

## TALMIX CLIENT AGREEMENT

Last Updated: September 2016

### BACKGROUND

- A. These terms set out the agreement between Talmix (defined below) and the Client (together referred to as the “**parties**”) for the supply of Independent Consultants by Talmix to the Client.
- B. Talmix has developed relationships with Independent Consultants who are exceptionally qualified and experienced in their field. The Client wishes to obtain services from the Independent Consultants.
- C. Talmix is an online introduction platform between the Client and the Independent Consultants. It provides Clients with the ability to connect with Independent Consultants registered with Talmix for short and long term consulting services.
- D. Talmix receives a commission of 25 per cent of the Independent Consultant’s Fee for each Project. Talmix will invoice the Client and the Client shall, in accordance with this agreement, pay the Charges (defined below including Talmix’s Commission) in relation to the provision of services.
- E. This agreement and the terms of the Independent Consultant’s services are confidential. The liability of Talmix is limited as stated in clause 17.
- F. The Client and the Independent Consultant are responsible for agreeing and entering into terms as between them.

### AGREED TERMS

#### 1. Interpretation

- 1.1 The definitions and rules of interpretation in this clause apply to this agreement.

**Account Managed:** a service provided to the Client by Talmix whereby Talmix assists the Client with the management and sourcing of Independent Consultants for Projects.

**Actual Availability:** the Client's availability for short-term project positions for an Independent Consultant as notified by the Client to Talmix from time to time in accordance with this agreement.

**Agreement with the Independent Consultant:** the agreement between Talmix and the Independent Consultant as set out at Schedule 1.

**Business Day:** a day other than a Saturday, Sunday or public holiday when banks in London are open for business.

**Charges:** defined at clause 4.2.

**Client:** the person who enters into this agreement.

**Commencement Date:** the commencement of this agreement being the date the Client confirmed its agreement to these terms.

**Communication:** any communication of the Independent Consultants’ name or contact details by the Client whether direct or indirect for example via email, post, other written communication, telephone call, meeting.

**Engage:** the employment of an Independent Consultant or engagement directly or indirectly through any employment business

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or agency (whether for a definite or indefinite period) as a direct result of any Introduction or Project to the Client and the terms **Engaged** or **Engagement** shall be construed accordingly.

**Expenses:** expenses incurred by the Independent Consultant pursuant to the Project.

**Force Majeure Event:** means an event beyond either party's reasonable control including but not limited to strikes, lock-outs or other industrial disputes, failure of a utility services 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, food, storm or default of suppliers or subcontractors.

**Independent Consultant:** a service provider Introduced and supplied by Talmix to the Client to provide services to the Client. The Independent Consultant is not an employee of the Client or of Talmix.

**Independent Consultant Fee:** the amount payable by the Client to the Independent Consultant for each Project.

**Introduce:** the direct or indirect provision to the Client of information by Talmix in such format as Talmix may decide which identifies the Independent Consultant and **Introduction** and **Introduced** shall be construed accordingly.

**Introduction Fee:** set out at clause 5.1.

**Talmix:** means MBA & Company Consultancy Limited incorporated and registered in England and Wales with company number

6855749 whose registered office is at 9 Marshalsea Road, London, SE1 1EP.

**Talmix's Commission:** as defined at clause 4.1.

**Project Agreement:** the agreement between the Client and Independent Consultant.

**Project:** an assignment to be undertaken by an Independent Consultant for the Client.

**VAT:** value added tax chargeable under the Value Added Tax Act 1994.

- 1.2 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assignees.
- 1.3 The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules. References to clauses and Schedules are to the clauses and Schedules of this agreement.
- 1.4 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 A reference to a statute or statutory provision is a reference to it as it is in force as at the date of this agreement.

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- 1.6 A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of this agreement under that statute or statutory provision.
- 1.7 A reference to **writing** or **written** includes fax and e-mail.
- 1.8 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.9 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

### 2. INFORMATION PROVIDED BY THE CLIENT

For each Project, the Client shall provide Talmix or the Independent Consultant (where applicable) with details of:

- (a) the date on which the Client requires the Independent Consultant to commence the Project and the likely duration of the Project;
- (b) the Project which the Client seeks to complete, including the type of work the Independent Consultant, with sole responsibility for the Project and for meeting the key deliverables, would be required to do, the proposed budget, the location at which and, if the Consultant provides the services at the Client's premises, any health or safety risks known to the Client and what steps the Client has taken to prevent or control such risks;

- (c) the experience, training, qualifications, key deliverables, and any authorisation which the Client considers are necessary, or which are required by law, or by any professional body, for the Independent Consultant to possess in order to complete the Project; and
- (d) any expenses payable by or to the Independent Consultant.

### 3. INTRODUCTION OF INDEPENDENT CONSULTANTS

- 3.1 Talmix agrees to Introduce to the Client Independent Consultants who meet the criteria for the Project as notified by the Client in accordance with clause 2.
- 3.2 The Independent Consultant Fee may be fixed or periodical and is agreed by the Client and the Independent Consultant. The Client and the Independent Consultant shall use the platform for all material negotiations prior to agreeing terms.
- 3.3 Where the Independent Consultant Fee is charged on a periodical basis, the Client shall on or before the end of the Project send to Talmix a signed statement summarising the work completed and time spent by the Independent Consultant, as well as the Independent Consultant Fee charged by the Independent Consultant to the Client.
- 3.4 If the Client objects to the claimed time spent by the Independent Consultant, the Client shall inform Talmix as soon as is reasonably practicable and shall co-operate fully, in good faith and in a timely fashion with Talmix to enable Talmix to establish the number of

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days, weeks or months completed by the Independent Consultant in relation to the Project.

- 3.5 The Client shall not decline to sign a statement on the basis that it is dissatisfied with the services provided by the Independent Consultant. In cases of unsuitable or unsatisfactory work the provisions of clause 7.2 shall apply.
- 3.6 The failure by the Client to sign the statement does not absolve the Client of its obligation to pay Talmix the Charges in accordance with this agreement.
- 3.7 Any variation to the services, remuneration or any other aspect of the agreement shall be agreed by the parties in writing.

### 4. PAYMENT OF THE CHARGES

- 4.1 Talmix's Commission shall be:
- (a) payable by the Client in addition to the Independent Consultant Fee; and
  - (b) 25 per cent of the total Independent Consultant Fee for each Project subject to a minimum payment of £250 for each Account Managed Project.
- 4.2 The Client shall pay to Talmix the Independent Consultant Fee, Talmix's Commission, and the Introduction Fee (where applicable) (together the **Charges**).
- 4.3 Talmix shall send to the Client an invoice for the Charges and Expenses (where applicable) and the administration fee (payable in

accordance with clause 4.8) at the intervals set out in the Project Agreement and the Client shall pay Talmix within 14 days of the date of the invoice.

- 4.4 For the avoidance of doubt, the Client shall not be required to pay Independent Consultant Fees for any services not provided by the Independent Consultant.
- 4.5 The Charges are exclusive of VAT, which where applicable shall be added to the Charges at the prevailing rate.
- 4.6 If the Client fails to make any payment due to Talmix under this agreement by the due date for payment then the Client shall pay interest on the overdue amount at the rate of 4 per cent per annum above Barclays Bank PLC's base rate from time to time. Such interest shall accrue on a daily basis from the due date until receipt of payment of the overdue amount and the accrued interest.
- 4.7 If the parties have agreed that Expenses are to be paid by Talmix to the Independent Consultant, Talmix may invoice the Client for those Expenses separately and in addition to the Charges.
- 4.8 Where Talmix is responsible for the payment of Expenses in accordance with 4.7, Talmix shall charge an administration fee of 7.5 per cent of the total Expenses.

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### 5. ENGAGEMENT OF INDEPENDENT CONSULTANT AND INTRODUCTIONS TO THIRD PARTIES

- 5.1 If, following the Introduction of the Independent Consultant by Talmix to the Client, the Client Engages the Independent Consultant within 12 months of the later of the date of the Introduction or the date of the end of a Project, the Client will pay to Talmix 25 per cent of the first year remuneration including any bonuses and payments in kind ("**Introduction Fee**"), payable by the Client to the Independent Consultant.
- 5.2 All Introductions are confidential and personal to the Client. Any Communication by the Client to a third party which results in the Engagement of the Independent Consultant within 12 months of the later of the date of the Introduction or the date of the end of a Project will render the Client liable to pay Talmix the Introduction Fee as defined in clause 5.1.

### 6. CONFIDENTIALITY

- 6.1 Each party undertakes that it shall not disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by clause 6.2.
- 6.2 Each party may disclose the other party's confidential information:
- (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under this agreement. Each

party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 6.2; and

- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

- 6.3 Subject to clause 6.4, no party shall use the other party's confidential information for any purpose other than to perform its obligations under this agreement.
- 6.4 The Client consents and allows Talmix to use the Client's name and logo for the purposes of advertising and marketing Talmix's business.

### 7. TERM

- 7.1 This agreement shall commence on the Commencement Date, and shall continue, unless terminated earlier in accordance with clause 8, until either party gives to the other party no less than 30 Business Days notice to terminate such notice to expire on or after the end of any Project.
- 7.2 Notwithstanding clause 7.1, either party may terminate any Project with immediate effect in accordance with the Agreement with the Independent Consultant.

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### 8. DEFAULT AND EARLY TERMINATION

Without affecting any other right or remedy available to it, Talmix may terminate this agreement with immediate effect by giving written notice to the Client if:

- (a) the Client commits a material breach of any term of this agreement and (if such a breach is remediable) fails to remedy that breach within 21 days of receipt of notice in writing to do so; and
- (b) the Client repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement.

### 9. EFFECT OF EARLY TERMINATION

- 9.1 Any provision of this agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this agreement shall remain in full force and effect.
- 9.2 Termination of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination.

### 10. ANNOUNCEMENTS

No party shall make, or permit any person to make, any public announcement concerning this agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

### 11. DATA PROTECTION COMPLIANCE

To the extent that any data or information held or disclosed by either party is personal data within the meaning of the Data Protection Act 1998 or equivalent legislation in the territory, each party agrees that:

- (a) it will process such data and information only in accordance with the other party's instructions; and
- (b) it will take such technical and organisational measures against unauthorised or unlawful processing of such data and information and against accidental loss or destruction of, or damage to, such data and information as are appropriate to the other party as data controller.

### 12. WARRANTIES

Each party warrants that it has full capacity, and a person entering into this agreement on behalf of a body corporate warrants that they have full authority to enter into and perform this agreement.

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### 13. NON-SOLICITATION

The parties agree that neither of them will either on their own account or in partnership or association with any person, firm, company or organisation, or otherwise and whether directly or indirectly during, or for a period of six months from, the end of the term of this agreement, solicit or entice away or attempt to entice away or authorise the taking of such action by any other person, any key executive of the other party who has worked on the services provided under this agreement at any time during the term of this agreement.

### 14. PROJECT AND OTHER DEALINGS

Neither party shall assign, transfer, mortgage, charge, declare a trust over or deal in any other manner with any or all of its rights and obligations under this agreement without the prior written consent of the other party.

### 15. NO PARTNERSHIP OR AGENCY

15.1 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

15.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

### 16. ENTIRE AGREEMENT

16.1 This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

16.2 Notwithstanding clause 16.1, where the Client has signed both an online contract and a physical contract, the terms of the physical contract shall prevail.

### 17. LIMITATION OF LIABILITY

17.1 Nothing in this agreement shall limit or exclude Talmix's liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its personnel, agents or subcontractors;
- (b) fraud or fraudulent misrepresentation; and
- (c) any other liability which cannot be limited or excluded by applicable law.

17.2 Subject to clause 17.1, Talmix shall not be liable to the Client, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this agreement for:

- (a) loss of profits;
- (b) loss of sales or business;

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- (c) loss of agreements or contracts;
- (d) loss of anticipated savings;
- (e) loss of or damage to goodwill; and
- (f) any indirect or consequential loss.

17.3 Subject to clause 17.1, Talmix's total liability to the Client, whether in contract, tort (including negligence), breach of its statutory duty, or otherwise, arising under or in connection with this agreement shall be limited to £10,000.

17.4 Each party acknowledges that in entering into this agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement save in respect of liability arising as a consequence of fraud or fraudulent misrepresentation.

### 18. THIRD PARTY RIGHTS

No one other than a party to this agreement, their successors and permitted assignees, shall have any right to enforce any of its terms.

### 19. SEVERANCE

19.1 If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-

provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement.

19.2 If any provision or part-provision of this agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

### 20. FORCE MAJEURE

Neither party shall be liable to the other party as a result of any delay or failure to perform its obligations under this agreement as a result of a Force Majeure Event.

### 21. GOVERNING LAW AND JURISDICTION

21.1 This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

21.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).



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### 22. COUNTERPARTS

This agreement may be signed in duplicate, each of which, when signed, shall be original, and all the duplicates together shall constitute the same agreement. Faxed or scanned signatures shall be as effective as original signatures.

This agreement has been entered into on the date stated at the beginning of it.

