



Snowball Consulting Limited

Phone: 07525 619092

E-mail: peterblack@snowballconsulting.co.uk

Website: www.snowballconsulting.co.uk

## **Snowball Consulting Limited Standard Terms and Conditions of Business**

These Terms and Conditions, together with the Engagement Letter, constitute the Agreement, under which Snowball Consulting Limited ("Snowball") will provide the specified services to the Client ("Client"). No service will be provided until such time as the Client provides written consent to commence service delivery. Written consent will be assumed to have been provided by an authorised representative of the Client.

### **1. Definitions**

In these Terms and Conditions the following definitions shall apply:

"Engagement Letter"	means the engagement letter setting out the terms that Snowball shall provide the Services to the Client, signed by both parties, incorporating these Terms and Conditions by reference.
"Fees"	means the fees payable by the Client to Snowball for the provision of the Services, as set out within the Engagement Letter.
"Services"	means the services to be provided by Snowball to the Client as more particularly described within the Engagement Letter.

### **2. Conditions of Business**

2.1 Quotations issued by Snowball, unless otherwise stated in them shall be open for acceptance within 30 days of the date of the quotation. A quotation given by Snowball shall not constitute an offer, and Snowball reserves its right to change the quotation after it has been issued.

2.2 No contract shall come into existence until the Engagement Letter is signed by Snowball, or otherwise (if earlier) by Snowball commencing the provision of the Services to the Client.

2.3 All Services supplied by Snowball are subject to these Terms and Conditions, unless otherwise agreed by Snowball and confirmed in writing.

2.4 These Terms and Conditions shall be incorporated into the Engagement Letter to the exclusion of any terms or conditions stipulated or referred to by the Client, or which might otherwise be implied by trade, custom, practice or course of dealing.

2.5 The Client acknowledges that no reliance is placed on any representation made but not embodied in the Engagement Letter. The Engagement Letter and these Terms and Conditions is the complete and exclusive statement of the agreement between the parties and supersedes all previous communications, representations and arrangements, written or oral.

### **3. Services**

3.1 The terms of the Engagement Letter will apply to any Services whether such Services were performed or provided before or after the signing of the Engagement Letter.

3.2 Snowball will exercise all reasonable care and skill in providing the Services.

3.3 The Client undertakes to exercise reasonable endeavours in providing Snowball with the information and co-operation necessary to deliver the Services as specified in the Engagement Letter, including (but not limited to) full, unrestricted and safe access to premises, systems, data and equipment of the Client that is reasonably required by Snowball for the execution of the Services.

### **4. Changes in Scope**

4.1 Should the Client require any additional services, Snowball will be pleased to discuss any request. Following such discussions, Snowball will advise the Client whether or not Snowball would undertake any additional services and, if so, the terms on which such work would be undertaken.

### **5. Fees**

5.1 The Fees relating to the delivery of the Services are specified in the Engagement Letter

5.2 VAT at the prevailing rate will be applied to all Fees

5.3 All expenses associated with the delivery of the assignment will be recharged at cost to the Client.



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Expenses include, but are not limited to, travel costs, reprographic costs, tolls and parking charges, accommodation and subsistence expenses. Expenses incurred will be invoiced along with the fees

5.4 Fees will be invoiced in line with the Engagement Letter

5.5 Fees are payable by the Client immediately upon receipt of the Snowball invoice

5.6 Time is of the essence for payment of the Fees.

5.7 If the Client fails to make any payment, in full, when due, then Snowball shall be entitled to take any or all of the following courses of action:

- a. by notice, suspend or determine the contract or any part thereof and without liability, stop and/or suspend the Services; and
- b. charge the Client interest, both pre- and post judgment, on any unpaid amount past due, at the rate of 5% per annum above the base rate of National Westminster Bank plc for the time being in force from the due date until the date of payment.

## **6. Termination**

6.1 Snowball or the Client may terminate the engagement by written notice, at any time, without penalty. If the work is terminated, by Snowball or the Client, before the work is completed, Snowball shall be entitled to its fees, expenses, disbursements and VAT, to the date of termination

## **7. Intellectual Property Rights**

7.1 Ownership of the intellectual property in the assignment remains with Snowball until all invoices have been settled by the Client. On receipt of payment the Intellectual property in the assignment will pass to the Client

## **8. Confidentiality**

8.1 Where either party to this agreement holds, or discovers, information that is deemed, whether verbally or in writing, by the owner to be confidential, the parties to the agreement will use all reasonable endeavours to keep the information confidential. No disclosure of confidential information shall be made without the written consent of the party, or parties, to whom the information belongs

## **9. Other Professional Advisers**

9.1 In relation to the provision of services, it may be necessary or desirable to instruct other professional advisers

9.2 Snowball shall have no liability for the non-delivery or non-performance of such other professional advisers (other than our express agents). Additionally, Snowball shall not be liable for the acts, omissions, misrepresentations or error of any third party supplier introduced or recommended by Snowball

## **10. Working for other parties**

10.1 The functions and duties that Snowball undertakes on behalf of the Client shall not be exclusive in that nothing in the Engagement Letter shall prevent or restrict Snowball from carrying on its business. In particular, Snowball reserves the right to act at any time for other clients who may be competitors of its' Clients or in respect of whom issues of commercial conflict may arise

## **11. Force Majeure**

11.1 No party to the agreement shall be liable for any breach of the agreement as a result of Force Majeure that may frustrate the fulfilment of the parties' obligations under this agreement. In the event of a breach of the agreement as a result of Force Majeure the client will render the settlement of the Snowball account for the work carried out up to the point where the agreement is frustrated by an incident that can reasonably be deemed as Force Majeure

## **12. Liability**

12.1 Snowball's liability in connection with this engagement is limited to the amount of the Fees payable by the Client for the Services proportional to the loss suffered that has been deemed Snowballs responsibility and in all cases will be subject to maximum aggregate amount of £1million (One Million Pounds).



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12.2 Except as expressly provided in these Terms and Conditions, Snowball shall not be liable to the Client for any financial or other loss or damage caused to the Client by reason of any representation, warranty (either express or implied), condition or other term, or any duty at common law; or for any special, indirect, incidental or consequential damages (including loss of profits, revenue, records or data, costs of procurement of substitute services, damage to reputation or goodwill, or any matter beyond its reasonable control) or for any other claims for compensation however caused (whether caused by the negligence of Snowball its agents, partners, suppliers or otherwise) which arise out of or in connection with these Terms and Conditions or the provision of the Services hereunder, even if Snowball has been advised of the possibility of such loss, liability or damages.

12.3 Nothing in these Terms and Conditions shall limit Snowball's liability to the Client for:

- a. death or personal injury resulting from negligence; or
- b. fraud or fraudulent misrepresentation.

### **13. Electronic Communications**

13.1 Both parties agree that they may communicate with each party and agreed third parties connected with the Services using email or any other mutually accepted form of electronic transmittal that from time to time becomes a generally accepted medium for electronic communication. Both parties recognise the inherent insecurity of the Internet and that as a consequence both parties recognise that data can become corrupted, or that communications may arrive late, or fail to arrive, and that other methods may be appropriate

13.2 Both parties recognise that internet transmissions may be attacked by Viruses. Both parties undertake to use all reasonable endeavours to guard against electronic virus infections and neither party will be liable whatsoever to each other for loss, damage or omission created by such an infection by any form of electronic interface between the two parties' agents or representatives

13.3 These exclusions of liability do not apply in the case where loss, damages or omission have been caused through the malicious actions or negligence by the agents or representatives of either parties in addressing communications or the transfer of data

### **14. Compliance**

14.1 The Client will ensure that they have and/or obtain all authorisations, consents and approvals of any governmental or other regulatory body or authority as are necessary to enable them to carry on the activities in respect of which the services are provided

14.2 The Client will ensure that they, together with all directors, officers, employees and agents, will at all times comply with all applicable legal and regulatory provisions of which they are, or should reasonably be, aware in any jurisdiction including the United Kingdom, to the extent applicable

### **15. Assignment**

15.1 Save as permitted by clause 9, neither party may transfer nor assign any rights or obligations under the Engagement Letter without the prior written consent of the other party

### **16. Other**

16.1 Any amendments or modifications to these Terms and Conditions will need to be agreed in writing by both parties

16.2 During the term of the assignment, draft reports will be presented to the Client. Draft reports are subject to further revision and amendment and as such no reliance should be placed on any draft papers without the written consent of Snowball. Snowball will not be held liable for any consequences arising out of reliance on a draft document. A document retains its draft status until such time it is manually signed by Snowball

16.3 Snowball makes no warranties, express or implied, as to the availability of any type of funding identified within their reports and analysis

16.4 Snowball may accept commission for the referral of business to a third party funding organisation

16.5 In signing the Engagement Letter the Client confirms that they are willing to receive unsolicited marketing material from Snowball only



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### **17. Dispute Resolution**

17.1 The parties shall attempt to resolve any dispute arising through negotiation.

17.2 If the matter is not resolved through negotiation, the parties will attempt in good faith to resolve the dispute through an Alternative Dispute Resolution (ADR) procedure as recommended to the parties by the Centre for Dispute Resolution.

17.3 If the matter has not been resolved by an ADR procedure within 30 Days of the initiation of that procedure, or if either party will not participate in an ADR procedure, the dispute shall be submitted to the exclusive jurisdiction of the English Courts.

17.4 The provisions of the Engagement Letter will prevail (to the extent of any conflict) over these Terms and Conditions.

### **18. Legal**

18.1. These Terms and Conditions (and the Engagement Letter) constitute the entire agreement between the parties, supersede any previous agreement or understanding and may not be varied except in writing between the parties. All other terms and conditions express or implied by statute or otherwise are excluded to the fullest extent permitted by law.

18.2. Any notice required or permitted to be given by either party to the other under these Terms and Conditions shall be in writing addressed to the other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

18.3. No failure or delay by either party in exercising any of its rights under these Terms and Conditions shall be deemed to be a waiver of that right, and no waiver by either party of any breach of the Terms and Conditions by the other shall be considered as a waiver of any subsequent breach of the same or any other provision.

18.4. If any provision of these Terms and Conditions is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of these Terms and Conditions and the remainder of the provisions in question shall not be affected.

18.5. Nothing in these Terms and Conditions shall be construed as creating a relationship of employer and employee, principal and agent or a partnership or joint venture between the parties.

18.6. No term of the Engagement Letter or these Terms and Conditions will be enforceable by virtue of the Contracts (Rights of Their Parties) Act 1999 by any person that is not a party to it.

18.7. The construction, validity and performance of these Terms and Conditions shall be governed by English Law and subject to the exclusive jurisdiction of the courts of England and Wales.

18.8 Nothing in these Terms and Conditions will preclude Snowball from fulfilling any legal, regulatory or other obligations set out in law or those governed by professional and ethical standards