

## Introduction

These Terms of Business, together with the associated Statement of Work (SoW), form the entire agreement (the Contract) between Pantheon IQ Limited (we, our, us) and all addressees of the SoW (you, your). If there is any conflict between these terms and the SoW, the SoW will prevail. Unless otherwise agreed in writing, any further work we may carry out in connection with this service will be carried out as part of this Contract.

## 1 Services

- 1.1 We will provide the services described in the SoW (the Services).
- 1.2 You are responsible for determining that the scope of the Services is sufficient to meet your needs.
- 1.3 Unless specifically stated to the contrary in the SoW:
  - a. timetabled dates are intended for planning and estimating purposes only and are not contractually binding;
  - b. we will rely on the information that you provide and will not verify that information;
  - c. we are not responsible for the work of any other person who you engage to perform work in conjunction with our Services;
  - d. we are under no obligation to provide training, support or maintenance for the Services.

## 2 Client responsibilities

- 2.1 You agree that you will:
  - a. provide promptly all information, directions, assistance and facilities that we require to enable us to provide the Services;
  - b. provide information that is true, accurate and not misleading;
  - c. use the output of the Services only for the purpose for which the Services are provided;
  - d. advise all our personnel who visit your premises of what is required of them in relation to health and safety.

## 3 Fees and expenses

- 3.1 You agree to pay the fees specified in the SoW.
- 3.2 Unless otherwise agreed in writing, you also agree to pay all expenses reasonably incurred by us in the provision of the Services. This includes legal fees and expenses incurred in complying with or challenging any legally enforceable notice or demand issued by a third party in relation to or in connection with the Services.
- 3.3 Goods and services tax will be added where applicable.
- 3.4 Our invoices are due for payment within 14 days, unless otherwise stated on the invoice.
- 3.5 If you do not pay an invoice on or by the due date, we reserve the right to suspend provision of the Services and/or charge interest on the outstanding amount, at a rate of 3% above the current official cash rate of the Reserve Bank of New Zealand, and any costs of collection.
- 3.6 Any fee estimate is given in good faith but is not contractually binding.

## 4 Acceptance of deliverables

- 4.1 Unless otherwise agreed in writing, we will be entitled to observe the performance of any user acceptance tests required for acceptance of the Services and any rework required for acceptance of the Services will be at your cost.

## 5 Liability limitation

- 5.1 Our liability for any loss or damage that you suffer caused by our breach of contract, tort (including negligence), breach of fiduciary duty or other actionable wrong of any kind shall be limited as follows:
  - a. we shall have no liability for any consequential or indirect loss or loss of profit;
  - b. our liability will be reduced to take into account any contributory negligence on your part pursuant to the Contributory Negligence Act 1947;
  - c. in the event that more than one person caused or contributed towards your loss, our liability to you will be limited to the proportion of the loss that the Court would apportion to us under section 17 of the Law Reform Act 1936, based on an assessment of our degree of responsibility and the responsibility of the others who contributed to the loss (whether or not those other persons are able to meet any liability they may have);
  - d. notwithstanding the foregoing, our liability for loss shall in no circumstances exceed the total amount received by us from you for the Services the subject of the claim in any 12 months under this agreement.
- 5.2 Where there is more than one addressee to the SoW, the amount of our liability as derived from clause 5.1 above is a total limit to be allocated between addressees, such allocation being entirely a matter for the addressees, who will be under no obligation to inform us of it

- 5.3 You agree that in relation to the Services and the Contract the client relationship is solely with us. Accordingly, you agree not to bring a claim of any nature against any partner, employee, contractor or sub-contractor of Pantheon IQ Limited.
- 5.4 No action arising out of this Contract, regardless of the form, may be brought by either party more than 12 months after the cause of action arose.

## 6 Indemnity

- 6.1 To the maximum extent permitted by law, you agree to indemnify us, our directors and staff, and to hold each harmless against any liabilities, losses, expenses and other costs, including legal costs and the cost of our professional time reasonably incurred in connection with any claims, inquiries, investigations or similar matters whether made against them or you by any third party arising out of or in any way connected with the Services.

## 7 Sub-contractors selected by you

- 7.1 Where you are using third parties in connection with the Services to be provided in accordance with this Contract, you will ensure that you have appropriate agreements with them. Unless agreed otherwise in the SoW, you will be responsible for the management of those third parties and the quality of their input and work.
- 7.2 Where you require us to contract the services of a sub-contractor specified by you, you will accept responsibility for the work to be performed by such sub-contractor. We will not be responsible or liable to you or to any other person for the work performed by, or for any act, omission, default or neglect of, such sub-contractor. In the above circumstances, you will be responsible and liable for, and will indemnify us against and from, any liability which we may incur to any person and against all claims, demands, proceedings, damages, losses, costs and expenses made against, suffered or incurred by us, directly or indirectly as a result of or in connection with the work performed by any such sub-contractor.

## 8 Employment

- 8.1 During the term of this Contract or within 12 months of its termination or completion, neither party will directly or indirectly solicit for employment any of the other party's employees who have been providing Services or otherwise connected with this Contract without the other party's prior written consent.

## 9 Other Engagements

- 9.1 Nothing in this Contract prevents us from providing services to other clients provided that we take reasonable steps to ensure that each client's confidential information is not disclosed to other clients.
- 9.2 This Contract is separate from other engagements that we may perform for you or for other clients and we have no obligation to utilise knowledge gained from such other engagements when performing the Services under this Contract.

## 10 Disclosure of our work

- 10.1 The Services are provided for your use only and we accept no responsibility or liability to any other person other than those who have engaged us and to whom we report.
- 10.2 You must not disclose any output, document or other information provided as part of the Services to any other person without our prior written consent.

## 11 Confidentiality

- 11.1 Subject to any need to make disclosures required by law or professional ethical obligation, both parties agree that information or documents received by or provided to the other for the purposes of the Contract and provision of the Services, or are marked confidential or are manifestly confidential (confidential information) will be treated as confidential, except if the information:
  - a. is or becomes generally available to the public other than by a breach of the obligations under the Contract,
  - b. is known to the parties prior to entering into the Contract, or
  - c. is received from a third party who owes no obligation of confidence in respect of the information
- 11.2 You agree that we may disclose confidential information:
  - a. for the purpose of providing the Services and on a "need to know" basis, to our personnel (including contractors, subcontractors and suppliers) involved in the provision of the Services, and to our insurers or legal advisors, provided these parties are subject to confidentiality obligations;
  - b. once a completed transaction is no longer confidential, we may cite the performance of the Services to clients and prospective clients as an indication of our experience;
  - c. if necessary to meet any legal request from a New Zealand or overseas governmental agency.
- 11.3 We each agree to take reasonable precautions to protect our own information technology systems, including implementing reasonable procedures to guard against

viruses and unauthorised interception, access, use, corruption, loss or delay of electronic communications.

## 12 Data Protection and privacy

- 12.1 Each party to the Contract will comply with the data protection legislation, including the Privacy Act 2020, applicable to itself, in relation to any personal data shared in connection with the Contract. We agree to cooperate with each other in addressing our respective privacy obligations in connection with the Services.
- 12.2 You will not provide us with personal data unless the personal data is required for the performance of the Contract. In respect of any personal data shared with us, you confirm you have the necessary authority for us to use it in accordance with the Contract, and that data subjects have been given necessary information regarding its use.
- 12.3 Each party may process personal data for the purposes of any of:
  - a. performing the Contract;
  - b. security, quality and risk management activities;
  - c. complying with any requirement of law, regulation or a professional body of which it is a member;
  - d. administering, managing and developing its business and services;
  - e. providing information about itself and its range of services.

Additional information about how we use personal data is set out in our Privacy Policy, available at [www.pantheoniq.com/privacy](http://www.pantheoniq.com/privacy).
- 12.4 Each party may transfer personal data shared with it to any of its affiliates, contractors, subcontractors or suppliers in relation to any set of the purposes set out in clause 12. Some of these recipients may be located outside the country or territory where the personal data originated or the data subjects are located. Each party may transfer the personal data only where it has a lawful basis to do so and any appropriate contractual or comparable safeguards required by applicable data protection legislation are in place to protect the personal data being transferred.

## 13 Intellectual property

- 13.1 Intellectual property rights in all documentation, systems, materials, methodologies and processes (tools) brought to and utilised by us in relation to the Services or created in the course of providing the Services remain vested in us.
- 13.2 Subject to the requirement to treat confidential information as confidential any spreadsheet, database, system, technique, methodology, idea, concept, information or know-how developed in the course of the Contract may be used in any way we deem appropriate, including by or for our clients, without any obligation to account to you.
- 13.3 In the case of deliverables prepared by us for you we may, on termination or completion of the Contract, retain one copy of such information as a professional record of our involvement

## 14 Termination

- 14.1 The Contract may be terminated by either party upon written notice.
- 14.2 You will pay us for all Services provided, and expenses incurred, up to the date of termination whether or not invoiced at that time.
- 14.3 Where you terminate the Contract before we have completed the Services, you will pay any additional costs that we incur in connection with the early termination.
- 14.4 The provisions of the Contract which expressly or by implication are intended to survive its termination or expiry will survive and continue to bind both parties.

## 15 General

- 15.1 The Contract forms the entire agreement between the parties and supersedes all previous arrangements, whether written, oral or both relating to its subject matter.
- 15.2 This Contract cannot be amended, modified, varied or supplemented except in writing signed by both parties.
- 15.3 Any failure or delay by either party in exercising any right or remedy will not constitute a waiver of that right or remedy.
- 15.4 To the extent permissible by law all warranties, conditions, representations and liabilities or terms other than those expressly stated are excluded.
- 15.5 Neither party will be liable to the other for any act, omission or failure under this Contract caused by circumstances beyond the reasonable control of the party concerned.
- 15.6 If any provision of this Contract is illegal, unenforceable or otherwise invalid the remainder of this Contract will remain in full force and effect.
- 15.7 Neither party may assign all or any part of its rights under this Contract without the prior written consent of the other party which shall not be unreasonably withheld.
- 15.8 This Contract is governed by the laws of New Zealand.