

Choose to Grow

MANAGEMENT CONSULTANCY & TRAINING STANDARD TERMS & CONDITIONS

Choose to Grow based at Wyastone Business Park, Monmouth, NP25 3SR, is pleased to set out the Terms of Business which will apply to the work we do for you. These terms of Business and the preceding proposal document once signed by both parties will form the Contract between us. If at any time you should have any questions in connection with the Contract or our work please let us know. In the event of any conflict between these Terms and any other document that forms part of the Contract, these terms shall prevail.

1. The Definitions

- 1.1 The **Director** of Choose to Grow means Emma Carroll.
- 1.2 Term **Consultant** means any persons, their agent or representative associated to Choose to Grow.
- 1.3 **Client** means the organisation booking and/or paying for the services.
- 1.4 **Leading Manager** means the person in the organisation who will take project lead and will be responsible for managing all issues relating to the performance of the contract.
- 1.5 The **Delegate** means a person attending the training course, workshop, assessment, and seminar or coaching session.

2. The Service

- 2.1 The service that will be provided will be as detailed in the terms of proposal document.
- 2.2 Where individual staff are named in a team for the delivery of the work, every reasonable effort will be made to ensure these staff are used. If changes in our named staff are necessary we will give reasonable notice to the changes and provide you with details of the replacement staff member.
- 2.3 Where a timetable is referred to or set out in the proposal document, unless otherwise agreed, it is only intended for planning and estimating purposes.
- 2.4 The service will be carried out at the location(s) detailed in the Proposal Document.
- 2.5 Either of us may request changes to any aspect of the services. Requests must be sufficiently detailed in writing to assess impact on, for example, cost or timetable. Any charges must be detailed in a revised contract agreed by both parties.
- 2.6 To aid project management each of us will name a contact that will be responsible for managing all issues relating to the performance of the contract.
- 2.7 If at any time during the provision of the services you wish to discuss with us the quality of or services you should write to or contact the Director of Choose to Grow.
- 2.8 All daily project management queries will be assigned to the lead Consultant of the project for the duration of the service we provide.
- 2.9 We undertake to promptly and carefully consider any complaint and shall take all such actions as are reasonably necessary to satisfy you.

3. The Deliverables

- 3.1 We will prepare the deliverables listed or referred to in the proposal document and deliver these to you. You will accept the deliverables, when either the terms of the proposal are met or you make productive use of the deliverables, whichever occurs first.
- 3.2 We will grant you perpetual non-exclusive and non-transferable licence to use, copy and modify the Copyright Data solely for your internal business upon written request if you as the client have paid for the exclusive design of that material.
- 3.3 In all other circumstances, Choose to Grow retains its intellectual property rights in all of its materials, documents and/or software, none of which may be reproduced, modified, amended, stored in any retrieval system or transmitted, in any form or by any means, otherwise than for the purpose.
- 3.4 All Intellectual Property Rights in the Copyright Data shall be and become vested solely in Choose to Grow.
- 3.5 “Intellectual Property Rights” include copyrights, patents, trademarks, service marks, design rights whether registered or unregistered, trade secrets and all other similar proprietary rights.
- 3.6 “Copyright Data” means any report, document, data, design, computer software, or any other material (whether written or machine readable) which is developed under the contract.

4. Your responsibilities

- 4.1 Our performance is dependent on you carrying out your responsibilities as set out in the proposal document.
- 4.2 Specifically, it will be necessary for you to provide all information and documents necessary and reasonably required to enable us to provide the services to you. We will not be liable for any loss or damage arising from reliance on any information or materials supplied by you.
- 4.3 It will be necessary to ensure that your staff are available to provide assistance as reasonably required enabling us to provide our services.
- 4.4 Where you are using third parties to provide information or support to a project, unless specifically agreed otherwise, you will be responsible for the management of the third parties and the quality of their input and work.
- 4.5 The Director or Consultant will not accept liability for loss or damage to any equipment or other belongings, however caused. Delegates are responsible for the safekeeping and appropriate use of items loaned to them. Damage or loss of such items will be charged to the client.
- 4.6 Choose to Grow will take reasonable steps in relation to the health and safety of the Consultant, lead manager and/or delegates; however the responsibility for health and safety issues remains with the client throughout.
- 4.7 By signing the contract you agree to pay for the services as set out in the terms of the proposal document.

5. Fees & Payment

- 5.1 Services may be provided on a fixed price, time or alternative charging basis. The terms of the proposal document will detail the applicable fees.
- 5.2 We will invoice fees for services at monthly intervals. This will be done on the last Friday of the calendar month. We are not VAT registered so this will not be included on your invoice.
- 5.3 Unless otherwise agreed in writing by us, invoices shall be payable by you within twenty eight days of the date on the invoice. You must raise any queries concerning the invoice in writing within fourteen days of the date of the invoice.
- 5.4 In the event that any invoices amounts are outstanding after twenty-eight days of the invoice date we shall be entitled to charge compound interest at three percent per annum above National Westminster Bank Plc Base Rate.
- 5.5 All charges are inclusive of materials and expenses unless the proposal document states otherwise.
- 5.6 Expenses, including travel, subsistence, goods and services purchased on your behalf shall be charged at a cost.
- 5.7 Should the number of delegates increase above the prior agreed number in the proposal document, then this will incur an additional charge per delegate.
- 5.8 Only delegates from the client's organisation are allowed to attend the training, workshop, assessment, and seminar or coaching session; and places on any course must not be given or sold to other any other organisation without the written agreement of Choose to Grow.
- 5.9 A money back guarantee is offered on a pro-rata basis per delegate, if after investigation, the client feels that the intervention did not meet the initial aims and objectives. Choose to Grow does retain the final decision in terms of whether any fees are payable and if so the amount.
- 5.10 All confirmed bookings that are rescheduled by the client will carry a 10% cancellation fee to cover administration costs and any expenses that have occurred. If the project is cancelled within the below timescales then the following fees will apply:
 Within 56 days of the course commencement = 25% of the full fee.
 Within 28 days of the course commencement = 50% of the full fee.
 Within 14 days of the course commencement = 75% of the full fee.
 Within 7 days of the course commencement = 100% of the full fee.
 The original booking will remain subject to the standard cancellation rules set out above.
- 5.11 If the project dates are confirmed in writing and the Director or the Consultant has to reschedule the dates due to unforeseen circumstances then a 10% reduction will be applied to the delivery cost to the client.
- 5.12 Unless otherwise agreed in the proposal document, travelling will be charged for at the current agreed HM Revenue & Customs rate £0.45 per mile.
- 5.13 When the project is being delivered at a distance from Ross on Wye, and for a period in excess of one working day; or the start and finish time are as such that it would be unreasonable for the consultant to attend a second day after extensive travel, then the client will be responsible for providing the consultant with acceptable accommodation.

5.14 Unless otherwise agreed in the proposal document substantial meals and refreshments or subsistence costs will be provided by the client for the period of all delivery required.

6. Termination of contract

- 6.1 The contract will apply from the commencement date stated in the proposal document or from the date the two parties sign the contract.
- 6.2 The contract will apply until all services and deliverables have been provided unless it is terminated earlier in accordance with the terms detailed in the remainder of this section.
- 6.3 You may terminate the contract at any time by giving no less than 30 days written notice. Where you terminate the contract in this way you will pay us all services provided up to the termination and for all costs necessarily incurred as a result of the early termination of services.
- 6.4 The contract may be terminated by either of us in the event of a breach by the other of the contract by serving notice requiring the breach to be remedied within 30 days.
- 6.5 We may suspend the contract if circumstances arise that, in our opinion, materially adversely affect the basis on which the contract was entered.
- 6.6 You may suspend the contract for a period of no more than 6 months in total. If following suspension of the contract we are requested to resume the performance if the services the fee and the contract period shall be adjusted to take into the account of any remobilisation costs and escalation in costs due to such suspension.
- 6.7 Either party may terminate the contract in the event that the other party becomes insolvent.
- 6.8 On the termination of the contract each of us will return to the other any property of the other that it then has in its possession or control and you shall pay forthwith on demand all fees and expenses in respect of the services performed by us, under the contract, up to the date of such termination together with all reasonable costs and expenses incurred by us in the connection with and in consequence of such termination.

7. Personal

- 7.1 During the term of the contract and for a period of six months after completion of the services or any termination thereof neither of us will directly or indirectly solicit, seek or procure the services of any employee(s) of the other party connected with the services (other than by general advertising) without the prior written consent of the other party. The compensation payable by one party to the other for any breach of this condition will be an amount equal to four times the monthly fee rate for such employee(s). Where no fee rate is expressed in the contract the compensation payable shall be equal to ten times the monthly salary of such employee(s).

8. Confidentiality

- 8.1 Neither of us will disclose to any third party, without prior written consent of the other party, any confidential information which is received from the other party for the

purpose of providing or receiving services which if disclosed in writing is marked confidential or if disclosed orally is confirmed in writing as being confidential.

- 8.2 Unless, however, information becomes publically available, is acquired from a third party who owes no obligation of confidence in respect to the information or the recipient is required by law to disclose.

9. Sub-Contracting

- 9.1 We shall be entitled to sub-consultant any part of the services to another consultant or advisor (the “sub-contractor”).
- 9.2 We shall remain responsible for the performance of any services performed by our sub-contractor.
- 9.3 If you appoint a sub-consultant, you will indemnify Choose to Grow for the sub-consultants actions.

10. General Liabilities

- 10.1 We undertake to carry out the services with reasonable skill, care and diligence and if in the performance of the services we have discretion exercisable between you and a third party we shall exercise that discretion fairly.
- 10.2 The services provided to you are for the sole use of you and we shall not be liable in respect of any reliance upon the services by any third parties unless such third party has obtained the prior written consent from us.
- 10.3 Nothing in the contract shall preclude us nor any of its directors, employees or agents taking such steps as are necessary to comply with the professional or ethical rules of any relevant professional body or which a director, employee or agent may be a member.

11. Limit of Liability

- 11.1 Notwithstanding anything to the contrary contained elsewhere in the contract the total liability of us under or in connection with this contract whether in contract or in tort in negligence or for breach of statutory duty or otherwise shall be limited to fee.
- 11.2 No action or proceedings under or in connection with this Agreement whether in contract or in tort, in negligence or for breach of statutory duty or otherwise shall be commenced against the Company after the expiry of 6 years from the date of completion of the Services or such earlier date as may be prescribed by law.
- 11.3 Notwithstanding anything to the contrary contained elsewhere herein the total liability in aggregate of the Company under or in connection with this Agreement, whether in contract or in tort, in negligence or for breach of statutory duty or otherwise shall be limited to the lessor of a) ten times to total fee (Exclusive of Disbursements and VAT) due to the Company under this agreement; and b) one million pounds plus half of the total fee (exclusive of expenses and VAT) due under this Agreement. The liability of the Company hereunder for any claim or claims shall be further limited to such a sum

as the Company ought reasonably to pay having regard to its responsibility for the loss and damage suffered and on the basis that (i) all other persons providing professional services or labour or materials plan or equipment for incorporation in the project or executing the project or any part thereof shall be deemed to have provided contractual undertakings on terms no less onerous than that set out in clause 10 of this Agreement to you (whether or not they have been so provided) in respect of the provision of their services or labour or materials or plant or equipment in respect of executing the project or any part thereof; and (ii) there are no exclusions or limits of liability nor joint insurance or co-insurance provisions between you and any other party referred to in this clause shall be deemed to have paid you such contribution which it would be just and equitable for them to pay having regard to the extent of their responsibility for the loss or damage. You shall indemnify and hold harmless the Company from against any claims liabilities costs and expenses in excess of the limit calculated as aforesaid.

12. General Provisions

- 12.1 Neither party may assign the obligations or benefits of the contract neither in whole nor in part without written consent of the other party.
- 12.2 The contract shall supersede all previous undertakings, representations, commitments, or agreements whatsoever, whether oral or in writing, relating to the subject matter of the contract and shall constitute the entire agreement between all parties.
- 12.3 If any provision or term of the contract shall be held invalid, illegal, or unenforceable, in whole or in part such term or provision shall not form part of the contract and the enforceability of the remainder of the contract shall not be affected.
- 12.4 Any notices served by either the Company or you shall be in writing delivered by registered post to the Registered Office of the Party concerned and shall be deemed to have been received forty eight hours following the time of posting.

13. Governing Law and Jurisdiction

- 13.1 The Contract shall be governed by and constructed in accordance with English Law and the parties agree and accept that the Courts of England are to have exclusive jurisdiction to settle any disputes, which may arise out of or in connection with the contract.
- 13.2 Nothing in this contract confers or purports to confer on any third party and benefits or any right to enforce any term of this contract under the Contracts Rights of Third Parties) Act 1999.