

SCHEDULE 1
BUSINESS TERMS AND CONDITIONS

1. Definitions

1.1 This schedule is subject to the definitions contained at Schedule 9.

2. Commencement and duration of the Master Agreement or any one schedule to the Master Agreement

2.1 This agreement shall commence on the date specified in the Master Agreement and shall continue, unless terminated earlier in accordance with clause 16 of this Schedule 1 (Termination), until either party gives to the other party the written notice to terminate specified in the Master Agreement.

2.2 The Client may procure products and services (Work) offered by the Contractor by signing or amending the Master Agreement.

3. Contractor's responsibilities

3.1 The Contractor shall use reasonable endeavours to manage and complete or provide the Work, and deliver the Deliverables to the Client, in accordance with a Project Development Quotation in all material respects.

3.2 The Contractor shall use reasonable endeavours to meet any performance dates or the Milestones specified in a Project Development Quotation but any such dates shall be estimates only and time for performance by the Contractor shall not be of the essence of this agreement.

3.3 The Contractor shall appoint a manager in respect of the delivery of the Project Development Quotation. That person shall have authority to contractually bind the Contractor on all matters relating to the relevant Work (including by signing Change Orders). The Contractor may replace that person from time to time where reasonably necessary in the interests of the Contractor's business.

3.4 The Contractor shall take reasonable steps to ensure that its staff comply with the Client's Policies.

4. Client's obligations

4.1 The Client shall:

- (a) co-operate with the Contractor in all matters relating to the Work;
- (b) appoint a manager in respect of the Work to be performed under each Project Development Quotation. That person shall have authority to contractually bind the Contractor on all matters relating to the relevant Work (including by signing Change Orders);
- (c) provide, for the Contractor, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to the Client's premises, office accommodation, data and other facilities as required by the Contractor to perform the Work including any such access as is specified in a Project Development Quotation;

- (d) provide to the Contractor in a timely manner all documents, information, items and materials in any form (whether owned by the Client or a third party) required under a Project Development Quotation or otherwise reasonably required by the Contractor in connection with the Work and ensure that they are accurate and complete;
- (e) inform the Contractor of all health and safety and security requirements that apply at any of the Client's premises.
- (f) ensure that all the Client's Equipment is of a suitably high specification so that the Work can be produced by the Contractor; and otherwise in good working order and suitable for the purposes for which it is used in relation to the Work and conforms to all relevant United Kingdom standards or requirements;
- (g) obtain and maintain all necessary licences and consents and comply with all relevant legislation as required to enable the Contractor to provide the Work, including in relation to:
 - (i) the provision or use of stock images;
 - (ii) the installation of the Contractor's Equipment;
 - (iii) the use of all Client Materials and the use of the Client's Equipment insofar as such licences, consents and legislation relate to the Client's business, premises, staff and equipment

(in all cases listed above before the date on which the Works are to start).

- (h) independently back up all Client Materials supplied;
- (i) comply with any additional responsibilities of the Client as set out in the relevant Project Development Quotation.

4.2 If the Contractor's performance of its obligations under this agreement is prevented or delayed by any act or omission of the Client, its agents, subcontractors, consultants or employees then, without prejudice to any other right or remedy it may have, the Contractor shall be allowed an extension of time to perform its obligations equal to the delay caused by the Client.

5. **Non-solicitation**

5.1 Except in respect of any transfer of employees of the Contractor to the Client pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (*SI 2006/246*), the Client shall not, without the prior written consent of the Contractor, at any time from the date on which any Work commence to the expiry of 12 months after the completion of such Work, solicit or entice away from the Contractor or employ or attempt to employ any person who is, or has been, engaged as an employee, consultant or subcontractor of the Contractor in the provision of such Work.

6. **Change control**

6.1 Either party may propose changes to the scope or execution of the Work but no proposed changes shall come into effect until a relevant **Change Order** has been signed by both parties. A Change Order shall be a document setting out the proposed changes and the effect that those changes will have on:

- (a) the products and services to be provided;
- (b) the Charges;
- (c) the timetable for provision of the products and services to be provided; and
- (d) any of the other terms of the relevant Project Development Quotation.

6.2 If the Contractor wishes to make a change to the Work it shall provide a draft Change Order to the Client.

6.3 If the Client wishes to make a change to the Work:

- (a) it shall notify the Contractor and provide as much detail as the Contractor reasonably requires of the proposed changes, including the timing of the proposed change; and
- (b) the Contractor shall, as soon as reasonably practicable after receiving the information at clause 6.3(a), provide a draft Change Order to the Client.

6.4 If the parties:

- (a) agree to a Change Order, they shall sign it and that Change Order shall amend the relevant Project Development Quotation; or
- (b) are unable to agree a Change Order, either party may require the disagreement to be dealt with in accordance with an agreed dispute resolution procedure (Multi-tiered dispute resolution procedure).

6.5 The Contractor may charge for the time it spends on preparing and negotiating Change Orders which implement changes proposed by the Client pursuant to clause 6.3 on a time and materials basis at the Contractor's daily rates specified in the Master Agreement.

7. **Charges and payment**

7.1 In consideration of the provision of the Work by the Contractor, the Client shall pay the Charges.

7.2 Where the Charges are calculated on a time and materials basis:

- (a) the Contractor's daily fee rates for each individual person, as set out in the Master Agreement, are calculated on the basis of a seven-hour day, worked during Business Hour (excluding weekends and public holidays);
- (b) the Contractor shall be entitled to charge an overtime rate of 20% of the daily fee rate set out in the Master Agreement on a pro-rata basis for any time worked by individuals whom it engages on the Work outside Business Hours; and
- (c) the Contractor shall ensure that every individual whom it engages on the Work completes time sheets to record time spent on the Work;
- (d) the charges payable for the services associated with the Work (Services) shall be calculated in accordance with the Contractor's standard daily fee rates in force for the Contractor's Project

Team involved in the supply of the Services, details of which are set out in the Project Development Quotation;

- (e) the Contractor shall not be entitled to charge on a pro-rata basis for part-days worked by the Contractor's Project Team unless it has the Client's prior written consent to do so;
- (f) the Contractor shall invoice the Client monthly in arrear for its charges for time, expenses and materials (together with VAT, where appropriate) for the month concerned, calculated as provided in this clause 7.

7.3 Where the Charges are calculated on a fixed price basis, the amount of those charges shall be as set out in a Project Development Quotation or any associated email, which specifies the price for the Project Development Quotation.

Disbursement costs

7.4 The Charges exclude the following, which shall be payable by the Client monthly in arrears, following submission of an appropriate invoice: the cost to the Contractor of any materials or services procured by the Contractor from third parties for the provision of the Work as such items and their cost are set out in the Project Development Quotation.

Where Charges are calculated on a monthly retainer basis

7.5 The Contractor shall issue a monthly VAT invoice in respect of the Charges, and the Client shall pay to the Contractor the Charges set out in the Contractor's invoice within 30 days of the date of the Contractor's invoice.

Where Charges are calculated on an hourly or daily basis

7.6 On the last working day of each month during the Engagement the Contractor shall submit to the Client an invoice, which gives details of the hours or days which the Individual or any Substitute as worked, the Services provided and the amount of the fee payable (plus VAT, if applicable) for the Services during that month.

Where Charges are calculated on a fixed price basis

7.7 Where the Work is provided for a fixed price, the total price shall be set out in the Master Agreement. Where so indicated, the total price shall be paid to the Contractor in instalments as set out in the Project Development Quotation, The Contractor shall invoice the Client for the charges that are then payable, together with expenses and the costs of materials (and VAT, where appropriate), calculated as provided in this clause 7.

7.8 The Contractor's charges exclude: the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably and properly incurred by members of the Contractor's Project Team in connection with the Work, and the cost of any materials or services reasonably and properly provided by third parties required by the Contractor for the supply of the Work.

7.9 The Contractor shall obtain the Client's approval before incurring any such expense, material or service exceeding £1,000.

Deposit

7.10 The deposit is paid in advance upon invoice issues.

7.11 The Client shall deposit with Contractor, as security for the performance of Client's obligations under the Master Agreement and the associated Schedules to the Master Agreement, a non-refundable amount equal to 30% of the gross contract value of the Work specified in the Master Agreement. The Contractor shall be able to set off the deposit paid against client-engagement costs and the costs associated with a re-review of project scope and project proposal if the Client withdraws its request for the Contractor's products and services following its signing the Master Agreement.

Effect of ceasing communication such as to undermine the Contractor's ability to complete the Works

7.12 The Contractor shall be entitled to consider the Works complete and render all outstanding charges or fees as appropriate in the event that:

- (a) the Contractor believes the Site to be ready and/or its services complete save for some outstanding Content; and
- (b) the Contractor has made reasonable efforts over the course of a 14-day rolling period to contact the Client (amounting to no less than 3 calls placed or 3 emails) with no productive success; and
- (c) a period of three months passes without productive Client contact.

7.13 Where the circumstances described in clause 7.11 above have arisen and where the Client wishes to reactivate the Project, the Contractor shall be entitled to charge a fee of £99+VAT in order to reinstate the project together with any additional costs arising.

Invoicing arrangements

7.14 Where the Master Agreement has specified a different invoicing arrangement (such as advanced payment), the Client shall pay each invoice submitted to it by the Contractor within 30 days of receipt to a bank account nominated in writing by the Contractor.

7.15 Without prejudice to any other right or remedy that it may have, if the Client fails to pay the Contractor any sum due under the Master Agreement and a corresponding schedule on the due date:

- (a) the Client 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 will accrue each day at 4% a year above the Bank of England's base rate, but at 4% a year for any period when that base rate is below 0%; and
- (b) the Contractor may suspend part or all of the Work until payment has been made in full.

- 7.16 All sums payable to the Contractor under the terms of the Master Agreement and any applicable schedule:
- (a) are exclusive of VAT, and the Client 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).

Further implications of payment default

- 7.17 Failure to make payment for hosting and domain services (including Cyber Guardian) on the date specified in the Master Agreement, then the Contractor reserves the right to suspend such services or cancel them without further notice; and reserves the right to make additional Charges in order to resume such services.

Price increases

- 7.18 The Contractor may increase the Charges as from each anniversary of the date of this agreement. Any increase shall be notified to the Client at least one month before such anniversary.
- (a) Where the Charges are calculated (entirely/partly) on a time-cost basis, such Charges shall be increased by £2.50 per hour each year from 1 April.
 - (b) In any other case, any percentage increase shall not exceed that of the Retail Price Index (Jevons) published by the Office for National Statistics or its successor from time to time for the Contract Year (or the nearest publication dates to the commencement and expiry dates of the relevant Contract Year, spanning a 12-month period) and each subsequent Contract Year.

Expenses

- 7.19 Claims for payment in respect of materials purchased by or services provided by the Contractor, or for reimbursement of expenses, shall be payable by the Client.

Payment by credit card or debit card

- 7.20 An additional fee reflecting 2.5% of the Charge paid shall be payable to the Contractor should the Client wish to pay the Charge(s) by credit or debit card.

8. Intellectual property rights (IPRs)

Website design services: Contractor rights

- 8.1 All Intellectual Property Rights in any Work arising in connection with the performance of the Work shall be the property of the Contractor, pending payment of all Charges due.
- 8.2 Upon payment of all Charges due, the Contractor will assign to the Client, with full title guarantee and free from all third party rights, the Intellectual Property Rights and all other rights in the products of the Work. Thereafter the Contractor shall, promptly at the Client's request, do or procure to be done all such further

acts and things and the execution of all such other documents as the Client may from time to time require for the purpose of securing for the Client the full benefit of this clause 8.

Website design services: Client Materials

8.3 The Client retains all Intellectual Property Rights in the Client Materials, and grants the Contractor a licence to such Intellectual Property Rights to the extent required to perform its obligations under the terms of the Master Agreement and the schedules specified therein.

8.4 At its own expense, the Client shall, and shall use all reasonable endeavours to procure that any necessary third party shall, promptly execute and deliver such documents and perform such acts as may reasonably be required for the purpose of giving full effect to clause 8.1.

9. **Data protection and data processing**

9.1 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 under the Data Protection Legislation.

9.2 The parties acknowledge that:

- (a) if the Contractor processes any personal data on the Client's behalf when performing its obligations under this agreement, the Client is the data controller and the Contractor is the data processor for the purposes of the Data Protection Legislation (where **Data Controller** and **Data Processor** have the meanings as defined in the Data Protection Legislation);
- (b) the Client shall be the Data Controller in respect of any management of its Site;
- (c) the scope, nature and purpose of processing by the Contractor, the duration of the processing and the types of personal data (as defined in the Data Protection Legislation, **Personal Data**) and categories of Data Subject is specified in the Master Agreement;
- (d) the personal data may be transferred or stored outside the EEA or the country where the Client is located in order to carry out the Services and the Contractor's other obligations under this agreement.

9.3 Without prejudice to the generality of clause 9.1, the Client will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Contractor for the duration and purposes of this agreement so that the Contractor may lawfully use, process and transfer the Personal Data in accordance with this agreement on the Client's behalf.

9.4 Without prejudice to the generality of clause 9.1, the Contractor shall, in relation to any Personal Data processed in connection with the performance by the Contractor of its obligations under this agreement:

- (a) process that Personal Data only on the written instructions of the Client unless the Contractor is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Contractor to process Personal Data (**Applicable Laws**). Where the Contractor is

relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Contractor shall promptly notify the Client of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Contractor from so notifying the Client;

- (b) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Contractor, 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) not transfer any Personal Data outside of the EEA unless the following conditions are fulfilled:
 - (i) the Client or the Contractor has provided appropriate safeguards in relation to the transfer;
 - (ii) the data subject has enforceable rights and effective legal remedies;
 - (iii) the Contractor 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 Contractor complies with reasonable instructions notified to it in advance by the Client with respect to the processing of the Personal Data;
- (d) assist the Client, at the Client'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;
- (e) notify the Client without undue delay on becoming aware of a Personal Data breach;
- (f) at the written direction of the Client, delete or return Personal Data and copies thereof to the Client on termination of the agreement unless required by Applicable Law to store the Personal Data; and
- (g) maintain complete and accurate records and information to demonstrate its compliance with this clause 10 and allow for audits by the Client or the Client's designated auditor.

9.5 The Client consents to the Contractor appointing a third-party processor of Personal Data under this agreement as specified in the Master Agreement. The Contractor confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement incorporating terms which are substantially similar to those set out in this clause. As between the Client and the Contractor, the

Contractor shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause.

9.6 The Client will take all necessary measures to ensure that it creates a suitable privacy policy, obtains such consents and otherwise take any measures necessary in order to comply with it's the Data Protection Rules and allow the Contractor to:

(a) Back up Content or Client Materials

9.7 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 this agreement).

9.8 The Client consents to the Contractor appointing any third-party processor of Personal Data under this agreement. The Contractor confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement incorporating terms which are substantially similar to those set out in this clause.

Liability for any incident(s) arising from the extent of appropriate technical and organisational measures employed by the Client in relation to its Site

9.9 The Contractor may from time to time offer advice on I.T. security matters, but at all times the Client shall be solely responsible for the security of its Site; and shall be solely responsible for ensuring that it has in place appropriate technical and organisational measures, 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 as described in this clause.

9.10 The Client shall also be responsible for displaying an appropriate GDPR-compliant privacy notice or privacy standard on its website.

10. Confidentiality

10.1 Each party shall, during the term of this agreement and thereafter, keep confidential all, and shall not use for its own purposes (other than implementation of this agreement) nor without the prior written consent of the other disclose to any third party (except its professional advisors or as may be required by any law or any legal or regulatory authority) any, information of a confidential nature (including trade secrets and information of commercial value) which may become known to such party from the other party and which relates to the other party or any of its Affiliates (**Confidential Information**), unless such information is public knowledge or already known to such party at the time of disclosure, or subsequently becomes public knowledge other than by breach of this agreement, or subsequently comes lawfully into the possession of such party from a third party. Each party shall use its reasonable endeavours to prevent the unauthorised disclosure of any such information.

- 10.2 Each party undertakes that it shall not at any time during this agreement, and for a period of 4 years after termination of this agreement, disclose to any person any confidential information concerning the business, affairs, Clients, clients or Contractors of the other party except as permitted by clause 11.3.
- 10.3 Each party may disclose the other party's confidential information:
- (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 10; and
 - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 10.4 Each party shall notify the other party if any of its staff connected with the provision or receipt of the Services becomes aware of any unauthorised disclosure of any Confidential Information and shall afford reasonable assistance to the other party, at that other party's reasonable cost, in connection with any enforcement proceedings which that other party may elect to bring against any person.
- 10.5 The terms of this agreement may not be disclosed by the Client (other than to its legal advisors) without the prior written consent of the Contractor.
- 10.6 The Contractor might disclose data (including confidential information) and technical information with its main sub-contractor Go Live BG for the purposes of support and solution development. The Contractor must ensure that all safety guards are taken in place by its main sub-contractor to protect Client's data and technical information.
- 10.7 The Contractor may refer to the Client as being a client of the Contractor in Client reference lists and sales presentations, but shall not refer to the Client in any advertising or press release without the prior written consent of the Client.
- 10.8 The provisions of this clause 10 shall remain in full force and effect notwithstanding any termination of this agreement.
- 10.9 All materials, equipment, tools, copyright, rights in designs and any other Intellectual Property Rights in all drawings, specifications and data supplied by the Client to the Contractor shall at all times be and remain the exclusive property of the Client, but shall be held by the Contractor in safe custody at its own risk and maintained and kept in good condition by the Contractor until returned to the Client, and shall not be disposed of or used other than in accordance with the Client's written instructions or authorisation.
- 10.10 This clause 10 shall survive termination of this agreement for any reason.

11. **Contractor's right to sub-contract services**

11.1 The Contractor shall have the right to sub-contract any services provided.

12. **Limitation of liability**

12.1 Nothing in this agreement shall limit or exclude the Contractor's liability for:

- (a) death or personal injury caused by its negligence;
- (b) fraud or fraudulent misrepresentation; or
- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.

12.2 Subject to clause 13.1, the Contractor shall not be liable to the Client, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this agreement for any:

- (a) loss of profits;
- (b) loss of sales or business;
- (c) loss of agreements or contracts;
- (d) loss of anticipated savings;
- (e) loss of or damage to goodwill;
- (f) loss of use or corruption of software, data or information;
- (g) loss of revenues from any e-commerce element of any Site;
- (h) any claims, regulatory files and any associated Losses arising from complaints in jurisdictions outside the UK in respect of the content of the Client's Site;
- (i) indirect or consequential loss;
- (j) costs associated with the procurement of substitute products if third party products supplied do not work (as anticipated or at all);
- (k) Losses claimed or associated with the interruption of use of a Site;
- (l) Losses claimed or associated with any loss of corruption of commercial data or personal data or special category data associated with a Site;
- (m) Losses claimed or associated with any use of an e-commerce element of a Site, where that e-commerce element is not coded by the Contractor';
- (n) Losses claimed or associated with any delay or failure to provide products or services which is beyond the Contractor's reasonable control;
- (o) Losses claimed or associate with any breach of intellectual property rights associated with Client Materials provided by the Client for use on its Site (whether in text, image, video or other media).

12.3 Subject to clause 12.1, the Contractor's total liability to the Client, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this agreement shall be limited to that set out in the Master Agreement.

- 12.4 The terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this agreement.
- 12.5 The limitations of liability in this clause shall not apply:
- (a) in the case of liability of the Client, to liability for damages for any breach by the Client of:
 - (i) its payment obligations; and
 - (ii) confidentiality under clause 11.
 - (b) in the case of liability of the Contractor, to liability for:
 - (i) or under any indemnity in this agreement (whether in respect of performance of the indemnity or its breach);
 - (ii) any breach of any regulatory requirement by the Contractor which directly or indirectly results in the imposition of any fine or sanction on the Client or the Client otherwise incurring any liability.

13. **Indemnity**

- 13.1 The Client shall indemnify the Contractor against all Losses, damages and expenses suffered or incurred by the Contractor arising out of or in connection with:
- (a) the processing of personal or special category data by the Client (whether as joint-data controller or otherwise) including those arising out of any third party demand, claim or action, or any breach of contract, negligence, fraud, wilful misconduct, breach of statutory duty or non-compliance with the data protection obligations set out in clause 9 or any part of the Data Protection Legislation by the Client, its employees, agents or sub-contractors;
 - (b) act(s) or omission(s) undertaken by the Contractor on the instructions of the Client;
 - (c) any action or claim that the Client Materials infringe any Intellectual Property Rights of a third party.

14. **Site content, where the services provided by the Contractor constitute website hosting or website design/development work**

- 14.1 The terms of Schedules 1 and 2 shall apply.
- 14.2 The Client shall ensure that the Client Materials do not infringe any applicable laws, regulations or third party rights (such as material which is obscene, indecent, pornographic, seditious, offensive, defamatory, threatening, liable to incite racial hatred or acts of terrorism, menacing, blasphemous or in breach of any third party Intellectual Property Rights) (**Inappropriate Content**).
- 14.3 The Contractor shall include only the Client Materials on the Site. The Client acknowledges that the Contractor has no control over any content placed on the Site by Visitors and does not purport to monitor the content of the Site. The Contractor reserves the right to remove content from the Site

where it reasonably suspects such content is Inappropriate Content. The Contractor shall notify the Client if it becomes aware of any allegation that content on the Site may be Inappropriate Content.

14.4 The Client shall indemnify the Contractor against all Losses, damages, and expenses arising as a result of any action or claim that the Client Materials or Hosting Materials or any other material posted to, or linked to, the Site constitutes Inappropriate Content.

14.5 The Contractor may include the statement "Powered by Go Live UK Limited" (or equivalent wording) on the home page of the Site in a form to be agreed together with a logo.

15. **Termination**

Generally, unless otherwise specified in a Schedule to the Master Agreement

15.1 Either party may terminate the Master Agreement or any Schedule to the Master Agreement for any reason by giving the number of months' written notice specified in the Master Agreement.

15.2 Without affecting any other right or remedy available to it (and unless the Schedule specifies otherwise in which case those terms take precedence) either party may terminate this agreement (and/or any obligation to provide products and services) with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of any term of this agreement (other than failure to pay any amounts due under this agreement) and (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 this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;
- (c) the other party commits a material breach of any term of this agreement and such breach is irreparable 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;
- (d) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- (e) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (f) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

- (g) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party (being a company);
- (h) the holder of a qualifying floating charge over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (i) a person becomes entitled to appoint a receiver over all or any of the assets of the other party or a receiver is appointed over all or any of the assets of the other party;
- (j) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
- (k) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 14.1(d) to clause 14.1(j) (inclusive); or
- (l) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

15.3 For the purposes of clause 15.2, **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) a substantial portion of this agreement; or
- (b) any of the obligations set out in clause 3,4.

over the term of this agreement. In deciding whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding.

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

- (a) the Client fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment; or
- (b) there is a change of control of the Client;
- (c) the Contractor believes the Site to be ready and/or its services complete save for some outstanding Content; and
 - (i) the Contractor has made reasonable efforts over the course of a 14-day rolling period to contact the Client (amounting to no less than 3 calls placed or 3 emails) with no productive success; and
 - (ii) a period of three months passes without productive Client contact.

15.5 Any provision of this Schedule or Master Agreement which expressly or by implication is intended to come into or continue in force on or after termination of this agreement shall remain in full force and effect.

- 15.6 On termination of this agreement for any reason, the Client shall immediately pay any outstanding unpaid invoices and interest due to the Contractor. The Contractor shall submit invoices for any Services that it has supplied, but for which no invoice has been submitted, and the Client shall pay these invoices immediately on receipt.
- 15.7 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Schedule or the Master Agreement.

SEO termination provisions

- 15.8 In the case of the provision of SEO services (only), the agreement set out in the requisite Schedule governing the arrangement shall commence on the Effective Date as specified in the Master Agreement and shall continue, unless terminated earlier in accordance with this clause, for the Initial Term, when it shall renew automatically without notice unless, no later than 1 month before the end of the Initial Term (or any Following Term agreed under this clause 15), the parties agree in writing that the term of the agreement shall be terminate.
- 15.9 Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving written notice to the other party if the circumstances described in clause 15.2 arise.
- 15.10 Client may terminate a Project Development Quotation immediately by written notice to Client if Client fails to achieve the Traffic Threshold for any period of three calendar months.
- 15.11 Client may terminate this agreement in whole (including all Statements of Work) or in part (including any relevant Project Development Quotation) for convenience at any time by at least thirty (30) days' prior written notice to Client.
- 15.12 On expiry or termination of the Master Agreement or the SEO schedule:
- (a) all applicable licences granted to Client under this agreement or a Project Development Quotation (as the case may be) shall terminate immediately;
 - (b) Client shall at Client's request, either promptly return or destroy all Confidential Information and/or Materials belonging to Client and connected with this agreement or a Project Development Quotation (as the case may be) in its possession and control and issue a certificate of such return and/or destruction. For avoidance of doubt, if any Confidential Information and/or Materials are stored within computer systems owned or controlled by Client, Client shall ensure that such Confidential Information and/or Materials are expunged from such computer systems;
 - (c) on request, certify in writing to Client that it has complied with the requirements outlined immediately above; and
 - (d) Client shall pay undisputed Charges that are due and payable to the Client.
- 15.13 Termination of this agreement or any Project Development Quotation shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to

claim damages in respect of any breach of the agreement which existed at or before the date of termination.

16. **Consequences of termination**

16.1 On termination or expiry of the Master Agreement or any Schedule to the Master Agreement:

- (a) In the case of the Master Agreement, all existing Work shall terminate automatically;
- (b) In the case of any one Schedule, all existing obligations in relation to the Work described in or referenced by the Schedule in question, which shall terminate automatically;
- (c) the Client shall immediately pay to the Contractor all of the Contractor's outstanding unpaid invoices and interest and, in respect of the Work supplied but for which no invoice has been submitted, the Contractor may submit an invoice, which shall be payable immediately on receipt;
- (d) the Contractor shall on request return any of the Client Materials not used up in the provision of the Work; and
- (e) the following clauses shall continue in force: Interpretation, Non-solicitation, Intellectual property rights), Confidentiality, Limitation of liability, Consequences of termination, Waiver, Severance, Conflict, Multi-tiered dispute resolution procedure, Governing law and Jurisdiction;
- (f) the Contractor shall within 28 days deliver to the Client all specifications, programs (including source code) and other documentation comprised in the Deliverables and existing at the date of such termination, whether or not then complete. All Intellectual Property Rights in such materials shall automatically pass to and vest in the Client (to the extent that they have not already done), who shall be entitled to enter the premises of the Contractor to take possession of them.

16.2 Termination or expiry of this agreement shall not affect any 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 agreement which existed at or before the date of termination or expiry.

17. **Force majeure**

17.1 **Force Majeure Event** means any circumstance not within a party's reasonable control including, without limitation:

- (a) acts of God, flood, drought, earthquake or other natural disaster;
- (b) epidemic or pandemic;
- (c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
- (d) nuclear, chemical or biological contamination or sonic boom;
- (e) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent];
- (f) collapse of buildings, fire, explosion or accident; and
- (g) interruption or failure of utility service.

- 17.2 Provided it has complied with clause 17.4, if a party is prevented, hindered or delayed in or from performing any of its obligations under this agreement by a Force Majeure Event (**Affected Party**), the Affected Party shall not be in breach of this agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.
- 17.3 The corresponding obligations of the other party will be suspended, and its time for performance of such obligations extended, to the same extent as those of the Affected Party.
- 17.4 The Affected Party shall:
- (a) as soon as reasonably practicable after the start of the Force Majeure Event, notify the other party [in writing] of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the agreement; and
 - (b) use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.
- 17.5 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 10 weeks, the party not affected by the Force Majeure Event may terminate this agreement by giving 12 weeks' written notice to the Affected Party.
18. **Assignment and other dealings**
- 18.1 The Client shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under this agreement.
- 18.2 The Contractor may at any time assign, mortgage, charge, declare a trust over or deal in any other manner with any or all of its rights under this agreement, provided that the Contractor gives prior written notice of such dealing to the Client.
- 18.3 The Contractor may at any time assign, novate, charge, subcontract or deal in any other manner with any or all of its rights and obligations under this agreement, provided it gives written notice to the Client.
- 18.4 The Contractor may assign, sub-contract or otherwise transfer this Agreement or any Schedule, subject to providing The Client not less than seven-days written notice.
- 18.5 Notwithstanding any prior clause, a party assigning any or all of its rights under this agreement may disclose to a proposed assignee any information in its possession that relates to this agreement or its subject matter, the negotiations relating to it and the other party which is reasonably necessary to disclose for the purposes of the proposed assignment, provided that no disclosure pursuant to this clause shall be made until notice of the identity of the proposed assignee has been given to the other party.

19. **Variation**

Subject to the Change control clause referenced above, no variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

20. **Waiver**

20.1 A waiver of any right or remedy under this agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default.

20.2 A failure or delay by a party to exercise any right or remedy provided under this agreement 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 this agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

21. **Rights and remedies**

The rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

22. **Severance**

22.1 If any provision or part-provision of the Master Agreement or any associated schedule is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement.

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

23. **Entire agreement**

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

23.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees

that it shall have no claim for innocent or negligent misrepresentation [or negligent misstatement] based on any statement in this agreement.

24. **Conflict**

If there is an inconsistency between any of the provisions of this agreement and the provisions of the Schedules, the provisions of this agreement shall prevail.

25. **No partnership or agency**

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

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

26. **Third party rights**

26.1 Unless it expressly states otherwise, this agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

27. **Notices**

27.1 Any notice [or other communication] given to a party under or in connection with this agreement shall be in writing and shall be:

- (a) delivered by hand or by pre-paid first-class post or other next Business Day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- (b) sent by email to the address specified in the Schedule of Work.

27.2 Any notice or communication shall be deemed to have been received:

- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
- (b) if sent by pre-paid first-class post or other next Business Day delivery services, at 9.00 am on the second Business Day after posting [or at the time recorded by the delivery service; and
- (c) if sent by fax or email, at 9.00 am on the next Business Day after transmission.

27.3 This clause does not apply to the service of any proceedings or any documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

28. **Counterparts**

28.1 This agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

29. **Multi-tiered dispute resolution procedure**

29.1 If a dispute arises out of or in connection with this agreement or the performance, validity or enforceability of it (**Dispute**) then [except as expressly provided in this agreement,] the parties shall follow the procedure set out in this clause:

- (a) either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (**Dispute Notice**), together with relevant supporting documents. On service of the Dispute Notice, the Client and the Contractor shall attempt in good faith to resolve the Dispute;
- (b) if the Client and the Contractor are for any reason unable to resolve the Dispute within 30 days of it being referred to them, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR. To initiate the mediation, a party must serve notice in writing (**ADR notice**) to the other party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR. The mediation will start not later than 30 days after the date of the ADR notice.

29.2 No party may commence any court proceedings under clause 31 in relation to the whole or part of the Dispute until 30 days after service of the ADR notice, provided that the right to issue proceedings is not prejudiced by a delay.

29.3 If the Dispute is not resolved within 30 days after service of the ADR notice, or either party fails to participate or to continue to participate in the mediation before the expiration of the said period of 30 days, or the mediation terminates before the expiration of the said period of 30 days, the Dispute shall be finally resolved by the courts of England and Wales.

30. **Governing law**

This agreement 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 England and Wales.

31. **Jurisdiction**

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

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

SCHEDULE 9: DEFINITIONS

INTERPRETATION

The following definitions and rules of interpretation apply in this agreement, the Master Agreement and the schedules referenced in the Master Agreement:

Affiliate: any entity that directly or indirectly controls, is controlled by, or is under common control with another entity.

Applicable Laws: all applicable laws, statutes, regulation [and codes] from time to time in force.

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

Business of the Client: the client's main business purpose and activities.

Business Hours: the period from 9.00 am to 5.00 pm on any Business Day with one hour for lunch.

Business Opportunities: any opportunities which the Consultant Company or the Individual becomes aware of during the Engagement which relate to the Business of the Client [or any Group Company] or which the Board reasonably considers might be of benefit to the Client [or any Group Company].

Capacity: as agent, consultant, director, employee, owner, partner, shareholder or in any other capacity.

Client Board: the board of directors of the Client (including any committee of the board duly appointed by it).

Commencement Date: date of commencement of engagement as specified in the Master Agreement.

Confidential Information: all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Client by the Contractor or its agents to include: information in whatever form (including, without limitation, in written, oral, visual or electronic form or on any magnetic or optical disk or memory and wherever located) relating to the business, Clients, products, affairs and finances of the Client [or any Group Company] for the time being confidential to the Client [or any Group Company] and trade secrets including, without limitation, technical data and know-how relating to the Business of the Client [or any Group Company] or any of its [or their] Contractors, Clients, agents, distributors, shareholders, management or business contacts, including in particular (by way of illustration only and without limitation) [EXAMPLES] and including (but not limited to) information that the Consultant Company or the Individual creates, develops, receives or obtains in connection with this Engagement, whether or not such information (if in anything other than oral form) is marked confidential.

Consultancy Services: the services as specified in the Master Agreement.

Contract Year: any 12-month period ending on any anniversary of the date of this agreement.

Change Order: has the meaning given in Schedule 1.

Control: shall be as defined in section 1124 of the Corporation Tax Act 2010, and the expression **change of control** shall be construed accordingly.

Client's Equipment: any equipment, including tools, systems, cabling or facilities, provided by the Client, its agents, subcontractors or consultants which is used directly or indirectly in the supply of the Works including any such items specified in a Statement of Work.

Client Materials: all documents, information, items and materials in any form, whether owned by the Client or a third party, which are provided by the Client to the Contractor in connection with the Works.

Contractor's Equipment: any equipment, including tools, systems, cabling or facilities, provided by the Contractor to the Client and used directly or indirectly in the supply of the Works, including any such items specified in a Statement of Work but excluding any such items which are the subject of a separate agreement between the parties under which title passes to the Client.

Critical Fault: a reproducible fault which substantially hinders or prevents the Client from using a material part of the functionality of the software in question.

Client Data: electronic data provided by a client and collected by a contractor, which may include personal data.

Client's Project Manager: The Client's manager for the Project as specified in the Master Agreement.

Client's I.T. Responsibilities: The Client's obligations set out in Schedule 9 (IT Services Agreement).

Client Property: all documents, books, manuals, materials, records, correspondence, papers and information (on whatever media and wherever located) relating to the Business or affairs of the Client [or Group Company] or its [or their] Clients and business contacts, and any equipment, keys, hardware or software provided for the Consultant Company or the Individual's use by the Client during the Engagement, and any data or documents (including copies) produced, maintained or stored by the Consultant Company or the Individual on the computer systems or other electronic equipment of the Client, the Consultant Company or the Individual during the Engagement.

Data Protection Legislation: all legislation and regulatory requirements in force from time to time relating to the use of personal data and the privacy of electronic communications, including without limitation, (i) any data protection legislation from time to time in force in the UK including the Data Protection Act 2018 or any successor legislation, (for so long as and to the extent that the law of the European Union has legal effect in the UK) (ii) the General Data Protection Regulation ((EU) 2016/679) and (iii) any other directly applicable European Union regulation relating to privacy.

Data Subject: up to but excluding 25 May 2018, has the meaning set out in section 1(1) of the Data Protection Act 1998 and thereafter has the meaning set out in Article 4(1) of the GDPR.

Deliverables: any output of the Works to be provided by the Contractor to the Client as specified in a Statement of Work [and any other documents, products and materials provided by the Contractor to the Client in relation to the Works (excluding the Contractor's Equipment)].

Documentation: the documents provided by the Contractor for the Software, in either printed text or machine-readable form, including the technical documentation, program specification and operations manual.

Engagement: the engagement of the Consultant by the Client on the terms of the I.T. Service Agreement.

EULA: the end user licence agreement in the form set out in Schedule 1 of the Contractor's Reseller Agreement.

Enhanced Support Service: The Support Service more particularly described in the Master Agreement.

Following Term: the period of 12 months commencing from either the end of the Initial Term or any subsequent anniversaries of the end of the Initial Term.

Good Industry Practice: in relation to the performance of any of the Services, their performance to the standard of skill, care, prudence and foresight, in each case with appropriate management and control of quality, that a leading professional Contractor of services similar to the Services would use in the performance of those services.

Hosting Acceptance: the acceptance or deemed acceptance of the Site by the Client under the terms of the Master Agreement.

Hosting Acceptance Tests: the tests to be carried out on the Site as set out in Schedule 3 (web hosting agreement).

Hosting Charges: the charges in respect of the Services set out in Schedule 3 (Charges and payment) together with any charges arising from the Change Control Procedures.

Hosting Materials: the content provided to the Host by the Client from time to time for incorporation in the Site.

Non-Host Defects: the defects described in Schedule 3 (web hosting agreement).

Initial Term: the period of 12 months from the Effective Date, subject to earlier termination in accordance with this agreement.

Personal Data: up to but excluding 25 May 2018, has the meaning set out in section 1(1) of the Data Protection Act 1998 and thereafter has the meaning set out in Article 4(1) of the GDPR.

Project Plan: the timetable for setting up the Site and performing the Services as set out in the Master Agreement.

Hosting Services: the hosting and related services to be provided under this agreement as described in Schedule 3.

Hosted Site: the website at [URL] to be hosted by the Host under Schedule 3 (web hosting agreement).

Hosted Site Software: the software for the Site commissioned by the Client as described in Schedule 3 (web hosting agreement).

Hosted Site Specification: the specification for the Site set out in Schedule 3 (web hosting agreement).

I.T. Deliverables: all products and materials developed by the Contractor in relation to the Project in any media, including without limitation computer programs, data, diagrams, reports and specifications (including drafts).

Insurance Policies: [commercial general liability insurance cover,] [employer's liability insurance cover,] [professional indemnity insurance cover] [cyber insurance cover] [[and] public liability insurance cover].

Intellectual Property Rights: patents, [utility models,] rights to inventions, copyright and [neighbouring and] related rights, [moral rights,] trademarks [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.

Invention: any invention, idea, discovery, development, improvement or innovation made by the Consultant Company or by the Individual in connection with the provision of the Services, whether or not patentable or capable of registration, and whether or not recorded in any medium.

Legacy Fees: the charges for the Legacy Obligations as set out in the Master Agreement.

Legacy Obligations: the obligations in respect of non-current versions of the Software which are set out in Schedule 5 (website maintenance agreement).

Legislation: any statute, statutory provision or subordinate legislation or any mandatory rules or guidance issued by any regulatory body having jurisdiction over the applicable party.

Licence: the licence made between the Contractor and the Client.

Losses: includes 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).

Man Day: a day of not less than eight hours spent working on the Project.

Maintenance Release: a release of the Software which corrects faults, adds functionality or otherwise amends or upgrades the Software, but which does not constitute a New Version.

Policies: The Client's business policies and codes as notified to the Contractor from time to time.

Master Agreement: the document headed "Master Agreement" and signed by the parties.

Modification: any Maintenance Release or New Version which is acquired by the Client.

New Version: any new version of the Software which from time to time is publicly marketed and offered for purchase by the Contractor in the course of its normal business, being a version, which contains such significant differences from the previous versions as to be generally accepted in the marketplace as constituting a new product.

Non-Critical Fault: any reproducible fault in the Software other than a Critical Fault.

Open-Source Software: open-source software as defined by the Open Source Initiative (<http://opensource.org>) or the Free Software Foundation (<http://www.fsf.org>).

Products. The third-party products provided by the Contractor in its capacity as re-seller of those products in the Contractor's Reseller Agreement.

Project Development Quotation: the detailed plan describing the Project and setting out the timetable (including Project Milestones) and responsibilities for the provision of the Services by the Contractor in accordance with the Project Specification, to be agreed with and delivered to the Client as described in or otherwise attached to the Master Agreement.

SEO Acceptance Tests: the acceptance tests to be carried in relation to the SEO Pages (individually and as part of the Website) as more particularly described in Schedule 7 (SEO services agreement).

SEO Brand Guidelines: Client's brand guidelines provided to Contractor from time to time.

SEO Charges: the charges in respect of the Services as set out in the Master Agreement.

SEO Deliverables: the SEO Pages, reports, analyses, statistics, content and other materials required to be delivered by Contractor as set out in the Master Agreement.

SEO Description of Services: the description of the Services as set out in the Master Agreement.

SEO Following Term: the period of 12 months commencing from either the end of the Initial Term or any subsequent anniversaries of the end of the Initial Term.

SEO Initial Term: the period of 12 months from the Effective Date, subject to earlier termination in accordance with this agreement.

SEO Losses: all actual losses, damages, costs, expenses (including reasonable professional advisers' costs and disbursements, reasonable legal costs and disbursements) incurred by the relevant party. The term Loss shall have a corresponding meaning.

SEO Materials: the content provided to Contractor by Client from time to time in order for Contractor to generate the SEO Pages and otherwise perform the Services.

SEO Pre-Existing Work: the works, concepts, items and materials either developed or procured to be developed by Contractor or its personnel at any time for use in relation to Contractor's business or any or all of Contractor's Clients generally and not specifically for the provision of the Services or Deliverables to Client.

SEO Reduced Rate: the reduced rate of Charges applicable where the Traffic Threshold is not met.

SEO Pages: the web pages developed by Contractor under this agreement and Statement of Work containing content, links, tagging and other search engine optimisation techniques in order to increase the ranking and prominence of a Website (and/or its web pages) in the result pages of search engines.

SEO Services: such services required to be provided by Contractor pursuant to a Statement of Work, and all other services reasonably necessary to be performed by Contractor in order to carry out its obligations as set out in the Master Agreement.

SEO Specification: the specification for the SEO Pages as set out in the Master Agreement.

SEO Term: The Initial Term and any subsequent Following Term.

SEO Test Criteria: the criteria as set out in the Master Agreement.

SEO Traffic Threshold: the minimum percentage increase in internet traffic directed to a Website as a result of the Services, as set out in the Master Agreement.

Software: has the same meaning as in the Licence.

Service Levels: those standards of performance to be achieved by the Contractor in performing the Standard Support Service and the Enhanced Support Service as specified in the Master Agreement

Substitute: a substitute for the Individual appointed under the I.T. Consultancy Services Schedule.

I.T. Services: the consulting and related services to be supplied, and obligations to be performed, by the Contractor in connection with the Project.

Contractor's Project Manager: The Contractor's manager for the Project appointed as set out in the Master Agreement.

Termination Date: the date of termination of the IT Consultancy Services agreement, howsoever arising.

Third-Party Licences: any open-source software licences incorporated into the software including the general public license (if applicable), and any proprietary third-party software licences.

Third-Party Software: any open-source software incorporated into the software and any proprietary third-party software.

UK Data Protection Legislation: any data protection legislation from time to time in force in the UK including the Data Protection Act 1998 or 2018 or any successor legislation.

Unsuitable Content: any material or content that is obscene, indecent, pornographic, seditious, offensive, defamatory, threatening, liable to incite racial hatred, menacing, blasphemous or in breach of any third party's Intellectual Property Rights.

Visitor: a visitor to the Site.

Website Maintenance Deliverables: any Documentation, Software, know-how or other works created or supplied by the Contractor (whether alone or jointly) in the course of providing the Website Maintenance Services.

Website Maintenance Services: includes (as appropriate) the Standard Support Service under the Website Maintenance Agreement, the Updating Service, the Enhanced Support Service and any Optional Services which are included within an order for Optional Services under the Master Agreement.

Website Maintenance Optional Service: any of the Services listed in the Master Agreement any other services that the Client and the Contractor may from time to time agree shall be supplied to the Client by the Contractor under the terms of Schedule 5 (website maintenance agreement).

Website Maintenance Standard Support Service: the support service more particularly described in Schedule 5 and in the Master Agreement.

Website Maintenance Standard Support Hours: 7.00 am to 4.00 pm Monday to Friday, except on days which are bank holidays in England.

Website Maintenance Support Manager: the person appointed by the Contractor from time to time in order to fulfil the role described in clause Schedule 5

Website Maintenance Support Staff: those individuals who perform the Contractor's obligations under this agreement including (where the context permits) the Support Manager.

Website Maintenance Updating Service: the service to be supplied by the Contractor to the Client under Schedule 5.

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

Virus: Any thing or device (including any software, code, file or program) whose purpose or possible function is to deliberately disable a computer or network or impair or adversely affect its performance or prevent or hinder access to any program or data, or impair the operation of any program or the reliability of any data including a computer virus, trojan horse, worm, logic bomb, back door or similar item.

Website: the website or websites at the URLs as set out in the Master Agreement.

Works: the products and services which are provided by the Contractor as set out in the Master Agreement.

Notes

1. Clause, Schedule and paragraph headings shall not affect the interpretation of this agreement. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
2. The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules.
3. A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
4. Unless the context otherwise requires, words in the singular shall include the plural and, in the plural, shall include the singular.
5. Unless the context otherwise requires, a reference to one gender shall include a reference to the other gender.
6. This agreement shall be binding on, and ensure to the benefit of, the parties to this agreement 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.

7. Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
8. A reference to this agreement or to any other agreement or document referred to in this agreement is a reference of this agreement or such other agreement or document as varied or novated (in each case, other than in breach of the provisions of this agreement) from time to time.
9. References to clauses and Schedules are to the clauses and Schedules of this agreement and references to paragraphs are to paragraphs of the relevant Schedule.
10. 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