



Ballyhoo PR Terms and Conditions of Business

All clients' projects are subject to the below terms and conditions:

1 INTERPRETATION

1.1 In these terms of business, the following words shall have the following meanings:

"Ballyhoo PR" means Ballyhoo PR.

"Client" means the company or individual purchasing the Services.

"Services" means the services to be provided by Ballyhoo PR which are the subject of an order between Ballyhoo PR and the Client.

2 ACCEPTANCE OF ORDER

2.1 These Terms of Business are the only terms and conditions upon which Ballyhoo PR supplies the Services.

2.2 Confirmation of the quote, either in writing in an email or via the 'Accept' button on the online Xero quoting system, is required to enable Ballyhoo PR to commence the initial order, with future invoicing terms agreed at the outset.

2.3 Ballyhoo PR reserves the right to refuse acceptance of an order.

3 PROVISION OF THE SERVICES

3.1 Ballyhoo PR shall provide to the Client the Services and perform the Services with a reasonable level of skill and care in accordance with a degree of skill, diligence, prudence and foresight which, as at the relevant time, would reasonably be expected from a skilled and experienced supplier of PR services seeking in good faith to comply with its contractual obligations.

3.2 Ballyhoo PR shall without the agreement of the Client be entitled to make operational changes to the Services that have no material adverse effect on the Services.

3.3 Ballyhoo PR shall not be liable for any loss caused to Client's goods whilst in Ballyhoo PR's possession unless such loss may be caused by the recklessness of Ballyhoo PR's employees or agents in which case Ballyhoo PR shall account to the Client for any monies that it may receive under any insurance policy (Ballyhoo PR not being under any obligation to insure). Ballyhoo PR shall not be liable for samples, or products of the Client, which are sent to the Media, as part of PR activity.

3.4 In the event of a limited time scale for the provision of the Service, Ballyhoo PR will advise the client of a project completion date and will offer the client the opportunity to further continue the project for a further fee, if deemed extra hours would be beneficial.

3.5 With the supply of Public Relations services, Ballyhoo PR provides no guarantees as to the coverage to be gained for the Client, and cannot be liable for any content created by the media, with reference to the Client.



4 CLIENT RESPONSIBILITIES

4.1 The Client acknowledges that Ballyhoo PR's ability to provide the Services is dependent upon the full and prompt co-operation of the Client (which the Client agrees to provide) as well as the accuracy and completeness of any information and data the Client provides to Ballyhoo PR. Accordingly, the Client shall, in a timely manner, provide Ballyhoo PR with access to, and use of, all information, data and documentation reasonably required by Ballyhoo PR for the performance by Ballyhoo PR of its obligations under these Terms of Business.

4.2 The Client agrees to follow Ballyhoo PR's reasonable instructions and procedures with respect to the Services. The Client agrees to provide Ballyhoo PR with all relevant information and images, in an acceptable format, as requested by Ballyhoo PR prior to project commencement.

4.3 Ballyhoo PR is under duty to ensure that any materials produced under a contract are legal, decent, honest and truthful. However Ballyhoo PR may not be an expert in respect of the subject matter of the contract and therefore the Client is responsible for the accuracy, completeness and for all descriptive, technical or proprietary aspects of the Services and shall indemnify Ballyhoo PR for any liability arising for a breach of this agreement.

4.4 Ballyhoo PR shall not be required to print any matter which in their opinion is or may be of an illegal or libelous nature or an infringement of the proprietary or other rights or any third party. Ballyhoo PR shall be indemnified by the customer in respect of any claims, costs and expenses arising out of any libelous matter or any infringement of copyright, patent, design of or any other proprietary or personal rights contained in any material printed for the customer. The indemnity shall extend to any amounts paid on a lawyer's advice in settlement of any claim.

5 PRICES AND PAYMENT

5.1 Ballyhoo PR reserves the right to vary the price of the Services by any amount attributable to:

5.1.1 An alteration to the Service by reason of a variation in or lack of Client's instructions;

5.1.2 Any variation of the rates of taxation or costs, third party changes or fluctuation in foreign exchange rates between the date of a contract and the date of delivery of the Service or completion of the payment.

5.2 Payments are required as per the agreed payment terms, for all activity, irrespective of the publication date of media coverage.

5.3 If any payment is in arrears under any contract between Ballyhoo PR and the Client or if the Client becomes insolvent, or Ballyhoo PR has reason to believe that any payment is likely to be in arrears, or that the Client is likely to become insolvent Ballyhoo PR shall have the right without giving notice to the Client to suspend further delivery of the Services and under any contract any such payment any part thereof shall remain in arrears for seven days after written demand sent by Ballyhoo PR to the Client, Ballyhoo PR shall have the right to cancel any contract without prejudice to any rights and remedies to recover any monies then due and owing by the client.

5.4 Time for payment is of the essence and shall be made within 7 days of the date of invoice unless otherwise agreed in advance of the invoice being issued.

5.5 Without prejudice to any other rights Ballyhoo PR may have, in the event of late payment of any sum due under these Terms of Business, Ballyhoo PR may charge interest to the Client on such sum at higher of the rate of three per cent per annum above the base lending rate (accruing daily), or of the rate of interest specified under the provisions of the Late Payment of Commercial Debts (Interest) Act 1998. Such interest will accrue from the day following that upon which payment was due until payment is made



in full. In addition or in the alternative (at the option of Ballyhoo PR), Ballyhoo PR may suspend the provision of the Services and/or any part of them until such time as the payment is made.

5.6 If Ballyhoo PR takes any legal, or other steps, for the recovery of any overdue payment, then the reasonable costs of all such steps shall be payable by the Client upon demand.

5.7 Ballyhoo PR's guarantees contained in Clause 11 below shall not apply to any contracts unless the client has paid for the Services in full.

6 RESERVATION OF TITLE

6.1 Until the price and all sums owed by the Client to Ballyhoo PR arising from any goods or services supplied - is paid in full by the Client to Ballyhoo PR, the property in the Service including Ballyhoo PR copyright (if any) shall remain in Ballyhoo PR and the following conditions shall apply:

6.1.1 The Client (if Ballyhoo PR so requires) shall hold the Services on Ballyhoo PR's behalf and shall store it in such a way that it is clearly the property of Ballyhoo PR;

6.1.2 The Client hereby grants to Ballyhoo PR the right to enter upon the Clients land or buildings and agrees to procure a right of entry into anywhere else where the Services is stored, for purposes of repossessing the Services.

7 LIMITATION OF LIABILITY

7.1 Subject to clause 13.1 and 13.2 Ballyhoo PR shall not in any circumstances be liable to the Client in respect of any:

7.1.1 loss of profits; or

7.1.2 loss of contracts; or

7.1.3 loss of revenue or goodwill; or

7.1.4 type of special, indirect or consequential loss, business interruption or loss of or damage to business information or data whether in contract, tort (including but not limited to negligence) or otherwise and whether or not suffered as a result of an action brought by a third party, even if such loss was reasonably foreseeable or the Client had been advised at any time of the possibility of the Client incurring the same.

7.2 For the avoidance of doubt, Ballyhoo PR shall not be liable to the Client or be deemed to be in breach of these Terms of Business by reason of any delay in performing, or any failure to perform, any of its obligations under these Terms of Business, if the delay or failure was due to any cause beyond Ballyhoo PR's control, due to any instructions given by the Client or in any delay caused by the Client.

7.3 Ballyhoo PR shall not be responsible in contract or in tort (including, but not limited to, negligence) or otherwise for the unauthorised access to, or alteration, theft or destruction of emails, files, programs, or information of the Client by any person (other than Ballyhoo PR) through accident or by fraudulent means or devices where Ballyhoo PR has exercised that degree of skill, diligence, prudence and foresight which, as at the relevant time, would reasonably and ordinarily be expected from a skilled and experienced supplier of information technology services seeking in good faith to comply with its contractual obligations in providing the Services to prevent such activities.

7.4 Ballyhoo PR shall have no liability if Third Party Products breach, infringe or make unauthorised use of any third party rights, save to the extent that Ballyhoo PR knew, or should reasonably have known, of such infringement or unauthorised use at the time it sub-licensed such Third Party Products to the Client.



7.5 Save as expressly set out herein all conditions, warranties, terms and undertakings express or implied statutory or otherwise (including, without limitation, as to fitness for purpose or satisfactory quality) in respect of the Services or any products provided pursuant to the Services are hereby excluded except to the extent to which it is unlawful to exclude such liability.

7.6 Nothing in these Terms of Business shall confer any right or remedy upon the Client to which it would not otherwise be entitled.

7.7 The limitations and exclusions of liability in these Terms of Business shall survive termination of these Terms of Business.

8 INTELLECTUAL PROPERTY RIGHTS

8.1 The ownership of, and sole right to, any intellectual property right in any materials produced by Ballyhoo PR under any contract with the Client shall be vested absolutely in Ballyhoo PR from the outset, and Ballyhoo PR shall be at liberty to effect and secure protection thereof by registration in a Registry or otherwise as it sees fit.

8.2 If the parties agree, Ballyhoo PR may assign all or any intellectual property rights in such materials to the Client upon such terms as may be agreed but in no event before such times as all monies due under this contract between Ballyhoo PR and the Client are paid in full by the Client.

8.3 All rights in Third Party Products shall remain vested in the licensors thereof and the Client agrees to comply with the licence terms relating to such software and/or services, where notified to the Client in writing.

9 TERMINATION

9.1 Where a contract is for the provision of the Services over a period of time, a contract may be terminated by either party giving to the other one month's written notice PROVIDED ALWAYS that if the Client terminates the contract he shall:

9.1.1 pay immediately all outstanding sums due to Ballyhoo PR;

9.1.2 be responsible for all costs and expenses incurred by Ballyhoo PR in respect of any uncompleted Service and be liable for one month's fees, whether or not activity is required from Ballyhoo PR for the Client during this period;

9.1.3 accept and pay invoices from Ballyhoo PR calculated at the contract rate in respect of any Services completed or partly completed;

9.1.4 discharge any liability of Ballyhoo PR to third parties incurred in relation to any Services originally envisaged pursuant to the Client's initial instructions.

9.1.5 Provide any notice required or permitted under the terms of these Terms of Business or required by statute, law or regulation shall (unless otherwise provided) in writing marked for the attention of the Director. Any notification to any other employee or officer of Ballyhoo PR shall not be effective.

9.1.6 Subject to the other provisions of this clause 5 these Terms of Business shall commence on the date of order.



10 INDEMNITY

10.1 The Client shall indemnify Ballyhoo PR in respect of all damage or injury occurring to any person, firm, company or property and against all actions, suits, claims, demands, charges or expenses in connection therewith for which Ballyhoo PR may become liable in respect of any breach of contract or in respect of the Services sold under any contract. In particular, it is stressed that the Client is responsible for all copy, slogans, words or methods supplied or suggested by it to Ballyhoo PR, and also such items approved by it after suggestion by Ballyhoo PR and therefore such indemnity shall extend to claims for copywriter or patent infringement, libel or other defamation.

11 WAIVER OF REMEDIES

11.1 No forbearance, delay or indulgence by either party in enforcing the provisions of these Terms of Business shall prejudice or restrict the rights of that party nor shall any waiver of its rights operate as a waiver of any subsequent breach and no right, power or remedy herein conferred upon or reserved for either party is exclusive of any other right, power or remedy available to that party and each such right, power or remedy shall be cumulative.

12 SET-OFF

12.1 The Client shall not be entitled to set off or withhold any payments claimed or due to Ballyhoo PR under these Terms of Business or any other agreement between the parties.

13 ASSIGNMENT

13.1 Neither these Terms of Business nor the benefit of the Services may be assigned or transferred by the Client whether voluntarily or involuntarily or by operation of law, in whole or in part, to any party without the prior written consent of Ballyhoo PR. No such assignment by the Client howsoever occurring shall relieve the Client of its obligations hereunder.

13.2 Ballyhoo PR may assign all of its rights and obligations under this Agreement to a third party without prior consent of the Client, and the Client shall execute such novation agreements as Ballyhoo PR may reasonably request in order to effectively document the transfer such rights and obligations.

14 PUBLICITY

14.1 All media releases and public announcements by either party relating to these Terms of Business or its subject matter, including promotional or marketing material, shall be co-ordinated with the other party and approved jointly by the party prior to release.

14.2 Ballyhoo PR shall not be held responsible for the use of such material as referred to in 14.1, by media, once information approved by the client has been submitted to the media.

14.3 When reactive PR is required, the Client agrees that Ballyhoo PR can act on the Client's behalf, if required, in line with the provision of services under these Terms of Business, based on information previously supplied by the Client and Ballyhoo PR's understanding of the Client's messages.



15 SEVERABILITY

15.1 In the event that any or any part of these Terms of Business contained herein shall be determined by any competent authority to be invalid, unlawful, or unenforceable to any extent, such term, condition or provision shall to that extent be severed from the remaining terms and conditions of these Terms of Business which shall continue to be valid and enforceable to the fullest extent permitted by law.

16 RIGHTS OF THIRD PARTIES

16.1 A party who is not party to these Terms of Business has no right under the Contracts (Right of Third Parties) Act 1999 to enforce any term of these Terms of Business, but this does not affect any right or remedy of a third party that exists or is available apart from that Act.

17. FORCE MAJEURE

Ballyhoo PR shall be under no liability if they shall be unable to carry out any provision of the contract for any reason beyond their control including (without limiting the foregoing) Act of God, legislation, war, fire, flood, drought, failure of power supply, lock-out, strike or other action taken by employees in contemplation or furtherance of a dispute or owing to any inability to procure materials required for the performance of the contract.

18 LAW AND JURISDICTION

18.1 The parties hereby agree that these Terms of Business shall be construed in accordance with English law, and hereby submit to the exclusive jurisdiction of the English courts.

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