

Terms and Conditions of Service

Part 1: The Conditions

1. Interpretation

1.1 Definitions:

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

Change Order: has the meaning in Clause 6.1 (Change Control).

Charges: the sums payable by the Customer for the supply of the Services by the Supplier, as set out in the Contract Details.

Conditions: these terms and conditions set out in Clause 1 (Interpretation) to Clause 12 (General) (inclusive).

Contract: the contract between the Customer and the Supplier for the supply of the Services in accordance with the Contract Details, the Conditions and the Schedule.

Contract Details: means the completed contract details entered into by the Supplier and the Customer and which accompany these Conditions and the Schedule, which shall specify whether the Customer is a Project-Based Customer or a Retainer-Based Customer.

Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical measures: as defined in the Data Protection Legislation.

Customer Materials: all materials, equipment and tools, drawings, specifications and data in any form whether owned by the Customer or a third party, which are supplied by the Customer to the Supplier in connection with the Services.

Data Protection Legislation: the UK Data Protection Legislation and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications).

Deliverables: all documents, products and materials developed by the Supplier or its agents, subcontractors and personnel as part of or in relation to the Services in any form, including without limitation computer programs, data, reports and specifications (including drafts).

Extended Term: any additional period in which the Supplier is to provide the Services to the Customer as defined in Clause 2.3 (Commencement and Term).

Initial Term: (a) in the case of a Project-Based Customer, the date of completion of the provision of the Services; or (b) in the case of a Retainer-Based Customer, the date of expiry of the initial period for provision of the Services as detailed in the Contract Details.

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or

unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Project-Based Customer: a Customer receiving Services of a one-off or project based nature, as set out in the Contract Details.

Retainer-Based Customer: a Customer receiving Services on an ongoing basis or for a specified period of time, as set out in the Contract Details.

Schedule: the schedule annexed to these Conditions.

Services: the services, including without limitation any Deliverables, to be provided by the Supplier pursuant to the Contract as set out in the Contract Details.

Services Start Date: the day on which the Supplier is to start provision of the Services, as set out in the Contract Details.

UK Data Protection Legislation: all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

1.2 Interpretation:

- (a) Clause and Schedule headings shall not affect the interpretation of the Contract.
- (b) A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (c) A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- (d) Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- (e) Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- (f) The Contract shall be binding on, and ensure to the benefit of, the parties to the Contract and their respective personal representatives, successors and permitted assigns, and references to any party shall include that party's personal representatives, successors and permitted assigns.
- (g) A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time. A reference to a statute or statutory provision includes any subordinate legislation made from time to time under that statute or statutory provision.
- (h) 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.
- (i) A reference to **writing** or **written** includes fax and email.

- (j) A reference to writing or written includes fax and email.
- (k) Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- (l) A reference to the Contract or to any other agreement or document referred to in the Contract is a reference of the Contract or such other agreement or document as varied (in each case, other than in breach of the provisions of the Contract) from time to time.
- (m) References to clauses and schedules are to the Clauses and Schedules of the Contract.

2. Commencement and term

- 2.1** The Contract shall commence on the Services Start Date and shall continue for the Initial Term.
- 2.2** Where the Customer is a Project-Based Customer, unless the Contract is terminated earlier in accordance with these Conditions or the Schedule, the Contract shall terminate at the end of the Initial Term automatically without notice.
- 2.3** Where the Customer is a Retainer-Based Customer, unless and until the Contract is terminated earlier in accordance with these Conditions or the Schedule, the Contract shall automatically extend for one month (**Extended Term**) at the end of the Initial Term and at the end of each Extended Term.

3. Supply of services

- 3.1** The Supplier shall use reasonable endeavours to supply the Services in accordance with the Contract in all material respects.
- 3.2** The Supplier shall use reasonable endeavours to meet any performance dates specified in the Contract Details but such dates shall be estimates only and time for performance by the Supplier shall not be of the essence of the Contract.
- 3.3** The Supplier shall use reasonable efforts to deliver the Services but shall not be liable for delayed or non-conforming performance due to changes made to standard terms, assessment algorithms, search criteria, viewing policy, prices campaign offers, suspension or non-approval of accounts, or other matters beyond the Supplier's control or for other changes or discontinuation of search engines.
- 3.4** The Supplier shall not be liable for ensuring that the Services lead to a certain volume of traffic, number of clicks, registrations, leads, purchases, PR coverage or any related metrics.
- 3.5** Where applicable to the Services, the Supplier shall not be responsible for website URLs which have dropped or are excluded by a search engine for any reason.

4. Customer's obligations

4.1 The Customer shall:

- (a) co-operate with the Supplier in all matters relating to the Services;
- (b) provide for the Supplier, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to the Customer's premises, office accommodation, data and other facilities as required by the Supplier in connection with the Services;
- (c) provide, in a timely manner, all documents, information, items and materials in any form (whether owned by the Customer or third party) as the Supplier may reasonably require in connection with the Services, and ensure that they are accurate and complete in all material respects;
- (d) inform the Supplier immediately of any changes to Customer websites, domain names, technical set up, and any other material information which may affect the Services;
- (e) implement any changes the Supplier may require in order to provide the Services; and
- (f) inform the Supplier of all health and safety and security requirements that apply at the Customer's premises.

4.2 If the Supplier's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees, the Supplier shall be allowed an extension of time to perform its obligations equal to the delay caused by the Customer.

4.3 The Customer shall be responsible for ensuring the Customer Materials or any materials which have been approved by the Customer in relation to the Services do not contravene any legislation, regulations, marketing rules or any other third-party rights. The Supplier shall be entitled to reject and delete such material at its sole discretion.

5. Non-solicitation

The Customer shall not, without the prior written consent of the Supplier, at any time from the commencement of the Initial Term to the expiry of 24 months after the termination or expiry of the Contract, solicit or entice away from the Supplier or employ or attempt to employ any person who is, or has been, engaged as an employee, consultant or subcontractor of the Supplier in the provision of the Services.

6. Change control

6.1 Either party may propose changes to the scope or execution of the Services but no proposed changes shall come into effect until they have been agreed in writing by both parties.

6.2 The parties shall make reasonable efforts to agree to any changes proposed under clause 6.1.

7. Intellectual property

7.1 Unless the parties agree otherwise in writing, in relation to the Deliverables:

- (a) the Supplier and its licensors shall retain ownership of all Intellectual Property Rights in the Deliverables, excluding the Customer Materials;
- (b) the Supplier grants the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to copy and modify the Deliverables (excluding the Customer Materials) for the purpose of receiving and using the Services and the Deliverables in its business; and
- (c) the Customer may sub-license the rights granted in Clause 7.1(b):
 - (i) to its customers; and
 - (ii) subject to their entering into appropriate confidentiality undertakings, to third parties for the purpose of the Customer's receipt of services similar to the Services.

7.2 In relation to the Customer Materials, the Customer:

- (a) and its licensors shall retain ownership of all Intellectual Property Rights in the Customer Materials; and
- (b) grants the Supplier a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify the Customer Materials for the term of the Contract for the purpose of providing the Services to the Customer.

7.3 The Supplier:

- (a) warrants, as far as it is aware, that the receipt and use of the Services and the Deliverables by the Customer and its permitted sub-licensees shall not infringe the rights, including any Intellectual Property Rights, of any third party; and
- (b) shall not be in breach of the warranty at Clause 7.3(a), to the extent the infringement arises from:
 - (i) the use of the Customer Materials in the development of, or the inclusion of, the Customer Materials in any Deliverable;
 - (ii) any modification of the Deliverables or Services, other than by or on behalf of the Supplier; and
 - (iii) compliance with the Customer's specifications or instructions.

7.4 The Customer:

- (a) warrants that the receipt and use of the Customer Materials in the performance of the Contract by the Supplier, its agents, subcontractors or consultants shall not infringe the rights, including any Intellectual Property Rights, of any third party; and
- (b) shall indemnify the Supplier in full against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses,

loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Supplier arising out of or in connection with any claim brought against the Supplier, its agents, subcontractors or consultants for actual or alleged infringement of a third party's Intellectual Property Rights, arising out of, or in connection with, the receipt or use in the performance of the Contract of the Customer Materials.

- 7.5** If the Customer is required to indemnify the Supplier under this Clause 7, the Supplier shall:
- (a) notify the Customer in writing of any claim against it in respect of which it wishes to rely on the indemnity at Clause 7.3(b) or Clause 7.4(b) (as applicable) (**IPRs Claim**);
 - (b) allow the Customer, at its own cost, to conduct all negotiations and proceedings and to settle the IPRs Claim, always provided that the Customer shall obtain the Supplier's prior approval of any settlement terms, such approval not to be unreasonably withheld;
 - (c) provide the Customer with such reasonable assistance regarding the IPRs Claim as is required by the Customer; and
 - (d) not, without prior consultation with the Customer, make any admission relating to the IPRs Claim or attempt to settle it, provided that the Customer considers and defends any IPRs Claim diligently, using competent counsel and in such a way as not to bring the reputation of the Supplier into disrepute.

- 7.6** The Customer shall retain ownership of its social media accounts.

8. Charges and payment

- 8.1** In consideration of the provision of the Services by the Supplier, the Customer shall pay the Charges as stated in the Contract Details.

- 8.2** Where any deposit is due, as stated in the Contract Details, this must be paid in advance of the Services Start Date.

- 8.3** The Charges exclude the following which shall be payable by the Customer following submission of an appropriate invoice:

- (a) the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services; and
- (b) the cost to the Supplier of any materials or services procured by the Supplier from third parties for the provision of the Services as such items and their cost are approved by the Customer in advance from time to time.

- 8.4** The Supplier may increase the Charges on an annual basis with effect from each anniversary of the Services Start Date in line with the percentage increase in the Retail Prices Index in the preceding 12-month period, and the first such increase shall take effect on the first

anniversary of the Services Start Date and shall be based on the latest available figure for the percentage increase in the Retail Prices Index.

- 8.5** The Supplier shall invoice the Customer for the Charges at the intervals as specified in the Contract Details. If no intervals are so specified the Supplier shall invoice the Customer at the end of each month for Services performed during that month.
- 8.6** The Customer shall pay each invoice submitted to it by the Supplier as soon as practicable on receipt and no later than 7 days of receipt, to a bank account nominated in writing by the Supplier from time to time.
- 8.7** Without prejudice to any other right or remedy that it may have, if the Customer fails to pay the Supplier any sum due under the Contract on the due date:
- (a) the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this Clause 8.7(a) will accrue each day at 4% a year above the Bank of Scotland's base rate from time to time, but at 4% a year for any period when that base rate is below 0%; and
 - (b) the Supplier may suspend all or part of the Services until payment has been made in full.
- 8.8** All sums payable to the Supplier under the Contract:
- (a) are exclusive of VAT, and the Customer shall in addition pay an amount equal to any VAT chargeable on those sums on delivery of a VAT invoice; and
 - (b) shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

9. Data protection

- 9.1** The Customer must adhere to the provisions of the Supplier's Privacy Policy, which shall be deemed to be incorporated into and form a part of these Conditions.
- 9.2** Both parties will comply with all applicable requirements of the Data Protection Legislation. This Clause 9 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 9.3** The parties acknowledge that for the purposes of the Data Protection Legislation and under the Contract, the Customer is the controller and the Supplier is the processor of the Customer's Personal Data which is processed by the Supplier on behalf of the Customer.
- 9.4** Without prejudice to the generality of Clause 9.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to the Supplier for the duration and purposes of the Contract.

9.5 Without prejudice to the generality of Clause 9.1, the Supplier shall, in relation to any personal data processed in connection with the performance by the Supplier of its obligations under the Contract:

- (a) process that personal data only on the documented written instructions of the Customer unless the Supplier is required by applicable laws to otherwise process that personal data;
- (b) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting personal data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to personal data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- (c) ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential; and
- (d) not transfer any personal data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
 - (i) the Customer or the Supplier has provided appropriate safeguards in relation to the transfer;
 - (ii) the data subject has enforceable rights and effective legal remedies;
 - (iii) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and
 - (iv) the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the personal data;
- (e) assist the Customer, at the Customer's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (f) notify the Customer without undue delay on becoming aware of a personal data breach;
- (g) at the written direction of the Customer, delete or return personal data and copies thereof to the Customer on termination of the Contract unless required by Applicable Law to store the personal data; and

- (h) maintain complete and accurate records and information to demonstrate its compliance with this Clause 9 and immediately inform the Customer if, in the opinion of the Supplier, an instruction infringes the Data Protection Legislation.
- 9.6** The Customer consents to the Supplier appointing one or more third party processors of Personal Data under the Contract. The Supplier confirms that it has entered or (as the case may be) will enter with the relevant third-party processors into a written Contract incorporating terms which are substantially similar to those set out in this Clause 9 and in either case which the Supplier undertakes reflect and will continue to reflect the requirements of the Data Protection Legislation. As between the Customer and the Supplier, the Supplier shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this Clause 9.
- 9.7** If agreed between them, the parties may enter into a data processing agreement in respect of Personal Data to be processed by the Supplier on behalf of the Supplier under the Contract, such agreement to be provided by the Supplier.
- 9.8** Either party may, at any time on not less than 30 days' notice, revise this Clause 9 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to the Contract).
- 10. Limitation of liability**
- 10.1** Nothing in the Contract limits any liability which cannot legally be limited, including liability for:
 - (a) death or personal injury caused by negligence;
 - (b) fraud or fraudulent misrepresentation; and
 - (c) breach of the terms implied by section 11B of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 10.2** Subject to Clause 10.2, the Supplier's total liability to the Customer shall not exceed the amount of Charges paid or payable by the Customer to the Supplier in the 12 months preceding the event giving rise to liability. The Supplier's total liability includes liability in contract, delict (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract.
- 10.3** This Clause 10.4 sets out specific heads of excluded loss.
 - (a) Subject to Clause 10.2, the types of loss listed in Clause 10.4(b) are wholly excluded by the parties.
 - (b) The following types of loss are wholly excluded:
 - (i) Loss of profits
 - (ii) Loss of sales or business.

- (iii) Loss of agreements or contracts.
- (iv) Loss of anticipated savings.
- (v) Loss of use or corruption of software, data or information.
- (vi) Loss of or damage to goodwill.
- (vii) Indirect or consequential loss.

10.4 The Supplier shall not be liable for downtimes, interference in the form of hacking, virus, disruptions, interruptions, faulty third-party software, search engines or websites on which the Service is dependent or other deliveries from a third party.

10.5 The Supplier shall not be liable for any changes made without notice by the Customer or a third party instructed by the Customer-to-Customer domain names, websites, links, technical setup or other relevant infrastructure which affect the Services.

10.6 The Supplier shall not be liable for any services offered by the Customer, including but not limited to any services offered by the Customer on a website which the Supplier is hosting as a part of the Services.

10.7 The Supplier shall not be liable for any use or performance of a Customer website or for any information, services or products provided through a Customer website.

11. Termination

11.1 Retainer-Based Customers may terminate the Contract by giving at least 28 days' written notice to the Supplier before the end of the Initial Term or the relevant Extended Term. Once notice has been validly given, termination of the Contract will become effective at the end of the Initial Term or the relevant Extended Term, whichever is applicable.

11.2 Retainer-Based Customers may terminate the contract prior to the expiry of the Initial Term or the relevant Extended Term, in either case, always subject to Clause 11.4.

11.3 Project-Based Customers may terminate the contract prior to the expiry of the Initial Term always subject to Clause 11.4.

11.4 In the event of early termination of the contract pursuant to Clause 11.2 or Clause 11.3:

- (a) Retainer-Based Customers shall immediately pay to the Supplier the aggregate Charges until the end of the Initial Term or relevant Extended Term, whichever is applicable; and
- (b) Project-Based Customers shall immediately pay to the Supplier the aggregate Charges until the end of the Initial Term.

11.5 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
- (b) the other party repeatedly breaches any of the terms of the Contract 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 the Contract;

For the purposes of Clause 11.5(a) material breach means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the terminating party would otherwise derive from a substantial portion of the Contract over the term of the Contract. In deciding whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding.

- 11.6** Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if:
- (a) the Customer fails to pay any amount due under the Contract on the due date for payment; or
 - (b) there is a change of control of the Customer.
- 11.7** Without affecting any other right or remedy available to it, the Supplier may terminate the Contract for any reason on giving 30 days' written notice to the Customer.
- 11.8** Without affecting any other right or remedy available to it, either party may terminate any of the Services in accordance with the Schedule.
- 11.9** On termination of the Contract:
- (a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier may submit an invoice, which shall be payable immediately on receipt;
 - (b) where applicable, pay the early termination charges pursuant to Clause 11.4;
 - (c) the Supplier shall on request return any of the Customer Materials not used up in the provision of the Services; and
 - (d) the following clauses shall continue in force: Clause 1 (Interpretation), Clause 5 (Non-solicitation), Clause 7 (Intellectual property), Clause 8.7(a) (Charges and payment), Clause 10 (Limitation of liability), Clauses 11.4-11.5 (Consequences of termination), Clause 12.3 (Confidentiality), Clause 12.6 (Waiver), Clause 12.7 (Severance), Clause 12.11 (Third party rights), Clause 12.13 (Governing law) and Clause 12.14 (Jurisdiction).
- 11.10** Termination or expiry of the Contract or any of the Services shall not affect any of the rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

12. General

12.1 Force majeure. Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control. If the period of delay or non-performance continues for 2 months, the party not affected may terminate the Contract by giving 30 days' written notice to the affected party.

12.2 Subcontracting. The Supplier may subcontract any or all of its rights or obligations under the Contract without the prior written consent of the Customer. The Supplier shall remain responsible for all acts and omissions of its subcontractors as if they were its own.

12.3 Confidentiality.

- (a) Each party undertakes that it shall not at any time during the Contract, and for a period of five years after termination of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers to which the other party belongs, except as permitted by Clause 12.3(b).
- (b) Each party may disclose the other party's confidential information:
 - (i) to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this Clause 12.3; and
 - (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- (c) Neither party shall use any other party's confidential information for any purpose other than to perform its obligations under the Contract.

12.4 Entire agreement.

- (a) The Contract 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.
- (b) Each party acknowledges that in entering into the Contract 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 the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

12.5 Variation. No variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

12.6 Waiver.

- (a) A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- (b) A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

12.7 Severance. If any provision or part-provision of the Contract 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 the Contract.

12.8 Notices.

- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be:
 - (i) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
 - (ii) sent by email to the address specified in the Contract Details.
- (b) Any notice or communication shall be deemed to have been received:
 - (i) if delivered by hand, on signature of a delivery receipt;
 - (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; and
 - (iii) if sent by fax or email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this Clause 12.8(b)(iii), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- (c) This Clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- (d) A notice given under the Contract is not valid if sent by email.

12.9 Assignment. The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract.
The Supplier may assign, novate, or transfer any of its rights and obligations under this Contract to:

- (a) any group company of the Supplier; or
- (b) any purchaser of the whole or any part of the Supplier's business.

The Customer agrees that any such assignee or transferee shall assume the Supplier's rights and obligations under this Contract and that the Contract shall continue in full force and effect with the assignee or transferee without requiring further consent from the Customer.

12.10 Continuation of Services

The Customer acknowledges and agrees that in the event of a change in ownership of the Supplier's business, or the transfer of any part of the Supplier's business to a third party, the Services will continue to be provided by the successor entity on the same terms and conditions as this Contract.

12.11 No partnership or agency. Nothing in the Contract 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. Each party confirms it is acting on its own behalf and not for the benefit of any other person.

12.12 Third party rights. Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) (Scotland) Act 2017 to enforce any term of the Contract.

12.13 Governing law. The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by, and construed in accordance with, the law of Scotland.

12.14 Jurisdiction. Each party irrevocably agrees that the courts of Scotland shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

SCHEDULE

Part 1: Social Media, Graphic Design & Content Services

This Part of the Schedule shall apply where the Services set out in the Contract Details relate to social media, graphic design and content services.

1. In relation to its social media accounts, the Customer has sole responsibility for monitoring comments and messages, unless otherwise agreed by the parties in writing, and for responding to emails promptly. It is advised that the Customer monitors its social media accounts regularly.
2. The Customer is responsible for ensuring its social media accounts are maintained, including but not limited to:
 - a. ensuring its social media accounts are linked to a valid email address and telephone number;
 - b. any locked accounts are unlocked; and
 - c. maintaining the security of social media accounts.
3. The Customer must review content on its social media accounts and alert the Supplier to any errors to that content or any changes it would like to be made to that content prior to such content being posted. The Customer must alert the Supplier as soon as practicable to any changes in the Customer's offerings which would impact the Services provided by the Supplier.
4. The Supplier shall not be liable for:
 - a. any loss of Customer data, followers or engagement;
 - b. account status; or
 - c. inaccurate information on the Customer's social media accounts.

Part 2: Paid Marketing Services (for example Google ads, SEO, Meta Ads)

This Part of the Schedule shall apply where the Services set out in the Contract Details relate to paid marketing services, including Google advertisements, Search Engine Optimisation ("SEO") and Meta advertisements.

- 1) When notified by the Supplier and in order that the Supplier can provide the Services, The Customer shall allow the Supplier access to and use of the Customer's relevant systems.
2. The Customer must notify the Supplier in advance of any alterations the Customer may make to the Customer's website(s) that may affect the Services. The Supplier does not warrant that any such alterations will not affect the websites' search engine placements and shall not be liable in relation in such cases.
3. The Customer acknowledges and accepts that that regular, fresh content added to the Customer's website will help to improve the stability of rankings within search engines and that regular, unique content plays an important part in the success of a website and failure to add unique content will lessen the impact of SEO services.
4. The Customer acknowledges and accepts that it is solely responsible for paying any advertising costs to the relevant platform.

Part 3: Website Design & Development

1. Project Plan and Specification

- 1.1. The Supplier may provide the Customer with a website proposal and/or site map (together, the “Plan”) describing the proposed specification and structure of the Website.
- 1.2. The Plan must be agreed in writing by the Customer before the Supplier will commence any design or development Services.
- 1.3. The Customer is solely responsible for ensuring that the Plan:
 - (a) contains full and accurate details of the Customer’s functional, technical and business requirements; and
 - (b) is fit for the Customer’s intended purposes.
- 1.4. The Plan is provided solely as part of the Services. The Customer may not use the Plan independently or with a third party, nor may the Customer disclose the Plan to any third party without the Supplier’s prior written consent.

2. Change Requests

- 2.1. Any request by the Customer to amend the Plan, add functionality, or change the scope of the Services (“Change Request”) must be submitted in writing.
- 2.2. The Supplier will review the Change Request and notify the Customer of:
 - (a) whether the Change Request is accepted;
 - (b) any impact on the fees;
 - (c) any impact on timelines; and
 - (d) any additional terms.
- 2.3. No Change Request will be implemented until both Parties have agreed in writing to the revised scope and any additional charges.
- 2.4. Work required due to missing requirements, late changes, or third-party system limitations shall be treated as Chargeable Changes.

3. Development, Completion and Launch

- 3.1. The Supplier shall notify the Customer in writing when the Website build is completed (“Website Completion”).
- 3.2. Following Website Completion, the Parties shall agree a launch date (“Launch Date”).
- 3.3. Where the Customer fails to provide timely approvals or content, or delays testing, the Supplier may postpone the Launch Date accordingly.

4. Testing and Acceptance

- 4.1. The Customer shall have **14 days from the Launch Date** (“Acceptance Period”) to test the Website.
- 4.2. Any failure of the Website to materially comply with the Plan (“Defect”) must be notified to the Supplier in writing during the Acceptance Period.
- 4.3. The Supplier, acting reasonably, shall determine whether any reported issues constitute a Defect.
- 4.4. Where the Supplier agrees a Defect exists, the Supplier will use reasonable efforts to remedy it within a reasonable time.
- 4.5. If a material Defect cannot be remedied, either Party may terminate the Agreement and the

Customer shall pay only for the work properly completed up to that point.

4.6. If no Defects are notified within the Acceptance Period, the Website shall be deemed accepted.

5. Content Responsibilities

5.1. The Customer is solely responsible for providing all text, images, logos, data, and other content required for the Website ("Customer Content"), unless otherwise agreed in writing.

5.2. The Customer warrants that:

- (a) it owns or has permission to use all Customer Content;
- (b) the Customer Content does not infringe any third-party rights; and
- (c) the Customer Content is accurate, lawful, and compliant with all relevant regulations.

5.3. The Supplier is not responsible for errors, omissions, or legal compliance of Customer Content.

6. Third-Party Plugins, Themes and Page Builders

6.1. The Supplier may use third-party software, plugins, extensions, themes, page builders), or external code libraries ("Third-Party Tools") as part of the Website.

6.2. The Customer acknowledges that:

- (a) Third-Party Tools may be subject to their own licences, fees, or renewal costs;
- (b) the Supplier has no control over the functionality, performance, security, availability, or ongoing support of Third-Party Tools; and
- (c) updates or changes to Third-Party Tools may affect the Website's functionality, design, or performance.

6.3. Any work required due to updates, incompatibilities, vulnerabilities, or discontinuation of Third-Party Tools shall be chargeable.

6.4. Unless expressly included in the Contract Details, the Supplier is not responsible for maintaining, updating, or managing any Third-Party Tools after launch.

7. Browser, Device and Platform Support

7.1. Unless expressly stated otherwise in the Contract Details, the Supplier will design and develop the Website to operate on:

- (a) the latest major release and the immediate previous release of the following browsers: Chrome, Firefox, Safari, and Microsoft Edge; and
- (b) standard screen resolutions for commonly used desktop, tablet, and mobile devices.

7.2. The Supplier does not guarantee compatibility with obsolete browsers, beta software, unusual device configurations, platforms not expressly listed, or future versions of browsers.

7.3. Any additional compatibility requirements requested by the Customer shall constitute a Change Request.

8. Warranties

8.1. The Supplier warrants that:

- (a) it will provide the Services with reasonable skill and care;
- (b) the Website will materially comply with the Plan at the time of acceptance; and
- (c) it will use reasonable efforts to remediate any Defects notified during the Acceptance Period.

8.2. Except as expressly set out in this Agreement, all other warranties are excluded to the fullest extent permitted by law.

8.3. The Supplier does not warrant that the Website will be uninterrupted, error-free, secure, or compatible with all technologies, software, devices, or future platform changes.

9. SEO Disclaimer

9.1. The Supplier does not guarantee:

- (a) search engine rankings;
- (b) performance of the Website on specific keywords;
- (c) increases in traffic, leads, enquiries or revenue; or
- (d) acceptance into or performance within any search engine platform.

9.2. The Supplier will follow good-practice SEO-friendly development techniques where included in the Services, but search engine behaviour is outside the Supplier's control.

10. Supplier Website Credit

10.1. If the Supplier wishes to include it, the Supplier may insert a discreet credit and link to www.dlrmedia.co.uk in the footer of the Website.

10.2. This credit may only be removed with the Supplier's prior written consent.

Part 4: Domain name registration & renewals.

This Part of the Schedule shall apply where the Services set out in the Contract Details relate to the registration or renewal of domain names.

1. All domain registrations are governed by the relevant registrant body organisation. The Supplier will adhere to the rules and regulations of the registrant body organisation at all times. In the UK for .uk domains, the relevant registrant body organisation is www.nominet.uk.
2. The Supplier will make reasonable efforts to register the Customer's chosen domain name, but does not warrant that a domain name is available or capable of registration or that a domain name can be registered in the Customer's name. The Supplier will not be liable for the registrant body organisation's refusal to register a domain name or its cancellation of a domain name.
3. Once the domain name has been registered, the Supplier will send notification to the Customer.
4. Any administration or other charge relating to a domain name which has been paid by the Customer to the Supplier shall be non-refundable.
5. The registration and use of the Customer's domain name is subject to any terms imposed by the relevant naming authority. The Customer shall ensure that it is aware of such terms and agrees to comply with them.
6. The Supplier shall not keep track of domain name renewals on behalf of the Customer. The Customer is solely responsible for ensuring that it is aware of the dates of renewal for its domain names.
7. The Supplier is not liable for the use by the Customer of any domain name and shall not be party to any dispute arising from the use of the domain name between the Customer and any third party. If the Customer becomes involved in a dispute with a third party in relation to the Customer's use of the domain name it must notify the Supplier as soon as reasonably practicable. In the event of such a dispute arising, the Supplier shall be entitled at its sole discretion to withhold, suspend or cancel the domain name, and may make representations to the relevant naming authority in relation to the dispute.
8. If so notified by the Customer, the Supplier will make reasonable efforts to release without undue delay any domain name held by the Supplier on the Customer's behalf to another provider appointed by the Customer, provided full payment has been received by the Supplier for that domain name and for any other Services provided.

9. The Customer agrees to pay an administration fee for releasing domain names of £25 (ex vat) per domain. This fee must be paid in full before the Supplier will release the domain name.

Part 5: Hosting & Support

This Part of the Schedule applies where the Services set out in the Contract Details relate to website hosting ("Hosting Services").

1. Domain Configuration

- 1.1. The Customer must ensure that its domain name(s) at the relevant registrar correctly reference the Supplier's Hosting Services.
- 1.2. Where the Customer purchases a domain name from the Supplier, the Supplier will ensure the domain references the Hosting Services.

2. Cancellation

- 2.1. The Customer may cancel the Hosting Services by giving **28 days' written notice** via email.
- 2.2. Cancellation will take effect at the end of the current hosting term.
- 2.3. No refunds will be issued for Hosting Services already provided.
- 2.4. If the Customer requires more storage, bandwidth or performance capacity than included in its hosting plan, the Supplier will notify the Customer before charging additional fees. No automatic charges will be applied.

3. Bandwidth Usage

- 3.1. The Customer will receive an automatic email notification if its bandwidth usage exceeds 80% of the allocated quota.
- 3.2. The Customer may purchase additional bandwidth.
- 3.3. If no additional bandwidth is purchased, the hosting system may automatically suspend the Website.

4. Customer Responsibility for Content

- 4.1. The Customer is solely responsible for all content, data, files and materials stored on or transmitted through its Website ("Customer Content").
- 4.2. The Customer must actively monitor any content available on or posted to its Website (including user-generated content, comments, or forums).
- 4.3. The Customer is liable for all content on the Website and any misuse of its hosting account.

5. Prohibited Content

The Customer's Website must not contain, upload, distribute or promote any:

- a. racist, hateful, discriminatory or prejudicial content;
- b. violent, malicious, obscene, or defamatory content;
- c. content relating to or supporting terrorism;
- d. HYIP, autosurf or similar high-risk investment schemes;
- e. illegal, infringing or otherwise unlawful content;
- f. adult or pornographic content.

6. Breach of Content Requirements

6.1. If the Customer's Website contains any prohibited or unlawful content, or otherwise breaches the Contract, the Supplier may, at its sole discretion:

- (a) suspend the Hosting Services;
- (b) provide the Customer with up to 24 hours to remove the offending content;
- (c) instruct the Customer to transfer the Website to an alternative hosting provider; and/or
- (d) terminate the Hosting Services immediately.

7. Third-Party Scripts, Plugins & Integrations

7.1. The Supplier may, at its discretion, assist with third-party scripts, plugins, or integrations.

7.2. The Supplier does not guarantee that any third-party tools will be compatible with the Hosting Services, nor that they can be installed, configured, maintained or repaired.

7.3. Any assistance with third-party tools is provided on a reasonable-efforts basis only and may incur additional charges.

8. Hosting & Support (9:00am – 5:30pm)

8.1. During normal business hours (9:00am–5:30pm, Monday to Friday excluding public holidays), the Supplier will provide Support relating only to the following:

Included Support:

- (a) server-level issues affecting availability (e.g., server downtime, hosting platform faults);
- (b) issues related to the Supplier's infrastructure, including hardware, network or data-centre problems;
- (c) restoring the Customer's website from available backups (where backups are included in the hosting plan).

Excluded (Chargeable or Out-of-Scope):

- (d) Website content changes, edits or updates;
- (e) issues caused by Customer Content, coding errors, malware introduced by the Customer, or third-party scripts/plugins;
- (f) repairs required due to software, plugins or integration conflicts;
- (g) redesign, development, bug fixes or diagnosis of Website functionality issues not directly caused by the hosting environment;
- (h) SEO, performance tuning, or optimisation of the Customer's website;

(i) problems caused by external factors such as domain misconfiguration, DNS changes, third-party providers, or user error.

8.2. Support outside of normal business hours may be provided at the Supplier's discretion and may incur additional fees.

8.3. If an issue is determined to be outside the scope of the Support, the Supplier will notify the Customer before carrying out any chargeable work.

9. Hosting Disclaimer

9.1. The Hosting Services are provided "as is" and "as available", without warranties of any kind, whether express or implied.

9.2. The Supplier does not warrant that the Hosting Services will be uninterrupted, error-free, secure, or free from vulnerabilities.

9.3. No oral or written information provided by the Supplier or its staff creates any warranty not expressly set out in this Agreement.

9.4. The Supplier and its partners shall not be liable for any loss, damage or costs arising directly or indirectly from the Customer's use of the Hosting Services.

10. Acceptable Use Policy

10.1. The Customer must comply with the Supplier's Acceptable Use Policy ("AUP"), which forms part of these Conditions.

10.2. Breach of the AUP constitutes a breach of this Agreement.

Part 6: Outbound Prospecting Services

This Part of the Schedule shall apply where the Services set out in the Contract Details relate to outbound prospecting services including but not limited to Dripify, Instantly and Pipeline Pro.

1. The Supplier may deliver outbound prospecting campaigns using lead lists and messaging sequences via third-party platforms, including Instantly (email) and Dripify (LinkedIn), with access provided to the Customer where applicable.

2. Campaigns may be run using:

- lead lists generated by the Supplier,
- lists provided by the Customer, or
- third-party data sources.

3. The Supplier may assist with setting up and launching campaigns but does not guarantee any specific results, including open rates, replies, engagement, leads, or conversions.

4. The Customer is solely responsible for reviewing and approving:

- lead lists,
- email and LinkedIn message sequences,
- targeting criteria, and
- overall campaign content, prior to deployment.

5. For LinkedIn outreach, the Customer must provide access to their own LinkedIn account. The Customer acknowledges that use of automation tools may breach platform terms and carries a risk of account restriction or suspension. The Supplier accepts no liability in such cases.

6. The Customer is responsible for ensuring that all outreach activity complies with applicable laws and regulations.

7. The Customer must enter into a Data Processing Agreement (DPA) with the Supplier before services begin.

8. The Supplier shall not be liable for:

- campaign performance or outcomes,
- recipient complaints or platform penalties,
- the legality or accuracy of data supplied by the Customer,
- suspension or termination of third-party accounts (e.g. LinkedIn or email providers).

Part 7: Media Buying Services

This Part of the Schedule shall apply where the Services set out in the Contract Details relate to media buying services

Most media owners' rebate 15% of media costs incurred (exclusive of VAT) as a commission to the agency placing the business with them. Some media owners pay only 10% commission. The commission received by DLR Media Ltd from media owners generally meets a proportion of the cost of media planning and buying and the administration time involved in any particular project.

In the event of a media house commission being paid at the rate of less than 15% we reserve the right to "mark up" such commission rate to 15% and to charge the difference between the two commission rates to the client.

Depending on the nature of the services provided, an additional project management fee may also be charged as a retainer.

If either print mark up or media commission is not applicable or asked not to be charged then the time involved in specification and print liaison will be charged on the basis of our hourly charging structure.

DLR Media Ltd purchases third-party media space and bookings from media owners and other suppliers on behalf of the Client. While DLR Media Ltd will use reasonable endeavours to confirm proposed dates, times, placements, and other booking details, all such information is subject to the control and discretion of the relevant media owner or supplier and may change without prior notice. DLR Media Ltd accepts no liability for any errors, omissions, delays, or failure of advertisements to run as planned where such issues arise from the actions, errors, or omissions of the media owner or supplier. In the event that booked media does not run as scheduled, DLR Media Ltd will use reasonable efforts to seek an appropriate remedy—such as securing a replacement booking, alternative placement, or refund—but the availability and nature of any remedy may be outside DLR Media Ltd's control.