

STANDARD TERMS AND CONDITIONS

Services

1. The Customer engages the Supplier to provide, and the Supplier agrees to provide, the services set out in the section Tasks and Timescales (“the Services”) on the terms and conditions set out in this Agreement.

Standard of Work

2. In providing the Services to the Customer, the Supplier:
 - 2.1 Shall exercise reasonable skill, care and diligence and shall apply the highest professional standards;
 - 2.3 May apply his own method of work and shall comply with the reasonable requests of the Customer Representative named in The section Tasks and Timescales or that person’s designate as to the effective performance of the Services;
 - 2.4 Shall correct any errors at the Supplier’s own expense;
 - 2.5 Unless otherwise agreed shall provide all equipment and materials; and
 - 2.6 May assign a substitute member of the Supplier’s staff to progress the delivery of the Services in accordance with the Contract Documents, provided such person is appropriately qualified, experienced and briefed.

Term

3. Subject to Clause 11, this Agreement shall be deemed to commence on the date listed at the top of the agreement, and shall continue until the completion of the Services as defined by the Contract Documents.

Other Work

4. The Supplier will not be restricted to providing services for the Customer, and nothing in this Agreement will prevent the Supplier from providing services to anyone else, provided that such provision of services does not interfere or conflict with the provision of the Services to the Customer pursuant to this Agreement.

Remuneration and Expenses

- 5.1 The Supplier shall be paid the fee set out in The section Fees in accordance with the payment arrangements set out in The section Fees.
- 5.2 The Supplier shall be wholly responsible for all income tax and national insurance and other similar contributions or taxes (together “Taxes”) which may be payable out of, or as a result of the receipt of, any fees or other monies paid or payable by the Customer under this Agreement.
- 5.3 In the event that the Customer is required to pay any Taxes in relation to such fees or other monies:-
 - (a) the Customer shall be entitled to withhold an amount equal to such Taxes from any sums remaining to be paid pursuant to The section Fees and
 - (b) to the extent that any such withholding falls short of the total Taxes to be paid, the Supplier shall indemnify the Customer against any such Taxes which become payable by the Customer.

Intellectual Property

- 6.1 Where the Supplier is providing professional or intellectually based services, the provisions of this clause shall apply: Any intellectual property rights (including without limitation copyright, patents, and design rights) conferred under the laws of England and Wales in materials created by the Supplier in the course of performing the Services, or exclusively for the purpose of the performing the Services, shall vest in the Supplier.
- 6.2 The Customer hereby waives absolutely and irrevocably any relevant moral rights granted under the Copyright, Designs and Patents Act 1988.
- 6.3 Where, in connection with the provision of the Services, the Supplier uses any materials in which the copyright is owned by the Supplier, the Supplier, upon the completion fee schedule outlined in The section Fees, shall grant to the Customer a perpetual, non-exclusive, royalty-free license to use, maintain and support such materials.
- 6.4 The Supplier will use all reasonable endeavors to obtain all necessary licenses and permits to use third party materials which he wishes to use or make available in the course of performing the Services and the Supplier shall use all reasonable endeavors to procure that any licenses for third party materials are perpetual and contain terms that will allow the Customer on termination of this Agreement to continue to use, maintain and support such third party materials on a royalty-free basis.
- 6.5 The Supplier shall grant the Customer a perpetual, non-exclusive, royalty-free license to use, maintain and support for any purpose any software code that is produced while performing the services.

Insurance

7. The Supplier shall maintain in force for the duration of this agreement adequate public liability relating to the provision of Services pursuant to this Agreement.

Confidentiality

8. Except in so far as such matters are properly in, or come into, the public domain, the Supplier agrees to keep secret and confidential all matters contained in this Agreement or relating to the research or affairs of the Customer, and not to disclose any such matters to any person unless otherwise expressly provided by this Agreement, or unless he is ordered to do so by a court of competent jurisdiction.

Relationship between the parties

- 9.1 Nothing in this Agreement shall be construed as constituting a partnership between the parties or as constituting either party as the agent or employee of the other for any purpose.
- 9.2 At no time shall the Supplier represent himself or hold himself out as an employee of the Customer.
- 9.3 The Supplier is not entitled to the benefit of any employment contract rights granted to employees of the Customer nor to participate in any of the Customer's grievance or disciplinary procedures.
- 9.4 Save as expressly specified in writing, the Supplier shall not hold himself out as an agent of the Customer, and shall not have any authority to act on behalf of the Customer, to conclude any contracts or incur any obligation or liability on behalf of or binding upon the Customer, or to sign any document on the Customer's behalf.

- 9.5 The Supplier shall ensure that any necessary leave for him to enter or remain in the United Kingdom to perform the Services is valid and subsisting and is not subject to any restriction precluding him from performing the Services or any of them.

Assignment of interest

10. The Supplier may sub-contract, assign, transfer, mortgage or part with this Agreement or any of the rights, duties or obligations under this Agreement at the discretion of the Supplier.

Termination

- 11.1 Notwithstanding Clause 3, the Supplier shall be entitled to terminate this Agreement with immediate effect and without any compensation or damages due to the Customer, but without prejudice to any other rights or remedies the Supplier may have, if the Customer:
- 11.1.1 commits a serious breach of the terms of this Agreement which the Customer fails to remedy within 14 days of receipt of written notice from the Suppliers specifying the breach and requesting specific remedy;
 - 11.1.2 has a receiving order made against him, or makes any arrangement with his creditors or notifies the Supplier that they are in financial distress.
- 11.2 The Customer may terminate this Agreement by giving the Supplier at least 30 days' prior written notice without establishing any breach of contract by the Supplier. The Supplier may also terminate the contract by giving the Customer at least 30 days' prior written notice without establishing any breach of contract by the Customer. In either event, the Customer shall pay the Supplier the proportion of the fees which relate to work, including partially completed work, properly and necessarily carried out up until expiry of the notice. The method used to calculate a proportional fee payment in the event of early termination will be for the Supplier to decide a pro-rata amount that represents the level of effort expended by the Supplier whilst undertaking The Services up to the termination date.
- 11.3 In the event of the termination of this Agreement under Clause 11.1 or 11.2 the Customer shall only be liable to the Supplier in respect of fees and expenses in accordance with the terms of this Agreement up to the effective date of termination.
- 11.4 On the expiry or termination of this Agreement (however arising), the Supplier shall deliver up to the Customer all documents, formulae, papers, drawings, software, data, specifications, reports, notes, programs, portfolios, equipment, materials of any sort, identity cards and keys which were furnished by the Customer to the Supplier, or which were prepared by or on behalf of the Supplier for the Customer in the course of providing Services under this Agreement.
- 11.5 The obligations of the parties under Clauses 6, 7 and 8 shall survive the expiry or termination of this Agreement (for whatever reason).

Hosting and Server Management

- 12.1 Where the services entail the hosting of electronic services on the Internet by the Supplier, on behalf of the customer, the Supplier agrees to:
- 12.1.1 maintain the servers hosting services such as but not limited to Email, DNS, web hosting, and others in a fit for purpose condition.
 - 12.1.2 respond in a timely manner, and within 24 hours to a Customer's request for support.
 - 12.1.3 guarantee 95% server uptime per month, where servers are online for 95% of the time on average across a 30-day period.

Miscellaneous

- 13.1 This Agreement, together with its Appendices, constitutes the entire agreement between the parties and cancels and is in substitution for all previous letters and oral and written agreements relating to the subject-matter of this Agreement between the Customer or any of its officers and the Supplier.

- 13.2 If any provision of this Agreement shall be held void or unenforceable in whole or part by any court or other competent authority, the remaining provisions, and the remainder of the provisions affected, shall remain in full force and effect.
- 13.3 This Agreement is governed and to be construed in accordance with the laws of England and Wales and each party agrees to submit to the exclusive jurisdiction of the Welsh courts as regards any claim or matter arising out of this Agreement.
- 13.4 Where Services provided by the Supplier entail the deployment and support of bespoke software code to the Customer's computer systems, the Customer shall be deemed to accept the code under either of the following circumstances;
- (a) Within 5 days of the date that deployment of the code took place, unless the Supplier is notified in writing of errors and their specific details that occur as a result of the deployment.
- (b) When the Customer makes a full or partial payment of fees relating to the work.
- 13.5 This Agreement does not create any right enforceable by any person who is not a party to it under the Contracts (Rights of Third Parties) Act 1999, but this Clause does not affect any right or remedy of any third party which exists or is available apart from that Act.
- 13.6 The Customer consents to the Supplier holding and processing data relating to him or her for legal, personnel, administrative and management purposes and in particular the processing of any "sensitive personal data" as defined in the Data Protection Act 1998 in relation to him or her .
- 13.7 All explicit or implied warranties are excluded from this Agreement.
- 13.8 Unless specifically agreed between the parties no part of this Agreement shall warrant the transfer of property from the Supplier to the Customer.
- 13.9 The Customer consents that the Supplier may use images of any parts of software system worked on directly by the Supplier in the Suppliers own marketing materials. The Customer hereby grants the Supplier a royalty free worldwide license to make use of such materials.
- 13.10 Unless otherwise agreed, the Services will be provided at the Supplier's premises by the Supplier's staff.
- 13.11 If the Supplier wishes to vary the Services or the cost estimates submitted by the Supplier this will be agreed in writing with the Customer. No variation shall be implemented without the Customer Representative's agreement. No cost estimate given by the Supplier may be exceeded without the Customer Representative's agreement.
- 13.12 Where a fee relates to ongoing or recurring services, such as but not limited to Server Hosting, Support on Retainer, Search Marketing Consultation, etc, if a fee is overdue for 7 days the services will be liable for suspension without notice. If a fee is overdue for 30 days the services will be liable for termination without notice.