

CANFIELD PR LIMITED
TERMS & CONDITIONS

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this clause apply in these terms and conditions.

Canfield PR: Canfield PR Limited (company number 04997870) whose registered office is at 41 Castelnau Mansions, Castelnau, Barnes, London SW13 9QU.

Contract: any Proposal provided by Canfield PR to the Client, together with these terms & conditions which shall be deemed to form part of such Contract.

Client: the person, firm or company who purchases Services from Canfield PR.

Client's Equipment: any equipment, systems, or facilities provided by the Client and used directly or indirectly in the supply of the Services.

Client Materials: all Documents, information and materials provided by the Client relating to the Services.

Daily Rate: the daily rate or rates specified by Canfield PR from time to time, based on an 8 hour working day.

Deliverables: all Documents, products and materials developed by Canfield PR in relation to the Project or the Services in any form.

Document: includes, in addition to any document in writing, any artwork, drawing, map, plan, specification, diagram, design, picture or other image, report, tape, disk or other device or record embodying information in any form.

Expenses: the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by Canfield PR in connection with the Services.

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Pre-existing Materials: all Documents, information and materials provided by Canfield PR relating to the Services which existed prior to the commencement of the Contract including computer programs and data.

Project: any project for the provision of Services (other than under the terms of a Retainer) and which is described in a Proposal.

Proposal: any proposal or quotation provided by Canfield PR to the Client and which is agreed between the parties and which may (at Canfield PR's option) be attached to these terms & conditions by way of a schedule.

Retainer: a Contract under which Canfield PR agrees to provide ongoing Services for a fixed number of days/hours per month, or a fixed Service every month, (or at such other intervals as shall be agreed).

Services: such marketing and/or PR services, or any other services which the parties agree that Canfield PR shall provide to the Client.

Third Party Costs: the cost of all services and products acquired by Canfield PR from the third parties in connection with the provision of the Services, including print, mailshots, venue hire, postage, couriers, website hosting services, advertising, data sourcing, and the supply of any materials.

Trade Marks: "Canfield PR" and "cando".

1.2 Condition, schedule and paragraph headings shall not affect the interpretation of these conditions.

1.3 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.4 Where the words **include(s)**, **including** or **in particular** are used in these terms and conditions, they are deemed to have the words **without limitation** following them and where the context permits, the words **other** and **otherwise** are illustrative and shall not limit the sense of the words preceding them.

2. APPLICATION OF CONDITIONS

2.1 These Conditions shall:

- (a) apply to and be incorporated into the Contract; and
- (b) prevail over any inconsistent terms or conditions contained, or referred to, in the Client's purchase order, confirmation of order, acceptance of a Proposal or specification, or implied by law, trade custom, practice or course of dealing.

2.3 Any proposal or quotation submitted by Canfield PR to the Client is valid for a period of 14 days from its date, provided that Canfield PR has not previously withdrawn it.

3. COMMENCEMENT AND DURATION

3.1 Canfield PR shall provide the Services from such date as Canfield PR shall specify.

3.2 Once a Proposal is agreed, the Services shall continue to be supplied until the Project is completed or, in the case of a Retainer, until the Contract is terminated by one of the parties

giving to the other not less than 1 months notice (or such other period of notice as is stated in the Proposal), unless the Contract is terminated in accordance with clause 13.

4. CANFIELD PR's OBLIGATIONS

4.1 Canfield PR shall use reasonable endeavours to provide the Services, and to deliver the Deliverables to the Client, in accordance in all material respects with the Proposal.

4.2 Canfield PR shall use reasonable endeavours to meet any performance dates specified in the Proposal, but any such dates shall be estimates only and time shall not be of the essence of the Contract.

4.3 It is the Client's responsibility to check and approve in writing any proofs submitted by Canfield PR, and Canfield PR accepts no responsibility or liability for any errors identified once the proofs have been approved. Canfield PR shall be entitled to charge for all costs and expenses incurred in making any alterations to proofs once these have been approved.

4.4 Canfield PR may (at its discretion) nominate any of its personnel to carry out any part or parts of the Services.

5. CLIENT'S OBLIGATIONS

5.1 The Client shall:

(a) co-operate with Canfield PR in all matters relating to the Services and appoint a Client Manager in relation to the Services or the Project, who shall have the authority contractually to bind the Client on matters relating to the Services or that Project;

(b) provide, for Canfield PR, its agents, sub-contractors and employees, in a timely manner and at no charge, access to the Client's premises, office accommodation, data and other facilities as requested by Canfield PR;

(c) provide, in a timely manner, such Client Material and other information as Canfield PR may request and ensure that it is accurate in all material respects; and

(d) inform Canfield PR of all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Client's premises where Canfield PR (or its agents, subcontractors or employees) may be required to attend.

5.2 If Canfield PR's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Client, its agents, sub-contractors or employees, Canfield PR shall not be liable for any costs, charges or losses sustained or incurred by the Client arising directly or indirectly from such prevention or delay, and Canfield PR shall be entitled to charge the Client as if the Services had been performed in full.

5.3 The Client shall be liable to pay to Canfield PR, on demand, all reasonable costs, charges or losses sustained or incurred by Canfield PR (including any direct, indirect or consequential

losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) arising directly or indirectly from the Client's fraud, negligence, failure to perform or delay in the performance of any of its obligations under the Contract, subject to Canfield PR confirming such costs, charges and losses to the Client in writing.

5.4 The Client shall not, without the prior written consent of Canfield PR, at any time from the date of the Contract to the expiry of 6 months after the completion of the Project or the last date of supply of the Services or termination of the Contract, solicit or entice away from Canfield PR or employ or attempt to employ any person who is, or has been, engaged as an employee or sub-contractor of Canfield PR in the provision of the Services.

5.5 Any consent given by Canfield PR in accordance with clause 5.4 shall be subject to the Client paying to Canfield PR a sum equivalent to 20% of the then current annual remuneration of Canfield PR's employee or sub-contractor or, if higher, 20% of the annual remuneration to be paid by the Client to that employee or sub-contractor.

5.6 Where Canfield PR makes a professional introduction of an individual to the Client, and the Client (or any company associated with the Client) engages that individual, whether as an employee or under a service contract, and whether or not through a limited company vehicle, Canfield PR shall be entitled to charge a fee which shall be:

- (a) in the case of a permanent engagement, 5% of the individual's total annual salary; and
- (b) in any other case, the equivalent of 5 days of the individual's daily rate or 25% of the first monthly fee (whichever is applicable).

6. CLIENT MATERIALS

6.1 The Client shall ensure that the Client Materials do not infringe any applicable laws, regulations or third party rights (including material which is obscene, indecent, pornographic, seditious, offensive, defamatory, threatening, liable to incite racial hatred, menacing, blasphemous or in breach of any third party Intellectual Property Rights) (**Inappropriate Content**).

6.2 The Client shall indemnify Canfield PR against all damages, losses and expenses arising as a result of any action or claim that the Client Materials constitute Inappropriate Content.

7. CHANGE CONTROL

7.1 If either party requests a change to the scope or execution of the Services, Canfield PR shall, within a reasonable time, provide a written estimate to the Client of:

- (a) the likely time required to implement the change;
- (b) any variations to Canfield PR's charges arising from the change; and
- (c) any other impact of the change on the terms of the Contract.

7.2 Canfield PR may, from time to time and without notice, change the Services in order to comply with any applicable safety or statutory requirements, provided that such changes do not materially affect the nature, scope of, or the charges for the Services. If Canfield PR requests a change to the scope of the Services for any other reason, the Client shall not unreasonably withhold or delay consent to it.

7.3 If the Client wishes Canfield PR to proceed with a change, Canfield PR has no obligation to do so unless and until the parties have agreed in writing on the necessary variations to its charges and any other relevant terms of the Contract to take account of the change.

7.4 Canfield PR may charge for its time spent in assessing a request for change from the Client at its standard daily/hourly fee rates.

8. CHARGES AND PAYMENT

8.1 Where the Services are provided on the basis of a Retainer or Daily Rate:

(a) the charges payable shall be calculated in accordance with Canfield PR's standard daily fee rates, as may be amended by Canfield PR at any time on 1 month's notice.

(b) Canfield PR shall ensure that every individual whom it engages on the Services completes time sheets recording time spent, and Canfield PR shall use such time sheets to calculate the charges covered by each invoice.

8.2 Where the Services are provided on the basis of a Daily Rate, Canfield PR will charge extra pro-rata for any time worked in excess of the normal 8 hour day.

8.3 Where the Services are provided on the basis of a fixed price for a specified Project, the total price for the Services shall be the amount set out in the Proposal.

8.4 In each case the charges exclude the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the individuals whom Canfield PR engages in connection with the Services, and VAT, which Canfield PR shall add to its invoices at the appropriate rate.

8.5 Canfield PR will charge the Client for all Third Party Costs stated in any Proposal or as otherwise agreed with the Client. Canfield PR shall be entitled to retain any rebate or discount offered by the relevant third party without passing this on to the Client, or otherwise reserves the right to charge the Client (at its absolute discretion) an uplift on the amount charged by such third party;

8.6 Charges for Services provided on the basis of a Retainer or Daily Rate will be payable monthly in arrears, or as otherwise stated in the Proposal and each invoice is payable in cleared funds within 30 days of the date of invoice. In the case of Services provided as a Project, Canfield PR shall, unless otherwise stated in a Proposal, invoice the Client 50% on the commencement of the Project and the remaining 50% on completion of the Project and

such invoice is payable in cleared funds within 30 days of the date of invoice. In either case Canfield PR reserve the right to require payment in advance of any Expenses or Third Party Costs, failing which payment for such Expenses and/or Third Party Costs shall be payable in cleared funds within 7 days of the date of invoice.

8.7 Where the Client uses purchase orders for procurement, a purchase order number must be provided in advance of the start of the Project.

8.8 In relation to termination or cancellation by the Client, the following terms shall apply:

(i) In the case of a Daily Rate arrangement for a duration of up to 3 months, the Contract may only be terminated by the Client on one month's notice.

(ii) In the case of a Daily Rate arrangement for a duration of more than 3 months or any Retainer arrangement, the Contract may only be terminated by the Client on three month's notice.

(iii) In the case of a Project based on a fixed price, the Client has no right to terminate prior to the completion of the Project, and in the event of cancellation the Client shall continue to be liable for all the fees as per the Proposal, less any Third Party Costs which have not yet been committed at the time of cancellation.

8.9 Canfield PR may terminate the Contract at any time on giving one month's notice to the Client.

8.10 Without prejudice to any other right or remedy that it may have, if the Client fails to pay Canfield PR on the due date, Canfield PR may:

(a) charge interest on such sum from the due date for payment at the annual rate of 5% above the base lending rate from time to time of HSBC, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment and Canfield PR may claim interest under the Late Payment of Commercial Debts (Interest) Act 1998; and

(b) suspend all Services until payment has been made in full.

8.11 Time for payment shall be of the essence of the Contract.

8.12 All sums payable to Canfield PR under the Contract shall become due immediately on its termination, despite any other provision. This clause 8.8 is without prejudice to any right to claim for interest under the law, or any such right under the Contract.

8.13 Canfield PR may, without prejudice to any other rights it may have, set off any liability of the Client to Canfield PR against any liability of Canfield PR to the Client.

9. INTELLECTUAL PROPERTY RIGHTS

9.1 All Intellectual Property Rights in the Deliverables (including in the content of any Website and the Website Software), but excluding the Client Materials, arising in connection with the

Contract shall be the property of Canfield PR, and Canfield PR hereby grants the Client a non-exclusive licence of such Intellectual Property Rights for the purposes for which the Deliverables are provided. Such licence shall terminate on termination of the Contract howsoever arising.

9.2 The Client shall indemnify Canfield PR against all damages, losses and expenses arising as a result of any action or claim that the Client Materials infringe the Intellectual Property Rights of any third party.

9.3 Canfield PR shall indemnify the Client against all damages, losses and expenses arising as a result of any action or claim that any Deliverables infringe any Intellectual Property Rights of a third party, other than infringements referred to in clause 9.2.

9.4 The indemnities in clause 9.2 and clause 9.3 are subject to the following conditions:

- (a) the indemnified party promptly notifies the indemnifier in writing of the claim;
- (b) the indemnified party makes no admissions or settlements without the indemnifier's prior written consent;
- (c) the indemnified party gives the indemnifier all information and assistance that the indemnifier may reasonably require; and
- (d) the indemnified party allows the indemnifier complete control over the litigation and settlement of any action or claim.

9.5 The indemnities in clause 9.2 and clause 9.3 may not be invoked to the extent that the action or claim arises out of the indemnifier's compliance with any designs, specifications or instructions of the indemnified party.

9.6 The Trade Marks and any other trade name(s) used by Canfield PR are the property of Canfield PR and may not be used or reproduced in any form or context without Canfield PR's prior written consent.

9.7 The Client hereby authorises Canfield PR, for publicity purposes only, to publish case studies about the Services provided to the Client, provided that Canfield shall not, without the Client's written consent, use or reproduce the Client's Confidential Information.

10. CONFIDENTIALITY AND CANFIELD PR'S PROPERTY

10.1 Each of the Client and Canfield PR shall keep in strict confidence all Confidential Information relating to the other which has been disclosed to it by the other, or the other's employees, agents or sub-contractors for the purposes of, or in the course of, the Services. For the purposes of these terms and conditions, "Confidential Information" of a party shall mean all technical or commercial know-how, specifications, inventions, processes or initiatives and information about its business or products which are of a confidential nature and have been disclosed by it to the other. The Client shall restrict disclosure of such Confidential Information relating to Canfield PR to such of its employees, agents or sub-contractors as need to know the same for the purpose of discharging the Client's obligations to Canfield PR, and shall ensure that such employees, agents or sub-contractors are subject to obligations of confidentiality corresponding to those which bind the Client.

10.2 All Documents and materials supplied by Canfield PR to the Client (including Pre-existing Materials) shall, at all times, be and remain, as between Canfield PR and the Client, the exclusive property of Canfield PR, but shall be held by the Client in safe custody at its own risk and maintained and kept in good condition by the Client until returned to Canfield PR, and shall not be disposed of or used other than in accordance with Canfield PR's written instructions or authorisation.

10.3 This clause 10 shall survive termination of the Contract, however arising.

11. LIMITATION OF LIABILITY - THE CLIENT'S ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF THIS CONDITION

11.1 This clause 11 sets out the entire financial liability of Canfield PR (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Client in respect of:

- (a) any breach of the Contract;
- (b) any use made by the Client of the Services, the Deliverables or any part of them; and
- (c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.

11.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

11.3 Nothing in these Conditions limits or excludes the liability of Canfield PR:

- (a) for death or personal injury resulting from negligence; or
- (b) for any breach of the terms implied by s12 Sale of Goods Act 1979 or s2 Sale of Goods and Services Act 1982; or
- (c) fraud, or any other liability which cannot be excluded or limited under applicable law.

11.4 Subject to clause 11.2 and 11.3:

- (a) Canfield PR shall not be liable, whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation or otherwise for loss of profits, loss of business, depletion of goodwill and/or similar losses, loss of anticipated savings, loss of goods, loss of contract, loss of use, loss of corruption of data or information, or any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.
- (b) Canfield PR's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of the Contract shall be limited to the price paid for the Services.

12. DATA PROTECTION

12.1 The Client acknowledges and agrees that details of the Client's name, address and payment record may be submitted to a credit reference agency, and Personal Data (as defined under the Data Protection Act 1998) may be processed by and on behalf of Canfield PR in connection with the Services.

13. TERMINATION

13.1 Subject to clauses 8.8 and 8.9 above and the provisions of this clause 13, the Contract shall terminate automatically on completion of the Project,.

13.2 Without prejudice to any other rights or remedies which Canfield PR may have, Canfield PR may terminate the Contract without liability to the Client immediately on giving notice if:

- (a) the Client commits a material breach of any of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of being notified in writing of the breach; or
- (b) an order is made or a resolution is passed for the bankruptcy or winding up of the Client, or circumstances arise which entitle a court of competent jurisdiction to make a bankruptcy or winding-up order of the Client; or
- (d) an administrator or receiver is appointed of any of the Client's assets or undertaking, or circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint an administrator or receiver or manager of the Client, or if any other person takes possession of or sells the Client's assets; or
- (e) the Client makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way; or
- (f) the Client ceases, or threatens to cease, to trade; or
- (h) the Client takes or suffers any similar or analogous action in any jurisdiction in consequence of debt.

13.3 Without prejudice to any other rights or remedies which the Client may have, the Client may terminate the Contract without liability to Canfield PR immediately on giving notice if:

- (a) Canfield PR commits a material breach of any of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of being notified in writing of the breach; or
- (b) an order is made or a resolution is passed for the bankruptcy or winding up of Canfield PR, or circumstances arise which entitle a court of competent jurisdiction to make a bankruptcy or winding-up order of Canfield PR; or
- (d) an administrator or receiver is appointed of any of Canfield PR's assets or undertaking, or circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint an

administrator or receiver or manager of Canfield PR, or if any other person takes possession of or sells Canfield PR's assets; or

(e) Canfield PR makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way; or

(f) Canfield PR ceases, or threatens to cease, to trade; or

(h) Canfield PR takes or suffers any similar or analogous action in any jurisdiction in consequence of debt.

13.4 On termination of the Contract under clause 13.2 or 13.3:

(a) the Client shall immediately pay to Canfield PR all of Canfield PR's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, Canfield PR may submit an invoice, which shall be payable immediately on receipt;

(b) the Client shall, within a reasonable time, return all Pre-existing Materials and Deliverables. If the Client fails to do so, then Canfield PR may enter the Client's premises and take possession of them. Until they have been returned or repossessed, the Client shall be solely responsible for their safe keeping; and

(c) the accrued rights of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination shall not be affected.

14. FORCE MAJEURE

Canfield PR shall have no liability to the Client under the Contract if it is prevented from or delayed in performing its obligations under the Contract or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including strikes, lock-outs or other industrial disputes (whether involving the workforce of Canfield PR or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors.

15. VARIATION

Subject to clause 7, no variation of the Contract shall be valid unless it is in writing and signed by or on behalf of each of the parties.

16. WAIVER

16.1 A waiver of any right under the Contract is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given.

16.2 Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

17. SEVERANCE

17.1 If any provision (or part of a provision) of the Contract is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions will remain in force.

17.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, that provision will apply with whatever modification is necessary to make it valid, enforceable and legal.

17.3 The parties agree, in the circumstances referred to in clause 17.1, and if clause 17.2 does not apply, to attempt to substitute for any invalid, unenforceable or illegal provision a valid, enforceable and legal provision which achieves to the greatest extent possible the same effect as would have been achieved by the invalid or unenforceable provision.

18. STATUS OF PRE-CONTRACTUAL STATEMENTS

Each of the parties acknowledges and agrees that, in entering into the Contract it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to these terms and conditions or not) relating to the subject matter of the Contract, other than as expressly set out in the Contract.

19. ASSIGNMENT

19.1 The Client shall not, without the prior written consent of Canfield PR, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

19.2 Canfield PR may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

20. NO PARTNERSHIP OR AGENCY

Nothing in the Contract is intended to, or shall operate to, create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

21. RIGHTS OF THIRD PARTIES

The Contract is made for the benefit of the parties to it and (where applicable) their successors and permitted assigns and is not intended to benefit, or be enforceable by, anyone else.

22. NOTICES

Notice given under the Contract shall be in writing, sent for the attention of the person, and to the address or fax number, provided in writing by that party from time to time (or such other address, fax number or person as the relevant party may notify to the other party) and shall be delivered personally, sent by fax or sent by pre-paid, first-class post or recorded delivery. A notice is deemed to have been received, if delivered personally, at the time of delivery, in the case of fax, at the time of transmission, in the case of pre-paid first class post or recorded delivery, 48 hours from the date of posting and, if deemed receipt under this clause 22 is not within business hours (meaning 9.00 am to 5.30 pm Monday to Friday on a day that is a business day), at 9.00 am on the first business day following delivery. To prove service, it is sufficient to prove that the notice was transmitted by fax, to the fax number of the party or, in the case of post, that the envelope containing the notice was properly addressed and posted.

23. GOVERNING LAW AND JURISDICTION

23.1 The Contract and any dispute or claim arising out of or in connection with it or its subject matter, shall be governed by, and construed in accordance with, the law of England and Wales.

23.2 The parties irrevocably agree that the courts of England and Wales shall have non-exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Contract or its subject matter.