

## Engagement Letter | Provision of Services

Thank you for choosing Impact Lab Limited (**we** or **us**) to provide you with the specified Services (defined below) for **[entity name]** (**you**)

The terms on which we will supply the Services to you, and on which you will agree to engage us, are set out below, together with details of our fees and other specific arrangements. The General Terms and Conditions which apply to the Services are **enclosed**. Definitions for capitalised terms are also set out below.

| Item   | Description   |
|--|---|
| <b>1. Services</b>                             | <p><b>Consultancy Services / Impact Report</b></p> <p>The <b>Impact Report</b>) that covers the following:</p> <ul style="list-style-type: none"> <li>➤ analysis which:               <ul style="list-style-type: none"> <li>(a) describes your return on investment via an Impact Number (showing, in dollar terms, the impact and social value you have achieved for your customers/clients, by population, outcome and by location; and</li> <li>(b) examples of effective practice related to your activities.</li> </ul> </li> </ul>   |
| <b>2. Permitted Purposes</b>                   | <ul style="list-style-type: none"> <li>➤ You may use the Impact Report for your internal purposes to make decisions in relation to your investments. However, please be aware that we do not provide advice or make any recommendations in relation to decisions that you may make.</li> <li>➤ You will need our written consent if you want to make publicly available, or provide to any other person, any information that you receive from us under or in connection with this Agreement. For the sake of clarity any other person in this item is intended to mean persons who could be our potential customers or competitors.</li> </ul> |
| <b>3. Fees</b>                                 | <ul style="list-style-type: none"> <li>➤ The fee for the Services is (the <b>Fee</b>), payable by BDO in accordance with the terms set out below and otherwise on the terms set out in the General Terms and Conditions.</li> </ul>   |
| <b>4. Timeframe for providing the Services</b> | <p>We will aim to complete the Services within six months of the Orientation Call.</p>  |
| <b>5. Special Terms</b>                        | <p>You acknowledge that we may, and you consent to us doing so, advertise and market publicly (whether on our website, in marketing materials, at public events or otherwise) the fact that you are a client of Impact Lab Limited and that we will not be in any breach of the Agreement in doing so.</p>  |
| <b>6. Definitions</b>                          | <p>For the purposes of this Engagement Letter, capitalised terms used but not defined have the following meanings:</p> <ul style="list-style-type: none"> <li>(a) <b>Impact Number</b> means the number that we will calculate to show your social value calculation in dollar value terms.</li> <li>(b) <b>Services</b> means the services described under the heading “Services” in this table above; and</li> </ul>  |

Please sign and return a copy of this Engagement Letter to confirm your acceptance of these terms, including the General Terms and Conditions.

We look forward to working with you.

Yours sincerely



Maria English  
Chief Executive, Impact Lab Limited

Acknowledged, agreed and accepted for and on behalf of [entity name]

Signed

Name:

Title:

Date:

## IMPACT LAB LIMITED – GENERAL TERMS &amp; CONDITIONS

**1. Introduction**

1.1 Impact Lab Limited's (**Impact Lab, we or us**) agreement with you comprises the:

- (a) Engagement Letter;
  - (b) the general terms and conditions set out in this document (the **Terms**); and
  - (c) the Privacy Agreement (if applicable),
- in each case as amended by agreement in writing between you and us from time to time (the **Agreement**).

1.2 The Agreement sets out the terms and conditions on which we will provide the Services to you.

1.3 The Agreement commences on the date you first enter into an Engagement Letter with us and (unless we agree otherwise in writing) will expire at the end of the Term, unless terminated earlier in accordance with these Terms.

1.4 These Terms will also apply whenever you ask us to provide additional services for you and we agree in writing to provide those services (subject to any different or additional terms agreed in writing).

**2. Term**

2.1 We will provide the Services to you for the Term.

2.2 We will use reasonable endeavours to comply with any timeframes specified in the Engagement Letter, however, you acknowledge that these are estimated dates only and are subject to the provision by you of any required Customer Data.

**3. Provision and use of the Services**

3.1 We will perform the Services using reasonable skill and care.

3.2 You must only use the Services in the Territory for the Permitted Purpose and otherwise on and subject to the Agreement.

**4. Changes to Services**

4.1 We may withdraw, vary, reconfigure, add to, modify, substitute or otherwise change any Service due to market demand, any new or amended law, a technology change, security requirements or where a third party changes the terms upon which it supplies its Third Party Data to you or to us, as applicable (each, a **Variation**).

4.2 If a Variation materially and negatively alters the performance or functionality of the relevant Service, we will notify you and you may:

- (a) terminate the relevant Service; or
- (b) request a change to the Engagement Letter, for our consideration,

by written notice to us within 30 days from our notice. If you do not respond to our notice within 30 days, you will be deemed to have accepted the Variation.

**5. Additional requirements relating to your use of the Services**

5.1 You must not:

- (a) reverse engineer or tamper with any Service;
- (b) circumvent any technological measures that are designed to prevent unauthorised use or access to all or any part of any Service;
- (c) use any Service to generate any statistical or other information, or to prepare any comparison to other information databases, that may be provided to any third party or for the purpose of providing or developing any product or service that competes with our Services;
- (d) identify us, our Related Companies, any Service or our confidential publications as a source of reference; or
- (e) use any Service for any unlawful purpose or in a manner that contravenes any applicable laws.

5.2 You must:

- (a) protect all Services from unauthorised use, alteration, adoption, modification, reproduction, access, publication and distribution; and
- (b) comply with our reasonable directions from time to time in relation to any one or more of the Services .

5.3 When we deliver or transfer an electronic report or data extract to you, including by email, direct link, data stream, download or other media (the **Transferred Data**), you may save the Transferred Data onto your system and use it only in accordance with the Agreement.

5.4 You must procure that your Personnel and approved Related Companies comply with the Agreement and promptly notify us of any breach of the Agreement. Any breach of the Agreement by any of your Personnel or approved Related Companies will be deemed to be a breach of the Agreement by you.

**6. Fees, Invoicing & Payment**

6.1 You must pay us the fees for the Services as set out in the Engagement Letter (the **Fees**) plus any applicable tax in accordance with the Goods and Services Tax Act 1985 (the **Tax Act**).

6.2 We will invoice you in each period set out in the Engagement Letter. Each invoice will be a valid tax invoice for the purposes of the Tax Act. All rebates, discounts or other reductions will be calculated exclusive of Goods and Services Tax.

6.3 Subject to the payment terms set out in the Engagement Letter, you must pay each invoice no later than the 20<sup>th</sup> of the month following the date of the applicable invoice.

6.4 The Fees must be paid in full without deduction, withholding, set-off or counterclaim.

6.5 If any Fees remain unpaid for more than 40 Business Days beyond their due date (**Outstanding Amounts**), we may:

- (a) immediately suspend the provision of any or all Services to you; and
- (b) charge interest at 12% per month on the Outstanding Amounts from the due date of payment until the date the Outstanding Amounts are paid.

You must reimburse us for any costs and expenses we incur in recovering Outstanding Amounts.

6.6 We may charge additional fees beyond those set out in item 3 of the Engagement Letter if events beyond our control (including your acts or omissions) affect our ability to perform the Services as originally planned or if you ask us to perform additional tasks, provided that you have approved any additional fees in writing.

6.7 You agree to reimburse us for any out-of-pocket costs or expenses reasonably and properly incurred by us in relation to this Agreement. We will obtain your approval before incurring any individual out-of-pocket costs or expenses in excess of NZD\$250 per item.

6.8 Where a Service incorporates Third Party Data and the cost of the Third Party Data increases during the Service Term, we may increase the Fees, on a cost pass-through basis.

**7. Customer Data**

7.1 You must supply us with all data or information required to provide, supply or maintain the Services (if any) or otherwise perform our obligations under the Agreement, as we may specify from time to time, including any information relating to any Service Provider (the **Customer Data**). To avoid doubt, Customer Data includes any branding, logos, trade marks, copyright notice or other proprietary markings of any Service Provider supplied to us for the purposes of providing, supplying or maintaining the Services.

7.2 You must provide all Customer Data to us in the format that we notify to you from time to time.

7.3 You represent and warrant (as a continuing warranty) that:

- (a) you hold all necessary legal rights, title, consents and authority to provide the Customer Data to us;
- (b) your supply of the Customer Data will not infringe the Intellectual Property Rights of any person;
- (c) the Customer Data is complete, accurate, up to date and not misleading at the time it is provided;
- (d) none of the Customer Data constitutes "personal information" for the purposes of the Privacy Act 2020; and
- (e) you will supply us with all information to correct and update the Customer Data from time to time and you

authorise us to apply those corrections and updates.

- 7.4 We may collect, use and disclose Personal Information about your Personnel that you provide to us, for the purpose of providing the Services. To the extent that you provide any Personal Information about your Personnel to us, you confirm that you are authorised to do so by the relevant individual and it has informed the individual that they have the right to contact us to access and, if applicable, request correction of any Personal Information that we hold about them.

7.5 **IMPORTANT:**

- (a) You grant us a non-exclusive, perpetual, irrevocable, transferable, royalty-free licence to use and sub-licence the Customer Data:
- (i) to provide the Services to you;
  - (ii) to provide services similar to the Services to others;
  - (iii) to validate and enhance our products and services; and
  - (iv) for any other lawful purpose.
- (b) You warrant that you have the requisite authority from any Service Provider to provide the licence set out in clause 7.5(a) and acknowledge that we rely on that warranty when we collect, use and/or disclose any information relating to such Service Provider. You must provide us with a copy or evidence of that authority upon request from us at any time and procure any specific confirmations that we may request from time to time in relation that authority.

- 7.6 We may collect, use and share aggregated data such as statistical or demographic data for any purpose. Aggregated data does not identify any particular individual or organisation.

**8. Intellectual Property**

- 8.1 Each party owns all of its Intellectual Property Rights that existed at the commencement of the Agreement (the **Pre-Existing IP**).

- 8.2 If any of your Pre-Existing IP forms part of any of our Services, you grant us a non-exclusive, perpetual, transferable, sub-licensable, irrevocable, royalty-free licence to use and modify that Pre-Existing IP only to the extent required to deliver the Services or any services similar to the Services to others.

- 8.3 Subject to clause 8.1, we own all right, title and interest, including Intellectual Property Rights, in our Services at all times. Without limiting the foregoing, all right, title and interest, including Intellectual Property Rights, in the following vest in us on creation (and may be used by us in any manner we consider fit, in our discretion, including by other clients or prospective clients of Impact Lab):

- (a) any enhancements, variations, improvements or modifications to our Services; and
- (b) any new Intellectual Property Rights developed in the course of providing the Services.

- 8.4 If, notwithstanding clause 8.3, any Intellectual Property Rights in any of our Services (other than your Pre-Existing IP) vests in you, you assign those Intellectual Property Rights to us with effect from creation, and agree to do all things reasonably required by us to give effect to such assignment.

- 8.5 The Services may include our brand, logo, trade mark, copyright notice or other proprietary marking. You must not remove, copy, use or mask those items without our prior written consent.

**9. Third Party Data**

- 9.1 Our Services may incorporate products, services, data and information that is provided to us by third parties, including Customer Data and data from government agencies, stock exchanges and/or publicly available information sources (the **Third Party Data**).

- 9.2 You acknowledge that we use Third Party Data for the purpose of providing the Services to you on an "as is" and "as available" basis and we do not independently verify that Third Party Data is available, accurate, up to date and/or complete. We exclude all responsibility and liability for any Third Party Data, including any inaccurate, incomplete, out of date or unavailable Third Party Data.

- 9.3 You must comply with any terms and conditions applicable to any Third Party Data notified by us to you from time to time including any obligation to include a third party copyright or other notice in connection with the relevant data.

- 9.4 Some data and information used in providing the Services is or may be licensed under a Creative Commons Attribution 4.0 International (CC BY 4.0) license. It is attributed to the NZ Treasury.

**10. No Implied Warranties**

- 10.1 To the maximum extent permitted by law:

- (a) all Services are supplied to you on an "as is" and "as available" basis and we do not provide any representations or warranties in relation to any Information, including any representations or warranties relating to the accuracy, adequacy, availability or completeness of the Information or that it is suitable for your intended use. Any representation, warranty, condition, guarantee, term or undertaking that would be implied into the Agreement by legislation, common law or otherwise, including any implied terms, conditions or warranties of satisfactory quality, fitness for a particular purpose, non-infringement, compatibility, security and accuracy, is excluded;
- (b) you are solely responsible for any decision made or not made by you in relation to any Service. We do not provide advice or make any recommendations in relation to decisions, financial or otherwise, that you may make. To the maximum extent permitted by law, we will not be liable in any way whatsoever to you or anyone else for any financial decision or action taken by you or anyone else in reliance upon the information provided in the Impact Report, and we do not guarantee or give any representation or warranty in relation to any future or potential outcomes; and
- (c) we are not responsible for any delays, delivery failures, or loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and you acknowledge that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

**11. Limitation of Liability**

- 11.1 If you are not satisfied with the Services, you must provide us with the opportunity to re-perform the relevant Services or otherwise resolve the issues that have arisen. To the extent permitted by law, this is the sole remedy for any breach of the Agreement by us.

- 11.2 If, notwithstanding clause 11.1, we have any liability under or in connection with the Agreement, to the maximum extent permitted by law:

- (a) our total aggregate liability to you for any loss, damage or liability arising out of or in connection with the Agreement will be limited to the total of all amounts paid by you to us under the Engagement Letter during the 12 month period immediately preceding the date on which the action or omission giving rise to the claim arose; and
- (b) we will not be liable for any:
  - (i) indirect, special or consequential loss or damage whatsoever; or
  - (ii) loss of profits, revenue, data, goodwill, customers or opportunity or loss of or damage to reputation.

- 11.3 The limitations and exclusions on liability in this clause 11 will apply irrespective of the legal basis for the applicable claim, including contract, equity, tort (including negligence) or statute.

- 11.4 In no circumstances will we have any liability whatsoever under or in connection with the Agreement:

- (a) for the acts or omissions of any third party; or
- (b) to any third party, including any Service Provider.

**12. Indemnity**

You indemnify us for any loss or damage we suffer or incur arising out of or in connection with any claim, suit, action, demand or proceeding brought by a third party against us

arising out of or in connection with our provision of the Services to you and/or any breach of clause 5 (*Additional requirements relating to your use of the Services*), clause 7 (*Customer Data*) or clause 13 (*Confidentiality Obligations*).

### 13. Confidentiality Obligations

- 13.1 Each party must keep confidential all Confidential Information.
- 13.2 Nothing in clause 13.1 prevents a party from disclosing Confidential Information:
- in circumstances expressly provided for in the Agreement, including pursuant to clauses 7.5(a) and 8.2;
  - to its Related Companies or its and their Personnel on a 'need to know' basis, provided that person is under a duty to keep the Confidential Information confidential in accordance with these Terms;
  - if disclosure is required by law, the rules of a stock exchange or Regulator (but only to the extent required); or
  - if disclosure is reasonably required to enable a party to perform its obligations or enforce its rights under these Terms.
- 13.3 We may enter into a separate 'Privacy Agreement' with you in relation to specific scenarios. In the event of any inconsistencies between the separate confidentiality agreement and these Terms, these Terms prevail.

### 14. Monitoring and Access

- 14.1 If requested by you, we may agree to access and use your IT systems and the IT systems of any applicable Service Providers for the purpose of providing the Services. If we access any such IT systems, you indemnify us against and release us from any claims arising directly or indirectly from our access to any such IT systems, including any extraction of information relating to any Service Provider.

### 15. Termination

- 15.1 A party may terminate the Agreement immediately by written notice if the other party:
- breaches a term of the Agreement which is not capable of remedy or, where the breach is capable of remedy, fails to remedy the breach within 20 Business Days of written notice of the breach; or
  - suffers an Insolvency Event.
- 15.2 We may suspend all or part of the Services without prior notice if you have or we reasonably suspect you have materially breached, or you are reasonably likely to materially breach, a term of the Agreement.
- 15.3 In addition, we may terminate the Agreement (in whole or in part), or any particular Service, immediately upon written notice to you if we reasonably determine that we can no longer provide the Services in accordance with applicable laws.
- 15.4 Termination or expiry of the Agreement will not affect any rights accrued prior to such termination or expiry.

### 16. Governing Law

- 16.1 The Agreement is governed by and to be construed in accordance with the laws of New Zealand and each party submits to the exclusive jurisdiction of the courts of New Zealand.

### 17. Sub-contracting

- 17.1 We may subcontract the performance of our obligations (including to a Related Company), on the basis we remain solely liable to you for the performance of our obligations.
- 17.2 You must not transfer or otherwise grant access to any Service to any person, including your Related Companies, except as expressly agreed by us in the Engagement Letter or in writing.
- 17.3 If we provide consent in accordance with clause 17.2, the other person must comply with the terms of the Agreement and you will remain solely liable for that person's compliance the Agreement.

### 18. Storage of Information

- 18.1 We may store your information, including the Customer Data, in any format we choose at our offices or at premises outside

our offices, including data storage facilities or online storage located within or outside New Zealand (including cloud-based hosting), which may be operated by independent service contractors.

- 18.2 Security of your information is very important to us. However, due to the inherent nature of the internet, we are not able to guarantee the security of any information that we hold (or that is held on our behalf) or that you transmit to us or that access will be uninterrupted. Our sole responsibility to you in respect of any damage to or loss of your information (other than any such damage or loss that is caused by a fraudulent act or omission, or wilful breach of this Agreement, by any of our employees) is to:
- restore any of your information that we hold, to the last available backup; or
  - if applicable, to exercise any rights that we may have to require any applicable cloud services provider to restore any of your information that it holds, to the last available backup.

### 19. General

- 19.1 **Other Terms:** By using any of our Services, you agree to be bound by our Terms of Use and Privacy Policy, as amended from time to time, that we notify to you.
- 19.2 **Entire Agreement:** The Agreement constitutes the entire agreement of the parties about its subject matter and supersedes all previous agreements, representations and understandings.
- 19.3 **Priority:** To the extent of an inconsistency between:
- the Engagement Letter;
  - these Terms; and
  - the Privacy Agreement (if applicable),
- the order of priority set out above will apply (with (a) having the highest priority).
- 19.4 **Assignment:** You must not assign, novate or transfer your rights or obligations under these Terms and/or the Engagement Letter, including to any Related Company, without our prior written consent (which may be withheld in our sole discretion).
- 19.5 **Amendments:** Any amendment to the Agreement must be in writing signed by the parties, except where we are required to make changes to ensure compliance with applicable laws in which case we can give you notice of any such amendments required and you will be bound by the same.
- 19.6 **Notices:** Any notice, demand or other communication to be served on a party must be in writing. Notices sent by post will be deemed received at the end of three Business Days after posting, and notices sent by email will be deemed received on the date and time that the email was sent (as evidenced in the sender's email sent history). Notices received after 5pm on a Business Day will be deemed received on the next Business Day.
- 19.7 **Force majeure:** No party will be liable to the other for non-performance or delays (other than a failure to pay) caused by an external event beyond the parties' reasonable control. In such event, both parties will use reasonable endeavours to minimise delays or interruptions.
- 19.8 **Severability:** If any part of the Agreement is illegal or unenforceable, it will be severed and the remaining terms will continue in full force and effect.
- 19.9 **Waiver:** A single or partial exercise or waiver of a right relating to the Agreement does not prevent any other exercise of that right or the exercise of any other right.
- 19.10 **Survival:** Any provision of the Agreement, which is by its nature a continuing obligation, will survive termination.
- 19.11 **Relationship:** We will provide the Services to you as an independent contractor. Nothing in this agreement creates any partnership, joint venture or employment relationship between the parties.
- 19.12 **Rights of Third Parties:** The Agreement is not intended to confer a benefit on any person other than the parties to the Agreement or to create, in respect of a benefit, any obligations enforceable at the suit of any person other than the parties to

the Agreement under Part 2, Subpart 1 (Contractual Privy) of the Contract and Commercial Law Act 2017.

- 19.13 **Non-exclusive:** Neither these Terms nor the Engagement Letter is exclusive and you agree that there are no restrictions on us to provide any of the Services to any other person.
- 19.14 **Counterparts:** The Engagement Letter may be executed in any number of counterparts (including .pdf copies) which together will constitute the one instrument.

## 20. Interpretation

In these Terms, unless the context otherwise requires:

- (a) "in writing" includes by email;
- (b) headings are for convenience only and do not affect interpretation;
- (c) a reference to legislation includes all regulations, orders, instruments, codes, guidelines or determinations issued under that legislation or and any modification, consolidation, amendment, re-enactment, replacement or codification of it;
- (d) a reference to a person includes an individual, corporation or other body corporate, partnership, trust, joint venture, unincorporated body, government agency or other entity, whether or not it comprises a separate legal entity;
- (e) the words "include" or "including", or similar expressions, are to be construed without limitation;
- (f) a reference to a party to includes that party's successors and permitted assigns and substitutes; and
- (g) a word importing the singular includes the plural and vice versa.

## 21. Definitions

The following definitions apply in these Terms, unless the context otherwise requires:

**Agreement** has the meaning given to it in clause 1.1.

**Business Day** means Monday to Friday, excluding public holidays in Wellington, New Zealand.

**Confidential Information** means all information that could be reasonably regarded in the circumstances as confidential, including information which relates to the business, interests or affairs of a party, the terms of use, the Services and Intellectual Property Rights, but excludes information which is:

- (a) in the public domain, other than as a result of a breach of these Terms;
- (b) Customer Data once that Customer Data forms part of any Services or is supplied to us;
- (c) in the possession of a party prior to the commencement of the Agreement without any obligation of confidentiality; and
- (d) is independently developed or acquired by a party prior to the commencement of the Agreement without relying on information which would itself be Confidential Information.

**Customer Data** has the meaning given in clause 7.1.

**Engagement Letter** means the engagement letter provided to you with these Terms (executed by you and us) including details of the Services and the Fees.

**Information** means any information provided by us to you in connection with a Service.

**Insolvency Event** means an event of insolvency, including bankruptcy; the appointment of an insolvency administrator, manager, receiver or liquidator; any action related to winding up or making a material arrangement in relation to creditors; applying for any type of protection against creditors; being unable to pay its debts as they fall due; or taking or suffering any similar or analogous action in any jurisdiction as a consequence of debt.

**Intellectual Property Rights** means all intellectual and industrial property rights and interests throughout the world, whether registered or unregistered, including trademarks, designs, patents, inventions, databases, discoveries, circuit layouts, copyright (including source code), rights in software,

Confidential Information, know-how, business names, domain names, all analogous rights and all other intellectual property rights.

**Permitted Purpose** means the permitted purposes described in the Engagement Letter.

**Personal Information** has the meaning given to it in the Privacy Act 2020.

**Personnel** means directors, officers, employees, agents and contractors.

**Privacy Policy** means any Privacy Policy that we have, as notified by us to you, or as set out on our website, as updated from time to time. **Regulator** means any authority, commission, government department, court, tribunal, or similar having regulatory or supervisory authority over the parties or any of the Services.

**Related Company** has the meaning given to it in the Companies Act 1993, read as if a reference to company was a reference to any body corporate, wherever incorporated.

**Service** means a service provided by us to you as set out in the Engagement Letter.

**Service Provider** means your partner organisations notified to us in writing for the purposes of carrying out the Services (if any).

**Term** means from the date of the Agreement to the completion of the Services, unless terminated earlier.

**Terms** has the meaning given in clause 1.1.

**Territory** means New Zealand (unless otherwise specified in the Engagement Letter).

**Third Party Data** has the meaning in clause 9.1.