



# How We Work

*Our Principles and Legal Terms of Business*



Your contract with the Insight group of companies, including Non Disclosure Undertaking



Insight Group of Companies

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# Principles and Terms of Business

We like to keep things simple, so here are our terms of business summarised in seven short principles. Our more detailed terms of business and signature clauses for acceptance follow after.

## Our principles of business

### The Principle of Partnership

We act as consultants to our clients. The best outcome for us is for our clients to become more successful at what they do. When our service to you helps you achieve that we will be successful too. Working together in this way is a win: win for both of us. We are on the same side.

### The Principle of Clarity

In order to do a great job, we need to understand your business and be really clear about what you want us to do. So before we get going we spend time clarifying your needs until you are happy we are going to deliver just what you need.

### The Principle of Value

Just as your customers value what you do we place a high value on the work we do for our clients. Sometimes there will be a cheaper provider for the work you need. You might wish to go with them and that's fine. But if we are the best for your job then you will understand why we occupy a premium pricing point in the market. If you don't think we have delivered that then you don't have to pay.

### The Principle of Care

We are meticulous about getting the details right for you and we work really hard to deliver that. We will also be careful with your confidential data, your reputation and your time.

### The Principle of Flexibility with Responsibility

We know that in business everything changes with surprising speed. We are open to the nature of the engagement changing after we have agreed the terms. If we can accommodate the change with no charge to you we will be glad to do so. If there is a cost impact, then we expect to inform you of this and check you are happy to proceed on that basis.

### The Principle of Excellence

We position ourselves at the premium end of the market for the work that we specialise in. Accordingly, we think you should expect that our work will be excellent. We take joy in doing work really well for our clients.

### The Principle of Presence

When we are instructed by you we will be fully present to you and focused upon your needs. Your consultant will not take calls or e-mails in respect of other clients. When you call, if we can take the call, we will stop and really listen. We think this makes a huge difference.

# Terms of Business

Our Terms come in three parts;

## **Part I**

Part I is our binding Non Disclosure Undertaking, which is offered to any prospective client as part of our business development process. This enables you to speak freely to us about confidential business matters with the legal protection of your business information.

As it is our undertaking to your business, you do not have to sign Part I to benefit from it. We sign it when we issue it to you.

## **Part II**

Part II are our general terms for all work types and all clients. Even if you didn't receive an NDU from us then by signing our terms you get the benefit of all of Parts I and II.

## **Part III**

Part III contains several sets of specific terms for clients which relate to the work of one specific group entity, service line or product. Your signature to this document gives you the benefit of all three Parts to our terms.

Schedule One – People.je terms

Schedule Two – Events Management, Sponsorship and Speaking terms

Together with these terms you may also wish to enter into a Variable Direct Debit mandate with us (secured by the Direct Debit Guarantee) which is enclosed with this document.

These terms may also refer to an Engagement Letter, which is a separate document, usually attached to the same e-mail.

## Part I

### Non Disclosure Undertaking

The Business<sup>1</sup> generally makes the below undertaking “the Undertaking” to prospective clients and other business contacts prior to the below Terms being agreed and coming into effect.

For Clients to whom this Undertaking has been given:

- (a) The provisions of the Undertaking shall survive the entering into of this agreement, notwithstanding the Entire Agreement clause at Clause 24;
- (b) The positive obligation upon the Business contained in Clause 19, to “use reasonable endeavours to assist the Client, or former Client, in making” [an insurance claim under the Business’ professional indemnity policy] in the event that “a Client, or former Client, believes that the Business is liable to it” [in respect of a breach or alleged breach of] “the Business’ obligations in respect of the Client’s confidential data” shall be deemed to include any breach or alleged breach of the terms of the Undertaking.

For Clients to whom the Undertaking had not been given as a prospective client up to the point of signing these Terms; it is hereby given, and indicated as so by the signature of a Director of the Business to an Engagement Letter referencing these Terms.

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#### Non Disclosure Undertaking

##### General Duty of Non-Disclosure

This Undertaking is made for the benefit of, and given to, the company which is named at the end of this Undertaking, or to which it has been provided by attachment to an e-mail which expressly refers to the benefit of the attached Undertaking, “the **Company**”.

Insight Limited (which for the purposes of this Undertaking includes its entities, directors, officers, agents, employees and representatives) agrees that it will not use, divulge or communicate to any person, firm or organisation either on its own or in conjunction with any third party, any of the trade secrets, or other confidential, technical or commercial sensitive information of the Company or any of its clients relating to the business, organisation, accounts, analysis or other affairs of the Company or its clients which Insight Limited may have received or obtained during its engagement with the Company. This includes;

1. Any information relating to the trading position of the Company including in particular names of suppliers, clients or customers;
2. Any and all information concerning the Company or any of its clients current, future or proposed products, including, but not limited to, formulae, designs, devices, computer code, drawings, specifications, notebook entries, technical notes and graphs, computer printouts, technical memoranda and correspondence, product development agreements and related agreements; and

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<sup>1</sup> Defined Terms in this Undertaking are used as defined in clause 2 of Part II of these Terms.

3. Any documentation item marked or reasonably thought of as confidential, private, secret or sensitive.

In particular, Insight Limited will not without the prior written consent of the Company, permit any confidential information:

1. To be disclosed, whether directly or indirectly, to any third party, except to those authorised by the Company to know or as required by law ; or
2. To be copied or reproduced in any form or to be commercially exploited in any way; or
3. To be used for its purposes or for any purpose other than those of the Company or to be used or published by any other person; or
4. To pass outside of its control.

Insight Limited shall be responsible to the Company for ensuring that the officers, agents, employees and representatives of Insight Limited comply with the terms of this Undertaking.

### **Miscellaneous Provisions**

If Insight Limited or any other person acting for or on its behalf becomes legally compelled to disclose any of the confidential information to any other person or entity then Insight Limited shall promptly provide written notification of such legal compulsion to the Company in order that the Company can seek a protective order or other appropriate relief to prevent disclosure and Insight Limited shall cooperate with the Company in obtaining such order or relief. If such protective or other relief is not issued Insight Limited shall only disclose such portion of the confidential information which upon the advice of counsel is required to be disclosed and Insight Limited shall exercise its reasonable efforts to obtain undertakings or assurances from any party to whom disclosure under compulsion of law is made that confidential treatment will be afforded to the disclosed information.

Upon the completion or termination of the engagement of Insight Limited by the Company Insight Limited shall promptly delete all confidential information furnished to it by the Company from any computer and backup storage system used by Insight Limited to store the confidential information and Insight Limited will either destroy or deliver to the Company all hard copy documents or materials which constitute or are derived from the confidential information and will not retain any copies or extracts of the same.

It is acknowledged and agreed by Insight Limited that the Company and its clients could suffer material financial and reputational damage if any provisions of this Undertaking are not performed in accordance with their terms or are otherwise breached. Accordingly Insight Limited confirms and acknowledges that it will be fair and reasonable for the Company acting for itself or on behalf of one or more of its clients to seek equitable relief including without limitation an injunction or injunctions to prevent breaches of this Undertaking or continued or further breaches of this Undertaking by Insight Limited or any of its agents, representatives or employees and for the Company to seek to specifically enforce this Undertaking and its provisions against Insight Limited in addition to any other remedy to which the Company or its clients may be entitled.

### **Duration**

This Undertaking is given for as long as it may be enforceable in the Courts of Jersey.

### **Governing Law**

This Undertaking is subject to the Law of Jersey and the exclusive jurisdiction of the Courts of Jersey and each of the parties submits in connection with any disputes or matter related to this Undertaking to the jurisdiction of the said courts.

Signed for Insight Limited .....

Director

Dated:.....

For the benefit of ..... (Name of Company)

## Part II

# General Terms of Business

### 1. Terms

The following terms set out the basis upon which the Business agrees to provide Services to you, the Client. It does not aim to cover all of the issues which may arise in the course of our relationship. These general Terms of Business and the Letter of Engagement or Proposal should be read together and, in the event of any conflict between the documents, the Letter of Engagement shall prevail over all of them and specific terms in Part III shall prevail over general terms in Part I.

### 2. Defined Terms

The following terms are used as defined:

**“Agreement”** – a contract between the Business and a Client on these Terms, as lawfully amended by the Parties.

**“Business”** – any Insight Group company. Reference to the Business shall include any entity which may provide Services to the Client, and is also referred to below by the pronouns **“we”**, **“us”** and **“our”**. While the business provides advice including advice as to the law, the Business is not a law firm and does not practise Jersey law pursuant to the Advocates and Solicitors (Jersey) Law 1997.

**“Client”** – the natural or legal person who instructs us to provide Services to them or on their behalf for valuable consideration. Where the context so admits **“Client”** shall also include **“Client Contact”**. See also Clause 26 **“Third Parties”**. Where a counterparty to these terms is not a Client, such as when a prospective client is relying on the Undertaking given in Part I, that Party is referred to as **“Company”**, whether or not it is actually incorporated as a company at law.

**“Client Contact”** – in the case of a Client who is a company, trust, foundation, partnership or association, the Client Contact is the designated representative of the Client who has authority to give instructions and make decisions in respect of the matter on behalf of the Client. If the Client Contact is not a director, principal, partner or other officer of the Client then we may require an additional letter of authority before we can act.

**“Client Materials”** – documents belonging to the Client in the course of its business which are provided to the Business for the fulfilment of the Contract.

**“Consultant”** – the person or persons deployed by the Business to the Client in the course of the engagement, and who may be a principal, employee or associate of the Business, or a third party contracted to the Business.

**“Contract”** – the contract between the Business and the Client for the supply of business Services in accordance with these Terms of Business. The term **“Engagement”** is used interchangeably with and has the same meaning as **“Contract”**.

**“Director”** – at all times any Director of Insight Limited, and in relation to a specific entity referred to in Part III of these Terms any Director of that entity.



**“Disbursements”** – any additional expenses incurred for or on behalf of the Client in the course of an Engagement (more particularly defined at clause 12), which are charged at cost, including GST or any other customs, taxes or on-costs, where incurred.

**“Engagement Letter”** – a specific letter or pitch or proposal document from the Business to the Client defining the scope of work, which refers explicitly to being of contractual effect and, once accepted, becomes, along with these Terms of Business, the Contract between the Client and the Business.

References to the Engagement Letter include any subsequent variation of it which may be effected by written agreement to that effect between the Parties or in the case of amendments that do not materially affect the nature or quality of the Services, may be effected by written notification to the Client.

**“Fee Estimate”** - in the case of Engagements wherein the required output(s) will require an amount of time which cannot be fixed in advance, a Fee Estimate is an indication of the contractual consideration, and the basis of calculation, for the Services set out in the Engagement Letter. The Fee Estimate is prepared on the basis of our best understanding of the facts disclosed to us and the likely time required by a reasonable professional consultant to perform the Services to a high standard. See Time Based Pricing

**“Fee Quote”** – in the case of Engagements of fixed duration of attendance or output, a Fee Quote is the contractual consideration for the Services set out in the Engagement Letter. See Value Pricing.

**“Fees”** - the consideration for the Contract, being charges for the supply of business Services by the Business to the Client in accordance with clause 11. In work that is performed on the basis of a Fee Estimate, the Fees due are the Fees reasonably calculated by the Business, and advised to the Client.

**“Insight Group”** – any or all of Insight Limited and / or any other entity which may be incorporated by, or associate with, the above listed entities or in which Insight Limited, or its principals holds greater than 14% of the shares in issue. Insight also “trades as” People.je, Human Results, Think.je, DisruptHR St Helier, DisruptHR St Peter Port, DisruptHR Channel Islands, VakueMetrix, Unfold Media, Infinity Learning, HR Nectar, Jersey Works and any other business name or service line name which may be adopted by any group entity.

**“Insight Foundation”** – the Insight Foundation is our vehicle for collecting and distributing a proportion of our revenues to good causes. The Insight Foundation is not, at present a registered Foundation under the Foundations (Jersey) Law 2009.

**“Matter”** – refers to a discrete piece of work for a Client in which Services are delivered.

**“Party / Parties”** – the Business and or the Client or Clients. In the case of the Business the legal entity entering into these Terms with the Client is Insight Limited, on its own account of for and on behalf of any or all other group entities, as the case may be.

**“Services”** – the services, supplied or to be supplied by the Business to the Client, as set out in the Letter of Engagement.

**“Time based Pricing”** – Time based pricing simply refers to a price for the performance or delivery of Services in which the Parties agree at the outset an hourly or daily rate of fees, which the client will be billed and be liable. See Fee Estimate.

**“Terms”** – this document.

**“Value Pricing”** – Value Pricing simply refers to a price for the performance or delivery of Services, which is agreed by the Parties at the outset and in which the Business takes the risk of any cost overrun. See Fee Quote.

**“Undertaking”** – the Non Disclosure Undertaking contained at Part I of these Terms, which is given to any prospective client for the purpose of disclosures related to the negotiation of Services, and which in the case of a Client who was not given it prior to becoming a Client, is hereby given it by signing these Terms.

### **3. Interpretation**

Any words following the terms “including”, “include”, “in particular”, “for example” or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

A reference to writing or written includes emails, but not other forms of electronic communication.

### **4. Client Acceptance**

The Business will not accept a new Client if to do so would present a material commercial conflict of interest with another existing client, without the informed consent in writing of both the prospective Client and the existing client. The Business will endeavour to resolve the question of the existence of any conflict of interest within 48 hours of a new instruction to act.

### **5. Term**

The Contract commences when the Business receives from the Client a copy of each of the Engagement Letter and these Terms of Business signed by the Client Contact on behalf of the Client, or otherwise receives written confirmation that that the same are agreed.

No contractual obligations exist between the Client and the Business until written confirmation of acceptance of the Engagement Letter and these Terms of Business has been received by the Business.

These Terms of Business apply to the Contract to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing, unless such terms are accepted in writing by a Director of the Business explicitly referencing this numbered clause.

Any Fee Estimate or Fee Quote given by the Business to the Client shall not constitute an offer and is only valid for a period of 20 business days from its date of issue.

Unless the parties agree otherwise each Engagement Letter, Pitch, Proposal or Scope of Works agreed shall create a distinct Contract under these Terms of Business.

The Contract is completed upon payment by the Client of all outstanding Fees and Disbursements due under the Contract. See below under “Post Contractual Obligations”, “Intellectual Property” and “Data and Confidentiality” for binding terms that commence before the commencement of the Contract or persist after it.

### **6. Services**

The Business shall supply the Services to the Client in accordance with the Engagement Letter.

The Business shall use all reasonable endeavours to meet any performance dates specified in the Engagement Letter, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services, unless expressly agreed.

### **7. Location**

The Services may be performed at the Client’s premises and/or those of the Business, which will be decided according to the nature of the Services and the discretion of the Business.

## 8. Secondment

If the provision of Services requires the long term deployment of a Consultant of the Business to the premises of the Client, then the work at the discretion of the Business may be performed as a secondment. The additional terms of the secondment will be appended to the Engagement Letter. At no time will the Consultant be regarded in Law as the employee of the Client.

## 9. Client's obligations

The Client shall:

- (a) ensure that the scope of the proposed Services as set out in the Engagement Letter is complete and accurate;
- (b) co-operate with the Business in all matters relating to the Services;
- (c) provide the Business, its employees, agents, consultants and subcontractors, with access to the Client's premises, office accommodation and other facilities as reasonably required for the fulfilment of the Engagement;
- (d) provide the Business with such information and materials as the Business may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
- (e) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start; and
- (f) comply with all applicable laws, including health and safety laws.
- (g) comply with all relevant data protection, privacy and confidentiality laws

If the Business's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Client or failure by the Client to perform any relevant obligation ("**Client Default**"):

- (a) without limiting or affecting any other right or remedy available to it, the Business shall have the right to suspend performance of the Services until the Client remedies the Client Default, and to rely on the Client Default to relieve it from the performance of any of its obligations in each case to the extent the Client Default prevents or delays the Business's performance of any of its obligations;
- (b) the Business shall not be liable for any costs or losses sustained or incurred by the Client arising directly or indirectly from the Business's failure or delay to perform any of its obligations as set out in this clause 9; and
- (c) the Client shall reimburse the Business on written demand for any costs or losses sustained or incurred by the Business arising directly or indirectly from the Client Default.

## 10. Management of an Engagement

The Business reserves the right to deploy any principal, employee, associate or associated business in the course of provision of Services to a Client. The anticipated personnel to be deployed on an Engagement may be indicated in the Engagement Letter which the Parties understand to be a non-binding clause of that Engagement Letter. At all times the Engagement will be overseen by a Director of the Business, to whom the Client Contact may speak at any time.

## 11. Fees

The Fees for the Services shall be calculated on either a "Fee Quote" or a "Fee Estimate" basis, as set out in the Engagement Letter. See Value Pricing and Time Based Pricing.

In relation to a Fee Quote Engagement (Value Pricing) the fee is only subject to a possible increase only if the scope of work changes, and the Client Contact indicates written agreement to the revised Fee

Quote, or if the Client cancels or postpones delivery of any or all of the Services within 14 days of the agreed and scheduled dates of delivery.

In relation to a Fee Estimate (Time Based Pricing) Engagement the following terms apply:

- (a) the Fees shall be calculated in accordance with the Business's daily or hourly fee rates as set out in Part III of these terms or in the Letter of Engagement, Pitch or Proposal;
- (b) the smallest unit of Fees charged is half of one day and all fractions of a day smaller than this will be rounded up to the next half day;
- (c) time incurred in relation to preparation for delivery of Services which the Client has cancelled or postponed may still be charged on a time incurred basis, and any costs to the Business of the time of third parties engaged for the delivery of Services which the Client has cancelled or postponed may be charged to the Client;
- (d) Engagements that require work of an unusual complexity, urgency, importance, or which require significant amounts of unsociable hours may be charged at a higher rate. We will agree any such enhanced Fees with you before carrying out the relevant Services; and,
- (e) the Business will invoice the Client for the Fees and Disbursements, on completion of the Services or in the case of longer Engagements monthly in arrears.

In relation to all Fees.

- (a) all Fees are charged in pounds sterling. In the calculation of Fees pence are ignored; and
- (b) Insight Limited is not currently registered for Jersey Goods and Services Tax (GST) and GST is not therefore charged on Fees. At such time as Insight must lawfully collect GST from its clients then this term is amended to indicate that such additions will be levied on behalf of the Government of Jersey and remitted in the manner required by law.

## **12. Disbursements and Client Account**

If set out in the Engagement Letter, the Business shall be entitled to charge the Client for any expenses reasonably incurred by the individuals whom the Business engages in connection with the Services, and for the cost of services provided by third parties and required by the Business for the performance of the Services, and for the cost of any materials. All such Disbursements are included as a separate line on the invoice.

For engagements which require the business to deploy a consultant overseas or overnight then the Business' Travel Policy shall be applied, at the expense of the Client.

In respect of work in which the business is holding funds on behalf of a Client, such as in operating an outsourced payroll service, the following terms shall apply:

- (a) the funds, along with those of other Clients, shall be kept in a separate bank account from those of the Business;
- (b) a book of account shall be kept to record deposits and withdrawals of Client funds from the Clients account;
- (c) the funds may be recalled by the client at one working days' notice, unless any fees are due from that Client in which case they may be withheld pending resolution of the arrears;
- (d) no interest is payable to the Business in respect of the funds and therefore none can be paid to the Client;
- (e) any transmission or banking charges incurred by the Business in respect of transactions with Clients in respect of the Clients account may be deducted from the amount to be transmitted or charged to the Client as a disbursement;

- (f) The Business is not a regulated Investment Business nor Trust Company Business per the definitions of the Jersey Financial Services Commission and the law, and therefore the terms of the Financial Services (Investment Business (Client Assets)) (Jersey) Order 2001 and the Financial Services (Trust Company Business (Assets – Customer Money)) (Jersey) Order 2000 do not apply to the holding of Client funds in the Client account.

### **13. Payments**

Statements, where issued, are not for payment and are merely for information to advise the Client of the progress of a matter and the amount of time incurred against a Fee Estimate.

Invoices are payable by direct debit to bank account 20-45-05 23620824 or such other bank account nominated in writing by the Business from time to time. In accordance with the rules of the Direct Debit Guarantee, clients will be notified by e-mail of the amount to be collected at least seven days prior to collection of the fees invoiced.

If a direct debit is cancelled by a Client without due notification then the Business reserves the right to levy a charge of £150 in respect of the additional accounting time and banking fees incurred.

If a direct debit is not possible then the Business reserves the right to apply a small surcharge in respect of the additional administration and charges for cheque, PayPal, BACS or other form of payment.

Time for payment shall be of the essence of the Contract. In the event that Fees remain unpaid in breach of Contract the Business reserves the right at its discretion to either cease working on any matter(s) for the Client and retain Client Materials or further provision of Services until such time as the debt is cleared or in the alternative to terminate this Contract by written notice with immediate effect.

If an account is in arrears and the Business is exposed to either or both of recovery costs and accounting time in respect of the debt, such costs may be added to the amount due from the Client, with a minimum amount of £150 being incurred for the investigation and notification of arrears, and for each calendar month in which the debt is being managed by the Business.

### **14. Fee Disputes and Value for Money**

If a Client believes that a Statement or Invoice is incorrectly calculated then she or he should inform the Business in writing within three working days of receipt of the statement or invoice. Upon receipt of such a notification the Business will revoke the Statement or Invoice and either restate or revise and reissue it within seven days.

We believe our Clients should expect an excellent quality of Service from the Business, such high standards of professional expertise being reflected in the level of our Fees.

Certain entities in the Business operate a contractual “Pay what you think it’s worth” policy, which may be incorporated into this Agreement by reference to this paragraph within the relevant section of Part III or by explicit reference in the Engagement Letter, Pitch or Proposal. For those Engagements to which this policy applies, the following is agreed: If a Client feels that this is not achieved in any particular Engagement then, following a formal discussion between the Client Contact and a Director of the Business, the Client is invited to “pay what you think it’s worth”, the excess being written off by the Business. In the event that this “client satisfaction money back guarantee” is exercised in relation to an invoice for a matter that has further future provision of Services, then the Business reserves the right to cease provision of Services with immediate effect and to terminate the Contract. Cancellation or postponement fees raised under clause 11 of this Agreement, being fees for which, by their nature, no value is delivered, and account management fees and charges raised under clause 13 of this Agreement, are not subject to Client requests for write off under this paragraph.

If a Client believes that the Services delivered are worth more than the Fees charged then the Business invites the Client, at its absolute discretion, to make a contribution to the Insight Foundation, which exists to contribute money and services to good causes.

## **15. Data and Confidentiality**

The Business is a data controller, registered with the Jersey Office of the Information Commissioner with notification number 64966. All Client Information, including documents, electronic files and manuscript notes, which may include sensitive or personal information will be held securely according to the Business' Information Security Policy and in accordance with all applicable laws, enactments, regulations, orders, standards and other similar instruments. The Client Contact may inspect the Business' files in respect of that Client at any time with reasonable notice.

The Business recognises that the business affairs of the Client are confidential and, except where compelled by law, will not disclose the nature or details of any client Engagement to a third party without the written consent of the Client Contact.

The fact that the Client has engaged the Business is not a confidential matter, unless the Client Contact has explicitly requested that it be regarded as such in writing.

In the event that the Business meets with a prospective client prior to an Engagement being agreed, the Business affirms that any Client Information disclosed in such meeting is confidential, whether or not a contract is later entered into in respect of the prospective Engagement, and that the Undertaking contained in Part I applies to same.

The Business uses various cloud computing services which may result in Client Information being stored on third party servers located outside of the EU / EEA.

The Client owes the Business a reciprocal duty of confidentiality in like terms to those set out in this clause and in Part I of this Agreement, *mutatis mutandis*.

## **16. Intellectual Property**

The Business has invested considerable resources in the creation of templates, knowhow, drafting tools and other intellectual property. The Client acknowledges at all times that the Business is the owner of all such invention and designs, whether or not such inventions have been patented, registered as a trade mark or service mark or other process of law. Insight owns the copyright to all materials produced by the Business, and no materials may be duplicated without explicit license from the Business.

The Services may include the provision of documents designed for the Client and / or for the Client to issue to its Employees or Subcontractors. All property rights in such designs remain with the Business until such time as the applicable Fees are paid in full. After the Fees are paid the work is licensed to the Client. The Client shall have limited license to use the work in the course of its business and to alter or amend the work as it sees fit. The Client does not have the right to publish the work or sell or give the work to a third party, or to share the work with a competitor of the Business without the written permission of the Business.

The Client provides the Business a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify any materials provided by the Client to the Business for the term of the Contract for the purpose of providing Services to the Client.

## **17. Post Contractual Obligations**

The Business' obligations in respect Client confidentiality persist in perpetuity, or until such time as the Client revokes these obligations in writing. This obligation includes any confidentiality duties imposed by incorporation of the Undertaking contained at Part I to these Terms.

The Client's obligations in respect the intellectual property and confidentiality of the Business persist in perpetuity, or until such time as the Business revokes these obligations in writing.

In addition, the Client and the Business covenant with each other for a period of twelve months after the end of the Contract not to canvas, solicit or approach the employees or subcontractors of the other party in respect of potential recruitment, or trade or business opportunities in either party for themselves or on behalf of a third party.

In the event that the Client employs or does business with a former employee or subcontractor in breach of this covenant then the Client shall have the duties to:

- (a) Notify the Business, as soon as any offer of employment or business is made and / or accepted to a former employee or subcontractor of the Business, within twelve months of the end of the Contract;
- (b) Reply to the Business, within five working days, providing full details to any enquiry made either in response to such a notification or upon the discovery by the Business of such a breach of covenant in further breach of the above duty; and,
- (c) Settle, upon demand, any demand from the Business for the fees it could have charged the Client had the former employee or former subcontractor, irrespective of whether the Client would have actually engaged the Business for such work and without deduction of any fees or wages the Client has paid or owes to the former employee or former subcontractor. The parties agree that this right of payment is not subject to the "client satisfaction money back guarantee" contained at clause 14 of this Agreement.

#### **18. Warranties**

The Business warrants to the Client that it has the legal right and authority to enter into this Contract, providing that the signature at the foot of the Engagement Letter accompanying these terms, or that the sending account of an e-mail explicitly referencing these terms, is that of a director of the Business.

The Client Contact warrants to the Business that she or he has the legal right, capacity and authority to enter into this contract, binding upon the Client.

The Client warrants that all relevant information supplied to the Business as is required for the delivery of the Services to a high professional standard has been disclosed to the Business, and accepts responsibility for any consequences of any error or omission in fact on the part of the Business arising from its own non-disclosure of material facts.

The Business warrants that any Services supplied will be to a reasonable professional standard, taking into account the current applicable law and commonly accepted best practices, on the basis of the facts disclosed to it by the Client.

All of the parties' warranties and representations are contained within these Terms of Business and the Letter of Engagement. No other warranties or representations whether oral or in writing will be implied into this Contract unless expressly agreed in writing as such by a director of the Business and the Client Contact.

#### **19. Limitations and Exclusions**

Nothing in these terms will limit or exclude liability for death or personal injury as a result of negligence; or for fraud or fraudulent misrepresentation; or any exclusion or limitation that is not permitted under the Laws of Jersey.

In respect of any liability on the part of the Business to the Client in respect of the quality or performance of the Services then the extent of liability is limited to the value of the Fees paid by the Client for the matter.

In respect of any liability on the part of the Business to the Client in respect of the Business' obligations in respect of the Client's confidential data then the extent of liability is capped at the value of three million pounds sterling, being the sum insured under the Business' Professional Indemnity policy. In the event that a Client, or former Client, believes that the Business is liable to it in this respect then the Business shall use reasonable endeavours to assist the Client, or former Client, in making a claim under said policy. In the event that the Business' insurer refuses, for whatever reason to meet the claim in full, then the Business' liability is capped at the level to which the insurer does make payment under the policy, plus any policy excess applying to the claim.

Subject to the foregoing provisions of this clause, the Business shall not be otherwise liable to the Client, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract for (a) loss of profits; (b) loss of sales or business; (c) loss of agreements or contracts; (d) loss of anticipated savings; (e) loss of use or corruption of software, data or information; (f) loss of damage to goodwill; and (g) any indirect or consequential loss.

Nothing in these terms shall convey any rights on persons other than the parties, which shall include their agents, assignees or successors.

This clause 19 shall survive termination of the Contract.

## **20. Termination**

Without affecting any other right or remedy available to it, either party may terminate this Contract before completion of the Services by giving the other party a full calendar month's prior written notice.

Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within a full calendar month of that party being notified in writing to do so;
- (b) the other party (being a limited liability company) enters into liquidation whether compulsory or voluntary (except for the purpose of reconstruction, amalgamation or other similar purposes not involving a realisation of assets) or becomes bankrupt or insolvent under the Law of Jersey or shall permit or suffer any judgement to be taken against it in any Court;
- (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- (d) the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

Without affecting any other right or remedy available to it, the Business may terminate the Contract with immediate effect by giving written notice to the Client if the Client fails to pay any amount due under the Contract on the due date for payment.

Without affecting any other right or remedy available to it, the Business may suspend the supply of Services under the Contract or any other contract between the Client and the Business if the Client fails to pay any amount due under the Contract on the due date for payment, the Client becomes subject to any of the events listed in the foregoing provisions of this clause 20 or the Business reasonably believes that the Client is about to become subject to any of them.



## **21. Consequences of termination**

On termination of the Contract:

- (a) the Client shall immediately pay to the Business all of the Business's outstanding unpaid invoices. In respect of Services supplied but for which no invoice has been submitted, the Business shall submit an invoice, which shall be payable by the Client immediately on receipt;
- (b) save for when a clause in Part III of these Terms indicates otherwise, in respect of Engagements that require, as part of delivery of the Services, the production of unique materials, if the termination occurs over 14 days' prior to the commencement of work on the materials then the termination is free of additional charge. If the termination is between 7 and 13 days before the commencement of work then the termination will be charged at 50% of the value of the work. For any terminations with less than 7 days' notice, or after the work has commenced, then the cancelled work will be fully chargeable.
- (c) save for when a clause in Part III of these Terms indicates otherwise, in respect of Engagements that require the exclusive scheduling of a specific date and time, such as delivery of a workshop or attendance at an interview panel, any postponement or termination will be charged as follows. For postponement or termination over 14 days before the event there is no charge. For postponement or termination between 7 and 13 days prior to the event there will be a 50% charge and for events postponed or cancelled with less than a week's notice the scheduled slot will be charged in full. Cancellation charges will be payable in full unless the Client wishes to use the time they have purchased for some alternative service, that is within the scope of the Business.
- (d) the Client shall return all of the Business Materials and any documents or goods forming part of the Services provided which have not been fully paid for. If the Client fails to do so, then the Business may enter the Client's premises and take possession of them. Until they have been returned, the Client shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract;
- (e) termination of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
- (f) any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after completion or termination of the Contract shall remain in full force and effect.

## **22. Notices**

Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case), or sent to its main fax number or sent by email to the address notified to the party giving such notice.

Any notice or other communication shall be deemed to have been received: if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; if sent by pre-paid first class post or other next working day delivery service, at 10.00 am on the second business day after posting or at the time recorded by the delivery service; or, if sent or email, at 10.00 am on the next business day after transmission.

This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

## **23. Force majeure**

Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control.

## **24. Entire agreement**

The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

Nothing in this clause shall limit or exclude any liability for fraud.

## **25. Waiver**

A waiver of any right or remedy under this Contract or by law is only effective if given in writing, by a Director in the case of the Business or by the Client Contact or a Director in the case of a Client, and shall not be deemed a waiver of any subsequent breach or default. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

## **26. Third Parties**

The rights of the Business under this contract may be exercised, on behalf of the Business, by any parent company, sibling company or subsidiary, or by a principal, member or director of any group entity for and on behalf of the Business.

Any rights and obligations under this contract may be binding upon the parent company, sibling company or subsidiary of the Client to the extent that (a) the signatory below, or the sender of the e-mail accepting these terms, has capacity to enter into contractual relations for the third party in question and (b) it is accepted by the third party that any reliance upon the benefit of a right under this contract implies the acceptance of all of the burdens thereunder.

In the event that the Client's business is merged, taken over or the legal entity is otherwise changed, then this contract shall be binding between the Business and the Client's successor(s) in title.

In the event that the Business shall cease to trade for whatever reason then the confidentiality obligations under this contract shall remain binding upon the Directors, officers and employees of the Business, with the Director signing below, or sending an e-mail offering these terms, covenanting on behalf of all other directors and officers in this regard, including future Directors and officers, and covenanting to contract with the present and future employees and to similar effect.

**27. Good Faith**

With regard to their respective obligations under this contract the parties agree and covenant with one another that it shall act in good faith and deal fairly with the other party.

**28. Jurisdiction**

The parties agree that this agreement is made subject to the Laws of Jersey and the exclusive jurisdiction of the courts of Jersey.

Signed by a director of Insight Group

.....

Dated

Signed by the Client Contact for and on behalf of the Client

.....

Name.....

Role.....

Entity .....

Dated.....

## Part III

### Schedule One - Specific Terms of Business – People.je



People.je is our fixed price employment advisory service for small businesses clients in Jersey.

#### 1. Terms

The following terms are additional to the General Terms and specific to Clients of one or more entities or service lines within the Insight Group. To the extent necessary these terms prevail over the General Terms set out in Part II of this Agreement.

#### 2. Defined Terms

The following additional terms are used as defined in this Part:

**“People.je”** – is Insight’s People.je retained human resources advisory and outsourcing programme which contains ten defined fully inclusive services, which may be taken separately or together, on a fixed monthly fee. Note that the People-Advice service must be selected, if any other Services are also selected.

**“Monthly Fee”** – an agreed fee paid at the beginning of every month for membership of the programme and entitling the Client to the Inclusive Services.

**“Inclusive Services”** – includes all the Services which a Client has chosen to include in their package. A non-contractual document detailing what each service comprises is available to Clients.

**“Additional Services”** – includes any original drafting of letters, contracts, policies, attendance at formal meetings such as dismissals, disciplinaries, mediations, interviews, delivery of seminars, training sessions, facilitation of meetings, preparation for formal attendance, completing statutory forms and returns, administering pay and benefits, and other transactional work, outside of the scope of your Services selected in a Client’s chosen package.

**“Additional Services Fees”** – a fixed fee for Additional Services, delivered on a Fee Quote basis.

#### 3. Term

Clause 5 is amended to the extent necessary to contain the following: the Contract is made without term and continues until such time as cancelled with due notice, or terminated as a result of the process in Clause 20 in relation to a material breach of these obligations by either party.

#### 4. Fees

Clause 11 is amended to the extent necessary to contain the following: in the calculation of fees for People.je Clients, fees are priced on a “per employee per month basis”. For the purpose of this calculation the definition of employee shall be that number, inclusive of principals, declared to the Population Office in the preceding Manpower Return, plus the number of subcontractors who work closely and regularly as part of the business of the Client. The calculation of headcount for the purpose of fees shall be updated six-monthly, except in the case of a major business change impacting the headcount by greater than 30% in which case the calculation shall be reworked immediately. The Client shall notify the Business of its headcount every six months in June and December.

Any Additional Services Fee shall be calculated ahead of the work being commenced, on a Fee Quote basis. The calculation shall be based on the complexity of the work and by reference to the lowest level of Consultant who could reasonably perform the services to a professional standard.

#### **5. Payments**

Clause 13 is amended to the extent necessary to contain the following: payment of the Retainer Fee shall be by direct debit on or immediately prior to the beginning of the month. Payment of any Additional Service Fees shall be collected by Direct Debit in the month following the performance of the services. Notification of the Additional Service Fees about to be collected will be given by the 25<sup>th</sup> of the preceding month.

#### **6. Value for Money**

Clause 14 is amended to the extent necessary to contain the following: The “pay what you think its worth” guarantee shall still apply to any Additional Service Fees, and should be raised in a timely way after notification of the amount of Fees to be collected, but does not apply to the Monthly Fee.

#### **7. Termination**

Clause 20 is amended to the extent necessary to contain the following: The notice period for People.je clients is one full calendar month.

## Part III

### Schedule Two - Specific Terms of Business – Events Management, Sponsorship and Speaking



Insight Group offers event management expertise, a wide range of excellent keynote and panel speakers and sponsorship opportunities for corporates.

#### 1. Terms

The following terms are additional to the General Terms and specific to Clients of one or more entities or service lines within the Insight Group. To the extent necessary these terms prevail over the General Terms set out in Part II of this Agreement.

#### 2. Defined Terms

The following additional terms are used as defined in this Part:

[Other events terms not included in this version.]

[See also Speaker rider, Event sponsorship agreement, Event management agreement]

- Effect of cancellation / postponement Events
- Sponsor – hold client fees pending reschedule
- Event services – charge fees incurred and refund unused

