

## **bChannels Ltd - General Terms & Conditions of Business**

### **1. Definitions**

- i. "bChannels" means bChannels Ltd, a UK Limited Company which is part of Adventis Group plc, registered at Adventis House, Post Office Lane, Beaconsfield, HP9 1FN, UK and operating from Sandringham House, East Point Business Park, Sandy Lane West, Oxford OX4 6LB, UK.
- ii. "Client" means the company or person(s) for whom bChannels is providing goods and/or services as part of a Project.
- iii. "Project" shall mean a defined set of goods/services provided by bChannels to Client over a defined period of time as per written Quotation/Estimate provided by bChannels to Client.
- iv. "In writing" means by letter, facsimile or e-mail addressed to the primary contact(s).
- v. "Primary Contact(s)" shall mean –
  - a. for bChannels - the Account Director or Senior Manager responsible for the project
  - b. for Client – person(s) who instructs bChannels to proceed with the Project

**These Terms and Conditions can only be varied in writing, authorised by a Director of bChannels.**

**These Terms and Conditions supersede all previous agreements, contracts, arrangements or understandings between bChannels and Client. Specifically, these terms replace any Client terms and conditions.**

### **2. Quotations & Estimates**

- i. bChannels will define the Project in writing, based on information received from Client. Should that information prove erroneous, or incomplete, then bChannels reserves the right to re-define or terminate the Project.
- ii. Prices given are best estimates, unless quoted in writing as 'fixed price'.
- iii. Client will instruct bChannels to proceed by issuing of an official Purchase Order.
- iv. Prices may be given in any currency. Any equivalents quoted will be converted at current rates as defined by bChannels.
- v. Any dates quoted are best estimates. Project will not start until Purchase Order received.
- vi. Prices/dates quoted are valid for 60 days from date of quotation, unless otherwise stated in writing.

### **3. Price & Payment**

- i. Currency of payment will be stated in quotation – payment shall be in that currency.
- ii. Invoices/payments in other currencies shall be converted at current rates as defined by bChannels.
- iii. Payment terms are 14 days from date of invoice, unless otherwise stated in writing.
- iv. Unless otherwise agreed in writing, bChannels will invoice a minimum of 50% of the project value at commencement of the project. For short term projects, balance will be invoiced at completion. For extended or ongoing projects, amounts due will be invoiced monthly or quarterly, at bChannels discretion, in advance of subsequent periods.
- v. Client is responsible for any local taxes, duties or similar, including Value Added Tax as appropriate.
- vi. Payment default – bChannels reserves the right to charge the Client a daily late payment interest charge, equivalent to 2% per 30 day period, from the invoice date to date of actual payment of the full invoice sum to bChannels (inclusive). bChannels may, in addition to its other rights, cease work on the Project, if there are invoices unpaid after the due date.

### **4. Property & Risk**

- i. For any goods supplied as part of the Project
  - a. Risk shall pass to client on delivery of goods to Client premises
  - b. Title to goods will pass to Client on receipt of full payment by bChannels. Until such payments are made, Client shall keep the goods insured at Clients expense against all loss or damage, however caused.
- ii. Storage of Goods – should bChannels be required to store materials as part of a Project, bChannels is entitled to charge Client reasonable storage charges. bChannels is entitled to destroy stored materials at Project termination, or if the Client fails to pay these storage costs, or fails to accept delivery of the goods, within 30 days of a written request.
- iii. Any applicable warranties for goods shall be passed through bChannels from supplier to Client. No other warranties are given or implied.

### **5. Limit of liability**

- i. bChannels shall not be liable to the Client or to any other person for any direct loss or damage (save for personal injury or death) whatsoever and howsoever caused. bChannels expressly excludes any and all liability for indirect and/or consequential loss or damage including but not limited to loss of profits, data, business, revenue, goodwill or anticipated savings.
- ii. If, for whatever reason, bChannels is held to be liable for any loss or damage, such liability shall (save for direct loss with respect to personal injury or death) be limited to the price quoted or paid by the Client to bChannels for the Project from which such loss or damage directly arose.
- iii. To the maximum extent permitted by applicable law, all warranties, conditions or other terms, express or implied, by statute or otherwise, including but not limited to terms of satisfactory quality, merchantability, and fitness for a particular purpose are expressly excluded.
- iv. bChannels shall arrange and maintain in force at its own expense:
  - a. Employers liability insurance with a limit of indemnity any one claim of not less than £10,000,000 and Public liability insurance with a limit of indemnity any one claim of not less than £2,000,000
  - b. Such insurances to include an Indemnity to Principals clause. The Client shall be entitled to call for written evidence that such insurances are in force.
  - c. Professional Indemnity insurance with a limit of indemnity for any one claim of not less than £1,000,000

**6. Errors and omissions**

- i. bChannels will take reasonable care to avoid errors and/or omissions.
- ii. If any errors and/or omissions occur, then remedies shall be limited, at bChannels's sole discretion, to
  - a. Rectification of the error
  - b. Termination of the Project
- iii. Any errors/omissions in information provided by Client, which, in the sole opinion of bChannels, materially affect the Project, shall be remedied, at bChannels's sole discretion, by
  - a. Re-quote of the Project (and re-acceptance by Client)
  - b. Termination of the Project

**7. Sub-contracting**

- i. bChannels will complete the Project, using appropriate resources, which at bChannels's sole discretion, may include sub-contracted staff and or secondary suppliers.
- ii. All goods and/or services provided for by sub-contracted staff or other companies/suppliers and invoiced by bChannels, as part of a Project, shall be treated by the Client in the same way as directly provided goods/services and all these Terms of Business shall apply.
- iii. Any goods/services, which Client procures, as part of a Project, directly from another supplier, which are not invoiced by bChannels, shall not be covered by these Terms of Business.
- iv. Where bChannels, at the request of the Client, changes, rejects or cancels any such subcontract the Client shall be liable to pay to bChannels such costs, charges, expenses and damages as bChannels may have incurred or suffered as a result of such change, rejection or cancellation.

**8. Force Majeure**

- i. bChannels shall not be liable for any delay, loss or damage caused wholly or in part by any event beyond its reasonable control including, without limitation, war, civil commotion or act of God, technical failure or adverse weather conditions and shall be granted all reasonable time and other indulgences necessary.

**9. Intellectual Property and Client Data**

- i. All artwork, copy, designs, software programmes and other materials, created by bChannels as part of a Project, and made available to the Client, shall belong to bChannels.
- ii. Nothing in these conditions shall operate to transfer or assign from bChannels to the Client any copyright, design right, registered design right, patent, trademark or other intellectual property right either before or after the termination of the Project.

**10. Client Data**

- i. Any data belonging to the Client, that may be handled or processed by bChannels as part of a Project, shall remain the property of the Client. Client must request, if desired, in writing, that any such data be returned or destroyed at the end of the Project.
- ii. The Client shall give bChannels all access to relevant systems and software, where such access is necessary to enable bChannels to complete the Project. The Client warrants that the provision of such access will not infringe the intellectual property rights of any third party and the Client shall indemnify bChannels against any liability, costs and expenses resulting from any third party claims brought against bChannels for any such infringement.
- iii. The Client warrants that the processing of any Client data by bChannels will not involve a breach of copyright or any other intellectual property rights or the Data Protection Act 1988 and shall indemnify bChannels against all liability costs and expenses in respect of any breaches.

**11. Confidentiality**

- i. bChannels and Client agree to keep sensitive details of the Project confidential. Any such information shall not be disclosed, whether directly, or indirectly, to any third party, other than to as required to carry out the Project.
- ii. Marketing Rights – Client agrees that bChannels may describe the project in general terms, for promotional purposes, including use of Client's identity in presentational and other materials, including websites.

**12. Employment of Staff**

- i. If an employee of bChannels is employed by Client (directly or via subcontractor) within 6 months of leaving bChannels, then Client agrees to pay an introduction fee to bChannels equivalent to 20% of the annual salary of employee at time of leaving bChannels.
- ii. Client agrees to pay bChannels any direct costs (such as unpaid holidays) incurred by bChannels as result of employee leaving bChannels to become employed by Client.
- iii. If an employee of Client is subsequently employed by bChannels, bChannels accepts no liabilities for any costs to Client.

**13. Termination**

- i. Either party may chose to terminate the Project at any time, by written notice to the other party.
- ii. If the Project is terminated, bChannels solely will calculate any monies due from Client for work completed, goods/services purchased or irrevocable commitments made to other suppliers and will issue a final invoice for immediate payment by Client.

**14. Miscellaneous**

- i. bChannels shall not carry out any work which in its opinion is or may be of an illegal, obscene, immoral, improper or libellous nature or otherwise likely to involve bChannels in legal proceedings of any nature.
- ii. bChannels shall be indemnified by the Client in respect of any claim, costs and expenses arising out of any infringement of copyright, trade mark, patent, design or other rights of any third party. This indemnity shall extend to any amounts paid on legal advice in settlement of any such claim.
- iii. Any notices must be delivered by Registered Post in writing to registered address (or email to the Primary Contact) and are deemed to be served once proof of receipt is received by sender.
- iv. bChannels and Client agree to be governed by English law – any disputes are subject to jurisdiction of English courts only.
- v. No other terms apply, that might be implied by local statutes or custom, unless expressly mandated by law.

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