within a reasonable period of time.
- 2.6 Where the SOW specifies the name of an individual who shall deliver specific Services:
- (a) the Company reserves the right to deliver such Services through a different individual provided that such individual has the relevant skill and experience reasonably required to deliver the relevant Services; and/or
- (b) if the relevant individual is no longer available to perform the Services on the agreed date for any reason, the Client shall (acting reasonably) agree with the Company an alternative date for performance of the relevant Services.
- 2.7 The Client will promptly supply to the Company (at its own expense) any Client information, materials, equipment, tools and other items reasonably required by the Company or necessary to provide the Services and Deliverables (including any Client Materials & Information specified in the SOW). The Client shall ensure that it has all necessary rights and licences in place to enable use by the Company of all such Client information, materials, equipment, tools and other items for the purposes of delivering the Services.
- 2.8 The Client will give the Company clear instructions and shall ensure that its other suppliers and agencies act in willing co-operation with the Company where necessary to enable the Company to perform the Services.
- 2.9 If the SOW indicates that the Services shall be provided at any location(s) other than the Company’s premises, unless the SOW indicates otherwise, the Client shall be responsible for making such location(s) available to the Company in order to perform the Services and ensuring that such locations are a safe place for the Services to be performed. The Client shall provide and facilitate all access reasonably required by the Company to such location(s) for the performance of the Services.

3 FEES AND EXPENSES

- 3.1 In consideration of the Services being supplied, the Client shall pay the Fees set out in the SOW.
- 3.2 The Company shall additionally be entitled to invoice the Client all expenses properly incurred in the supply of the Services (including travel expenses, postage, couriers, subsistence and similar expenses) subject to approval by the Client for any expenses in excess of the limit specified in the SOW (such approval not to be unreasonably withheld or delayed). Any and all Expenses listed in the SOW are deemed pre-approved.
- 3.3 The Company shall invoice the Client separately for any Costs incurred on the Client’s behalf in accordance with the SOW. The Company reserves the right to require payment of Costs in advance before incurring nor agreeing to incur such Costs.

3.4 The Client will pay all invoices in full on the corresponding payment date set out in the SOW or, if no payment date is specified, within 30 days of the invoice date. Time shall be of the essence in relation to payment of the Company's invoices.

3.5 All fees and other sums referred to in the Agreement are exclusive of VAT (or other applicable sales tax). The Client will pay to the Company such VAT (or other applicable sales tax, if any) as may be chargeable from time to time.

3.6 If the Client fails to pay any sum payable by it by the due date for payment under the Agreement:

(a) the Company shall have the right, at its option, to suspend performance of the Services until the Client pays all outstanding payments in full; and

(b) the Client shall pay interest on the overdue sum for the period from and including the due date of payment up to the date of actual payment (after as well as before judgment). Interest shall accrue from day to day and shall be paid on demand at the rate of 4 per cent above the base rate from time to time of the Bank of England.

4 INTELLECTUAL PROPERTY

4.1 In the Agreement "IP" means all intellectual property rights in whatever media whether or not registered including: copyright, database and compilation rights, patents, trade marks, service marks, trade names, goodwill, designs, all other industrial commercial or proprietary rights and any applications for the protection or registration of those rights and all renewals, revivals and extensions existing in any jurisdiction.

4.2 Subject to clauses 4.3 and 4.5 below, the Company hereby grants to the Client a worldwide royalty-free, non-exclusive, non-sublicensable, licence in respect of the Company's IP in the Deliverables to enable the Client to use the Deliverables in the manner specified in the SOW.

4.3 The licence granted by clause 4.2 above shall be subject to limitations on the use of any Deliverable (including limits as to the purpose(s), territory and period of use) set out in the SOW or otherwise explained by the Company in writing. If any such limitations are not clear from the SOW, the licence granted shall be deemed to be limited to such uses as should reasonably be contemplated by the parties given the nature of the Services.

4.4 The Company acknowledges that all IP in materials provided to it by or on behalf of the Client for incorporation in the Deliverables (including any Client Materials & Information specified in the SOW) shall remain the property of the Client or its licensors. The Client warrants that the use of such material, and the use of the Client's name and logo, by the Company in accordance with the Agreement shall not infringe the rights of any third party and shall comply with all applicable law, regulation and relevant codes of practice in force from time to time.

4.5 If the Company intends to incorporate any third party IP into any Deliverables, it shall notify the Client of any restrictions on use of that IP. The Client shall at all times comply with such restrictions on use.

4.6 The Client agrees that the Company may identify the Client as a client of the Company (including through use of the Client's name and logo) in its promotional materials (including the Company website).

4.7 Save to the extent it is necessary to receive the Services and/or as otherwise permitted by the Agreement, the Client shall have no rights to use the name of the Company or any other trade marks or IP of the Company. If the Client wishes to make any public statement about the Company or the Services, the Client agrees to seek the prior written consent of the Company (such consent not to be unreasonably withheld).

5 LIABILITY

5.1 Nothing in the Agreement will limit or exclude either party's liability (or the other party's remedies) for: (a) death or personal injury arising from its negligence; (b) fraud or fraudulent misrepresentation; or (c) any other liability to the extent that such liability may not be excluded or limited as a matter of applicable law.

5.2 Subject to clause 5.1 the Company's maximum aggregate liability under or in relation to the Agreement (howsoever arising and including as a result of breach of contract, tort (including negligence) or statutory duty) shall not exceed 100% the Fees paid to the Company.

5.3 Subject to clause 5.1 the Company shall have no liability under or in relation to the Agreement (howsoever arising and including as a result of breach of contract, tort (including negligence) or statutory duty) for any:

(a) direct or indirect:

- (i) loss of profits;
- (ii) loss of contracts;
- (iii) loss of business;
- (iv) loss of goodwill;
- (v) loss or corruption of data; or

(b) indirect or consequential loss or damage of whatever nature and howsoever caused, even if the Company has been advised of the possibility of such damages or losses (provided that nothing in this clause 5.3(b) shall be deemed to limit or exclude our liability for direct loss or damage).

5.4 All warranties, conditions, terms, undertakings and obligations implied by statute, common law, custom, trade usage, course of dealing or otherwise are hereby excluded to the fullest extent permitted by law, including any condition of satisfactory quality or fitness for a particular purpose.

5.5 The Company shall not be liable for any delay or failure in the performance of its obligations caused by a failure of or delay by the Client to perform its obligations under the Agreement, or any compliance by the Company with instructions issued by the Client in relation to which the Company has raised a concern.

5.6 The Company will only be liable to the Client for acts and omissions of Suppliers engaged on the Company's behalf to the extent that the Company is able to recover from such Suppliers.

6 TERMINATION

6.1 Either party may terminate the Agreement with immediate effect by notice in writing to the other if the other party:

(a) commits a material breach of the Agreement which is incapable of remedy or, in the case of a breach capable of remedy, the other party fails to remedy such breach within 21 days of receipt of written notice from the other party giving full particulars of the breach and requesting that the same be remedied;

- (b) becomes insolvent, enters into liquidation or bankruptcy, makes any composition or arrangement with its creditors, or takes or suffers any similar action in consequence of its debt;
 - (c) (being a company) passes a resolution for its winding up (other than for the purposes of a solvent amalgamation or reconstruction), (being a partnership) is dissolved, (being a natural person) dies, has a receiver, administrator, administrative receiver, trustee or similar officer appointed over the whole or any part of its assets; or
 - (d) ceases, or threatens to cease, to carry on business (other than a temporary cessation which arises in circumstances beyond that party's control).
- 6.2 The Company may terminate the Agreement immediately on notice to the Client in writing if:
- (a) any sum due to the Company under the Agreement or any other current agreement between the parties is not paid on the due date and that sum remains unpaid within 14 days of a demand being sent to the Client requiring payment of the unpaid sum; or
 - (b) the Client makes any defamatory or derogatory statements or engages in any conduct which in the reasonable opinion of the Company is likely to harm or bring into disrepute the name, goodwill, reputation or image of the Company.
- 6.3 If the SOW sets out Cancellation Terms, the Client may terminate the Agreement immediately on notice to the Company in writing, subject to such Cancellation Terms and the payment of the applicable Cancellation Fees to the Company.
- 6.4 The expiry or termination of the Agreement shall be without prejudice to any rights or remedies available to, or any obligations or liabilities accrued to, either party at the effective date of termination.
- 6.5 Upon termination of the Agreement for any reason:
- (a) the Client shall pay to the Company all sums due to the Company up to and including the effective date of termination including:
 - (i) any Fees for Services received by the Client prior to termination;
 - (ii) any expenses and/or Costs properly incurred or committed to by the Company; and
 - (iii) any Cancellation Fees payable pursuant to clause 6.3 (if applicable); and
 - (b) provisions of the Agreement which either are expressed to survive its termination or from their nature or context it is contemplated that they are to survive such termination, shall remain in full force and effect notwithstanding such termination.

7 CONFIDENTIALITY

- 7.1 Each party shall keep secret and confidential all information disclosed to it (whether in writing, verbally or otherwise) under or in connection with the Agreement which is of a confidential or proprietary nature. The receiving party shall not use, disclose, exploit, copy or modify such confidential information except for the purposes of the proper performance of the Agreement or with the prior written consent of the other party. Any such disclosure shall be made subject to obligations equivalent to those set out in the Agreement.

- 7.2 Upon request of the disclosing party, the receiving party shall promptly return or destroy, as instructed, any confidential information of the disclosing party.

- 7.3 The obligations of confidentiality in this clause 7 shall not extend to any information that a party can show:

- (a) is in, or has become part of, the public domain other than as a result of a breach of the obligations of confidentiality under the Agreement;
- (b) was developed by it independently of any confidential information disclosed by the other party;
- (c) was independently disclosed to it by a third party entitled to disclose the same; or
- (d) is legally required to be disclosed under any applicable law.

8 COMPLIANCE

- 8.1 Each party confirms that it has at all times in the past and shall throughout the Term comply with all applicable laws and regulations relating to:

- (a) anti-bribery and anti-corruption, including the Bribery Act 2010;
- (b) modern slavery, including the Modern Slavery Act 2015; and
- (c) anti-tax evasion, including the Criminal Finances Act 2017.

- 8.2 Each party confirms that it has, and shall maintain, in place adequate procedures designed to prevent it, and persons associated with it, from committing offences under the applicable laws and regulations referred to in clause 8.1 above, and that, if it becomes aware, or has reason to believe, that it has breached any of its obligations arising out of this clause 8, it shall notify the other party immediately.

- 8.3 The parties do not anticipate any substantive sharing between the parties, or processing by the Company on the Client's behalf, of personal data in connection with the Agreement. If this changes the parties agree to enter into an appropriate data sharing or processing agreement. In any event, each party shall comply with the terms of all applicable legislation, rules and regulations (including but not limited to the Data Protection Act 2018) relating to the protection and use of personal data.

9 NOTICES

- 9.1 Unless expressly provided otherwise, all notices and other communications to be given under the Agreement must be in writing and shall be delivered (a) by hand (including by courier); (b) pre-paid first class post or other next day delivery service; (c) pre-paid airmail; or (d) email (sent with a delivery receipt request), to the other party's address for notices as set out in the SOW (or such other address as that party may notify to the other from time to time). Such notice shall be treated as having been given and received:

- (a) if delivered by hand, at the time of delivery;
- (b) if sent by UK pre-paid first class post or other next day delivery service to a UK postal address, at 9.30 a.m. on the second clear day after the date of posting;
- (c) if sent by pre-paid airmail, at 9.30 a.m. on the fifth clear day after the date of posting; and
- (d) if sent by email, at the time recorded in the delivery receipt.

10 FORCE MAJEURE

- 10.1 Neither party shall be liable to the extent that it is delayed in or prevented from performing its obligations under the Agreement to the extent that it is delayed in or prevented from doing so due to any act, event, non-happening, omission or accident beyond its reasonable control (including without limitation acts of any government, adverse weather, natural disaster, fire, explosion, epidemic, labour dispute including strikes, war, terrorist activity or civil commotion).

11 ENTIRE AGREEMENT

- 11.1 The Agreement constitutes the entire agreement between the parties relating to the Services to be provided under the corresponding SOW and supersedes any prior drafts, agreements, undertakings, representations, warranties and arrangements, whether or not in writing, between the parties in relation to such Services.
- 11.2 Each of the parties acknowledges and agrees that it has not entered into the Agreement in reliance on any statement or representation of any person other than as expressly incorporated in the Agreement and that the only cause of action available to it under the terms of the Agreement shall be for breach of contract.

12 GENERAL

- 12.1 The Company shall be entitled to assign its rights and obligations set out in the Agreement. The Company may also subcontract or delegate any of its obligations under the Agreement. The Client shall not transfer its rights and/or obligations to third parties, whether in whole or in part, without the Company's prior written consent
- 12.2 The failure of either party to enforce or to exercise at any time or for any period of time any term of or any right, power, privilege or remedy pursuant to the Agreement does not constitute, and shall not be construed as, a waiver of such term or right and shall in no way affect that party's right later to enforce or to exercise it.
- 12.3 Where either party has incurred any liability to the other, whether under the Agreement or otherwise, the party incurring such liability shall not be entitled to set off the amount of such liability against any sum or sums that would otherwise be due to it under the Agreement.
- 12.4 If any provision of the Agreement is held to be invalid or unenforceable by any judicial or other competent authority, all other provisions of the Agreement will remain in full force and effect and will not in any way be impaired. If any provision of the Agreement is held to be invalid or unenforceable but would be valid or enforceable if some part of the provision were deleted, the provision in question shall apply with such modification(s) as may be necessary to make it valid and enforceable.
- 12.5 Nothing in the Agreement is intended to or shall be construed as establishing or implying any partnership, joint venture or agency of any kind between the parties, and neither party shall have authority to act in the name of or to otherwise bind the other party in any way.
- 12.6 Any variation to the Agreement will only be valid if it is in writing and signed by or on behalf of each party.
- 12.7 The parties do not intend that any term of the Agreement shall be enforceable by virtue of the

Contracts (Rights of Third Parties) Act 1999 (or otherwise) by any person who is not a party to the Agreement.

- 12.8 The Agreement and any dispute or claim arising out of or in connection with it, shall be governed by and construed in accordance with the laws of England and Wales.
- 12.9 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute which may arise out of or in connection with the Agreement.