



One Planet Digital Limited (OnePlanet)

Terms and Conditions for Local Government advisory contracts

1. Scope

1.1. This document defines the general terms (and provides additional explanation to clarify and amplify those terms) that shall apply to all consultancy agreements and retainer contracts involving OnePlanet, and as well as use of the OnePlanet Service. These clauses are incorporated into and form an integral part of our contract.

2. Definitions

2.1. In these terms and conditions the following words and expressions bear the following meanings:

“Client” means the party with whom a contract of supply exists

“Letter of Engagement” means the letter supplied with this contract which identifies the engagement to which the contract relates

“Service definition” means the service definition document available from G-Cloud

“Service” means the selected service option as described in the service definition document as well as use of the Website

“Account” means a unique account created for You to access our Service or parts of our Service.

“Company” (referred to as either "the Company", "We", "Us", "Our" or “OnePlanet” in this Agreement) refers to One Planet Digital Ltd.

“Country” refers to: United Kingdom

“Terms and Conditions” (also referred as "Terms") mean these Terms and Conditions that form the entire agreement between You and the Company regarding the use of the Service.

Website refers to oneplanet.com, accessible from www.oneplanet.com

2.2 The contract between OnePlanet and the Client consists of these standard terms and conditions, the pricing document and the service definition document.

3. Statement of professional standards

3.1. OnePlanet will exercise skill, care and diligence of a competent consultant in relation to the delivery of the statement of works to the best of its abilities.

4. Performance

4.1. All commitments with respect to the timing and scope of a project given to the Client by OnePlanet - whether verbal or written - are made in good faith but are made necessarily in advance of knowing the full scope of the difficulty that may pertain to performance on specific points (for example, unforeseeable difficulty in obtaining certain information requested by the Client). OnePlanet agrees to use its best endeavours to fulfil such commitments to Clients on the timing and the scope of consultancy.

5. Confidentiality

5.1. OnePlanet agrees to hold all information provided by the Client confidential, save where such information is known to OnePlanet already, or exists already in the public domain, until, either the information enters the public domain, or OnePlanet is given the same information by a third party, or is released from its confidentiality requirement by the Client, or the Client is found in breach of contract with OnePlanet by a court of law (including non-payment of account) or three years have elapsed - whichever is the sooner.

6. Supply of Materials and Information

6.1. The Client will endeavour to ensure that any information OnePlanet may require for the purpose of the engagement is made available to OnePlanet as and when it reasonably requires.

6.2. The Client agrees to keep OnePlanet regularly informed of any new information or developments of which the Client becomes aware which might have a bearing on OnePlanet's provision of services in connection with its engagement.

7. Time Basis for Contracts

7.1. Where applicable, activity time is calculated inclusive of travel time from the prior non-Client activity (such as from the consultant's home, office, or third party premises).

7.2. The unit of activity is normally the day, except where otherwise agreed in advance.

7.3. Activity time includes all office time spent acting for the Client.

8. Expenses

8.1. OnePlanet project proposals to Clients stipulate whether they are 'fixed fee' (i.e. all expenses will be included within the pre-negotiated fee and not charged supplementary to the Client) or 'net of expenses' - in which case expenses are levied in addition to our agreed fee. This section provides clarification of our standard policy on what expenses will be claimed and how.

8.2. In the case of 'net of expenses' contracts, OnePlanet is hereby authorised to incur, with prior notice to the Client, all reasonable and proper expenses in performing the Client's instructions. The Client agrees to reimburse these in addition to the contract fee.

8.3. All expenses are payable for the total activity time (as defined in Clause 9 above): i.e. including travel to and from the Client or travel to and from third parties on behalf of the Client.

8.4. Invoices for expenses will normally be presented at agreed project milestones. OnePlanet may, at its sole discretion, choose exceptionally to present invoices more or less frequently, to reflect the level of expense incurred.

8.5. Expenses incurred in foreign currency will be billed at the actual exchange rate obtained (gross rates, including commission, handling charges etc., will be used) except where this rate is not immediately available, such as for some credit card charges, when either the last rate obtained or an estimated rate will be used at OnePlanet's discretion.

8.6. Allowable expenses are charged to the Client at the gross invoice value. Expenses will be charged inclusive of any sales taxes (or similar fiscal levies) where these are payable by us, whether or not we may be able to subsequently reclaim any part of these. VAT (and any other relevant tax) will be added to the invoice amount in line with current government legislation at the rate ruling at the time of invoice.

8.7. The Client should note that travel fares are sometimes charged on the basis of travel to and from OnePlanet premises, which may not be the actual journey made, as our consultants may be travelling from a location required for another Client's business.

8.8. OnePlanet employees are required to obtain receipts for expenses wherever practical. These are retained by OnePlanet and are available for inspection by the Client upon request.

9. Fees

9.1. The remuneration structure agreed between the Client and OnePlanet may be based on a number of methods. These are a 'retainer', a 'fixed fee' or a 'time based rate' (e.g. a day or hourly rate).

9.2. The Client agrees to pay OnePlanet according to the fee structure outlined in our Project Proposal, as amended by subsequent written correspondence.

9.3. 'Retainer fee' shall be defined as a payment made to secure OnePlanet's services for a fixed period of time. The retainer shall be automatically renewed except where either party gives the appropriate notice or is in breach of the contract or where otherwise defined in the specific terms of the contract.

9.4. The 'daily rate' and 'hourly rate' shall be charged in accordance with the criteria defined in the Project Proposal.

10. Cancellation Rights

10.1. The contract shall be regarded as a whole unless there are break points within it agreed in advance or it is divided into stages or where it is subject to periodic renewal. Where no such division is agreed in advance and stipulated in the contract, the Client shall be liable for the totality of the value of the contract - including all expenses incurred to the date of cancellation - whether or not the client wishes the work to be completed.

10.2. If a consultancy contract is expected to be for an extended period or to have phases contingent upon the results of earlier work, it will normally be divided into stages or subject to periodic renewal. Where such divisions apply, either party may choose not to continue the contract into the next phase without penalty (unless otherwise provided in the specific contract). Where such cancellation is by OnePlanet the Client shall be entitled to a refund of that proportion of any advance of fees that relate to the remaining part of the contract.

10.3. Annually renewed service contracts and retainers shall be renewed automatically for a further 12 months unless either party gives the other the minimum notice of termination set out in the individual contract or in the absence of such a provision 30 days notice.

10.4. Where the Client cancels, the Client shall pay for all stages of the contract that have been commenced. Should the Client choose not to have work completed on the stage underway prior to cancellation the Client remains liable for payment in full of this stage. The Client also agrees to pay all expenses incurred, whether or not these relate to the stages cancelled or to any prior stages.

10.5. In the event of cancellation, expenses incurred referred to in this Clause shall be interpreted as including all monies spent on behalf of the Client plus all spending irrevocably committed to on the client's behalf by OnePlanet up to the date of cancellation plus any cancellation charges that may be levied by third party suppliers as a result of the contract cancellation.

11. Payment Terms

11.1. The Client agrees to be bound by the payment terms stipulated in the Letter of Engagement and Project Proposal.

11.2. The currency of payment will be stipulated in the Client contract. Both parties agree to accept this in respect of all invoices and payments.

11.3. Unless otherwise explicitly provided by an individual contract, no account will be taken of any exchange rate fluctuations during the life of the contract. Each party accepts as their own responsibility the variation, whether favourable or unfavourable, that they may see in local currency terms in respect of the contract.

11.4. The Client's responsibility is for payment to OnePlanet of the full amount agreed. The Client agrees to adjust all payments to take into account any charges levied (such as may be made by the transferring bank), such that the full amount is received by OnePlanet. The Client accepts that OnePlanet shall be entitled to recover all deducted amounts.

11.5. The Client agrees to make payment by the method stipulated in the Project Proposal to the location stipulated in the Project Proposal. OnePlanet shall be entitled to recover any costs caused by any client variations in this respect not agreed in advance.

11.6. The Client agrees to pay all government taxes and duties, regardless of origin, that may apply to all payments to OnePlanet. The Client further agrees that, should there be a change in type or value during the life of the contract, whether favourable or unfavourable to the Client, the Client will be responsible for them in totality. Each party will be responsible for recovering their own entitlements in respect of pre-payments (for example in respect of VAT or sales tax).

11.7. OnePlanet shall be entitled to charge interest at the Bank of England base rate plus 8% (as set out in the 'Late Payment of Commercial Debts (Interest) Act 1998, as amended and supplemented by the Late Payment of Commercial Debts Regulations 2002') on all amounts that remain unpaid 28 days after the agreed payment date. Interest will be calculated daily.

11.8. In the absence of any other agreed payment terms, all invoices shall be payable in full within 28 days of the date of the invoice.

12. Stage Payments

12.1. Most contracts that extend across several months provide for stage payments. These are negotiated in advance as part of the normal discussions prior to agreement of the contract.

12.2. OnePlanet shall have the right to suspend all work on behalf of the Client should these payments not be made on time to the agreed schedule. Any adverse impact that this suspension has upon the completion schedule or the quality of the product for the Client shall be at the Client's sole responsibility. This right applies not just to the contract in arrears but also any other contracts with the Client, whether or not payments against these contracts are in arrears.

12.3. In particular, Clients should note that where it has been agreed that payment of all or part of a contract is to be made 'in advance' work will not commence on the Client's behalf until payment is actually received.

13. Liability for Advice Given

13.1. OnePlanet provides information, advice and services in good faith based upon information available at the time. We do not warrant the accuracy of information provided. It is for the Client to decide whether or not to accept our advice in making their own decision. We advise that any data critical to a decision should be independently verified prior to being acted upon. Therefore OnePlanet accepts no liability for the consequences of its information opinions and advice whether direct or indirect.

14. Publicity

14.1. OnePlanet shall have the right, without further reference to the Client, to publicise the fact that the Client is, or was, a Client and to utilise the Client's name and details of work conducted for the client in publicity materials in this respect.

14.2. Wherever the commissioned work is referred to by the Client, the Client agrees to make due reference to OnePlanet so as to make it clear who carried out the work, except where OnePlanet explicitly waives this right.

14.3 In order to monitor the effectiveness of our advice and the direct environmental savings that our advice has generated OnePlanet will contact the Client up to six months after the termination of the contract to investigate which of the recommended strategies the Client has implemented. This information will be provided at the Client's discretion and will only be publicised by OnePlanet with prior consent.

15. Insolvency

15.1 OnePlanet shall have the right to discontinue immediately all work for the Client should the Client or another person petition for the Client's bankruptcy, or the Client be declared insolvent, or be placed into administrative receivership or be generally unable to pay bills as they become due.

16. Illegal activities

16.1. OnePlanet will not carry out any illegal activities on behalf of the Client. Any requirement in this respect will nullify this contract in respect of performance and OnePlanet will be entitled to recover in full its fee and expenses.

16.2. The Client agrees not to make any illegal use of any information provided by OnePlanet.

16.3. The Client agrees to indemnify OnePlanet against all claims from third parties that may arise as a result of any such illegal use of information or advice.

17. Limitation of liability

17.1. Without prejudice to other more restrictive limitations elsewhere in this contract, liability on the part of OnePlanet is limited to the value of the contract with the Client or the value of the loss whichever is the smaller. OnePlanet accepts no liability for the consequences of its information, opinions and advice, whether direct or indirect.

18. Force Majeure

18.1. Whilst OnePlanet agrees to use its best endeavours to perform the contract for the Client as specified, OnePlanet will not be responsible for any delays or failure to complete the contract which are beyond OnePlanet's control and which could not have been reasonably predicted.

18.2. Where the delay caused by third party events outside either party's control or influence causes such delay that the purpose of the contract is wholly or significantly destroyed, either party shall be entitled in these circumstances to cancel the remaining portion of the contract. In such circumstances the Client will not make any further payments of fees but there will be no refund of payments already made (including any payments for that part of the contract that remains unfulfilled) and OnePlanet will be entitled to recover any costs already incurred.

19. Jurisdiction

19.1. Any disputes or claims shall be governed by and construed in accordance with English law and the jurisdiction of the English courts.

20. Arbitration

20.1. Any unresolved dispute or difference arising out of or in connection with this contract shall be determined by the appointment of a single arbitrator to be agreed between the parties, or failing agreement within fourteen days, after either party has given to the other a written request to concur in the appointment of an arbitrator, by an arbitrator to be appointed by the President or a Vice President of the Chartered Institute of Arbitrators

20.2. Both parties also agree that all disputes arising with respect to this contract will be arbitrated upon within the English legal system.

21. Waiver

21.1. The failure by either party to enforce at any time or for any period any one or more of the terms and conditions of this agreement shall not be a waiver of them or of the right at any time subsequently to enforce all terms and conditions of this agreement.

22. Integral part of contract

22.1. The Client, in signing the Letter of Engagement, accepts that all of these terms have been read, understood and agreed.

22.2. The Client agrees that all of the above terms form part of the contract between OnePlanet and the client, except where explicitly excluded or modified by the letter of engagement and shall take precedence over and shall not be varied by any other means including any terms or conditions that the client may from time to time apply to suppliers.