

# TERMS OF BUSINESS

Section A: Per Diem business  
Section B: Fixed Price business

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**Future Ready**

## **Section A: PER DIEM TERMS OF BUSINESS FOR THE PROVISION OF SERVICES**

### **1. TERMS OF BUSINESS**

These terms of business shall apply to any per diem contract ('the Contract') between Mozaic-Services Limited, ('Mozaic'), and the organisation which is to receive the services from Mozaic, ('the Client') including any subsequent Client verbal or e-mail instructions.

### **2. RESPONSIBILITIES**

#### **2.1 Mozaic**

2.1.1 The services to be provided under the Contract are detailed in Mozaic's quotation, proposal or tender. The Client acknowledges that the services comprise the provision of individuals on a per diem basis at the designated premises and that no specific level of output is guaranteed or warranted by Mozaic. Any estimate by Mozaic as to the number of man days required by the Client or project timescales are given in good faith. Such an estimate will not however imply or be deemed to imply any warranty or guarantee by Mozaic that additional man days will not be required to meet the Client's objectives or the project will be completed within the estimated timescales.

2.1.2 Mozaic warrants that it will assign competent and suitably qualified individuals on a per diem basis to provide the services with reasonable skill and care. Client shall give Mozaic the reasonable opportunity to remedy any breach of this warranty without charge to the Client

2.1.3 If an individual's services are in the Client's reasonable opinion unsatisfactory the Client shall notify Mozaic in writing. Mozaic will use reasonable endeavours to replace the individual with another of appropriate competence. If it is not possible to provide a replacement individual, Mozaic will inform the Client immediately and the Client shall have the right to terminate the services of the individual immediately upon written notice detailing the reason(s) for termination. The Client agrees that it will be liable to pay the charges in respect of all hours worked prior to receipt of written notification.

2.1.4 The Client may request additional services. Such services will be the subject of a further Mozaic quotation, proposal or tender and Client verbal, written or e-mail instructions to proceed.

2.1.5 Mozaic's documentation formats, standards and methodologies will be followed unless agreed to the contrary.

2.1.6 Where Mozaic has been requested to provide equipment, licensed software, or services to the Client, the Client shall provide a suitable environment for installation. The Client shall be responsible for compliance with all third party, end-user, licence or other agreement or terms and conditions (a copy of which can be provided upon request if not enclosed within our quotation, proposal or tender).

2.1.7 Where Mozaic uses the Internet, a web site or telecommunication link to provide some of the services Mozaic shall not be liable for failing to provide such services to the extent such failure is due to the failure of the whole or part of the Internet or telecommunication link, unless such telecommunication link is the express responsibility of Mozaic to provide and maintain.

2.1.8 Where the Client has supplied data to enable Mozaic to perform the services, the data shall be in good condition and the Client shall retain a back up copy.

### 2.2 The Client

2.2.1 The Client is responsible for (i) accurately specifying the services to be provided, and (ii) ensuring the accuracy of any specification on which the supply of the services are based and (iii) ensuring the accuracy of any specification produced during the course of the project once formally approved by the Client

and (iv) that such specification meets the Client's requirements under the Contract as set out in any quotation, proposal, tender or any other output produced and accepted implicitly or explicitly by the Client.

2.2.2 The Client will ensure that Mozaic's staff whilst at the Client's premises are provided during the Client's normal working hours (or such other times as may be agreed) with reasonable working conditions which meet the minimum standard laid down in the current Health and Safety Legislation, computer facilities (including computer consumables, storage and data preparation facilities), office accommodation and facilities (including a telephone and a photocopying facility), and such assistance of the Client's employees as Mozaic shall reasonably require.

## 3. INTELLECTUAL PROPERTY RIGHTS

3.1 The copyright and all other intellectual property rights of whatsoever nature in any programs reports or other written material of whatsoever nature created by Mozaic for the Client during the performance of the services shall be the property of Mozaic, unless explicitly agreed otherwise, but the Client is hereby granted a perpetual non-exclusive licence to use such material for any purpose whatsoever.

3.2 The Client acknowledges that elements of the services which constitute general know-how or expertise are part of Mozaic's library of techniques and capabilities of a reusable nature etc. ('library items') and that such library items are and will remain the exclusive property of Mozaic.

## 4. FEE STRUCTURE

4.1 Rates are quoted on a per diem basis based on an eight (8) hours' working day Mondays to Fridays excluding UK Bank and Public Holidays and days chargeable are calculated at the rate of one per eight (8) hours worked. Part days or excess hours, so calculated, will be invoiced unless otherwise agreed in writing, on a pro-rated basis.

4.2 Subject to reasonable notice, Mozaic's staff shall be released for holidays, occasional training, and other Mozaic matters. Time taken off for these purposes will not be chargeable.

4.3 Time chargeable includes all time worked on the assignment on or off the Client's premises and time committed at or out of Mozaic's offices due to the requirements, location and schedules of the assignment. When the Client requires significant working outside normal hours a higher fee rate will be charged and will be notified to the Client by Mozaic in writing.

4.4 Mozaic shall maintain accurate records of the time spent and materials and computer time used in providing the services in Mozaic's standard form.

4.5 Expenses incurred in the course of carrying out the services are invoiced monthly in arrears and payable by the Client. The Client will be charged for travel at Mozaic's pertaining car mileage rate, and aircraft, train, taxi or public transport charges as incurred.

4.6 Any equipment, software or services for which Mozaic has detailed a fixed price will be invoiced upon delivery.

#### 4.7 Invoicing and Payment

4.7.1 Invoices will normally be raised monthly where credit terms have been agreed and are payable in full within thirty (30) days of the date of invoice.

4.7.2 Unless stated otherwise, the Client agrees to pay the amounts due in respect of fees and expenses incurred in connection with the contract, plus Value Added Tax at the prevailing rate.

#### 4.8 Overdue Accounts

4.8.1 Fees and expenses as stated above are payable in full and payment cannot be set off, delayed or deferred pending the outcome of any claim which may be made by the Client.

4.8.2 If the Client fails to make any payment when due then in addition to the fees payable (and without prejudice to any other right of Mozaic), interest shall accrue on the amount outstanding on a day to day basis from the due date in accordance with the Late Payment of Commercial Debts (Interest) Act 1998. Mozaic may also without notice suspend further performance of the services until such non-payment is remedied.

### 5. TIMING AND STAFFING

Where for any reason the Client is unable to provide facilities or access to relevant staff as required implicitly or explicitly by the Contract, or where Client data or information provided is poor quality Mozaic will be entitled to charge the Client in respect of extra time worked or delays incurred by persons assigned to perform the services.

### 6. APPROVAL

Approval of services provided on a per diem basis will normally be by the issue by Mozaic of either a weekly timesheet/monthly report of services provided. Mozaic requires notification within 5 days of receipt of the services of any disagreement with their content or disputed hours, otherwise the services will be deemed accepted.

### 7. RECRUITMENT OF STAFF

The Client shall not solicit nor endeavour to entice away from Mozaic any employee engaged in the provision of the services to provide services for the Client similar to the services other than pursuant to the Contract either during or within one year after the term of the Contract nor permit or procure others to do so

### 8. TERMINATION

8.1 Either party may (without prejudice to its other rights against the other party) by written notice to the other party summarily suspend or terminate the Contract in the event that the other party:

8.1.1 has entered into any composition or arrangement (whether formal or informal) with his/its creditors or has a bankruptcy order made against him or has been made the subject of an application for an interim order under Section 253 of the Insolvency Act 1986 or has an interim receiver of his property appointed under Section 286 of the Insolvency Act 1986 or becomes the subject of a voluntary arrangement under Section 1 of the Insolvency Act 1986 or has a receiver manager administrator or administrative receiver appointed of its undertaking assets or income or any part thereof or has passed a resolution for its winding up or has a petition presented to any Court for its winding up or for an administration order.

8.1.2 shall be in breach of the terms and conditions of the Contract and fail to rectify such breach within thirty (30) days of receipt of written notice requiring it to do so.

## **9. EXCLUSIONS**

9.1 Except as specified in clause 2.1.2 no condition or warranty is made or to be implied, whether by statute or common law or otherwise, as to the quality or fitness for purpose of any services, equipment or software supplied.

9.2 Mozaic's liability shall be limited as set out in this clause 9.2. In this clause 9.2 'Claim' shall mean any claim against Mozaic whether in contract, strict liability or tort (including negligence) or otherwise:

9.2.1 Notwithstanding any other provision of this clause 9.2, Mozaic's liability for loss or damage in respect of death or personal injury resulting from Mozaic's negligence shall be unlimited;

9.2.2 Mozaic will have no liability for any Claim or potential Claim except with respect to personal injury or death resulting from negligence unless the Client shall have notified Mozaic in writing within six months after such Claim or potential Claim shall have come to the knowledge of the Client;

9.2.3 Mozaic's liability for any Claim in respect of physical damage to the Client's or any other property caused by Mozaic shall be limited in aggregate to a maximum of one million pounds sterling (£1,000,000.00);

9.2.4 Mozaic will have no liability for any Claim for loss of revenue or profits, loss of anticipated savings, loss of goodwill or injury to reputation, loss of business opportunity, loss or damage to or corruption of data, losses suffered by third parties or indirect, consequential or special loss or damage, regardless of whether Mozaic knew of had reason to know of the possibility of the loss, injury or damage in question;

9.2.5 Mozaic's aggregate liability for all Claims under or in relation to any specific Contract shall be limited to a maximum of 125% of the aggregate fees paid and payable with respect to the specific Contract under or in relation to which the Claims arise.

## **10. CONFIDENTIALITY**

10.1 The terms of the Contract and all information of a technical nature disclosed by either party its servants agents or contractors to the other party in connection herewith are supplied in confidence and shall be treated by the other party as confidential and shall not without the prior written consent of the party disclosing such information be divulged to any person other than those persons to whom it is necessary to supply such information to enable the services to be provided. The party who receives such information shall procure

that any such persons to whom such information is divulged shall themselves observe the requirements of this clause. This clause shall be of effect notwithstanding the performance or termination of the Contract.

10.2 Notwithstanding the content of the Contract and the fact that information provided by the Client to Mozaic will be held in our systems, which are located on our premises or those of an appointed third party. We may also allow access to the information to other third parties who act for us for the purposes set out in the Contract or for other purposes approved by the Client.

## **11. GENERAL**

11.1 No person who is not a party to the Contract (including without limitation any employee, officer, agent, representative, or sub-contractor of either the Client or Mozaic) shall have any right to enforce any term of the Contract, which expressly or by implication, confers a benefit on him without the prior agreement in writing of both parties, which agreement should refer to this clause.

11.2 Headings used in these terms of business are provided for ease of reference only and shall not affect the construction thereof.

11.3 Neither party shall be liable to the other for any breach of these terms of business or the Contract caused directly or indirectly by anything outside its reasonable control including (without limitation to the generality of the foregoing) war, hostilities, government action, breakdown, delay in transportation, any form of labour dispute, fire, flood or act of God.

11.4 In the event of any inconsistency between the quotation, proposal, tender, specification or any other Contract document and these terms of business, these terms of business shall prevail.

11.5 The invalidity or unenforceability for any reason of any clause of these terms of business or any part thereof shall not prejudice or affect the validity or enforceability of the remainder.

11.6 No forbearance delay or indulgence by either party in enforcing the provisions of these terms of business shall prejudice or restrict the rights of that party nor shall any waiver of its rights operate as a waiver of any subsequent breach.

11.7 All notices which are required to be given hereunder shall be in writing and sent (in the case of Mozaic) to its registered office at 1 King William Street, London, EC4N 7AF marked for the attention of the Contracts Manager and (in the case of the Client) to its registered office address.

11.8 The Client shall advise Mozaic of (i) any special health and safety hazards/risks and steps the Client has taken to prevent or control such risk and (ii) any requirements imposed by law or by any professional body, which must be satisfied for the relevant position.

11.9 Mozaic does not warrant the performance of any third party services, software or products purchased as part of or associated with the services and is not responsible for levels of performance, service levels, bugs, errors or omissions in any third party services software or products.

11.10 Mozaic shall be entitled to publicise the existence of the Contract.

## Terms of Business

11.11 These terms of business shall be construed according to the law of England, and the parties submit to the non exclusive jurisdiction of the English courts.

## **Section B: FIXED PRICE TERMS OF BUSINESS**

### **1. TERMS OF BUSINESS**

1. These terms of business shall apply to any fixed price contract ('the Contract') between Mozaic-Services Limited, ('Mozaic') and the organisation which is to receive a service from Mozaic, ('the Client') to the exclusion of any other terms.

### **2. ALTERATION**

If there is a requirement for a change to the scope or specification of any part of the Contract arises, Mozaic will estimate the increase in cost necessary to complete the services due to the change, if any, at Mozaic's pertaining per diem fee rates and will normally agree to the change if the Client accepts any extra cost involved.

### **3. RESPONSIBILITIES**

#### **3.1 Mozaic**

3.1.1 The services to be provided under the Contract are detailed in Mozaic's quotation, proposal or tender ('the services') and will, subject to the provisions of these terms of business, be provided by Mozaic on a fixed price basis.

3.1.2 Mozaic undertakes to assign competent and suitably qualified individuals on a fixed price basis to provide the services with reasonable skill and care.

3.1.3 Mozaic's documentation formats, standards and methodologies will be followed unless agreed to the contrary.

3.1.4 Where Mozaic has been requested to provide equipment, licensed software, or services to the Client, the Client shall provide a suitable environment for installation. The Client shall be responsible for complying with all third party, end-user, licence or other agreement or terms and conditions (a copy of which can be provided upon request if not enclosed within our quotation, proposal or tender).

3.1.5 Where Mozaic uses the Internet, a web site or telecommunication link to provide some of the services Mozaic shall not be liable for failing to provide such services to the extent such failure is due to the failure of the whole or part of the Internet or telecommunication link, unless such telecommunication link is the express responsibility of Mozaic to provide and maintain.

#### **3.2 Client**

3.2.1 The Client is responsible for accurately specifying the services and any output produced during the course of the Contract once formally accepted by the Client and for ensuring that such specification meets the Client's requirements. Mozaic shall have no responsibility for the content of any such specification.

3.2.2 The Client will ensure that Mozaic's staff whilst at the Client's premises are provided during the Client's normal working hours (or such other times as may be agreed) with reasonable working conditions which meet the minimum standard laid down in the current Health and Safety Legislation, computer facilities (including computer consumables, storage and data preparation facilities), office accommodation and facilities (including a telephone and a photocopying facility), and such assistance of the Client's employees as Mozaic shall reasonably require.



## **4. INTELLECTUAL PROPERTY RIGHTS**

4.1 The copyright and all other intellectual property rights of whatsoever nature in any programs reports or other written material of whatsoever nature created by Mozaic for the Client during the performance of the services shall be the property of Mozaic but the Client is hereby granted a perpetual non-exclusive licence to use such material for any purpose whatsoever.

4.2 The Client acknowledges that elements of the services which constitute general know-how or expertise are part of Mozaic's library of techniques and capabilities of a reusable nature etc. ('library items') and that such library items are and will remain the exclusive property of Mozaic.

## **5. PRICING STRUCTURE**

### **5.1 Invoicing and Payment**

5.1.1 Fixed price services will be invoiced based on the payment schedule which has been detailed within Mozaic's quotation, proposal or tender. Invoices are payable in full within thirty (30) days of the date of invoice.

5.1.2 Unless stated otherwise, the Client agrees to pay the amounts due, plus Value Added Tax at the prevailing rate. The Client shall make all payments due to Mozaic without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Client has a valid court order requiring an amount equal to such deduction to be paid by Mozaic to the Client.

5.1.3 For any per diem services provided expenses incurred in the course of the services are invoiced in arrears and payable by the Client. The Client will be charged for travel at Mozaic's pertaining car mileage rate, and aircraft, train, taxi or public transport charges as incurred.

### **5.2 Overdue Accounts**

5.2.1 The fixed price and any additional charges are payable in full and payment cannot be set off, delayed or deferred pending the outcome of any claim which may be made by the Client.

5.2.2 If the Client fails to make any payment when due then in addition to the prices payable (and without prejudice to any other right of Mozaic), interest shall accrue on the amount outstanding on a day to day basis from the due date in accordance with the Late Payment of Commercial Debts (Interest) Act 1998., Mozaic may also without notice suspend further performance of the services until such non-payment is remedied.

5.2.3 Any services carried out by Mozaic's for the Client that is outside the scope of the services, after the completion or acceptance of the services or is not covered by a separate contract, will be charged at Mozaic's pertaining per diem fee rates. All per diem services arising from the Contract will be subject to Mozaic's per diem terms of business a copy of which is available on request.

## **6. TIMING AND STAFFING**

6.1 Timescales and staffing details given in any report, quotation, proposal, tender, plan or other document or presentation are included as an estimate only and a guide to the Client and are not specific commitments or obligations unless explicitly stated otherwise.

6.2 Where for any reason the Client is unable to provide facilities or access to relevant staff as required implicitly or explicitly by the Contract, or where Client data or information provided is poor quality Mozaic will be entitled to charge the Client in respect of extra time worked or delays incurred by persons assigned to perform the services and to adjust progress payments accordingly.

## **7. RECRUITMENT OF STAFF**

7.1 The Client shall not solicit nor endeavour to entice away from Mozaic any employee engaged in the provision of the services to provide services for the Client similar to the services other than pursuant to the Contract either during or within one year after the term of the Contract nor permit or procure others to do so.

## **8. TERMINATION**

8.1 Either party may (without prejudice to its other rights against the other party) by written notice to the other party summarily suspend or terminate the Contract in the event that the other party:

8.1.1 has entered into any composition or arrangement (whether formal or informal) with his/its creditors or has a bankruptcy order made against him or has been made the subject of an application for an interim order under Section 253 of the Insolvency Act 1986 or has an interim receiver of his property appointed under Section 286 of the Insolvency Act 1986 or becomes the subject of a voluntary arrangement under Section 1 of the Insolvency Act 1986 or has a receiver manager administrator or administrative receiver appointed of its undertaking assets or income or any part thereof or has passed a resolution for its winding up or has a petition presented to any Court for its winding up or for an administration order.

8.1.2 shall be in breach of the terms and conditions of the Contract and fail to rectify such breach within thirty (30) days of receipt of written notice requiring it to do so.

## **9. EXCLUSIONS**

9.1 Except as specified in clause 3.2 no condition or warranty is made or to be implied, whether by statute or common law or otherwise, as to the quality or fitness for purpose of any services supplied.

9.2 Mozaic's liability shall be limited as set out in this clause 10.2. In this clause 10.2 'Claim' shall mean any claim against Mozaic whether in contract, strict liability or tort (including negligence) or otherwise:

9.2.1 Notwithstanding any other provision of this clause 10.2, Mozaic's liability for loss or damage in respect of death or personal injury resulting from Mozaic's negligence shall be unlimited;

9.2.2 Mozaic will have no liability for any Claim or potential Claim except with respect to personal injury or death resulting from negligence unless the Client shall have notified Mozaic in writing within six months after such Claim or potential Claim shall have come to the knowledge of the Client;

9.2.3 Mozaic's liability for any Claim in respect of physical damage to the Client's or any other property caused by Mozaic shall be limited in aggregate to a maximum of one million pounds sterling (£1,000,000.00);

9.2.4 Mozaic will have no liability for any Claim for loss of revenue or profits, loss of anticipated savings, loss of goodwill or injury to reputation, loss of business opportunity, loss or damage to or corruption of data, losses suffered by third parties or indirect, consequential or special loss or damage, regardless of whether Mozaic knew or had reason to know of the possibility of the loss, injury or damage in question.

9.2.5 Mozaic's aggregate liability for all Claims under or in relation to any specific Contract shall be limited to a maximum of 125% of the aggregate fees paid and payable with respect to the specific Contract under or in relation to which the Claims arise.

## **10. CONFIDENTIALITY**

10.1 The terms of the Contract and all information of a technical nature disclosed by either party its servants agents or contractors to the other party in connection herewith are supplied in confidence and shall be treated by the other party as confidential and shall not without the prior written consent of the party disclosing such information be divulged to any person other than those persons to whom it is necessary to supply such information to enable the services to be provided. The party who receives such information shall procure that any such persons to whom such information is divulged shall themselves observe the requirements of this clause. This clause shall be of effect notwithstanding the performance or termination of the Contract.

10.2 Notwithstanding the content of the Contract and the fact that information that you provide to Mozaic will be held in our systems, which are located on our premises or those of an appointed third party, we may also allow access to the information to other third parties who act for us for the purposes set out in the Contract or for other purposes approved by you.

## **11. GENERAL**

11.1 No person who is not a party to the Contract (including without limitation any employee, officer, agent, representative, or sub-contractor of either the Client or Mozaic) shall have any right to enforce any term of the Contract, which expressly or by implication, confers a benefit on him without the prior agreement in writing of both parties, which agreement should refer to this clause.

11.2 Headings used in these terms of business are provided for ease of reference only and shall not affect the construction thereof.

11.3 Neither party shall be liable to the other for any breach of the Contract caused directly or indirectly by anything outside its reasonable control including (without limitation to the generality of the foregoing) war, hostilities, government action, breakdown, delay in transportation, any form of labour dispute, fire, flood or act of God.

11.4 In the event of any inconsistency between the quotation, proposal, tender, specification or other document and these terms of business, these terms of business shall prevail unless explicitly agreed otherwise.

11.5 The invalidity or unenforceability for any reason of any clause of these terms of business or any part thereof shall not prejudice or affect the validity or enforceability of the remainder.

11.6 No forbearance delay or indulgence by either party in enforcing the provisions of these terms of business shall prejudice or restrict the rights of that party nor shall any waiver of its rights operate as a waiver of any subsequent breach.

11.7 All notices which are required to be given hereunder shall be in writing and sent (in the case of Mozaic) to its registered office at 1 King William Street, London, EC4N 7AF marked for the attention of the Contracts Manager and (in the case of the Client) to its registered office.

11.8 Mozaic does not warrant the performance of any third party services, software or products purchased as part of or associated with the services and is not responsible for levels of performance, service levels, bugs, errors or omissions in any third party services software or products.

11.9 Mozaic shall be entitled to publicise the existence of the Contract.

11.10 These terms of business shall be construed according to the law of England, and the parties submit to the non exclusive jurisdiction of the English courts.